



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Project Summary and Motion No. \_\_\_\_\_

COMMUNITY BUSINESS PRIORITY PROCESSING PROGRAM

HEARING DATE: APRIL 14, 2016

*Date Prepared:* April 4, 2016  
*Case No.:* **2015-005379CUA**  
*Project Address:* **2261 Fillmore Street**  
*Zoning:* Upper Fillmore NCD (Neighborhood Commercial District)  
40-X Height and Bulk District  
*Block/Lot:* 0630/002  
*Project Sponsor:* Carter Leung  
1810 6<sup>th</sup> Street  
Berkeley, CA 94710  
*Staff Contact:* Wayne Farrens – (415) 575 - 9172  
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### PROJECT DESCRIPTION

The project would add a Restaurant use to the existing Movie Theater use (dba "The Clay Theater"). The proposal would allow the Clay Theater to expand and enhance its existing food service to include a full kitchen and non-fixed seating. The proposal includes only minor façade alterations in order to meet accessibility requirements. The project has qualified for review under the Planning Commission's Community Business Priority Processing Program (CB3P).

### REQUIRED COMMISSION ACTION

For the project to proceed, the Commission must grant Conditional Use authorization to allow the establishment of a Restaurant use within the Upper Fillmore Neighborhood Commercial District pursuant to Planning Code Sections 303 and 718.44.

### DECISION

Based upon information set forth in application materials submitted by the project sponsor and available in the case file (which is incorporated herein by reference as though fully set forth) and based upon the CB3P Checklist and findings below, the Commission hereby **APPROVES Conditional Use Application No. 2015-005379CUA** subject to conditions contained in the attached "EXHIBIT A" and in general conformance with plans on file, dated April 29, 2015, and stamped "EXHIBIT B."

CB3P CHECKLIST

	Required Criteria			Comments (if any)
	Complete & adequate	Incomplete and / or inadequate	Not required and / or not applicable	
Project Sponsor's application	X			
CB3P eligibility checklist	X			
Planning Code §101.1 findings	X			
Planning Code §303(c) findings	X			
Planning Code §303(p) findings for Eating and Drinking Uses	X			
Any additional Planning Code findings e.g. §303(k) findings for movie theater removals or §303(m) findings for grocery store removals			X	Proposed Restaurant use would supplement Movie Theater operations. The subject Movie Theater use is not proposed for removal.
Photographs of the site and/or context	X			
Scaled and/or dimensioned plans	X			

Additional Information	
Notification Period	20 Days
Number and nature of public comments received	None received
Number of days between filing and hearing	351

Generalized Basis for Approval (max. one paragraph)
The project will provide a unique experience for residents and visitors to the neighborhood and will support the continued operation of the Movie Theater use by increasing revenue. The project fully complies with all applicable provisions of the Planning Code.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on April 14, 2016.

AYES:

NAYS:

ABSENT:

ADOPTED: April 14, 2016

\_\_\_\_\_  
 Jonas P. Ionin  
 Commission Secretary

**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. 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.

## **EXHIBIT A**

### **AUTHORIZATION**

This authorization is for a conditional use to allow a Restaurant use in addition to the existing Movie Theater use (dba "The Clay Theater") located at 2261 Fillmore Street, Lot 002 in Assessor's Block 0630, pursuant to Planning Code Sections 303 and 718.44 within the Upper Fillmore Neighborhood Commercial District and the 40-X Height and Bulk District; in general conformance with plans, dated April 29, 2015, and stamped "EXHIBIT B" included in the docket for **Case No. 2015-005379CUA** and subject to conditions of approval reviewed and approved by the Commission on April 14, 2016 under **Motion No. XXXXX**. 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 14, 2016 under **Motion No XXXXX**.

### **PRINTING OF CONDITIONS OF APPROVAL ON PLANS**

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

### **SEVERABILITY**

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

### **CHANGES AND MODIFICATIONS**

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

## Conditions of Approval, Compliance, Monitoring, and Reporting

### PERFORMANCE

1. **Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

2. **Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

3. **Diligent Pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

4. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

5. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## DESIGN – COMPLIANCE AT PLAN STAGE

- 6. 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](http://www.sf-planning.org)*

## MONITORING - AFTER ENTITLEMENT

- 7. 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](http://www.sf-planning.org)*

- 8. 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](http://www.sf-planning.org)*

## OPERATION

- 9. 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>*

- 10. 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>*

- 11. 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](http://www.sfdph.org)*

*For information about compliance with the construction noise, contact the Department of Building Inspection, 415-558-6570, [www.sfdbi.org](http://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](http://www.sf-police.org)*

- 12. 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](http://www.baaqmd.gov) and Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*







**EGRESS REQUIREMENTS**

EGRESS ELEMENT	REQUIRED	PROVIDED	CODE REFERENCE
CLEAR STAIRS	36" MIN	36"	1009.4 EXCEPTION 1
EGRESS DOORS WIDTH (CLEAR WIDTH)	44"	60"	1005.3.2, 1008.1 (MOST RESTRICTIVE)
COMMON PATH OF TRAVEL	75' MAX	74'-6"	1014.3 (OCCUPANCY A - NO SPRINKLERS)
NUMBER OF EXITS REQD	2	2	1015.1
EXIT SEPARATION DIST.	64'	113'	1015.2.1
EXIT TRAVEL DIST.	200' MAX	100'-0"	(OCCUPANCY TYPE A - NO SPRINKLERS)

**OCCUPANT LOAD CALCULATION**

SPACE	HATCH PATTERN	AREA (SF)	OCCUPANT LOAD *	TOTAL OCCUPANTS
SEATING (UNCONCENTRATED ASSEMBLY - TABLES & CHAIRS)	[Pattern]	2,146	1 OCCUPANT / 15 SF	144
STAGE	[Pattern]	374	1 OCCUPANT / 15 SF	25
KITCHEN (COMMERCIAL KITCHENS)	[Pattern]	437	1 OCCUPANT / 200 SF	3
STORAGE	[Pattern]	910	1 OCCUPANT / 300 SF	4
MEZZANINE	[Pattern]	200	1 OCCUPANT / 300 SF	1
ADDTL STORAGE	[Pattern]	200	1 OCCUPANT / 300 SF	1
(NO OCCUPANTS ASSIGNED)		1,233	--	0
<b>TOTAL</b>		5,300	--	177

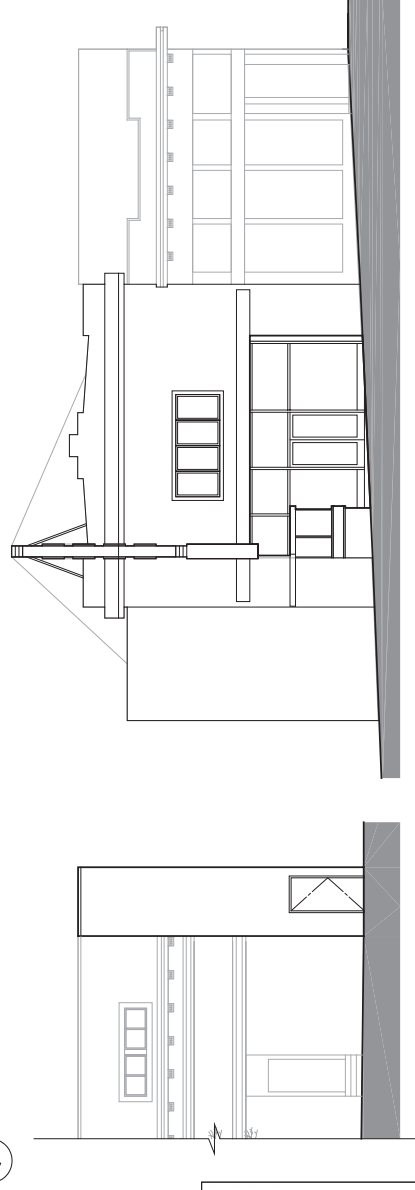
\* PER CBC TABLE 1004.1.2, MAXIMUM FLOOR AREA ALLOWANCES PER OCCUPANT

**PLUMBING FIXTURES CALCS**

OCCUPANCY A1 & A2 (MOST RESTRICTIVE)	REQUIRED	PROVIDED	CODE REFERENCE
WATER CLOSETS	3	3	
FEMALE LAVATORIES	1	1	
WATER CLOSETS	2	2	
URINAL	1	1	
MALE LAVATORIES	1	1	

CPC TABLE 422.1

**7 OCCUPANCY LOAD CALCS, EGRESS REQUIREMENTS & PLUMBING FIXTURE CALCS**

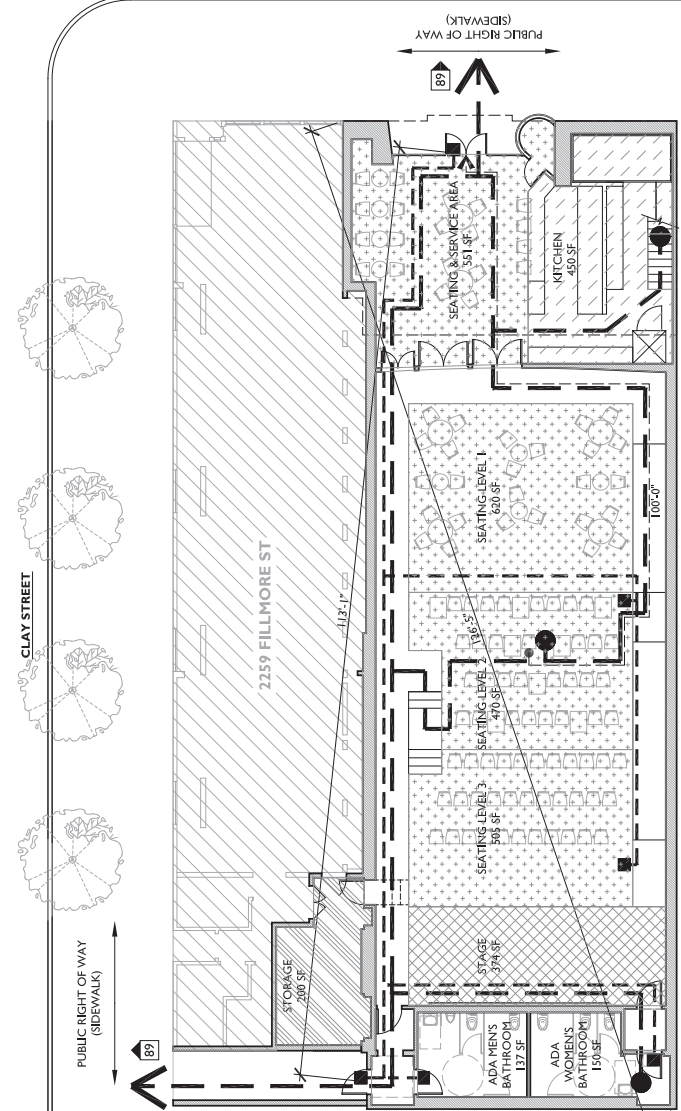
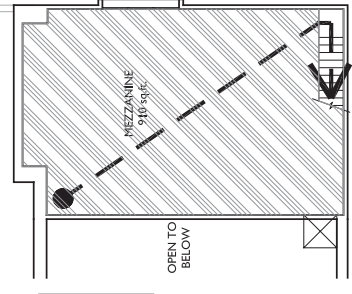
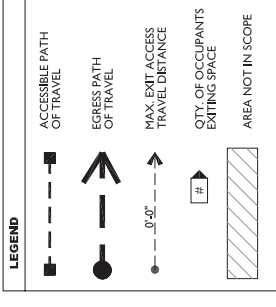


**6 PROPOSED ELEV ON CLAY ST**  
1/8" = 1'-0"

**3 PROPOSED ELEVATION ON FILLMORE ST**  
1/8" = 1'-0"

**5 EXISTING ELEV ON CLAY ST**  
1/8" = 1'-0"

**2 EXISTING ELEVATION ON FILLMORE ST**  
1/8" = 1'-0"



**9 EGRESS PLAN & ACCESSIBLE PATHS DIAGRAM**  
3/32" = 1'-0"

**D.A. CHECKLIST (p. 1 of 2):** The address of the project is 2261 FILLMORE STREET.

- For ALL renovation projects in commercial use spaces, both pages of this checklist are required to be reproduced on the plan set and signed.
- The proposed use of the project is MOVIE THEATER WITH RESTAURANT (e.g. Retail, Office, Restaurant, etc.).
  - Describe the area of remodel, including which floor: PROJECTION ROOM ON THE MEZZANINE.
  - The construction cost of this project excluding disabled access upgrades to the path of travel is \$ 200,000, which is: (check only)  more than /  less than the 2015 Accessibility Threshold amount of \$157,863.00 (updated annually by the California Division of the State Architect).
  - Is this a City project and/or does it receive any form of public funding? Check one:  Yes /  No. Note: If Yes, then see Step 3 on the Instructions page of the Disabled Access Upgrade Compliance Checklist package for additional forms required.

- Conditions below must be fully documented by accompanying drawings**
- Read A through D below carefully and check the most applicable boxes. Check one box only.
    - A: All existing conditions serving the area of remodel fully comply with access requirements. No further upgrades are required. Fill out page 2 of D.A. Checklist
    - B: Project Adjusted cost of construction is greater than the current valuation threshold: Fill out and attach page 2 of D.A. Checklist and any other required forms to plans. Fill out page 2 of D.A. Checklist
    - C: Project adjusted cost of construction is less than or equal to the current valuation threshold: List items that will be upgraded on Form C. All other items shall be checked on page 2 of the D.A. Checklist in the "Not required by code" column.
    - D: Proposed project consists entirely of Barrier removal: Fill out and attach Barrier removal form to Plans
    - E: **Proposed project is minor revision to previously approved permit drawings only.** (Note: This shall NOT be used for new or additional work) Provide previously approved permit application here: \_\_\_\_\_ Description of revision: \_\_\_\_\_

CBC chapter 2 section 202. Definitions:  
**Technically Infeasible.** An alteration of a building or a facility, that has little likelihood of being accomplished because the existing structural conditions require the removal or alteration of a load-bearing member that is an essential part of the structural frame, or because other existing physical or site constraints prohibit modification or addition of elements, spaces or features that are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility.  
**Unreasonable Hardship.** When the enforcing agency finds that compliance with the building standard would make the specific work of the project affected by the building standard infeasible, based on an one of the following factors:  
1. The cost of providing access.  
2. The cost of all construction contemplated.  
3. The impact of proposed improvements on financial feasibility of the project.  
4. The nature of the accessibility improvements that would be gained or lost.  
5. The nature of the use of the facility under construction and its availability to persons with disabilities.  
*The details of any Technical Infeasibility or Unreasonable Hardship shall be recorded and entered into the files of the Department. All Unreasonable Hardships shall be ratified by the AIC.*

**SFDBI DISABLED ACCESS CHKLST**

**8 EXISTING SITE PHOTO ON CLAY ST**



**D.A. CHECKLIST (p. 2 of 2):** The address of the project is 2261 FILLMORE STREET.

Check all applicable boxes and specify where on the drawings the details are shown:

Location of detail (by drawing sheet (SD) and/or floor plan) (fill out only if comments can be written here).	Non-compliant request UMR (Must be ratified by UMR)	Not required by Code (and/or none existing)	Approved in preceding code	Compliance is Technically Infeasible	Equipment restriction will provide full access	Will be Upgraded to full Compliance	Existing Fully Complying
A: One accessible entrance including approach walk, vertical clearance, level landing, door/gate and hardware for door/gate	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
B: An accessible route to the area of remodel including: Parking/access aisles and curbs ramps; Cur ramps and walks; Corridors, hallways, floors; Ramps, elevators, lifts	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C: At least one accessible restroom for use by either a single user or a restroom serving the area of remodel.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
D: Accessible public pay phone.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
E: Accessible drinking fountains.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
F: Additional accessible elements such as parking stairways, storage, alarms and signage.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
See the requirements listed below	1.	2.	3.	4.	5.	6.	7.

- No additional forms required
- No additional forms required
- Fill out Request for Approval of Equivalent Facilitation form for each item checked and attach to plan.
- Fill out Request for Approval of Technical Infeasibility form for each item checked and attach to plans.
- Provide details from a set of City approved and list reference drawing number on plans.
- No additional forms required
- Fill out Request for an Unreasonable Hardship form for each item checked and attach to plan. All UMR must be ratified by the Necessity Appeals Commission (see UMR form for details)

**PART OF ACCESSIBILITY UPGRADE SCOPE OF WORK**



**4 EXISTING SITE PHOTO ON FILLMORE ST**



**1 EXISTING SITE PHOTO ON FILLMORE ST**