



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use

HEARING DATE: APRIL 13, 2017

Date: April 6, 2017
Case No.: **2016-005411CUA**
Project Address: **400 BEALE STREET**
Zoning: RH-DTR (Rincon Hill Downtown Residential Mixed Use) District
65-X Height and Bulk District
Block/Lot: 3766/238 & 240
Project Sponsor: Brandon Muller
32681 Caspian Sea Drive
Dana Point, CA 92629
Staff Contact: Esmeralda Jardines – (415) 575-9144
esmeralda.jardines@sfgov.org
Recommendation: Denial

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PROJECT DESCRIPTION

The Project Sponsor seeks to merge two dwelling units within an existing 26-story residential building with 245 dwelling units. The Project would merge a 1,074 square foot, two-bedroom, two-bath unit (Unit #2303) with a 1,223 square foot, two-bedroom, two-bath unit (Unit #2301). The Project would reconfigure and merge the two units to create one three-bedroom unit.

SITE DESCRIPTION AND PRESENT USE

The project site is located on the west side of Beale Street between Bryant and Harrison Streets on Lots 238 and 240 in Assessor's Block 3766. The project site currently contains a 26-story residential building constructed in 2002, which was subsequently divided into condominiums. The subject lot is irregular in shape and measures approximately 90 feet deep by 303 feet wide.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The project site is within the RH-DTR (Rincon Hill Downtown Residential Mixed Use) Zoning District and a 65-X Height and Bulk district. Uses in the immediate vicinity are primarily multi-family, multi-story residential structures with some office buildings. The project site is located in the northeast edge of the block-face flanked by 333 Harrison Street (dba Rincon Green) and Bay Bridge. The adjacent building to the north is a tall, twenty-story, 226-unit apartment building. The abutting block-faces are characterized by residential tower buildings of mixed architectural style.

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 17, 2017	March 17, 2017	20 days
Posted Notice	20 days	March 17, 2017	March 17, 2017	20 days
Mailed Notice	10 days	March 27, 2017	March 17, 2017	20 days

PUBLIC COMMENT

- To date, the Department has not received any correspondence related to the project.

ISSUES AND OTHER CONSIDERATIONS

- Conditional Use Authorization: Per Planning Code Section 303 and 317, the Project requires a Conditional Use Authorization to merge two dwelling units into one dwelling unit. In addition to the Conditional Use Authorization findings, the Commission must consider separate criteria outlined in Section 317(g)(2). The Project is eliminating owner-occupied housing and is not considered affordable; however, with the residential merger, is not maximizing density and reduces a viable residential unit from the market. The Project would merge two existing two-bedroom, two-bathroom units and create one three-bedroom, four-bathroom dwelling unit that will be occupied by the project sponsor and his parents. The Project does not involve any exterior alterations to the existing building. The Department recommends denial of the Conditional Use Authorization.
- Denial & Approval Motions: Although the Department recommends denial of the Conditional Use Authorization, since a viable dwelling unit would be removed from the market, the Department has also included a draft motion outlining approval of the Project. Both the denial and approval motions are available for the Commission's consideration. The Project is eliminating owner-occupied housing that is not considered demonstrably affordable pursuant to City's Periodic Adjustment to Numerical Criteria of \$1,630,000. Both of the appraised values of the existing units #2301 and #2303 are valued at \$1,750,000 and \$1,800,000, respectively.

REQUIRED COMMISSION ACTION

In order for the project to proceed, the Commission must grant Conditional Use Authorization to allow the merging of units, pursuant to Planning Code Sections 303 and 317.

BASIS FOR RECOMMENDATION

- The Project would merge two owner-occupied units that though are not demonstrably affordable, would result in one merged unit that is much more unaffordable.
- The Project will result in a net loss of one dwelling-unit.
- Per the Housing Element, the new proposed residential merger does not retain the existing housing by controlling the merger nor does it protect the affordability of the existing housing stock.
- Per the Rincon Hill Area Plan, the residential merger would not maximize housing in Rincon Hill nor capitalize on Rincon Hill's central location.
- Further, the residential merger would reduce the dwelling unit mix from 47% to 46%.
- The proposed Project does not meet all applicable requirements of the Planning Code nor the General Plan.

RECOMMENDATION: Denial

Attachments:

Block Book Map
Sanborn Map
Zoning Map
Height & Bulk Maps
Aerial Photographs
Site Photographs
Section 311 Notice
Reduced Plans
Context Photos

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 checked="" type="checkbox"/> Height & Bulk Map | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Context Photos | 3-D Renderings (new construction or significant addition) |
| <input checked="" type="checkbox"/> Site Photos | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Parcel Map | <input type="checkbox"/> Health Dept. review of RF levels |
| <input checked="" type="checkbox"/> Sanborn Map | <input type="checkbox"/> RF Report |
| <input checked="" type="checkbox"/> Aerial Photo | <input type="checkbox"/> Community Meeting Notice |
| | <input type="checkbox"/> Environmental Determination |

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

EJ

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. 414A)
- ☐ Other

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Planning Commission Motion No. XXXXX

HEARING DATE: APRIL 13, 2017

Case No.: 2016-005411CUA
Project Address: 400 BEALE STREET
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ADOPTING FINDINGS RELATING TO THE DENIAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303 AND 317 OF THE PLANNING CODE FOR A DWELLING UNIT MERGER OF A 1,074 SQUARE FOOT, TWO-BEDROOM, TWO-BATH DWELLING UNIT (UNIT #2303) WITH A 1,223 SQUARE FOOT, TWO-BEDROOM, TWO-BATH DWELLING UNIT (UNIT #2301) AT 400 BEALE STREET IN ASSESSOR'S BLOCK 3766, LOTS 238 AND 240 WITHIN THE RH-DTR (RINCON HILL DOWNTOWN RESIDENTIAL MIXED USE) ZONING DISTRICT AND THE 65-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On April 26, 2016, Brandon Muller (Project Sponsor) filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Sections 303 and 317 to merge two dwelling units at **400 Beale Street** within the RH-DTR (Rincon Hill Downtown Residential Mixed Use) Zoning District and a 65-X Height and Bulk District.

On April 6, 2017, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2016-005411CUA. On April 6, 2017, the Commission continued this project to the public hearing on April 13, 2017.

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

The Planning Department, Jonas P. Ionin, is the custodian of records, located in the File for Case No. 2016-005411CUA at 1650 Mission Street, Fourth Floor, San Francisco, California.

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 denies the Conditional Use Authorization requested in Application No. 2016-005411CUA for the residential merger of Unit#2303 with Unit #2301, 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. **Project Description.** The Project Sponsor seeks to merge two dwelling units within an existing 26-story residential building with 245 dwelling units. The Project would merge a 1,074 square foot, two-bedroom, two-bath unit (Unit #2303) with a 1,223 square foot, two-bedroom, two-bath unit (Unit #2301). The Project would reconfigure and merge the two units to create one three-bedroom unit.
3. **Site Description and Present Use.** The Project site is located on the west side of Beale Street between Bryant and Harrison Streets on Lots 238 and 240 in Assessor's Block 3766. The project site currently contains a 26-story residential building constructed in 2002, which was subsequently divided into condominiums. The subject lot is irregular in shape and measures approximately 90 feet deep by 303 feet wide.
4. **Surrounding Properties and Neighborhood.** The Project site is within the RH-DTR (Rincon Hill Downtown Residential Mixed Use) Zoning District and a 65-X Height and Bulk district. Uses in the immediate vicinity are primarily multi-family, multi-story residential structures with some office buildings. The project site is located in the northeast edge of the block-face flanked by 333 Harrison Street (dba Rincon Green) and Bay Bridge. The adjacent building to the north is a tall, twenty-story, 226-unit apartment building. The abutting block-faces are characterized by residential tower buildings of mixed architectural style.
5. **Public Comment.** To date, the Department has not received any correspondence related to the Project.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
 - A. **Residential.** Planning Code Section 827.46 principally permits residential uses.

The Project will merge two existing dwelling units within the building and does not propose any changes to the aforementioned land use; the merged units will remain as a residential use.

- B. **Rear Yard and Site Coverage.** Planning Code Section 827.12 permits 100 percent lot coverage, and does not require a rear yard for the project site.

The Project covers the majority of the subject lot, and is consistent with Planning Code Section 827.12. The Project will merge two existing dwelling units within the building and does not propose any exterior alterations to the building or rear yard configuration.

- C. **Residential Usable Open Space.** Planning Code Sections 135 and 827.49 require a minimum of 75 square feet of usable private or common open space per dwelling unit.

Per Motion No. 14513, 18,271 gross square feet was required under the Rincon Hill Special Use District controls. Approximately 26,075 gross square feet of open space were proposed as part of the Project including: 13,847 gross square feet of private open space and approximately 12,228 gross square feet are common open space.

With the most current controls, the Project is required to provide 18,375 square feet of usable open space for 245 dwelling units.

The Project is required to provide at least 18,375 sq. ft. of usable open space. Cumulatively, 26,075 gross square feet are provided at 400 Beale Street. Unit 2301 is provided with a 61 square foot deck; Unit 2303 is provided with a 61 square foot deck as well. The new merged unit would be provided with 122 square feet of usable open space.

- D. **Dwelling Unit Exposure.** Planning Code Section 140 requires that at least one room of all dwelling units face onto a public street, public alley at least 25-ft in width, side yard at least 25-ft in width, or rear yard, which meets the requirements of the Planning Code. Alternatively, an open area (whether an inner court or a space between separate buildings on the same lot) which is unobstructed (except for fire escapes not projecting more than necessary for safety and in no case more than 4'-6", chimneys, and those obstructions permitted in Sections 136(c)(14), (15), (16), (19), (20) and (29) of this Code) and is no less than 25 feet in every horizontal dimension for the floor at which the Dwelling Unit in question is located and the floor immediately above it, with an increase of five feet in every horizontal dimension at each subsequent floor can satisfy the exposure requirement.

The Project proposes a dwelling unit merger at Units 2301 and 2303, both of which front a public street.

- E. **Off-Street Parking.** Planning Sections 827.50 and 151.1 of the Planning Code permit one off-street parking space for each two dwelling units, where none are required.

The Project is principally permitted to a maximum of 123 off-street accessory parking spaces for the 245 dwelling units; it is conditionally permitted to have 245 off-street parking spaces for the 245 dwelling units. The Project was approved per Planning Commission Motion No. 14513 with 245 off-

street parking spaces within a five-level garage, two of which are at and above grade; the garage has two entrances from Beale Street. As part of the dwelling unit merger, the off-street parking count will not be affected, no additional parking is required.

- F. **Residential Density.** Planning Code Section 827.47 allows dwelling units as a principally permitted use with no residential density subject to the criteria of Section 207.5.

The Project site currently provides 245 dwelling units; the merger would result in 244 dwelling units.

- G. **Dwelling Unit Mix.** Planning Code Section 207.6 requires that no less than 40 percent of the total number of proposed dwelling units contain at least two bedrooms, or no less than 30 percent of the total number of proposed dwelling units contain at least three bedrooms.

Of the 245 dwelling units, the Project is required to provide at least 98 (or 40%) two-bedroom units or 74 (30%) three-bedroom units.

The existing building provides 61 one-bedroom, one-bathroom units, 60 one-bedroom, one-bathroom with a study units. Further, the existing building provides 13 two-bedroom, one-bathroom units, 10 two-bedroom, one bathroom with a study units, 86 two-bedroom, two bathroom units, 13 two-bedroom, two-bathroom with a study units. In addition, the existing building provides one three-bedroom, three-bathroom with a study unit. Lastly, the existing building provides one four-bedroom and three-bathroom unit.

Therefore, the combination of two, three, and four-bedroom units meet the requirements for dwelling unit mix as cumulatively, 114 of 245 dwelling units provide two or more bedrooms. Thus, the existing dwelling unit mix is 47%.

The proposed dwelling unit merger would convert two, two-bedroom and two-bathroom units into one three-bedroom, four-bathroom unit. Thus, the dwelling unit merger would slightly affect the existing dwelling unit mix. By reducing the overall dwelling unit count to 113 of 244 dwelling units with two or more bedrooms, the dwelling unit mix is reduced from 47% to 46%.

- H. **Residential Merger – Section 317:** Pursuant to Planning Code Section 317, Conditional Use Authorization is required for applications proposing to combine two or more residential or unauthorized units within a building, or the enlargement of one or more existing units while substantially reducing the size of others by more than 25% of their original floor area, even of the number of units is not reduced. The Planning Commission may reduce the numerical element of this criterion by up to 20% of its value should it deem that adjustment is necessary to implement the intent of Section 317, to conserve existing housing and preserve affordable housing. This Code Section establishes a checklist of criteria that delineate the relevant General Plan Policies and Objectives.

As the project requires Conditional Use Authorization per the requirements of the Section 317, the additional criteria specified under Section 317 have been incorporated as findings below.

- I. **Childcare Requirements.** Planning Code Section 414A requires the Department to determine the applicability of Section [414A](#) to any development project requiring a First Construction Document and, if Section [414A](#) is applicable, the number of gross square feet of space subject to its requirements, and shall impose these requirements as a condition of approval for issuance of the First Construction Document for the development project to mitigate the impact on the availability of child-care facilities that will be caused by the residents attracted to the proposed development project. Planning Code Section 414A applies when additional space in an existing residential unit of more than 800 gross square feet.

The Project includes merger two dwelling units for a total of 1,223 gross square feet of new development that is subject to the Child Care Fee, as outlined in Planning Code Section 414A. These fees must be paid prior to the issuance of the building permit application.

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

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

The Project would merge two existing dwellings that are not demonstrably affordable as both existing units have been appraised at over \$1,630,000. Pursuant to City's Periodic Adjustment to Numerical Criteria, a single family home valued at or above \$1,630,000 is considered to be unaffordable. However, merging the aforementioned units could result in a unit that is that much more unaffordable; therefore, the Project is not considered to be necessary or desirable for the neighborhood or the community, particularly since a market-rate dwelling unit will be removed from San Francisco's housing stock.

- 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 Project does not involve any alterations to the exterior of the subject building and will not affect the building envelope.

- 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 Project does not trigger additional parking and would not increase the amount of traffic because the Project would merge two dwelling units on the twenty-third floor.

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

The Project would merge two existing dwelling units and not create any additional noise, glare, dust or odor.

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

The Project does not require any additional landscaping, screening, or open space and does not propose any exterior changes.

- 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 does not comply with all relevant requirements and standards of the Planning Code and is not 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 Use District.

The existing building is located in a Rincon Hill Downtown Residential Mixed Use (RH-DTR) Zoning District, where residential uses are principally permitted. The Project proposes to merge two existing residential uses that are principally permitted and conforms to the purposes of the RH-DTR Zoning District.

- 8. **Additional Findings pursuant to Section 317(g)(2)** establishes criteria for the Planning Commission to consider when reviewing applications to merge residential units. On balance, the Project does and does not comply with said criteria in that:

- A. That the unit would eliminate only owner occupied housing, and if so, for how long the unit proposed to be removed have been owner occupied;

Both Units 2301 and 2303 are currently owner-occupied by the Project Sponsor and his parents. The Project Sponsor occupied Unit 2301 in 2007, purchased it in 2008, and occupied it for another six months before he was transferred by his employer to Southern California. It was rented to a tenant until 2014, when the Project Sponsor returned to San Francisco, and he has been occupying the unit ever since.

Unit 2303 was purchased by the Project Sponsor's parents in February 2016 from the previous owner, who had occupied it for several years prior to its sale.

While the applicant with his family and parents would occupy the merged unit, there is no compelling reason as to why the family could not continue to occupy both units as currently configured. Once the units are merged, there is no guarantee that the City would recoup the loss of the unit. As per Mayor Lee's December 18, 2013 Executive Directive, all housing, including owner occupied, should be preserved when possible.

- B. Whether removal of the unit(s) and the merger with another is intended for owner occupancy;

Yes, the merged unit is intended to be owner-occupied by the Project Sponsor, his family, and his parents.

- C. Whether removal of the unit(s) will remove an affordable housing unit as defined in Section 401 of this Code or housing subject to the Residential Rent Stabilization and Arbitration Ordinance;

Neither of the units proposed for merger are designated affordable units under Section 415 of the Planning Code, nor are they subject to the Rent Ordinance as they were constructed after the cut-off date of June 13, 1979. Neither of the units proposed to be merged is subject to the Residential Rent Stabilization and Arbitration Ordinance.

Pursuant to City's Periodic Adjustment to Numerical Criteria, a single family home valued at or above \$1,630,000 is considered to be unaffordable. An appraisal prepared by Maureen McGettigan Appraisals, dated April 5, 2016, valued Unit #2301 at \$1,750,000 and Unit #2303 at \$1,800,000. Although both of the units exceed the Numerical Criteria, the merging of the two unaffordable units into one unit would cumulatively approach or exceed \$3,000,000; thus, the residential merger would create a unit that is that much more unaffordable than if the two individual units remained as is.

- D. If removal of the unit(s) removes an affordable housing unit as defined in Section 401 of this Code or units subject to the Residential Rent Stabilization and Arbitration Ordinance, whether replacement housing will be provided which is equal or greater in size, number of bedrooms, affordability, and suitability to households with children to the units being removed;

Neither of the units proposed for the residential merger are affordable housing units nor are they subject to the City's Residential Rent Stabilization and Arbitration Ordinance.

- E. How recently the unit being removed was occupied by a tenant or tenants;

Unit 2301 was rented between 2008 through 2014, and is currently owner-occupied. The Project Sponsor is not aware of Unit 2303 ever being rented. His parents purchased the unit in February 2016 from an owner-occupant, who had occupied the unit for years up until that time.

- F. Whether the number of bedrooms provided in the merged unit will be equal to or greater than the number of bedrooms in the separate units;

Unit 2301 has two bedrooms, Unit 2303 has two bedrooms, and the proposed merged unit would have three bedrooms. Thus, there will be a loss of a bedroom as part of the residential merger and the new unit's reconfiguration and interior improvements.

- G. Whether removal of the unit(s) is necessary to correct design or functional deficiencies that cannot be corrected through interior alterations;

As noted by the Project Sponsor, the proposed merger corrects a functional deficiency of the existing two units since each unit on its own is too small to accommodate the Project Sponsor, his immediate family and his parents. No interior alterations can fix this deficiency. The proposed merger will allow the Project Sponsor's parents to live in the same home as his immediate family, as he intends to support and take care of them as they grow older. Unit 2301 is 1,223 square feet and Unit 2303 is 1,072 square feet. The Project Sponsor finds both units to be too small to comfortably accommodate 4+ family members.

However, the reconfiguration and loss of a bedroom is not necessary. While the applicant's family and parents would occupy the merged unit, there is no compelling reason as to why the family could not continue to occupy both units as currently configured. Further, if a larger family-sized unit is intended, then the loss of a bedroom seems contrary to the Project Sponsor's desire for a larger family-sized dwelling unit.

- H. The appraised value of the least expensive Residential Unit proposed for merger only when the merger does not involve an Unauthorized Unit;

Pursuant to City's Periodic Adjustment to Numerical Criteria, a single family home valued at or above \$1,630,000 is considered to be unaffordable. An appraisal prepared by Maureen McGettigan Appraisals, dated April 5, 2016, valued Unit #2301 at \$1,750,000 and Unit #2303 at \$1,800,000. Although both of the units exceed the Numerical Criteria, the merging of the two unaffordable units into one unit would cumulatively approach or exceed \$3,000,000; thus, the residential merger would create a unit that is that much more unaffordable than if the two individual units remained as is.

However, both exceed the 80th percentile of San Francisco single-family home values at \$1,630,000, a value previously used as an exemption from the conditional use requirement for dwelling unit mergers under a previous version of Section 317.

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

HOUSING ELEMENT

OBJECTIVE 2:

RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS, WITHOUT JEOPARDIZING AFFORDABILITY.

Policy 2.2:

Retain existing housing by controlling the merger of residential units, except where a merger clearly creates new family housing.

OBJECTIVE 3:

Protect the affordability of the existing housing stock, especially rental units.

OBJECTIVE 4:

Foster a housing stock that meets the needs of all residents across lifecycles.

The Project would merge a two-bedroom unit with another contiguous two-bedroom unit on the twenty-third floor. The newly created unit would remove one of the existing bedrooms and provide the new merged unit with three bedrooms and four bathrooms. The new proposed residential merger does not retain the existing housing by controlling the merger nor does it protect the affordability of the existing housing stock.

RINCON HILL AREA PLAN

Objectives and Policies

Land Use

OBJECTIVE 1.1

ENCOURAGE THE DEVELOPMENT OF A UNIQUE DYNAMIC, MIXED-USE RESIDENTIAL NEIGHBORHOOD CLOSE TO DOWNTOWN, WHICH WILL CONTRIBUTE SIGNIFICANTLY TO THE CITY'S HOUSING SUPPLY.

OBJECTIVE 1.2

MAXIMIZE HOUSING IN RINCON HILL TO CAPITALIZE ON RINCON HILL'S CENTRAL LOCATION ADJACENT TO DOWNTOWN EMPLOYMENT AND TRANSIT SERVICE, WHILE STILL RETAINING THE DISTRICT'S LIVABILITY.

OBJECTIVE 1.5

ADD LIFE AND ACTIVITY TO THE DISTRICT'S PUBLIC SPACES BY PROVIDING ACTIVE USES ON STREET-FACING GROUND FLOORS.

Policy 1.1

Allow housing as a principally permitted use throughout the district.

Policy 1.3

Eliminate the residential density limit to encourage the maximum amount of housing possible within the allowable building envelope.

Policy 1.4

Require parking to be located primarily underground so that the allowable above-ground building envelope can be used for housing.

400 Beale Street was approved, entitled and constructed with 245 dwelling units. Allowing the residential merger will decrease the total dwelling unit count to 244. The reduction is not maximizing housing in Rincon Hill to capitalize on Rincon Hill's central location nor is it encouraging the maximum amount of housing possible within the allowable building envelope.

Housing

OBJECTIVE 2.1

PROVIDE QUALITY HOUSING IN A PLEASANT ENVIRONMENT THAT HAS ADEQUATE ACCESS TO LIGHT, AIR, OPEN SPACE AND NEIGHBORHOOD AMENITIES, AND THAT IS BUFFERED FROM EXCESSIVE NOISE.

OBJECTIVE 2.3

ENCOURAGE NEW HOUSING PRODUCTION OF AN ADEQUATE SIZE AND CONFIGURATION TO SERVE FAMILIES.

Policy 2.4

Require 40 percent of all units in new development to be two or more bedroom units.

400 Beale Street was constructed with a dwelling unit mix of 47%. Allowing the residential merger will decrease the dwelling unit mix to 46%. The reduction is not maximizing housing in Rincon Hill to capitalize on Rincon Hill's central location nor is it encouraging the maximum amount of dwelling unit mix possible within the allowable building envelope.

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

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

The project site does not possess any existing neighborhood-serving retail 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 Project would merge two existing units that are considered unaffordable as they exceed \$1,630,000 and are owner-occupied. The current owners of both units would continue to own and occupy the merged unit; therefore, the cultural and economic diversity of the neighborhood will not be affected.

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

Pursuant to the City's Periodic Adjustment to Numerical Criteria, a single-family home valued at or above \$1,630,000 is considered to be unaffordable. An appraisal dated April 5, 2016, prepared by Maureen McGettigan Appraisals, valued Unit #2301 at \$1,750,000 and unit #2303 at \$1,800,000. The Project will not eliminate any units of affordable housing.

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

The Project would merge two existing units into one larger unit and is not expected to create additional traffic or parking demand as there is no building expansion of gross floor area or increase in number of units.

- 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 merge two existing residential units and does not propose new office space.

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

The proposed Project will not change the seismic and fire safety standards of the Building.

- G. That landmarks and historic buildings be preserved.

The existing building is not a landmark or a historic resource, and is not located in a historic district. The proposed merger of the two units will not affect the exterior of the building.

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

The Project does not propose any exterior changes. Therefore, the proposed merger will have no effect on the sunlight access of any parks or open space or impair the view from any public vistas.

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

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **DENIES Conditional Use Application No. 2016-005411CUA** pursuant to Planning Code Sections 303 and 317 to allow a dwelling unit merger of Unit #2303 with Unit #2301. The property is located within the Rincon Hill Downtown Residential Mixed Use (RH-DTR), and a 65-X Height and Bulk District.

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 94012.

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 13, 2017.

Jonas P. Ionin
Commission Secretary

AYES:

NAYS:

ABSENT:

RECUSED:

ADOPTED: April 13, 2017



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. 414A)
- ☐ Other

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

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415.558.6378

Fax:
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Planning
Information:
415.558.6377

Planning Commission Motion No. XXXXX

HEARING DATE: APRIL 13, 2017

Case No.: 2016-005411CUA
Project Address: 400 BEALE STREET
Zoning: RH-DTR (Rincon Hill Downtown Residential Mixed Use) District
45-X Height and Bulk District
Block/Lot: 3766/238 & 240
Project Sponsor: Brandon Muller
32681 Caspian Sea Drive
Dana Point, CA 92629
Staff Contact: Esmeralda Jardines – (415) 575-9144
esmeralda.jardines@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303 AND 317 OF THE PLANNING CODE FOR A DWELLING UNIT MERGER OF A 1,074 SQUARE FOOT, TWO-BEDROOM, TWO-BATH DWELLING UNIT (UNIT #2303) WITH A 1,223 SQUARE FOOT, TWO-BEDROOM, TWO-BATH DWELLING UNIT (UNIT #2301) AT 400 BEALE STREET IN ASSESSOR'S BLOCK 3766, LOTS 238 AND 240 WITHIN THE RH-DTR (RINCON HILL DOWNTOWN RESIDENTIAL MIXED USE ZONING DISTRICT AND THE 65-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On April 26, 2016, Brandon Muller (Project Sponsor) filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Sections 303 and 317 to merge two dwelling units at 400 Beale Street within the RH-DTR (Rincon Hill Downtown Residential Mixed Use) Zoning District and a 65-X Height and Bulk District.

On April 6, 2017, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2016-005411CUA. On April 6, 2017, the Commission continued this project to the public hearing on April 13, 2017.

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

The Planning Department, Jonas P. Ionin, is the custodian of records, located in the File for Case No. 2016-005411CUA at 1650 Mission Street, Fourth Floor, San Francisco, California.

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. 2016-005411CUA, 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. **Project Description.** The Project Sponsor seeks to merge two dwelling units within an existing 26-story residential building with 245 dwelling units. The Project would merge a 1,074 square foot, two-bedroom, two-bath unit (Unit #2303) with a 1,223 square foot, two-bedroom, two-bath unit (Unit #2301). The Project would reconfigure and merge the two units to create one three-bedroom unit.
3. **Site Description and Present Use.** The Project site is located on the west side of Beale Street between Bryant and Harrison Streets on Lots 238 and 240 in Assessor’s Block 3766. The project site currently contains a 26-story residential building constructed in 2002, which was subsequently divided into condominiums. The subject lot is irregular in shape and measures approximately 90 feet deep by 303 feet wide.
4. **Surrounding Properties and Neighborhood.** The Project site is within the RH-DTR (Rincon Hill Downtown Residential Mixed Use) Zoning District and a 65-X Height and Bulk district. Uses in the immediate vicinity are primarily multi-family, multi-story residential structures with some office buildings. The project site is located in the northeast edge of the block-face flanked by 333 Harrison Street (dba Rincon Green) and Bay Bridge. The adjacent building to the north is a tall, twenty-story, 226-unit apartment building. The abutting block-faces are characterized by residential tower buildings of mixed architectural style.
5. **Public Comment.** To date, the Department has not received any correspondence related to the Project.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

A. **Residential.** Planning Code Section 827.46 principally permits residential uses.

The Project will merge two existing dwelling units within the building and does not propose any changes to the aforementioned land use; the merged units will remain as a residential use.

- B. **Rear Yard and Site Coverage.** Planning Code Section 827.12 permits 100 percent lot coverage, and does not require a rear yard for the project site.

The Project covers the majority of the subject lot, and is consistent with Planning Code Section 827.12. The Project will merge two existing dwelling units within the building and does not propose any exterior alterations to the building or rear yard configuration.

- C. **Residential Usable Open Space.** Planning Code Sections 135 and 827.49 require a minimum of 75 square feet of usable private or common open space per dwelling unit.

Per Motion No. 14513, 18,271 gross square feet was required under the Rincon Hill Special Use District controls. Approximately 26,075 gross square feet of open space were proposed as part of the Project including: 13,847 gross square feet of private open space and approximately 12,228 gross square feet are common open space.

With the most current controls, the Project is required to provide 18,375 square feet of usable open space for 245 dwelling units.

The Project is required to provide at least 18,375 sq. ft. of usable open space. Cumulatively, 26,075 gross square feet are provided at 400 Beale Street. Unit 2301 is provided with a 61 square foot deck; Unit 2303 is provided with a 61 square foot deck as well. The new merged unit would be provided with 122 square feet of usable open space.

- D. **Dwelling Unit Exposure.** Planning Code Section 140 requires that at least one room of all dwelling units face onto a public street, public alley at least 25-ft in width, side yard at least 25-ft in width, or rear yard, which meets the requirements of the Planning Code. Alternatively, an open area (whether an inner court or a space between separate buildings on the same lot) which is unobstructed (except for fire escapes not projecting more than necessary for safety and in no case more than 4'-6", chimneys, and those obstructions permitted in Sections [136](#)(c)(14), (15), (16), (19), (20) and (29) of this Code) and is no less than 25 feet in every horizontal dimension for the floor at which the Dwelling Unit in question is located and the floor immediately above it, with an increase of five feet in every horizontal dimension at each subsequent floor can satisfy the exposure requirement.

The Project proposes a dwelling unit merger at Units 2301 and 2303, both of which front a public street.

- E. **Off-Street Parking.** Planning Sections 827.50 and 151.1 of the Planning Code permit one off-street parking space for each two dwelling units, where none are required.

The Project is principally permitted to a maximum of 123 off-street accessory parking spaces for the 245 dwelling units; it is conditionally permitted to have 245 off-street parking spaces for the 245 dwelling units. The Project was approved per Planning Commission Motion No. 14513 with 245 off-street parking spaces within a five-level garage, two of which are at and above grade; the garage has

two entrances from Beale Street. As part of the dwelling unit merger, the off-street parking count will not be affected, no additional parking is required.

- F. **Residential Density.** Planning Code Section 827.47 allows dwelling units as a principally permitted use with no residential density subject to the criteria of Section 207.5.

The Project site currently provides 245 dwelling units; the merger would result in 244 dwelling units.

- G. **Dwelling Unit Mix.** Planning Code Section 207.6 requires that no less than 40 percent of the total number of proposed dwelling units contain at least two bedrooms, or no less than 30 percent of the total number of proposed dwelling units contain at least three bedrooms.

Of the 245 dwelling units, the Project is required to provide at least 98 (or 40%) two-bedroom units or 74 (30%) three-bedroom units.

The existing building provides 61 one-bedroom, one-bathroom units, 60 one-bedroom, one-bathroom with a study units. Further, the existing building provides 13 two-bedroom, one-bathroom units, 10 two-bedroom, one bathroom with a study units, 86 two-bedroom, two bathroom units, 13 two-bedroom, two-bathroom with a study units. In addition, the existing building provides one three-bedroom, three-bathroom with a study unit. Lastly, the existing building provides one four-bedroom and three-bathroom unit.

Therefore, the combination of two, three, and four-bedroom units meet the requirements for dwelling unit mix as cumulatively, 114 of 245 dwelling units provide two or more bedrooms. Thus, the existing dwelling unit mix is 47%.

The proposed dwelling unit merger would convert two, two-bedroom and two-bathroom units into one three-bedroom, four-bathroom unit. Thus, the dwelling unit merger would not affect the existing dwelling unit mix.

- H. **Residential Merger – Section 317:** Pursuant to Planning Code Section 317, Conditional Use Authorization is required for applications proposing to combine two or more residential or unauthorized units within a building, or the enlargement of one or more existing units while substantially reducing the size of others by more than 25% of their original floor area, even of the number of units is not reduced. The Planning Commission may reduce the numerical element of this criterion by up to 20% of its value should it deem that adjustment is necessary to implement the intent of Section 317, to conserve existing housing and preserve affordable housing. This Code Section establishes a checklist of criteria that delineate the relevant General Plan Policies and Objectives.

As the project requires Conditional Use Authorization per the requirements of the Section 317, the additional criteria specified under Section 317 have been incorporated as findings below.

- I. **Child-Care Requirements.** Planning Code Section 414A requires the Department to determine the applicability of Section [414A](#) to any development project requiring a First Construction Document and, if Section [414A](#) is applicable, the number of gross square feet of

space subject to its requirements, and shall impose these requirements as a condition of approval for issuance of the First Construction Document for the development project to mitigate the impact on the availability of child-care facilities that will be caused by the residents attracted to the proposed development project. Planning Code Section 414A applies when additional space in an existing residential unit of more than 800 gross square feet.

The Project includes merger two dwelling units for a total of 1,223 gross square feet of new development that is subject to the Child Care Fee, as outlined in Planning Code Section 414A. These fees must be paid prior to the issuance of the building permit application.

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

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

The Project would not result in any exterior alterations to the existing building, and would not increase the size or intensity of the existing residential uses. The Project would merge two existing dwelling units that have served as individual dwelling units since their construction. The Project would merge two existing dwellings that are not demonstrably affordable as both existing units have been appraised at over \$1,630,000. Pursuant to City's Periodic Adjustment to Numerical Criteria, a single family home valued at or above \$1,630,000 is considered to be unaffordable.

- 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 Project does not involve any exterior alterations to the subject building and will not affect the building envelope.

- 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 Project does not trigger additional parking and would not increase the amount of traffic due to the merger of two existing dwelling units on the twenty-third floor.

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

The Project would merge two existing dwelling units and not create any additional noise, glare, dust or odor.

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

The Project does not require any additional landscaping, screening, or open space and does not propose any exterior changes.

- 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 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 Use District.

The existing building is located in a Rincon Hill Downtown Residential Mixed Use (RH-DTR) Zoning District, where residential uses are principally permitted. The Project proposes to merge two existing residential uses that are principally permitted and conforms to the purposes of the RH-DTR District.

- 8. **Additional Findings pursuant to Section 317(g)(2)** establishes criteria for the Planning Commission to consider when reviewing applications to merge residential units. On balance, the Project does and does not comply with said criteria in that:

- A. That the unit would eliminate only owner occupied housing, and if so, for how long the unit proposed to be removed have been owner occupied;

Units 2301 and 2303 are currently owner-occupied by the Project Sponsor and his parents. The Project Sponsor occupied Unit 2301 in 2007, purchased it in 2008, and occupied it for another six months before he was transferred by his employer to Southern California. It was rented to a tenant until 2014, when the Project Sponsor returned to San Francisco, and he has been occupying the unit ever since.

Unit 2303 was purchased by the Project Sponsor's parents in February 2016 from the previous owner, who had occupied it for several years prior to its sale.

The Project Sponsor will occupy the merged unit with his family and parents. To facilitate the potential for a future subdivision of this merged residential unit, the Commission is recommending a condition of approval to maintain the existing number of bedrooms; therefore, the proposed unit would have four bedrooms.

- B. Whether removal of the unit(s) and the merger with another is intended for owner occupancy;

The Project Sponsor will occupy the merged unit with his family and parents.

- C. Whether removal of the unit(s) will remove an affordable housing unit as defined in Section 401 of this Code or housing subject to the Residential Rent Stabilization and Arbitration Ordinance;

Neither of the units proposed for merger are designated affordable units under Section 415 of the Planning Code, nor are they subject to the Rent Ordinance as they were constructed after the cut-off date of June 13, 1979. Neither of the units proposed to be merged is subject to the Residential Rent Stabilization and Arbitration Ordinance.

Pursuant to City's Periodic Adjustment to Numerical Criteria, a single family home valued at or above \$1,630,000 is considered to be unaffordable. An appraisal prepared by Maureen McGettigan Appraisals, dated April 5, 2016, valued Unit #2301 at \$1,750,000 and Unit #2303 at \$1,800,000. Although both of the units exceed the Numerical Criteria, the merging of the two unaffordable units into one unit would cumulatively approach or exceed \$3,000,000; thus, the residential merger would create a unit that is that much more unaffordable than if the two individual units remained as is.

- D. If removal of the unit(s) removes an affordable housing unit as defined in Section 401 of this Code or units subject to the Residential Rent Stabilization and Arbitration Ordinance, whether replacement housing will be provided which is equal or greater in size, number of bedrooms, affordability, and suitability to households with children to the units being removed;

Neither of the units proposed for the residential merger are affordable housing units nor are they subject to the City's Residential Rent Stabilization and Arbitration Ordinance.

- E. How recently the unit being removed was occupied by a tenant or tenants;

Unit 2301 was rented between 2008 through 2014, and is currently owner-occupied. The Project Sponsor is not aware of Unit 2303 ever being rented. His parents purchased the unit in February 2016 from an owner-occupant, who had occupied the unit for years up until that time.

- F. Whether the number of bedrooms provided in the merged unit will be equal to or greater than the number of bedrooms in the separate units;

Unit 2301 has two bedrooms, Unit 2303 has two bedrooms, and the proposed merged unit would have three bedrooms. Thus, there will be a loss of a bedroom as part of the residential merger and the new unit's reconfiguration and interior improvements. However, the Commission has added a condition of approval to maintain four bedrooms within the merged unit.

- G. Whether removal of the unit(s) is necessary to correct design or functional deficiencies that cannot be corrected through interior alterations;

As noted by the Project Sponsor, the proposed merger corrects a functional deficiency of the existing two units since each unit on its own is too small to accommodate the Project Sponsor, his immediate family and his parents. No interior alterations can fix this deficiency. The proposed merger will allow

the Project Sponsor's parents to live in the same home as his immediate family, as he intends to support and take care of them as they grow older. The Project Sponsors finds both units to be too small to comfortably accommodate 4+ family members.

However, the loss of a bedroom is not necessary. While the applicant's family and parents would occupy the merged unit, the Commission finds no compelling reason as to why the family could not merge the two units and keep the existing bedroom count, as currently configured. Therefore, the Commission has added a condition of approval to maintain four bedrooms within the merged unit.

- H. The appraised value of the least expensive Residential Unit proposed for merger only when the merger does not involve an Unauthorized Unit;

Pursuant to City's Periodic Adjustment to Numerical Criteria, a single family home valued at or above \$1,630,000 is considered to be unaffordable. An appraisal prepared by Maureen McGettigan Appraisals, dated April 5, 2016, valued Unit #2301 at \$1,750,000 and Unit #2303 at \$1,800,000. Both of the units exceed the Numerical Criteria; thus, whether the units are merged or whether they remain in their current configuration, they will remain unaffordable per their most recent property valuation.

Further, both exceed the 80th percentile of San Francisco single-family home values at \$1,630,000, a value previously used as an exemption from the conditional use requirement for dwelling unit mergers under a previous version of Section 317.

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

HOUSING ELEMENT

OBJECTIVE 2:

RETAIN EXISTING HOUSING UNITS, AND PROMOTE SAFETY AND MAINTENANCE STANDARDS, WITHOUT JEOPARDIZING AFFORDABILITY.

Policy 2.2:

Retain existing housing by controlling the merger of residential units, except where a merger clearly creates new family housing.

OBJECTIVE 3:

Protect the affordability of the existing housing stock, especially rental units.

OBJECTIVE 4:

Foster a housing stock that meets the needs of all residents across lifecycles.

The Project would merge a two-bedroom unit with another contiguous two-bedroom unit on the twenty-third floor, and would create a larger family-sized residential unit. The newly created unit would be required to maintain four bedrooms.

The Housing Element does encourage a housing stock that meets the needs of all residents across lifecycles. The new proposed residential merger would permit a multi-generational family to occupy the merged unit together.

RINCON HILL AREA PLAN

Objectives and Policies

Land Use

OBJECTIVE 1.1

ENCOURAGE THE DEVELOPMENT OF A UNIQUE DYNAMIC, MIXED-USE RESIDENTIAL NEIGHBORHOOD CLOSE TO DOWNTOWN, WHICH WILL CONTRIBUTE SIGNIFICANTLY TO THE CITY'S HOUSING SUPPLY.

OBJECTIVE 1.2

MAXIMIZE HOUSING IN RINCON HILL TO CAPITALIZE ON RINCON HILL'S CENTRAL LOCATION ADJACENT TO DOWNTOWN EMPLOYMENT AND TRANSIT SERVICE, WHILE STILL RETAINING THE DISTRICT'S LIVABILITY.

OBJECTIVE 1.5

ADD LIFE AND ACTIVITY TO THE DISTRICT'S PUBLIC SPACES BY PROVIDING ACTIVE USES ON STREET-FACING GROUND FLOORS.

Policy 1.1

Allow housing as a principally permitted use throughout the district.

Policy 1.3

Eliminate the residential density limit to encourage the maximum amount of housing possible within the allowable building envelope.

Policy 1.4

Require parking to be located primarily underground so that the allowable above-ground building envelope can be used for housing.

400 Beale Street was approved, entitled and constructed with 245 dwelling units. Allowing the residential merger will decrease the total dwelling unit count to 244. However, after the residential merger, the proposed residential use which is principally permitted in the RH-DTR will remain.

Housing

OBJECTIVE 2.1

PROVIDE QUALITY HOUSING IN A PLEASANT ENVIRONMENT THAT HAS ADEQUATE ACCESS TO LIGHT, AIR, OPEN SPACE AND NEIGHBORHOOD AMENITIES, AND THAT IS BUFFERED FROM EXCESSIVE NOISE.

OBJECTIVE 2.3

ENCOURAGE NEW HOUSING PRODUCTION OF AN ADEQUATE SIZE AND CONFIGURATION TO SERVE FAMILIES.

Policy 2.4

Require 40 percent of all units in new development to be two or more bedroom units.

400 Beale Street was constructed with a dwelling unit mix of 47%. Allowing the residential merger will decrease the dwelling unit mix to 46%. The resultant 46% still exceeds the dwelling unit mix that is required.

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

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

The project site does not possess any existing neighborhood-serving retail 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 Project would merge two existing units that are considered unaffordable as they exceed \$1,630,000 in valuation and are owner-occupied. The current owners of both units would continue to own and occupy the merged unit and therefore, the cultural and economic diversity of the neighborhood will not be affected.

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

Pursuant to the City's Periodic Adjustment to Numerical Criteria, a single-family home valued at or above \$1,630,000 is considered to be unaffordable. An appraisal dated April 5, 2016, prepared by Maureen McGettigan Appraisals, valued Unit #2301 at \$1,750,000 and Unit #2303 at \$1,800,000. The Project will not eliminate any units of affordable housing, since the two existing units are not considered to be affordable housing.

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

The Project would merge two existing units and create one larger unit and is not expected to create additional traffic or parking demand as there is no building expansion of gross floor area or increase in number of units.

- 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 merge two existing residential units and does not propose new office space.

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

The Project will not change the seismic and fire safety standards of the Building.

- G. That landmarks and historic buildings be preserved.

*The existing building is not a landmark or a historic resource, and is not located in a historic district.
The proposed merger of the two units will not affect the exterior of the existing building.*

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

The Project does not propose any exterior changes. Therefore, the proposed merger will have no effect on the sunlight access of any parks or open space or impair the view from any public vistas.

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

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2016-005411CUA**, 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. 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 94012.

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 13, 2017.

Jonas P. Ionin
Commission Secretary

AYES:

NAYS:

ABSENT:

RECUSED:

ADOPTED: April 13, 2017

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow a residential merger of two dwelling units within an existing 245-unit, 26-story residential building. The Project would merge a 1,074 square foot, two-bedroom unit (Unit #2303) with a 1,223 square foot, two-bedroom unit (Unit #2301) located at 400 Beale Street, Assessor's Block 3766, and Lots 238 and 240, pursuant to Planning Code Sections 303 and 317 within the RH-DTR District and a 65-X Height and Bulk District; in general conformance with plans, dated March 30, 2017, and stamped "EXHIBIT B" included in the docket for Case No. 2016-005411CUA and subject to conditions of approval reviewed and approved by the Commission on April 13, 2017 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 13, 2017 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.** 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

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

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

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

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

DESIGN – COMPLIANCE AT PLAN STAGE

6. **Bedrooms.** The Project Sponsor shall maintain four bedrooms within the final merged unit design. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.

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

7. **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

PROVISIONS

8. **Child Care Fee - Residential.** The Project is subject to the Residential Child Care Fee, as applicable, pursuant to Planning Code Section 414A.

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

MONITORING - AFTER ENTITLEMENT

9. **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

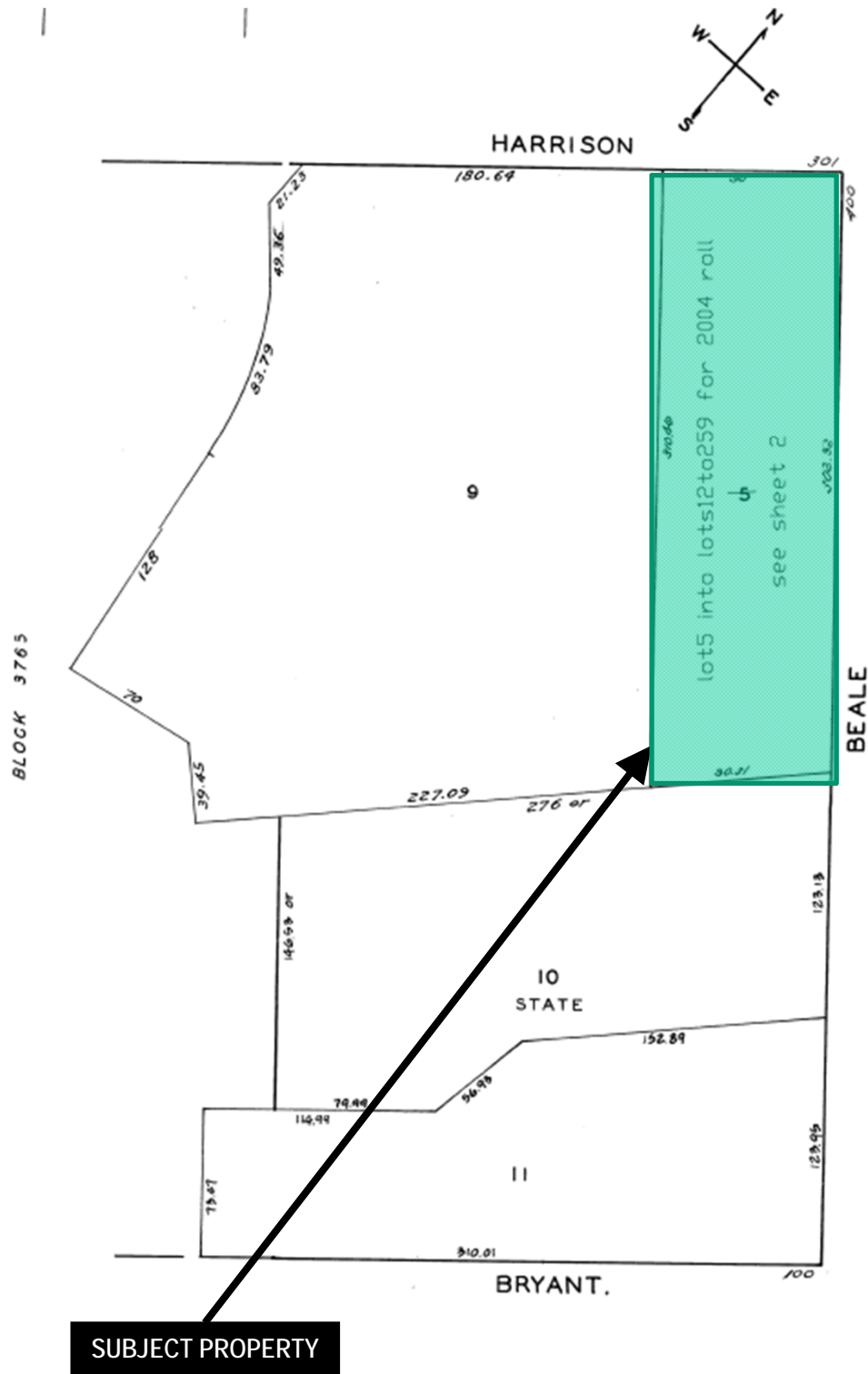
10. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions 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

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 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

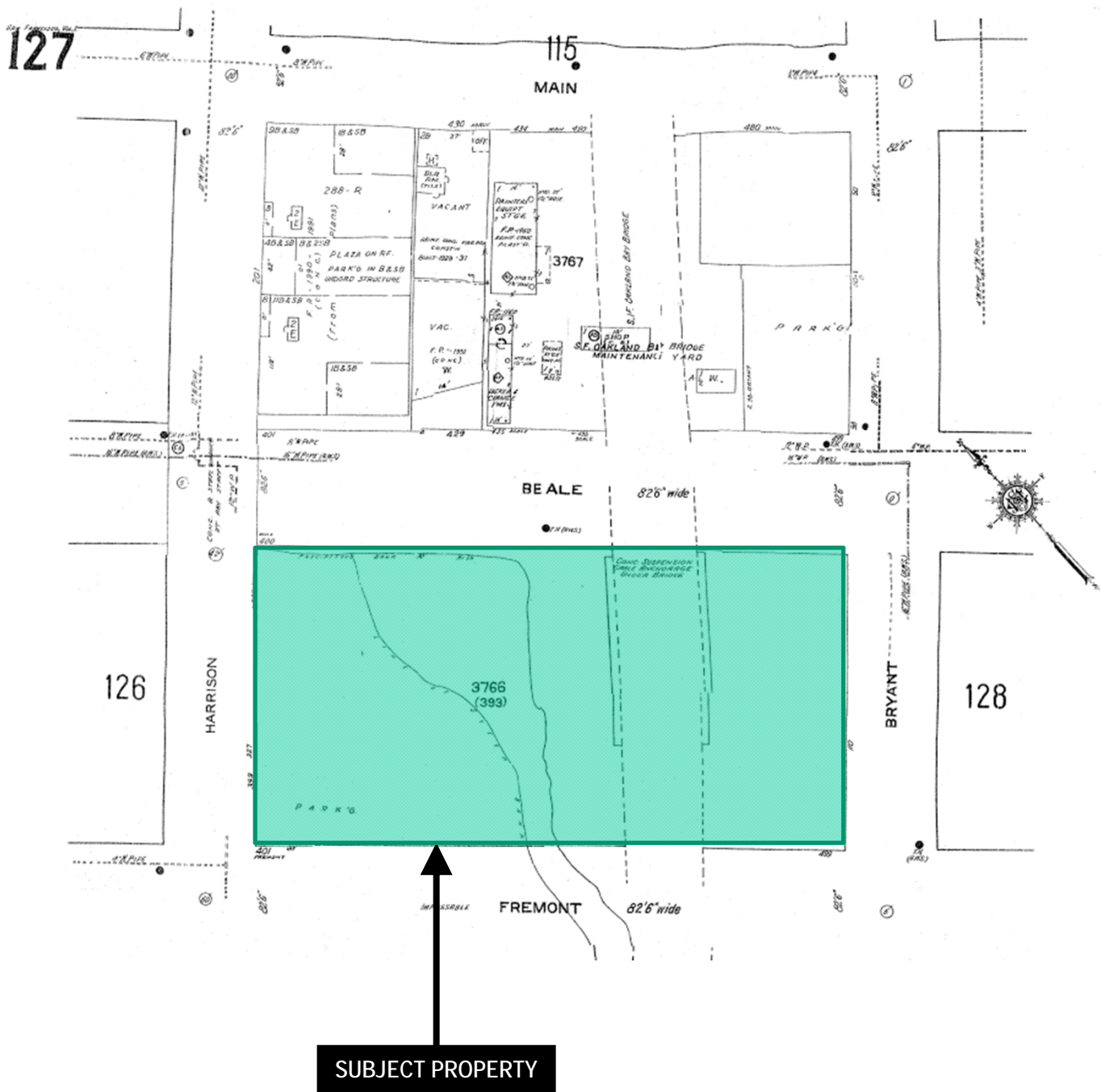


SUBJECT PROPERTY

Conditional Use Authorization
Case Number 2016-005411CUA
 400 Beale Street # 2301 & 2303
 Block 3766 Lots 238 and 240



Sanborn Map*

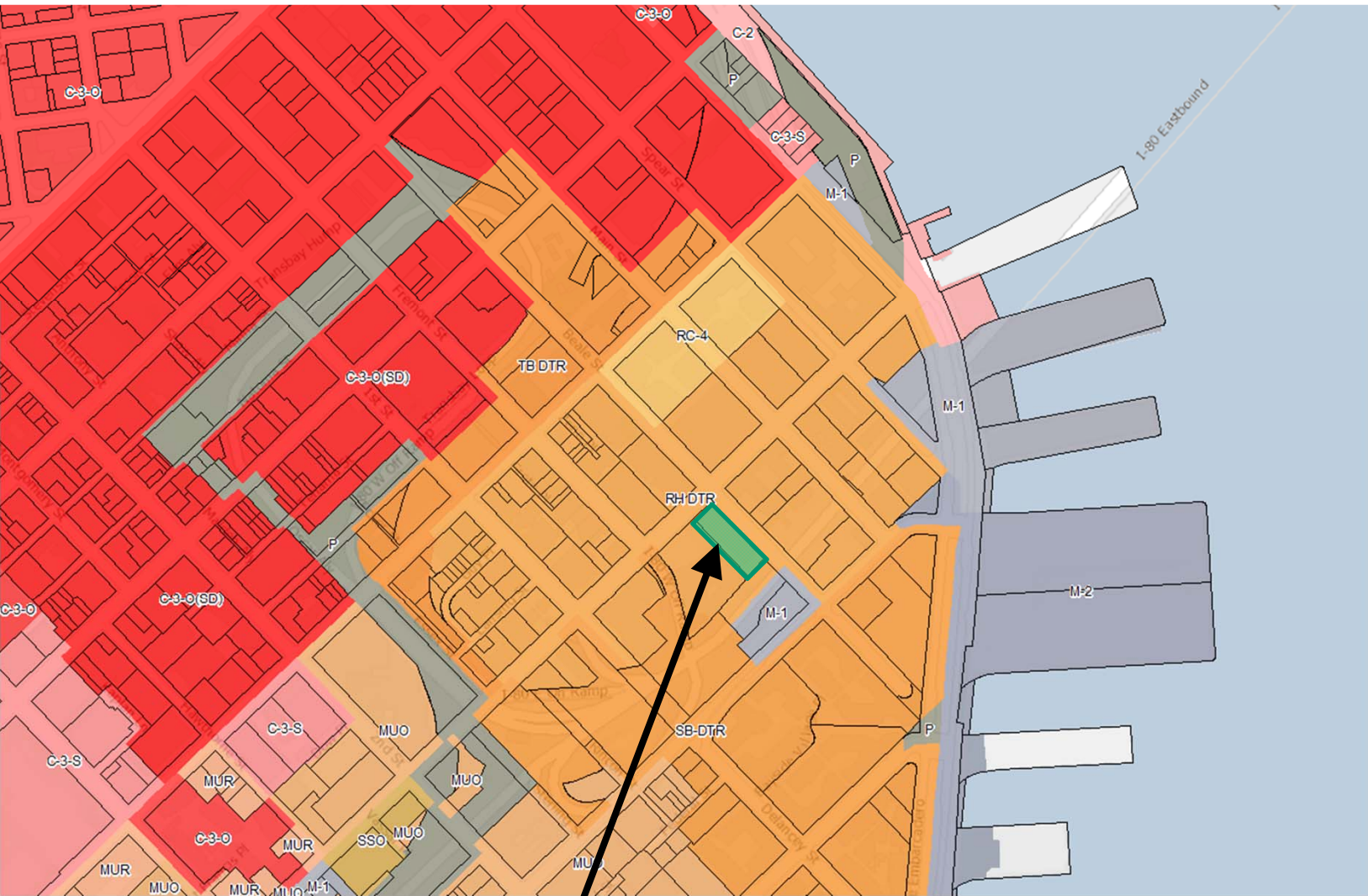


*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.

Conditional Use Authorization
Case Number 2016-005411CUA
400 Beale Street # 2301 & 2303
Block 3766 Lots 238 and 240



Zoning Map

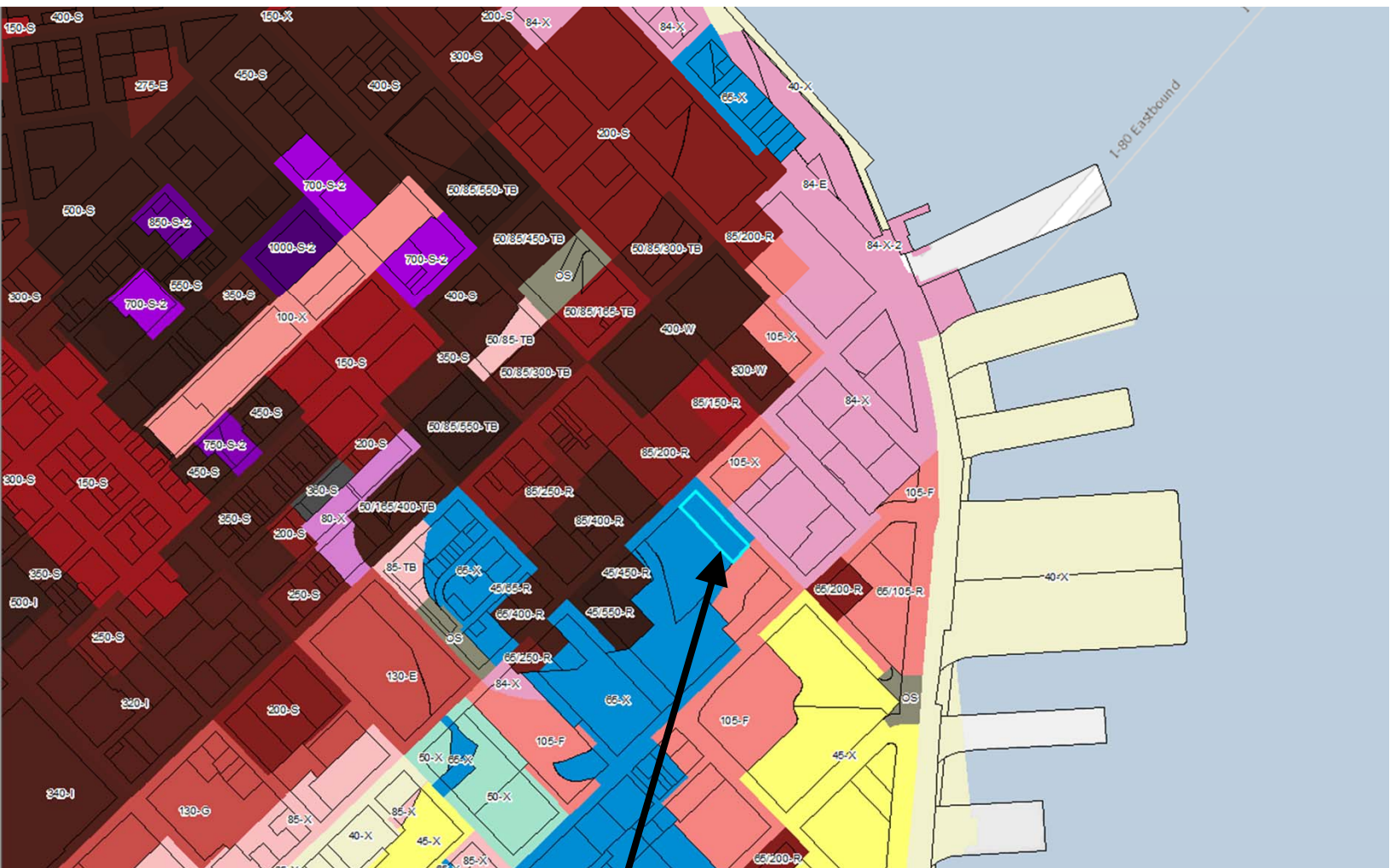


SUBJECT PROPERTY



Conditional Use Authorization
Case Number 2016-005411CUA
400 Beale Street # 2301 & 2303
Block 3766 Lots 238 and 240

Height and Bulk District

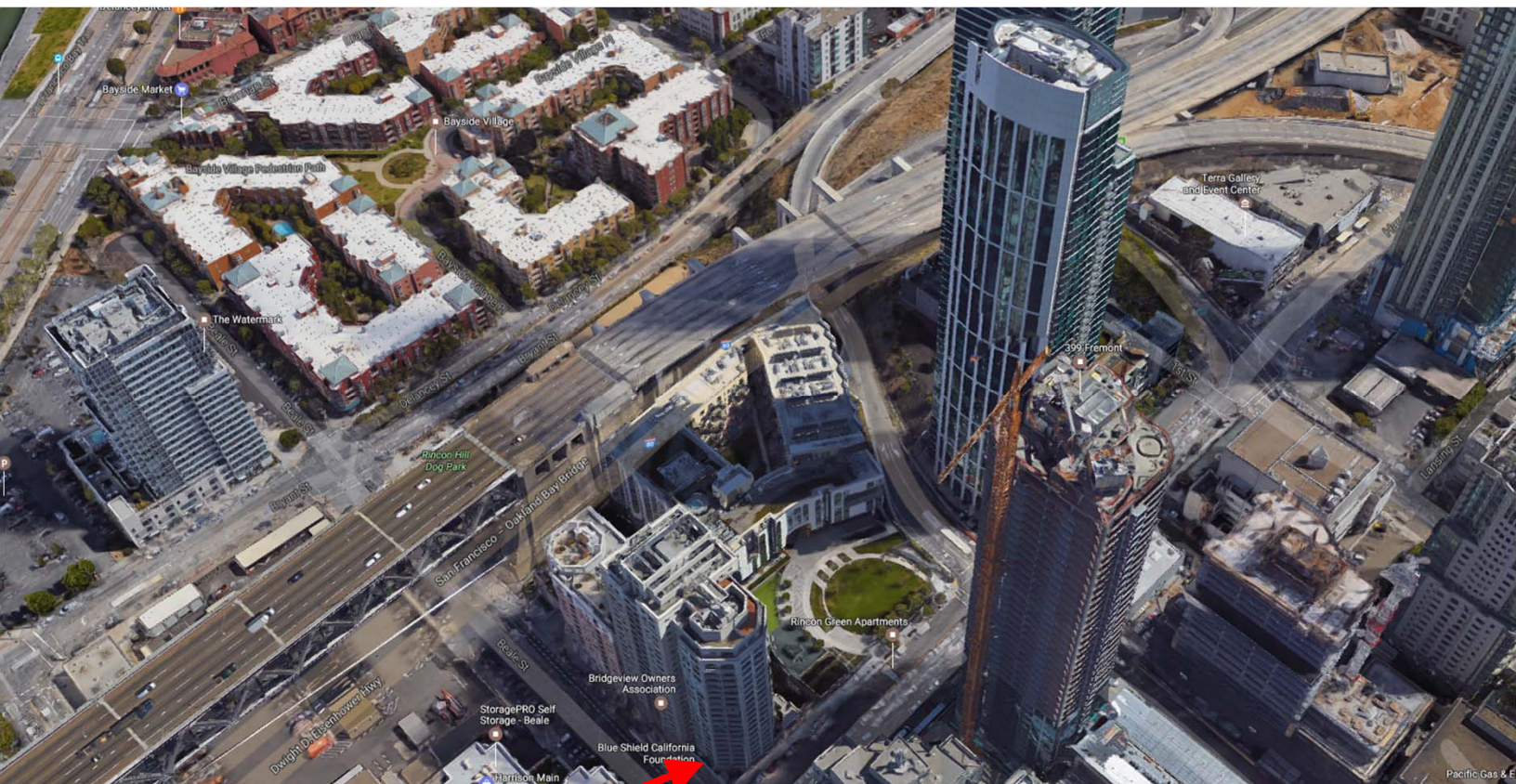
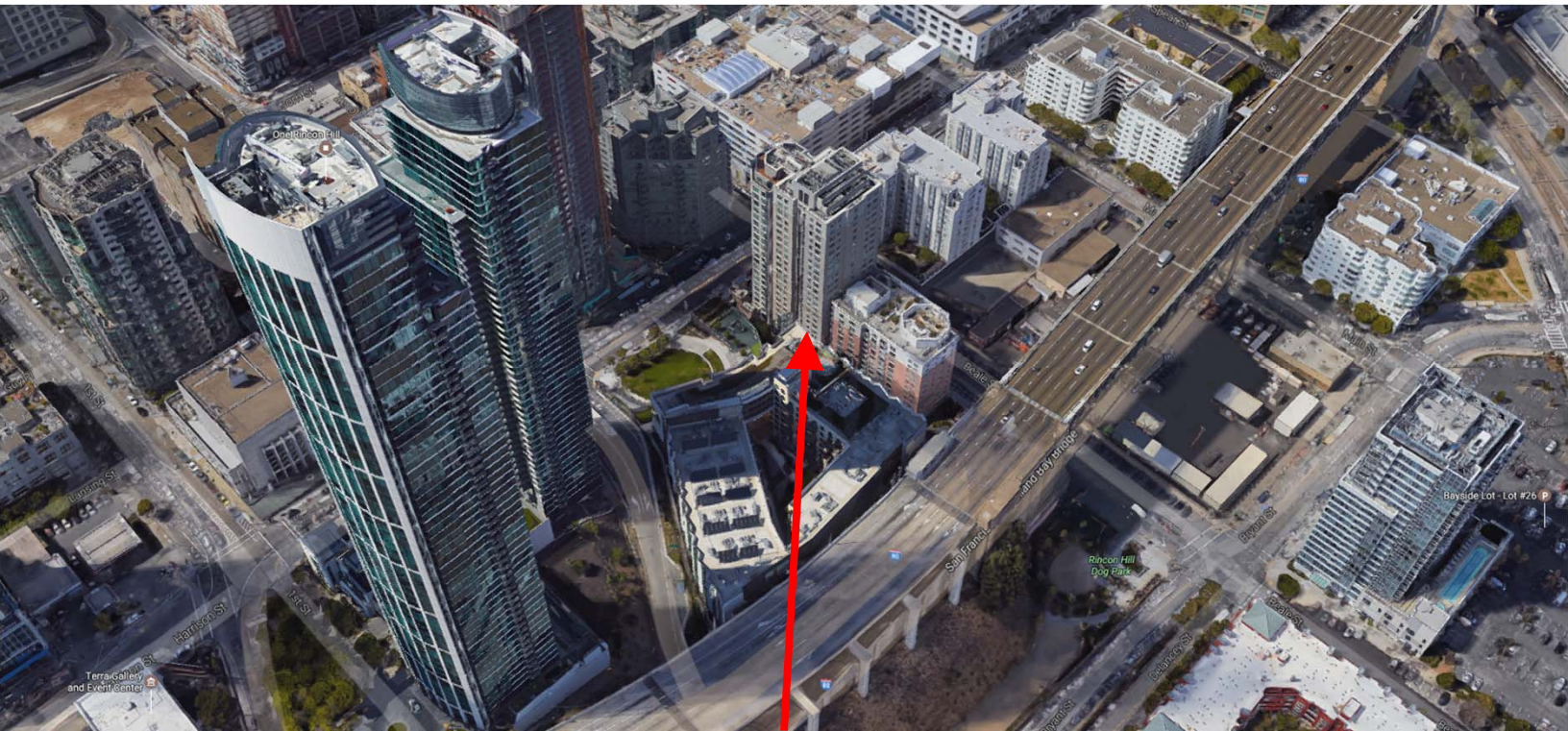


SUBJECT PROPERTY



Conditional Use Authorization
Case Number 2016-005411CUA
 400 Beale Street # 2301 & 2303
 Block 3766 Lots 238 and 240

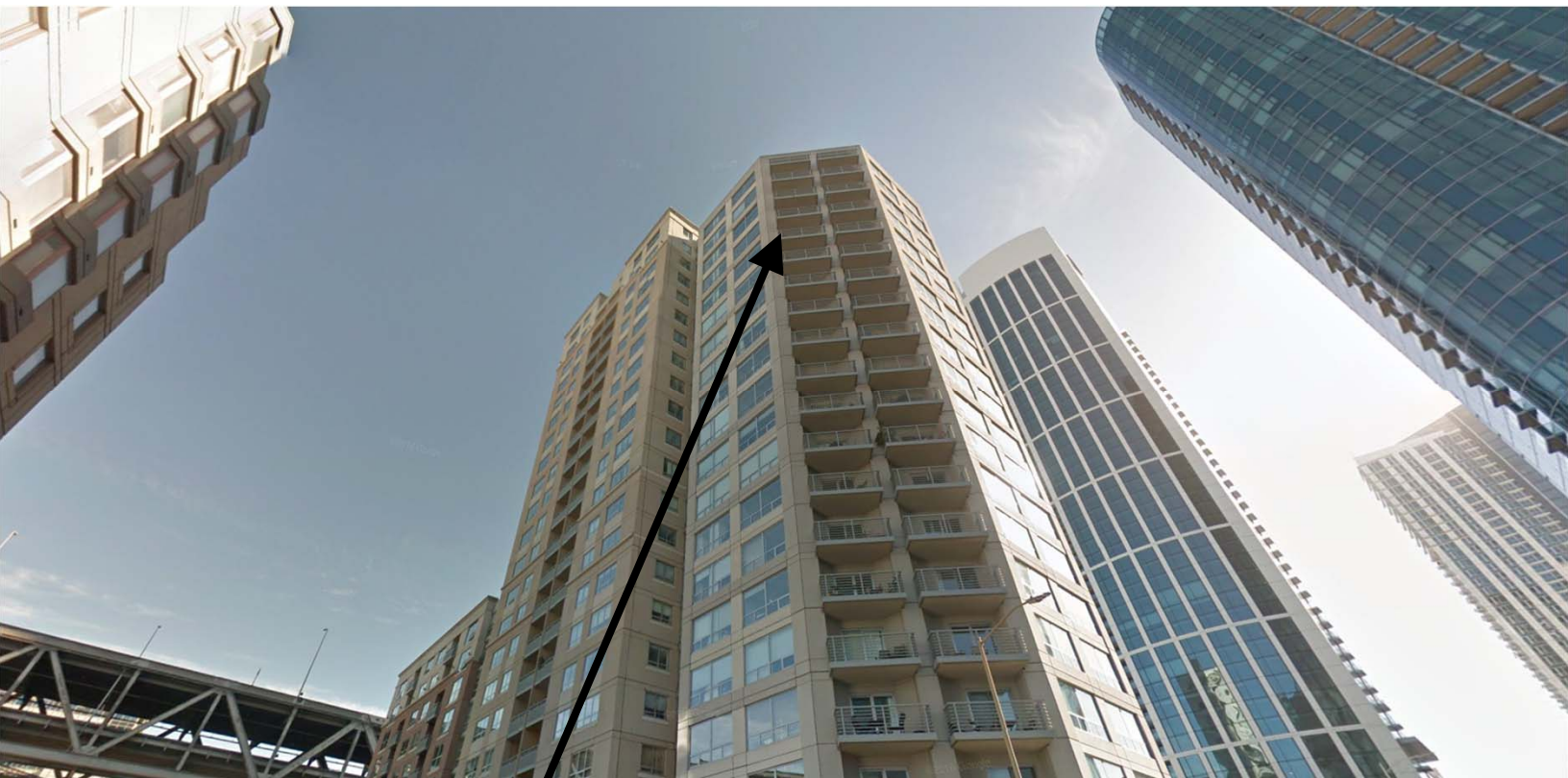
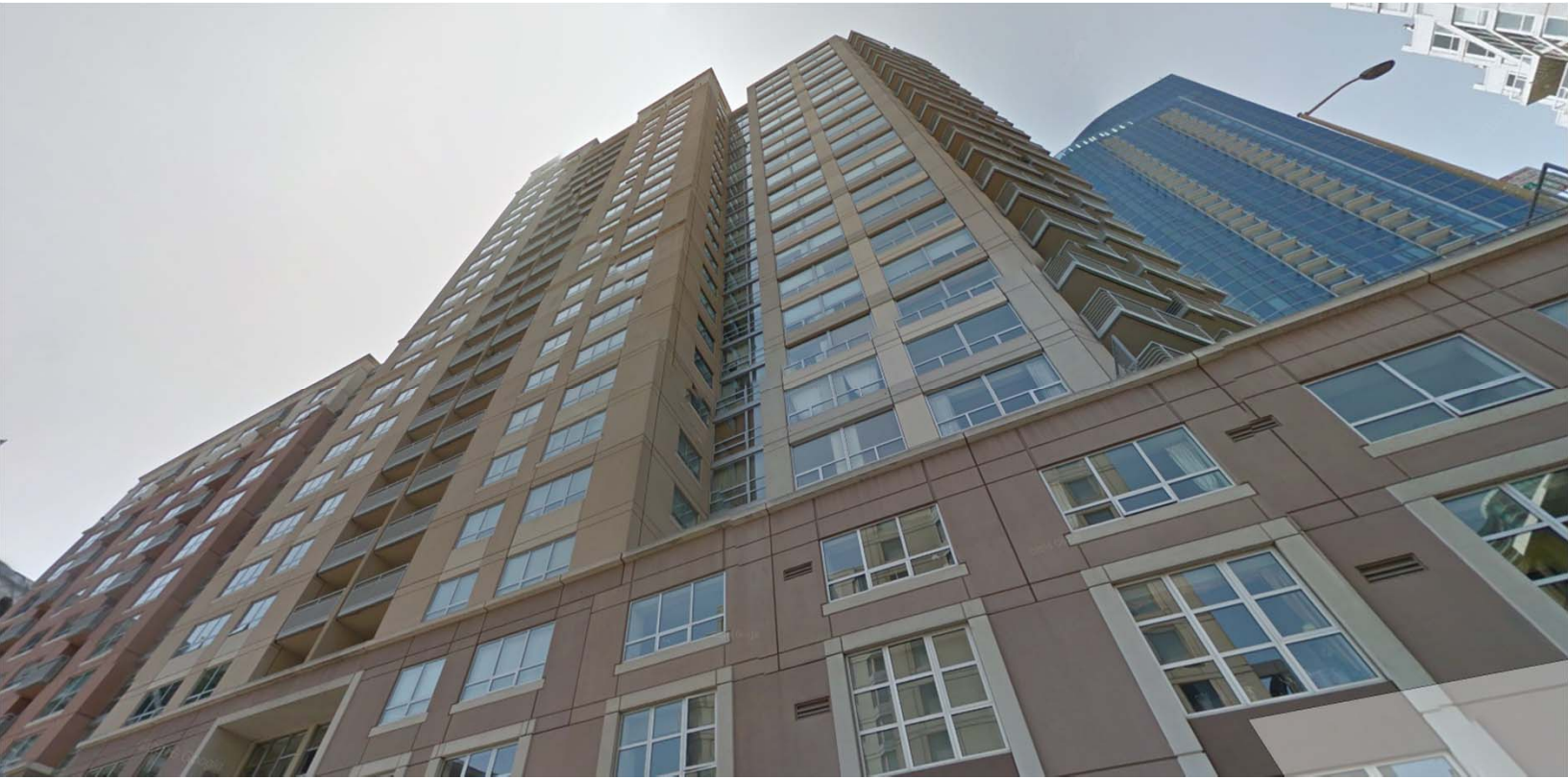
Site Photographs



SUBJECT PROPERTY

Conditional Use Authorization
Case Number 2016-005411CUA
400 Beale Street # 2301 & 2303
Block 3766 Lots 238 and 240

Context Photographs



SUBJECT PROPERTY

Conditional Use Authorization
Case Number 2016-005411CUA
400 Beale Street # 2301 & 2303
Block 3766 Lots 238 and 240

CODES

2013 San Francisco Building Code and amendments.
2013 California Building, Electrical, Plumbing and Housing Codes.

PROPERTY INFORMATION

ALL EXISTING:

Parcels:
Unit 2301 = 3766-238
Unit 2303 = 3766-240

Zone: RH-DTR

Type:
2 Adjacent One Story Condos
Unit 2301 = 1223 square feet
Unit 2303 = 1074 square feet

DRAWING INDEX

A1.1 GENERAL INFO. & EXISTING 23RD FLOOR PLAN
A2.1 EXISTING/DEMO FLOOR PLAN
A2.2 PROPOSED FLOOR PLAN
A3.1 EXISTING AND PROPOSED INTERIOR ELEVATIONS

SCOPE OF WORK

COMBINE TWO ADJACENT 2 BED/2 BATH CONDOS INTO ONE 3 BED/4 BATH CONDO RESIDENCE. NO EXTERIOR WORK TO BE PERFORMED.

DEMOLISH AND REPLACE EXISTING KITCHEN CABINETRY AND APPLIANCES IN BOTH UNITS. DEMOLISH NON-BEARING WALL SEPARATING BOTH UNITS.

IN UNIT #2303:
DEMOLISH NON-BEARING BEDROOM WALLS. DEMOLISH BATHROOM DOOR AND REPLACE ON ADJACENT WALL WITH NEW SLIDER DOOR. DEMOLISH 'E' SINGLE VANITY AND REPLACE W/ 'N' DOUBLE VANITY. DEMOLISH 'E' BEDROOM DOOR AND REPLACE W/ NEW DOUBLE DOOR. DEMOLISH 'E' CLOSET AND REPLACE W/ WALK-IN CLOSET.

AREAS - EXISTING

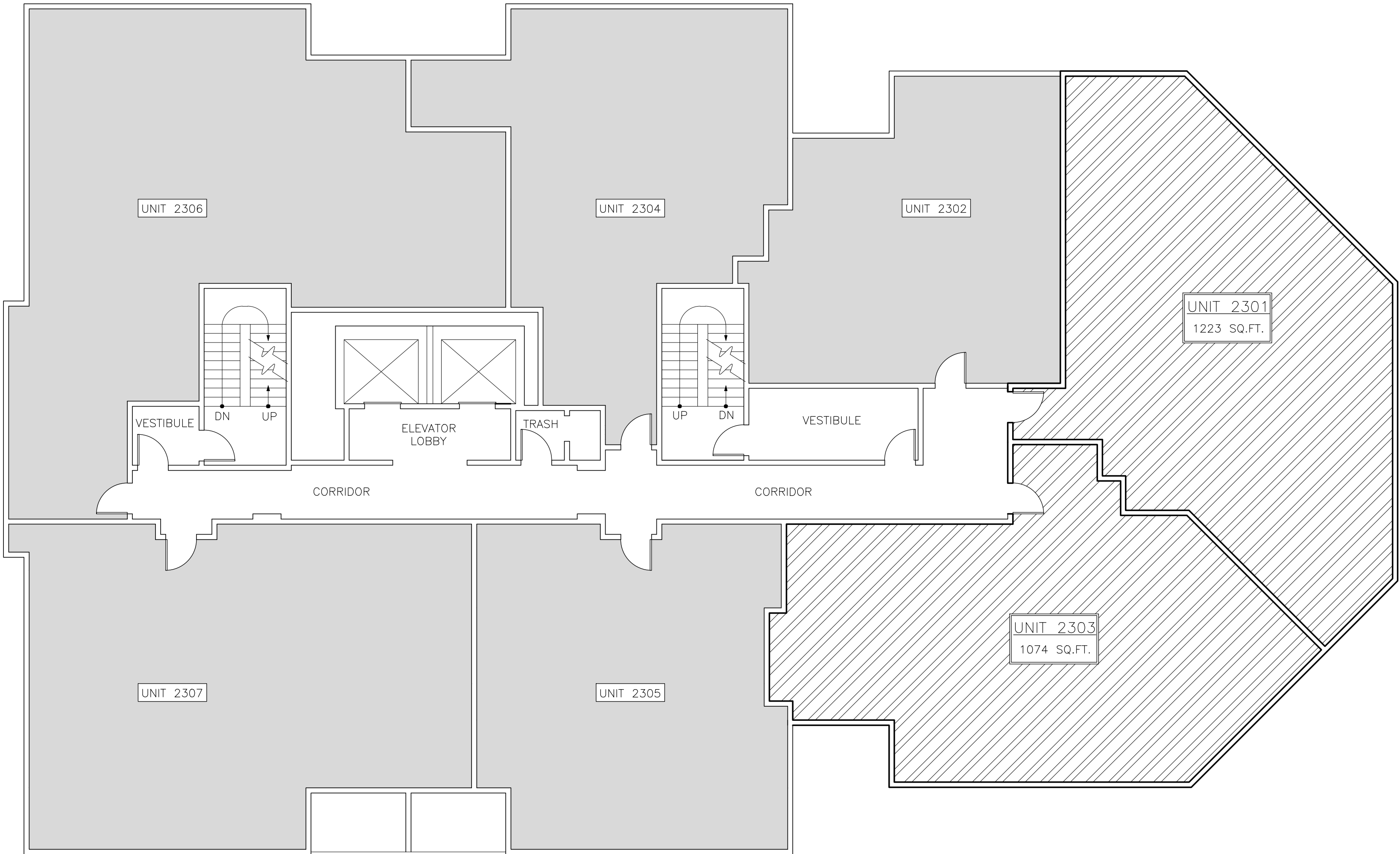
	GROUP R3	USEABLE	INT. WALLS	DEMO WALLS	BEDS/BATHS	OFF-STREET AUTO PARKING (248/ NO CHANGE)	BICYCLE PARKING (NO CHANGE)
Unit 2301	1223 SQ.FT.	1104 SQ.FT.	119 SQ.FT.	21 SQ.FT. (17.7%)	2 BR/2 BA	1 PARKING SPACE	1 PARKING SPACE
Unit 2303	1074 SQ.FT.	1016 SQ.FT.	58 SQ.FT.	16 SQ.FT. (27.6%)	2 BR/2 BA	1 PARKING SPACE	1 PARKING SPACE
TOTALS	2297 SQ.FT.	2120 SQ.FT.	177 SQ.FT.	37 SQ.FT. (20.1%)	4 BR/4 BA	2 PARKING SPACES	2 PARKING SPACES

AREAS - PROPOSED

	GROUP R3	USEABLE	BEDS/BATHS	OFF-STREET AUTO PARKING (NO CHANGE)	BICYCLE PARKING (NO CHANGE)
Unit 2301	1223 SQ.FT.	1125 SQ.FT.	2 BR/2 BA	1 PARKING SPACE	1 PARKING SPACE
Unit 2303	1074 SQ.FT.	1032 SQ.FT.	1 BR/2 BA	1 PARKING SPACE	1 PARKING SPACE
TOTALS	2297 SQ.FT.	2057 SQ.FT.	3 BR/4 BA	2 PARKING SPACES	2 PARKING SPACES

LEGEND

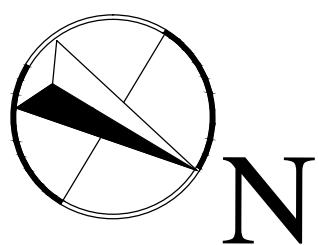
- ADJACENT PROPERTIES
- SUBJECT PROPERTIES



1

A3.1

EXISTING 23rd FLOOR PLAN
SCALE: 1/8"=1'-0"



General Notes

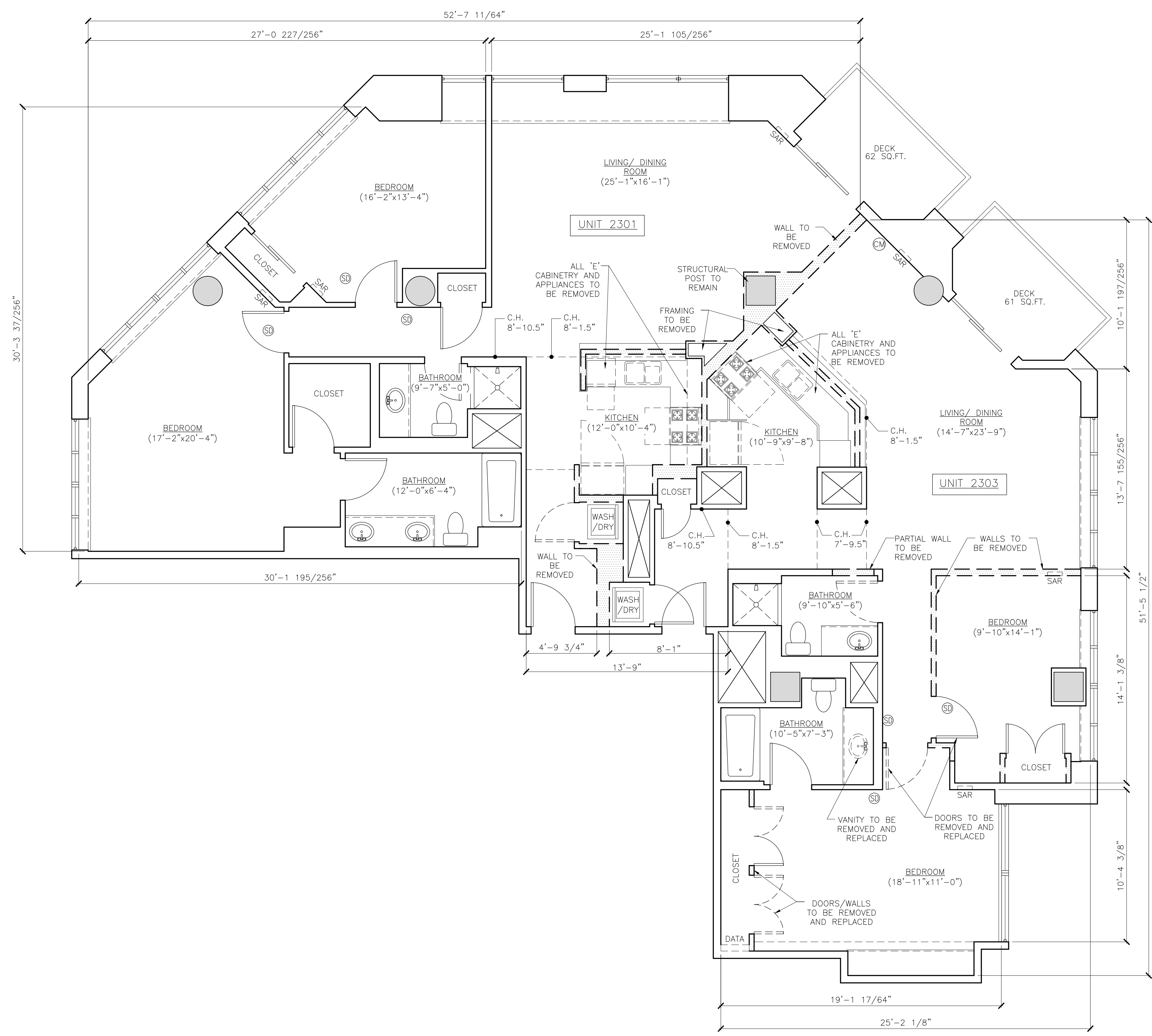
GENERAL INFO
& 23rd FLOOR
PLAN

No.	Revision/Issue	Date

Firm Name and Address
SIMON MOYLAN
2395 29TH AVE.
UNIT 1
SAN FRANCISCO, CA
94116

Project Name and Address
MULLER RESIDENCE
APTS. 2301 & 2303
400 BEALE ST.
SAN FRANCISCO, CA
94105

Project	MULLER	Sheet
Date	2/09/2017	A1.1
Scale	1/8"=1'-0"	



- LEGEND**
- DEMO WALL
 - NEW WALL
 - STRUCTURAL POST
 - SMOKE DETECTOR
 - CARBON MONOXIDE DETECTOR
 - SAR SUPPLY AIR REGISTER
 - RAR RETURN AIR REGISTER
 - C.H. CEILING HEIGHT

1
A2.1 EXISTING/DEMO FLOOR PLAN
SCALE: 1/4"=1'-0"

General Notes

EXISTING/DEMO FLOOR PLAN

No.	Revision/Issue	Date

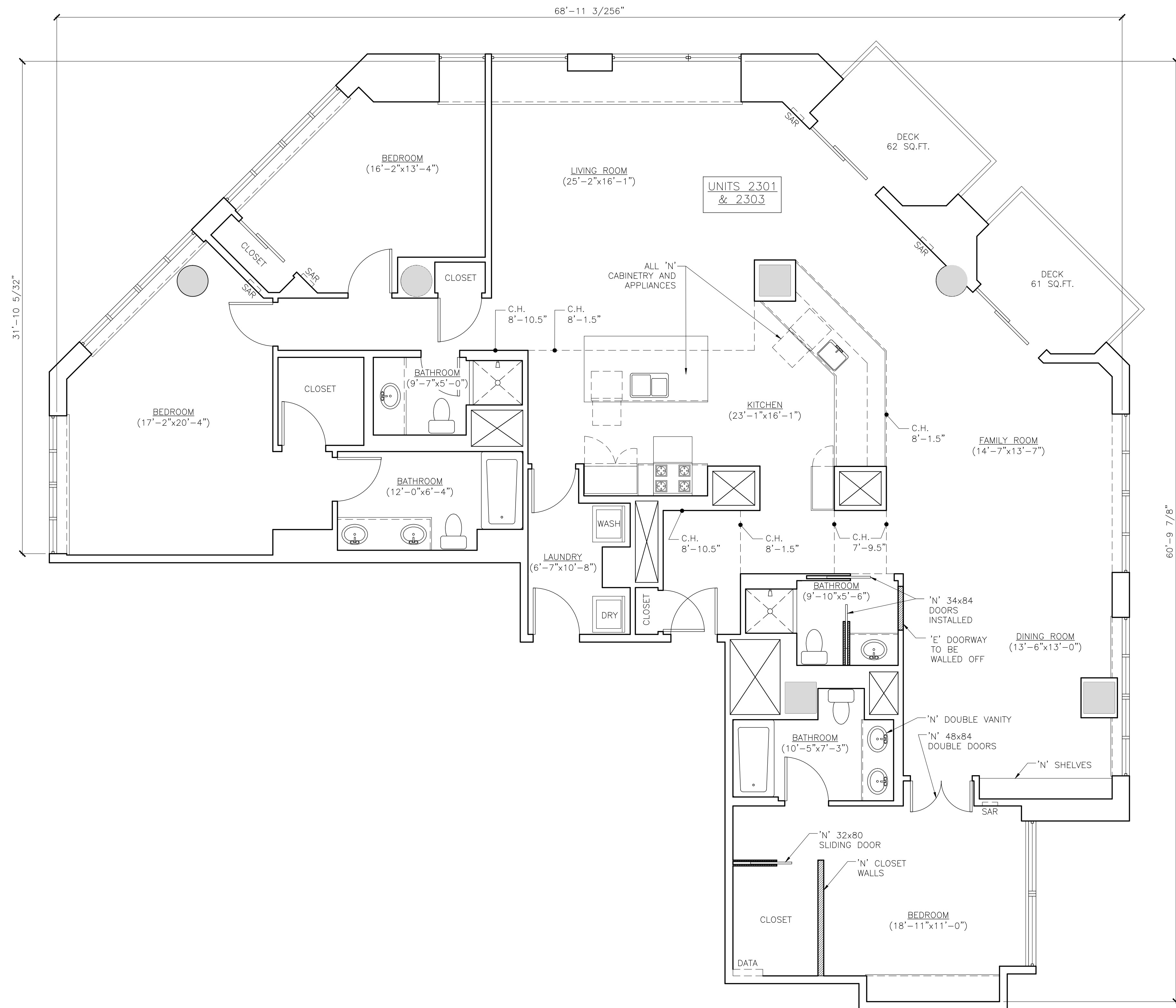
Firm Name and Address

SIMON MOYLAN
2395 29TH AVE.
UNIT 1
SAN FRANCISCO, CA
94116

Project Name and Address

MULLER RESIDENCE
APTS. 2301 & 2303
400 BEALE ST.
SAN FRANCISCO, CA
94105

Project	MULLER	Sheet
Date	3/20/2017	A2.1
Scale	1/4"=1'-0"	

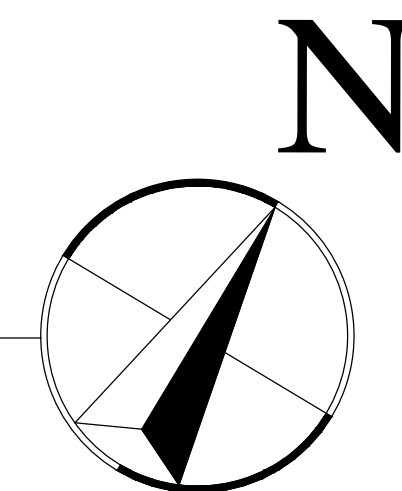


LEGEND

- NEW WALL
- STRUCTURAL POST
- SMOKE DETECTOR
- CARBON MONOXIDE DETECTOR
- SAR SUPPLY AIR REGISTER
- RAR RETURN AIR REGISTER
- C.H. CEILING HEIGHT

1
A2.2

PROPOSED FLOOR PLAN
SCALE: 1/4"=1'-0"



General Notes

PROPOSED
FLOOR PLAN

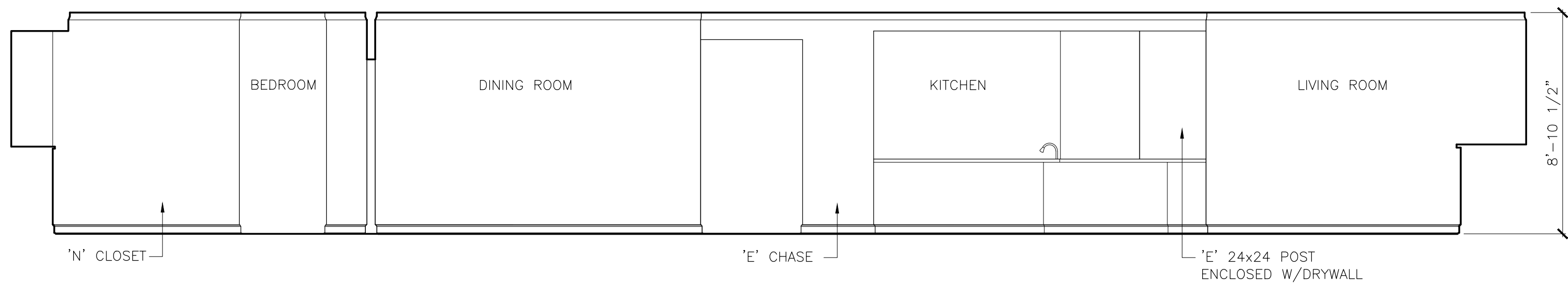
No.	Revision/Issue	Date

Firm Name and Address
SIMON MOYLAN
2395 29TH AVE.
UNIT 1
SAN FRANCISCO, CA
94116

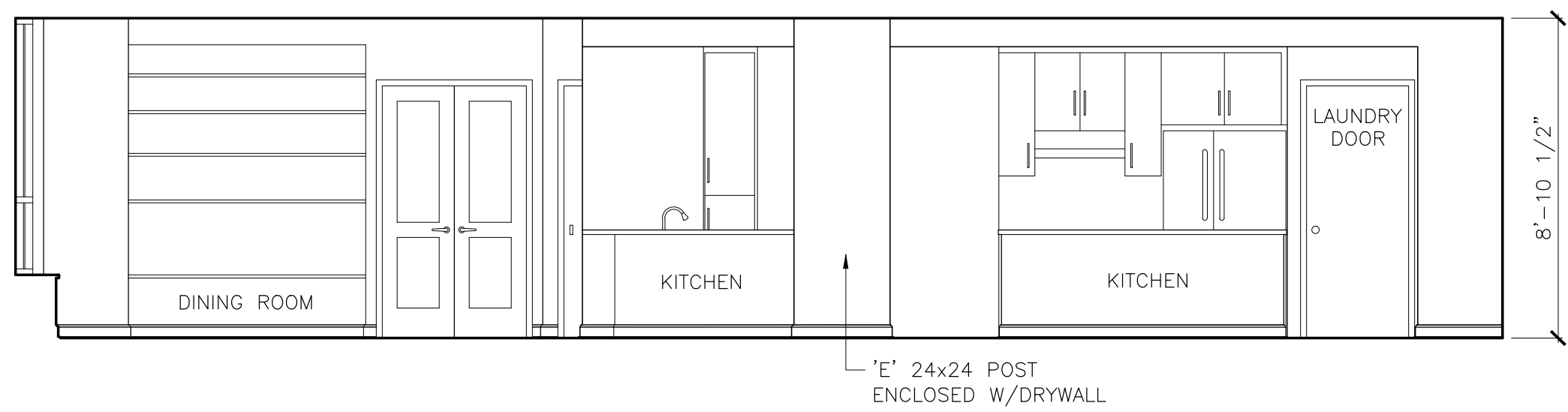
Project Name and Address
MULLER RESIDENCE
APTS. 2301 & 2303
400 BEALE ST.
SAN FRANCISCO, CA
94105

Project	MULLER	Sheet
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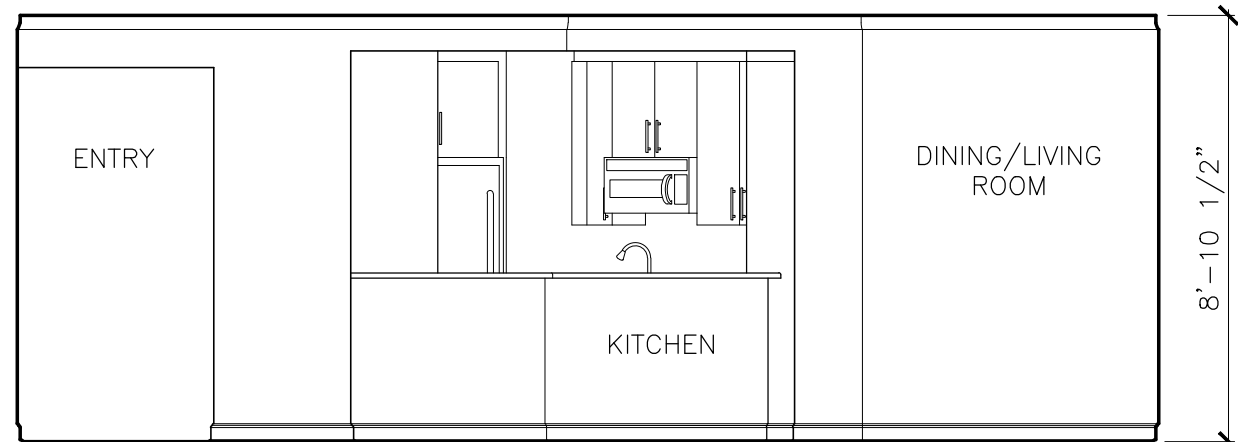
EXISTING AND
PROPOSED
INTERIOR
ELEVATIONS



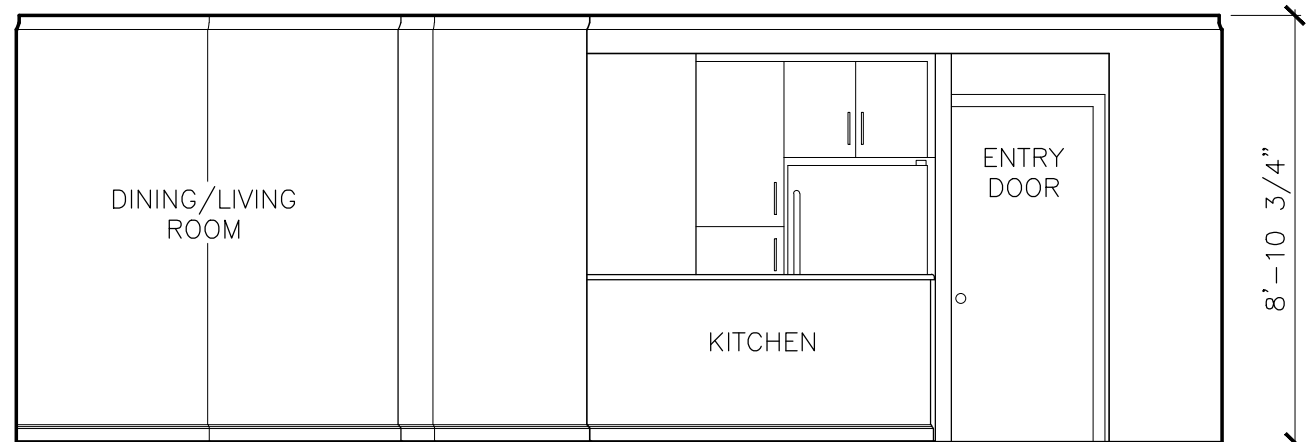
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A3.1 PROPOSED INTERIOR ELEVATION: FACING NORTH WEST IN 'E' UNIT 2303
SCALE: 1/4"=1'-0"



3
A3.1 PROPOSED INTERIOR ELEVATION: FACING SOUTH EAST IN 'E' UNIT 2301
SCALE: 1/4"=1'-0"



2
A3.1 EXISTING INTERIOR ELEVATION: FACING NORTH WEST IN UNIT 2303
SCALE: 1/4"=1'-0"



1
A3.1 EXISTING INTERIOR ELEVATION.: FACING SOUTH EAST IN UNIT 2301
SCALE: 1/4"=1'-0"

No.	Revision/Issue	Date

Firm Name and Address
SIMON MOYLAN
2395 29TH AVE.
UNIT 1
SAN FRANCISCO, CA
94116

Project Name and Address
MULLER RESIDENCE
APTS. 2301 & 2303
400 BEALE ST.
SAN FRANCISCO, CA
94105

Project	MULLER	Sheet
Date	3-20-2017	A3.1
Scale	1/4"=1'-0"	

