



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use

HEARING DATE: NOVEMBER 16, 2017

CONSENT CALENDAR

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San Francisco,
CA 94103-2479

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Date: November 6, 2017
Case No.: **2016-014513CUA**
Project Address: **1765 CALIFORNIA STREET**
Zoning: NC-3 (Moderate Scale Neighborhood Commercial District)
Van Ness Automotive Special Use District
130-E Height and Bulk District
Block/Lot: 0647/013
Project Sponsors: Eric Wiesenfeld (applicant) Robert Selna (representative)
c/o Genji Pacific LLC Wendel, Rosen, Black, & Dean LLP
1765 California Street 1111 Broadway, 24th Floor
San Francisco, CA 94401 Oakland, CA 94607
Marie K. Brooks (property owner)
Ellis Brooks Auto Center
1565 Bush Street
San Francisco, CA 94109
Staff Contact: Sharon M. Young – (415) 558-6346
sharon.m.young@sfgov.org
Recommendation: **Approval with Conditions**

PROJECT DESCRIPTION

The proposal is for Conditional Use Authorization pursuant to Planning Code Sections 303, 303.1, and 703.4 to establish a Formula Retail Use within the NC-3 (Moderate Scale Neighborhood Commercial District, Van Ness Automotive Special Use District, and a 130-E Height and Bulk District. The proposal is to establish a Formula Retail Limited Restaurant (d.b.a. Genji Sushi, specializing in sushi packaged for takeout) inside the existing Whole Foods Market grocery store, to occupy a portion of the existing deli and food preparation area with approximately 400 square feet of floor area. The proposal will not involve tenant improvements to the ground floor commercial tenant space. There will be no expansion of the existing building envelope.

SITE DESCRIPTION AND PRESENT USE

The project site at 1765 California Street is located on the south side of Franklin Street and Van Ness Avenue, Assessor's Block 0647, Lots 013. It is located within the NC-3 (Moderate Scale Neighborhood Commercial District), Van Ness Automotive Special Use District, and a 130-E Height and Bulk District. The subject lot is approximately 8,245 square feet (60 feet wide by 137.5 feet deep) in size and is occupied by a two-story commercial building built in 1921. The existing building is not listed individually in the National and California Registers as having architectural significance but is categorized as having a historic resource present (Planning Department Historic Resource Status A). The subject property is located within the Planning Department's Neighborhood Commercial Corridors Historic Resources Survey (currently in progress). The

subject property at 1765 California Street is an existing formula retail grocery store (d.b.a. Whole Foods Market) which was established in 1995 with conditional use authorization under Case No. 1995.058C (Motion No. 13975) prior to the Formula Retail Use controls. However, the entire grocery store operation occupies approximately 24,650 square feet (which includes truck loading berths and a two level parking structure located on the corner lot of California and Franklin Streets on Assessor’s Block 0647; Lots 012-014). The existing grocery store has an approximately 15,000 square foot sales area. The proposed accessory formula retail use (Genji Sushi) will occupy a portion of the existing deli and food preparation area with approximately 400 square feet of floor area.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The surrounding development consists of a variety of commercial and mixed-use buildings. The scale of development is varied with a mix of low and high-rise buildings. The surrounding zoning is NC-3 (Moderate-Scale Neighborhood Commercial) to the west and south, RM-3 (Residential, Mixed District, Medium Density) to the north, and RC-4 (Residential Commercial Combined, High Density) within the Van Ness Avenue corridor to the south. The commercial establishments on the subject block include a four-story mixed use building (San Francisco Motors on the ground floor with offices above) and Whole Foods Market (subject property). The commercial establishment on the opposite block includes Ruth’s Chris Steakhouse. On the opposite block, is a 10-story multi-family residential building with ground floor commercial and parking garage (1700 California Street) and a church (First Church of Christ Scientist).

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	October 27, 2017	October 25, 2017	22 days
Posted Notice	20 days	October 27, 2017	October 18, 2017	29 days
Mailed Notice	30 days	October 17, 2017	October 17, 2017	30 days

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

PUBLIC COMMENT

- As of November 5, 2017, the Department has not received any letters or phone calls in support of or in opposition to the proposed project. The project sponsors conducted a pre-application meeting on the proposed project on October 22, 2016; no persons other the project sponsors were present at the pre-application meeting.

ISSUES AND OTHER CONSIDERATIONS

- According to the project sponsor, Genji (aka Genji Sushi, Genji Express, Genji Pacific) was first established in 1997 specializing in all-natural sushi and Japanese-inspired cuisine in a grab-and-go

style. As the years progressed, the business name was simplified. Genji currently has 7 locations in San Francisco and approximately 191 stores worldwide. Genji sushi bars are located in over 180 Whole Foods Market locations in 21 states, the District of Columbia, and the United Kingdom. The proposed project will allow for the establishment of a Genji Sushi San Francisco store location located within the Whole Foods Market grocery store to serve the Pacific Heights and Western Addition neighborhoods.

- Formula Retail findings are included in the Draft Motion for the Commission to consider.
- There are approximately 32 ground-story Formula Retail establishments out of approximately 93 commercial establishments within this portion of the adjacent RC-4 Zoning District along the Van Ness Corridor. This comprises approximately 14.39% of the businesses and 34.29% of the commercial street frontage at the ground floor. Based on the project sponsor's evaluation of the linear frontage of all retail locations located within a 300-foot radius of the project site, 8 of the retail establishments are considered to be formula retail. These businesses include Standard Gas Station, Holiday Inn, Wells Fargo, Starbucks, Coldwell Banker, Pacific Union, Guitar Center, and Ruth's Chris Steakhouse.
- The proposed formula retail limited restaurant use will be located within a larger existing formula retail grocery store use as an accessory use, and would not increase the existing amount of street frontage devoted to formula retail uses within the District. The proposed formula retail use (Genji Sushi) would provide another variety of prepared foods among other deli prepared foods (hot foods, sandwiches, baked goods, etc.) offered at Whole Foods Market grocery store. In addition, there will be no exterior signage advertising the formula retail limited restaurant use.
- According to the project sponsor, there are no sushi restaurants within a 300-foot radius of the project site. The three known closest sushi restaurants in the general vicinity are Nara Sushi (1515 Polk Street), Akira Japanese Restaurant (1634 Bush Street), and Wayo Sushi (1407 Van Ness Avenue). In addition, there are approximately 25 other within the 94109 zip code that specialize in Japanese sushi cuisine.
- The proposed project is located within the existing Whole Foods Market grocery store and would not be visible from outside the store. No exterior or interior alterations are proposed. There will be no expansion of the existing building envelope.
- The proposed use is consistent with the existing neighborhood character, which is comprised of a variety of land use types.

REQUIRED COMMISSION ACTION

This proposal requires **Conditional Use** authorization pursuant to Sections 303(c), 303(i), and 703.4 of the Planning Code to establish a Formula Retail Use Limited Restaurant Use (d.b.a. Genji Sushi, specializing in sushi packaged for takeout) inside an existing Whole Foods Market grocery store to occupy a portion of the existing deli and food preparation area with approximately 400 square feet of floor area within the NC-3 (Moderate Scale Neighborhood Commercial District, Van Ness Automotive Special Use District, and a 130-E Height and Bulk District).

BASIS FOR RECOMMENDATION

- The proposed project will occupy a portion of an existing grocery store use as an accessory use on the subject block which will be complimentary to the mix of existing neighborhood-serving uses within the neighborhood. It will also provide new job opportunities to the City. The proposed project meets all applicable requirements of the Planning Code.

- The proposed use would nominally increase the overall concentration of Formula Retail establishments but would not increase the existing amount of street frontage devoted to formula retail uses within this portion of the NC-3 Zoning District and adjacent RC-4 Zoning District within the Van Ness Avenue corridor.

- The Department believes that this project is necessary and/or desirable for the following reasons:
 - a) The proposed project will enhance the economic diversity of the neighborhood allowing an accessory limited restaurant formula retail use to an existing grocery store.
 - b) The proposed project is a neighborhood-serving use which residents can access by walking or taking public transit.
 - c) The proposed project would be consistent with the mixed commercial-residential character of the neighborhood.

RECOMMENDATION: Approval with Conditions
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- Attachments:**
Zoning District Map
Parcel Map
Sanborn Map
Aerial Photographs
Site and Context Photographs
Reduced Plans

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

SMY

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

Planner's Initials



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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

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Planning Commission Draft Motion

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Recommendation: **Approval with Conditions**

ADOPTING FINDINGS RELATING TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 303(c), 303(i), AND 703.4 TO ALLOW THE ESTABLISHMENT OF A FORMULA RETAIL USE (D.B.A. GENJI SUSHI) AS AN ACCESSORY USE LOCATED WITHIN AN EXISTING FORMULA RETAIL GROCERY STORE D.B.A. WHOLE FOODS MARKET AT 1765 CALIFORNIA STREET WITHIN THE NC-3 (MODERATE SCALE NEIGHBORHOOD COMMERCIAL DISTRICT, VAN NESS AUTOMOTIVE SPECIAL USE DISTRICT, AND 130-E HEIGHT AND BULK DISTRICT.

PREAMBLE

On November 8, 2016, Eric Wiesenfeld on behalf of Genji Pacific LLC (hereinafter “Project Sponsor”) made an application for Conditional Use authorization for the property at **1765 California Street, Lot 013 in Assessor’s Block 0647** (hereinafter “Subject Property”), pursuant to Planning Code Section 303(c), 303(i), and 704.3 to establish a Formula Retail Use (d.b.a. Genji Sushi) within the NC-3 (Moderate Scale Neighborhood Commercial District, Van Ness Automotive Special Use District, and a 130-E Height and

Bulk District, in general conformity with plans dated August 2, 2016 and labeled "Exhibit B" (hereinafter "Project").

The proposal is to establish a Formula Retail Limited Restaurant (d.b.a. Genji Sushi, specializing in sushi packaged for takeout) inside the existing Whole Foods Market grocery store to occupy a portion of the existing deli and food preparation area with approximately 400 square feet of floor area. The proposal will not involve tenant improvements to the ground floor commercial tenant space. There will be no expansion of the existing building envelope.

On November 16, 2017, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. **2016-014513CUA**.

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

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

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. **2016-014513CUA**, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The project site at 1765 California Street is located on the south side of Franklin Street and Van Ness Avenue, Assessor's Block 0647, Lots 013. It is located within the NC-3 (Moderate Scale Neighborhood Commercial District), Van Ness Automotive Special Use District, and a 130-E Height and Bulk District. The subject lot is approximately 8,245 square feet (60 feet wide by 137.5 feet deep) in size and is occupied by a two-story commercial building built in 1921. The existing building is not listed individually in the National and California Registers as having architectural significance but is categorized as having a historic resource present (Planning Department Historic Resource Status A). The subject property is located within the Planning Department's Neighborhood Commercial Corridors Historic Resources Survey (currently in progress). The subject property at 1765 California Street is an existing formula retail grocery store (d.b.a. Whole Foods Market) which was established in 1995 with conditional use authorization under Case No. 1995.058C (Motion No. 13975) prior to the Formula Retail Use controls. However, the entire grocery store operation occupies approximately 24,650 square feet (which includes truck loading berths and a two level parking structure located on the corner lot of California and Franklin Streets on Assessor's Block 0647; Lots 012-014). The existing grocery store has an

approximately 15,000 square foot sales area. The proposed accessory formula retail use (Genji Sushi) will occupy a portion of the existing deli and food preparation area with approximately 400 square feet of floor area.

3. **Surrounding Properties and Neighborhood.** The surrounding development consists of a variety of commercial and mixed-use buildings. The scale of development is varied with a mix of low and high-rise buildings. The surrounding zoning is NC-3 (Moderate-Scale Neighborhood Commercial) to the west and south, RM-3 (Residential, Mixed District, Medium Density) to the north, and RC-4 (Residential Commercial Combined, High Density) within the Van Ness Avenue corridor to the south. The commercial establishments on the subject block include a four-story mixed use building (San Francisco Motors on the ground floor with offices above) and Whole Foods Market (subject property). The commercial establishment on the opposite block includes Ruth's Chris Steakhouse. On the opposite block, is a 10-story multi-family residential building with ground floor commercial and parking garage (1700 California Street) and a church (First Church of Christ Scientist).
4. **Project Description.** The proposal is for Conditional Use Authorization pursuant to Planning Code Sections 303, 303.1, and 703.4 to establish a Formula Retail Use within the NC-3 (Moderate Scale Neighborhood Commercial District, Van Ness Automotive Special Use District, and a 130-E Height and Bulk District. The proposal is to establish a Formula Retail Limited Restaurant (d.b.a. Genji Sushi, specializing in sushi packaged for takeout) inside the existing Whole Foods Market grocery store, to occupy a portion of the existing deli and food preparation area with approximately 400 square feet of floor area. The proposal will not involve tenant improvements to the ground floor commercial tenant space. There will be no expansion of the existing building envelope.
5. **Issues and Other Considerations.**
 - According to the project sponsor, Genji (aka Genji Sushi, Genji Express, Genji Pacific) was first established in 1997 specializing in all-natural sushi and Japanese-inspired cuisine in a grab-and-go style. As the years progressed, the business name was simplified. Genji currently has 7 locations in San Francisco and approximately 191 stores worldwide. Genji sushi bars are located in over 180 Whole Foods Market locations in 21 states, the District of Columbia, and the United Kingdom. The proposed project will allow for the establishment of a Genji Sushi San Francisco store location located within the Whole Foods Market grocery store to serve the Pacific Heights and Western Addition neighborhoods.
 - **Public Comment.** As of November 5, 2017, the Department has not received any letters or phone calls in support of or in opposition to the proposed project. The project sponsors conducted a pre-application meeting on the proposed project on October 22, 2016; no persons other the project sponsors were present at the pre-application meeting.
6. **Use District.** The project site is within the NC-3 (Neighborhood, Moderate-Scale) District within the Western Addition Neighborhood (which borders the Pacific Heights Neighborhood to the north). NC-3 Districts are intended in most cases to offer a wide variety of comparison and specialty goods and services to a population greater than the immediate neighborhood,

additionally providing convenience goods and services to the surrounding neighborhoods. NC-3 Districts are linear districts located along heavily trafficked thoroughfares which also serve as major transit routes.

NC-3 Districts include some of the longest linear commercial streets in the City, some of which have continuous retail development for many blocks. Large-scale lots and buildings and wide streets distinguish the districts from smaller-scaled commercial streets, although the districts may include small as well as moderately scaled lots. Buildings typically range in height from two to four stories with occasional taller structures. NC-3 building standards permit moderately large commercial uses and buildings. Rear yards are protected at residential levels.

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

- A. **Formula Retail Use.** A *Formula Retail Use* is defined under Planning Code Section 303.1 as a type of retail sales or service activity or retail sales or service establishment that has eleven or more other retail sales establishments in operation, or with local land use or permit entitlements already approved, located anywhere in the world. In addition to the eleven establishments either in operation or with local land use or permit entitlements approved for operation, the business maintains two or more of the following features: a standardized array of merchandise, a standardized facade, a standardized decor and color scheme, uniform apparel, standardized signage, a trademark or a servicemark.

Within the NC-3 Zoning District, Formula Retail Uses require Conditional Use Authorization under Planning Code Section 703.4. Planning Code Section 303.1 provides additional criteria for the Planning Commission to consider when considering any conditional use pursuant to Section 303.1, Formula Retail Uses:

The current proposal is to allow the establishment of a Formula Retail Limited Restaurant (d.b.a. Genji Sushi, specializing in sushi packaged for takeout) inside the existing Whole Foods Market grocery store as a vendor to occupy a portion of the existing deli and food preparation area with approximately 400 square feet of floor area. A Formula Retail Use may be conditionally permitted per Planning Code Sections 303, 303.1, and 703.4.

- a. The existing concentrations of formula retail uses within the district.

Due to the small irregular size of the subject NC-3 Zoning District covering a portion of the subject block, and residential districts boarding the project site on the north and west, the formula retail survey was enlarged to include a 300-foot radius of the project site and a portion of the RC-4 Zoning District to the east (which includes parcels along the Van Ness corridor between Broadway and Golden Gate Avenue). This study area is hereinafter referred to as "the District". [Formula retail survey data for this case report is primarily based on a recent formula retail survey under Case No. 2017-004411CUA – 1600 Van Ness Avenue (located on the corner of Van Ness Avenue and California Street) prepared for the August 31, 2017 Planning Commission hearing.]

There are approximately 32 ground-story Formula Retail establishments out of approximately 93 commercial establishments within this portion of the adjacent RC-4 Zoning District along the Van Ness Corridor. This comprises approximately 14.39% of the businesses and 34.29% of the commercial street frontage at the ground floor. Based on the project sponsor's evaluation of the linear frontage of all retail locations located within a 300-foot radius of the project site, 8 of the retail establishments are considered to be formula retail. These businesses include Standard Gas Station, Holiday Inn, Wells Fargo, Starbucks, Coldwell Banker, Pacific Union, Guitar Center, and Ruth's Chris Steakhouse.

The proposed formula retail limited restaurant use will be located within a larger existing formula retail grocery store use as an accessory use, and would not increase the existing amount of street frontage devoted to formula retail uses within the District. The proposed formula retail use (Genji Sushi) would provide another variety of prepared foods among other deli prepared foods (hot foods, sandwiches, baked goods, etc.) offered at Whole Foods Market grocery store. In addition, there will be no exterior signage advertising the formula retail limited restaurant use.

- b. The availability of other similar retail uses within the district.

According to the project sponsor, there are no sushi restaurants within a 300-foot radius of the project site. The three known closest sushi restaurants in the general vicinity are Nara Sushi (1515 Polk Street), Akira Japanese Restaurant (1634 Bush Street), and Wayo Sushi (1407 Van Ness Avenue). In addition, there are approximately 25 other within the 94109 zip code that specialize in Japanese sushi cuisine.

- c. The compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the district.

The proposed project is located within the existing Whole Foods Market grocery store and would not be visible from outside the store. The proposed project would not alter the existing architectural and aesthetic character of the District. No exterior or interior alterations are proposed. There will be no expansion of the existing building envelope.

- d. The existing retail vacancy within the district.

According to the project sponsor, as of June 2017, there were no known storefront vacancies within the immediate survey area (300-foot radius) of the subject property. A recent survey of the current vacancy rate under Case No. 2017-004411CUA indicated that the current vacancy rate is between 17.20% (16 vacant storefronts) within the formula retail study area of the RC-4 District.

- e. The existing mix of Citywide-serving retail uses and neighborhood-serving retail uses within the district.

The proposed formula retail use will complement the mix of goods and services currently available within this portion of the NC-3 Zoning District (and portion of the Van Ness corridor within the RC-4 Zoning District), which includes a mixture of food establishments, personal services, retail establishments, offices uses, institutions, grocery stores, and automotive service establishments. [Based on a recent survey under Case No. 2017-004411CUA, approximately 18.28% (17 locations) of the existing ground floor commercial uses in the district are “Daily-Needs”, or neighborhood-serving; of these nine are Formula Retail. Approximately 64.52% (60 locations) of ground floor commercial uses in the district are considered “Citywide-serving”.]

- f. Additional data and analysis set forth in the Performance-Based Design Guidelines adopted by the Planning Commission.

Table1. Ground Floor Frontage Breakdown per Land Use

LAND USE TYPE	TOTAL STREET FRONTAGE IN RC-4 SURVEY AREA (FT)	PERCENTAGE OF DISTRICT
Automotive	1667	24.0%
Bar	45	0.6%
Entertainment	120	1.7%
Financial Services	258	3.7%
Hotel	500	7.2%
Institutional	80	1.2%
Medical Service	50	0.7%
Personal Service	122	1.8%
Professional Service	145	2.1%
Restaurant	1207	17.4%
Retail	1713	24.6%
Vacant	1046	15.0%
Total	6953	100.00%

Note: The RC-4 Ground Floor Frontage Breakdown per Land Use table above is provided from a recent survey under Case No. 2017-004411CUA which was reviewed by Planning Department staff in 2017.

The use mix is varied in this portion of the District. Retail uses, including the proposed use, comprise approximately 25% of the commercial frontage. [These calculations do not include non-retail establishments such as residences, institutions (schools, churches, hospitals, etc.), or public services.]

- g. For formula retail uses of 20,000 square feet or more, except for General or Specialty Grocery stores as defined in Articles 2, 7, 8 of this Code, the contents of an economic impact study prepared pursuant to Section 303(i) of the Planning Code.

The subject formula retail use is considered an accessory formula retail use within an existing formula retail grocery store. Because the subject formula retail use (Genji Sushi) will occupy less than 20,000 square feet, an economic impact study is not required for the proposed project.

- B. **Limited Restaurant Use within the NC-3 Zoning District.** Section 712 of the Planning Code permits “limited restaurant” (defined under Planning Code Sections 102, 202.2 as a Sales and Service Use Category) on the first and second stories.

The proposed accessory formula retail limited restaurant use will occupy a portion of the existing deli area as a vendor within the existing Whole Foods Market grocery store. It will provide sushi packaged for takeout in a deli display refrigerated shelving area among other existing take-out food uses (i.e. sandwiches, pizza, etc.) for customers to purchase within the grocery store. No restaurant seating is proposed within the grocery store.

- C. **Hours of Operation.** Section 712 of the Planning Code puts no limits on the hours of operation in NC-3 Districts.

The project sponsor has indicated that the proposed hours of operation of the proposed formula retail use d.b.a. Genji Sushi are 8 a.m. to 10 p.m., seven days a week (which are the same hours of operation as the existing grocery store).

- D. **Off-Street Parking and Loading.** Section 151 of the Planning Code requires off-street parking for every 200 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet. Section 152 of the Planning Code requires one off-street loading space for retail stores between 10,001 and 60,000 gross square feet.

Since the proposed formula retail use will be located within the existing grocery store as an accessory use (proposing no expansion of the existing occupied floor area), the proposed project will not require any additional off-street parking or loading spaces.

- E. **Use Size.** Section 712 of the Planning Code establishes size limits on non-residential use sizes in the NC-3 Zoning District. Within the District, Conditional Use authorization is required for any non-residential use that meets or exceeds 6,000 square feet.

The existing non-residential use size of the commercial space will not change with the proposed project.

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

unobstructed. Gates, when both open and folded or rolled as well as the gate mechanism, shall be recessed within, or laid flush with, the building facade.

Approximately 65% (40 feet) of the street frontage of the subject commercial space at the ground level on California Street is fenestrated with transparent windows and doorways allowing for visibility to the inside of the building. The proposed project does not propose any decorative railings or grillwork in front of or behind existing windows.

- G. **Van Ness Automotive Special Use District.** Planning Code Section 237 establishes the Van Ness Automotive Special Use District in order to provide a major automotive area with a citywide and regional market.

The proposed use is not an automotive use and the controls of this Special Use District do not apply.

- H. **Signage.** Any proposed signage will be subject to the review and approval of the Planning Department and must comply with Article 6 of the Planning Code. The project site is located within the Sign illumination Special Sign District.

There will be no new exterior signage for the proposed project.

8. **Section 303(c)** 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.

There are no exterior changes or expansion to the existing building envelope proposed to the existing commercial tenant space with the proposed accessory formula retail limited restaurant use. The proposed formula retail limited restaurant use is a desirable addition to the existing grocery store (takeout food deli area).

- 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 size and shape of the site and the arrangement of the structures on the site are adequate for the proposed project. There will be no physical expansion of the existing building.

- 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;

Existing traffic patterns will not be significantly affected by the proposed project. Public transit (Muni Lines 1, 2, 3, 19, 47, and 49) is located within close proximity of the project site. There is on-street parking in front of the subject property and in the surrounding neighborhood.

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

No noxious or offensive emissions such as glare, dust, or odor are expected to be produced by the proposed project.

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

There will be no addition of off-street parking spaces, loading facilities, open space or service areas. All project signage and projections will be consistent with the controls of the Planning Code.

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

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

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

The proposed project is consistent with the stated purpose of the NC-3 Zoning District in that the intended use is a neighborhood-serving business.

- 9. **General Plan Compliance.** The Project is consistent with the Objectives and Policies of the General Plan in that:

COMMERCE AND INDUSTRY ELEMENT

GENERAL/CITYWIDE

OBJECTIVE 1:

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

Policy 1:

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

The proposed project would be compatible with and complimentary to the types of uses characterizing this portion of the NC-3 Zoning District (and portion of the Van Ness corridor within the RC-4 Zoning District), which includes a mixture of food establishments, personal services, retail establishments, offices uses, institutions, grocery stores, and automotive service establishments.

Policy 3:

Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of affordable housing and the needed expansion of commercial activity.

Approval of the proposed project would be consistent with the mixed commercial-residential character of this portion of the NC-3 Zoning District. The proposed project would not adversely affect any affordable housing resources in the neighborhood.

NEIGHBORHOOD COMMERCE

Objectives and Policies

OBJECTIVE 6:

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

Policy 1:

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

No existing commercial tenant will be displaced. The proposed project will not prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood.

The following guidelines, in addition to others in this objective for neighborhood commercial districts, should be employed in the development of overall district zoning controls as well as in the review of individual permit applications, which require case-by-case review and City Planning Commission approval. Pertinent guidelines may be applied as conditions of approval of individual permit applications. In general, uses should be encouraged which meet the guidelines; conversely, uses should be discouraged which do not.

Policy 3:

Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity.

The proposed project will help maintain the existing commercial-residential character in the neighborhood by allowing for a desirable addition to broaden the types of food cuisines offered within the deli area of an existing grocery store which services the neighborhood.

Policy 4:

Encourage the location of neighborhood shopping areas throughout the city so that essential retail goods and personal services are accessible to all residents.

The proposed project will be accessible to all residents in this portion of the NC-3 Zoning District.

Policy 8:

Preserve historically and/or architecturally important buildings or groups of buildings in neighborhood commercial districts.

The proposed project will not involve tenant improvements to the commercial space. The proposal will not involve facade alterations to the exterior of the building or change in building envelope.

Policy 9:

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

The proposed project would not adversely affect public transit or place a burden on the existing supply of parking in the neighborhood since will be an accessory formula retail use located within an existing formula retail grocery store use which currently exists on the project site. Many patrons would be able to walk from their residences or places of employment, and the proposed project is well served by public transportation. There is on-street parking in the surrounding neighborhood.

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 proposed project will be complimentary to the existing commercial establishments within the immediate neighborhood. The proposed project will provide job opportunities to the City by employing approximately 8 - 10 people.

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

The proposed project will not affect existing housing and neighborhood character.

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

The proposed project will not displace any affordable housing.

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

The proposed project would not significantly increase the automobile traffic congestion and parking problems in the neighborhood. The proposal is a neighborhood-serving use which residents can access by walking or taking public transit.

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

There is no commercial office development associated with the proposed project and there would be no displacement of any existing industrial or service businesses in the area.

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

The proposed project will comply with all applicable earthquake safety standards and built to the current standards of the California Building Code.

- G. That landmarks and historic buildings be preserved.

The proposed project will not significantly affect any landmarks or historic buildings.

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

The proposed project will not affect any city-owned park or open space.

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. 2016-014513CUA** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated August 2, 2016, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. XXXXX. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

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

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

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on November 16, 2017.

Jonas P. Ionin
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED:

EXHIBIT A

AUTHORIZATION

This authorization is for conditional use to allow the establishment of an accessory Formula Retail Limited Restaurant Use (d.b.a. Genji Sushi, specializing in sushi packaged for takeout) within an existing formula retail grocery store d.b.a. Whole Foods Market at 1765 California Street in Assessor's Block 0647, Lot 013 pursuant to Planning Code Sections 303(c), 303(i), and 703.4 within the NC-3 (Moderate Scale Neighborhood Commercial District, Van Ness Automotive Special Use District, and 130-E Height and Bulk District in general conformance with plans, dated August 2, 2016, and stamped "EXHIBIT B" included in the docket for Case No. 2016-014513CUA and subject to conditions of approval reviewed and approved by the Commission on November 16, 2017 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. The proposal will not involve tenant improvements to the ground floor commercial tenant space. There will be no expansion of the existing building envelope. The proposed Formula Retail Limited Restaurant Use will occupy a portion of the existing deli and food preparation area with approximately 400 square feet of floor area.

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 XXXXX 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

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

MONITORING - AFTER ENTITLEMENT

6. **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

7. **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

DESIGN

8. **Signage.** Any signs on the property shall be made to comply with the requirements of Article 6 of the Planning Code.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, 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>

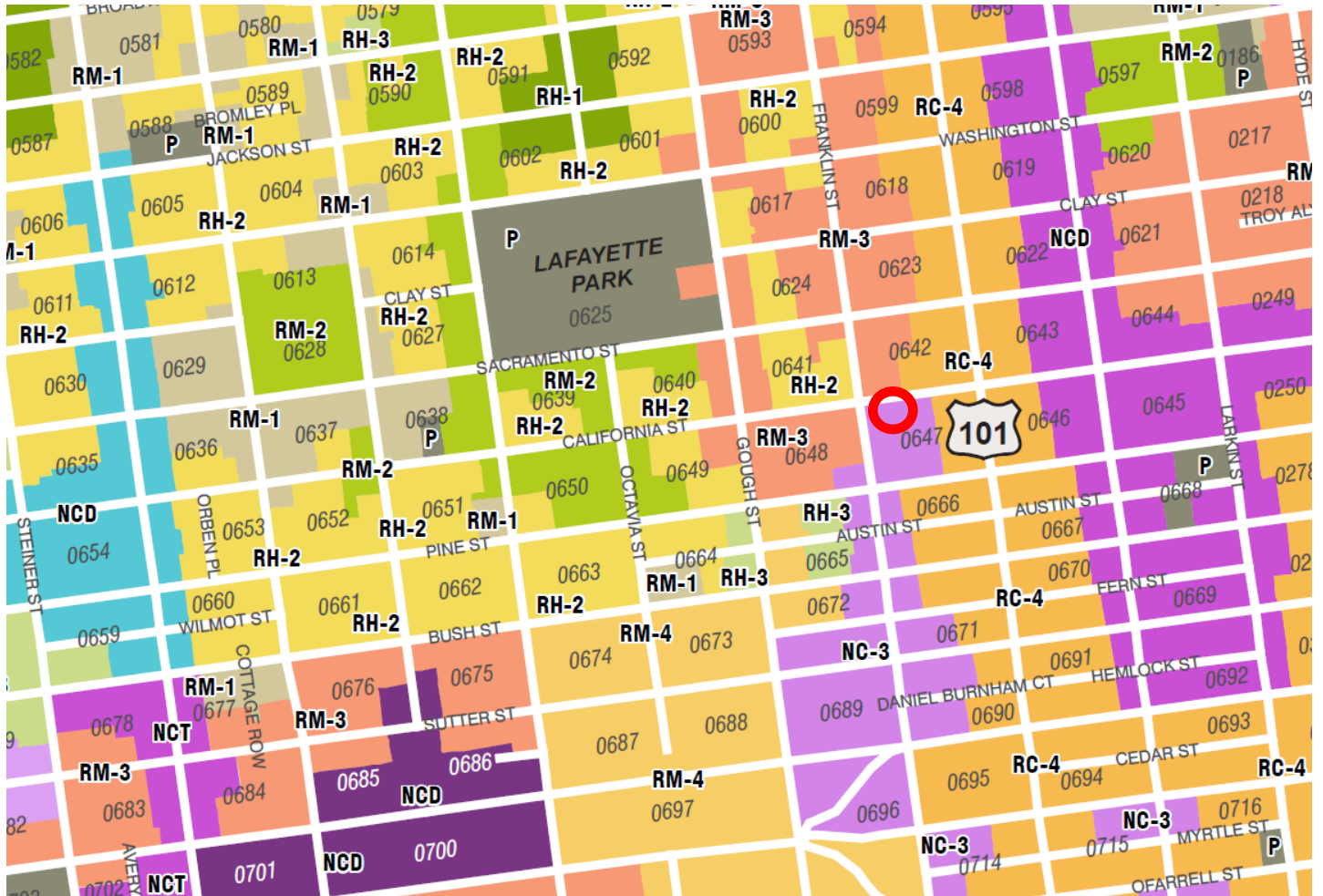
11. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the 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

12. **Lighting.** All Project lighting shall be directed onto the Project site and immediately surrounding sidewalk area only, and designed and managed so as not to be a nuisance to adjacent residents. Nighttime lighting shall be the minimum necessary to ensure safety, but shall in no case be directed so as to constitute a nuisance to any surrounding property.

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

Zoning Map



Conditional Use Hearing
Case Number 2016-014513CUA
1765 California Street

Parcel Map

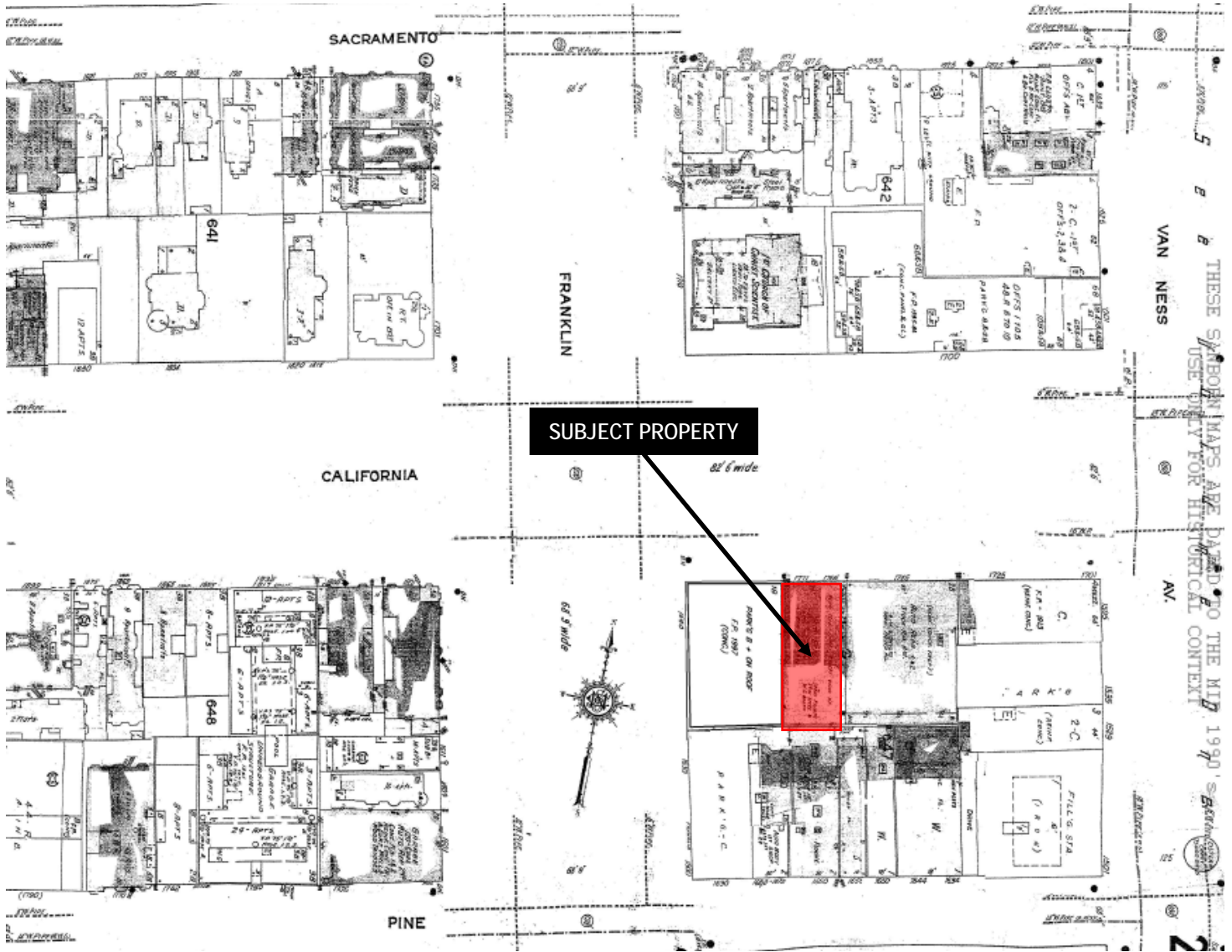


SUBJECT PROPERTY

Conditional Use Hearing
Case Number 2016-014513CUA
1765 California Street



Sanborn Map*

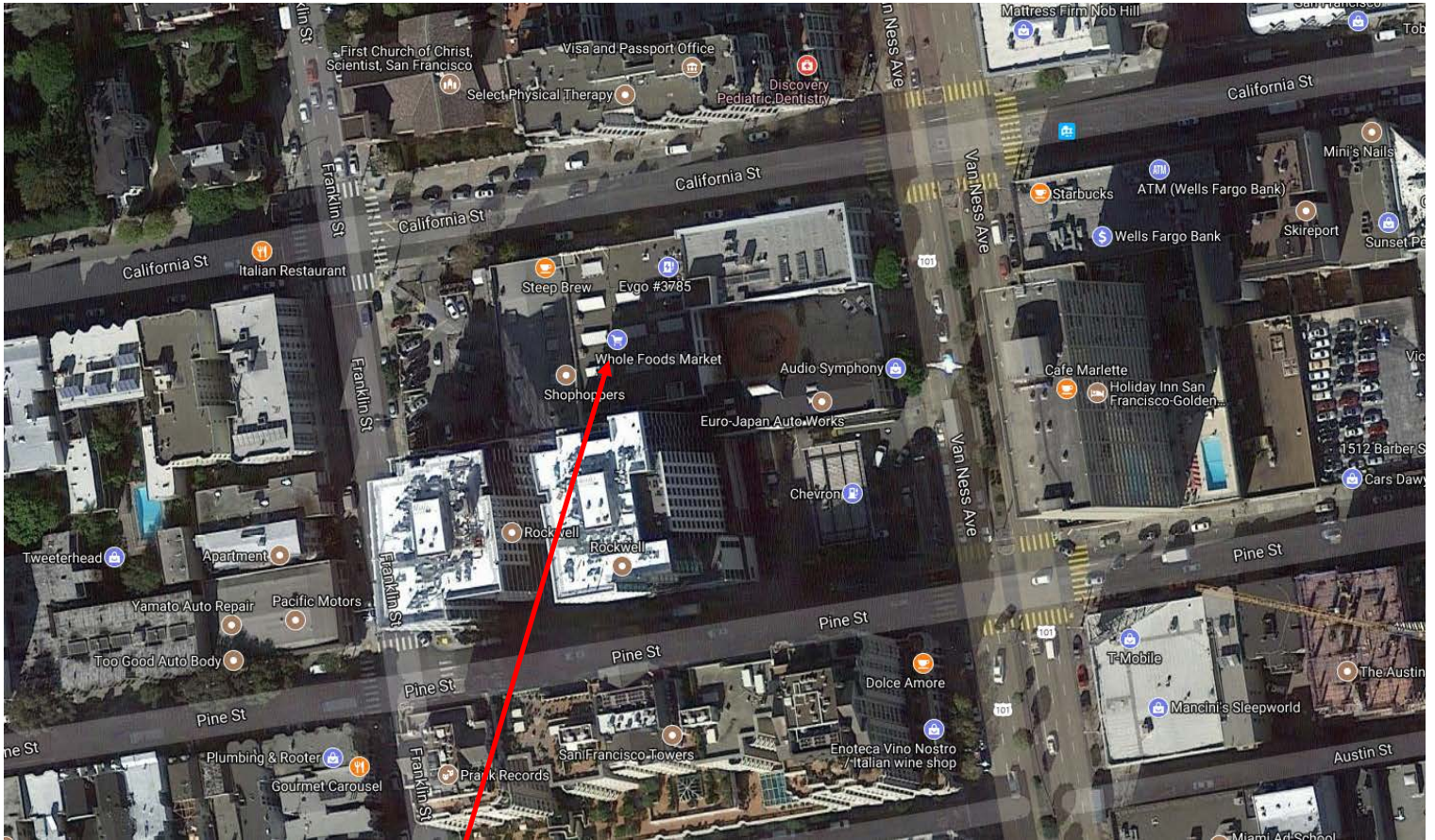


*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.



Conditional Use Hearing
 Case Number 2016-014513CUA
 1765 California Street

Aerial Photo



SUBJECT PROPERTY



Conditional Use Hearing
Case Number 2016-014513CUA
1765 California Street

Aerial Photo



SUBJECT PROPERTY



Conditional Use Hearing
Case Number 2016-014513CUA
1765 California Street

Site Photo

SUBJECT PROPERTY ON CALIFORNIA STREET



SUBJECT PROPERTY

Conditional Use Hearing
Case Number 2016-014513CUA
1765 California Street

Site Photo

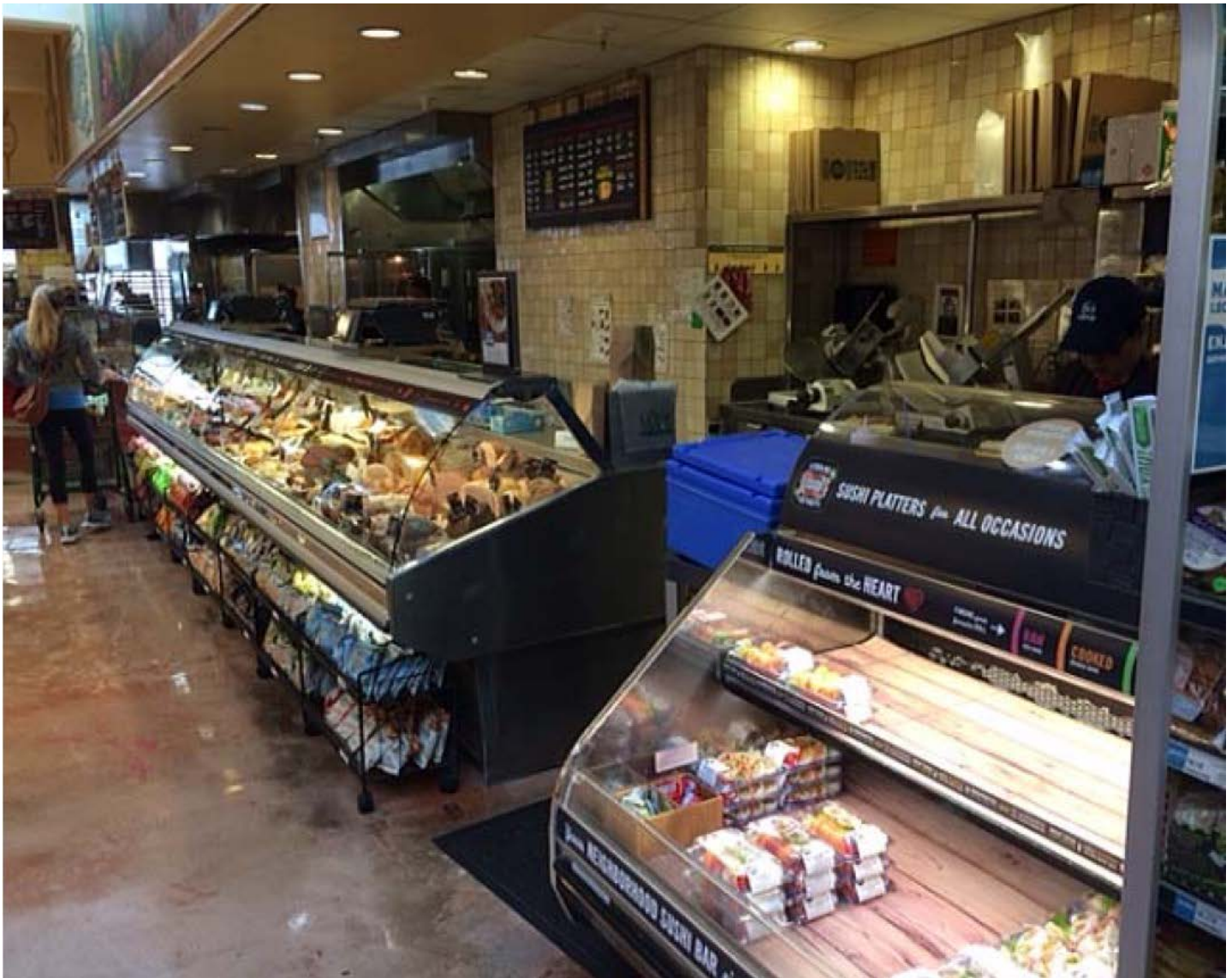
SUBJECT PROPERTY ON CORNER OF FRANKLIN STREET AND CALIFORNIA STREET



SUBJECT PROPERTY

Conditional Use Hearing
Case Number 2016-014513CUA
1765 California Street

EXAMPLE SUSHI DISPLAY AREA



Conditional Use Hearing
Case Number 2016-014513CUA
1765 California Street

EXAMPLE SUSHI DISPLAY AREA



Conditional Use Hearing
Case Number 2016-014513CUA
1765 California Street

Site Photo

PORTION OF SUBJECT BLOCK ON CALIFORNIA STREET



SUBJECT PROPERTY



Conditional Use Hearing
Case Number 2016-014513CUA
1765 California Street

Site Photo

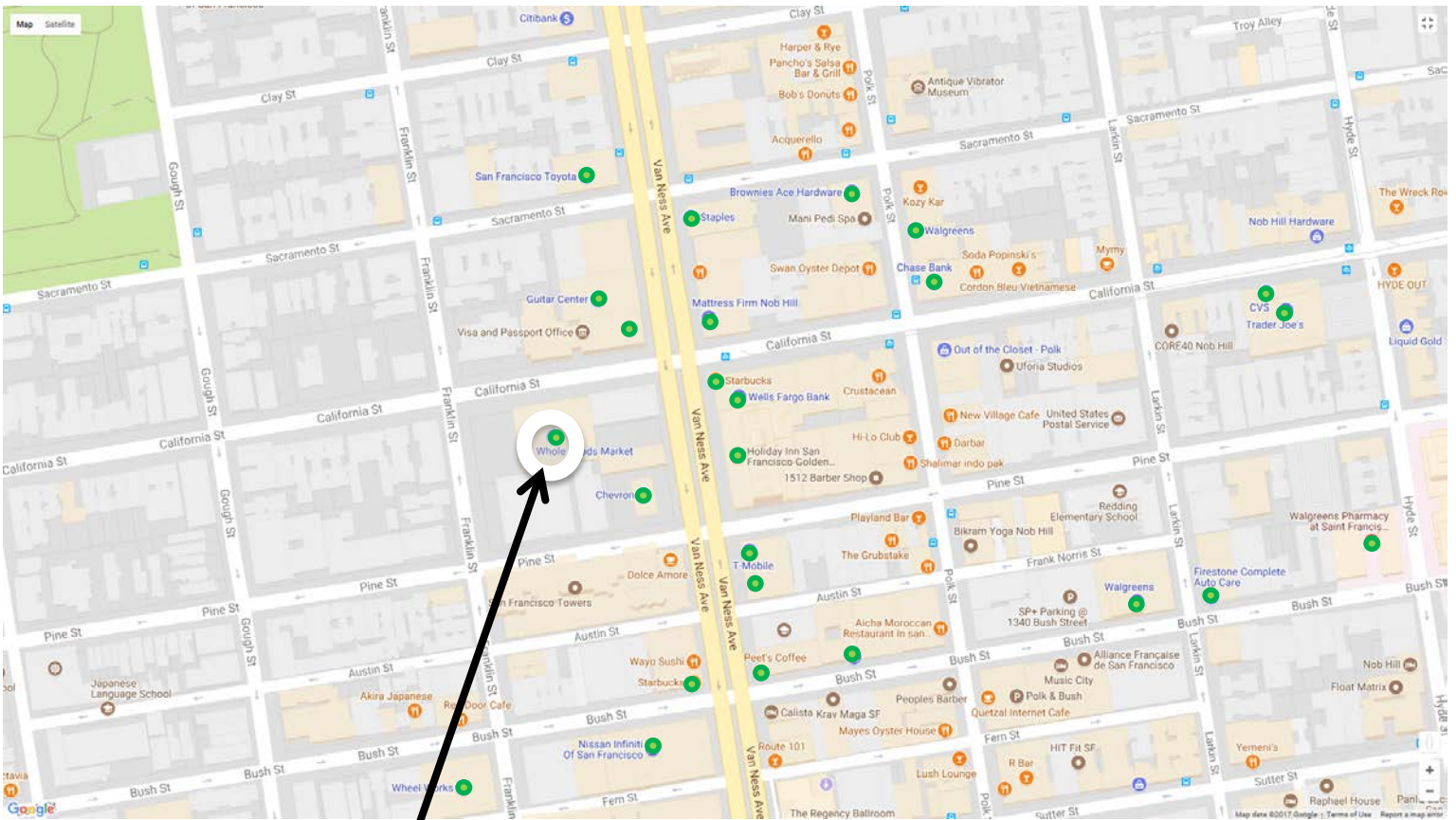
PORTION OF OPPOSITE BLOCK ON CALIFORNIA STREET



Conditional Use Hearing
Case Number 2016-014513CUA
1765 California Street

FORMULA RETAIL USES

PORTION OF CALIFORNIA STREET & VAN NESS AVENUE



SUBJECT PROPERTY

● Formula Retail Establishments

**SAN FRANCISCO
PLANNING DEPARTMENT**



Conditional Use Hearing
Case Number 2016-014513CUA
1765 California Street

**SAN FRANCISCO
PLANNING DEPARTMENT**



GENJI

ABOUT US

Established in 1997, the Delaware registered Genji, is dedicated to the finest quality all-natural sushi and Japanese-inspired cuisine in a grab-and-go style.

As Whole Foods Market grew, so did the number of Genji sushi bars. Our sushi bars are located in over 180 Whole Foods Market locations in 21 states and the District of Columbia, as well as the U.K. During this growth period, Genji, created a central kitchen in New York City and established a distribution center in Allentown, PA, transforming the company into a leading take-out sushi chain. As the demand for superior quality sushi grew in the US, and as Whole Foods Market grew, Genji was privileged to be the sushi vendor of choice in one store after another.

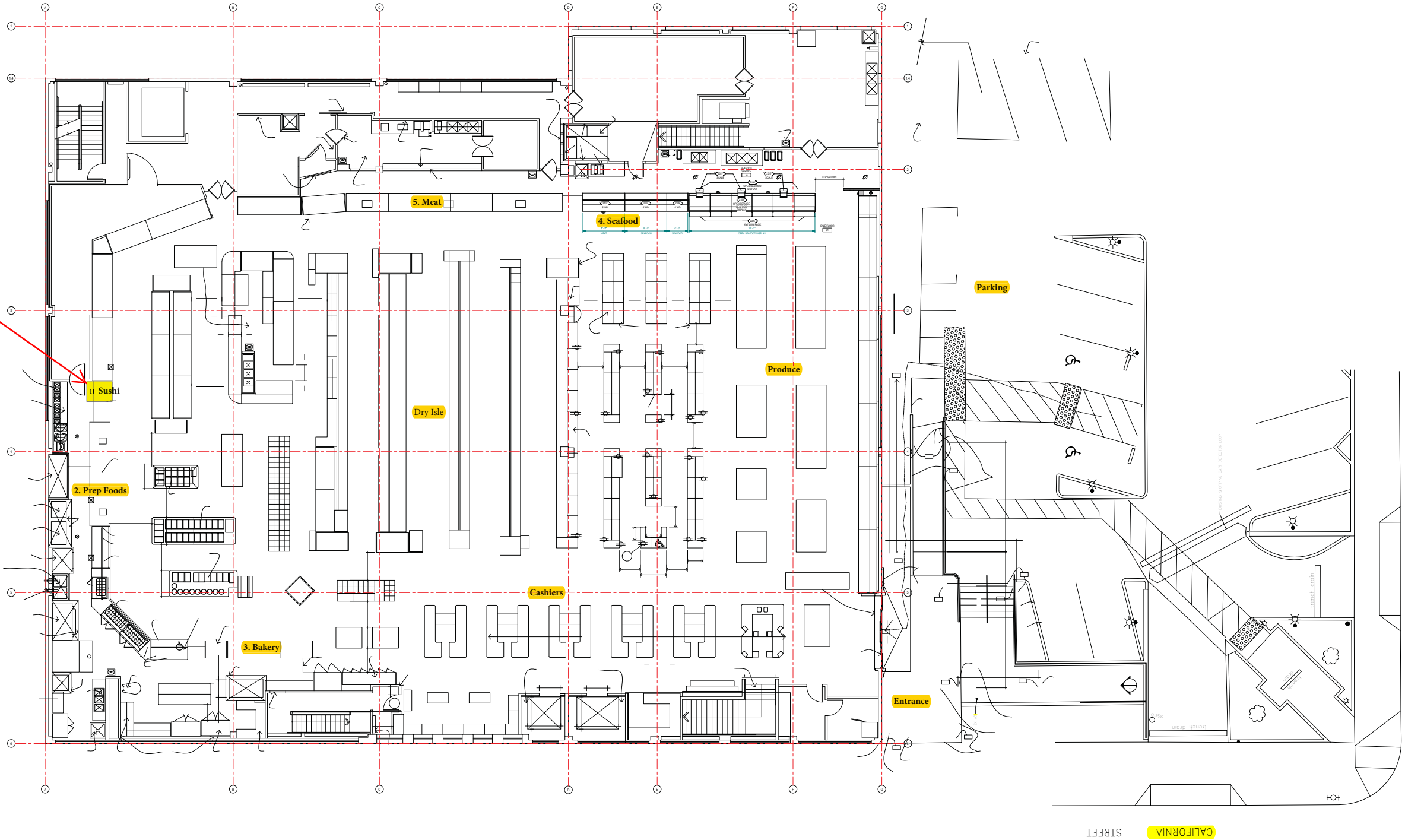
As the years progressed, we changed our name from “Genji Express” to a simpler “Genji,” standardized our recipes and sought out the best vendors, and created an unrivaled training and development program to teach our chefs to make sushi with the same skill and attention to detail as sushi chefs in Japan.

At each location, skilled chefs prepare a variety of fresh items on-site, including raw, cooked, vegetarian and vegan-friendly sushi and sides.

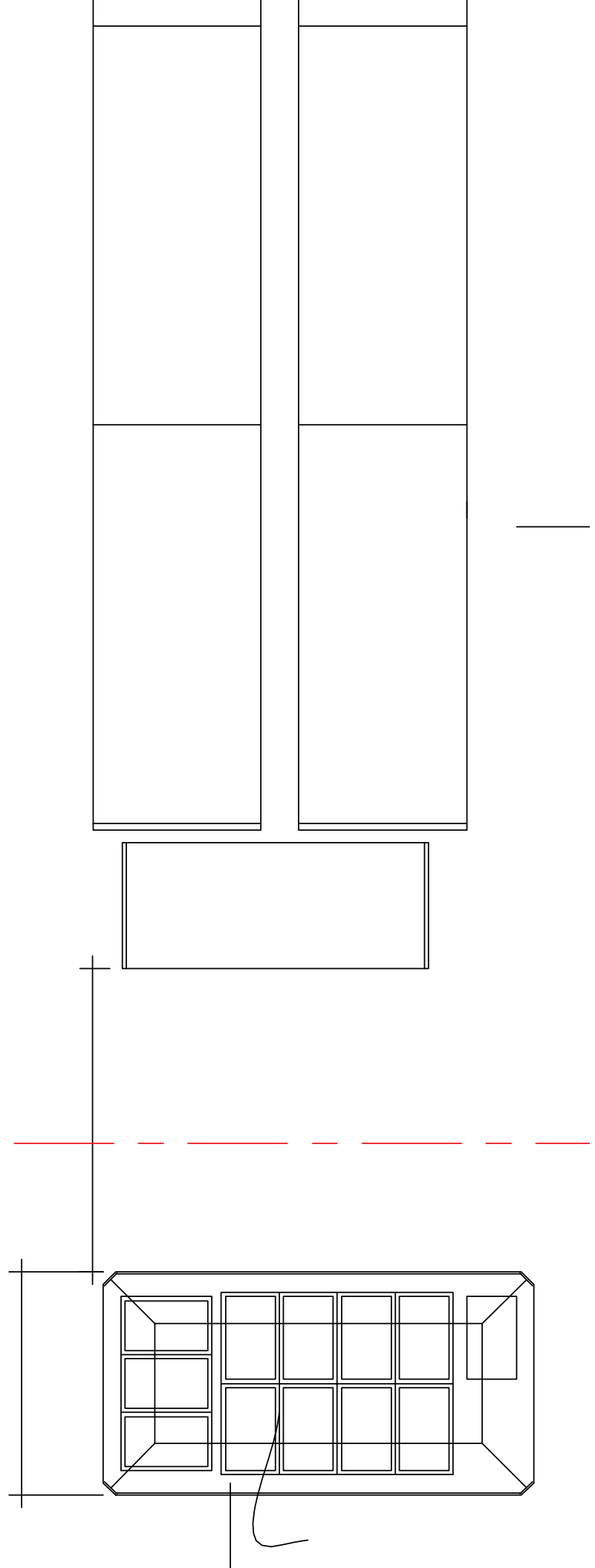
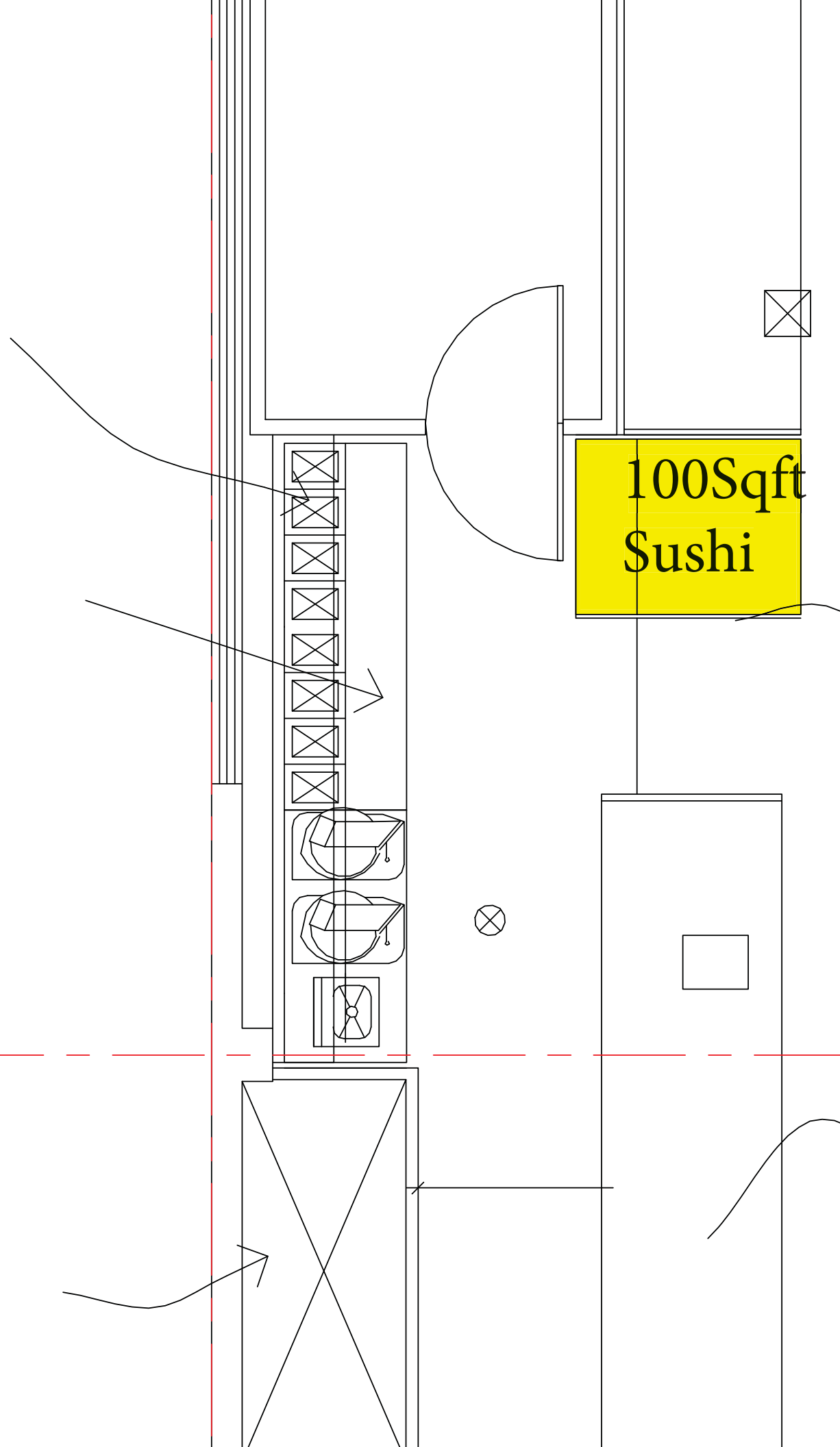
The company’s mission is to serve food-lovers with delicious Japanese-inspired food and knowledge to lead happy, healthy lives, and its goal is to contribute towards healthier food consumption habits on a global level.

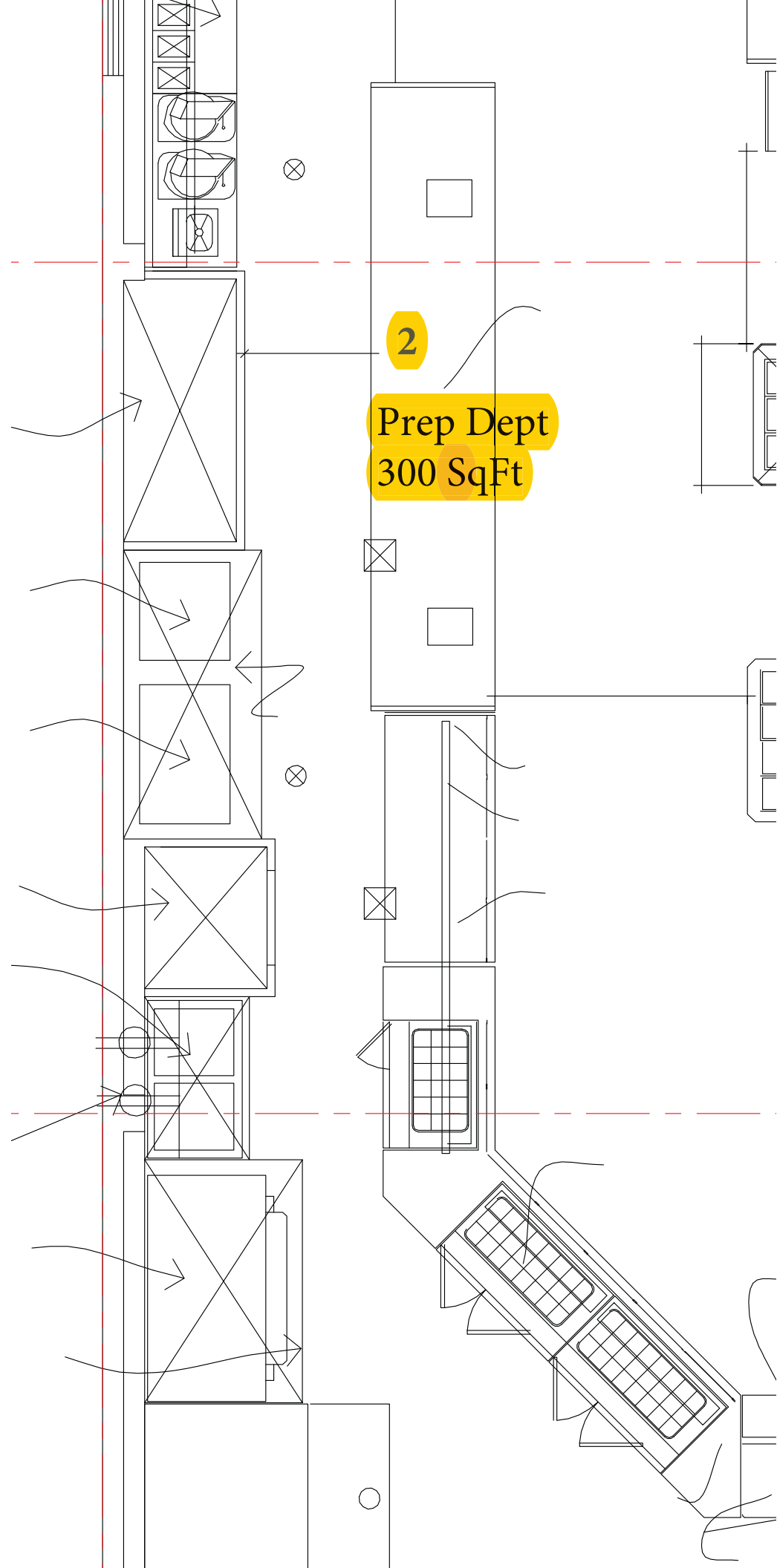
PROPOSED FORMULA RETAIL USE D.B.A. GENJI SUSHI WITHIN WHOLE FOODS GROCERY STORE (LOCATED WITHIN DELI AREA WITH APPROX. 100 SQ FT DISPLAY AREA AND APPROX. 300 SQ FT PREP AREA.) EXISTING GROCERY STORE HAS APPROXIMATELY 15,000 SQ FT SALES AREA

GENJI SUSHI



4





2

Prep Dept
300 SqFt