

Executive Summary Conditional Use Authorization

HEARING DATE: MAY 28, 2020

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

Reception: **415.558.6378**

Fax:

415.558.6409

Planning Information: 415.558.6377

Record No.: 2020-000200CUA Project Address: 1240 09th Avenue

Zoning: Inner Sunset Neighborhood Commercial District (NCD)

40-X Height and Bulk District

Block/Lot: 1742/029

Project Sponsor: Gwyneth Borden

1198 South Van Ness, no. 40615

San Francisco, CA 94110

Property Owner: Boris Nemchenok

San Francisco, CA 94122

Staff Contact: Katherine Wilborn

Katherine.Wilborn@sfgov.org

Recommendation: Approval with Conditions

PROJECT DESCRIPTION

The Project is a request for Conditional Use Authorization pursuant to Planning Code Sections 303 and 730 to legalize an existing 1240 sq. ft. deck as an Outdoor Activity Area, located within the rear yard at the second story of a two-story commercial building within in the Inner Sunset Neighborhood Commercial District (NCD) and 40-X Height and Bulk District, with operable hours until 11:00pm.

REQUIRED COMMISSION ACTION

In order for the Project to proceed, the Commission must grant a Conditional Use Authorization, pursuant to Planning Code Sections 730 and 303 to allow an Outdoor Activity Area at the second story within the Inner Sunset Neighborhood Commercial District (NCD) Zoning District.

ISSUES AND OTHER CONSIDERATIONS

- Public Comment & Outreach.
 - The Project seeks to legalize an existing unpermitted rear patio constructed by the former Full-Service Restaurant, Park Chow, who vacated the premises in January of 2018.
 - Support/Opposition: The Department has received one (1) letter in support of the Project and no (0) letters in opposition to the Project.

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ENVIRONMENTAL REVIEW

The Project is not a "project" under CEQA Guidelines Sections 15060(c) and 15378 because there is no direct or indirect physical change in the environment

BASIS FOR RECOMMENDATION

The Department finds that the Project is, on balance, consistent with the Inner Sunset Nieghborhood Commercial District, and the Objectives and Policies of the General Plan. The Project will support an existing, local business to expand their Restaurant's customer seating and service with an Outdoor Activity Area on a rear, second-story patio. The Department also finds the project to be necessary, desirable, and compatible with the surrounding neighborhood, and not to be detrimental to persons or adjacent properties in the vicinity.

ATTACHMENTS:

Draft Motion - Conditional Use Authorization with Conditions of Approval

Exhibit B – Plans and Renderings

Exhibit C – Environmental Determination

Exhibit D - Land Use Data

Exhibit E - Maps and Context Photos

Planning Commission Draft Motion

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Staff Contact: Katherine Wilborn – (415) 575-9114

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ADOPTING FININGS RELATED TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODES SECTION 303 AND 730 TO LEGALIZE AND ESTABLISH AN OUTDOOR ACTIVITY AREA AT THE REAR OF AN EXISTING FULL-SERVICE RESTAURANT (D.B.A "FIORELLA") AT THE SECOND STORY OF A TWO-STORY COMMERCIAL BUILDING WITHIN THE INNER SUNSET NEIGHBORHOOD COMMERCIAL DISTRICT (NCD) ZONING DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On January 7th, 2020, Gwyneth J. Borden of Ground Floor Experiences, LLC (hereinafter "Project Sponsor") filed Application No. 2020-000200CUA (hereinafter "Application") with the Planning Department (hereinafter "Department") for a Conditional Use Authorization to legalize an existing second-story rear patio as an Outdoor Activity Area (hereinafter "Project") at 1240 09th Avenue, Block 1742, Lot 029 hereinafter "Project Site").

The Project is not a "project" under CEQA Guidelines Sections 15060(c) and 15378 because there is no direct or indirect physical change in the environment.

On May 28, 2020, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Authorization, Application No. 2020-000200CUA.

The Planning Department Commission Secretary is the custodian of records; the File for Record No. 2014-000601ENX is located at 1650 Mission Street, Suite 400, San Francisco, California.

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

MOVED, that the Commission hereby authorizes the Conditional Use Authorization as requested in Application No. 2020-000200CUA, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

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

- 1. The above recitals are accurate and constitute findings of this Commission.
- 2. **Project Description.** The Project seeks to legalize an existing 1240 sq. ft. second-story, rear patio as an Outdoor Activity Area (for seating and service) to be used by the existing Full-Service Restaurant (d.b.a. "Fiorella").
- 3. **Site Description and Present Use.** The Project is located on an approximately 3,000 sq. ft. lot within the midblock of 9th Avenue between Lincoln Way and Irving. The Project Site contains a single structure with full lot coverage. "Fiorella", a local, Full-Service Restaurant use, occupies the entire commercial building. The former Full-Service Restaurant, Park Chow, who constructed the unpermitted rear patio, vacated the premises in January of 2018.
- 4. Surrounding Properties and Neighborhood. The Project Site is located within the Inner Sunset Neighborhood Commercial District and the immediate context is mixed in character with residential, commercial, and automotive uses. The neighborhood includes two-to-three-story development, with a predominant pattern of residential-over-commercial throughout the district.
- 5. **Public Outreach and Comments.** The Department has not received any correspondence regarding the proposed 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 730 states that a Conditional Use Authorization is required for an Outdoor Activity Area, as defined by Planning Code Section 102.

The Project Sponsor seeks to legalize an existing Outdoor Activity Area at the Full-Service Restaurant (d.b.a. Fiorella), per Planning Code 730, that was previously enjoyed by the former tenant, Park Chow. The Outdoor Activity included with this proposal is outdoor seating in an open-air deck at the second story within the rear yard area. Evening hours in the outside area would be restricted to 10:00pm Sunday through Thursday and 11:00pm on Friday and Saturday, to mitigate neighbors' concerns about potential noise.

B. **Hours of Operation.** Planning Code Section 730 permits hours of operation from 11p.m. to 2 a.m.

The project's hours of operation are within the principally permitted hours of operation and shall be as follows: Monday through Thursday 11:00am – 10:00pm; Friday 11:00am – 11:00pm; Saturday 10:00am – 11:00pm; and Sunday 10:00am – 10:00pm. The Outdoor Activity Area shall have the same operational hours as the Full-Service Restaurant, since this space acts as a main dining space for Fiorella.

C. 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 in 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.

The subject commercial space has approximately 25-feet of frontage on 9th Avenue with approximately 20 feet devoted to either the restaurant entrance or window space. The windows are clear and unobstructed. There are no changes proposed to the commercial frontage.

- 7. **Conditional Use Findings.** Planning Code Section 303 establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use authorization. On balance, the project complies 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 is no proposed changes to the existing restaurant. The legalization of the existing Outdoor Activity Area will not impact traffic or parking in the District because it is not an intensification of what is existing. This will complement the mix of goods and services currently available in the district and contribute to the economic vitality of the neighborhood by removing a vacant storefront.

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:

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- (1) Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;
 - The height and bulk of the existing building will remain the same and will not alter the existing appearance or character of the project vicinity. The proposed work will not affect the building envelope, yet the inclusion of outside seating will alter the use of the property.
- (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 1,952 square-foot full-service restaurant. The proposed use is designed to meet the needs of the immediate neighborhood and should not generate significant amounts of vehicular trips from the immediate neighborhood or citywide.
- (3) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;
 - The proposed use is subject to the standard conditions of approval for full-service restaurants and outlined in Exhibit A.
- (4) Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;
 - The proposed legalization of the Outdoor Activity Area does not require any additional tenant improvements at this time.
- C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.
 - The Project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below.
- D. That the use as proposed would provide development that is in conformity with the purpose of the applicable Neighborhood Commercial District.
 - The proposed project is consistent with the stated purposed of the Inner Sunset Neighborhood Commercial District in that the Outdoor Activity Area ensures the viability of an existing local business, will provide a compatible convenience service for the immediately surrounding neighborhoods, and legalizes an amenity that was utilized by the previous restaurant tenant for years.
- 8. **Non-Residential Use Size in NC District Findings.** In addition to the criteria of Section 303(c) of this Code, the Commission shall consider the extent to which the following criteria are met:
 - A. The intensity of activity in the district is not such that allowing the larger use will be likely to foreclose the location of other needed neighborhood-serving uses in the area.

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PLANNING DEPARTMENT

The Project seeks to legalize an existing amenity that was enjoyed by the immediate community when the previous tenant, Park Chow, occupied the structure from 1998 until 2018.

B. The proposed use will serve the neighborhood, in whole or in significant part, and the nature of the use requires a larger size in order to function.

The legalization of the Outdoor Activity Area will increase the use but does not propose any expansion of the existing structure's square footage or envelope.

C. The building in which the use is to be located is designed in discrete elements which respect the scale of development in the district.

The Project does not propose any change to the existing structure and therefore, will not have any additional impact to the neighborhood's context and building scale.

- 9. **Planning Code Section 145.2** establishes additional findings for the Commission to consider when reviewing applications for an Outdoor Activity Area. On balance, the project complies with these criteria in that:
 - A. The nature of the activity operated in the outdoor activity area is compatible with surrounding uses;

The Outdoor Activity Area proposed is accessory to the principal restaurant use, being located on the same lot on the roof of the subject property. Food and beverage service activities are integral to the definition of Outdoor Activity Area and do not constitute a principal use because the principal use at the ground floor is in fact a restaurant. The Outdoor Activity Area as proposed is incidental and subordinate to the principal uses of restaurant and bar.

Fiorella Sunset is a necessary and desirable use as it will reactivate a former restaurant space that has been dark since January 2018, again offering an affordable comfort food restaurant in the Inner Sunset, featuring many of the same menu items adored by Park Chow fans including pizzas and pastas. Park Chow was renowned for its upstairs outdoor dining deck and often was featured on lists of best places for outdoor dining. Fiorella Sunset seeks to legalize the upstairs Outdoor Activity (dining use) to return this amenity known to the neighborhood for more than 20 years.

B. The operation and design of the outdoor activity area does not significantly disturb the privacy or affect the livability of adjoining or surrounding residences; Fiorella Sunset is located within the Inner Sunset Neighborhood Commercial District (NCD), where Restaurant and Outdoor Activity uses are permitted — either principally or conditionally. Fiorella Sunset will occupy the same footprint of the previous restaurant operating in this location, creating no material change to the size or intensity of activity at the site. Additionally, the new restaurant use will comply with updated health, environmental, and building codes, so the new restaurant use will be an improvement in the health, safety, convenience and general welfare of those nearby.

The height and bulk of the existing building will remain the same and will not alter the existing appearance or character of the project vicinity. The proposed work will not affect the building envelope, yet the inclusion of outside seating will alter the use of the property. Since 1998, the principal use of the space has been as a restaurant. The use of the roof deck although not legally authorized at the time will have no additional impact to traffic, parking and loading patterns by granting the legalization of the accessory Outdoor Activity Area on the roof.

The majority of the block consists of mixed and commercial ground floor uses, being compatible with surrounding uses.

C. The hours of operation of the activity operated in the outdoor activity area are limited so that the activity does not disrupt the viability of surrounding uses.

The hours of operation fall within the principally permitted of the district, with the Outdoor Activity Area open no later than 11:00pm on any given day (whereas 2:00am is principally permitted on nay day within the district). Additionally, the privacy of the adjacent residences is not impacted by the Outdoor Activity as there are existing walls and an awning that makes the space appear enclosed. These treatments will not be removed; the awning with be finished with a new fabric.

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

OBJECTIVE 11:

SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

Policy 11.1

Promote the construction and rehabilitation of well-designed housing that emphasizes beauty, flexibility, and innovative design, and respects existing neighborhood character.

Policy 11.2

Ensure implementation of accepted design standards in project approvals.

Policy 11.3

Ensure growth is accommodated without substantially and adversely impacting existing residential neighborhood character.

Policy 11.4:

Continue to utilize zoning districts which conform to a generalized residential land use and density plan and the General Plan.

Policy 11.6

Foster a sense of community through architectural design, using features that promote community interaction.

Policy 11.8

Consider a neighborhood's character when integrating new uses, and minimize disruption caused by expansion of institutions into residential areas.

OBJECTIVE 12:

BALANCE HOUSING GROWTH WITH ADEQUATE INFRASTRUCTURE THAT SERVES THE CITY'S GROWING POPULATION.

Policy 12.2

Consider the proximity of quality of life elements such as open space, childcare, and neighborhood services, when developing new housing units.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 1:

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

Policy 1.3

Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

Policy 1.7

Recognize the natural boundaries of districts and promote connections between districts.

NEIGHBORHOOD COMMERCE

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.2:

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

Policy 1.3:

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

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

Policy 1.2:

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

Policy 1.3:

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

OBJECTIVE 2:

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL

Policy 2.1:

Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

OBJECTIVE 6:

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

Policy 6.1:

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

EATING AND DRINKING ESTABLISHMENTS

Eating and drinking establishments include bars, sit-down restaurants, fast food restaurants, self-service restaurants, and take-out food. Associated uses, which can serve similar functions and create similar land use impacts, include ice cream stores, bakeries and cookie stores. Guidelines for eating and drinking establishments are needed to achieve the following purposes:

- Regulate the distribution and proliferation of eating and drinking establishments, especially in districts experiencing increased commercial activity;
- Control nuisances associated with their proliferation;
- Preserve storefronts for other types of local-serving businesses; and
- Maintain a balanced mix of commercial goods and services.
- The regulation of eating and drinking establishments should consider the following:
- Balance of retail sales and services;
- Current inventory and composition of eating and drinking establishments;
- Total occupied commercial linear frontage, relative to the total district frontage;
- Uses on surrounding properties;
- Available parking facilities, both existing and proposed;
- Existing traffic and parking congestion; and
- Potential impacts on the surrounding community.

The proposed Outdoor Activity Area seeks to legalize an existing, open-air deck at the second story of a permitted Full-Service Restaurant, located at the rear of the three-story commercial building. The project does not diminish, reduce, or otherwise impact the residential development on the project site or within the immediate area. The property does not contain any residential units and the project does not propose any. The proposed project will support the existing Restaurant use and is consistent with the intentions of the

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Inner Sunset Neighborhood Commercial District. The project would not impact existing storefronts, nor impact the mix of commercial goods and services. The Project is also in proximity to ample public transportation, and the legalization of the existing Outdoor Activity Area will not impact existing traffic patterns, nor is the to the project anticipated to generate significant traffic to the area. The effect on the surrounding community would be minimal due to the location the patio relative to the surrounding uses and the limited hours of operation (never exceeding 11:00pm). On balance, the Project is consistent with the Objectives and Policies of the General Plan.

- 11. **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 complies with said policies in that:
 - A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.
 - The project site contains one neighborhood-serving retail use which will be enhanced by the legalization of the Outdoor Activity Area and may provide expanded patronage to the business, Fiorella.
 - 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 site does possess any existing housing. The proposal will provide an outdoor space for the restaurant patrons within the Inner Sunset neighborhood. For this reason, the Project would protect and preserve the cultural and economic diversity of the neighborhood and will not adversely affect the area's housing stock.
 - C. That the City's supply of affordable housing be preserved and enhanced,
 - The Project does not currently possess any existing affordable housing.
 - D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.
 - The Project Site is served by nearby public transportation options. The Project is located along a Muni line (N-Judah), and is within walking distance several other Muni bus lines in the area.
 - 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 does not currently contain office space nor does it proposed to include commercial office development.
 - F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

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The Project will be designed and will be constructed to conform to the structural and seismic safety requirements of the Building Code. This proposal will not impact the property's ability to withstand an earthquake.

G. That landmarks and historic buildings be preserved.

Currently, the Project Site does not contain any City Landmarks or historic buildings.

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

The Project does not propose any development, nor does the Project Site abut to any parks or public open spaces. As such, the project would not impact the sunlight and/or vistas of these areas.

- 12. 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.
- 13. 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 Authorization Application No. 2020-000200CUA** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated January 3, 2020, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

The project is not a project under CEQA Guidelines Sections 15060(c) and 15378 because there is no direct or indirect physical change in the environment.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion. The effective date of this Motion shall be the date of this Motion if not appealed (after the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. 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.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Section 329/309 Large/Downtown Project Authorization to the Board of Appeals within fifteen (15) days after the date of this Motion. The effective date of this Motion shall be the date of adoption of this Motion if not appealed (after the 15-day period has expired) OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals at (415) 575-6880, 1660 Mission, Room 3036, San Francisco, CA 94103.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Section 329/309 Large/Downtown Project Authorization to the Board of Appeals within fifteen (15) days after the date of this Motion. The effective date of this Motion shall be the date of adoption of this Motion if not appealed (after the 15-day period has expired) OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. Any appeal shall be made to the Board of Appeals, unless an associated entitlement is appealed to the Board of Supervisors, in which case the appeal of this Motion shall also be made to the Board of Supervisors (see Charter Section 4.135). For further information, please contact the Board of Appeals at (415) 575-6880, 1660 Mission, Room 3036, San Francisco, CA 94103, or 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

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PLANNING DEPARTMENT

11

Draft Motion May 28, 2020

RECORD NO. 2020-000200CUA 1240 09th AVENUE

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 May 28, 2020.

Jonas P. Ionin Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: May 28, 2020

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow an Outdoor Activity Area located at the rear of an existing Restaurant (d.b.a. **Fiorella**) at 1240 09th Avenue, Block 1742 and Lot 029, pursuant to Planning Code Section(s) **730** and **303** within the **Inner Sunset Neighborhood Commercial District (NCD) Zoning District** and a **40-X** Height and Bulk District; in general conformance with plans, dated **January 3, 2020**, and stamped "EXHIBIT B" included in the docket for Record No. **2020-00200CUA** and subject to conditions of approval reviewed and approved by the Commission on **May 28, 2020** under Motion No **XXXXXXX**. 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 May 28, 2020 under Motion No XXXXXX.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

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

SEVERABILITY

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

CHANGES AND MODIFICATIONS

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

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

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

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

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

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

- 3. **Diligent Pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved. For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
- 4. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.
 - For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
- 5. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.
 - For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

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

OPERATION

8. **Hours of Operation.** The subject Outdoor Activity Area is limited to the following hours of operation: Sunday through Thursday from 10:00a.m. to 10:00p.m. and Friday through Saturday 10:00a.m. to 11:00pm.

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

General Note

(See Also Structural General Notes)

- 1. All work shall be built in accordance with all applicable building codes, safety ordinances and accessibility requirements in effect at the place of construction.
- 2. Contractor shall verify all existing conditions and dimensions and notify Architect of any discrepancies.
- 3. Contractor acknowledges that he has thoroughly familiarized himself with the building site conditions, grades, etc. with the drawings and specifications, with the delivery facilities and all other matters and conditions which may affect the operation and completion of the work and assumes all risks there from.
- **4.** Contractor to provide temporary bracing and support as required to maintain the integrity and safety of the existing structure.
- 5. By accepting and using these drawings the Contractor agrees that he shall assume the sole and complete responsibility for job site safety conditions during the course of construction of the Project including safety of all persons and property; that this requirement shall apply continuously and not be limited to normal working hours; and that the Contractor shall defend, indemnify and hold the Owner and Architect harmless from any and all liability, real or alleged, in connection with the performance of the Work on the Project, excepting for liability arising from the sole negligence of the Owner or
- 6. Contractor shall provide temporary protection from weather, including rain, to existing and new construction.
- 7. Contractor to provide general sweeping and periodic disposal service for the legal removal of waste and rubbish from the site. Provide a dust barrier between the existing building and new construction to minimize the amount of dust spread to the existing building during construction.
- **8.** All existing walls, floors and deckings at removed, new or modified construction shall be patched as required to make surfaces whole, sound and to match existing construction except as otherwise noted.
- **9.**Install insulation at all new construction and at existing construction made accessible during the normal course of work; Ceiling: R-19,
- Walls: R-13, Roof: R-30. Provide acoustic batt insulation in all walls & at all ceilings.
- **10.** Install all materials per manufacturers' written specifications. 11. It is the responsibility of the Contractor to determine potential areas of asbestos materials that may be encountered during the course of construction and to provide for the lawful containment and / or removal of such asbestos. The Contractor shall notify in

writing both the Owner and Architect of any such asbestos found during the course of the

- **12.** The Installation Of All Specified Materials Including The Preparation Of Surfaces, Shall Conform To The Material Manufacturer's Specifications And Recommendations. All Work Shall Be Performed By Mechanics Skilled In The Application Materials
- **13.** Contractor Shall Provide Adequate Shoring And Bracing Where Required.
- 14 Methods Of Demolition Shall Be Devised By The Contractor But Within The Requirements Of All Applicable Codes And Local Ordinances.
- **15.** Details Shown Are Based On Data Taken From Existing Field Observations And May Not Agree With Existing Construction. Where A Difference Occurs Work Shall Be Stopped On That Area Immediately And Architect Shall Be Notified.
- **16.** These Drawings And Specifications Represent The Finished Structure. They Do Not Indicate The Method Of Construction. The Contractor Shall Provide All Measures Necessary To Protect Existing Or New Structures During Construction. Such Measures Shall Include, But Not Be Limited To Bracing, Shoring For Loads Due To Construction Equipment, Etc. Observation Visits To The Site By The Architect Shall Not Include Inspection Of The Above Items.
- 17. Contractor Shall Verify With The Owner Locations Of Existing Underground Cables, Conduits, Utility Pipes, Etc. And Shall Not Damage Same During Excavations. Concrete And Asphalt To Be Removed Shall Be Saw Cut To Provide A Clean Straight
- 18. The Design, Adequacy, And Safety Of Erecting, Bracing, Shoring, Temporary Supports, Etc., Is The Sole Responsibility Of The Contractor And Has Not Been Considered By The Architect.
- 19. The Contractor Shall Provide Safe And Adequate Braces And Connections To Support The Component Parts Of The Structure, Until The Structure Itself (Including The Roof And Floor Diaphragms) Is Complete Enough To Adequately Support Itself.
- **20.** All Concrete Or Masonry Retaining Walls Separating Exterior And Interior Spaces Shall Be Equipped With Vapor Barriers And Perforated Drains Surrounded By Gravel.

21. Do Not Scale Drawings.

Lighting Mandatory Measures

the Lighting. his automatic control shall meet the requirements of Section 15 and may be an occupancy sensor, Automatic Time Switch, or other device capable of automatically shuttting off the lighting

1. For every floor all Interior Lighting systems shall be equipped with a separate automatic control to s

2. Overide for Building shuttoff. The Automatic Building Shutt-off is provided with a Manual Accessible Overide sitch in site of the lights. The area of Overide is not to exceed 5000 sf.

3. Automatic Control Devices cerified. All Automatic Control Devices specified are certified. All alternate equipment shall be certified and installed as directed by the manfacturer.

4. Flourescent Ballasts and Luminares certified. All Fourescent fixtures specified for the project are certifi and listed in the directory. All installed fixtures shall be certified.

wired with 2 lamp ballasts where required by Standard Section 132 or all 3 lamp Flourescent Fixtures are specified with Electronic high frequency Ballasts and are exempt from tandem wiring requirements. 6. Individual Room/Area Controls. Each room and area in this building is equipped with a separate switch

5. Tandem Wiring for 1 and 3 lamp Flourescent fixtures, all 1 and 3 lamp Flourescent fixtures are tandem

7. Uniform reduction for individual rooms. All rooms and areas greater than 100 sq.ft. and more than 0.8 watts per square foot of Lighting shall be controlled with b-level switching for uniform reduction of lighting within the room.

8. Daylight Area Controll. All rooms with wndows and skylights that are greater than 250 sf and allow for the effective use of daylight in the area shall have 50% of the lamps in each daylit area controlled by a separate switch or the effective use of day light cannot be accomplished because the windows are continually shaded by a building on the adjacent lot. Diagram of shading during different times of the year is included on plans.

Architect's Statement

Title 24 Compliance and Non-Infringement Statements.

codes, laws and ordinances having jurisdiction on the project.

occupancy sensor device for each area with floor to ceiling walls.

- The proposed construction is in compliance with Applicable Federal, State and Local Codes.
 The proposed construction is in compliance with Handicapped Access Requirements of Title 24
- California Code of Regulation.
- 3. The proposed construction is in compliance with Energy Conservation Standards perTitle 24
- California Code of Regulation. 4. The proposed construction shown on this document does not infringe on the Life Safety for this Buildings Applicable Building Codes and Ordinances. Perform all work in accordance with Building

4.19.19 - SF Planning Letter of Determination



Letter of Determination

1650 Mission St. Suite 400 San Francisco, CA 94103-2479 415.558.6378 415.558.6409

415.558.6377

San Francisco, CA 94127 Record Number: Site Address: Assessor's Block/Lot: 1742/029

Plinth Architecture Urban Design Interiors

2019-000775ZAD 1240 - 9th Avenue

Inner Sunset Neighborhood Commercial District (NCD) Sharon M. Young, (415) 558-6346 or sharon.m.young@sfgov.org

Dear Ms. Cox:

Zoning District:

Staff Contact:

April 19, 2019

Sharon Cox, A.I.A.

58 West Portal Avenue #328

This letter is in response to your request for a Letter of Determination regarding the property at 1240 9th Avenue. Your Letter of Determination request was to determine the following:

1. Whether a new Restaurant with Type 41 ABC Liquor License would be permitted in the subject tenant space on both first and second floors without a Conditional Use Authorization based on the continuation of an existing use (previously dba Park Chow). You indicate that the previous restaurant had an ABC Liquor License since 1981.

DETERMINATION

The subject property is in the Inner Sunset NCD, which conditionally permits a Restaurant use on the ground floor, but does not permit such use on the second floor and above. However, the existing Restaurant use was legally established prior to the adoption of the Neighborhood Commercial zoning. As such, the existing Restaurant use is considered a conditional use on the first floor and a legal nonconforming use on the second floor. It may continue to operate on both floors, subject to the abandonment provisions of Planning Code Section 178(c) and 183. However, please see below regarding the outdoor deck area on the second floor.

2. The gross square footage of the existing Park Chow Restaurant has a total gross square footage in excess of 2,499 square feet. Please confirm if the new restaurant operator would be able to lease and operate in the entire space previously occupied by Park Chow without a Conditional Use Authorization based on a continuing use of a Non-Residential Use greater than 2,499 square feet.

The subject property is in the Inner Sunset NCD, which requires a Conditional Use Authorization for commercial use sizes greater than 2,499 square feet. However, the existing non-residential use size was legally established prior to the adoption of this use size limit. Your request letter does not specify the

www.sfplanning.org

Sharon Cox, A.I.A. Plinth Architecture Urban Design Interiors 58 West Portal Ave #328 San Francisco, CA 941

April 19, 2019 Letter of Determination 1240 9th Avenue

exact size of the current restaurant use. If it is greater than 2,499 square feet, then it is a legal nonconforming use size that would not require a Conditional Use Authorization in order to establish a new restaurant tenant or a new use.

3. Park Chow operated dining on a second floor partially covered deck where they were served food and alcohol. Please confirm that a new restaurant operator would be able to maintain a dining use of this deck to serve food and alcohol without a Conditional Use Authorization.

DETERMINATION

Building Permit No. 9810388 was approved by the Planning Department on November 24, 1998 and issued by the Department of Building Inspection (DBI) on December 3, 1998. This permit proposed interior renovations for a new restaurant tenant. The plans for this permit also proposed to add restaurant seating area on the open-air second floor deck (aka "Outdoor Activity Area). However, the Planning Department included a note on the plans stating "Rear outdoor seating area requires Conditional Use Authorization (NC-2 District). Work not authorized under this permit." Similar notes were added to the actual permit and on the Permit Tracking System used by DBI and Planning. A copy of this permit and plans may be obtained from DBI with consent from the property owner.

No subsequent Conditional Use Authorization was ever obtained for an Outdoor Activity Area, as defined in Planning Code Section 102. This requirement has not changed for the subject property, and any Outdoor Activity Area not located in front of the use (along the sidewalk) requires a Conditional Use Authorization. As such, a Conditional Use Authorization is required pursuant to Planning Code Sections 303 and 730 for a new restaurant tenant to use the second floor open-air deck for the purpose of

Please note that a Letter of Determination is a determination regarding the classification of uses and interpretation and applicability of the provisions of the Planning Code. This Letter of Determination is not a permit to commence any work or change occupancy. Permits from appropriate Departments must be secured before work is started or occupancy is changed.

APPEAL: If you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals within 15 days of the date of this letter. For information regarding the appeals process, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

Zoning Administrator

cc: Property Owner Neighborhood Groups Sharon M. Young, Planne

Index of Drawings

ARCHITECTURAL DRAWINGS

- TITLE SHEET General Project Information/Plot Plan, Drawing Index, Project Team, .
- **SITE PLAN EXISTING PHOTOS**
- A1.1 EXISTING/DEMO @ GROUND FLOOR
- A1.2 PROPOSED GROUND FLOOR
- A2.1 EXISTING/DEMO @ 2ND FLOOR
- A2.2 PROPOSED 2ND FLOOR
- A3.1 EXISTING/DEMO ROOF PLAN

A3.2 PROPOSED ROOF PLAN

A4.1 EXISTING BUILDING SECTION AND WEST ELEVATION

Project Directory:

Architect:

hemmingerarchitects Architecture and Planning Attn: Charles Hemminger Arch. lic. C-24965 2601 Mission Street - Suite 215 San Francisco, CA 94110 Tel: 415. 378.7046

email: charles@hemmingerarchitects.com

Applicant:

Fiorella Restaurant Attn: Boris Nemchenok

email:boris@fiorella-sf.com ph: 415.370.1366

Land Use Consultant:

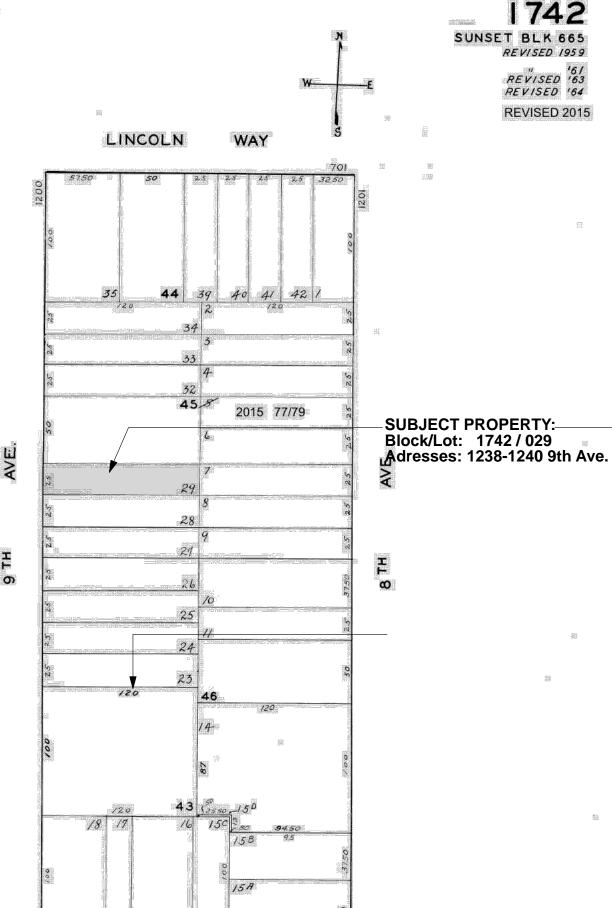
Gwyneth J. Borden Ground Floor Experiences, LLC. 1198 South Van Ness Avenue No. 40615 San Francisco, California 94110 email: gwyneth@groundfloorexperiences.com https://www.groundfloorexperiences.com/ 415.948.7032

Kitchen Designer/Food Service Consultant:

David Orozco - Design West Partnership 2394 Mariner Square Drive Alameda, CA 94501 888.261.4664 office 510.331.0553 cell daorodesignwp@aol.com

Mechanical/T-24 Engineer:

General Contractor:



IRVING

Assessor's Map

Fiorella Sunset

1240 9TH AVE

Project Description:

Per 4.19.10 Letter of Determination Item #3- (See L.O.D. - Title Sht. A0). Applicant is seeking a Conditional Use Approval for the Existing 2nd Floor Open Air Deck Deck (aprox. 1240 sf) to be used as public seating for the Existing Full Service Restaurant. This Outdoor Deck Area is considered an 'Outdoor Activity Use' by SF Planning Codes.

Property Description:

Block/Lot: 1742 / 029 Additional Adresses: 1238 9th Ave. **Construction Type: Existing:Type 5-B Zoning: NCD-Inner Sunset Neighborhood Commercial** Occupancy: A-2 Restaurant Site Area: 3000 s.f. Lot Size: 25' x 120' **Building Area: Ground Floor = aprox. 3000 sf (Gross Floor Area)** 2nd Floor = aprox. 1688 sf - *Interior* Gross Floor Area

aprox. 1240 sf - Exterior Area/Roof Patio (Area of CU Application - Outdoor Activity Area) Preservation: B Unkown- Age Eligible

Year Built: 1907 **Existing Building is FULLY SPRINKLERED.**

Separate Permits:

Separate **Plumbing** Permits Shall be Obtained as required. Separate **Electrical** Permits Shall be Obtained as required. Separate Life Safety Permits Shall be Obtained as required. Separate **Sprinkler** Permits Shall be Obtained as required for

Applicable Codes:

2016 California Codes

- 2016 California Building Code
- 2016 California Electrical Code 2016 California Mechanical Code
- 2016 California Plumbing Code
- 2016 Green Building Code
 - 2016 California Energy Code -Effective July 1, 2014. See 2010 California Energy Code.

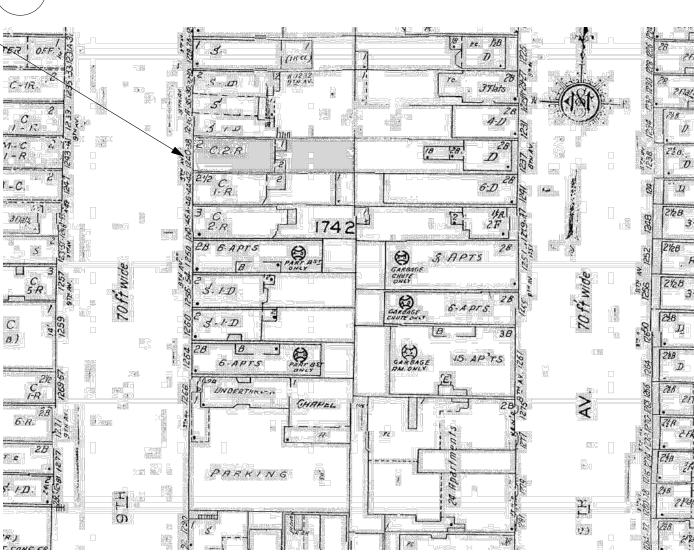
2016 San Francisco Code Amendments

- 2016 San Francisco Building Code Amendments
- 2016 San Francisco Electrical Code Amendments
- 2016 San Francisco Mechanical Code Amendments
- 2016 San Francisco Plumbing Code Amendments
- 2016 San Francisco Green Building Code Amendments
- 2016 San Francisco Housing Code

SUBJECT PROPERTY: Block/Lot: 1742 / 029 Adresses: 1238-1240 9th Ave.



Photo - 1238-1240 9th Avenue (West Elevation)



Sanborn Map

Site Plan - SEE SHT A1.0

Fiorella Sunset

1240 9TH AVE

San Francisco, CA.

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ISSUE

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CU SUBMITTAL SET DATE DRAWN BY CHECKED BY JOB NO. APPROVED FILE NAME

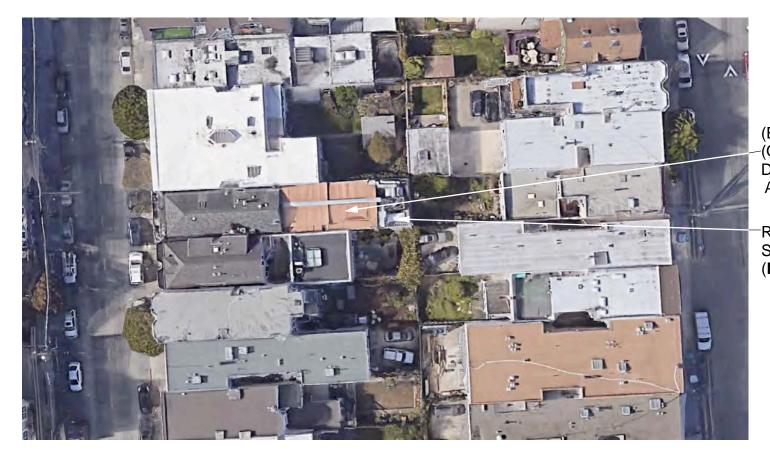
DESCRIPTION TITLE SHEET

Copyright 2019 Charles Hemminger Associates / hemmingerarchitects Architecture and Planning



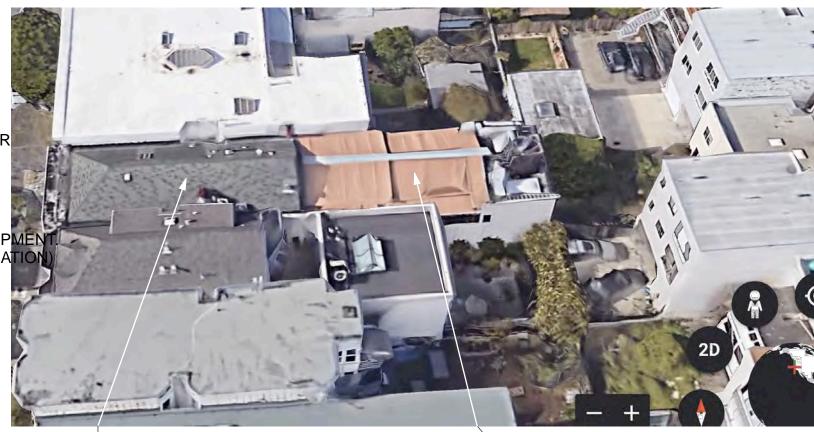
A0 PROPOSED

SHEET NO.



(E) CANVAS COVERING (ORANGE) OVER OPEN AIR DECK -AREA OF CU **APPLICATION**

REAR STRUCTURE/ROOF
SHOWING (E) MECH.EQUIPMEN
(NOT PART OF CU APPLICATION



SUBJECT PROPERTY: Block 1742 /Lot 029 Adresses: 1238-1240 9th Ave.

(E) CANVAS (ORANGE) COVERING OVER OPEN AIR DECK -AREA OF CU APPLICATION



(E) CANVAS (ORANGE) COVERING OVER OPEN AIR DECK -AREA OF CU APPLICATION

SUBJECT PROPERTY: Block 1742 /Lot 029 Adresses: 1238-1240 9th Ave.

Photos - Showing 2nd Floor Deck Area



Photo - Showing 2nd Floor Deck Area

REAR STRUCTURE/ROOF SHOWING (E) MECH.EQUIPMENT. (**NOT** PART OF CU APPLICATION)

(E) CANVAS COVERING (ORANGE) OVER OPEN AIR DECK -AREA OF CU APPLICATION

SUBJECT PROPERTY: Block 1742 /Lot 029 Adresses: 1238-1240 9th Ave.

BLDG.

A4.1 SECTION

SUBJECT PROPERTY: Block 1742 /Lot 029 Adresses: 1238-1240 9th Ave.



Photo - 1238-1240 9th Avenue (West Elevation)

PROP. LN. Block 1742 /Lot 32 Block 1742 /Lot 77/79 (2015) Block 1742 /Lot 45 2 STORY EXISTING EXTERIOR/PATIO AREA = APROX. 1240 SF (GROSS FLOOR)
AREA OF CU APPLICATION OUTDOOR ACTIVITY USE Block 1742 /Lot **06** (E) OUTDOOR DEC EXISTING INTERIOR AREA = APROX. 370 **SF** (GROSS FLOOR) BLDG. 3 SECTION A4.1 Block 1742 /Lot **07** EXISTING INTERIOR AREA = APROX. 88 **SF** (GROSS FLOOF EXISTING INTERIOR AREA =
APROX. **1230 SF** (GROSS FLOOR) **NOT** PART OF CU APPLICATION EXISTING INTERIOR AREA = APROX. 27 **SF** (GROSS FLOOF **NOT** PART OF CU APPLICATIO Block 1742 /Lot **08** 2 STORY Block 1742 /Lot **028** 2 STORY PROP. LN. Block 1742 /Lot **09** Block 1742 /Lot **027** Block 1742 /Lot **026**

EXISTING SITE PLAN (SHOWING 2ND FLR. @ SUBJECT PROPERTY)

SCALE: 1/8"=1'-0"

SITE PLAN @ 2ND FLOOR (SHOWS EXISTING OUTDOOR DECK AREA @ 1238-1240 9TH AVE.)

	SCALE: 1/8" = 1'-0"	DATE	NO.	ISSUE	DATE	NO.	ISSUE	DATE	
	DRAWN BY	CHECKED BY		CU SUBMITTAL SET	12.15.19				
)	JOB NO.	APPROVED							
	FILE NAME								
_									



hermingerarchitects

Existing Conditions Drafting 610 22nd St. Suite 303 San Francisco, CA 94110 ECDplans.com

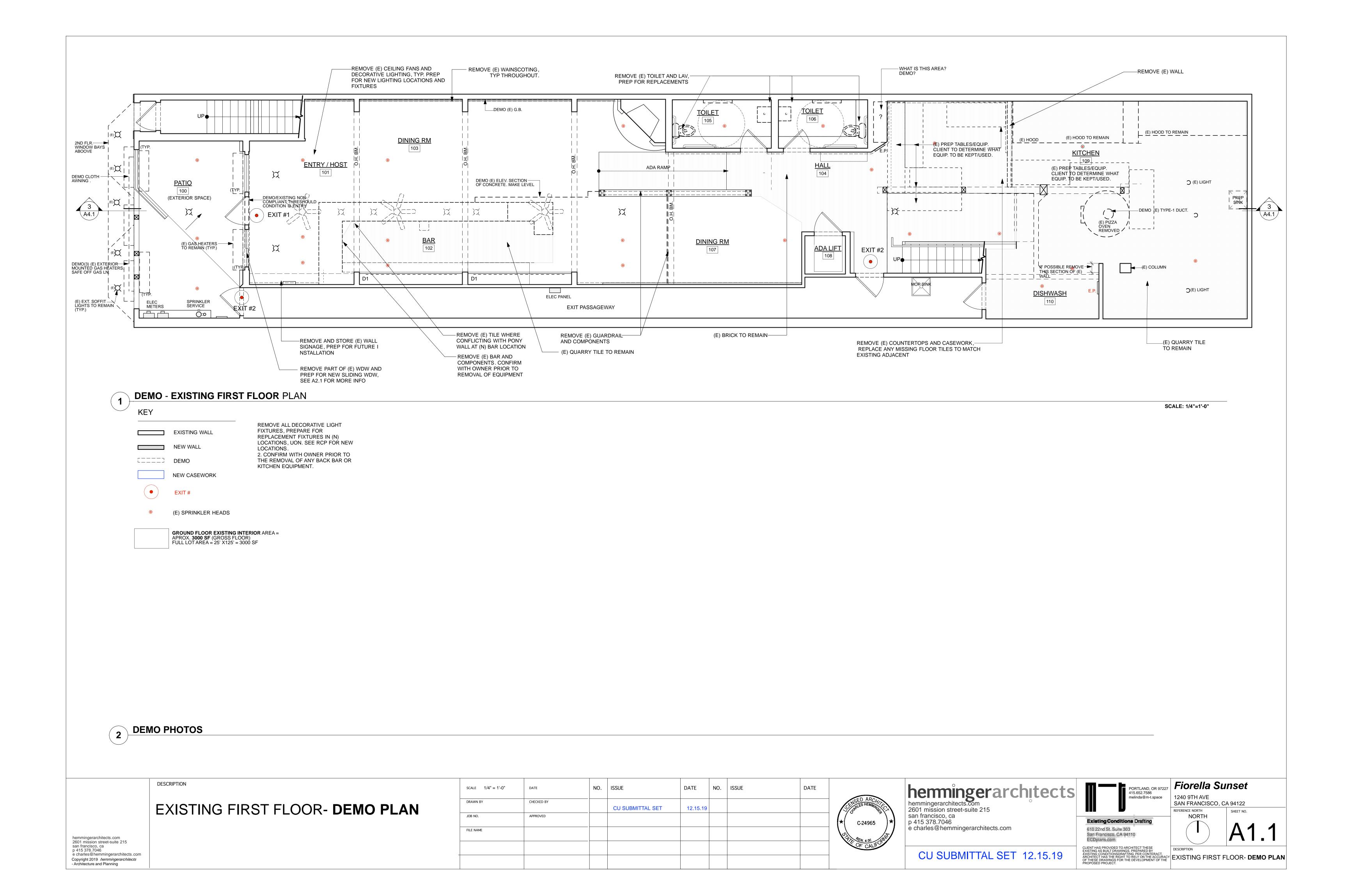
Fiorella Sunset 1240 9TH AVE SAN FRANCISCO, CA 94122 REFERENCE NORTH SHEET NO.

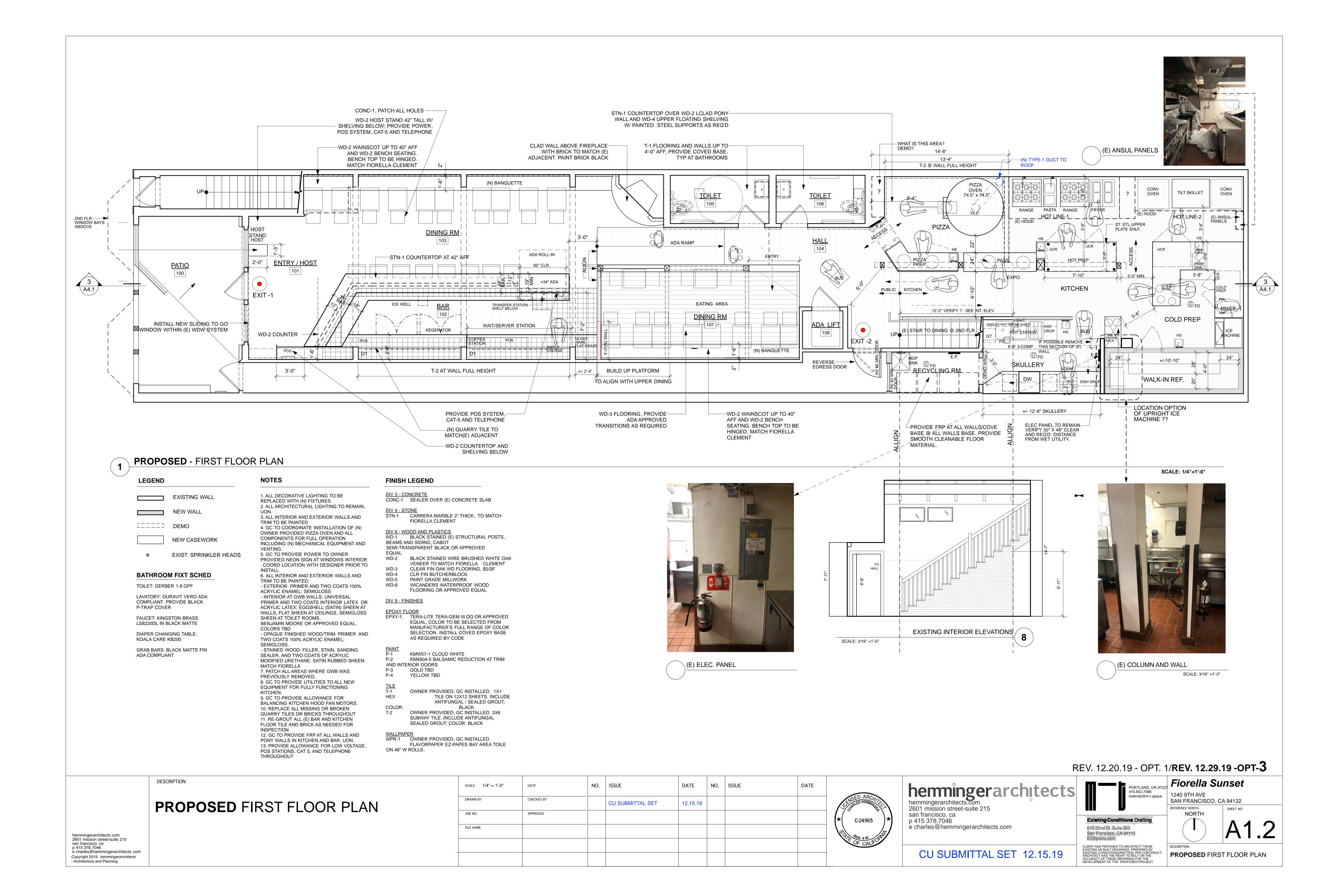
A1.0 SITE PLAN @ 2ND FLOOR (SHOWS EXISTING OUTDOOR DECK AREA @ 1238-1240 9TH AVE.)

CU SUBMITTAL SET 12.15.19

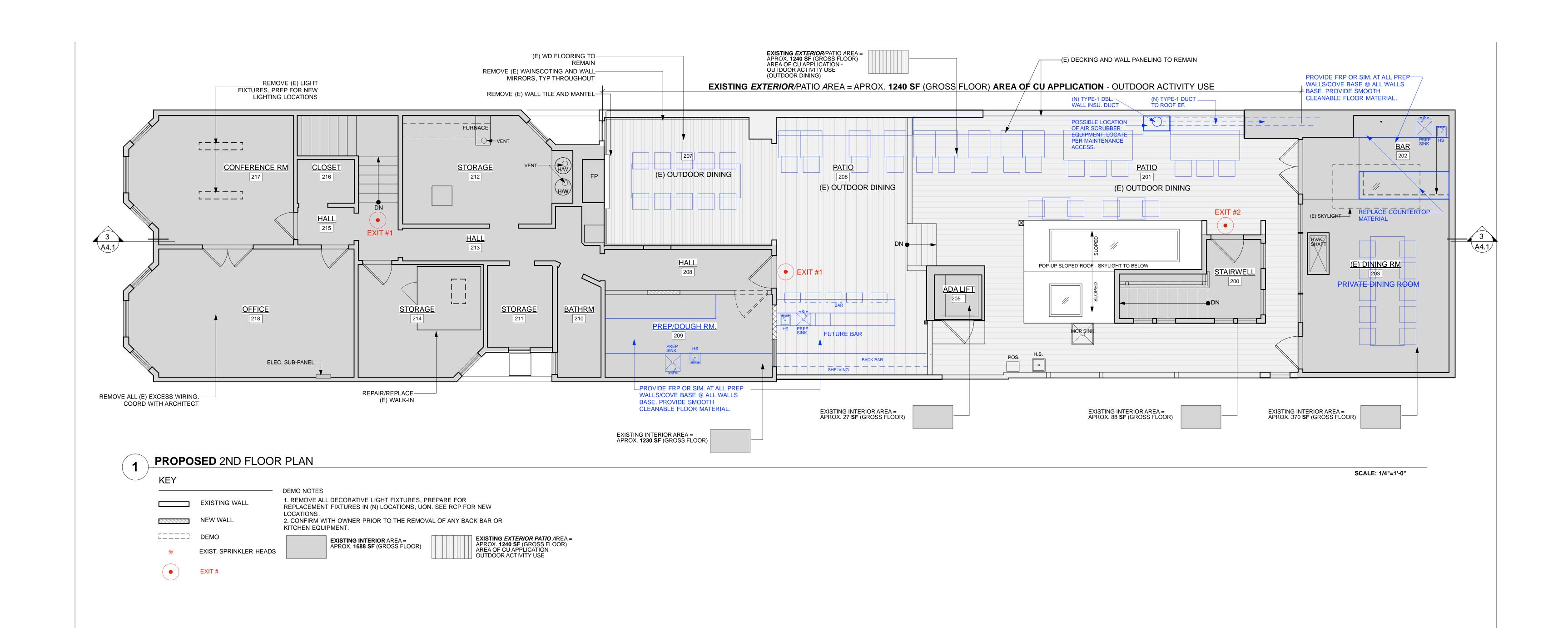
hemmingerarchitects.com 2601 mission street-suite 215 san francisco, ca p 415 378.7046 e charles@hemmingerarchitects.com Copyright 2019 hemmingerarchitects

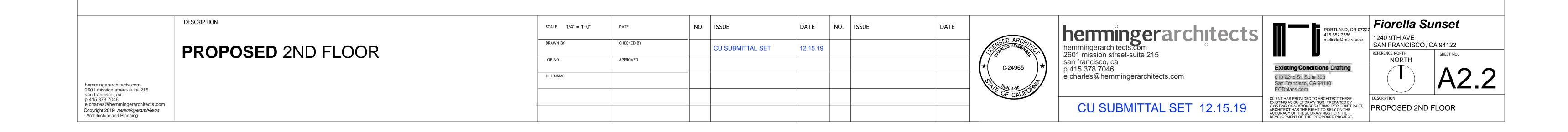
- Architecture and Planning

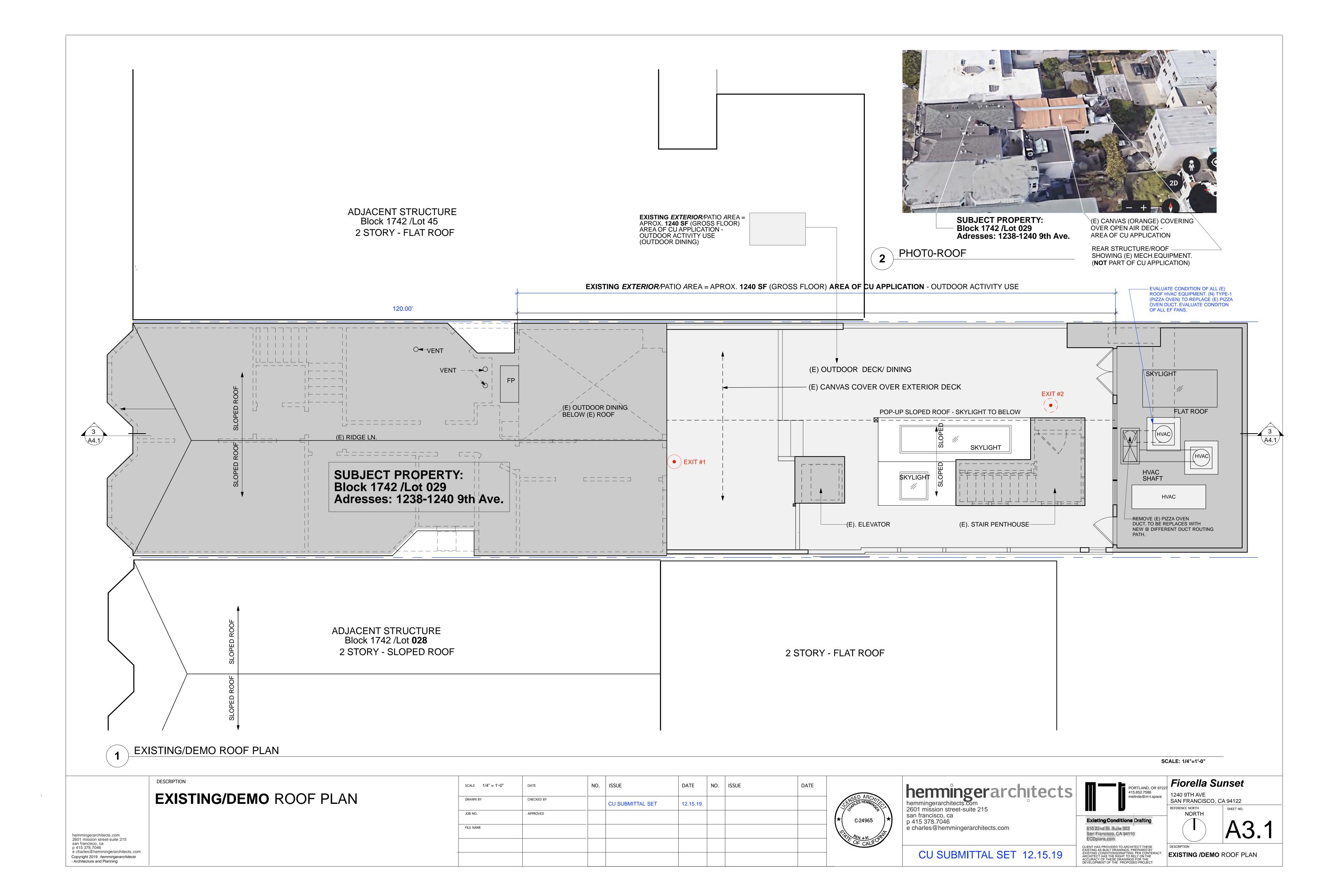


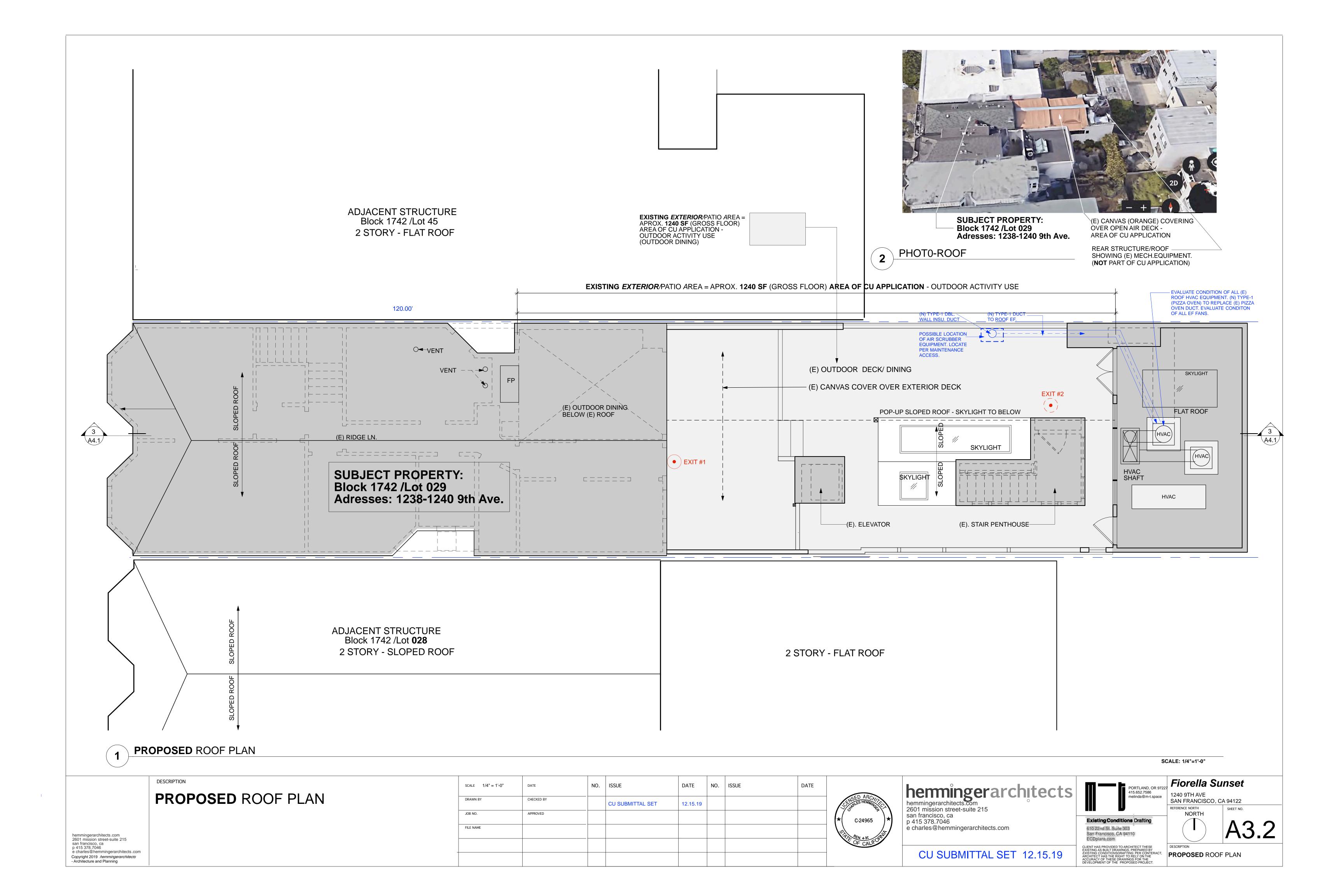












CEQA Categorical Exemption Determination

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address			Block/Lot(s)
1240	09TH AVE		1742029
Case	No.		Permit No.
2020-000200PRJ			
Ac	ldition/	Demolition (requires HRE for	New
Alt	teration	Category B Building)	Construction
Proje	ct description for	Planning Department approval.	
	Conditional Use Authorization to permit an Outdoor Activity as defined in Planning Code Section 102 and pursuant to Planning Code Section 303 and 730 for a restaurant use of the second floor open-air deck for the		
I -	se of restaurant se		e second floor open-all deck for the
Parpo	oo or rootaarant oc	odung.	
STE	P 1: EXEMPTIO	ON CLASS	
-	The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA).		
		g Facilities. Interior and exterior alterations; addit	ions under 10,000 sq. ft.
	Class 3 - New C	onstruction. Up to three new single-family resider	nces or six dwelling units in one
	building; comme	rcial/office structures; utility extensions; change of	
	permitted or with	a CU.	
		I Development. New Construction of seven or mo	re units or additions greater than
	· ·	d meets the conditions described below:	nation and all applicable general plan
		s consistent with the applicable general plan desig as with applicable zoning designation and regulatio	
		d development occurs within city limits on a project	
	substantially surrounded by urban uses.		
		ite has no value as habitat for endangered rare or	
	(d) Approval of the water quality.	he project would not result in any significant effect	s relating to traπic, noise, air quality, or
		be adequately served by all required utilities and p	public services.
	` '	MENTAL PLANNING USE ONLY	
	Class		

STEP 2: CEQA IMPACTS

TO BE COMPLETED BY PROJECT PLANNER

	Air Quality: Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities within an Air Pollution Exposure Zone? Does the project have the potential to emit substantial pollutant concentrations (e.g., backup diesel generators, heavy industry, diesel trucks, etc.)? (refer to EP_ArcMap > CEQA Catex Determination Layers > Air Pollution Exposure Zone)	
	Hazardous Materials: If the project site is located on the Maher map or is suspected of containing hazardous materials (based on a previous use such as gas station, auto repair, dry cleaners, or heavy manufacturing, or a site with underground storage tanks): Would the project involve 50 cubic yards or more of soil disturbance - or a change of use from industrial to residential? Note that a categorical exemption shall not be issued for a project located on the Cortese List if the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Maher program, a DPH waiver from the Maher program, or other documentation from Environmental Planning staff that hazardous material effects would be less than significant (refer to EP_ArcMap > Maher layer).	
	Transportation: Does the project involve a child care facility or school with 30 or more students, or a location 1,500 sq. ft. or greater? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities?	
	Archeological Resources: Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non-archeological sensitive area? If yes, archeo review is required (refer to EP_ArcMap > CEQA Catex Determination Layers > Archeological Sensitive Area)	
	Subdivision/Lot Line Adjustment: Does the project site involve a subdivision or lot line adjustment on a lot with a slope average of 20% or more? (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography). If yes, Environmental Planning must issue the exemption.	
	Slope = or > 25%: Does the project involve any of the following: (1) square footage expansion greater than 500 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography) If box is checked, a geotechnical report is required and Environmental Planning must issue the exemption.	
	Seismic: Landslide Zone: Does the project involve any of the following: (1) square footage expansion greater than 500 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report is required and Environmental Planning must issue the exemption.	
	Seismic: Liquefaction Zone: Does the project involve any of the following: (1) square footage expansion greater than 500 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report will likely be required and Environmental Planning must issue the exemption.	
Comments and Planner Signature (optional): Katherine Wilborn		

STEP 3: PROPERTY STATUS - HISTORIC RESOURCE TO BE COMPLETED BY PROJECT PLANNER PROPERTY IS ONE OF THE FOLLOWING: (refer to Property Information Map) Category A: Known Historical Resource. GO TO STEP 5. Category B: Potential Historical Resource (over 45 years of age). GO TO STEP 4. Category C: Not a Historical Resource or Not Age Eligible (under 45 years of age). GO TO STEP 6. STEP 4: PROPOSED WORK CHECKLIST TO BE COMPLETED BY PROJECT PLANNER Check all that apply to the project. 1. Change of use and new construction. Tenant improvements not included. 2. Regular maintenance or repair to correct or repair deterioration, decay, or damage to building. 3. Window replacement that meets the Department's Window Replacement Standards. Does not include storefront window alterations. 4. Garage work. A new opening that meets the Guidelines for Adding Garages and Curb Cuts, and/or replacement of a garage door in an existing opening that meets the Residential Design Guidelines. 5. Deck, terrace construction, or fences not visible from any immediately adjacent public right-of-way. 6. Mechanical equipment installation that is not visible from any immediately adjacent public right-of-way. 7. Dormer installation that meets the requirements for exemption from public notification under Zoning Administrator Bulletin No. 3: Dormer Windows. 8. Addition(s) that are not visible from any immediately adjacent public right-of-way for 150 feet in each direction; does not extend vertically beyond the floor level of the top story of the structure or is only a single story in height; does not have a footprint that is more than 50% larger than that of the original building; and does not cause the removal of architectural significant roofing features. Note: Project Planner must check box below before proceeding. Project is not listed. GO TO STEP 5. Project does not conform to the scopes of work. GO TO STEP 5. Project involves four or more work descriptions. GO TO STEP 5. Project involves less than four work descriptions. GO TO STEP 6. STEP 5: CEQA IMPACTS - ADVANCED HISTORICAL REVIEW TO BE COMPLETED BY PROJECT PLANNER Check all that apply to the project. 1. Project involves a known historical resource (CEQA Category A) as determined by Step 3 and conforms entirely to proposed work checklist in Step 4. 2. Interior alterations to publicly accessible spaces. 3. Window replacement of original/historic windows that are not "in-kind" but are consistent with existing historic character. 4. Façade/storefront alterations that do not remove, alter, or obscure character-defining features.

5. Raising the building in a manner that does not remove, alter, or obscure character-defining

6. Restoration based upon documented evidence of a building's historic condition, such as historic

中文詢問請電: 415.575.9010 en Español llamar al: 415.575.9010

photographs, plans, physical evidence, or similar buildings.

features.

	7. Addition(s) , including mechanical equipment that are minimally visible from a public right-of-way and meet the <i>Secretary of the Interior's Standards for Rehabilitation</i> .				
	8. Other work consistent with the Secretary of the Interior Stand Properties (specify or add comments):	lards for the Treatment of Historic			
	outdoor activity area (use) to be in existing patio space at the sec work.	ond story, rear of property. no other			
	9. Other work that would not materially impair a historic district (s	specify or add comments):			
\Box					
ш					
(Requires approval by Senior Preservation Planner/Preservation Coordinator)					
	10. Reclassification of property status . (Requires approval by Senior Preservation Planner/Preservation				
	Reclassify to Category A	Reclassify to Category C			
	a. Per HRER or PTR dated	(attach HRER or PTR)			
	b. Other (specify):				
	Note: If ANY box in STEP 5 above is checked, a Prese	rvation Planner MUST sign below.			
	Project can proceed with categorical exemption review. The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review. GO TO STEP 6.				
Comm	ents (optional):				
Preser	vation Planner Signature: Katherine Wilborn				
STE	P 6: CATEGORICAL EXEMPTION DETERMINATION				
TO BE COMPLETED BY PROJECT PLANNER					
	No further environmental review is required. The project is categorically exempt under CEQA.				
	There are no unusual circumstances that would result in a reasonable possibility of a significant effect.				
	Project Approval Action:	Signature:			
	Building Permit	Katherine Wilborn			
	If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.	04/02/2020			
	Once signed or stamped and dated, this document constitutes a categorical exemption pursuant to CEQA Guidelines and Chapter				

In accordance with Chapter 31 of the San Francisco Administrative Code, an appeal of an exemption determination can only be

Please note that other approval actions may be required for the project. Please contact the assigned planner for these approvals.

31of the Administrative Code.

filed within 30 days of the project receiving the approval action.

STEP 7: MODIFICATION OF A CEQA EXEMPT PROJECT

TO BE COMPLETED BY PROJECT PLANNER

In accordance with Chapter 31 of the San Francisco Administrative Code, when a California Environmental Quality Act (CEQA) exempt project changes after the Approval Action and requires a subsequent approval, the Environmental Review Officer (or his or her designee) must determine whether the proposed change constitutes a substantial modification of that project. This checklist shall be used to determine whether the proposed changes to the approved project would constitute a "substantial modification" and, therefore, be subject to additional environmental review pursuant to CEQA.

MODIFIED PROJECT DESCRIPTION

Modified Project Description:						
DE	TERMINATION IF PROJECT (CONSTITUTES SUBSTANTIAL MODIFICATION				
Com	pared to the approved project, w	ould the modified project:				
	Result in expansion of the building envelope, as defined in the Planning Code;					
	Result in the change of use that would require public notice under Planning Code Sections 311 or 312;					
	Result in demolition as defined under Planning Code Section 317 or 19005(f)?					
	Is any information being presented that was not known and could not have been known					
	at the time of the original determination, that shows the originally approved project may no longer qualify for the exemption?					
If at I	If at least one of the above boxes is checked, further environmental review is required.					
DETERMINATION OF NO SUBSTANTIAL MODIFICATION						
	The proposed modification would not result in any of the above changes.					
If this box is checked, the proposed modifications are categorically exempt under CEQA, in accordance with prior project						
approval and no additional environmental review is required. This determination shall be posted on the Planning Department website and office and mailed to the applicant, City approving entities, and anyone requesting written notice. In accordance						
with Chapter 31, Sec 31.08j of the San Francisco Administrative Code, an appeal of this determination can be filed within 10 days of posting of this determination.						
Plan	ner Name:	Date:				



Land Use Information

PROJECT ADDRESS: 1240 09TH AVENUE RECORD NO.: 2020-000200CUA

PROPOSED **NET NEW EXISTING GROSS SQUARE FOOTAGE (GSF)** Parking GSF N/A N/A N/A Residential GSF N/A N/A N/A Retail/Commercial GSF Approx. 4,168 NO CHANGE 0 Office GSF N/A N/A N/A Industrial/PDR GSF N/A N/A N/A Production, Distribution, & Repair Medical GSF N/A N/A N/A Visitor GSF N/A N/A N/A CIE GSF N/A N/A N/A Usable Open Space N/A N/A N/A Public Open Space N/A N/A N/A Outdoor Activity Area Approx. 1,240 NO CHANGE - Legalize 0 **TOTAL GSF** Approx. 5,408 5,408 **EXISTING NET NEW TOTALS** PROJECT FEATURES (Units or Amounts) Dwelling Units - Affordable N/A N/A N/A Dwelling Units - Market Rate N/A N/A N/A Dwelling Units - Total N/A N/A N/A Hotel Rooms N/A N/A N/A Number of Buildings N/A N/A N/A Number of Stories N/A N/A N/A Parking Spaces N/A N/A N/A **Loading Spaces** N/A N/A N/A Bicycle Spaces N/A N/A N/A Car Share Spaces N/A N/A N/A Other N/A N/A N/A

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

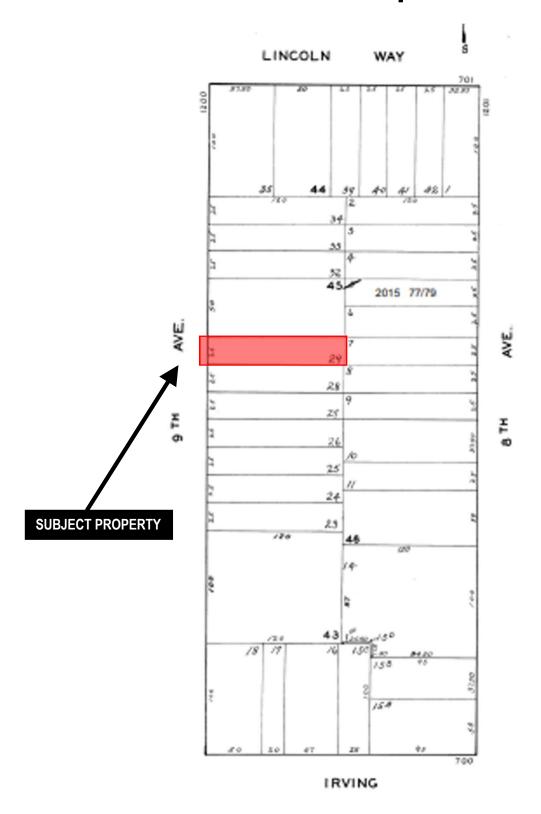
Reception: **415.558.6378**

Fax:

415.558.6409

Planning Information: **415.558.6377**

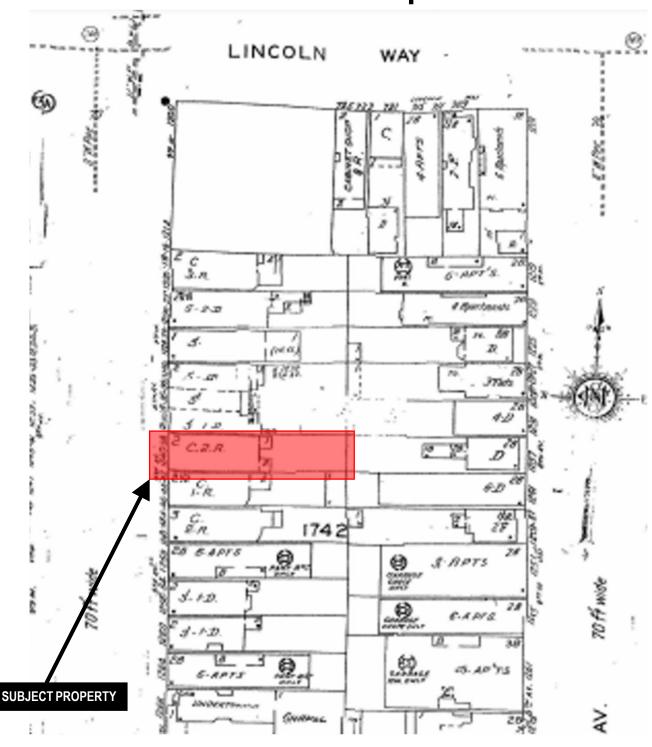
Parcel Map





Conditional Use Authorization **Case Number 2020-000200CUA** Outdoor Activity Area (d.b.a. Fiorella) 1240 09th Avenue

Sanborn Map*

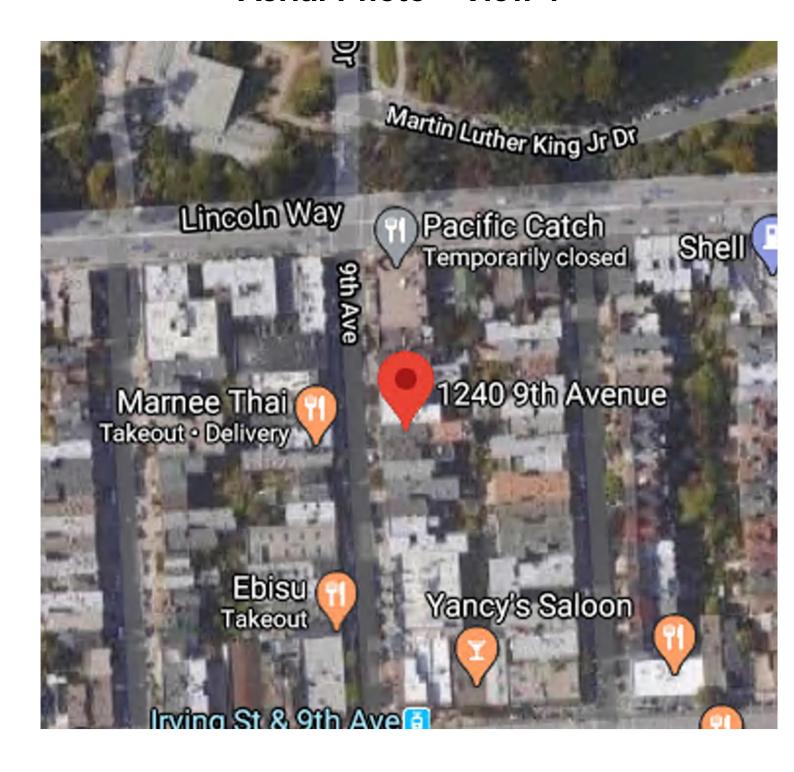


^{*}The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.



Conditional Use Authorization **Case Number 2020-000200CUA**Outdoor Activity Area (d.b.a. Fiorella)
1240 09th Avenue

Aerial Photo – View 1





Aerial Photo – View 2



SUBJECT PROPERTY



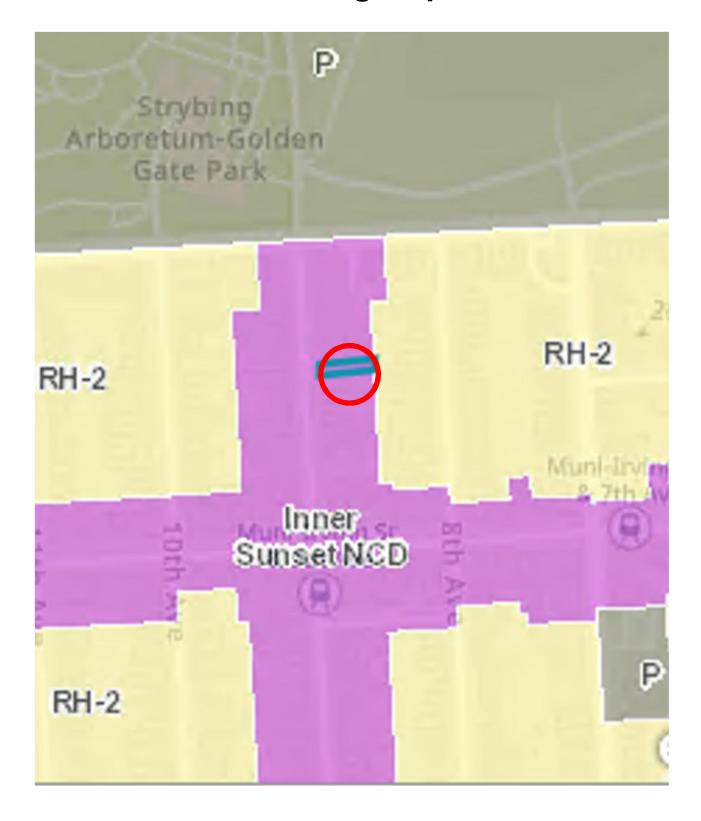
Aerial Photo – View 3





Conditional Use Authorization **Case Number 2020-000200CUA**Outdoor Activity Area (d.b.a. Fiorella)
1240 09th Avenue

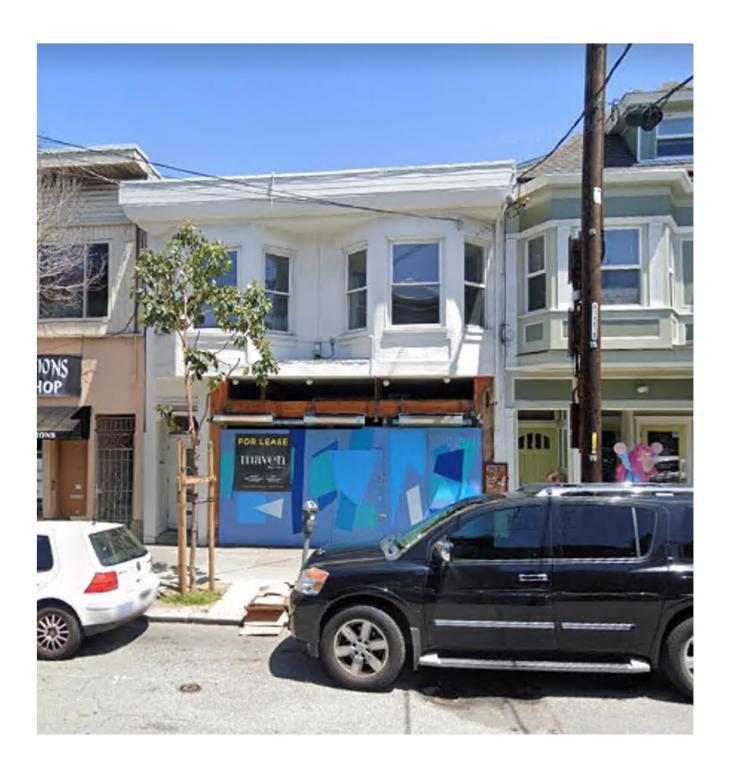
Zoning Map





Conditional Use Authorization **Case Number 2020-000200CUA**Outdoor Activity Area (d.b.a. Fiorella)
1240 09th Avenue

Site Photo

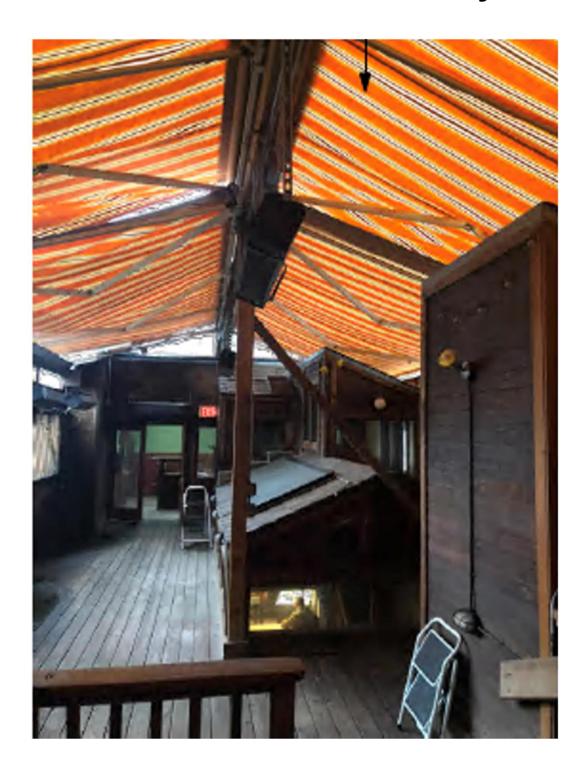


Conditional Use Authorization

Case Number 2020-000200CUA

Outdoor Activity Area (d.b.a. Fiorella)
1240 09th Avenue

Detail Photo – Outdoor Activity Area



Conditional Use Authorization **Case Number 2020-000200CUA**Outdoor Activity Area (d.b.a. Fiorella)
1240 09th Avenue







