



# SAN FRANCISCO PLANNING DEPARTMENT

## Executive Summary Conditional Use

HEARING DATE: JULY 27, 2017

*Date:* July 20, 2017  
*Case No.:* **2017-008234CUA**  
*Project Address:* **925 Market Street**  
*Zoning:* C-3-R District (Downtown Retail)  
120-X Height and Bulk District  
*Block/Lot:* 3704/076  
*Project Sponsor:* Mark Loper, Reuben Junius, & Rose  
One Bush Street, Suite 600  
San Francisco, CA 94104  
*Staff Contact:* Gabriela Pantoja (415) 575-8741  
Gabriela.pantoja@sfgov.org  
*Recommendation:* **Approval with Conditions**

1650 Mission St.  
Suite 400  
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Reception:  
**415.558.6378**

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Planning  
Information:  
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### PROJECT DESCRIPTION

The project sponsor seeks a Conditional Use Authorization, pursuant to Planning Code Sections 303 and 210.2 to change the use of approximate 2,400 square feet of retail space on the first floor mezzanine and second floor of the subject property to general office use. The space in question is accessible via interior stairs and an elevator located within the ground floor of the building, similar to many building located downtown with retail or personal services at the upper levels. The proposal includes interior tenant improvements and does not involve any exterior alterations to the existing building.

### SITE DESCRIPTION AND PRESENT USE

The 2,945 square-foot project site is located on the southeast side of Market Street, between 5<sup>th</sup> and 6<sup>th</sup> Streets; lot 076 of Accessor's Block 3704. The site is developed with a two-story over basement commercial building with a full service restaurant (d.b.a. The Melt) at the basement and ground floor, and retail uses on the remaining levels (first floor mezzanine and second floor). The building, constructed in 1910, is considered a Historic Resource per the California Environmental Quality Act. The most recently permitted use at the site was retail with administrative offices above.

The site is located on the western edge of the C-3-R (Downtown Retail) Zoning District and in the 120-X Height and Bulk District.

### SURROUNDING PROPERTIES AND NEIGHBORHOOD

The project site is located within the South of Market neighborhood, adjacent to the Downtown Civic Center neighborhood. The C-3-G (Downtown General Commercial) zoning district is located to the north, south, and west of the project site. The surrounding mixed-use area contains diverse building types and

uses. The project site is approximately one block southwest of Union Square and in the immediate vicinity of that shopping district.

## **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         | July 7, 2017         | July 7, 2017       | 20 days       |
| Posted Notice      | 20 days         | July 7, 2017         | July 7, 2017       | 20 days       |
| Mailed Notice      | 10 days         | July 17, 2017        | July 7, 2017       | 20 days       |

## **PUBLIC COMMENT/COMMUNITY OUTREACH**

To date, the Department has received () letters in support of the project.

## **ISSUES AND OTHER CONSIDERATIONS**

The Project requires a Conditional Use Authorization in order to establish a non-retail sales or service use above the ground floor. In addition to the standard Section 303 findings, the Commission must also find that the use will not detract from the District's primary function as an area for comparison shopper retailing and direct consumer services. This requirement is among the primary controls that distinguish the C-3-R District from other C-3 Districts. This application is the second request to convert retail to office space above the ground floor to be reviewed by the Commission. The Department believes that this finding can be made in this particular case for the following reasons:

- The proposed conversion to office space would introduce activity to the upper level space and add office space to a location that is well-served by existing and future public transit options and is within walking distance to a diversity of goods and services available for employees of office tenants.
- The proposed conversion to office space would maintain the existing visual and internal connections between all the floors (i.e. create two distinct tenant spaces) and would not alter the exterior of the subject building to accommodate the new tenant space.
- The Project would not create "stranded" floors, where the tenant does not rent out all floors which are permitted for retail use.
- The basement and first floor of the subject building is a full-service restaurant (d.b.a. The Melt) and will remain the primary use at the subject building. The proposed office space would occupy approximately 39% of the subject building's total gross floor area, whereas the full-service restaurant would occupy 61% of the total gross floor area. Furthermore, the subject building would be occupied by relating tenants as the office space would be occupied by The Melt's Administrative Headquarters.

## **REQUIRED COMMISSION ACTION**

In order for the project to proceed, the Commission must grant Conditional Use Authorization to allow a change of use from retail space to general office use pursuant to Planning Code Sections 210.2 and 303.

## **BASIS FOR RECOMMENDATION**

- The project is consistent with several key Objectives and Policies of the Downtown Plan, and General Plan.
- The project would not displace an existing retail tenant providing goods and services to the area.
- The project would not increase the size and intensity of the existing commercial building.
- The project meets all applicable requirements of the Planning Code.
- The project will not detract from the C-3-R District's primary function as an area for comparison shopper retailing and direct consumer services.
- The project is desirable for, and compatible with the surrounding neighborhood.

|                        |                                 |
|------------------------|---------------------------------|
| <b>RECOMMENDATION:</b> | <b>Approval with Conditions</b> |
|------------------------|---------------------------------|

### **Attachments:**

Block Book Map

Sanborn Map

Aerial Photographs

Zoning Map

Height and Bulk Map

Site Photographs

Project Sponsor Submittal

Reduced Floor 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 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 |

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

GP

\_\_\_\_\_  
Planner's Initials



# SAN FRANCISCO PLANNING DEPARTMENT

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*Subject to: (Select only if applicable)*

- |  |  |
|--|--|
| <input type="checkbox"/> Affordable Housing (Sec. 415)           | <input type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 413) | <input type="checkbox"/> Child Care Requirement (Sec. 414) |
| <input checked="" type="checkbox"/> Downtown Park Fee (Sec. 412) | <input type="checkbox"/> Other                             |

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## Planning Commission Draft Motion

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*Date:* July 20, 2017  
*Case No.:* **2017-008234CUA**  
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**ADOPTING FINDINGS RELATED TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 210.2 and 303 OF THE PLANNING CODE TO CHANGE THE USE OF APPROXIMATELY 2,400 SQUARE FEET OF RETAIL TO GENERAL OFFICE USE AT THE FIRST FLOOR MEZZANINE AND SECOND FLOOR AT 925 SUTTER STREET, WITHIN THE C-3-R (DOWNTOWN RETAIL) USE DISTRICT AND THE 120-X HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On February 9, 2017, Mark Loper (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Section(s) 210.2 and 303 to change of use of approximately 2,400 square feet retail to general office use (d.b.a. The Melt Administrative Headquarters) at the first floor mezzanine floor and second floor.

On July 27, 2017, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2017-008234CUA.

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. 2017-008234CUA, 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 2,945 square-foot project site is located on the southeast side of Market Street, between 5<sup>th</sup> and 6<sup>th</sup> Streets; lot 076 of Accessor’s Block 3704. The site is developed with a two-story over basement commercial building with a full service restaurant (d.b.a. The Melt) on the basement and ground floor, and retail uses on the remaining levels (first floor mezzanine and second floor). The building, constructed in 1910, is considered a Historic Resource per the California Environmental Quality Act.

The site is located on the western edge of the C-3-R (Downtown Retail) Zoning District and in the 120-X Height and Bulk District.

3. **Surrounding Properties and Neighborhood.** The project site is located within the South of Market neighborhood, adjacent to the Downtown Civic Center neighborhood. The C-3-G (Downtown General Commercial) zoning district is located to the north, south, and west of the project site. The surrounding mixed-use area contains diverse building types and uses. The project site is approximately one block southwest of Union Square and in the immediate vicinity of that shopping district.
4. **Project Description.** The project sponsor seeks a Conditional Use Authorization, pursuant to Planning Cod Sections 210.2 and 303 to change the use of approximate 2,400 square feet of retail space on the first floor mezzanine and second floor of the subject property to general office use. The space in question is accessible via interior stairs and an elevator located within the first floor of subject building, similar to many building located downtown with retail or personal services at the upper levels. The proposal includes interior tenant improvements and does not involve any exterior alterations to the existing building.
5. **Public Comment.** As of the date of this report, the Department has not received any public comment on 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. **Use.** Planning Code Section 210.2, within the C-3-R Zoning District, Non-Retail Sales and Services uses require a Conditional Use Authorization when located at or above the ground floor.

*The Project proposes to convert 2,400 square feet of retail space at the first floor mezzanine level and second floor at 925 Market Street building to a Non-Retail Sales and Service Use (office) and therefore, a Conditional Use Authorization is required. Conformance with the specified discussed under item #7 below.*

- b. Use Size.** Planning Code Section 210.2, within the C-3-R Zoning District, requires a Conditional Use Authorization for any Non-Retail Sales and Services that is larger than 5,000 gross square feet in size.

*At 2,400 gross square feet, the Project does not exceed 5,000 of gross floor area.*

- c. Off-Street Parking.** Planning Code Section 151.1 does not require any off-street parking spaces be provided, but instead provides a maximum parking amounts based on land use type.

*The Project does not propose any off-street parking, therefore meets this requirement.*

- 7. Planning Code Section 210.2(2)** establishes criteria for the Planning Commission to consider when reviewing applications for the development of non-retail sales and service if the use is larger than 5,000 gross square feet in size or located above the ground floor. In the C-3-R District, in addition to the criteria set forth in Section 303, approval shall be given upon a determination that the use will not detract from the District's primary function as an area for comparison shopper retailing and direct consumer services. On balance, the Project complies with said criteria in that:

*The Project would retain the building's existing main entrance and storefront features along Market Street and permit the existing restaurant use to occupy the storefront. The existing restaurant use would remain the primary use of the site and occupy 61% of the subject building's floor area. Whereas, the proposed office use would occupy 49% of the subject building's floor area. Furthermore, the Sponsor indicates that the proposed office space tenant will serve as the administrative headquarters for current restaurant tenant (d.b.a. The Melt). The Melt is a San Francisco restaurant chain with multiple locations throughout the Bay Area.*

*The Project would activate the upper levels of a building with frequent periods of vacancy and prevent the creation of "stranded floors," where the tenant does not rent out all floors which are permitted for retail use, in an existing building that is not easily adaptable to the creation of two distinct tenant spaces. The existing building is smaller in-size compared to neighboring buildings and contains a visual connection between the 1<sup>st</sup> floor mezzanine level and ground floor and internal stair and elevator connections between all levels. Furthermore, the building is a Historical Resource per the California Environmental Quality Act and the alteration of the subject building's facades to comply with all applicable requirements is limited.*

- 8. 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 use, at the size and intensity contemplated 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 increase the size and intensity of the existing commercial space. The Project would occupy a long vacant upper floor lease space and continue to practically utilize the tenant space as one tenant space, as opposed to two spaces. The Project would maintain the existing internal connection between all levels (i.e. two separate lease spaces are not being created). The tenant space currently shares a visual connection between the ground floor and 1<sup>st</sup> floor mezzanine, and both internal stair and elevator connections between all levels. Additionally, the proposed office space, at the 1<sup>st</sup> floor mezzanine level and 2<sup>nd</sup> floor would continue to utilize the existing main entrance; the Project would not create a distinct second entrance along the subject building's storefront.*

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

1. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

*The size and shape of the Project Site is compatible with the patterns of development in the area. The Project does not involve any alterations to the exterior of the subject building and will not affect the building envelope.*

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

*The Planning Code does not require parking or loading for a 2,400 square-foot office use. The project site is located in an area well-served by transit and should not generate significant amounts of vehicular trips from the immediate neighborhood or citywide. This area is characterized by vibrant pedestrian activity and the project will reinforce this pattern.*

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

*The Project would not generate noxious emissions, such as noises, glare, dust and odor.*

4. 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 or screening.*

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



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

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

## DOWNTOWN AREA PLAN

### Objectives and Policies

#### **OBJECTIVE 2:**

MAINTAIN AND IMPROVE SAN FRANCISCO'S POSITION AS A PRIME LOCATION FOR FINANCIAL, ADMINISTRATIVE, CORPORATE, AND PROFESSIONAL ACTIVITY.

#### **Policy 2.1:**

Encourage prime downtown office activities to grow as long as undesirable consequences of growth can be controlled.

#### **Policy 2.2:**

Guide location of office development to maintain a compact downtown core and minimize displacement of other uses.

*The change of use from retail to general office use at the upper levels of the subject building would reinforce an existing characteristic of the neighborhood. The surrounding area contains buildings with similar use-floor distributions, retail at the ground floor with office use at the upper levels. The establishment of general office at this location will help activate a relatively small upper floor space without displacing a retail tenant. Additionally, the spaces will remain intact, thereby allowing the space to be reverted to retail in the future. The subject property is located at the southwest portion of the C-3-R Zoning District and the establishment of small-scale office space will provide a transition between the retail core and adjacent districts.*

*Furthermore, the Project would not alter the exterior of the subject building.*

#### **OBJECTIVE 3:**

IMPROVE DOWNTOWN SAN FRANCISCO'S POSITION AS THE REGION'S PRIME LOCATION FOR SPECIALIZED RETAIL TRADE.

#### **Policy 3.1:**

Maintain high quality, specialty retail shopping facilities in the retail core.

#### **Policy 3.3:**

Preserve retail service businesses in upper floor offices in the retail district.

#### **Policy 3.5:**

Meet the convenience needs of daytime downtown workers.

*In this particular case, the change of use from retail to general office use would reinforce the retail nature of the C-3-R (Downtown Retail Core) District. The Project would increase foot traffic to the area and increase demand for surrounding retail and personal services. Additionally, the Project site is within walking distance to a diversity of goods and services available for employees of the office tenant.*

## GENERAL PLAN: COMMERCE AND INDUSTRY

### Objectives and Policies

#### OBJECTIVE 1:

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

#### Policy 1.1:

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

*The conversion of retail space to office at this location would not result in large-scale displacement of retail in the downtown retail core and would support the existing retail core.*

*The subject building is relatively small in floor area compared to neighboring buildings and contains both visual and physical internal connections between the floors. The Sponsor has indicated that the space will be utilized by one company (d.b.a. The Melt). The Melt Restaurant will occupy the basement and ground floor restaurant space and The Melt Administrative Headquarters will occupy the remaining proposed office space levels. Therefore, the tenant space will be practically utilized as one continuous tenant space, and not two distinct tenant spaces.*

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 would permit the existing restaurant use to occupy the subject building's storefront and serve as the primary use of the building. The Project would introduce approximately 21 new employees and patrons to the area, and therefore, strengthen the customer base of existing retail uses and contribute to the demand for new retail uses serving downtown workers and visitors.*

- 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 will be consistent with the existing character of the District and will not remove or add any housing.*

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

*The project does not involve the removal or addition of housing.*

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

*The site is well served by public transportation. The site is located one block from the Powell Bart and Muni Station, and has direct access to abundant local and regional bus service on Market, 5th, Mission, and Turk Streets. The area is also characterized by a rich pedestrian environment in downtown San Francisco.*

- 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's employees and patrons will increase the demand for, and patronage of, existing and new retail uses in the immediate Project vicinity and throughout Downtown.*

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

*This proposal will not impact the property's ability to withstand an earthquake.*

- G. That landmarks and historic buildings be preserved.

*The project would not damage or remove any character-defining features.*

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

*The project will have no negative impact on existing parks and open spaces.*

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. 2017-008234CUA** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated April 14, 2017 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 July 27, 2017.

Jonas P. Ionin  
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: July 27, 2017

## EXHIBIT A

### AUTHORIZATION

This authorization is for a conditional use to allow the conversion of a 2,400 square foot retail space into office use (d.b.a. The Melt Administrative Headquarters) located at 925 Market Street, Block 3704, Lot pursuant to Planning Code Section(s) 210.2 and 303 within the C-3-R District and a 120-X Height and Bulk District; in general conformance with plans, dated May 4, 2017, and stamped "EXHIBIT B" included in the docket for Case No. 2017-008234CUA and subject to conditions of approval reviewed and approved by the Commission on July, 27, 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 July 27, 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](http://www.sf-planning.org)*

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

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

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

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

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

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

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

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

## DESIGN

1. **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 architectural addenda. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org).*

## PROVISIONS

2. **Downtown Park Fee - C-3 District.** Pursuant to Planning Code Section 412 (formerly 139), the Project Sponsor shall pay the Downtown Park Fee. The fee shall be based on drawings of the net addition of gross floor area of office to be constructed as set forth in the building permit and shall be paid prior to the issuance of a temporary certificate of occupancy.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

## MONITORING—AFTER ENTITLEMENT

3. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

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

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

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

## OPERATION

5. **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/>*

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



The map shows the following lot details:

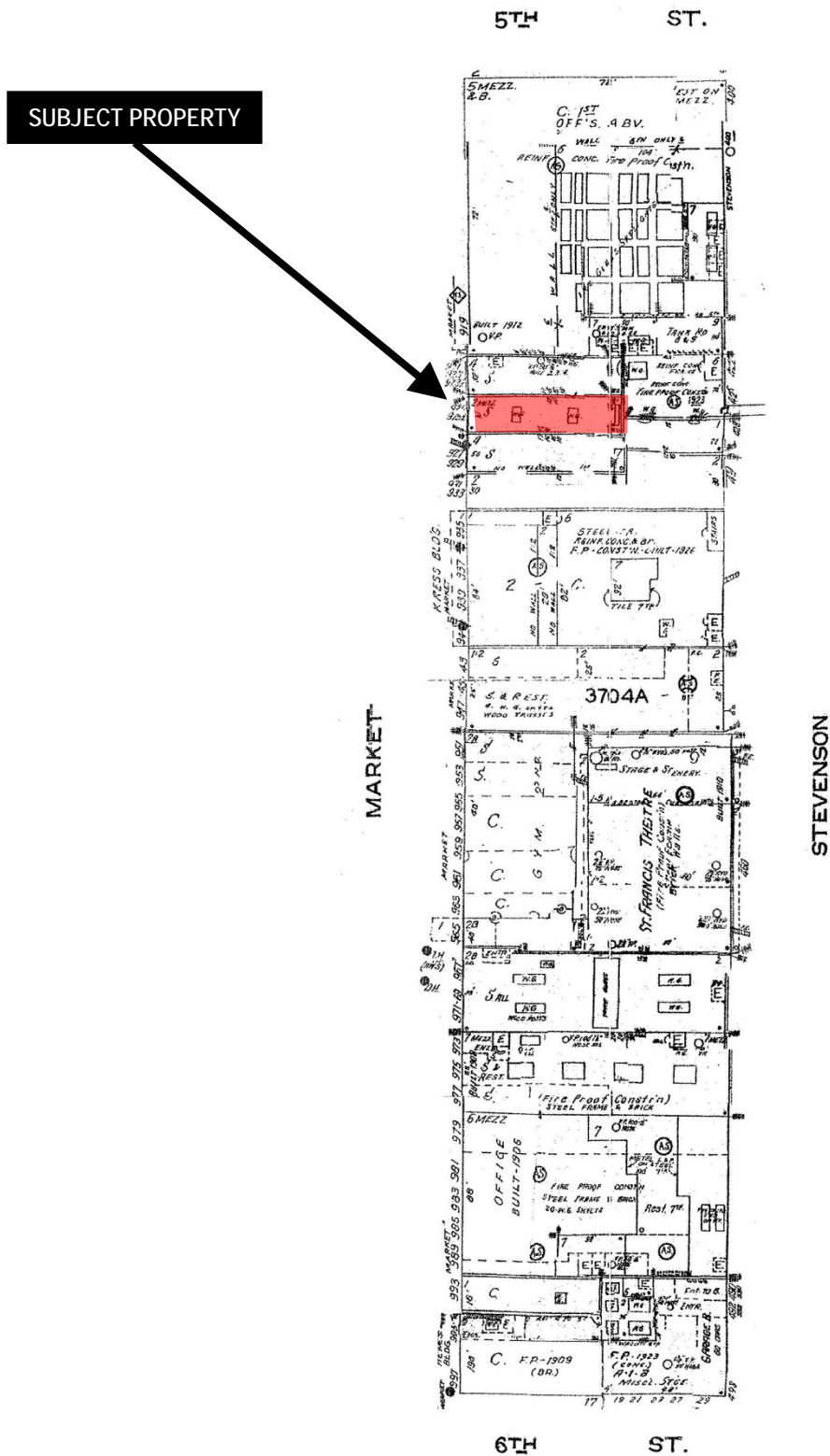
- Lot 78:** Located at the bottom, measuring 170' by 78'.
- Lot 67:** Located above Lot 78, measuring 70' by 26'.
- Lot 68:** Located to the right of Lot 67, measuring 170' by 68'.
- Lot 69:** Located to the right of Lot 68, measuring 49.25' by 69'.
- Lot 70:** Located to the right of Lot 69, measuring 49.25' by 70'.
- Lot 71:** Located to the right of Lot 70, measuring 170' by 170'.
- Lot 72:** Located to the right of Lot 71, measuring 137.50' by 137.59'.
- Lot 73:** Located to the right of Lot 72, measuring 137.50' by 137.59'.
- Lot 74:** Located to the right of Lot 73, measuring 165' by 74'.
- Lot 75:** Located to the right of Lot 74, measuring 165' by 75'.
- Lot 76:** Highlighted in red, measuring 100' by 77'.
- Lot 77:** Located to the right of Lot 76, measuring 100' by 77'.
- Lot 78:** Located to the right of Lot 77, measuring 100' by 78'.

The map also shows the following dimensions and area measurements:

- 5th Street:** 165' wide.
- 6th Street:** 170' wide.
- Market Street:** 275.09' wide.
- Stevenson Street:** 137.50' wide.
- Area Measurements:** 240, 165, 170, 137.50, 137.59, 100, 77, 76, 75, 74, 69, 70, 68, 67, 66, 65, 64, 63, 62, 61, 60, 59, 58, 57, 56, 55, 54, 53, 52, 51, 50, 49, 48, 47, 46, 45, 44, 43, 42, 41, 40, 39, 38, 37, 36, 35, 34, 33, 32, 31, 30, 29, 28, 27, 26, 25, 24, 23, 22, 21, 20, 19, 18, 17, 16, 15, 14, 13, 12, 11, 10, 9, 8, 7, 6, 5, 4, 3, 2, 1.

**SAN FRANCISCO  
PLANNING DEPARTMENT**

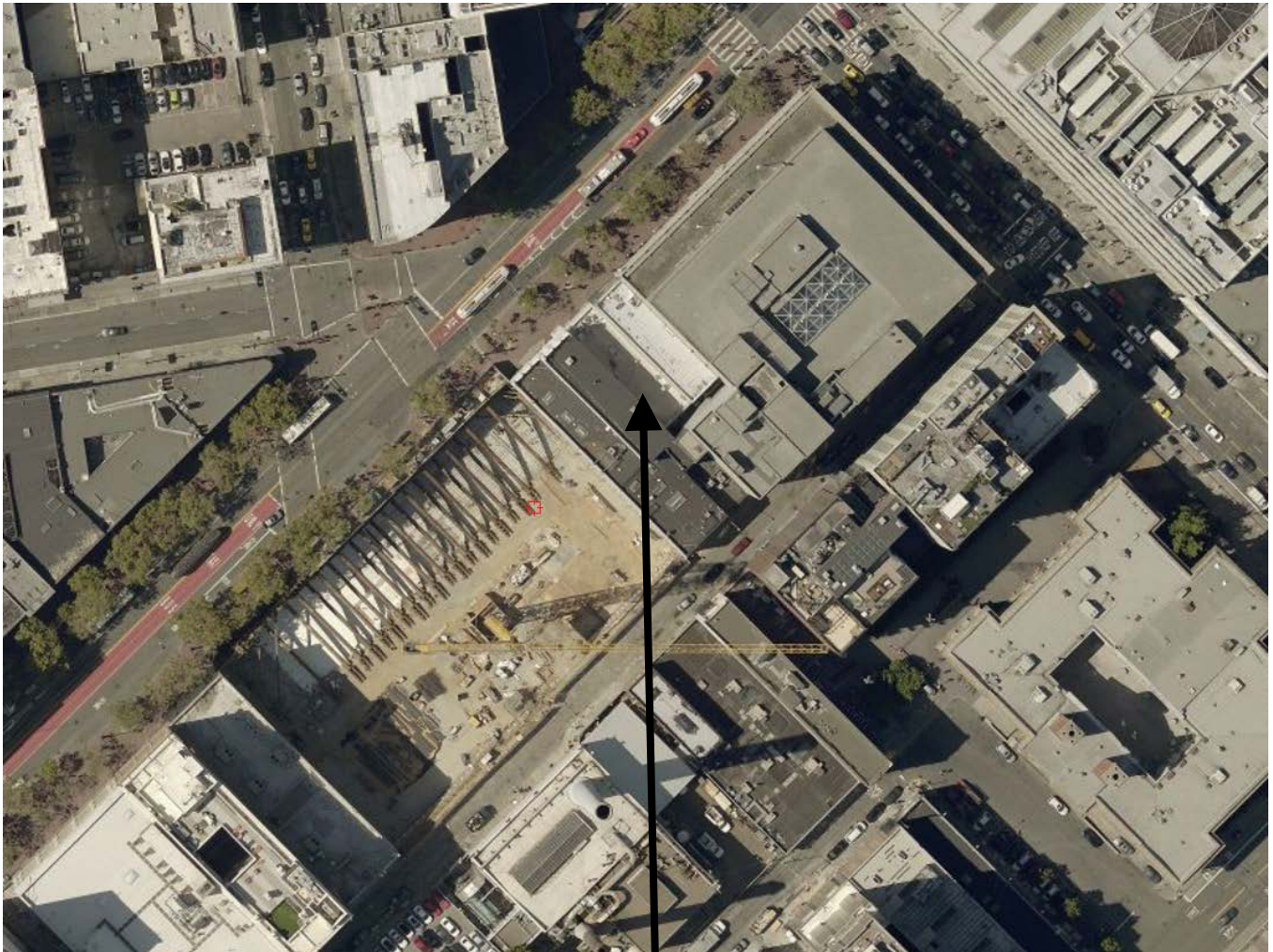
# Sanborn Map\*



\*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 2017-008234CUA  
925 Market Street

# Aerial Photo



SUBJECT PROPERTY

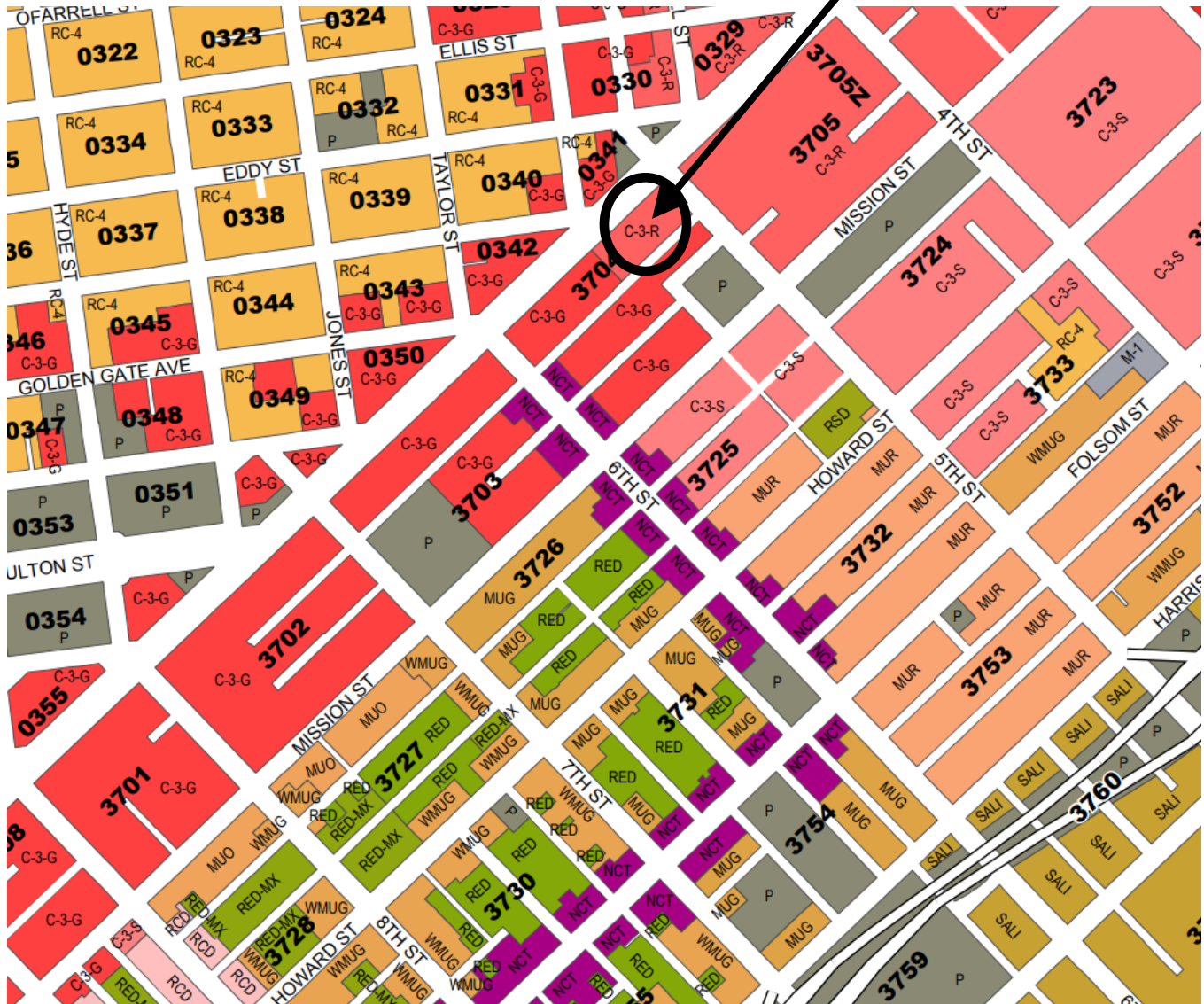


Conditional Use Authorization  
Case Number 2017-008234  
925 Market Street



# Zoning Map

SUBJECT PROPERTY

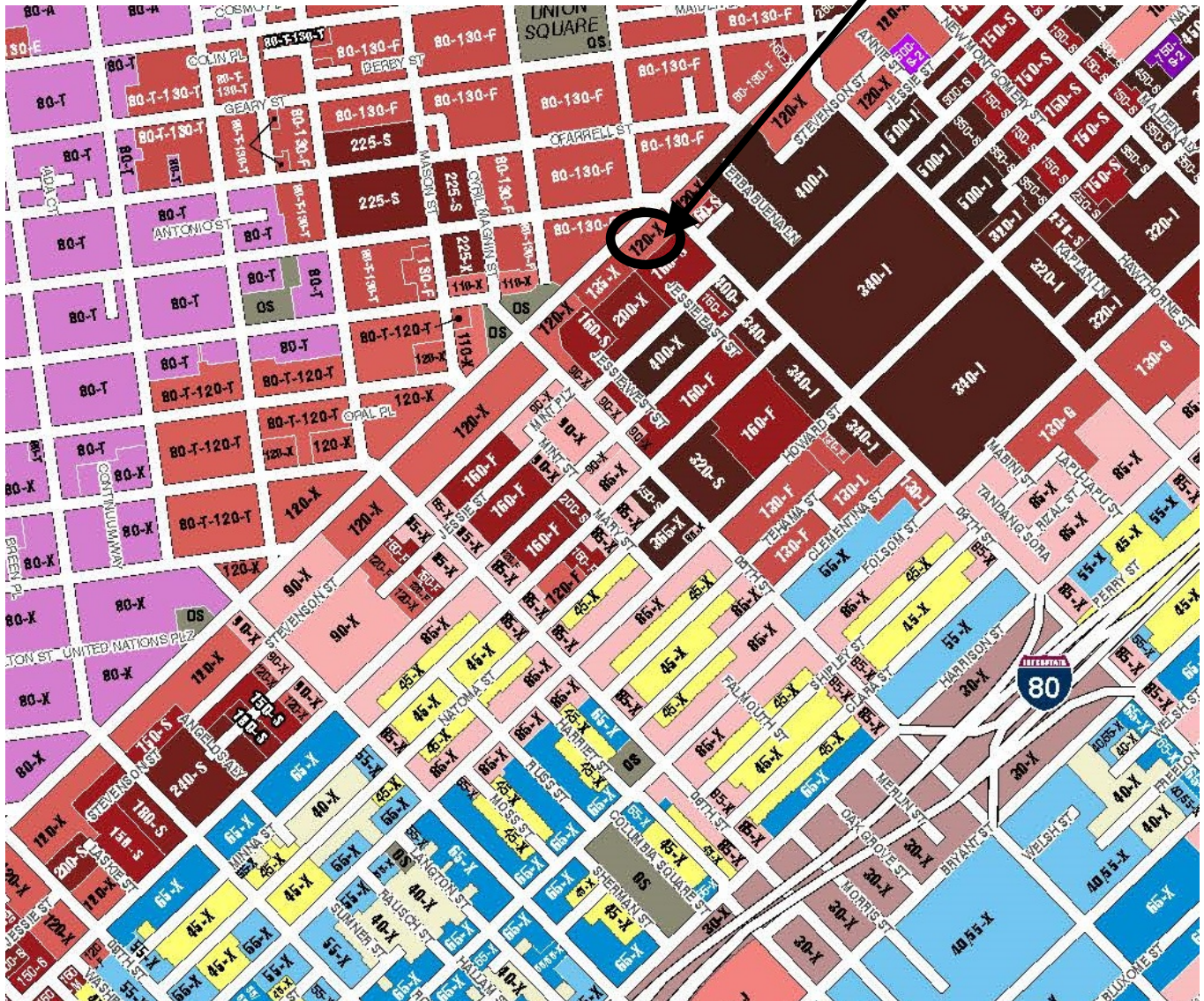


Conditional Use Authorization  
Case Number 2017-008234CUA  
925 Market Street



# Height and Bulk Map

SUBJECT PROPERTY



Conditional Use Authorization  
Case Number 2017-008234CUA  
925 Market Street



# Site Photo



Conditional Use Authorization  
Case Number 2017-008234CUA  
925 Market Street

# REUBEN, JUNIUS & ROSE, LLP

July 14, 2017

**Delivered Via Email** (gabriela.pantoja@sfgov.org)

San Francisco Planning Commission  
President Rich Hillis  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

**Re: 925 Market Street – The Melt  
Our File No.: 10593.01**

Dear President Hillis and Commissioners,

This office represents the Melt in its effort to open a non-retail support center and restaurant in a single building at 925 Market Street, between Fifth and Sixth Streets (the “Property”). Because the Property is located in the C-3-R zoning district, the Melt requires a Conditional Use to operate the support center for its restaurants as an office on the second and mezzanine levels of the Property (the “Project”). We ask that you approve the Project and allow the Melt to continue to grow in San Francisco. The benefits of the Project include the following:

- **Relocation of San Francisco company’s existing integrated use.** The Melt previously operated a restaurant and its support center out of a single building on Howard Street between First and Second. The Project will allow the Melt to continue to cluster a ground-floor restaurant with its offices above, in a different part of Downtown.
- **The building is uniquely suitable for the Melt.** Unlike most all office projects, the Project would create above-ground office to be used by the operator of the ground-floor restaurant. The Property is narrow and likely historic, with a second story located high above Market, making significant renovations for a second story tenant infeasible and all but requiring one single building tenant. All Melt employees would share the same entrance to the building as restaurant guests.
- **Location appropriate for upper-story office use.** The Property is located at the western edge of the C-3-R zoning district and will not detract from its retail focus. Above-ground non-retail use is consistent with the existing pattern of uses on Market between 5<sup>th</sup> and 6<sup>th</sup> Streets, nearly all of which do not have retail above the ground floor. Nearby projects proposing upper story retail have struggled.

James A. Reuben | Andrew J. Junius | Kevin H. Rose | Daniel A. Frattin | John Kevlin  
Tuija I. Catalano | Jay F. Drake | Matthew D. Visick | Lindsay M. Petrone | Sheryl Reuben<sup>1</sup>  
Thomas Tunny | David Silverman | Melinda A. Sarjapur | Mark H. Loper | Jody Knight  
Chloe V. Angelis | Corie A. Edwards | Coryn E. Millslagle | Jared Eigerman<sup>2,3</sup> | John McInerney III<sup>2</sup>

1. Also admitted in New York 2. Of Counsel 3. Also admitted in Massachusetts

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## **A. Introduction to the Melt and its Operational Approach**

The Melt is a San Francisco based fast casual eatery. It opened its first restaurant in 2011, with a vision to “provide better food for kids and create jobs in the local community.” By providing a quality dining experience with foods containing all natural ingredients, the melt has become a popular dining option in San Francisco—where it has two locations—and in 16 other locations throughout the United States.

Until early this year, the Melt operated its restaurant support center and a restaurant in a single building at 557 Howard Street in downtown San Francisco, with a restaurant on the ground floor and its administrative support center for all its restaurants above. That property is the location for a proposed new 36-story mixed use residential and hotel high-rise. The Melt was forced to vacate the building a few months ago, and has been temporarily renting office space while its permits and entitlements are under review. The Melt conducted a wide-ranging search in San Francisco for a new location that was similar to its original location, and that allows it to occupy a single building for both its primary restaurant and support center. The Property is ideally suited for both of these uses. Construction is already underway for the restaurant.

## **B. The Melt’s Proposed Integrated Use of Property**

Unlike nearly all other projects proposing office use—whether new or converted space, and in San Francisco generally or within the C-3-R zoning district—the Project would create an above-ground non-retail support center to be used by the operator of the ground-floor retailer. There is a synergy to the Project that distinguishes it from other projects proposing above-grade office in existing buildings. Indeed, it would be incongruous for the Melt to operate a restaurant out of the basement and ground floor, and then be forced to seek 2,400 square feet of office space in a different location instead of the building’s vacant mezzanine and second story.

The Property does not allow for multi-tenant occupancy, and the Melt will use the building in a way that others could not. Because the building is long and narrow with a small street face, it can only feasibly accommodate a single point of entry, requiring the building to be leased by a single tenant and limiting potential occupants. Melt corporate employees will use the same entrance as its restaurant employees and customers. The building’s lack of a second entrance creates Building Code issues related to emergency egress; the Melt can meet the Building Code requirements in a way that a multi-tenant space cannot.

Similarly, the second floor is not ideal for retail occupancy. It is located approximately 19’-8” above street level, giving it minimal direct visibility for pedestrians walking down Market

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Street in front of the building. In addition, the smaller windows on the second story do not allow for a sufficient amount of exposure to the tenant space, making it secluded and not conducive to a retailer. Visibility from street level is essential for retailers to succeed in upper story spaces. In addition, the building's historic status likely is based at least in part on the upper story design, so opening these windows might not be consistent with preservation standards.

The restaurant will be the primary use of the space. It will occupy a total of 4,501 square feet in the basement and ground floors of the building, and the support center will only occupy approximately 2,400 square feet in the mezzanine and second stories. This represents 65% of the building's floor area, compared to 35% for administrative office.

### **C. The Melt's Combined Restaurant and Office Use is Appropriate for This Location**

The Property is located within the mid-Market area, straddling between Civic Center and Union Square. The Project is consistent with the existing development pattern in the area, as well as future uses in this changing part of the city.

Above-ground non-retail use is consistent with the existing pattern of uses on Market between 5<sup>th</sup> and 6<sup>th</sup> Streets. With the exception of the under-construction development at 945 Market Street, the predominant land use pattern is ground floor retail use with non-retail uses above. In fact, a walking survey of the two block faces along this stretch of Market identified only one second story retail tenant out of 27 storefronts—a Nordstrom Rack at the corner of 5<sup>th</sup> and Market which occupies the first and second stories of the large historic department store building at 901 Market Street.

Also, there is a pattern of apparent difficulty with retail above the ground floor in new projects nearby. The six-story “6X6” retail building at 945 Market—two storefronts from the Property—was approved by the Planning Commission in 2010, and according to the Chronicle in January of this year “all evidence indicates the long stalled mall is ready for occupancy.”<sup>1</sup> As of this writing, there's no publicly-available evidence of when the 250,000 square foot building will open or what retailers, if any, have signed leases to occupy space in it. The apparent difficulty of finding retail tenants for this space is consistent with the relatively high retail vacancy rate along this block, as well as the difficulties that the renovated Hibernia Bank has had finding tenants to occupy it.

Finally, the Project will not detract from the retail focus of the C-3-R zoning district. This zoning district is centered on Union Square. The Downtown Plan acknowledges that the greatest concentration of retail and personal services in San Francisco is centered on the blocks bound by

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<sup>1</sup> “New buildings must be inhabited to come alive,” *San Francisco Chronicle*, John King, January 27, 2017.

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Powell, Sutter, Kearny, and Market.<sup>2</sup> The Property is located on the southwestern edge of the C-3-R zoning district outside of this core area (see the zoning map attached as Appendix A). In the adjacent C-3-G zoning district that starts three lots to the west of the Property, office use is principally permitted on all upper stories.

#### **D. Conclusion**

The Project relocates the Melt's prior integrated restaurant and support service uses into a new building, keeping the growing company in San Francisco's downtown. At the same time, the ground-floor restaurant will be the predominant use of the building. The existing building on the site poses challenges to most tenants that the Melt can address with its integrated use, such as emergency egress, lack of upper story transparency, and number of storefront entrances. And the Project's upper story non-retail use will be consistent with the existing pattern of uses in this area—where upper story retail space is largely not present, either in new developments or existing buildings. We ask you to approve this project.

Sincerely,

**REUBEN, JUNIUS & ROSE, LLP**



Mark Loper

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<sup>2</sup> San Francisco General Plan, Downtown Element, Policy 2.2.

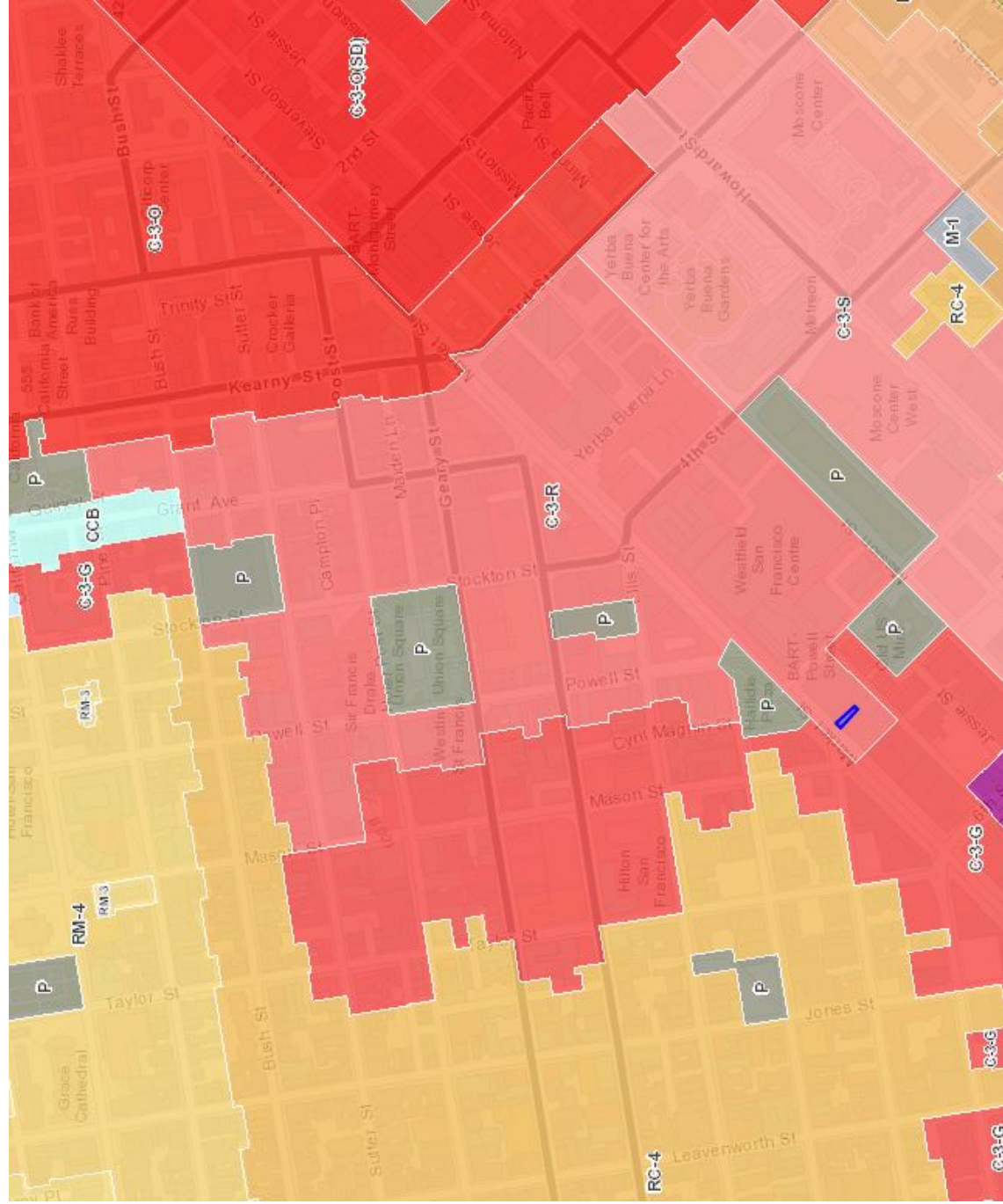
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One Bush Street, Suite 600, San Francisco, CA 94104  
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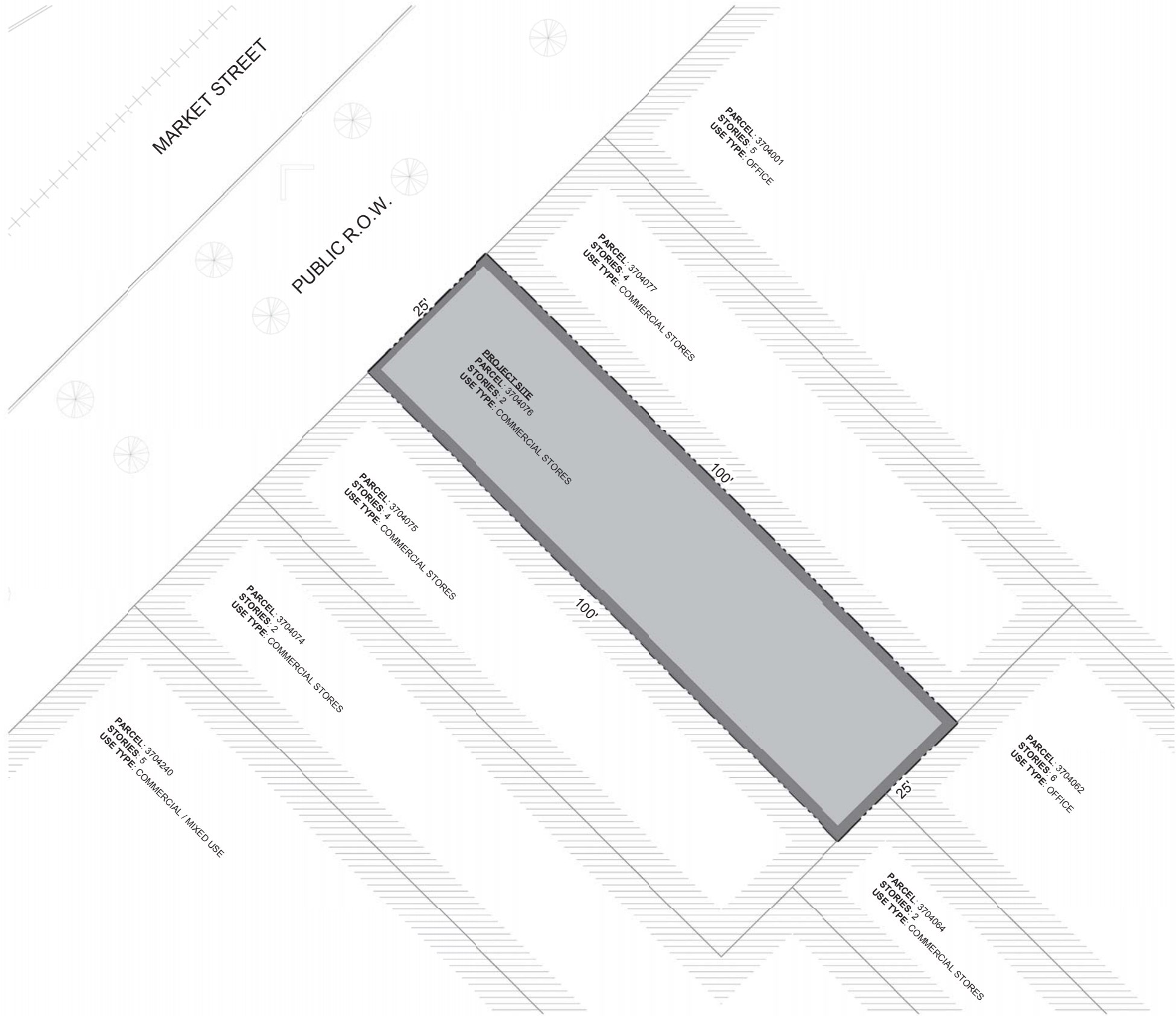
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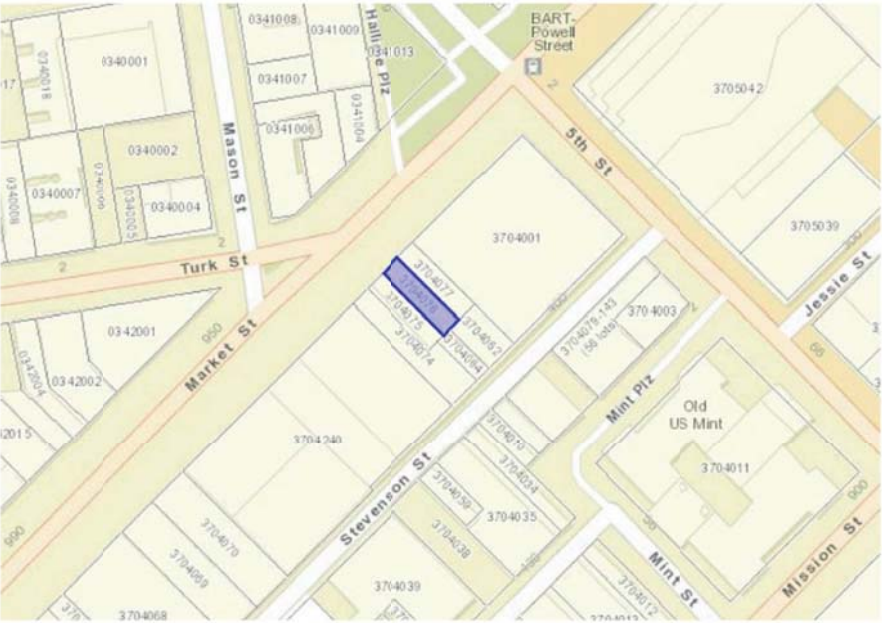
**REUBEN, JUNIUS & ROSE, LLP**

Appendix A – 925 Market’s Location within C-3-R Zoning District





SITE PLAN  
1/8" = 1'-0"



PARCEL DATA

- PARCEL:** 3704001  
**ADDRESS:** 901 MARKET ST, SAN FRANCISCO, CA 94103  
**STORIES:** 5 (Stories 1-2 = Retail; Stories 3-6 Commercial Office)  
**USE TYPE:** OFFICE  
**ZONING:** C-3-R - DOWNTOWN RETAIL

**PARCEL:** 3704077  
**ADDRESS:** 923 MARKET ST, SAN FRANCISCO, CA 94103  
**STORIES:** 4 (Stories 1-2 = Retail; Storeis 3-4 = Commercial Office)  
**USE TYPE:** COMMERCIAL STORES  
**ZONING:** C-3-R - DOWNTOWN RETAIL

**PARCEL:** 3704075  
**ADDRESS:** 929 MARKET ST, SAN FRANCISCO, CA 94103  
**STORIES:** 4 (Story 1 = Retail; Stories 2-4 Commercial Office)  
**USE TYPE:** COMMERCIAL STORES  
**ZONING:** C-3-R - DOWNTOWN RETAIL

**PARCEL:** 3704074  
**ADDRESS:** 931 MARKET ST, SAN FRANCISCO, CA 94103  
**STORIES:** 2 (Story 1 = Retail; Story 2 = Commercial Office)  
**USE TYPE:** COMMERCIAL STORES  
**ZONING:** C-3-R - DOWNTOWN RETAIL

**PARCEL:** 3704240  
**ADDRESS:** 945 MARKET ST, SAN FRANCISCO, CA 94103  
**STORIES:** 5 (Stories 1-5 = Retail)  
**USE TYPE:** COMMERCIAL / MIXED USE  
**ZONING:** C-3-R - DOWNTOWN RETAIL / C-3-G - DOWNTOWN GENERAL
- PARCEL:** 3704062  
**ADDRESS:** 422 STEVENSON ST  
**STORIES:** 6  
**USE TYPE:** OFFICE  
**ZONING:** C-3-R - DOWNTOWN RETAIL

**PARCEL:** 3704064  
**ADDRESS:** 929 MARKET ST  
**STORIES:** 2  
**USE TYPE:** COMMERCIAL STORES  
**ZONING:** C-3-R - DOWNTOWN RETAIL
- PROJECT SITE**  
**PARCEL:** 3704076  
**ADDRESS:** 925 MARKET ST, SAN FRANCISCO, CA 94103  
**STORIES:** 2 (Proposed: Story 1 = Retail; Story 2 = Commercial Office)  
**USE TYPE:** COMMERCIAL STORES  
**ZONING:** C-3-R - DOWNTOWN RETAIL

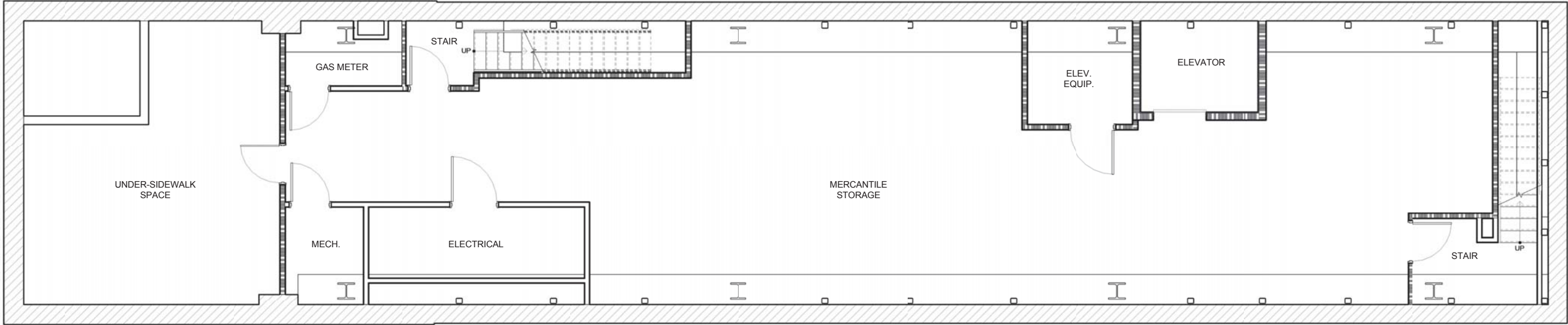
| 925 MARKET STREET - PROJECT AREA SUMMARY (GROSS SQ FT) |              |           |        |           |              |           |        |           |                             |                             |
|--|--------------|-----------|--------|-----------|--------------|-----------|--------|-----------|-----------------------------|-----------------------------|
| FLOOR LEVEL  | EXISTING USE |           |        |           | PROPOSED USE |           |        |           | TOTAL FLOOR AREA (EXISTING) | TOTAL FLOOR AREA (PROPOSED) |
|  | RETAIL       |           | OFFICE |           | RETAIL       |           | OFFICE |           |                             |                             |
|  | AREA         | % OF BLDG | AREA   | % OF BLDG | AREA         | % OF BLDG | AREA   | % OF BLDG |                             |                             |
| BASEMENT   | 1,948        | 32%       | -      | -         | 1,948        | 32%       | -      | -         | 1,948                       | 1,948                       |
| FIRST FLOOR  | 1,883        | 31%       | -      | -         | 1,883        | 31%       | -      | -         | 1,883                       | 1,883                       |
| MEZZANINE  | 593          | 10%       | -      | -         | -            | -         | 593    | 10%       | 593                         | 593                         |
| SECOND FLOOR   | 1,736        | 28%       | -      | -         | -            | -         | 1,736  | 28%       | 1,736                       | 1,736                       |
| TOTAL  | 6,160        | 100%      | -      | -         | 3,831        | 62%       | 2,329  | 38%       | 6,160                       | 6,160                       |

SCOPE OF WORK:

CONDITIONAL USE AUTHORIZATION TO CONVERT APPROXIMATELY 2,400 SQ. FT. OF RETAIL SPACE AT THE 1ST FLOOR MEZZANINE AND THE 2ND FLOOR INTO OFFICE SPACE (d.b.a. THE MELT ADMINISTRATIVE HEADQUARTERS). NO EXTERIOR WORK

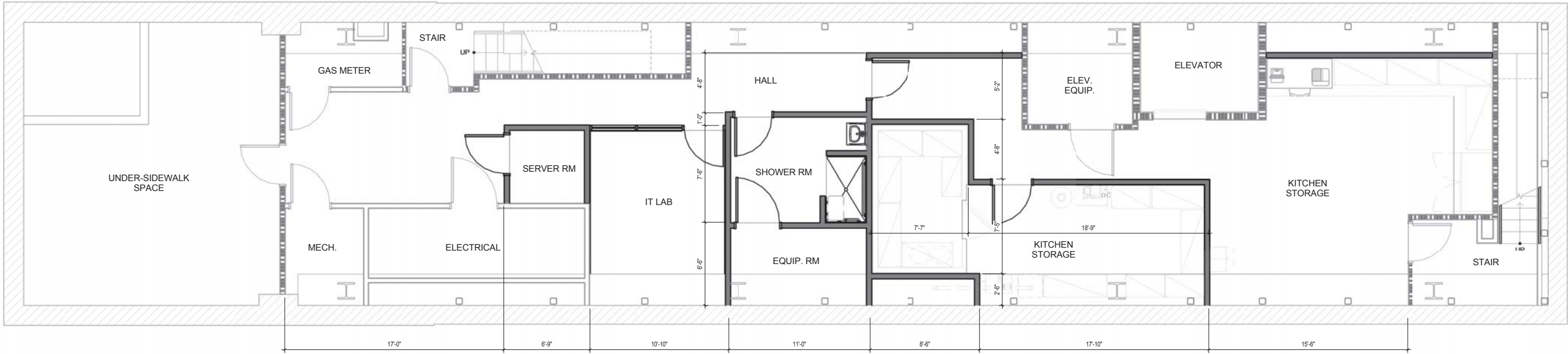
\*NOTE: A RESTAURANT (d.b.a. THE MELT) WILL OCCUPY THE BASEMENT AND 1ST FLOOR OF THE SUBJECT BUILDING





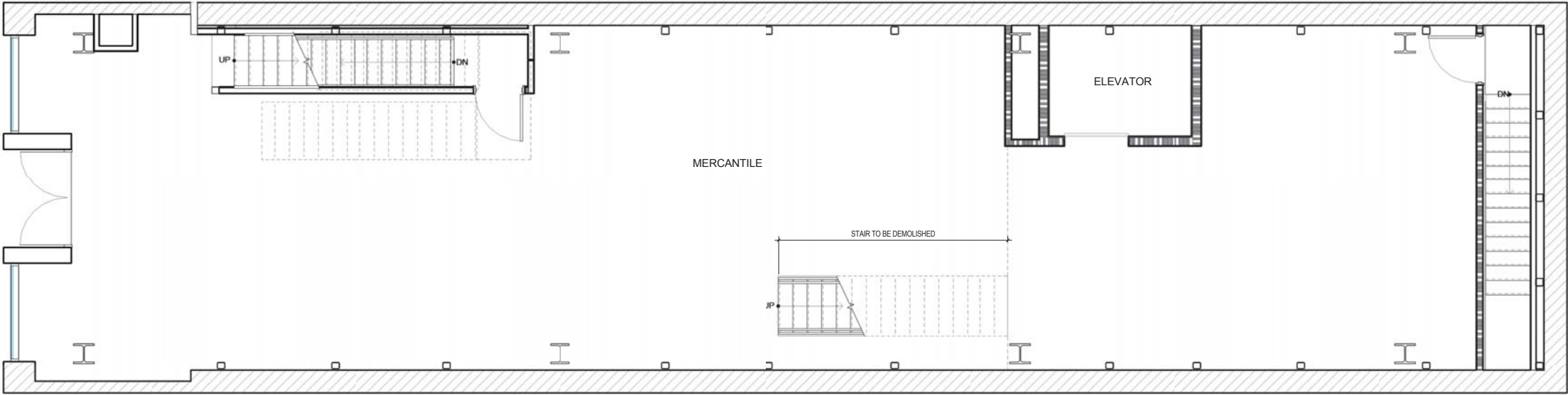
EXISTING

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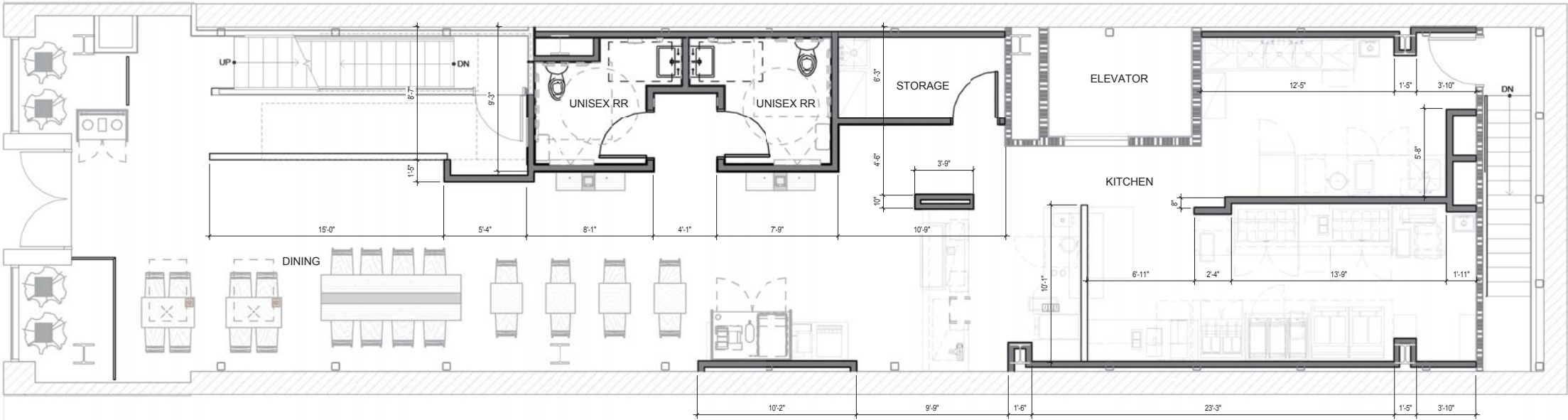
PROPOSED

1/4" = 1'-0"



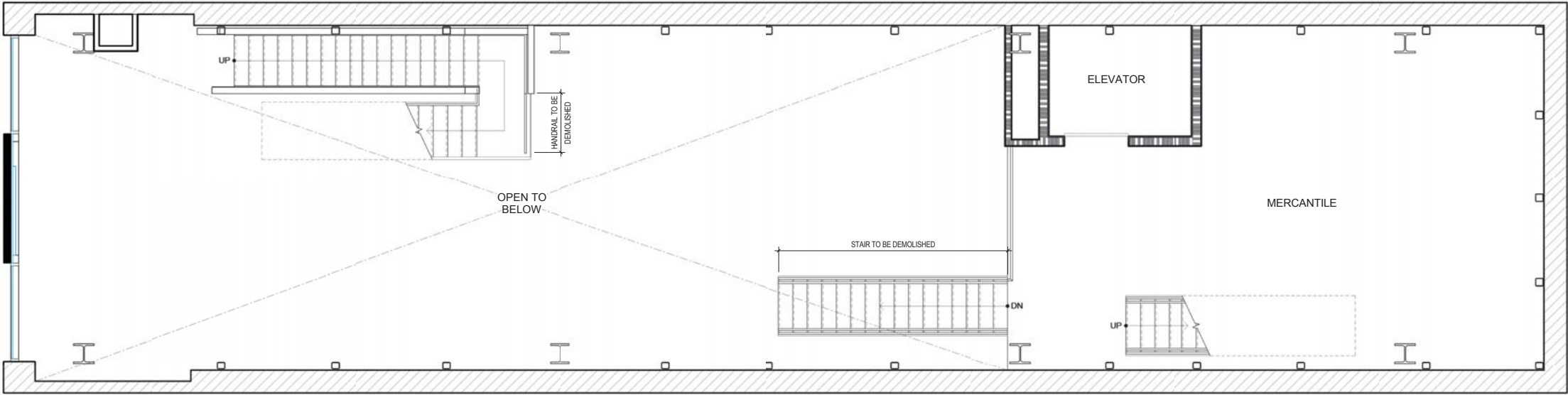
EXISTING

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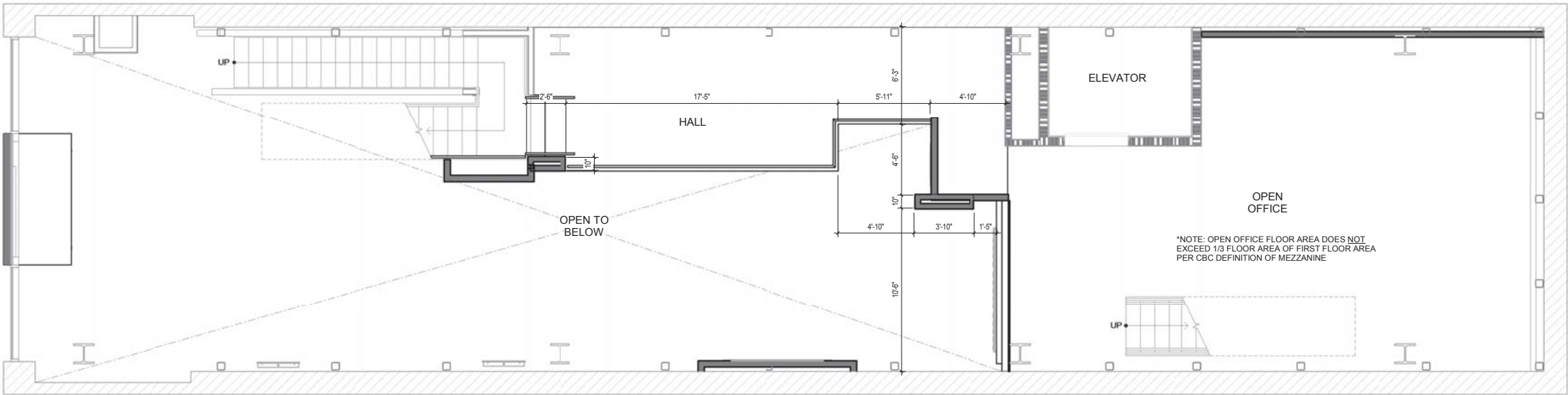


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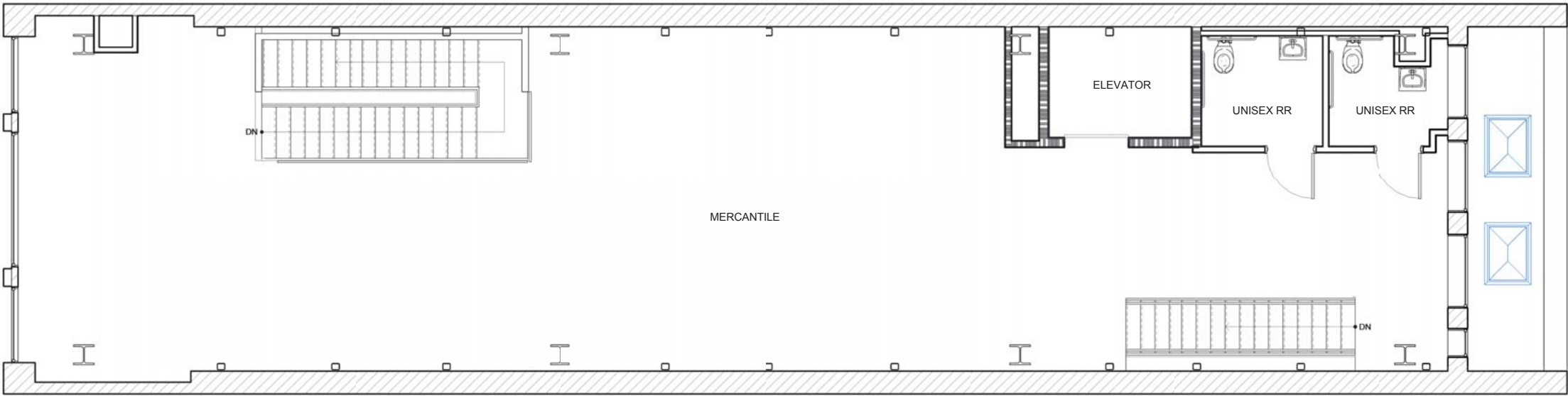
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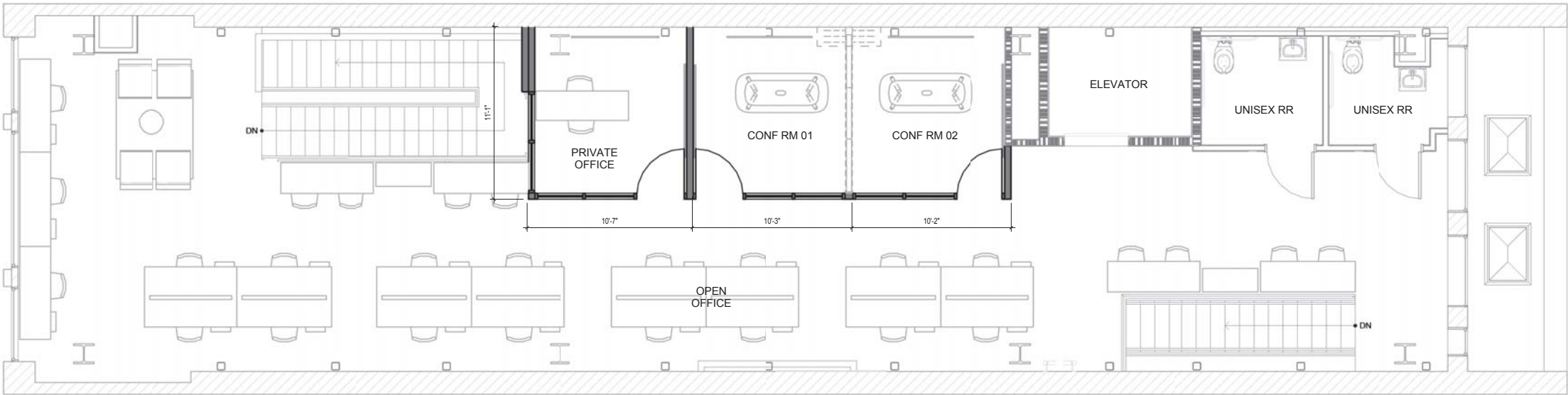
EXISTING  
1/4" = 1'-0"



PROPOSED  
1/4" = 1'-0"

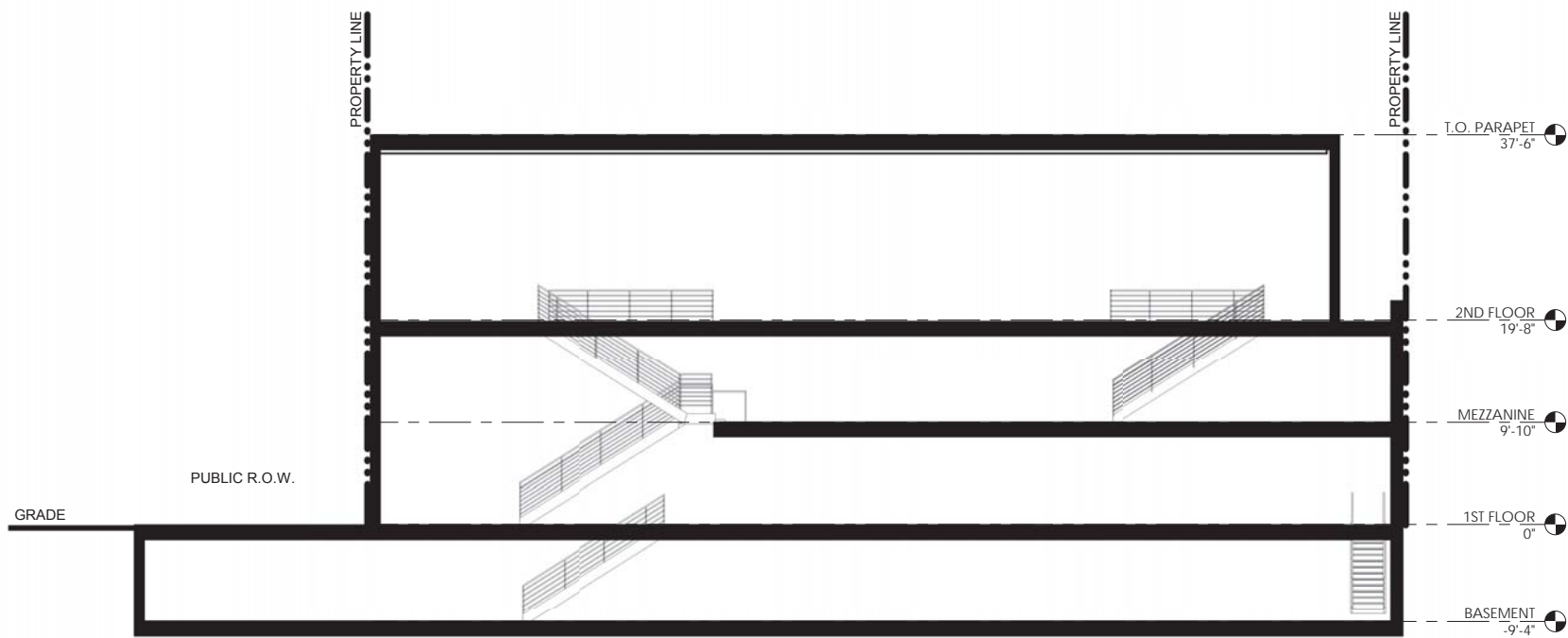


EXISTING  
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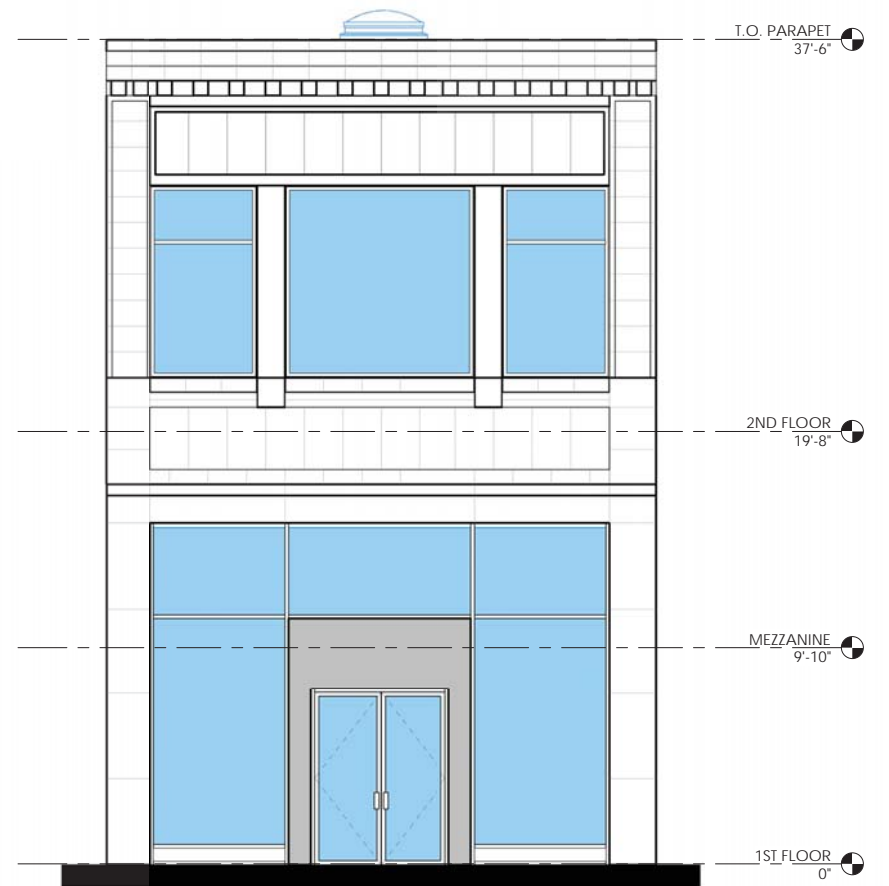


PROPOSED  
1/4" = 1'-0"





BUILDING SECTION  
1/8" = 1'-0"



EXTERIOR ELEVATION - EXISTING  
1/4" = 1'-0"



