



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use

HEARING DATE: APRIL 24, 2014

Date: April 17, 2014
Case No.: **2013.1610C**
Project Address: **2175 MARKET STREET**
Zoning: Upper-Market Street Neighborhood Commercial Transit District
40-X/60/65-X Height and Bulk Districts
Block/Lot: 3543/011
Project Sponsor: Katie O'Brien
FC 2175 Market, LLC
875 Howard Street, Suite 330
San Francisco, CA 94103
Staff Contact: Michael Smith – (415) 558-6322
michael.e.smith@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

On October 4, 2012, by Planning Commission Motion No. 18715, the Commission approved the new construction of a six-story, mixed-use building with 88 dwelling units and approximately 6,300-square-feet of ground floor retail space along the Market Street frontage. The retail space is broken up into three separate spaces: Retail 1 located at the corner of Market and 15th Streets is approximately 2,365 sq. ft. and was approved for a restaurant use by Motion No. 18715, Retail 2 is approximately 1,945 sq. ft., and Retail 3 is approximately 1,950 sq. ft. and located adjacent to the residential lobby.

The Project Sponsor is requesting conditional use authorization to amend Motion No. 18715, as it applies to the ground floor retail spaces only, to combine the retail spaces and add additional restaurant and bar uses. The goal is to create an approximately 3,895 square-foot "market hall" retail concept by combining the Retail 2 and Retail 3 spaces into a single space. The "market hall" concept would be designed to create a one stop market place featuring multiple local businesses in a shared space. Similar to the Ferry Building or a European-style market place, the market hall is expected to feature local businesses that complement each other and provide neighborhood serving goods and services. The marketplace would also have the opportunity to function as a community gathering-place for the celebration of local culture and products. In the event that the "market hall" retail concept does not materialize, a restaurant use up to 2,999 gross square feet could be established by partially combining the Retail 2 and Retail 3 spaces,

In order for the project to proceed, the Commission must grant conditional use authorization pursuant to Planning Code Sections: 303, 145.4(d) for an individual ground floor nonresidential use that occupies more than 75 contiguous linear feet along the Market Street façade, 733.21 and 121.2 for nonresidential use size over 2,999 gross square feet (for the "market hall" retail concept), 733.41 for bar use(s), and 733.44, for restaurant use(s).

SITE DESCRIPTION AND PRESENT USE

The project is located at the southeast corner of a six-point intersection, on the south side of Market Street between 15th and Church Streets (Block 3560, Lot 011). The triangular-shaped through lot is 18,525-square feet in area with approximately 276 feet of frontage on Market Street and 236 feet of frontage on 15th Street. The property is currently being developed with a six-story, mixed-use building with 88 dwelling units and approximately 6,300-square-feet of ground floor retail space divided into three retail spaces along the Market Street frontage.

The original entitlement for the project was granted on October 4, 2012, under Case No. 2012.0110CEV, allowing demolition of the previous gas station on the site to make way for construction of a new mixed-use building with a yet to be determined restaurant within the ground floor retail space at the western corner of the site (Retail 1).

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The subject property is located within the Upper Market Street Neighborhood Commercial District, which extends along Market Street from Church to Castro, and on side streets off Market, and 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. In general, the district is a full-service shopping area providing a variety of uses within easy walking distance.

The subject property is one of six corner lots created by the intersection of three streets: Market Street, Sanchez Street and 15th Street. The adjacent property to the east of the subject property is occupied by a two-story commercial building occupied by Walgreens and 24 Hour Fitness. The property has full lot coverage with underground parking that is accessed from Market Street and exits onto 15th Street. To the west across 15th Street is a four-story mixed building that was constructed in 2002. To the south of the subject property on the opposite side of 15th Street is a three-story over basement, Edwardian era apartment building with 12 dwellings surrounded by two- and three-story, low-density Edwardian era, multi-family dwellings. The context to the south of the subject property is within the RTO Zoning District and decidedly fine grain residential that is typified by the buildings on Sharon Street which runs perpendicular to 15th Street behind the subject property.

Development to the north, across Market Street, includes a vacant lot that is proposed for a six-story, mixed-use building, the Swedish American Hall, and a row of one- to four-story Edwardian era mixed use and residential buildings.

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 | April 4, 2014 | April 2, 2014 | 22 days |
| Posted Notice | 20 days | April 4, 2014 | April 2, 2014 | 21 days |
| Mailed Notice | 20 days | April 4, 2014 | April 4, 2014 | 21 days |

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

PUBLIC COMMENT

- The Department has not received any correspondence from the public regarding this project. However, the Project Sponsor worked directly with local neighborhood groups to craft condition #13 which is included in the attached draft motion to address neighborhood concerns.

ISSUES AND OTHER CONSIDERATIONS

- The specific vendors for the “market hall” retail concept have not yet been chosen but they would be local neighborhood serving retail tenants with multiple vendor kiosks or stations, possibly including a bar. A certain amount of ambiguity is inevitable at this stage in the review process to allow the Project Sponsor to choose the appropriate mix of vendors for the space.
- It is possible that the Retail 2 and Retail 3 spaces would be combined into a single space, but only to accommodate the "market hall" retail concept, in which case Condition #13 would apply, which would require the approximately 3,895 gross square foot space to be occupied by at least two separately owned vendors, none of which would be permitted to occupy an area over 1,777 gross square feet, excluding common areas.
- Regardless of whether any of the retail spaces are combined, the project sponsor is committed to only leasing them to non-formula retail businesses that serve the local neighborhood.
- If the “market hall” retail concept does not materialize, the Project Sponsor is asking for the flexibility to instead establish a restaurant use up to 2,999 gross square feet by partially combining the Retail 2 and Retail 3 spaces. This would provide flexibility and the opportunity to enable the success of a small local business. A bona fide restaurant use may provide on-site beer, wine, and/or liquor sales for drinking on the premises (with ABC license types 41, 47, 49, 59, or 75).
- The Planning Code discourages an over-concentration of eating and drinking establishments as outlined in Section 303(p) of the Code. For eating and drinking establishments, the Code states, “the balance of commercial uses may be threatened when eating and drinking establishments occupy more than 25% of the total occupied commercial frontage.” Planning staff has performed a survey of the Upper Market Street Neighborhood Commercial Transit District and confirmed that including the proposed restaurant and bar uses, approximately 21% of the commercial frontage in Upper Market Street NCT/NCD District within 300 feet of the subject property is

dedicated to eating and drinking establishments, which is below the 25% threshold established by Planning Code Section 303(p).

- This amendment to Planning Commission Motion No. 18715 would only apply to the retail spaces on the ground floor, the existing Conditional Use Approval will remain in full force and effect as it was adopted on October 4, 2012.
- Similar "Market Hall" retail concept examples include:
 - Assembly Hall, Seattle <http://assemblyhallseattle.com/> (see also: <http://seattle.eater.com/archives/2013/06/14/inside-tom-ds-expansive-tanakasan-assembly-hall.php>)
 - San Pedro Square Market, San Jose <http://www.sanpedrosquaremarket.com/about-san-pedro-square-market/>
 - Rockridge Market Hall, Oakland <http://www.rockridgemarkethall.com/>
 - Ferry Building Market Place, San Francisco <http://www.ferrybuildingmarketplace.com/>

REQUIRED COMMISSION ACTION

In order for the project to proceed, the Commission must grant conditional use authorization to amend Motion No. 18715 pursuant to Planning Code Sections: 303, 145.4(d) for an individual ground floor nonresidential use that occupies more than 75 contiguous linear feet along the Market Street façade; 733.21 and 121.2 for nonresidential use size over 2,999 gross square feet (for the "market hall" retail concept); 733.41 for bar use(s); and 733.44 for restaurant use(s).

BASIS FOR RECOMMENDATION

- The project is a unique way to create lower cost business opportunities for smaller local businesses to share overhead costs for a single retail space.
- The project would provide a distinctive shopping experience that is not currently available within the District.
- The project would not lead to an overconcentration of eating and drinking uses within the District.
- The project is consistent with the objectives and policies of the General Plan.
- The project is desirable for, and compatible with the surrounding neighborhood.

| |
|--|
| RECOMMENDATION: Approval with Conditions |
|--|

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 checked="" type="checkbox"/> Environmental Determination | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Zoning District Map | Drawings: <u>Proposed Project</u> |
| <input checked="" type="checkbox"/> Height & Bulk Map | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Parcel Map | <input type="checkbox"/> Wireless Telecommunications Materials |
| <input checked="" type="checkbox"/> Sanborn Map | <input type="checkbox"/> Health Dept. review of RF levels |
| <input checked="" type="checkbox"/> Aerial Photo | <input type="checkbox"/> RF Report |
| <input checked="" type="checkbox"/> Context Photos | <input type="checkbox"/> Community Meeting Notice |
| <input checked="" type="checkbox"/> Site Photos | <input type="checkbox"/> Housing Documents |
| | <input type="checkbox"/> Inclusionary Affordable Housing Program: Affidavit for Compliance |
| | <input type="checkbox"/> Residential Pipeline |
| | <input type="checkbox"/> Draft Costa Hawkins Agreement |

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)

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

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 Draft Motion

HEARING DATE: APRIL 24, 2014

Date: April 17, 2014
Case No.: **2013.1610C**
Project Address: **2175 MARKET STREET**
Zoning: Upper Market Street Neighborhood Commercial Transit District
 40-X/60/65-X Height and Bulk Districts
Block/Lot: 3543/011
Project Sponsor: Katie O'Brien
 FC 2175 Market, LLC
 875 Howard Street, Suite 330
 San Francisco, CA 94103
Staff Contact: Michael Smith – (415) 558-6322
michael.e.smith@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT SECTIONS: 303, 145.4(D), 733.21, 733.41, AND 733.44 OF THE PLANNING CODE TO AMEND MOTION NO. 18715 AS IT APPLIES TO THE GROUND FLOOR RETAIL SPACES ONLY, TO COMBINE THE RETAIL SPACES AND ADD ADDITIONAL RESTAURANT AND BAR USES TO CREATE UP TO AN APPROXIMATELY 3,895 SQUARE-FOOT "MARKET HALL" RETAIL CONCEPT OR A RESTAURANT SPACE UP TO 2,999 SQUARE FEET FOR A PROPERTY LOCATED WITHIN THE UPPER MARKET STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT AND A 40-X/60/65-X HEIGHT AND BULK DISTRICTS.

PREAMBLE

On November 4, 2013, Katie O'Brien of Forest City (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization to amend Motion No. 18715, as it applies to the ground floor retail spaces only, to combine the retail spaces and add additional restaurant and bar uses to create an approximately 3,895 square-foot "market hall" retail concept or, alternatively, a restaurant use up to approximately 2,999 gross square feet, requiring conditional use authorization pursuant to Sections 303, 145.4(d) for an individual ground floor nonresidential use that occupies more than 75 contiguous linear feet along the Market Street façade, 733.21 and 121.2 for nonresidential use size over 2,999 gross square feet (for the "market hall" retail

concept), 733.41 for bar use(s), and 733.44, for restaurant use(s). The subject property is located within the Upper Market Street Neighborhood Commercial Transit District and a 40-X/60/65-X Height and Bulk Districts.

On, April 24, 2014 the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.1610C.

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

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

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2013.1610C, 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 at the southeast corner of a six-point intersection, on the south side of Market Street between 15th and Church Streets (Block 3560, Lot 011). The triangular-shaped through lot is 18,525-square feet in area with approximately 276 feet of frontage on Market Street and 236 feet of frontage on 15th Street. The property is currently being developed with a six-story, mixed-use building with 88 dwelling units and approximately 6,300-square-feet of ground floor retail space divided into three retail spaces along the Market Street frontage.

The original entitlement for the project was granted on October 4, 2012, under Case No. 2012.0110CEV, allowing demolition of the previous gas station on the site to make way for construction of a new mixed-use building with a yet to be determined restaurant within the ground floor retail space at the western corner of the site (Retail 1).

3. **Surrounding Properties and Neighborhood.** The subject property is located within the Upper Market Street Neighborhood Commercial District, which extends along Market Street from Church to Castro, and on side streets off Market, and 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. In general, the district is a full-service shopping area providing a variety of uses within easy walking distance.

The subject property is one of six corner lots created by the intersection of three streets: Market Street, Sanchez Street and 15th Street. The adjacent property to the east of the subject property is occupied by a two-story commercial building occupied by Walgreens and 24 Hour Fitness. The property has full lot coverage with underground parking that is accessed from Market Street and exits onto 15th Street. To the west across 15th Street is a four-story mixed building that was constructed in 2002. To the south of the subject property on the opposite side of 15th Street is a three-story over basement, Edwardian era apartment building with 12 dwellings surrounded by two- and three-story, low-density Edwardian era, multi-family dwellings. The context to the south of the subject property is within the RTO Zoning District and decidedly fine grain residential that is typified by the buildings on Sharon Street which runs perpendicular to 15th Street behind the subject property.

Development to the north, across Market Street, includes a vacant lot that is proposed for a six-story, mixed-use building, the Swedish American Hall, and a row of one- to four-story Edwardian era mixed use and residential buildings.

4. **Project Description.** On October 4, 2012, by Planning Commission Motion No. 18715, the Commission approved the new construction of a six-story, mixed-use building with 88 dwelling units and approximately 6,300-square-feet of ground floor retail space along the Market Street frontage. The retail space is broken up into three separate spaces: Retail 1 located at the corner of Market and 15th Streets is approximately 2,365 sq. ft. and was approved for a restaurant use by Motion No. 18715, Retail 2 is approximately 1,945 sq. ft., and Retail 3 is approximately 1,950 sq. ft. and located adjacent to the residential lobby.

The Project Sponsor is requesting conditional use authorization to amend Motion No. 18715, as it applies to the ground floor retail spaces only, to combine the retail spaces and add additional restaurant and bar uses. The goal is to create an approximately 3,895 square-foot "market hall" retail concept by combining the Retail 2 and Retail 3 spaces into a single space. The "market hall" concept would be designed to create a one stop market place featuring multiple local businesses in a shared space. Similar to the Ferry Building or a European-style market place, the market hall is expected to feature local businesses that complement each other and provide neighborhood serving goods and services. None of the proposed vendors would be formula retail uses but rather they would be independent, locally owned businesses which have been encouraged throughout San Francisco. The marketplace would also have the opportunity to function as a community gathering-place for the celebration of local culture and products. In the event that the "market hall" retail concept does not materialize, a restaurant use up to 2,999 gross square feet could be established by partially combining the Retail 2 and Retail 3 spaces.

5. **Public Comment.** The Department has not received any correspondence from the public regarding this project. However, the Project Sponsor worked directly with local neighborhood groups to craft condition #13 which is included in the attached draft motion to address neighborhood concerns. Condition #13 would apply if the Retail 2 and Retail 3 spaces are combined into a single space for the "market hall" retail concept and would require the

approximately 3,895 gross square foot space to be occupied by at least two separately owned vendors, none of which would be permitted to occupy an area over 1,777 gross square feet, excluding common areas. The condition would not apply if Retail 2 and Retail 3 are only partially combined to accommodate, e.g., a restaurant use up to approximately 2,999 gross square feet.

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 overconcentration of eating and drinking uses exists within 300 feet of the subject property within the Upper Market Street NCT. Including the proposed Restaurant and bar uses, eating, and drinking uses occupy a total of 21% of the lineal street frontage in the 300-foot radius. The proposed Restaurant and bar uses would not cause a overconcentration of such uses.

B. Use Size Limitation. In order to protect and maintain a scale of development appropriate to the district, nonresidential uses are limited to 2,999 gross square feet. Nonresidential uses of 3,000 gross square feet or larger may be permitted with conditional use authorization, however, the Commission shall consider the extent to which the following criteria are met:

- (1) 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.
- (2) 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.
- (3) The building in which the use is to be located is designed in discrete elements which respect the scale of development in the district.

The proposed "market hall" retail concept would measure approximately 3,895 gross square-feet. Although the use is larger than the principally permitted use size within the District the physical space would be occupied by at least two small local vendors, none of which would be permitted to occupy an area over 1,777 gross square feet, excluding common areas, which would help to protect the diversity of goods and services offered in the District. The ground floor retail spaces, which have been designed in discrete elements with respect to the scale of development in the area, are newly constructed and unoccupied therefore the combining of the spaces would not displace any existing tenants. The goods

and services offered by the proposed "market hall" retail concept are intended to serve the immediate neighborhood.

- C. **Restaurant Use(s).** Planning Code Section 721.44 states that Conditional Use authorization is required for restaurant uses in the Upper Market Street NCT.

The proposed "market hall" retail concept or, alternatively, a restaurant use up to approximately 2,999 gross square feet, would include additional square-footage devoted to restaurant use(s) than what was originally authorized in Motion No. 18715; therefore, a new conditional use authorization is required. Similar to the approved restaurant use in the Retail 1 space, the proposed restaurant use(s) could operate under an ABC license type 47 or similar, in which case the restaurants would be operated as a Bona Fide Eating Place, as defined in Planning Code Section 790.142.

- D. **Bar Use(s).** Planning Code Section 721.41 states that Conditional Use authorization is required for bar uses in the Upper Market Street NCT.

The proposed "market hall" retail concept requires conditional use authorization because it is proposed to include bar use(s) as defined in Section 790.22 of the Code. Pursuant to Condition #13, the bar use(s) would not exceed 1,777 gross square feet, excluding common areas.

- E. **Street Frontage in Neighborhood Commercial Transit Districts.** On Market Street within the Upper Market Street NCT, an individual ground floor nonresidential use may not occupy more than 75 contiguous linear feet for the first 25 feet of depth along a street-facing facade. Modifications to this requirement may be granted through the Conditional Use process.

The project proposes to combine the Retail 2 and Retail 3 ground floor retail spaces into one large open retail space that would be occupied by several small vendors operating kiosks, or similar, under the "market hall" retail concept. Even if Retail 2 and Retail 3 would only be partially combined, the combined retail space would occupy more than 75 contiguous linear feet on Market Street. The Project Sponsor is seeking to modify this requirement. Regardless of whether the retail spaces are combined, they would remain visually distinct from the exterior of the building, as shown on the floor plan attached as Exhibit B.

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.

Although the proposed "market hall" retail concept space would be larger than nonresidential uses principally permitted within the District it would be comprised of several small vendors selling local goods and services as a market hall, none of which would be permitted to occupy an area over 1,777

gross square feet, excluding common areas. This "market hall" retail concept is designed to provide different but complimentary goods and services under one roof, likely with artisanal vendors that are more knowledgeable about the products they sell. The concept of using kiosks, or similar, would make it easier for less established local vendors to establish a retail presence within the District which makes the project very desirable for the neighborhood. The ground floor spaces along the Market Street frontage would be occupied with active neighborhood-serving commercial uses, consistent with Planning Code Sections 145.1 and 145.4.

- 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 proposed uses would not require any physical expansion of the building or any increase in the total square footage of retail space. The proposed uses 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 the proposed uses. The proposed uses are designed to meet the needs of the immediate neighborhood and should not generate significant amounts of vehicular trips from the immediate neighborhood or citywide and are not expected to increase traffic levels beyond that anticipated for the ground floor retail spaces already approved by Motion No. 18715. The project site is well served by public transit and approximately 44 indoor bicycle parking spaces will be provided.

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

The proposed use is subject to the standard conditions of approval for eating and drinking establishments outlined in Exhibit A. Two conditions specifically obligate the project sponsor to mitigate potential odor and noise generated by the 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 use would not alter the building's landscaping, open space, loading area, service area, or lighting. The Project Sponsor will work with staff to develop an acceptable signage program for its vendors 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 purpose of Upper Market Street NCT in that the intended use is located at the ground floor, would maintain and promote the mix of commercial uses in the zoning district and its surrounding areas and would provide a compatible convenience service for the immediately surrounding neighborhoods. The ground floor spaces along the Market Street frontage would be occupied with active neighborhood-serving commercial uses, consistent with Sections 145.1 and 145.4 of the Code.

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. The proposed neighborhood-serving uses would provide substantial net benefits and are not expected to result in any undesirable consequences.

Further, the Project Site is located within a Neighborhood Commercial Transit 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 add opportunities for commercial activity within the District by allowing multiple vendors to operate out of a single retail space thereby diversifying the 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 make it easier for the district to achieve optimal diversity in the types of goods and services available to the neighborhood. Including the proposed restaurant and bar use(s), eating and drinking uses occupy a total of 21% of the lineal street frontage in the 300-foot radius, which is below the 25% threshold established under Planning Code Section 303(p). The project would not cause an over concentration of such uses within the District.

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.

The "market hall" retail concept would help foster independent entrepreneurship by reducing the overhead cost for operating a retail outlet. The project is proposed in response to the market's desire for local artisanal goods within a vibrant atmosphere. The project also responds to smaller merchants' desire to sell goods and services within District but require cheaper and smaller retail space than what is currently offered for lease within the neighborhood.

- 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 proposed uses would provide neighborhood-serving goods and services and would enhance future opportunities for resident employment and ownership. The "market hall" retail concept proposal in particular would enhance the district by providing several neighborhood-serving uses under one roof on the ground floor of a building located at a heavily traveled six-point intersection. The businesses are expected to be locally owned and would create 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 proposed housing units approved by Motion No. 18715 would not be affected by the proposal. The existing units in the surrounding neighborhood also would not be adversely affected.

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

No housing would be removed for this project. Twenty percent of the housing units approved by Motion No. 18715 will be affordable units.

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

The site is at a six-point intersection, where three streets converge: Market, 15th and Sanchez streets. This area is well served by transit and would not impede MUNI transit service or overburden our streets or neighborhood parking. The proposed uses would be neighborhood-serving and are not expected to increase traffic levels beyond that anticipated for the ground floor retail spaces already approved by Motion No. 18715.

- 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.

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. 2013.1610C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated October 31, 2013 and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 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.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives **NOTICE** that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on April 24, 2014.

AYES:

NAYS:

ABSENT:

ADOPTED: April 24, 2014

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to amend Motion No. 18715 as it pertains to the ground floor retail space, to combine the retail spaces to create a “marketplace” and add additional restaurant and bar uses, located at 2175 Market Street, Block 3543, Lot 011 pursuant to Planning Code Sections 303, 145.4(d) for an individual ground floor nonresidential use that occupies more than 75 contiguous linear feet along the Market Street façade, 733.21 for use size, 733.41 for a bar use, and 733.44, for a restaurant use, within the Upper Market Street Neighborhood Commercial Transit District and a 40-X/60/65-X Height and Bulk Districts; in general conformance with plans, dated October 31, 2013 and stamped “EXHIBIT B” included in the docket for Case No. 2013.1610C and subject to conditions of approval reviewed and approved by the Commission on April 24, 2014 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 24, 2014 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, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity and Expiration.** The authorization and right vested by virtue of this action is valid for three (3) 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. **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*

- 10. 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

- 11. 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 a 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

- 12. Hours of Operation.** The subject establishment is limited to hours of operations from 6:00 a.m. to 2:00 a.m. six days a week.

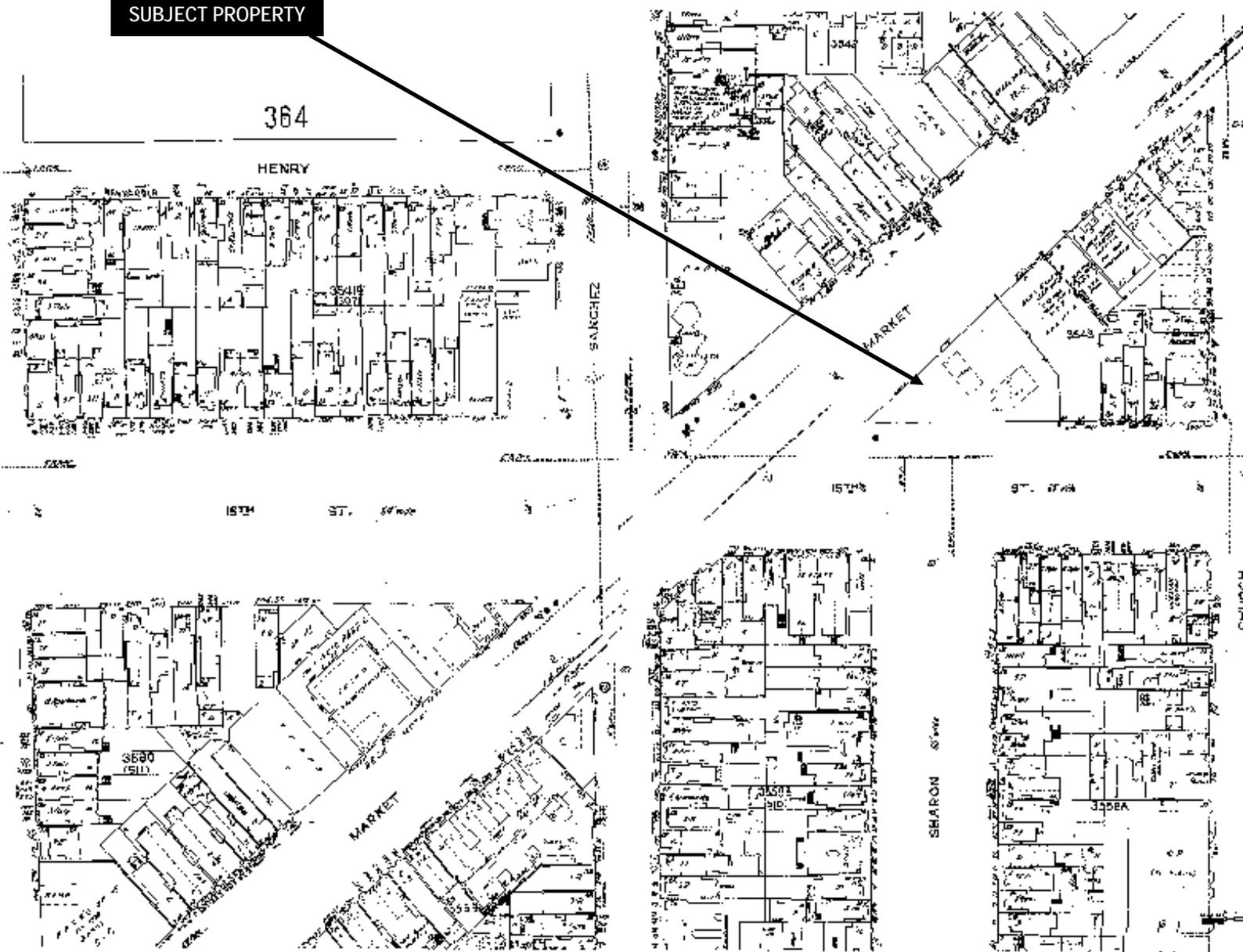
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

- 13. Combining Retail Spaces 2 and 3 for a "Market Hall" Retail Concept.** The areas identified as Retail 2 and 3, as depicted on the plans stamped "Exhibit B" included in the docket for Case No. 2013.1610C, may be combined into a single space not to exceed 4,000 gross square feet for the purpose of creating a shared retail space for two or more vendors, so long as no two vendors in the building are under common ownership and no vendor in the areas identified as Retail 2 and 3 occupies an area over 1,777 gross square feet excluding common areas.

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

Sanborn Map*

SUBJECT PROPERTY

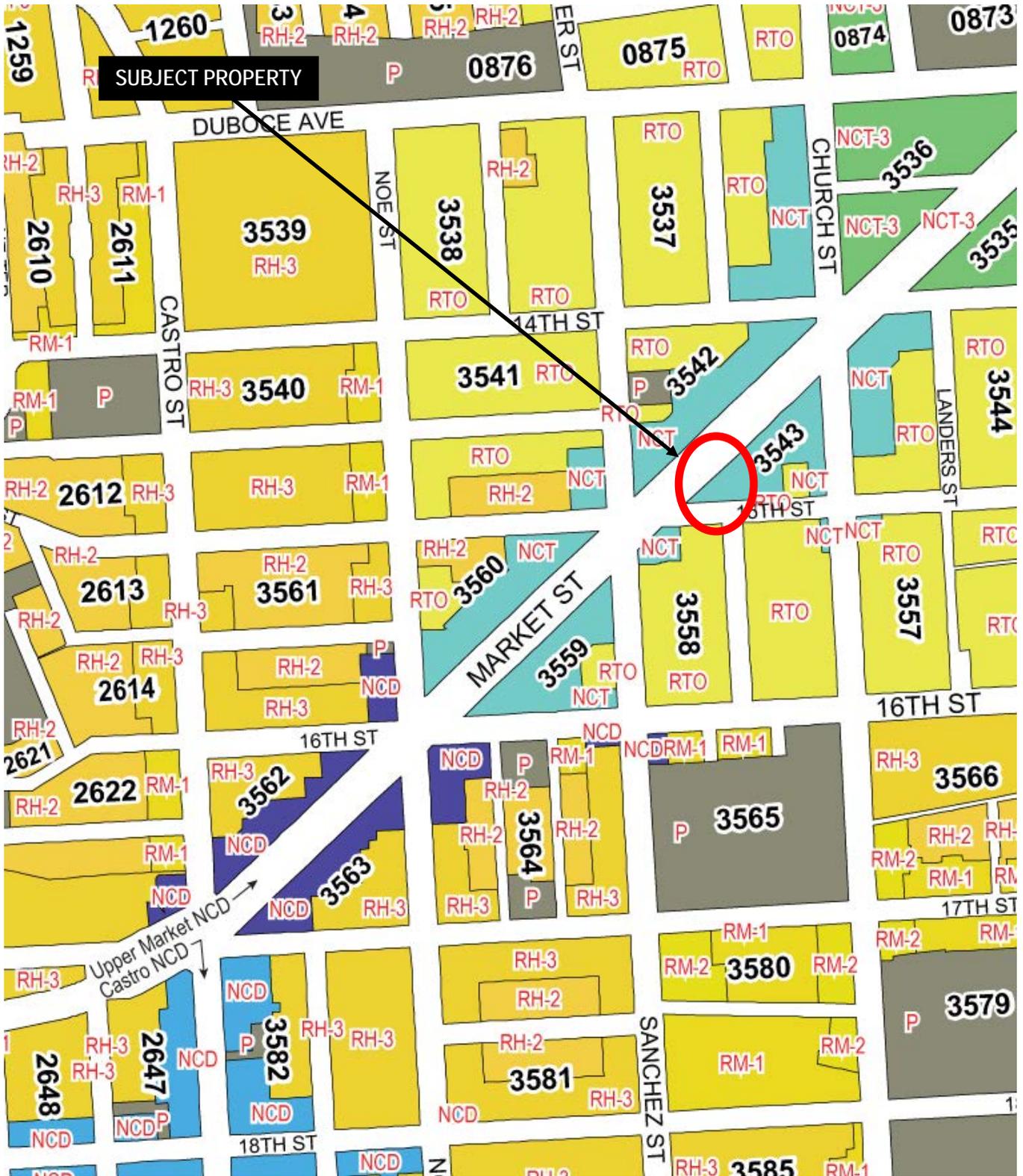


**The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.*



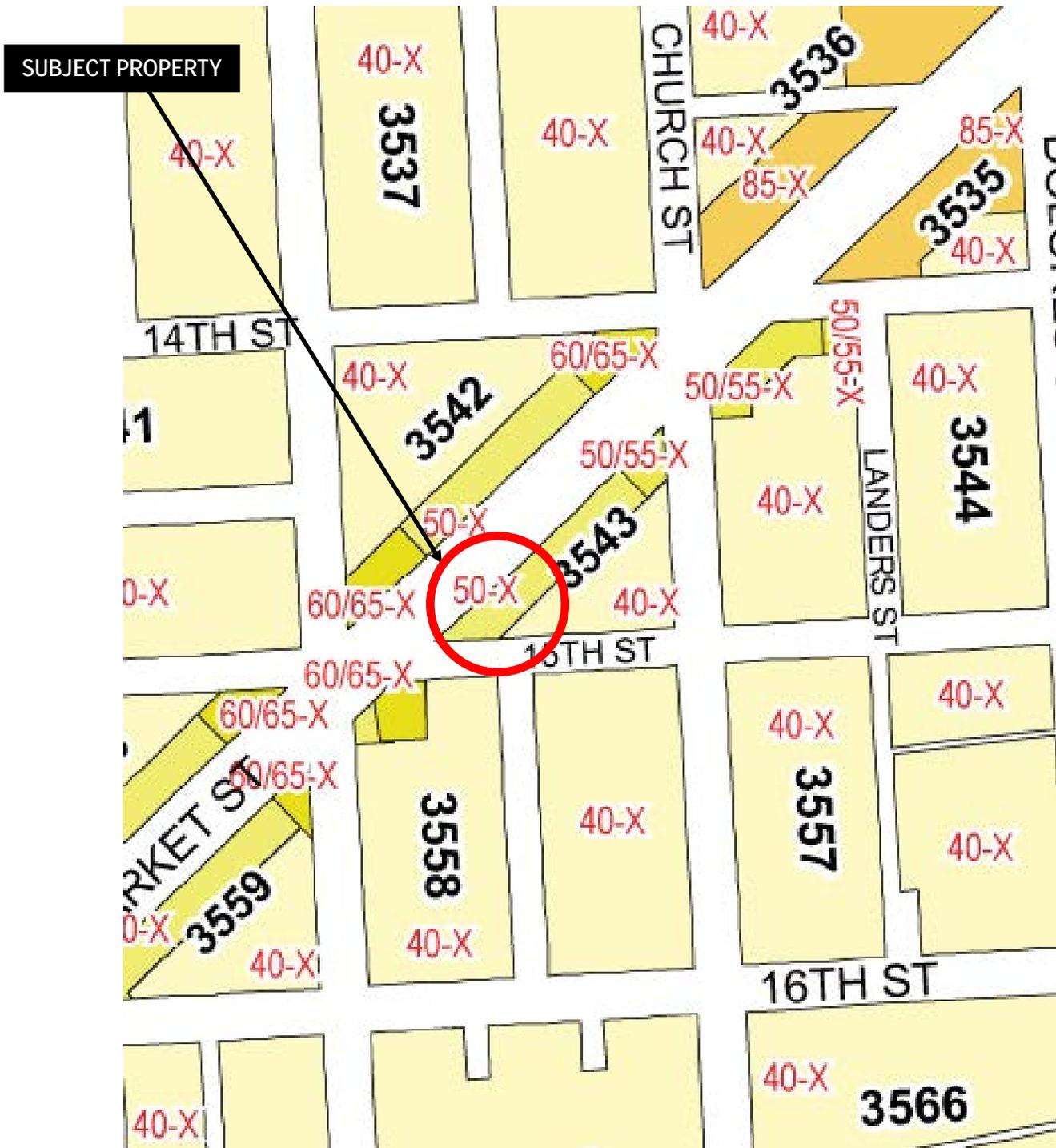
Conditional Use Hearing
Case Number 2013.1610C
2175 Market Street

Zoning Map



Conditional Use Hearing
Case Number 2013.1610C
2175 Market Street

Height and Bulk Map



**The above map does not reflect more recent changes to the height limit.*



Conditional Use Hearing
Case Number 2013.1610C
2175 Market Street

Aerial Photo



SUBJECT PROPERTY



Conditional Use Hearing
Case Number 2013.1610C
2175 Market Street

Aerial Photo



SUBJECT PROPERTY



Conditional Use Hearing
Case Number 2013.1610C
2175 Market Street

Aerial Photo

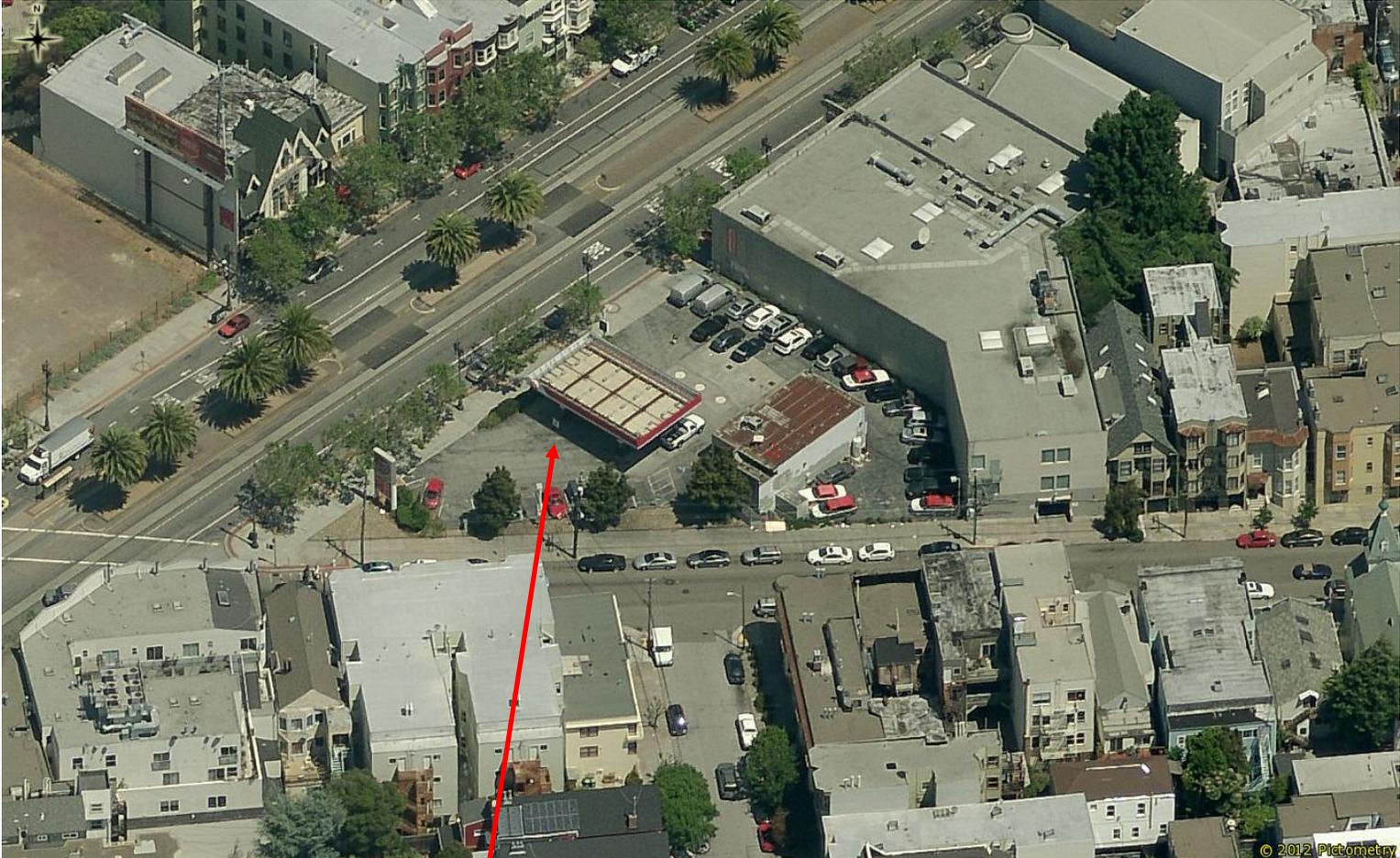


SUBJECT PROPERTY



Conditional Use Hearing
Case Number 2012.0110CEV
2175 Market Street

Aerial Photo



SUBJECT PROPERTY

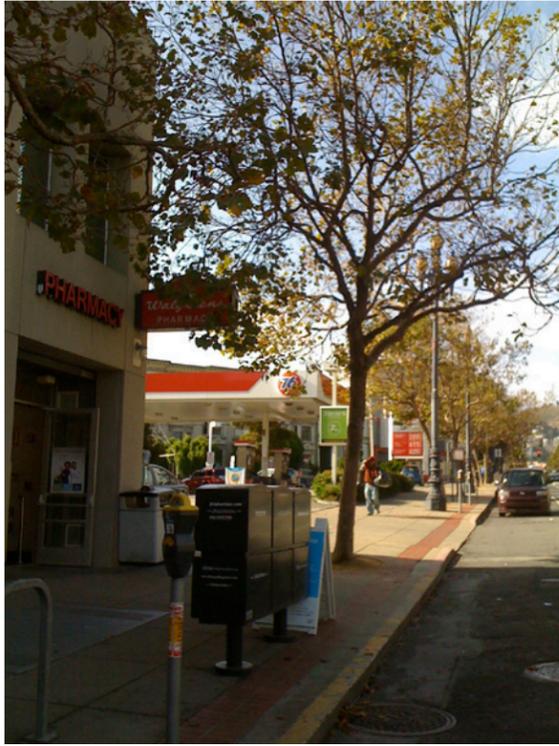


Conditional Use Hearing
Case Number 2012.0110CEV
2175 Market Street



2175 MARKET STREET | SITE PHOTO KEY PLAN

SAN FRANCISCO, CA | SEPTEMBER 25, 2012 | PLANNING COMMISSION INFORMATION PACKAGE



1. MARKET STREET SIDEWALK



2. SITE VIEW FROM MARKET STREET TOWARD 15TH STREET



3. SITE VIEW FROM MARKET AND 15TH STREET INTERSECTION



4. ADJACENT BUILDING - MARKET STREET LOOKING SOUTH (FRONT OF WALGREENS)

2175 MARKET STREET | EXISTING SITE PHOTOS

SAN FRANCISCO, CA | SEPTEMBER 25, 2012 | PLANNING COMMISSION INFORMATION PACKAGE



5. EXISTING SITE PANORAMA FROM 15TH STREET LOOKING NORTH



6. EXISTING SITE VIEW FROM SHARON STREET



7. ADJACENT BUILDING - 15TH STREET LOOKING NORTH (REAR OF WALGREENS)

2175 MARKET STREET | EXISTING SITE PHOTOS

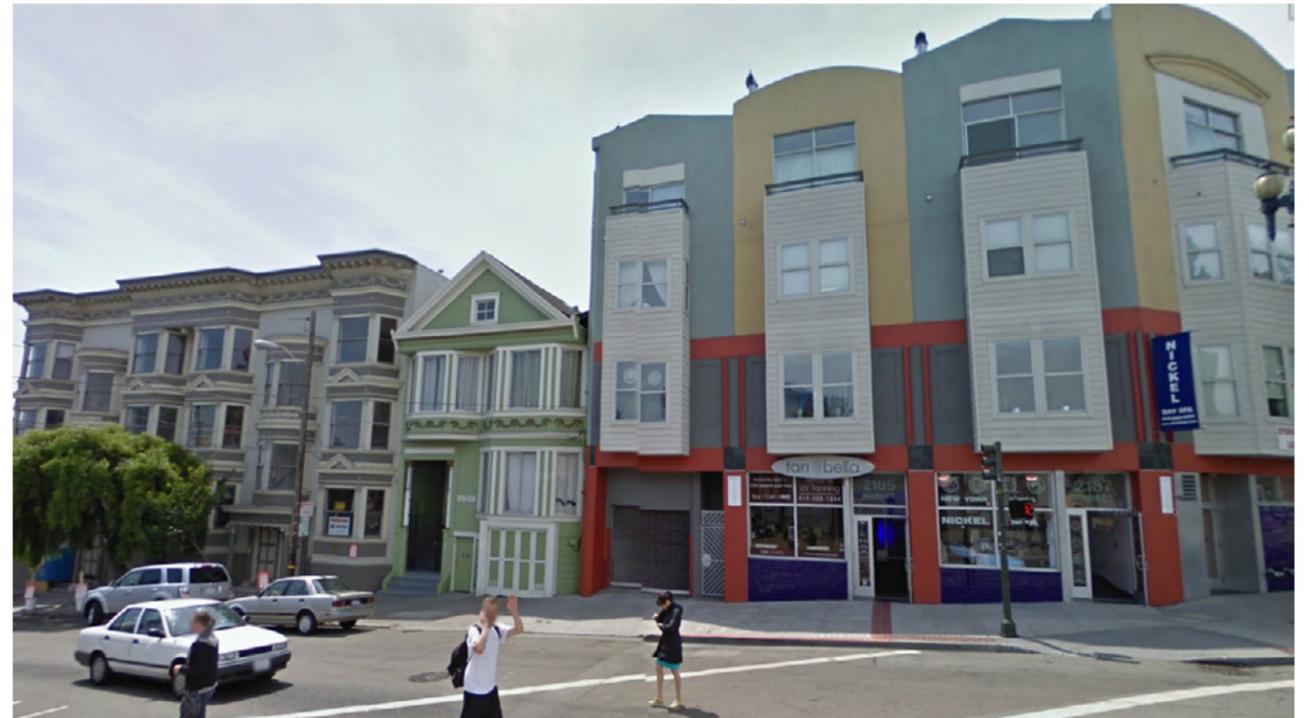
SAN FRANCISCO, CA | SEPTEMBER 25, 2012 | PLANNING COMMISSION INFORMATION PACKAGE



8. MARKET STREET LOOKING NORTH



9. SHARON STREET



10. MIXED-USE BUILDING AT 15TH AND MARKET STREET INTERSECTION

2175 MARKET STREET | VICINITY PHOTOS

SAN FRANCISCO, CA | SEPTEMBER 25, 2012 | PLANNING COMMISSION INFORMATION PACKAGE



VIEW FROM EAST



VIEW FROM ACROSS MARKET



VIEW AT CORNER



2175 MARKET STREET | MARKET STREET VIEWS

SAN FRANCISCO, CA | SEPTEMBER 25, 2012 | PLANNING COMMISSION INFORMATION PACKAGE



VIEW DOWN 15TH STREET



VIEW FROM SHARON STREET



VIEW UP 15TH STREET



15TH STREET ELEVATION

METAL PANEL

STUCCO

LAP SIDING

WOOD

2175 MARKET STREET | 15TH STREET STREET VIEWS

SAN FRANCISCO, CA | SEPTEMBER 25, 2012 | PLANNING COMMISSION INFORMATION PACKAGE



VIEW FROM EAST



VIEW FROM SOUTH

2175 MARKET STREET | OVERALL VIEWS

SAN FRANCISCO, CA | SEPTEMBER 25, 2012 | PLANNING COMMISSION INFORMATION PACKAGE



CONDITIONAL USE PERMIT APPLICATION • 10/31/13

2175 MARKET STREET | PA #2012-0720-5377
SAN FRANCISCO, CA | 10.04.12 | FOREST CITY

FORESTCITY
VAN METER
WILLIAMS
POLLACK ^{LLP}



2175 Market

