



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Conditional Use Authorization

HEARING DATE: MAY 28, 2020

*Record No.:* 2020-000200CUA  
*Project Address:* 1240 09<sup>th</sup> 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](mailto:Katherine.Wilborn@sfgov.org)  
*Recommendation:* **Approval with Conditions**

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

### 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.

## **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 Neighborhood 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



# SAN FRANCISCO PLANNING DEPARTMENT

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## Planning Commission Draft Motion

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San Francisco, CA 94122  
*Staff Contact:* Katherine Wilborn – (415) 575-9114  
[Katherine.Wilborn@sfgov.org](mailto:Katherine.Wilborn@sfgov.org)

**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 7<sup>th</sup>, 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 09<sup>th</sup> 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 9<sup>th</sup> 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:

- (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.

*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 any 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 will 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 WORKING 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 1:**

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

*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.

*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

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 09<sup>th</sup> 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 **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 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](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)*

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



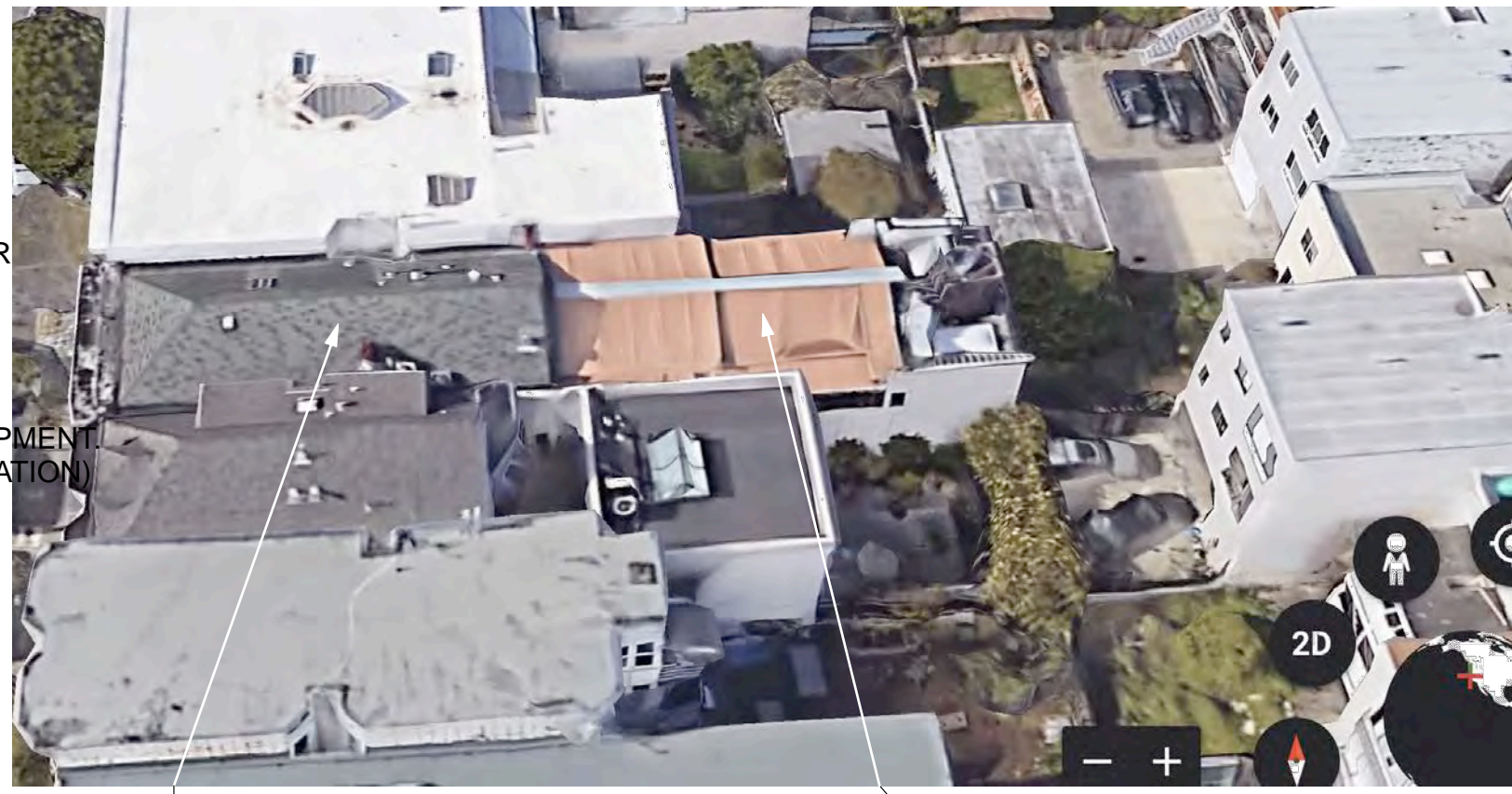
**A0**  
**PROPOSED**





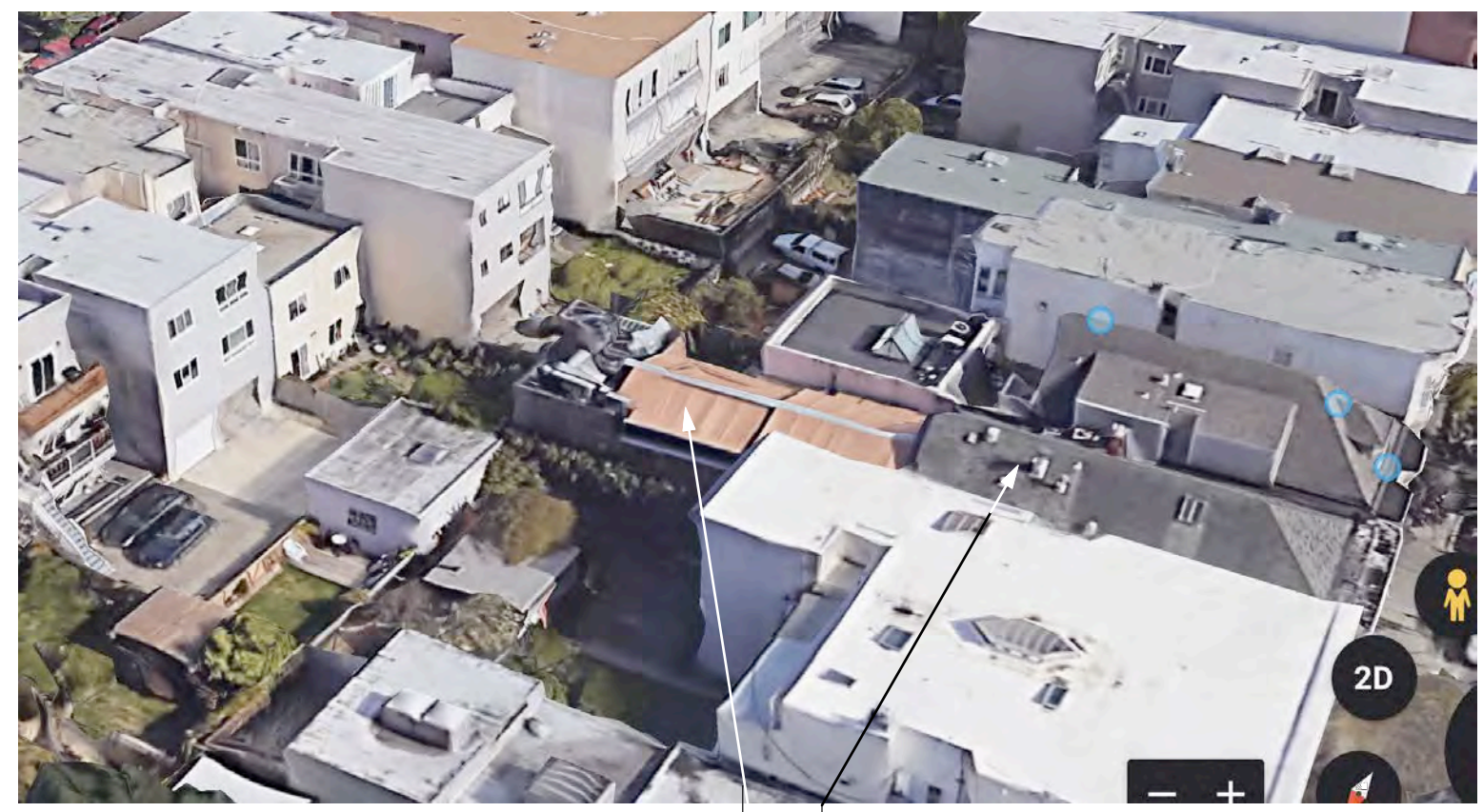
(E) CANVAS COVERING (ORANGE) OVER OPEN AIR DECK - AREA OF CU APPLICATION

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



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

4 Photos - Showing 2nd Floor Deck Area



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

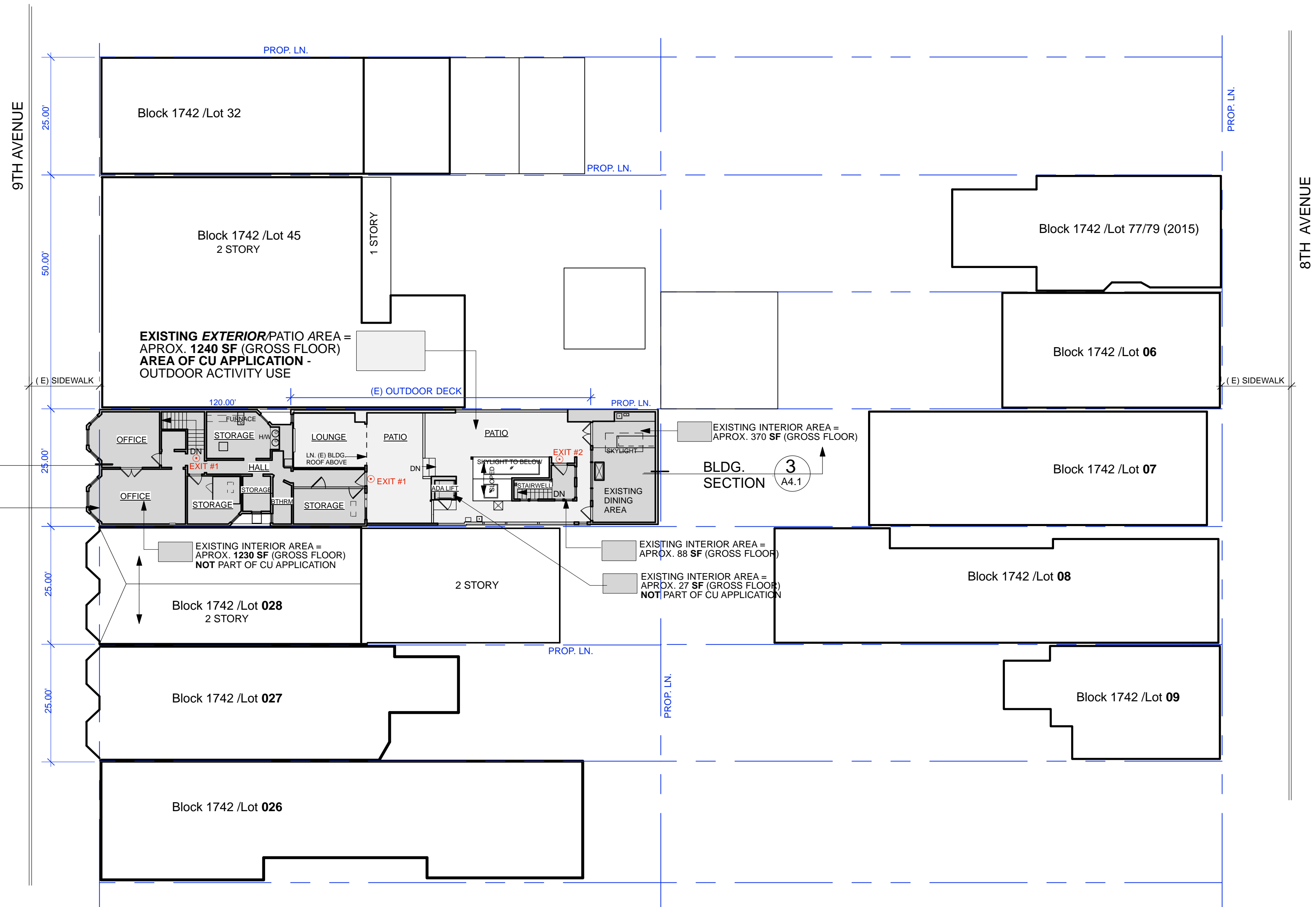
(E) CANVAS COVERING (ORANGE) OVER OPEN AIR DECK - AREA OF CU APPLICATION

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

3 Photo - Showing 2nd Floor Deck Area



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



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

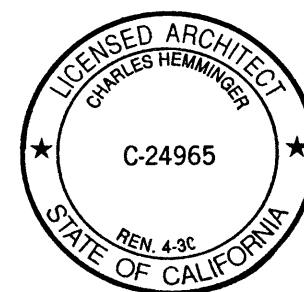
SCALE: 1/8"=1'-0"

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

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2501 mission street-suite 215  
san francisco, ca  
p 415 378,7046  
e charles@hemmingerarchitects.com

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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							



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e charles@hemmingerarchitects.com

CU SUBMITTAL SET 12.15.19

**Existing Conditions Drafting**

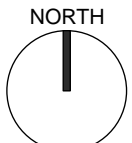
610 22nd St. Suite 303  
San Francisco, CA 94110  
ECDplans.com

CLIENT HAS PROVIDED TO ARCHITECT THESE  
EXISTING AS BUILT DRAWINGS, PREPARED BY  
EXISTING CONDITIONS DRAFTING, PER CONTRACT.  
ARCHITECT HAS THE RIGHT TO RELY ON THE ACCURACY  
OF THESE DRAWINGS FOR THE DEVELOPMENT OF THE  
PROPOSED PROJECT.

**Fiorella Sunset**

1240 9TH AVE  
SAN FRANCISCO, CA 94122

REFERENCE NORTH

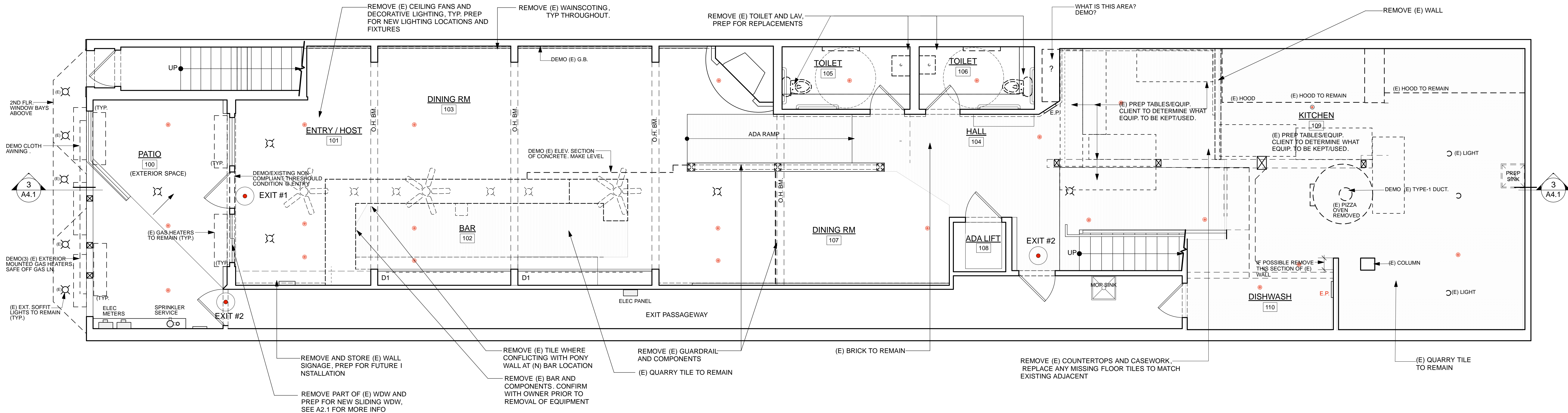


SHEET NO.

A1.0

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





1 DEMO - EXISTING FIRST FLOOR PLAN

KEY

EXISTING WALL  
NEW WALL  
DEMO  
NEW CASEWORK

EXIT #  
(E) SPRINKLER HEADS

REMOVE ALL DECORATIVE LIGHT FIXTURES. PREPARE FOR REPLACEMENT FIXTURES IN (N) LOCATIONS. UON. SEE RCP FOR NEW LOCATIONS.  
2. CONFIRM WITH OWNER PRIOR TO THE REMOVAL OF ANY BACK BAR OR KITCHEN EQUIPMENT.

GROUND FLOOR EXISTING INTERIOR AREA = APPROX. 3000 SF (GROSS FLOOR)  
FULL LOT AREA = 25' X 125' = 3000 SF

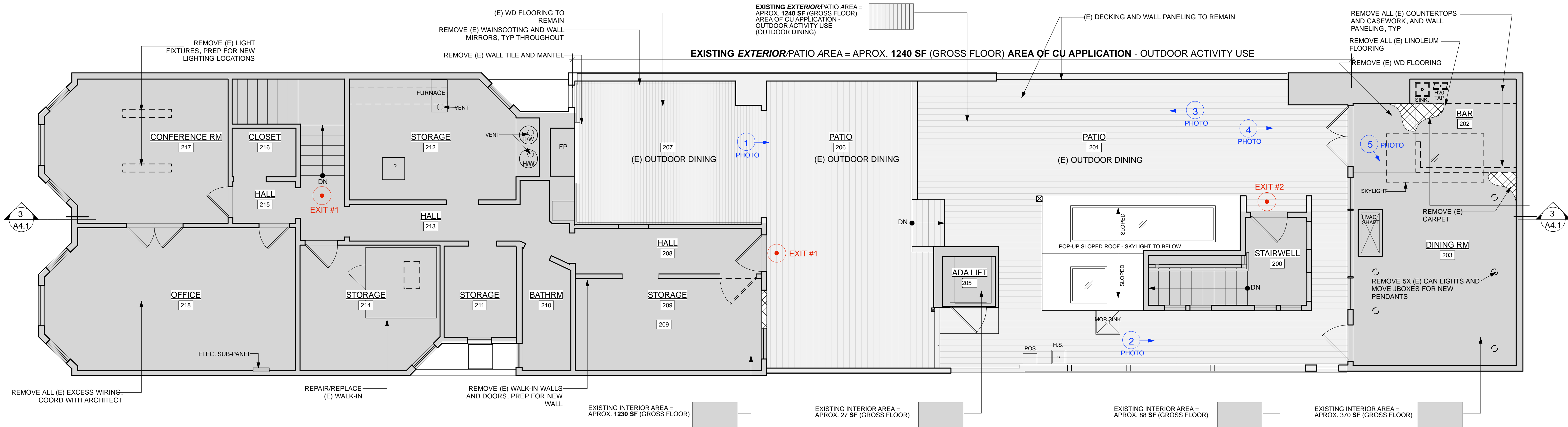
2 DEMO PHOTOS

<div>hemmingerarchitects.com 2601 mission street-suite 215 san francisco, ca p 415 378 7046 e charles@hemmingerarchitects.com Copyright 2019 hemmingerarchitects Architecture and Planning</div>	DESCRIPTION  <b>EXISTING FIRST FLOOR- DEMO PLAN</b>	SCALE 1/4" = 1'-0"	DATE	NO.	ISSUE	DATE	NO.	ISSUE	DATE	<div><div>REGISTERED ARCHITECT JANUARY 2019 C-24965 JAN 4 2019 STATE OF CALIFORNIA</div><div>hemmingerarchitects hemmingerarchitects.com 2601 mission street-suite 215 san francisco, ca p 415 378 7046 e charles@hemmingerarchitects.com</div><div>CU SUBMITTAL SET 12.15.19</div></div>	<div><div><div>PORTLAND, OR 97227 415-652-7586 melinda@m-l.space</div><div><b>Existing Conditions Drafting</b> 618 22nd St. Suite 303 San Francisco, CA 94110 ECDplans.com</div><div>CLIENT HAS PROVIDED TO ARCHITECT THESE EXISTING AS BUILT DRAWINGS. PREPARED BY EXISTING CONSULTING/ENGINEERING FIRM CONTRACT. ARCHITECT HAS THE RIGHT TO RELY ON THE ACCURACY OF THESE DRAWINGS FOR THE DEVELOPMENT OF THE PROPOSED PROJECT.</div></div><div><div><b>Fiorella Sunset</b> 1240 9TH AVE SAN FRANCISCO, CA 94122</div><div>REFERENCE NORTH NORTH SHEET NO. <b>A1.1</b></div><div>DESCRIPTION EXISTING FIRST FLOOR- DEMO PLAN</div></div></div>
		DRAWN BY	CHECKED BY		CU SUBMITTAL SET	12.15.19					
		JOB NO.	APPROVED								
		FILE NAME									









1 DEMO - EXISTING 2ND FLOOR PLAN

**KEY**

- EXISTING WALL
- NEW WALL
- DEMO
- EXIST. SPRINKLER HEADS
- EXIT #

**DEMO NOTES**

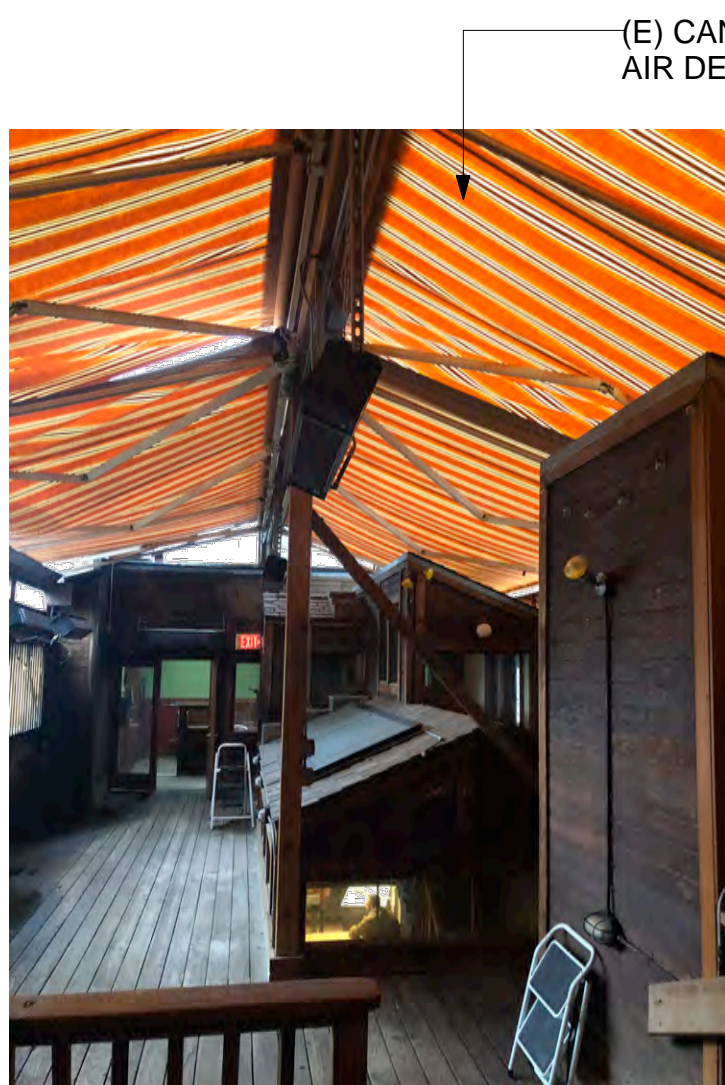
1. REMOVE ALL DECORATIVE LIGHT FIXTURES, PREPARE FOR REPLACEMENT FIXTURES IN (N) LOCATIONS, UON. SEE RCP FOR NEW LOCATIONS.

2. CONFIRM WITH OWNER PRIOR TO THE REMOVAL OF ANY BACK BAR OR KITCHEN EQUIPMENT.

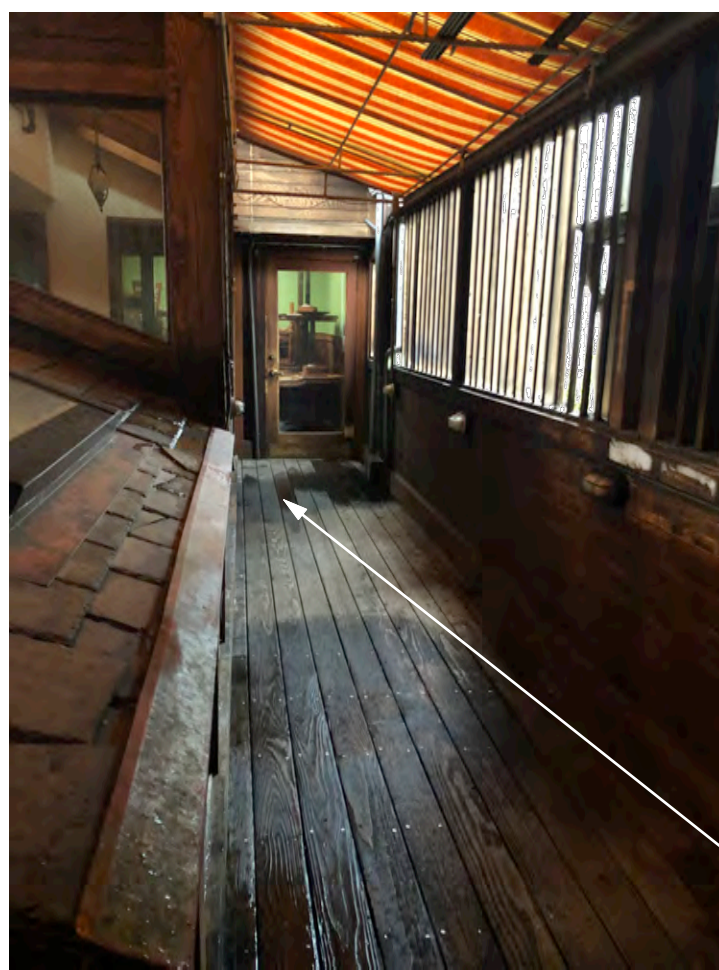
**EXISTING INTERIOR AREA =**  
APPROX. 1688 SF (GROSS FLOOR)

**EXISTING EXTERIOR PATIO AREA =**  
APPROX. 1240 SF (GROSS FLOOR)  
AREA OF CU APPLICATION -  
OUTDOOR ACTIVITY USE

SCALE: 1/4"=1'-0"



1 EXISTING OUTDOOR DECK LOOKING EAST



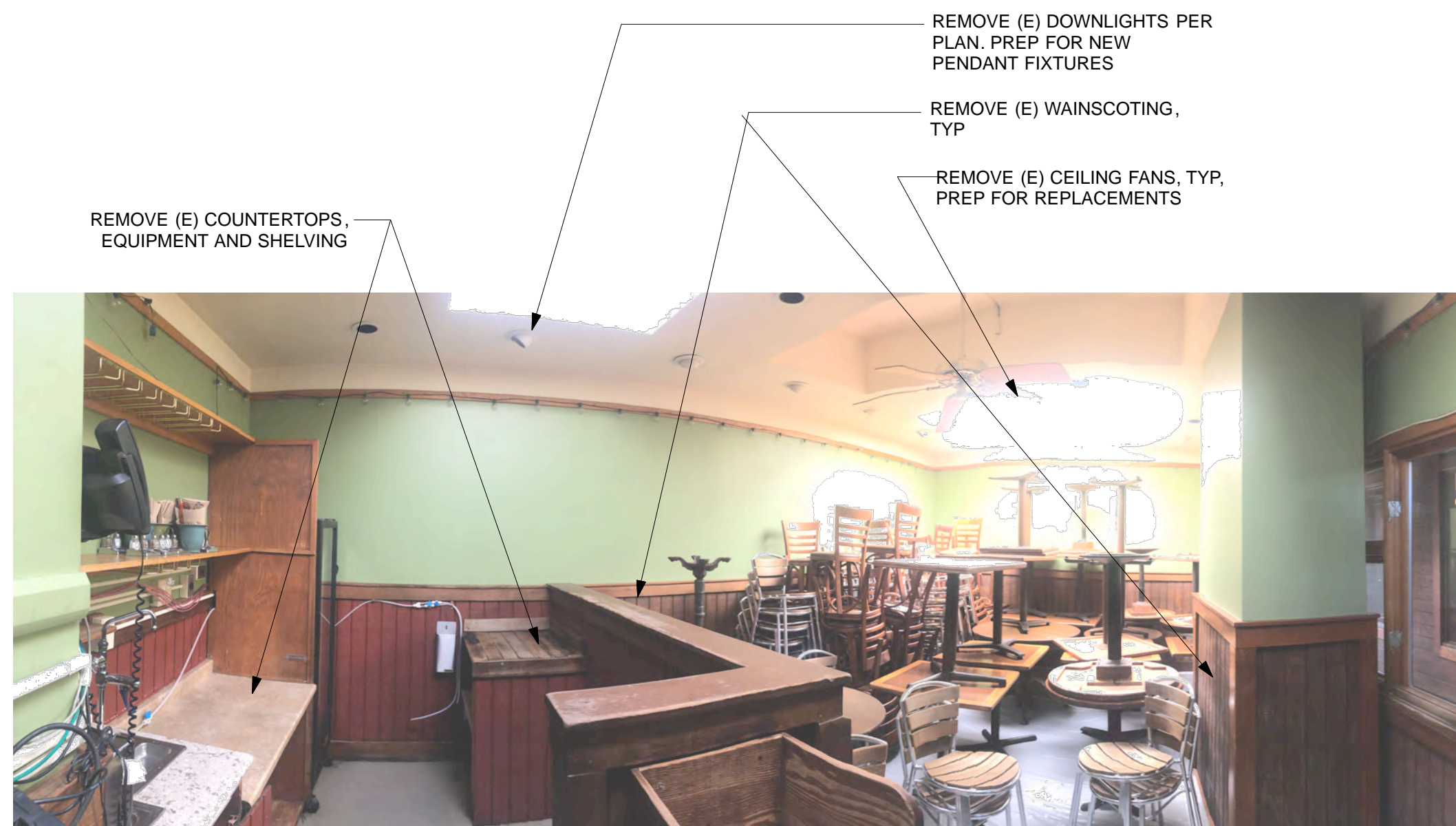
2 EXISTING OUTDOOR DECK LOOKING EAST



3 EXISTING OUTDOOR DECK LOOKING WEST



4 EXISTING ENTRY TO REAR 2ND FLR. (INTERIOR) DINING ROOM



5 EXISTING/DEMO PHOTOS @ (E) REAR 2ND FLR. (INTERIOR) DINING ROOM - EXISTING USE/NOT PART OF CU APPLICATION

DESCRIPTION
EXISTING 2ND FLOOR- DEMO PLAN

SCALE	1/4" = 1'-0"	DATE	NO.	ISSUE	DATE	NO.	ISSUE	DATE
DRAWN BY	CHECKED BY			CU SUBMITTAL SET	12.15.19			
JOB NO.	APPROVED							
FILE NAME								

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1240 9TH AVE  
SAN FRANCISCO, CA 94122  
REFERENCE NORTH  
NORTH  
A2.1

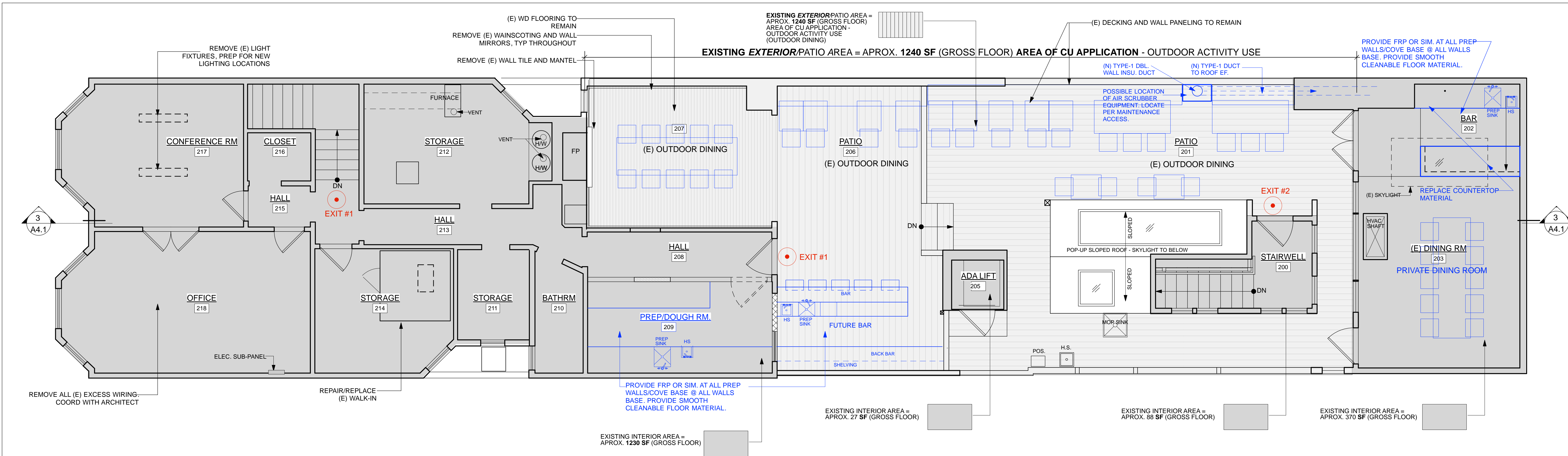
**Existing Conditions Drafting**  
610 22nd St. Suite 303  
San Francisco, CA 94110  
EOD@eacdm.com

CU SUBMITTAL SET 12.15.19

CLIENT HAS PROVIDED TO ARCHITECT THESE EXISTING AS BUILT DRAWINGS, PREPARED BY EXISTING CONDITIONS DRAFTING, FOR CONTRACT. ARCHITECT HAS THE RIGHT TO RELY ON THE ACCURACY OF THESE DRAWINGS FOR THE DEVELOPMENT OF THE PROPOSED PROJECT.

EXISTING 2ND FLOOR- DEMO PLAN





1 PROPOSED 2ND FLOOR PLAN

SCALE: 1/4"=1'-0"

KEY

- EXISTING WALL
- NEW WALL
- DEMO
- EXIST. SPRINKLER HEADS
- EXIT #

DEMO NOTES

1. REMOVE ALL DECORATIVE LIGHT FIXTURES, PREPARE FOR REPLACEMENT FIXTURES IN (N) LOCATIONS, UON. SEE RCP FOR NEW LOCATIONS.
2. CONFIRM WITH OWNER PRIOR TO THE REMOVAL OF ANY BACK BAR OR KITCHEN EQUIPMENT.

EXISTING INTERIOR AREA = APROX. 1688 SF (GROSS FLOOR)

EXISTING EXTERIOR PATIO AREA = APROX. 1240 SF (GROSS FLOOR) AREA OF CU APPLICATION - OUTDOOR ACTIVITY USE

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e charles@hemmingerarchitects.com  
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DESCRIPTION

PROPOSED 2ND FLOOR

SCALE 1/4" = 1'-0"

DATE

NO.

ISSUE

DATE

NO.

ISSUE

DATE

DRAWN BY

CHECKED BY

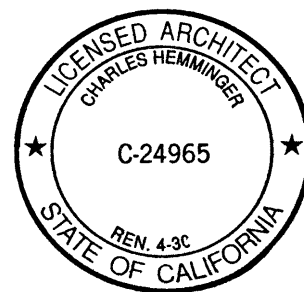
JOB NO.

APPROVED

FILE NAME

CU SUBMITTAL SET

12.15.19



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

CU SUBMITTAL SET 12.15.19



PORTLAND, OR 97221  
415.652.7586  
melinda@fms-1.com

Existing Conditions Drafting

610 22nd St. Suite 303  
San Francisco, CA 94110  
EOD@fms.com

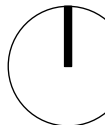
CLIENT HAS PROVIDED TO ARCHITECT THESE EXISTING AS BUILT DRAWINGS, PREPARED BY EXISTING CONDITIONS DRAFTING, FOR CONTRACT. ARCHITECT HAS THE RIGHT TO RELY ON THE ACCURACY OF THESE DRAWINGS FOR THE DEVELOPMENT OF THE PROPOSED PROJECT.

Fiorella Sunset

1240 9TH AVE  
SAN FRANCISCO, CA 94122

REFERENCE NORTH

NORTH



DESCRIPTION

PROPOSED 2ND FLOOR

SHEET NO.

A2.2











# SAN FRANCISCO PLANNING DEPARTMENT

## CEQA Categorical Exemption Determination

### PROPERTY INFORMATION/PROJECT DESCRIPTION

<b>Project Address</b>		<b>Block/Lot(s)</b>
1240 09TH AVE		1742029
<b>Case No.</b>		<b>Permit No.</b>
2020-000200PRJ		
<input checked="" type="checkbox"/> <b>Addition/ Alteration</b>	<input type="checkbox"/> <b>Demolition (requires HRE for Category B Building)</b>	<input type="checkbox"/> <b>New Construction</b>
<b>Project description for Planning Department approval.</b> 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 purpose of restaurant seating.		

### STEP 1: EXEMPTION CLASS

<b>The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA).</b>	
<input checked="" type="checkbox"/>	<b>Class 1 - Existing Facilities.</b> Interior and exterior alterations; additions under 10,000 sq. ft.
<input type="checkbox"/>	<b>Class 3 - New Construction.</b> Up to three new single-family residences or six dwelling units in one building; commercial/office structures; utility extensions; change of use under 10,000 sq. ft. if principally permitted or with a CU.
<input type="checkbox"/>	<b>Class 32 - In-Fill Development.</b> New Construction of seven or more units or additions greater than 10,000 sq. ft. and meets the conditions described below: (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. (b) The proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses. (c) The project site has no value as habitat for endangered rare or threatened species. (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. (e) The site can be adequately served by all required utilities and public services. <b>FOR ENVIRONMENTAL PLANNING USE ONLY</b>
<input type="checkbox"/>	<b>Class ____</b>

## STEP 2: CEQA IMPACTS

### TO BE COMPLETED BY PROJECT PLANNER

<input type="checkbox"/>	<b>Air Quality:</b> 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)
<input type="checkbox"/>	<b>Hazardous Materials:</b> 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? <b>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 &gt; Maher layer).</b>
<input type="checkbox"/>	<b>Transportation:</b> 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?
<input type="checkbox"/>	<b>Archeological Resources:</b> 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)
<input type="checkbox"/>	<b>Subdivision/Lot Line Adjustment:</b> 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.
<input type="checkbox"/>	<b>Slope = or &gt; 25%:</b> 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) <b>If box is checked, a geotechnical report is required and Environmental Planning must issue the exemption.</b>
<input type="checkbox"/>	<b>Seismic: Landslide Zone:</b> 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) <b>If box is checked, a geotechnical report is required and Environmental Planning must issue the exemption.</b>
<input type="checkbox"/>	<b>Seismic: Liquefaction Zone:</b> 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) <b>If box is checked, a geotechnical report will likely be required and Environmental Planning must issue the exemption.</b>
<b>Comments and Planner Signature (optional):</b> Katherine Wilborn	



**STEP 3: PROPERTY STATUS - HISTORIC RESOURCE**  
**TO BE COMPLETED BY PROJECT PLANNER**

<b>PROPERTY IS ONE OF THE FOLLOWING:</b> (refer to Property Information Map)	
<input type="checkbox"/>	<b>Category A:</b> Known Historical Resource. <b>GO TO STEP 5.</b>
<input checked="" type="checkbox"/>	<b>Category B:</b> Potential Historical Resource (over 45 years of age). <b>GO TO STEP 4.</b>
<input type="checkbox"/>	<b>Category C:</b> Not a Historical Resource or Not Age Eligible (under 45 years of age). <b>GO TO STEP 6.</b>

**STEP 4: PROPOSED WORK CHECKLIST**  
**TO BE COMPLETED BY PROJECT PLANNER**

<b>Check all that apply to the project.</b>	
<input type="checkbox"/>	1. <b>Change of use and new construction.</b> Tenant improvements not included.
<input type="checkbox"/>	2. <b>Regular maintenance or repair</b> to correct or repair deterioration, decay, or damage to building.
<input type="checkbox"/>	3. <b>Window replacement</b> that meets the Department's <i>Window Replacement Standards</i> . Does not include storefront window alterations.
<input type="checkbox"/>	4. <b>Garage work.</b> A new opening that meets the <i>Guidelines for Adding Garages and Curb Cuts</i> , and/or replacement of a garage door in an existing opening that meets the Residential Design Guidelines.
<input type="checkbox"/>	5. <b>Deck, terrace construction, or fences</b> not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	6. <b>Mechanical equipment installation</b> that is not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	7. <b>Dormer installation</b> that meets the requirements for exemption from public notification under <i>Zoning Administrator Bulletin No. 3: Dormer Windows</i> .
<input type="checkbox"/>	8. <b>Addition(s)</b> 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.
<b>Note: Project Planner must check box below before proceeding.</b>	
<input checked="" type="checkbox"/>	Project is not listed. <b>GO TO STEP 5.</b>
<input type="checkbox"/>	Project <b>does not conform</b> to the scopes of work. <b>GO TO STEP 5.</b>
<input type="checkbox"/>	Project involves <b>four or more</b> work descriptions. <b>GO TO STEP 5.</b>
<input type="checkbox"/>	Project involves <b>less than four</b> work descriptions. <b>GO TO STEP 6.</b>

**STEP 5: CEQA IMPACTS - ADVANCED HISTORICAL REVIEW**  
**TO BE COMPLETED BY PROJECT PLANNER**

<b>Check all that apply to the project.</b>	
<input type="checkbox"/>	1. Project involves a <b>known historical resource (CEQA Category A)</b> as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.
<input type="checkbox"/>	2. <b>Interior alterations to publicly accessible spaces.</b>
<input type="checkbox"/>	3. <b>Window replacement</b> of original/historic windows that are not "in-kind" but are consistent with existing historic character.
<input type="checkbox"/>	4. <b>Façade/storefront alterations</b> that do not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	5. <b>Raising the building</b> in a manner that does not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	6. <b>Restoration</b> based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.



<input type="checkbox"/>	7. <b>Addition(s)</b> , 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> .
<input checked="" type="checkbox"/>	8. <b>Other work consistent</b> with the <i>Secretary of the Interior Standards for the Treatment of Historic Properties</i> (specify or add comments):  outdoor activity area (use) to be in existing patio space at the second story, rear of property. no other work.
<input type="checkbox"/>	9. <b>Other work</b> that would not materially impair a historic district (specify or add comments):    (Requires approval by Senior Preservation Planner/Preservation Coordinator)
<input type="checkbox"/>	10. <b>Reclassification of property status.</b> (Requires approval by Senior Preservation Planner/Preservation <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 45%;"> <input type="checkbox"/> Reclassify to Category A            a. Per HRER or PTR dated            b. Other (specify):         </div> <div style="width: 45%;"> <input type="checkbox"/> Reclassify to Category C            (attach HRER or PTR)         </div> </div>
<b>Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST sign below.</b>	
<input checked="" type="checkbox"/>	<b>Project can proceed with categorical exemption review.</b> The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review. <b>GO TO STEP 6.</b>
<b>Comments (optional):</b>	
<b>Preservation Planner Signature:</b> Katherine Wilborn	

**STEP 6: CATEGORICAL EXEMPTION DETERMINATION**  
**TO BE COMPLETED BY PROJECT PLANNER**

<input checked="" type="checkbox"/>	<b>No further environmental review is required. The project is categorically exempt under CEQA.</b> <b>There are no unusual circumstances that would result in a reasonable possibility of a significant effect.</b>	
	<b>Project Approval Action:</b> Building Permit	<b>Signature:</b> 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 31 of the Administrative Code. In accordance with Chapter 31 of the San Francisco Administrative Code, an appeal of an exemption determination can only be filed within 30 days of the project receiving the approval action. Please note that other approval actions may be required for the project. Please contact the assigned planner for these approvals.	

## 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:

### DETERMINATION IF PROJECT CONSTITUTES SUBSTANTIAL MODIFICATION

Compared to the approved project, would the modified project:

- |                          |  |
|--------------------------|--|
| <input type="checkbox"/> | Result in expansion of the building envelope, as defined in the Planning Code;   |
| <input type="checkbox"/> | Result in the change of use that would require public notice under Planning Code Sections 311 or 312;  |
| <input type="checkbox"/> | Result in demolition as defined under Planning Code Section 317 or 19005(f)?   |
| <input type="checkbox"/> | 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 least one of the above boxes is checked, further environmental review is required.**

### DETERMINATION OF NO SUBSTANTIAL MODIFICATION

- |                          |   |
|--------------------------|---|
| <input type="checkbox"/> | 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.

**Planner Name:**

**Date:**



# SAN FRANCISCO PLANNING DEPARTMENT

## Land Use Information

PROJECT ADDRESS: 1240 09<sup>TH</sup> AVENUE  
RECORD NO.: 2020-000200CUA

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

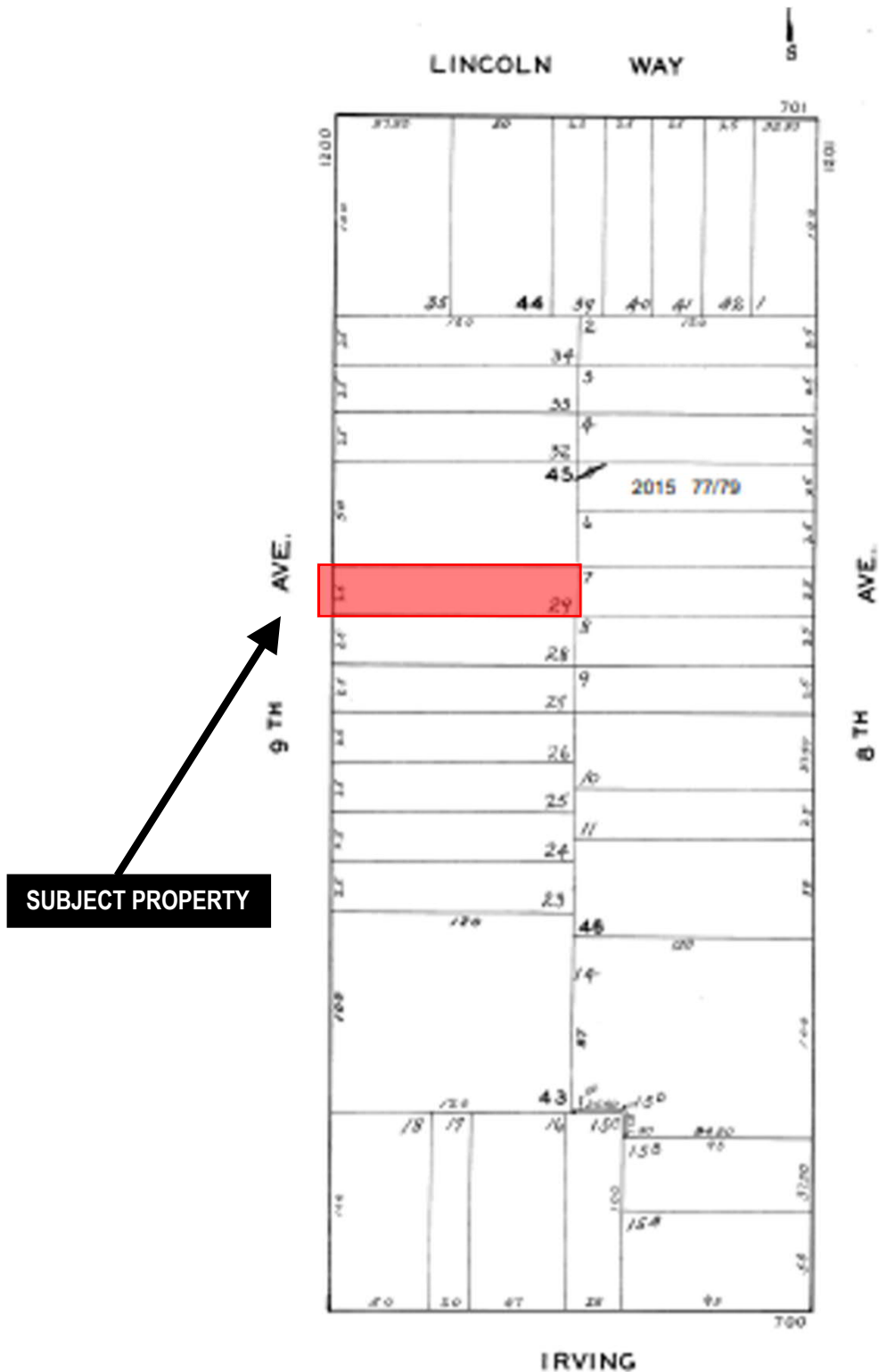
Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

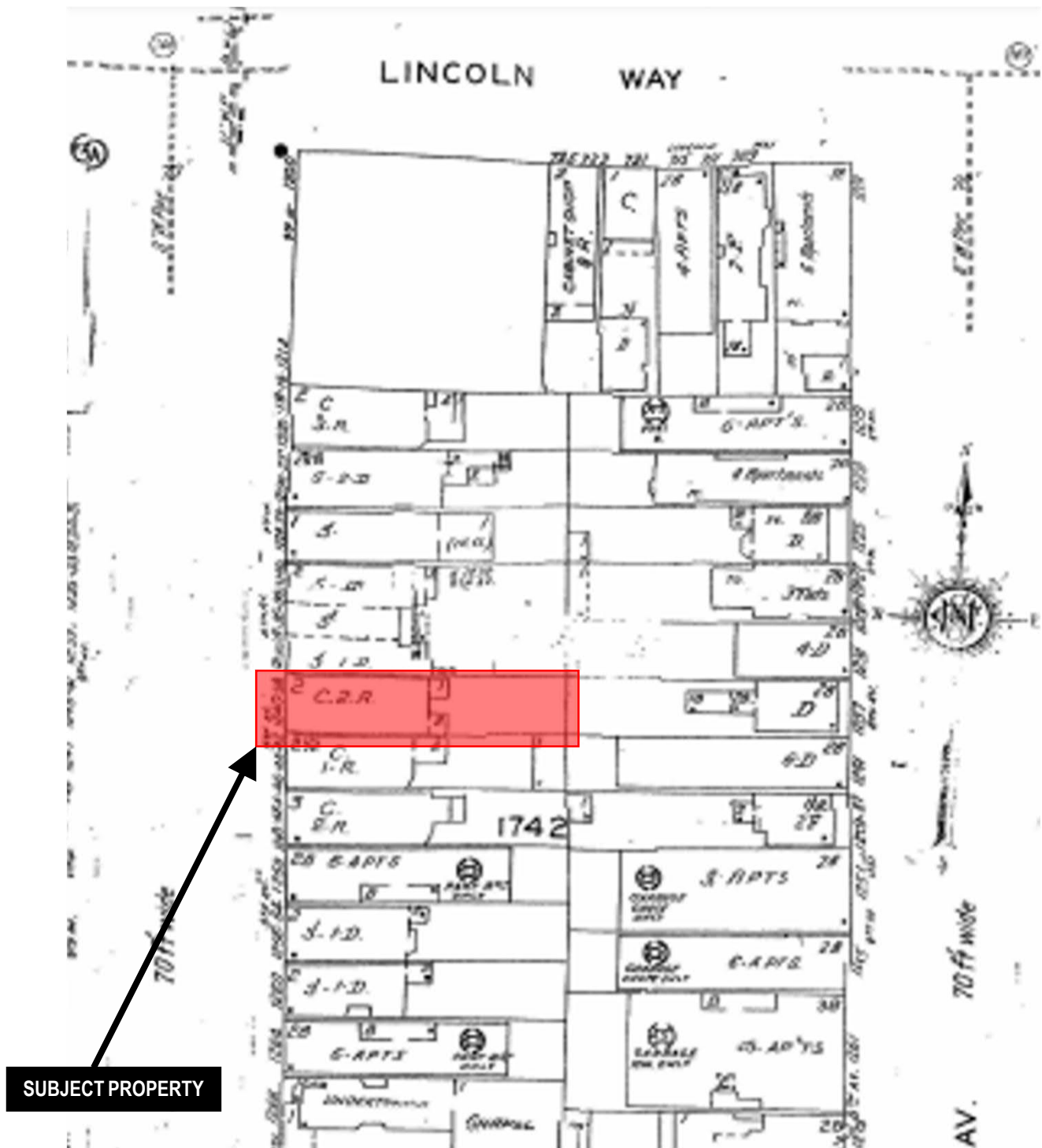
Planning  
Information:  
**415.558.6377**

	EXISTING	PROPOSED	NET NEW
<b>GROSS SQUARE FOOTAGE (GSF)</b>			
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 <i>Production, Distribution, &amp; Repair</i>	N/A	N/A	N/A
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
<b>TOTAL GSF</b>	<b>Approx. 5,408</b>	<b>0</b>	<b>5,408</b>
	EXISTING	NET NEW	TOTALS
<b>PROJECT FEATURES (Units or Amounts)</b>			
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

# Parcel Map



# Sanborn Map\*

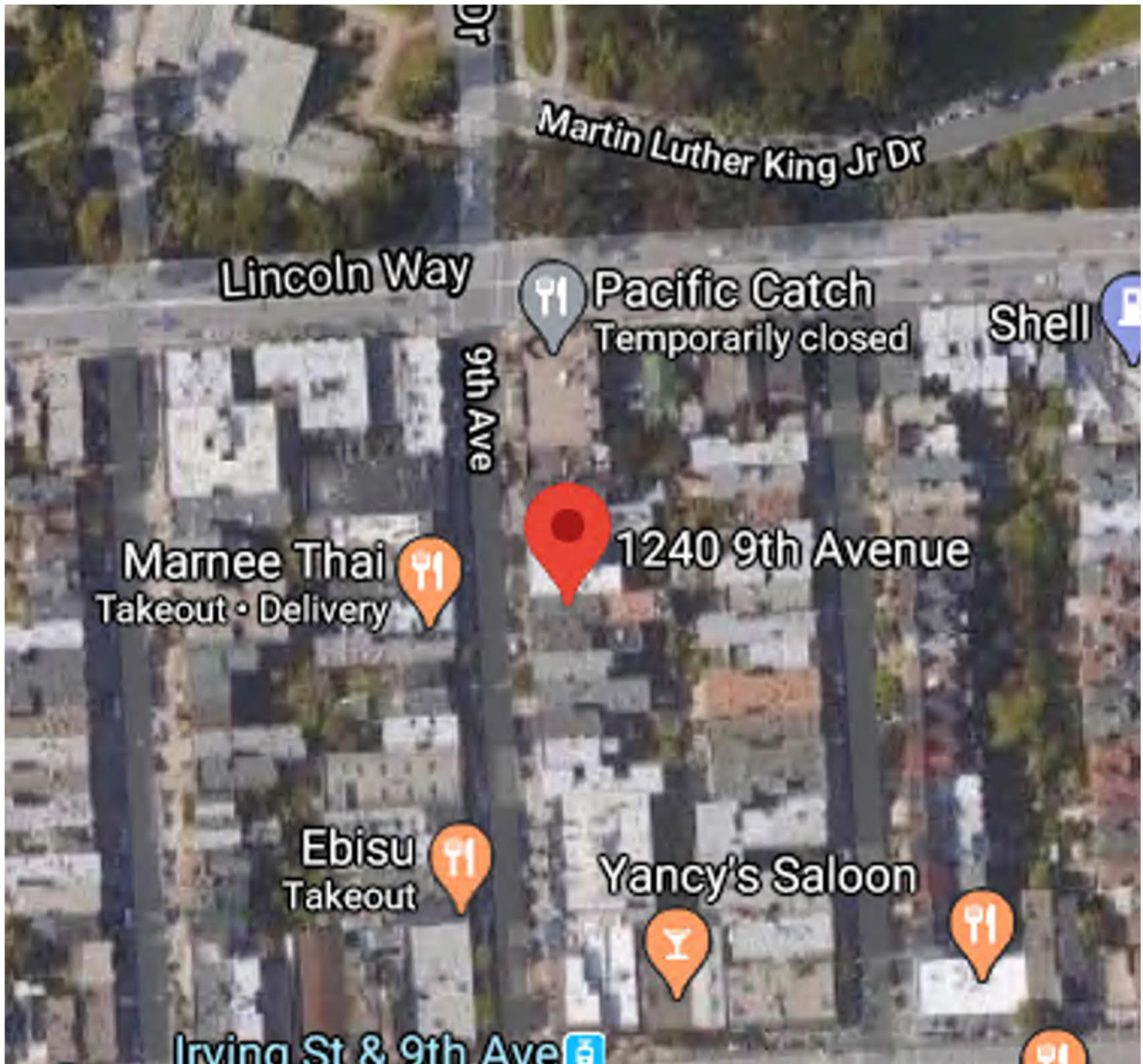


\*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.





# Aerial Photo – View 1



## Aerial Photo – View 2



**SUBJECT PROPERTY**





## Aerial Photo – View 3

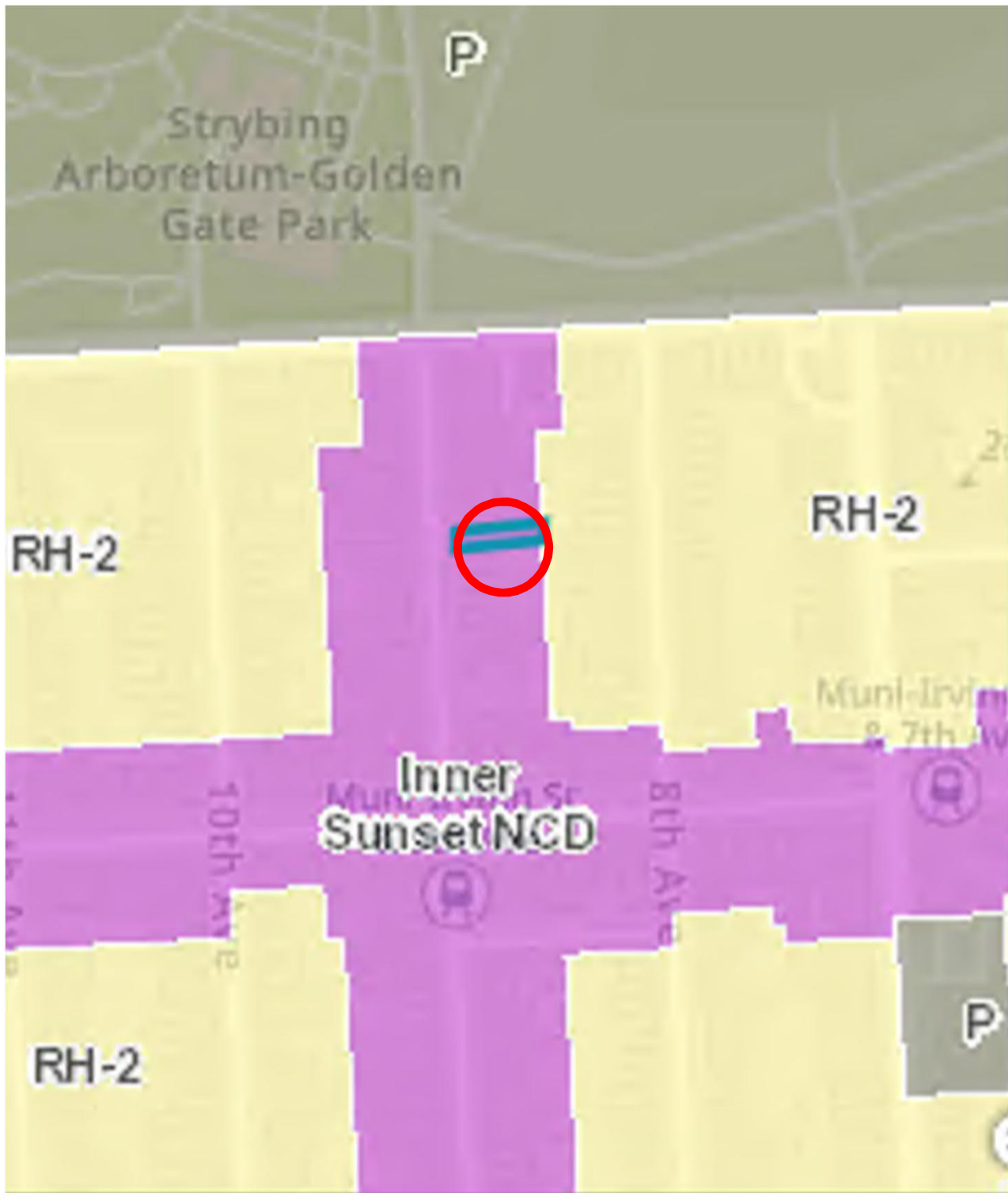


**SUBJECT PROPERTY**





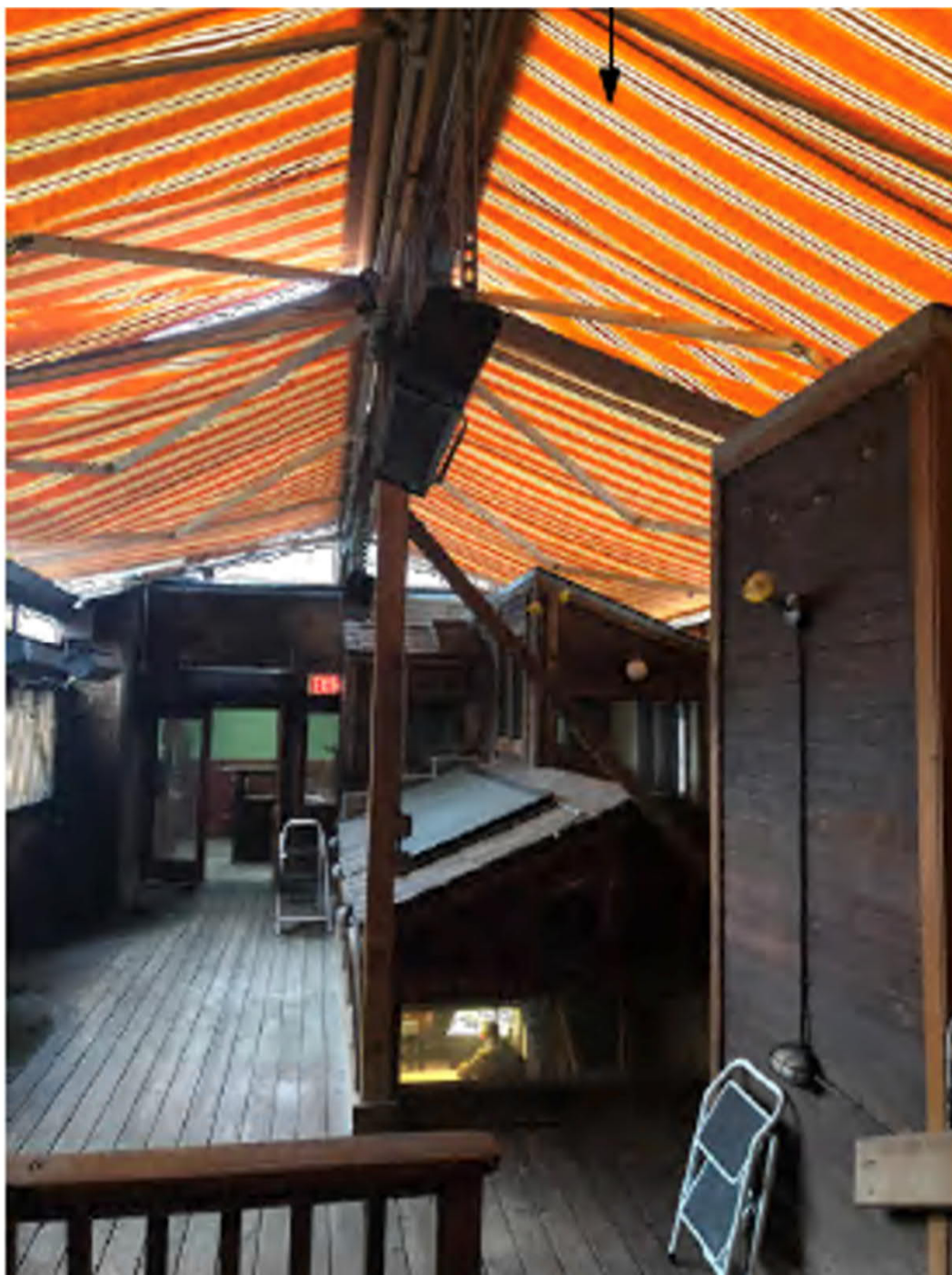
# Zoning Map



# Site Photo



## Detail Photo – Outdoor Activity Area







Google

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1241 9th Ave













