



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use

HEARING DATE: APRIL 18, 2013

Date: April 11, 2013
Case No.: 2013.0172 C
Project Address: 3970 17th STREET
Zoning: Upper Market Street Neighborhood Commercial District
65-B Height and Bulk District
Block/Lot: 3563/036
Project Sponsor: Adriana Vermut
1459 Ashbury Street
San Francisco, CA 94118
Staff Contact: Rick Crawford – (415) 558-6358
rick.crawford@sfgov.org
Recommendation: **Approval with Conditions**

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PROJECT DESCRIPTION

The applicant proposes to change the use of the existing Limited Restaurant (d.b.a. Pica Pica Maize Kitchen) to a Restaurant with beer and wine service. The proposed use is not a Formula Retail use rather it is an independent use and locally owned, which has been encouraged throughout San Francisco. The hours of operation are limited to 6:00 a.m. to 11:00 p.m. and the sale of alcohol from the restaurant is limited to on-site sales of beer and wine only by Motion 17572 in case # 2007.0072 C.

SITE DESCRIPTION AND PRESENT USE

Site Description and Present Use. The project is located on the northeast side of 17th Street, Block 3563, Lot 036. The subject property is a 4,691 square foot through lot between Market and 17th Streets with 45.75 feet of frontage on Market Street and 25.5 feet of frontage on 17th Street. The property is occupied by a three-story commercial building containing two limited restaurants, on the ground floor of the Market Street (d.b.a. Subway) and 17th Street frontage (d.b.a. Pica Pica Maize Kitchen) respectively. A bar (d.b.a. The Café) with a permit for music and dancing is located on the second floor.

On March 20, 2008, with Motion 17572 (attached) in case #2007.0072C, the Planning Commission granted Conditional Use authorization to expand The Café bar at 2367 Market Street. Motion 17572 allowed construction of a three-story with mezzanine addition to the rear of the property on the 17th Street frontage. The addition provided space for the expansion of The Café bar on the upper floors and created a new ground level retail space fronting on 17th Street. In response to concerns in the neighborhood regarding late night activity from bar patrons leaving the area, the Commission imposed a variety of good neighbor conditions on that project. The conditions of approval for the Café expansion included conditions relating to the new retail space on 17th Street relating to formula retail, alcohol sales, and hours of operation.

The present project would occupy the new retail space created by the earlier project and recommended conditions of approval include those conditions from Motion 17572 relating to the use of the space including limitations on alcohol sales, hours of operation and a prohibition against formula retail uses.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

Properties along Market Street in the vicinity of the Project are occupied by commercial uses or mixed use buildings with commercial uses on the ground floor and, occasionally, second floors and residential uses above. The adjacent property to the west is occupied by a gas station. The character of the land uses along 17th Street divides at Hartford Street. The properties west of Hartford Street along 17th Street are generally occupied by mixed-use commercial/residential buildings except for a 28-unit apartment building at the southwest corner of the intersection of the two streets. East of Hartford Street the properties all tend to be residential in character. The buildings immediately adjacent to the project site are occupied by commercial uses.

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	March 29, 2013	March 27, 2013	22 days
Posted Notice	20 days	March 20, 2013	March 28, 2013	21 days
Mailed Notice	10 days	April 8, 2013	March 28, 2013	21 days

The proposal requires a Section 312-neighborhood notification, which was conducted in conjunction with the conditional use authorization process.

PUBLIC COMMENT

- To date, the Department has received no public comment regarding this request.

ISSUES AND OTHER CONSIDERATIONS

- No concentration of eating and drinking uses exists within 300 feet of the subject property within the Upper Market Street NCD. Including the proposed Restaurant use, eating and drinking uses occupy 15% of the lineal street frontage in the 300-foot radius. The proposed Restaurant would not cause a concentration of such uses.
- On March 20, 2008, with Motion 17572 in case #2007.0072C, the Planning Commission approved a proposal to construct a three stories and a mezzanine addition to the rear (17th Street frontage) of the property. The project would occupy a retail space created by the earlier project. Motion 17572 included conditions of approval that apply to the current project including limitations on alcohol sales, hours of operation and a prohibition against formula retail uses. The project would comply with these conditions of approval.

REQUIRED COMMISSION ACTION

In order for the project to proceed, the Commission must grant conditional use authorization to allow the establishment of a Restaurant within the Upper Market Street NCD, pursuant to Planning Code Section 721.44.

BASIS FOR RECOMMENDATION

- The project promotes the operation of an established, locally-owned business and contributes to the viability of the overall Upper Market Street NCD.
- The project would not cause a concentration of eating and drinking uses in the vicinity.
- The project would comply with the relevant conditions of approval in Motion 17572 in case #2007.0072C.
- The project meets all applicable requirements of the Planning Code.
- The project is desirable for, and compatible with the surrounding neighborhood.
- The business is not a Formula Retail use and would serve the immediate neighborhood.

RECOMMENDATION: Approval with Conditions
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Attachments:

Block Book Map
Sanborn Map
Zoning Map
Aerial Photograph
Context Photographs
Site Photograph
Reduced Plans
Motion 17572

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"/> Parcel Map | 3-D Renderings (new construction or significant addition) |
| <input checked="" type="checkbox"/> Sanborn Map | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Aerial Photo | <input type="checkbox"/> Wireless Telecommunications Materials |
| <input checked="" type="checkbox"/> Context Photos | <input type="checkbox"/> Health Dept. review of RF levels |
| <input checked="" type="checkbox"/> Site Photos | <input type="checkbox"/> RF Report |
| | <input type="checkbox"/> Community Meeting Notice |
| | <input type="checkbox"/> Housing Documents |
| | <input type="checkbox"/> Inclusionary Affordable Housing Program: Affidavit for Compliance |
| | <input type="checkbox"/> Residential Pipeline |

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

_____ RC _____
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

HEARING DATE: APRIL 18, 2013

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ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303, AND 721.44 OF THE PLANNING CODE TO ALLOW A RESTAURANT (D.B.A. PICA PICA MAIZE KITCHEN) WITHIN THE UPPER MARKET STREET NEIGHBORHOOD COMMERCIAL DISTRICT (NCD) AND A 65-b HEIGHT AND BULK DISTRICT.

PREAMBLE

On February 14, 2013 Adriana Vermut (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Section(s) 303, and 721.44 to allow a restaurant (d.b.a. Pica Pica Maize Kitchen) within the Upper Market Street Neighborhood Commercial District (NCD) and a 65-B Height and Bulk District.

On, April 18, 2013 the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.0172C.

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

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

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2013.0172C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The project is located on the northeast side of 17th Street, Block 3563, Lot 036. The subject property is a 4,691 square foot through lot between Market and 17th Streets with 45.75 feet of frontage on Market Street and 25.5 feet of frontage on 17th Street. The property is occupied by a three-story commercial building containing two limited restaurants, on the ground floor of the Market Street (d.b.a. Subway) and 17th Street frontage (d.b.a. Pica Pica Maize Kitchen) respectively. A bar (d.b.a. The Café) with a permit for music and dancing is located on the second floor.

On March 20, 2008, with Motion 17572 (attached) in case #2007.0072C, the Planning Commission granted Conditional Use authorization to expand The Café bar at 2367 Market Street. Motion 17572 allowed construction of a three-story with mezzanine addition to the rear of the property on the 17th Street frontage. The addition provided space for the expansion of The Café bar on the upper floors and created a new ground level retail space fronting on 17th Street. In response to concerns in the neighborhood regarding late night activity from bar patrons leaving the area, the Commission imposed a variety of good neighbor conditions on that project. The conditions of approval for the Café expansion included conditions relating to the new retail space on 17th Street relating to formula retail, alcohol sales, and hours of operation.

The present project would occupy the new retail space created by the earlier project and recommended conditions of approval include those conditions from Motion 17572 relating to the use of the space including limitations on alcohol sales, hours of operation and a prohibition against formula retail uses.

3. **Surrounding Properties and Neighborhood.** Properties along Market Street in the vicinity of the project are occupied by commercial uses or mixed use buildings with commercial uses on the ground floor and, occasionally, second floors and residential uses above. The adjacent property to the west is occupied by a gas station. The character of the land uses along 17th Street divides at Hartford Street. The properties west of Hartford Street along 17th Street are generally occupied by mixed-use commercial/residential buildings except for a 28-unit apartment building at the southwest corner of the intersection of the two streets. East of Hartford Street the

properties all tend to be residential in character. The buildings immediately adjacent to the project site are occupied by commercial uses.

4. **Project Description.** The applicant proposes to change the use of the existing Limited Restaurant (d.b.a Pica Pica Maize Kitchen) to a Restaurant with beer and wine service. The proposed use is not a Formula Retail use rather it is an independent use and locally owned, which has been encouraged throughout San Francisco. The hours of operation are limited to 6:00 a.m. to 11:00 p.m. and the sale of alcohol from the restaurant is limited to on-site sales of beer and wine only by Motion 17572 in case # 2007.0072 C.
5. **Public Comment.** To date, the Department has received no public comment regarding this request.
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. **Eating and Drinking Uses.** Planning Code Section 303(p) requires that with regard to a conditional use authorization application for a Restaurant, Limited-Restaurant and Bar uses in Neighborhood Commercial Districts or Mixed Use Districts, the Planning Commission shall consider, in addition to the criteria set forth in Subsection 303(c) the existing concentration of eating and drinking uses in the area. Such concentration should not exceed 25% of the total commercial frontage as measured in linear feet within the immediate area of the subject site. For the purposes of this Section of the Code, the immediate area shall be defined as all properties located within 300' of the subject property and also located within the same zoning district.

No concentration of eating and drinking uses exists within 300 feet of the subject property within the Upper Market Street NCD. Including the proposed Restaurant use, eating, and drinking uses occupy a total of 15% of the lineal street frontage in the 300-foot radius. The proposed Restaurant would not cause a concentration of such uses.

- B. **Formula Retail.** Planning Code Section 730.4 stated that Conditional Use authorization is required for Formula Retail Uses in the Upper Market Street NCD.

The proposed use is an independent and locally owned use and is not a Formula Retail use.

- C. **Hours of Operation.** Planning Code Section 721.27 states that Conditional Use Authorization is required for maintaining hours of operation from 11p.m. to 2 a.m., as defined by Planning Code Section 790.48.

The hours of operation for the proposed restaurant are limited to 6:00 a.m. to 11:00 p.m. by Motion 17572 in case # 2007.0072 C.

- D. **Restaurant Use.** Planning Code Section 721.44 states that Conditional Use authorization is required for a Restaurant in the Upper Market Street NCD.

The proposed use is a Restaurant with the on-site sale of beer and wine only. The sale of alcohol from the restaurant is limited to on-site sales of beer and wine only by Motion 17572 in case # 2007.0072 C.

- E. **Street Frontage in Neighborhood Commercial Districts.** Section 145.1 of the Planning Code requires that within NC Districts space for active uses shall be provided within the first 25 feet of building depth on the ground floor and 15 feet on floors above from any facade facing a street at least 30 feet in width. In addition, the floors of street-fronting interior spaces housing non-residential active uses and lobbies shall be as close as possible to the level of the adjacent sidewalk at the principal entrance to these spaces. Frontages with active uses that must be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level and allow visibility to the inside of the building. The use of dark or mirrored glass shall not count towards the required transparent area. Any decorative railings or grillwork, other than wire mesh, which is placed in front of or behind ground floor windows, shall be at least 75 percent open to perpendicular view. Rolling or sliding security gates shall consist of open grillwork rather than solid material, to provide visual interest to pedestrians when the gates are closed, and to permit light to pass through mostly unobstructed. Gates, when both open and folded or rolled as well as the gate mechanism, shall be recessed within, or laid flush with, the building facade.

The subject commercial space has approximately 25-feet of frontage on 17th Street with approximately 20 feet devoted to the restaurant entrance and window space. The windows are clear and unobstructed. The remainder of the space is a secondary egress for the Café bar on the upper floors of the Market Street frontage of the building. There are no changes proposed to the commercial frontage.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:

- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The size of the proposed use is in keeping with other storefronts on the block face. The proposed restaurant would not affect traffic or parking in the District because it is not a destination restaurant and the site is well served by transit. The use would complement the mix of goods and services currently available in the district and contribute to the economic vitality of the neighborhood.

- 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 would remain the same and the project would 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 a 1,500 square foot restaurant. The proposed use is designed to meet the needs of the immediate neighborhood and should not generate significant amounts of vehicular trips from the immediate neighborhood or citywide.

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

The proposed use is subject to the standard conditions of approval for restaurants and outlined in Exhibit A. Two conditions specifically obligate the project sponsor to mitigate odor and noise generated by the restaurant use.

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

The proposed restaurant does not require any additional tenant improvements the Department shall review all lighting and signs proposed for the new business in accordance with the Planning Code.

- C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

The project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below.

- D. That the use as proposed would provide development that is in conformity with the purpose of the applicable Neighborhood Commercial District.

The proposed project is consistent with the stated purposes of Upper Market Street NCD in that the intended use is located at the ground floor, would provide a compatible convenience service for the immediately surrounding neighborhoods during daytime hours.

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

NEIGHBORHOOD COMMERCE

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.1:

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

Policy 1.2:

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

Policy 1.3:

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

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

OBJECTIVE 2:

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

Policy 2.1:

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

The project would retain an existing commercial activity and enhance the diverse economic base of the City.

OBJECTIVE 6:

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

Policy 6.1:

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

No commercial tenant would be displaced and the project would not prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood. No concentration of eating and drinking uses exists within 300 feet of the subject property within the Upper Market Street NCD. Including the proposed Restaurant use, eating, and drinking uses occupy a total of 15% of the lineal street frontage in the 300-foot radius. The proposed Restaurant would not cause a concentration of such uses.

Policy 6.2:

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to the economic and technological innovation in the marketplace and society.

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

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

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

The proposal would enhance the district by providing an active food-service use on the ground floor of the building in close proximity to the open space at Castro and 17th Streets. The business would be locally owned and it creates employment opportunities for the community.

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

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

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

No housing is removed for this project.

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

The site is on 17th Street near the intersection of Castro, Market, and 17th Streets and is well served by transit.

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

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

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

- G. That landmarks and historic buildings be preserved.

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

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

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

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

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2013.0172C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated September 26, 2011, 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 April 18, 2013.

Jonas P. Ionin
Acting Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: April 18, 2013

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow a Restaurant (d.b.a. Pica Pica Maize Kitchen) located at 3970 17th Street, Block 3563, Lot 036 pursuant to Planning Code Section(s) 303 and 721.44 within the Upper Market Street Neighborhood Commercial District and a 65-B Height and Bulk District; in general conformance with plans, dated September 26, 2011, and stamped "EXHIBIT B" included in the docket for Case No. 2013.0172C and subject to conditions of approval reviewed and approved by the Commission on April 18, 2013 under Motion No XXXXXX. 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 April 18, 2013 under Motion No. XXXX.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

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

SEVERABILITY

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

CHANGES AND MODIFICATIONS

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

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity 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

2. **Extension.** This authorization may be extended at the discretion of the Zoning Administrator only where failure to issue a permit by the Department of Building Inspection to perform said tenant improvements is caused by a delay by a local, State or Federal agency or by any appeal of the issuance of such permit(s).

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

DESIGN – COMPLIANCE AT PLAN STAGE

3. **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 building permit plans. 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

4. **Odor Control Unit.** In order to ensure any significant noxious or offensive odors are prevented from escaping the premises once the project is operational, the building permit application to implement the project shall include air cleaning or odor control equipment details and manufacturer specifications on the plans. Odor control ducting shall not be applied to the primary façade of the building.

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

MONITORING - AFTER ENTITLEMENT

5. **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

6. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

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

OPERATION

7. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-.5810, <http://sfdpw.org>

8. **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>

9. **Odor Control.** While it is inevitable that some low level of odor may be detectable to nearby residents and passersby, appropriate odor control equipment shall be installed in conformance with the approved plans and maintained to prevent any significant noxious or offensive odors from escaping the premises.

For information about compliance with odor or other chemical air pollutants standards, contact the Bay Area Air Quality Management District, (BAAQMD), 1-800-334-ODOR (6367), www.baaqmd.gov and Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

10. **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 415-553-0123, www.sf-police.org

- 11. Hours of Operation.** The subject establishment is limited to hours of operations from 6:00 a.m. to 11:00p.m. seven day a week.

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

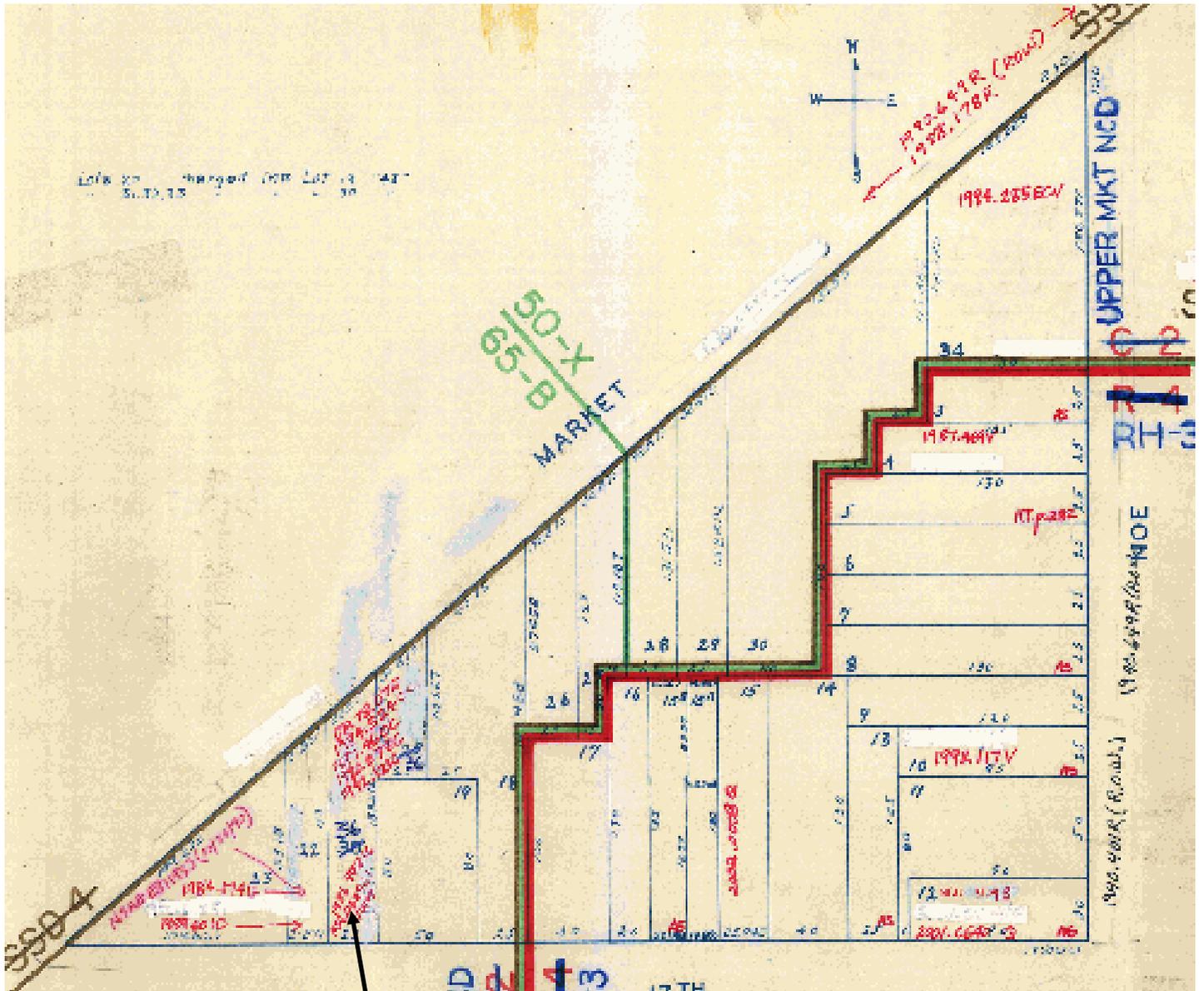
- 12. Alcohol Sales.** The Conditional Use approval is based on the understanding that only beer and wine (Type 42 ABC license) would be sold at this location. The sale of hard liquor (Type 48 ABC license) and the single-can sales of alcohol for consumption off the premises shall not be permitted.

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

- 13. Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

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

Parcel Map

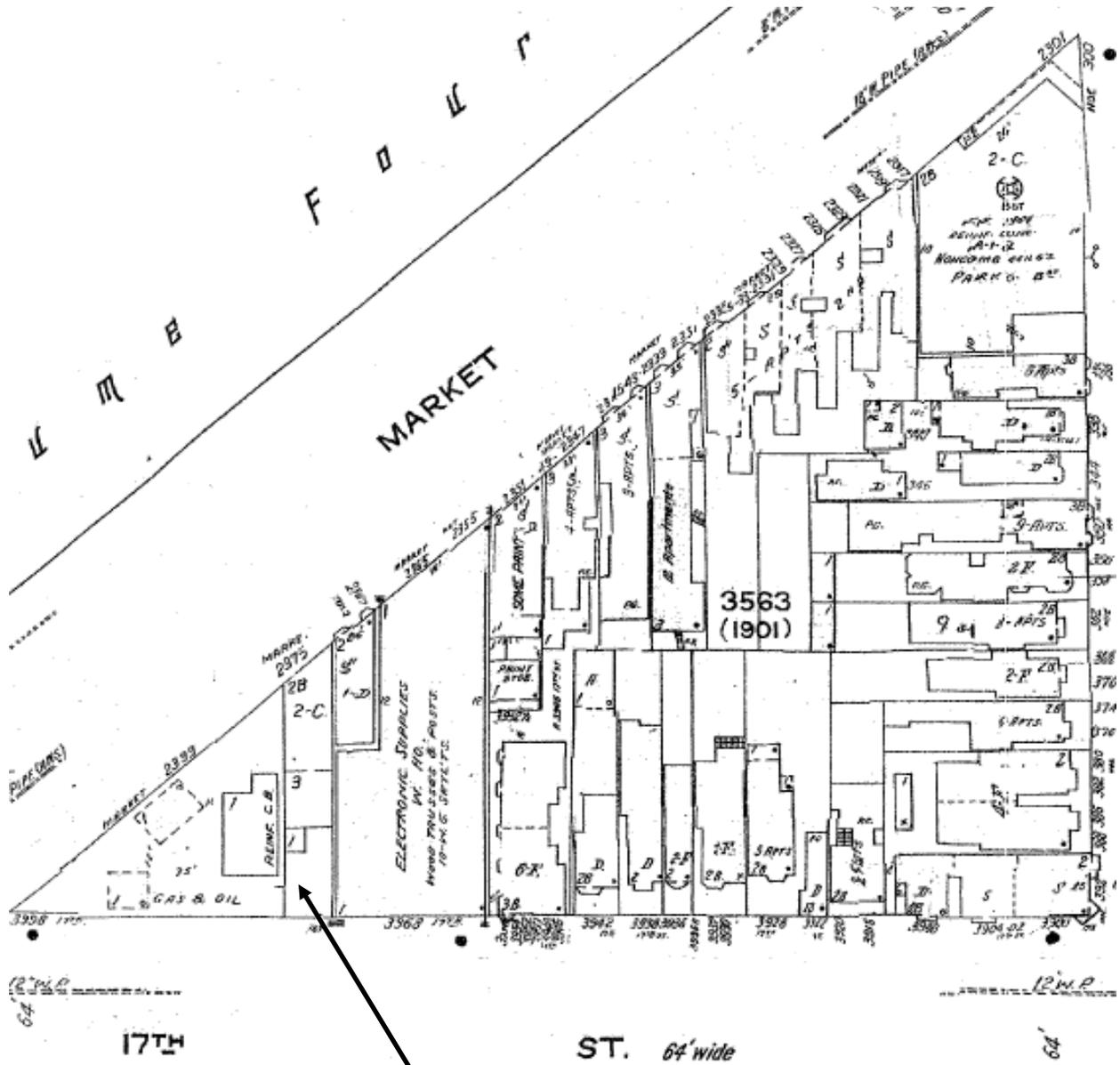


SUBJECT PROPERTY



Conditional Use Authorization
Case Number 2013.0172C
Restaurant (d.b.a. Pica Pica Maize Kitchen)
3970 17th Street

Sanborn Map*



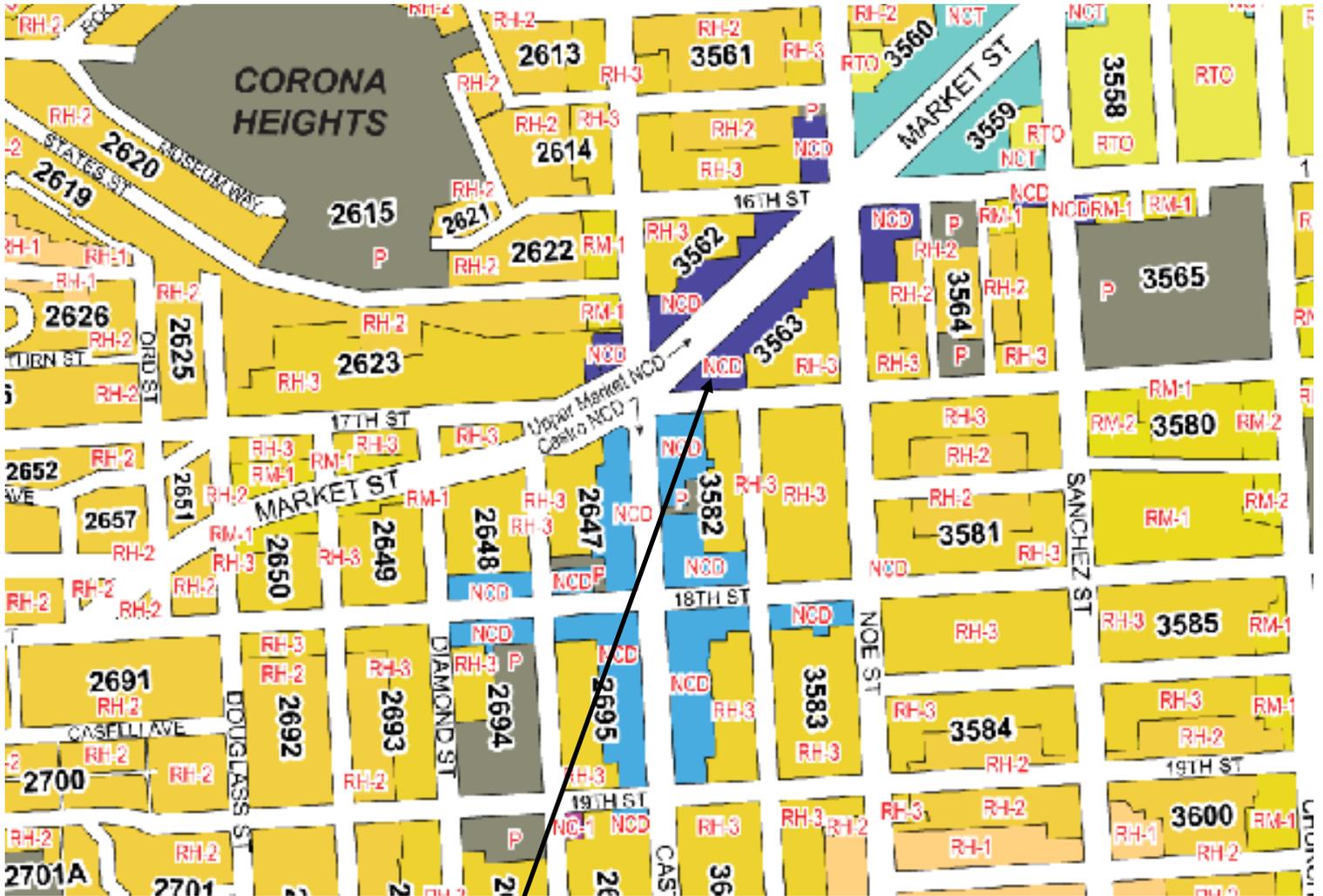
SUBJECT PROPERTY

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



Conditional Use Authorization
Case Number 2013.0172C
Restaurant (d.b.a. Pica Pica Maize Kitchen)
3970 17th Street

Zoning Map

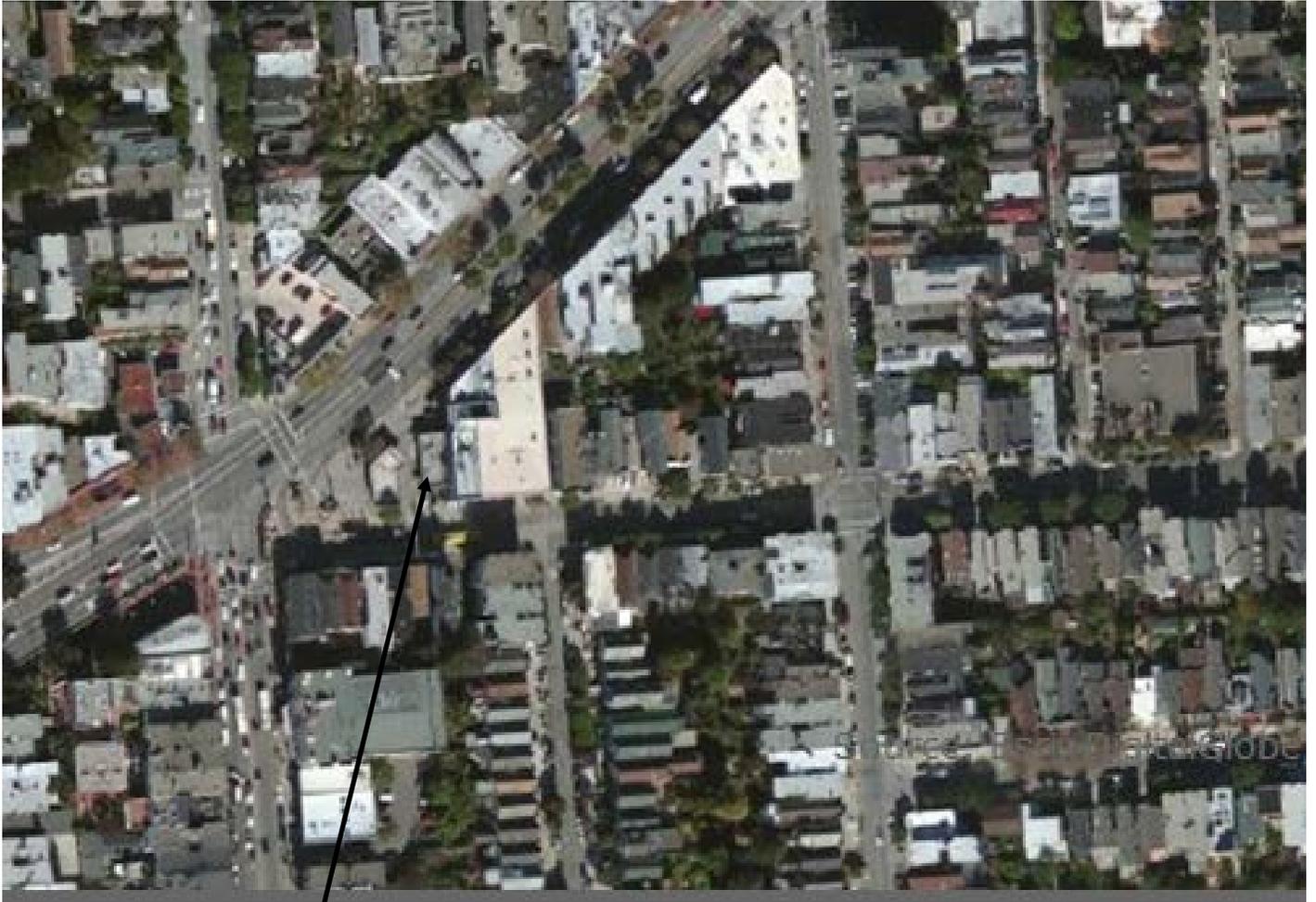


SUBJECT PROPERTY



Conditional Use Authorization
Case Number 2013.0172C
Restaurant (d.b.a. Pica Pica Maize Kitchen)
3970 17th Street

Aerial Photo



SUBJECT PROPERTY



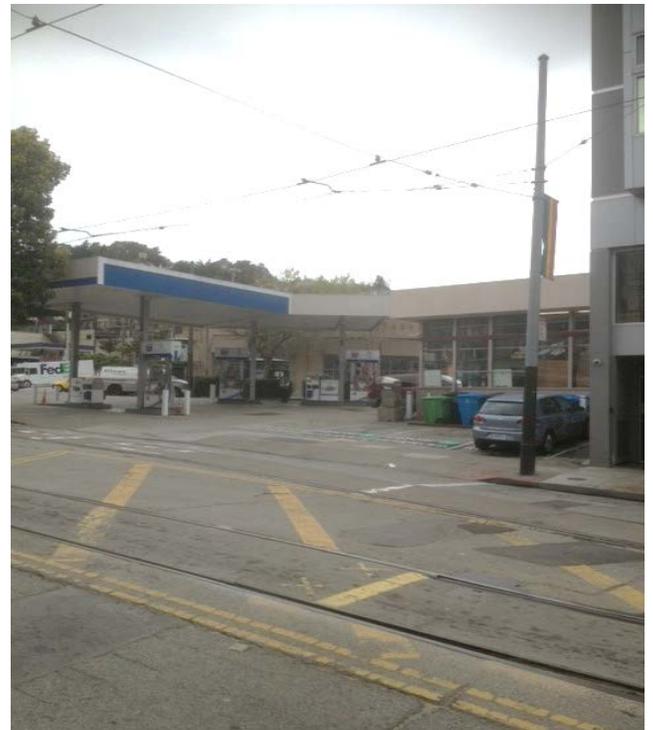
Conditional Use Authorization
Case Number 2013.0172C
Restaurant (d.b.a. Pica Pica Maize Kitchen)
3970 17th Street

Site Photo



Conditional Use Authorization
Case Number 2013.0172C
Restaurant (d.b.a. Pica Pica Maize Kitchen)
3970 17th Street

Context Photos



Conditional Use Authorization
Case Number 2013.0172C
Restaurant (d.b.a. Pica Pica Maize Kitchen)
3970 17th Street

Context Photos



Conditional Use Authorization
Case Number 2013.0172C
Restaurant (d.b.a. Pica Pica Maize Kitchen)
3970 17th Street



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- | | |
|--|--|
| <input type="checkbox"/> Inclusionary Housing (Sec. 315) | <input type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 313) | <input type="checkbox"/> Child Care Requirement (Sec. 314) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 139) | <input type="checkbox"/> Other |

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Motion No. 17572

HEARING DATE: MARCH 20, 2008

Date: March 20, 2008
Case No.: **2007.0072 C**
Project Address: **2367 Market Street, aka 3970 17th Street**
Zoning: Upper Market Neighborhood Commercial District
65-X Height and Bulk District
Block/Lot: 3563/036
Project Sponsor: Alan Toma
2388 35th Avenue
San Francisco, CA 94116
Staff Contact: Rick Crawford – (415) 558-6358
rick.crawford@sfgov.org

ADOPTING FINDINGS RELATING TO THE AUTHORIZATION OF A CONDITIONAL USE UNDER, PLANNING CODE SECTION 186.1 TO EXPAND AN EXISTING NONCONFORMING NEIGHBORHOOD COMMERCIAL USE (A BAR ON THE SECOND FLOOR) AND SECTION 721.53 TO DEVELOP A BUSINESS SERVICE USE ON THE TOP FLOOR IN THE UPPER MARKET NEIGHBORHOOD COMMERCIAL DISTRICT AND A 65-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On March 8, 2007, Alan Toma, authorized agent (hereinafter "Applicant,") of Tom and Suchitra Hutachinda (hereinafter "Project Sponsor,") made an application (hereinafter "Application") for Conditional Use authorization on the property at 2367 Market Street, aka 3970 17th Street, Lot 036 in Assessor's Block 3563 (hereinafter "Property") to allow for the construction of a four-story (three stories and a mezzanine) addition to the rear, 17th Street frontage, of the property. The project will create new retail space on the ground floor for a Small Self-Service Restaurant, expand the existing bar on the second floor and create new retail space on the third floor to develop a Business Service use, within the Upper Market Neighborhood Commercial District, 65-B Height and Bulk District, in general conformity with Plans filed with the Application and labeled "Exhibit B" (hereinafter "Project").

The proposal is to construct a four-story (three stories and a mezzanine) addition to the rear, 17th Street frontage, of the property. The project will create new retail space on the ground floor for a Small Self-Service Restaurant, expand the existing bar on the second floor and create new retail space on the third floor to develop a Business Service use. An ADA compliant entrance for the bar is proposed on the 17th Street frontage. No ingress to, or egress from the bar to 17th Street currently exists.

On June 21, 2007 the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2007.0072. Conditional Use authorization is required for the expansion of a nonconforming use (bar above the ground floor), development of a Small Self-Service Restaurant, and development of a Business Service Use above the ground floor.

The proposed Conditional Use application was determined by the San Francisco Planning Department (hereinafter "Department") to be exempt from environmental review pursuant to Title 14 Category 1(e) of the California Administrative Code on January 18, 2007. The Commission has reviewed and concurs with said determination.

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2007.0072C, 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 Condition.** The subject property is a 4,691 square foot through lot between Market and 17th Streets with 45.75 feet of frontage on Market Street and 25.5 feet of frontage on 17th Street. The property is occupied by a two story commercial building containing a variety of businesses including a full service restaurant a small fast food restaurant, a tattoo parlor and a bar on the second floor with a permit for music and dancing. The main bulk of the building is setback over 40 feet from 17th Street. The area between the building and 17th Street is used for storage of trash receptacles and parking.
3. **Surrounding Properties and Neighborhood.** Properties along Market Street in the vicinity of the Project are occupied by commercial uses or mixed use buildings with commercial uses on the ground floor and, occasionally, second floors and residential uses above. The adjacent property to the west is occupied by a gas station. The character of the land uses along 17th Street divides at Hartford Street. The properties west of Hartford Street along 17th Street are generally occupied by mixed-use commercial/residential buildings except for a 28-unit apartment building at the southwest corner of the intersection of the two streets. East of Hartford Street the properties all tend to be residential in character. The buildings immediately adjacent to the project site are occupied by commercial uses.

Project Description. The proposal is to construct a four-story (three stories and a mezzanine) addition to the rear (17th Street frontage) of the property. The project includes creating a new retail space on the ground floor for a Small Self-Service Restaurant, expanding the existing bar on the second floor and creating a new retail space on the third floor to develop a Business Service use. An ADA compliant entrance for the bar is proposed on the 17th Street frontage. No ingress to, or egress from the bar to 17th Street currently exists. The project also includes extended nights for Other Entertainment under Planning Code Section 721.48 for live entertainment, DJs and dancing, for 7 nights per week.

4. **Public Comment.** The reaction to the project from the neighborhood has been mixed. Some neighborhood groups tend to support the use and encourage the continuation of the Cafe Bar as an entertainment use catering to the LGBT community but they, and neighbors in the area are concerned about the operations of the use, noise and, the impacts of patrons leaving the bar after closing. Neighbors are on the other hand very concerned about the impacts of bar patrons on the neighborhood, loud music from the bar, hours of operation for the proposed restaurant and the possibility the restaurant could become a late night hang out. Finally neighbors strongly object to any entry or exit for the bar to 17th Street. Some neighbors on 17th object to the entire project.

Since the original Planning Commission hearing on the case in June 2007, the Sponsor has been working to modify the project to the satisfaction of the neighborhood. The attached conditions of approval reflect some of the success of their effort. In addition the Sponsors the support of Merchants of Upper Market & Castro, Eureka Valley Promotion Association, and have submitted letters and petitions with signatures from over 660 people from around the City and Bay Area.

5. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Floor Area Ratio (FAR).** Planning Code Section 124 allows a floor area ratio of up to 1.8 in the Upper Market Neighborhood Commercial district

The project will increase the existing building to a floor area ratio of 1.79.

- B. **Rear Yard.** Planning Code Section 134 requires a rear yard equal to 25% of the depth of the lot at the first residential level.

The project does not include any residential units and will cover the full depth of the lot. No rear yard is required.

- C. **Other Entertainment.** Planning Code Section 710.38 states that a Conditional Use Authorization is required for Other Entertainment, as defined by Planning Code Section 790.38.

The project seeks to extend hours for other entertainment to 7 days per week.

- D. **Street Frontage.** Planning Code Section 145.4 requires that no less than 75% of the street frontage for a building in a neighborhood commercial district be dedicated to active use.

The ground floor street frontage of the project will dedicate 100% of the frontage to active use. The active use includes the storefront and entrance for the proposed small fast food use and ADA entrance to the second floor bar.

- E. **Parking.** Planning Section 151 of the Planning Code does not require parking for the proposed uses.

The project complies with the Planning Code and does not include any off street parking.

- F. **Street Trees.** Planning Code Section 143 requires one street tree for each 20 feet of lot width of the project site.

The project is 25 feet wide on 17th Street and the project includes one required street tree.

6. **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 addition will provide desirable infill development on 17th Street. Currently the rear portion of the lot is vacant leaving a "hole" in the street wall along 17th Street. The proposed infill project will eliminate trash accumulation, and remove an isolated unsecured area open to vagrants and undesirable activities in close proximity to the end of the MUNI F line. The expanded area of the bar is necessary to accommodate an elevator and expanded restrooms to comply with ADA access requirements.

- 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 addition is designed to meet all relevant City Codes and it will be an infill project filling in a "hole" in the developed street wall. The project creates an appropriate commercial appearance for a property near the end of the neighborhood commercial district on 17th Street but maintains the

scale of the neighboring residential development by developing at a height near 40 feet in a 65-foot height district.

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

The proposed project does not include parking and will not interfere with pedestrian traffic and will improve access to the uses in the building for the mobility-impaired persons. Vehicle traffic will not be affected by the project as most of the patrons for the businesses come from the neighborhood or can access the site by transit including the subway station at Castro and Market and the adjacent MUNI F line. The proposal has been reviewed by transit planning staff at the MTA. MTA staff recommends that the loading zone for the use be located on Market Street and that hours of pick up for trash and recycling be latter than 7:00 am and as late as 10:00 AM.

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

The project is not expected to generate offensive levels of dust, glare or odor. Noise has been a problem for this property and the bar use in the past. This request for conditional use authorization gives the Planning Commission the opportunity to impose conditions addressing the noise concerns of neighboring residents and property owners.

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

The addition will fill the remainder of the property with a physical building. The plan includes a street tree on 17th Street. The plan will remove the litter and clutter currently on the rear portion of the lot and all trash storage will occur within the building.

- 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 purposed of Upper Market Neighborhood Commercial District in that project is a moderate scale development that promotes that contributes to the Upper Market and Castro area entertainment district.

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

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.1:

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

The Project will provide net benefits because the proposed use will enhance neighborhood commercial and employment opportunities in the area. The location of the Project in close proximity to public transit will mitigate any traffic and parking effects on the area. Conditions of approval included in this motion will help mitigate impacts on the neighborhood from the operations of the bar.

OBJECTIVE 3:

PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

Policy 3.1:

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

The Project represents an expansion of an existing commercial space to better serve the residents of the neighborhood and provide additional opportunities for local business ownership and employment.

Policy 3.2

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

The Project will provide enhanced opportunities for employment of neighborhood residents.

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 Project will provide for enhanced neighborhood commercial use by increasing the size and generally upgrading the bar use and by providing for two additional commercial opportunities at the Project site.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.1:

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

The project is an infill project filling in a "hole" in the developed street wall. The design of the proposed building addition creates an appropriate commercial appearance for a property near the end of the neighborhood commercial district on 17th Street but maintains the scale of the neighboring residential development by developing at a height near 40 feet in a 65-foot height district.

TRANSPORTATION ELEMENT

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.3:

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

The project is well located in proximity to transit providing a logical alternative to auto use for accessing the Project.

OBJECTIVE 11:

MAINTAIN PUBLIC TRANSIT AS THE PRIMARY MODE OF TRANSPORTATION IN SAN FRANCISCO AND AS A MEANS THROUGH WHICH TO GUIDE FUTURE DEVELOPMENT AND IMPROVE REGIONAL MOBILITY AND AIR QUALITY.

Policy 11.3:

Coordinate Land Use with Transit Service.

The Project site is well served by transit including the subway station at Castro and Market, bus lines on Castro and Market and the MUNI F line adjacent to the project site on 17th Street. The proposal has been reviewed by transit planning staff at the MTA. MTA staff recommends that the loading zone for the use be

located on Market Street and that hours of pick up for trash and recycling be latter than 7:00 am and as late as 10:00 AM.

RESIDENCE ELEMENT

Objectives and Policies

OBJECTIVE 12:

PROVIDE A QUALITY LIVING ENVIRONMENT.

While the project does not include any residential units it has great potential to improve the quality of the living environment in the vicinity. The current operations of the Cafe Bar on the property elicit many complaints from the neighborhood. Conditions of approval attached to this motion will require the property owner and the operator of the Cafe Bar to reduce the noise level at the establishment and take greater responsibility for the impact of bar patrons on the neighborhood. As 17th Street east of the project site is residential in nature the conditions of approval will improve the transition between the commercial and residential areas.

8. **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 pf such businesses be enhanced.

The project will expand an existing neighborhood commercial business and provide space for two new neighborhood-serving uses.

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

The addition does not reduce or improve residential units but attempts to be sensitive to the scale proportion and detailing of neighboring residential uses. Conditions of approval adopted, as part of this motion will improve the operations of the bar on the property and reduce negative impacts of the use on the surrounding residential uses.

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

The project will not affect the supply of affordable housing as the project neither contains nor removes housing.

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

Vehicle traffic will not be effected by the project as most of the patrons for the businesses come from the neighborhood or can access the site by transit including the subway station at Castro and Market, bus lines on Castro and Market and the MUNI F line adjacent to the project site on 17th Street. The proposal has been reviewed by transit planning staff at the MTA. MTA staff recommends that the loading zone for the use be located on Market Street and that hours of pick up for trash and recycling be latter than 7:00 am and as late as 10:00 AM.

- 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.

No industrial or service use exists on the lot and none will be displaced by the project.

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

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

- G. That landmarks and historic buildings be preserved.

The subject building is neither a landmark nor an historically significant building.

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

No public parks or open spaces are in the vicinity of the project except for Harvey Milk Plaza to the west of the site at the entrance to the Castro MUNI subway station. The project is well away from the Plaza and, as an infill project similar in height to surrounding buildings will not diminish light or air to the Plaza.

- 9. 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.
- 10. 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. 2007.0072C** subject to the following conditions attached hereto as "EXHIBIT A" 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. 17572. 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 94012.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on March 20, 2008.

Linda Avery
Commission Secretary

AYES: Commissioners Antonini, S. Lee, Moore, Olague, Sugaya

NAYS: None

ABSENT: Commissioner W. Lee

ADOPTED: March 20, 2008

Exhibit A

Conditions of Approval

1. This Authorization is to modify the Conditions of Approval from Case No. 1992.123C, Motion No. 13428, for the construction of a four-story (three stories and a mezzanine) addition to the rear, 17th Street frontage, of the property to create new retail space on the ground and second floors, expand the existing bar on the third floor and develop a Business Service use on the top floor, to accommodate additional ADA and toilet facilities, provide an ADA accessible elevator, relocate stairs and pool table for ADA accommodation, extend the permissible hours for entertainment – allowing amplified music, and to extend the hours of operation from 6 a.m. to 2 a.m. for the bar, and allowing live entertainment and dancing from 6 p.m. to 2 a.m., 7-days a week, pending satisfaction of 6, 12 and 18 month reviews. Such modifications apply to the property located at 2369 Market Street, in general conformance with plans filed with the Amended Application as received on December 7, 2007, and stamped “EXHIBIT B” included in the docket for Case No. 2007.0072C, reviewed and approved by the Commission on March 20, 2008. These conditions of Case 2007.0072C shall supersede the Conditions of Approval from Case No. 1992.123C, Motion No. 13428 and Motion No. 9595M..
2. Prior to the issuance of the Building Permit for the Project the Zoning Administrator shall approve and order the recordation of a notice in the Official Records of the Recorder of the City and County of San Francisco for the premises (Assessor’s Block 3563, Lot 036), which notice shall state that construction has been authorized by and is subject to the conditions of this Motion. From time to time after the recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied.
3. Violation of the conditions contained in this Motion or of any other provisions of the Planning Code may be subject to abatement procedures and fines of not less than \$200 a day in accordance with Planning Code Section 176.
4. Should monitoring of the Conditions of Approval contained in Exhibit A of this Motion be required, the Project Sponsor or successors shall pay fees as established in Planning Code Section 351(e)(1).
5. Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and are subsequently reported to the Zoning Administrator and found to be in violation of the Planning Code and/or the specific Conditions of Approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter in accordance with the hearing notification and conduct

procedures as set forth in Section 174, 306.3 and 306.4 of the Planning Code to consider revocation of this Conditional Use Authorization.

6. The Project Sponsor shall appoint a Community Liaison Officer to address issues of concern to neighbors related to the operation of this Project. The Community Liaison Office will be the current manager, Louis Caputo, (415) 244-4459. The Applicant will keep the Zoning Administrator updated with any changes to the contact information or if a different liaison is designated.
7. If there is a lapse of this use for a period of three or more years, this authorization shall become null and void and the use of the Project site shall revert to a use that is principally permitted in the NC-2, Small Scale Neighborhood Commercial district.
8. The establishment shall implement other conditions and/or management practices, as determined by the Zoning Administrator, in consultation with Police Department and other appropriate public agencies, to be necessary to insure that management and/or patrons of the establishments maintain the quiet, safety, and cleanliness of the premises and the vicinity of the use, and do not block driveways of neighboring residents or businesses.
9. This Authorization is valid for a period of three (3) years from the date of approval by the Planning Commission. This Authorization may be extended at the discretion of the Zoning Administrator for up to two years where the failure to implement the Project is caused by delay by any other public agency or by legal challenge.
10. The Planning Department will conduct a public information hearing at the Commission on the compliance of these Conditions of Approval first at the time project sponsor reports to the Zoning Administrator that basic sound containment measures have been implemented which include window replacement and upgrade of HVAC mechanical systems for the operation of The Café. Completion of this work will start a six-month compliance period during which The Café will be allowed to have live entertainment four nights a week, Wednesday, Thursday, Friday and Saturday from 6 pm to 2 am. On Sundays live entertainment is permitted from 4 pm. to 10 pm. On a Sunday that is followed by a legal holiday on Monday, live entertainment is permitted until 2 a.m. Following the initial six-month compliance period a second information hearing will be scheduled at the Commission. A second six month compliance period will begin during which The Café will be allowed to have live entertainment seven-days a week from 6 p.m. to 2 a.m. On Saturdays, Sundays and holidays live entertainment is permitted from 12-noon to 2 a.m. Following the second six-month compliance period a third information hearing will be scheduled at the Commission within six months to report on compliance with conditions related to quality of life concerns related to The Café operations. Following each of the information hearings, the Planning Commission may give the Zoning Administrator the authority to limit or otherwise restrict hours and days when live entertainment is permitted.
11. During this initial nine month period, the Planning Department Code Enforcement Staff shall work with the Entertainment Commission's Sound Technician to ensure that two unannounced

sound checks are conducted. The data from these sound checks will be transmitted to the Planning Commission during the follow-up public informational hearing in six months.

12. Other Entertainment shall be performed within the enclosed building only. All entertainment shall comply with the conditions imposed by the Entertainment Commission Permit and the City's Noise Ordinance, and shall not be audible outside the enclosed building. Bass and vibrations shall also be contained within the enclosed structure.
13. The Project Sponsor, through the Community Liaison, shall work with existing neighbors and neighborhood groups toward resolving any problems identified as being caused by the bar and the entertainment use. The Zoning Administrator shall report to the Commission any unresolved matters brought to the Department's attention regarding noncompliance with or ineffectiveness of any condition contained in this Exhibit.
14. The operator shall comply with all conditions required by the Entertainment Commission and Police Department at all times.
15. The 17th Street entrance must be designated as an emergency exit only for "The Café" patrons. No exit to or egress from the second floor bar via 17th Street shall be permitted except for emergency exiting as required by the San Francisco Fire and Building Codes. Access from 17th Street is permitted for deliveries, services, employees and tenant space on the 1st and 3rd floor.
16. The retail space fronting on 17th Street shall not be a "formula retail" outlet. A small restaurant, including take-out, is permitted, however this retail space must close by 11:00 p.m.
17. The property owner shall maintain all entrances to the building and all sidewalks abutting the subject property in a clean sound and attractive condition, consistent with the general appearance of the neighborhood. Such maintenance shall include, at a minimum, daily litter pickup and disposal, and washing or steam cleaning of the main entrance and abutting sidewalks at least once each week.
18. Trash and recycling receptacles shall be stored inside fully enclosed buildings except they may be placed outside of such buildings for pick up and removal of the trash or recyclable materials.
19. The Project site and the improvements shall be maintained in a neat and attractive manner.
20. The Project Sponsor shall ensure that the establishment provides adequate ventilation within the structures such that doors and/or windows are not left open for such purposes. Noise, odors and nuisance factors shall be adequately controlled. The operation of uses (Bar, Restaurant) shall be conducted in such a fashion that nearby residents are not affected by arriving or departing patrons or from noise, vibrations or odors emanating from the use. The heating, ventilation and air-conditioning (HVAC) systems in the building shall be upgraded as necessary to allow implementation of the conditions of this Motion. These systems shall have noise baffling panels or walls to minimize noise emission.

21. Project Sponsor shall have the final design of the building and exterior facade materials approved by Planning Staff prior the issuance of the first addendum to the Building Permit allowing above ground construction.
22. Ground level storefronts in general conformity with Exhibit B shall be maintained in an attractive manner, providing transparency into the tenancy behind. Visibility of the commercial interiors and activity through all storefront windows shall be maintained in order to ensure that the ground level of the building remains visually active, provides visual interest to pedestrians, and enhances sidewalk security. Commercial interior layouts should be designed with these requirements in mind. Generally, storefront windows should not be visually obscured with the following: blinds, shades or curtains; shelving; equipment; darkly tinted, translucent or opaque film; painted, stenciled or adhesive signage applied to individual window surfaces that has an overall transparency of less than 50%, or any signage that covers more than 1/3 of the area of any individual window; full or partial height interior partition walls placed directly against or within 10 feet from the window glazing; or any other items that significantly block the vision of pedestrians through the storefront windows into the occupiable commercial space. Solid roll-down security gates shall not be installed in storefront openings. The property owner shall ensure that this condition of approval is incorporated into all commercial leases.
23. The owner of the bar shall implement any other conditions and/or management practices as determined by the Zoning Administrator, in consultation with the Police Department and other appropriate public agencies, to be necessary to ensure that management and/or patrons of the establishment maintain the quiet, safety, and cleanliness of the premises and the vicinity of the use.
24. Project sponsor shall apply for a loading zone designation fronting on Market Street and shall limit loading activities to non-peak commute hours. Loading on Market Street shall not be permitted from 7 a.m. to 9:30 a.m. and from 4:00 p.m. to 6:30 p.m. weekdays. Should the city prohibit loading from Market Street, then loading will occur on 17th Street. Loading on 17th Street shall not be permitted from 7:00 a.m. to 9:00 a.m. and from 4:00 p.m. to 6:30 p.m. weekdays.
25. There shall be no deliveries or pickups associated with the operation of The Café between the hours of 11:00 p.m. and 7:00 a.m., including garbage pick-up. Garbage pick-up shall be scheduled so that it does not interfere with peak commuter activity.
26. Outdoor decks facing 17th Street shall not be permitted. The project sponsor shall examine the feasibility of glazing in or otherwise fully enclosing the west facing deck at the Café level. The goal of this enclosure is to further reduce a potential source of noise. Should such enclosure be feasible under the Building Code, project sponsor will review the design for such enclosure with neighbors prior to submitting plans for approval by the Planning Department and other relevant City agencies.

27. The building walls, including doors and windows, shall be adequately soundproofed. The Project Sponsor shall take all necessary measures to insure that sound levels emanating from activities at the site do not exceed the acceptable noise levels established for residential uses by the San Francisco Noise Ordinance.
28. Prior to commencement of the authorized entertainment, final sound tests shall be conducted by the Police Department/Entertainment Commission in order to set the maximum decibel limit allowed for the site (in compliance with the San Francisco Noise Ordinance). Any necessary structural alterations to the building or changes in sound equipment required in order to comply with the decibel limit shall be made prior to the commencement of the authorized entertainment. Any amplification above the set maximum decibel limit would require a new Conditional Use Authorization from the City Planning Commission.
29. Noise, odors and nuisance factors shall be adequately controlled. The operation of the bar shall be conducted in such a fashion that nearby residents are not affected by arriving or departing patrons or from noise, vibrations or odors emanating from the use.
30. Dancing shall be permitted only on the dance floor as indicated on the plans filed with the application for Conditional Use authorization and labeled as "Exhibit B" and under no circumstances shall dancing be permitted in the addition portion of the building south of the elevator.
31. On those evenings when dancing or live entertainment occurs, employees of the establishment shall be posted at all entrances and exits for the establishment to insure that patrons waiting to enter, and those exiting, the establishment are encouraged not to park motorcycles on the sidewalk and to respect the quiet and cleanliness of the neighborhood as they leave the vicinity.
32. Project sponsor shall retain the services of private "Police Specials" officers whose duties include ensuring that patrons behave in an orderly, peaceful and respectful manner, not only within The Café, but also within a half-block distance from The Café (approximately 500-feet from the property). This includes both the Market Street and 17th Street frontages. At minimum, private "Police Specials" shall be on patrol on all days The Café is open from the hours of 10:30 p.m. to 2:30 a.m.
33. Project sponsor shall station security on the 17th Street frontage between the hours of 10:30 PM and 2:30 AM to prevent bar patrons from creating a nuisance by encouraging customers to be courteous to nearby residents when leaving the establishment.
34. Well lit notices urging patrons to leave the establishment and neighborhood in a quiet, peaceful and orderly fashion and to not litter or block driveways in the neighborhood shall be prominently displayed at all entrances and exits for the establishment. Theses notices shall be made of durable material and permanently affixed.

35. The Project Sponsor shall designate employees of the establishment to walk down 17th Street from Market Street to Noe Street and Hartford Street from 17th to 18th Streets some time between 30 minutes after closing time and 8:00 a.m. the following morning, and shall require designated employees to pick up and dispose of any trash left by building patrons.
36. During the hours before sunset or 8:00 pm whichever is earlier, doors to the interior patio and balcony may be open. After sunset or 8:00 pm, the doors between the dance floor and the interior patio shall be locked. Access to the interior patio shall only be through the easterly facing doors at the top of the patio stairs near the rear interior bar and only as necessary to allow patrons access to and from the interior patio but shall otherwise remain closed. The owner/operator shall post a sign on the east facing sliding glass door to ask customers to keep the door closed except while entering and exiting. This condition shall not apply once the new retractable roof is installed and the roof is closed.
37. No use of outdoor decks or the balcony shall be permitted after sunset or later than 8:00 pm, whichever is earlier.
38. All exterior windows shall be made of highly rated sound-limiting material and be fixed (inoperable). Windows serving The Café shall be closed during times when there is Other Entertainment activity. A type of window may be installed that cannot be opened except with a special key or tool – utilizing a locking system generally used in institutions. Under all circumstances, windows shall be closed and locked after 9:00 pm through 2 am.
39. Windows in the addition portion of the building south of the elevator must have adequate covering from sundown to closing so that activity within the space is not visible from residents across 17th Street.
40. Speakers are not permitted on the interior patio or the balcony.
41. Any walls above roof-line to support proposed Retractable roof/skylight will be constructed utilizing sound-proof material.
42. The retractable roof may not be opened during hours of dancing and live entertainment. Installation of retractable roof shall be done so as to achieve required sound containment that does not exceed the acceptable noise levels established for residential uses by the San Francisco Noise Ordinance. If it can be demonstrated that sound standards are met when the retractable roof is open, then this condition shall not apply.
43. Access to rear elevator from and to Café shall be limited to service use only and said access will be via locked exterior key call.

44. Sufficient toilet facilities shall be made accessible to patrons within the premises, and toilet facilities shall be made accessible to prospective patrons who may be lined up waiting to enter the establishment.
45. The Property owner will allow MUNI to install eyebolts in the building adjacent to its electric streetcar line to support its overhead wire system if requested by MUNI or MTA.
46. The Project Sponsor and the Café management shall at all times keep a copy of these “Conditions of Approval-Exhibit A” on premises for reference. The Café management shall review with new employees as part of their training and orientation, and periodically (at least at twelve month intervals) review with the other Café employees, these Conditions of Approval related to operational concerns and quality of life issues, with emphasis on noise control, street cleanliness, and respectful behavior towards neighbors by Café patrons. Employees are to be reminded that continued successful operation of the Café, and their respective jobs are dependant on compliance with these Conditions of Approval.

**PICA PICA
CASTRO
3970 17TH STREET
UPPER MARKET NCD/65-B
CASE NUMBER: 2013.0172C
HEARING DATE: APRIL 18, 2013**

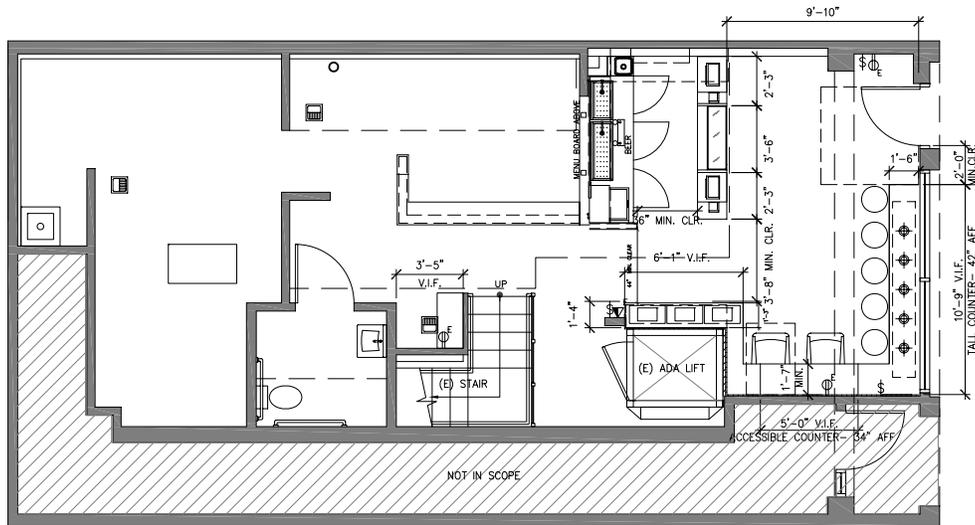
**DRAFT PROJECT MATERIALS
PLANS & ELEVATIONS**



**PICA PICA
CASTRO
3970 17TH STREET
CASE: 2013.0172C**

**DRAFT MATERIALS
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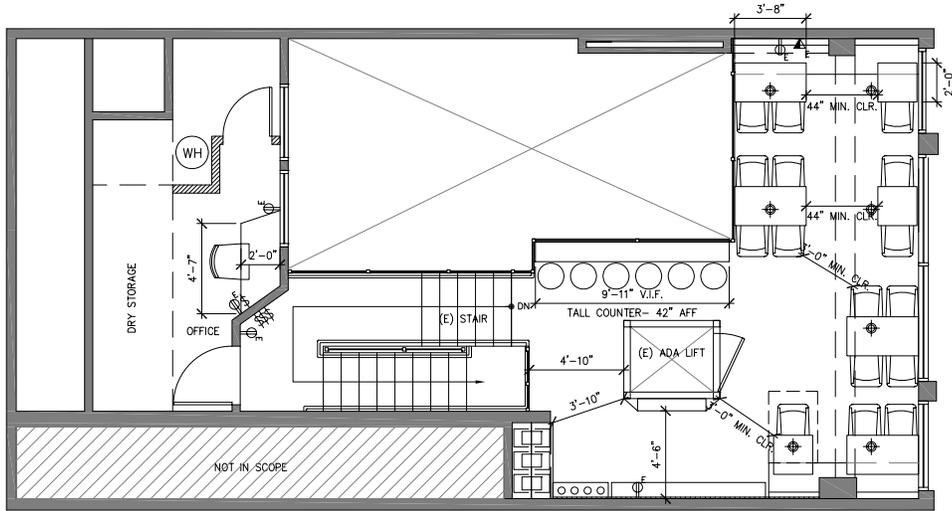
SITE PLAN	3
150 FT RADIUS	4
FIRST FLOOR PLAN	5
MEZZANINE PLAN	6
INTERIOR ELEVATIONS	7-10



All drawings and written material appearing herein constitute original and unpublished work of the Architect and may not be duplicated, used or disclosed without written consent of the Architect.

<p>arcsine ARCHITECTURE 414 Thirteenth Street, Suite 350 Oakland, CA 94612 t: 510.444.2410 f: 510.444.2610 www.arcsine.com</p>	<p>PICA PICA CASTRO 3970 17TH STREET SAN FRANCISCO CA 94114</p>	<p>SHEET NAME: PROPOSED FIRST FLOOR DATE: 2011 SEP 19 SCALE: 3/16" = 1'-0"</p>	<p>SHEET NUMBER: 001 REFERENCE: - DRAWN BY: LYU</p>
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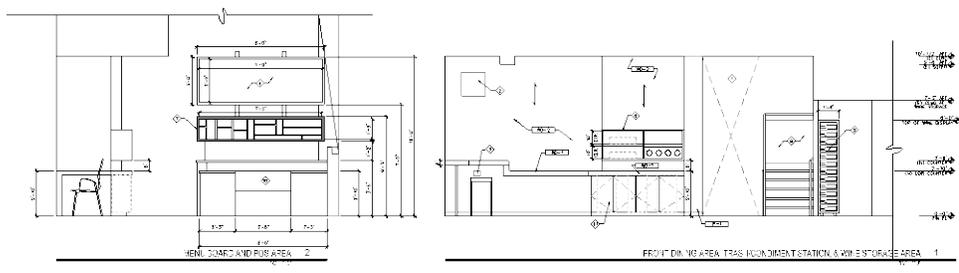
FIRST FLOOR PLAN



All drawings and written material appearing herein constitute original and unpublished work of the Architect and may not be duplicated, used or disclosed without written consent of the Architect.

<p>arcsine ARCHITECTURE 414 Thirteenth Street, Suite 350 Oakland, CA 94612 t: 510,444,2410 f: 510,444,2610 www.arcsine.com</p>	<p>PICA PICA CASTRO 3970 17TH STREET SAN FRANCISCO CA 94114</p>	<p>SHEET NAME: PROPOSED SECOND FLOOR DATE: 2011 SEP 19 SCALE: 3/16" = 1'-0"</p>	<p>SHEET NUMBER: 002 REFERENCE: - DRAWN BY: LYU</p>
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MEZZANINE PLAN



- KEYNOTES**
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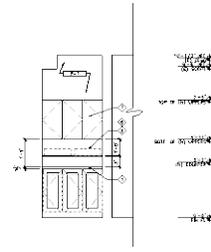
INTERIOR ELEVATIONS

NO. 10
A10.1

INTERIOR ELEVATIONS

**PICA PICA
CASTRO**

3970 17TH STREET
SAN FRANCISCO
CA 94114



TRASH AREA @ MEZZANINE LEVEL 1

KEYNOTES

- ① 1/2" x 1/4" BRASS PIN
- ② 1/2" x 1/4" BRASS PIN
- ③ 1/2" x 1/4" BRASS PIN
- ④ 1/2" x 1/4" BRASS PIN
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- ⑩ 1/2" x 1/4" BRASS PIN

DATE: 08/14/11
DRAWN BY: [REDACTED]
CHECKED BY: [REDACTED]
SCALE: 1/4" = 1'-0"
PROJECT: PICA PICA CASTRO
SHEET: A10.2

INTERIOR ELEVATIONS

A10.2

1/4" = 1'-0"

INTERIOR ELEVATIONS

