



EXECUTIVE SUMMARY CONDITIONAL USE

HEARING DATE: June 10, 2021

Record No.: 2020-007152CUA **Project Address: 5801 Mission Street**

Zoning: Excelsior Outer Mission Street Neighborhood Commercial Zoning District

Fringe Financial Services Restricted Use District

40-X Height and Bulk District

Block/Lot: 6472/001

Project Sponsor: Edward Brown

PO BOX 31248

Walnut Creek, CA 31248

Property Owner: 50% Phylis Kurzbard 1998 Living Trust

50% Generation-Skipping Trust of Al Furberg Living Trust

2343 39th Avenue

San Francisco, California 94122

Staff Contact: Ryan Balba - (628) 652-7331

Ryan.Balba@sfgov.org

Recommendation: Approval with Conditions

Project Description

The Project would establish a Cannabis Retail Use measuring 2,055 square feet in a vacant commercial space within a two-story, mixed-use building. The Project does not include a request for authorization of on-site smoking or vaporizing of cannabis products. No changes to the building exterior or envelope are proposed. New business signage will be applied for under a separate permit.

Required Commission Action

For the Project to proceed, the Commission must grant a Conditional Use Authorization, pursuant to Planning Code Sections 202.2, 303, and 720, to allow the establishment of a Cannabis Retail use in the Excelsior Outer Mission Street Neighborhood Commercial Zoning District.

Issues and Other Considerations

- **On-Site Consumption.** The project does not include a request for Type C consumption (smoking or vaporizing of cannabis products). The draft motion for approval of the Project is conditioned to prohibit smoking or vaporizing of cannabis products at the site, such that any future addition of a smoking or vaporizing room would require a subsequent Conditional Use Authorization.
- **Public Comment & Outreach.** The Sponsor conducted outreach under the Office of Cannabis Good Neighbor Policy, which includes providing a mailed notice of the Project to all property owners and occupants within 300-feet of the site and conducting outreach meetings. Additionally, the Project conducted a pre-application meeting, an individual neighborhood group meeting on April 19, 2021, and a general neighborhood meeting on April 21, 2021. The sponsor has also conducted private meetings with local business owners in the neighborhood, as well as law enforcement. The Department has received forty-three comments expressing Support for the Project and seven expressing opposition to the Project.
 - Support for the Project expressed support for the project team, and support for the business' commitment to local hiring, community support initiatives, and parking and traffic plans. Supervisor Matt Haney also submitted a letter of support for the Project, commending the Equity Applicant for her work with the community and previously establishing a model Medical Cannabis Dispensary within District 6.
 - Opposition to the Project expressed concerns with an increase in crime, concern for youth access to cannabis products, and concerns with traffic, parking, and sidewalk crowding complications.
- Planning Section 202.2(a)(5)(B) Compliance. The subject parcel is not located within a 600-foot radius of a parcel containing an existing private or public school or within a 600-foot radius of a parcel for which a valid permit from the City's Office of Cannabis for a Cannabis Retailer or a Medicinal Cannabis Retailer has been issued.
 - o The closest approved Cannabis Retail location to this site is 5260 Mission Street, dba Mission Organic Services, approximately 3,143' from 5801 Mission Street.
 - o In the general vicinity, the following locations were identified as potentially sensitive sites that do not disqualify the location from being used as a Cannabis Retailer:
 - Our Kids First (after-school program): 132' from site
 - Dennis Language Services (language school): 146' from site
 - Chiquitos Preschool: 514' from site
 - Little Steps-Pasitos (day care): 683' from site



Lincoln Park Community Center: 770' from site

San Francisco Christian School: 791' from site

Pershing Preschool: 881' from site

Longfellow Elementary School: 1006' from site

Alice's Day Care: 1039' from site

George Washington Elementary School: 1306' from site

• Equity Program. The licensing application to the City's Office of Cannabis was submitted by Heidi Hanley, who was determined to meet the criteria of an Equity Applicant. Under Police Code Section 1613, "no permit to operate as a Storefront Cannabis Retailer shall be granted if any individual holding a legal or beneficial interest in the proposed Storefront Cannabis Retailer already holds a legal or beneficial interest in four or more existing Storefront Cannabis Retailers..." The applicant is the listed equity applicant on one other storefront Cannabis Retailer application, located at 900 Irving Street, which is under review. Heidi previously operated a Medical Cannabis Dispensary (dba Releaf Herbal) at 1284 Mission Street, which was closed after the business lease was terminated by the property owner.

Environmental Review

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

Basis for Recommendation

The Department finds that the Project is, on balance, consistent with the Objectives and Policies of the General Plan, and that the Project meets all applicable requirements of the Planning Code. The project activates an existing vacant commercial space, brings a new type of retail business to the area, and supports the City's equity program, administered by the Office of Cannabis. 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 A)

Exhibit B – Plans and Renderings

Exhibit C – Environmental Determination

Exhibit D - Land Use Data

Exhibit E – Maps and Context Photos



3



PLANNING COMMISSION DRAFT MOTION

HEARING DATE: JUNE 10, 2021

Record No.: 2020-007152CUA **Project Address: 5801 Mission Street**

Zoning: Excelsior Outer Mission Street Neighborhood Commercial Zoning District

Fringe Financial Services Restricted Use District

40-X Height and Bulk District

Block/Lot: 6472/001

Project Sponsor: Edward Brown

PO BOX 31248

Walnut Creek, CA 31248

Property Owner: 50% Phylis Kurzbard 1998 Living Trust

50% Generation-Skipping Trust of Al Furberg Living Trust

2343 39th Avenue

San Francisco, California 94122

Staff Contact: Ryan Balba - (628) 652-7331

Ryan.Balba@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 202.2, 303, AND 720 OF THE PLANNING CODE TO ALLOW A CANNABIS RETAIL USE MEASURING APPROXIMATELY 2,055 SQUARE FEET, WITH NO ON-SITE SMOKING OR VAPORIZING OF CANNABIS PRODUCTS, ON THE FIRST FLOOR OF AN EXISTING TWO-STORY MIXED USE BUILDING AT 5801 MISSION STREET (ASSESSOR'S BLOCK 6742 LOT 001) WITHIN THE EXCELSIOR OUTER MISSION STREET NEIGHBORHOOD COMMERCIAL ZONING DISTRICT, THE FRINGE FINANCIAL SERVICES RESTRICTED USE DISTRICT, AND A 40-X HEIGHT AND BULK DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On October 10, 2020, Edward Brown (hereinafter "Project Sponsor") filed Application No. 2020-007152CUA (hereinafter "Application") with the Planning Department (hereinafter "Department") for a Conditional Use Authorization to establish a Cannabis Retail use (hereinafter "Project") at 5801 Mission Street, Block 6472 Lot 001 (hereinafter "Project Site").

The Project is exempt from the California Environmental Quality Act ("CEQA") under a Common Sense categorical exemption.

On June 10, 2021, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Authorization Application No. 2020-007152CUA.

The Planning Department Commission Secretary is the Custodian of Records; the File for Record No. 2020-007152CUA is located at 49 South Van Ness Avenue, Suite 1400, 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. 2020-007152CUA, 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 would establish a Cannabis Retail Use measuring 2,055 square feet in a vacant commercial space within a two-story, mixed-use building. The Project does not include a request for authorization of on-site smoking or vaporizing of cannabis products. No changes to the building exterior or envelope are proposed. New business signage will be applied for under a separate permit.
- 3. Site Description and Present Use. The Project is located on an approximately 11,602 square foot corner parcel fronting Mission Street on the south side between Acton and Oliver Streets. The site is developed with a two-story building containing five commercial spaces at the ground floor and six residential units above. The commercial space was last occupied by a boutique retail shop.
- **4. Surrounding Properties and Neighborhood.** The surrounding neighborhood is dominantly comprised of single family homes. However, there are many fully commercial buildings and mixed-use residential buildings along the corridor. The two directly adjacent properties are a residential property and a religious institution.



- **5. Public Outreach and Comments.** The Sponsor conducted outreach under the Office of Cannabis Good Neighbor Policy, which includes providing a mailed notice of the Project to all property owners and occupants within 300-feet of the site and conducting outreach meetings. Additionally, the Project conducted a pre-application meeting, an individual neighborhood group meeting on April 19, 2021, and a general neighborhood meeting on April 21, 2021. The sponsor has also conducted private meetings with local business owners in the neighborhood, as well as law enforcement. The Department has received forty-three comments expressing support for the Project and seven comments expressing opposition to the Project.
 - A. Support for the Project expressed support for the project team, and support for the business' commitment to local hiring, community support initiatives, and parking and traffic plans. Supervisor Matt Haney also submitted a letter of support for the Project, commending the Equity Applicant for her work with the community and previously establishing a model Medical Cannabis Dispensary within District 6.
 - B. Opposition to the Project expressed concerns with an increase in crime, concern for youth access to cannabis products, and concerns with traffic, parking, and sidewalk crowding complications.
- **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.** The establishment of a Cannabis Retail use in the Excelsior Outer Mission Street Neighborhood Commercial Zoning District requires a Conditional Use Authorization pursuant to Planning Code Section 720.
 - The Project Sponsor is requesting a Conditional Use Authorization to establish a Cannabis Retail use in the Excelsior Outer Mission Street Neighborhood Commercial Zoning District.
 - B. Use Size. The Excelsior Outer Mission NCD permits Non-Residential uses at up to 5,999 square feet per use and requires a Conditional Use Authorization for individual uses above 6,000 square feet in size.

 The Project would provide a 2,055 sq ft Cannabis Retail use which is compliant with this requirement.
 - C. 600-Foot Buffer Rule: Planning Code Section 202.2(a)(5)(B) states that the parcel containing the Cannabis Retail Use shall not be located within a 600-foot radius of a parcel containing an existing public or private School or within a 600-foot radius of a parcel for which a valid permit from the City's Office of Cannabis for a Cannabis Retailer or a Medicinal Cannabis Retailer has been issued. There shall be no minimum radius from a Cannabis Retail Use to an existing day care center or youth center unless a State licensing authority specifies a minimum radius.

 The subject parcel is not located within a 600-foot radius of a parcel containing an existing private or public school or within a 600-foot radius of a parcel for which a valid permit from the City's Office of Cannabis for a Cannabis Retailer or a Medicinal Cannabis Retailer has been issued.
 - D. Hours of Operation. There are no limits on hours of operation in the Mixed-Use General Zoning District. State law limits hours of operation for Cannabis Retailers to between 6am and 10pm.



No limit on hours of operation is set at the local level. The Project is required under State law to cease operation between 10pm and 6am.

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

The subject commercial space complies with this requirement and shall be maintained in compliance with this Section. No significant modification to the front façade is proposed, and the interior changes do not impact compliance with this Section.

- 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.
 - The Project provides a use that is necessary and desirable, and compatible with the surrounding neighborhood and community, in that it activates an existing retail space at the same size of the existing space, bringing additional goods and services to the local area. By activating a currently vacant commercial space, the Project will provide jobs and street level activation to the neighborhood. The proposed business places ID check and waiting areas at the front of the businesses, limiting the visibility of cannabis products and sales from the street while maintaining street level activation. In doing so, it is contextually appropriate and compatible with the surrounding neighborhood and community.
 - 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 visible bulk of the existing building will remain the same. The Project will not alter the existing appearance or character of the project vicinity.
- (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 any uses, and the site is very well served by transit services.
- (3) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;
 - The Project proposes a Cannabis Retail use which does not include an on-site smoking or vaporizing space, and this approval is conditioned to prohibit smoking or vaporizing of cannabis products. As such, there are safeguards to prevent noxious or offensive emission from the site.
- (4) Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;
 - The Project Site contains an existing parking lot at the rear of the site which is not modified by the proposed Project.. The parking lot is screened from view by an existing wall.
- 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 Zoning District.
 - The Excelsior Outer Mission Street Neighborhood Commercial District is intended to provide convenience goods and services to the surrounding neighborhoods as well as limited comparison shopping goods for a wider market. By providing a new neighborhood serving retail activity within an existing, unutilized space, the Project furthers the stated purpose of the Zoning District.
- **8.** Additional Conditional Use Findings for Cannabis Retail. Planning Code Section 303(w) outlines additional findings for the Commission when reviewing proposals for new Cannabis Retail establishments. The Commission shall consider "the geographic distribution of Cannabis Retail Uses throughout the City, the concentration of Cannabis Retail and Medical Cannabis Dispensary Uses within the general proximity of the proposed Cannabis Retail Use, the balance of other goods and services available within the general proximity of the proposed Cannabis Retail Use, any increase in youth access and exposure to cannabis at nearby facilities that primarily serve youth, and any proposed measures to counterbalance any such increase."



In the December 2019 report titled "Cannabis in San Francisco: A Review Following Adult Use Legalization," the City Controller's Office identified the Mission and South of Market Neighborhoods as more concentrated with Cannabis Retail uses in comparison to the balance of San Francisco. The report recommended no numeric or geographic limits to existing or in-process cannabis business permits and recommended that potential future legislation to address the imbalance be applied to new applicants rather than the existing applicant pipeline. The proposed Project would add a new Cannabis Retail outlet to the Excelsior Outer Mission neighborhood, creating a more balanced geographic distribution of these uses.

The closest approved Cannabis Retail location to this site is 5260 Mission Street, dba Mission Organic Services, approximately 3,143' from 5801 Mission Street.

Within the general proximity of 5801 Mission Street, there is a mix of residential and small commercial uses. Cannabis Retail is one of the few businesses that is continuing to expand during the pandemic induced economic crisis (though many existing sites, particularly existing Medical Cannabis Dispensaries, are closing permanently). By creating a new retail use, the Project can serve to support the development of other retail and service uses in the general vicinity.

Key facilities in the surrounding neighborhood that serve youth are the Chiquitos Preschool, Dennis Language Services (language school), and Our Kids First (after-school program), all of which are within 600 feet from the proposed facility. Other facilities Little Steps-Pasitos (day care), Alice's Day Care, Longfellow Elementary School, Lincoln Park Community Center, San Francisco Christian School, George Washington Elementary School, and Pershing Preschool, which are all at least 600 feet from the proposed facility. Cannabis facilities are highly regulated, and it is more likely that youth would gain easy access to cannabis products through the unregulated market, which remains a large and dominant force in the market of San Francisco (partially due to the ease of cultivating cannabis products within a home and partially due to the slow rate of permitting of licensed locations in the City). By providing a regulated, legal market within the neighborhood, the proposed business would further discourage unregulated sales, making youth access to cannabis products more restricted.

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

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

OBJECTIVE 2

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1:

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



OBJECTIVE 3:

PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

Policy 3.1:

Promote the attraction, retention and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers.

Policy 3.2:

Promote measures designed to increase the number of San Francisco jobs held by San Francisco residents.

OBJECTIVE 4

IMPROVE THE VIABILITY OF EXISTING INDUSTRY IN THE CITY AND THE ATTRACTIVENESS OF THE CITY AS A LOCATION FOR NEW INDUSTRY.

Policy 4.8:

Provide for the adequate security of employees and property.

OBJECTIVE 6

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

Policy 6.2

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship, and which are responsive to economic and technological innovation in the market place and society.

The Cannabis industry provides great potential for the City in that it is a rapidly expanding industry, with very highly developed equity ownership, hiring, and procurement requirements, that employs blue-collar workers with wages and benefits typically far higher than other types of retail services. The City Controller's Office December 2019 report titled, "Cannabis in San Francisco: A Review Following Adult Use Legalization," found that crime rates, particularly property crimes, generally decreased in the areas immediately surrounding Cannabis storefronts and dispensaries, compared to an overall increase Citywide. The uses are extremely regulated both at the State and local level, and following any Planning Department approval of a site, additional outreach still occurs to develop a Good Neighbor Policy, Security Plans (with review by SFPD), and Odor Mitigation Plans. By activating existing retail spaces in the City (which suffer from high vacancy rates), employing many blue-collar workers, furthering the City's equity goals, and providing alternative medicines that are recognized as helping many residents suffering through pain, Cannabis Retail projects further many of the goals of the City's General Plan and area plans.

10. Planning Code Section 101.1(b) establishes eight priority-planning policies and requires review of



permits for consistency with said policies. On balance, the project 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 will provide a new retail tenant and new use for the neighborhood. The addition of this business will enhance foot traffic to the benefit neighboring businesses. Cannabis is one of the fastest growing job categories in the country and one of the few retail uses that is burgeoning even in the face of e-commerce.
- B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.
 - No housing is impacted by the Project. The building exterior is maintained, preserving neighborhood character.
- C. That the City's supply of affordable housing be preserved and enhanced,
 - The Project has no effect on housing and does not convert housing to a non-residential use.
- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.
 - The Project site is extremely well-served by transit. It is presumable that the employees would commute by transit or use the available off-street parking spot at the rear thereby mitigating possible effects on street parking. Providing access to cannabis products broadly in the City reduces the need for medical or adult use customers to transit across neighborhoods to purchase products.
- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.
 - There is no commercial office development associated with the proposed project and there would be no displacement of any existing industrial or service businesses in the area.
- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.
 - Any construction associated with 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.



No impact to the Historic Resource status is caused by the Project, which proposes interior tenant improvements and the installation of a new security camera and ADA push button on the front façade.

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

The project will have no negative impact on existing parks and open spaces. The Project does not have an impact on open spaces.

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



DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Authorization Application No. 2020-007152CUA** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated April 19, 2021, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion. The effective date of this Motion shall be the date of this Motion if not appealed (after the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

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

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

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on June 10, 2021.

Commission Secretary	
AYES:	
NAYS:	
ABSENT:	

June 10, 2021

Jonas P. Ionin



ADOPTED:

EXHIBIT A

Authorization

This authorization is for a conditional use to allow a Cannabis Retail Use located at 5801 Mission Street, Block 6472, and Lot 001, pursuant to Planning Code Sections 202.2, 303, and 720, within the Excelsior Outer Mission Street Neighborhood Commercial Zoning District, the Fringe Financial Services Restricted Use District, and a 40-X Height and Bulk District; in general conformance with plans, dated April 19, 2021, and stamped "EXHIBIT B" included in the docket for Record No. 2020-007152CUA and subject to conditions of approval reviewed and approved by the Commission on January 7, 2021 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 June 10, 2021 under Motion No. XXXXXXX.

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, <u>www.sf-planning.org</u>

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, <u>www.sf-planning.org</u>

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, <u>www.sf-planning.org</u>

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, <u>www.sf-planning.org</u>

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, <u>www.sf-planning.org</u>

6. Additional Project Authorization. The Project Sponsor shall obtain operating licenses from the City's Office of Cannabis and the State of California prior to commencing any cannabis sales or other activities per Planning Code Section 202.2(a)(5).

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

Design - Compliance at Plan Stage

7. Transparency and Fenestration. Pursuant to Planning Code Section 145.1, the site shall be maintained 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.

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

8. Garbage, Composting and Recycling Storage. Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the building permit plans. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

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

9. Signage. Signs and awnings shall be subject to review and approval by Planning Department.

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

Monitoring - After Entitlement

10. 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, <u>www.sf-planning.org</u>

11. 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, <u>www.sf-planning.org</u>

Operation

12. Sidewalk Maintenance. The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, http://sfdpw.org

13. Community Liaison. Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator and all registered neighborhood groups for the area with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator and registered neighborhood groups shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

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

14. On-Site Consumption. On-site consumption of packaged or prepared cannabis products is permitted as an accessory use to this Cannabis Retail use. On-site smoking or vaporizing of cannabis products is not permitted.

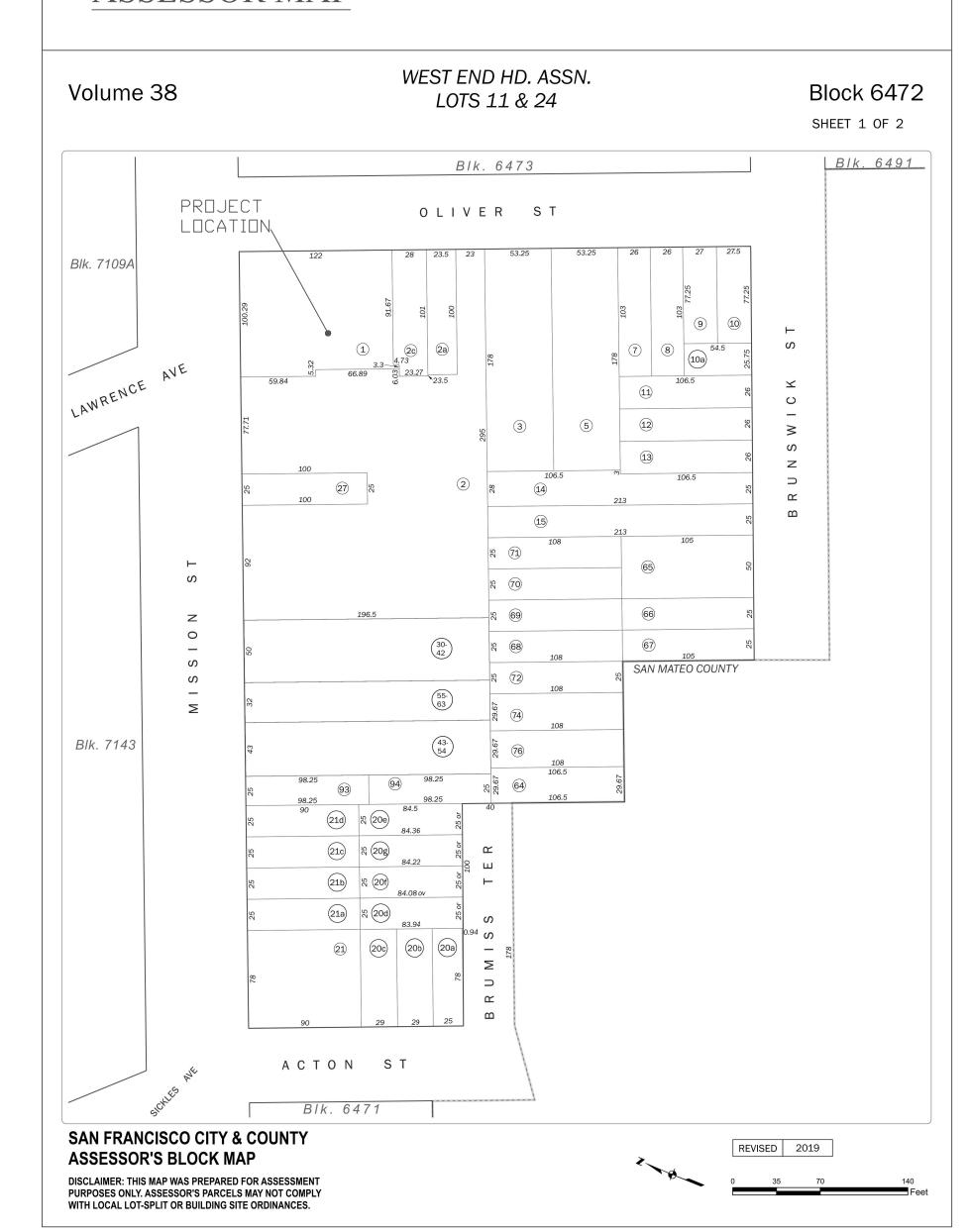
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org



SITE PICTURE



ASSESSOR MAP



5801 MISSION ST SAN FRANCISCO

6472/001 BUILDING HEIGHT 27'-6" EXISTING OCCUPANCY GROUP: PROPOSE OCCUPANCY GROUP:

CONSTRUCTION TYPE ZONING DISTRICT

EXCELSIOR OUTER MISSION STREET (NCD) **HEIGHT LIMITS**

1413 SQFT BUILD AREA (GROUND FLOOR): (ATTIC FLOOR): 642 SQFT 2055 SQFT TOTAL

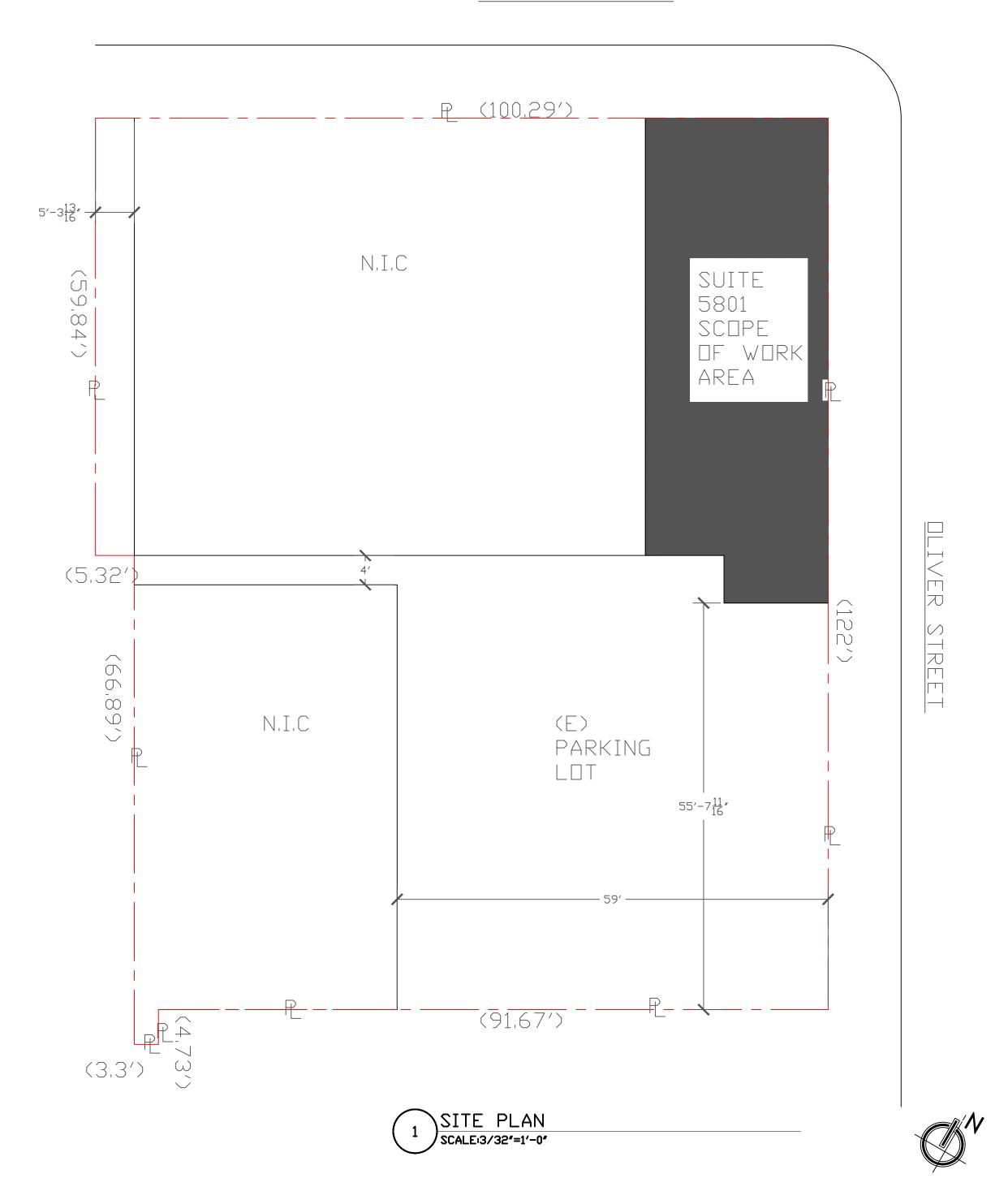
DRAWING INDEX: A-0 COVER SHEET

A-1 (E) 1st FLOOR PLAN AND DEMOLITION PLAN

A-2 PROPOSE 1st FLOOR PLAN & (E) ATTIC FLOOR PLAN

A-3 ELEVATION

MISSION STREET





Joyful Design & Management Group

Tel: 1-415-320-9788 E mail: Stephentong9788@gmail.com

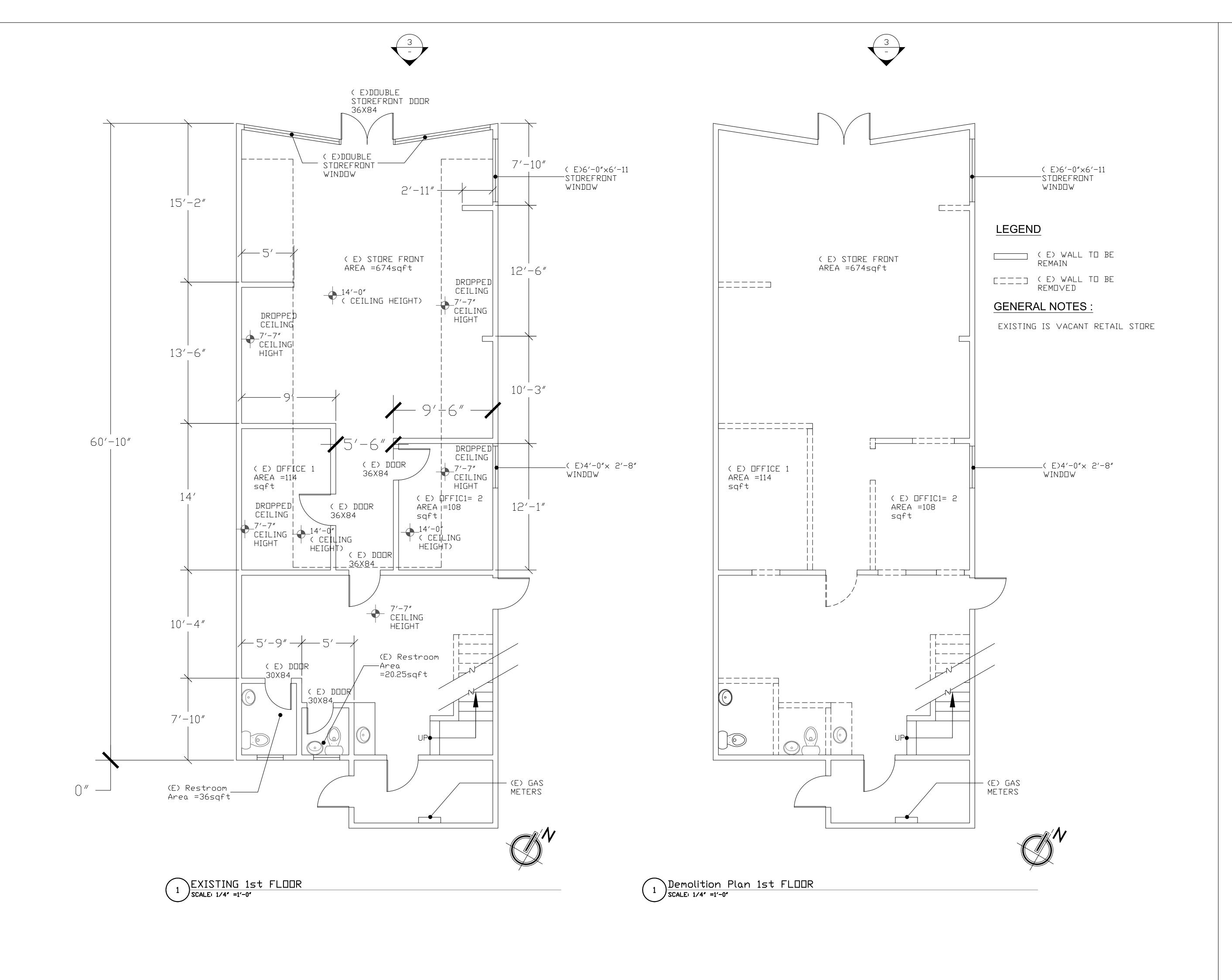
Owner

Project:

Title:

COVER SHEET

<u>Revison</u> 4/22/2021





Joyful Design & Management Group

Tel: 1-415-320-9788 E mail: Stephentong9788@gmail.com

Owner

Project:

5801 MISSION ST SAN FRANCISCO

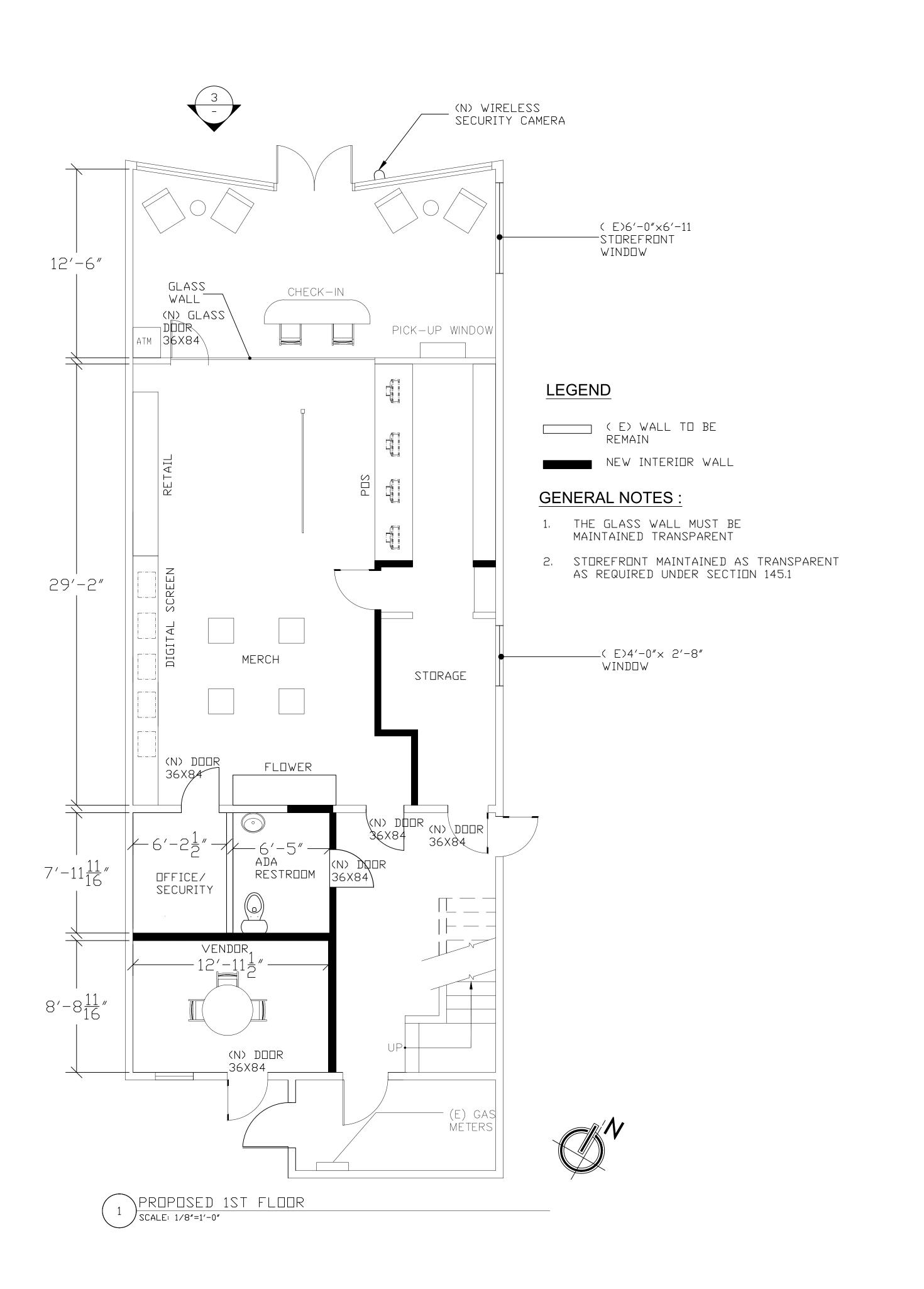
Title:

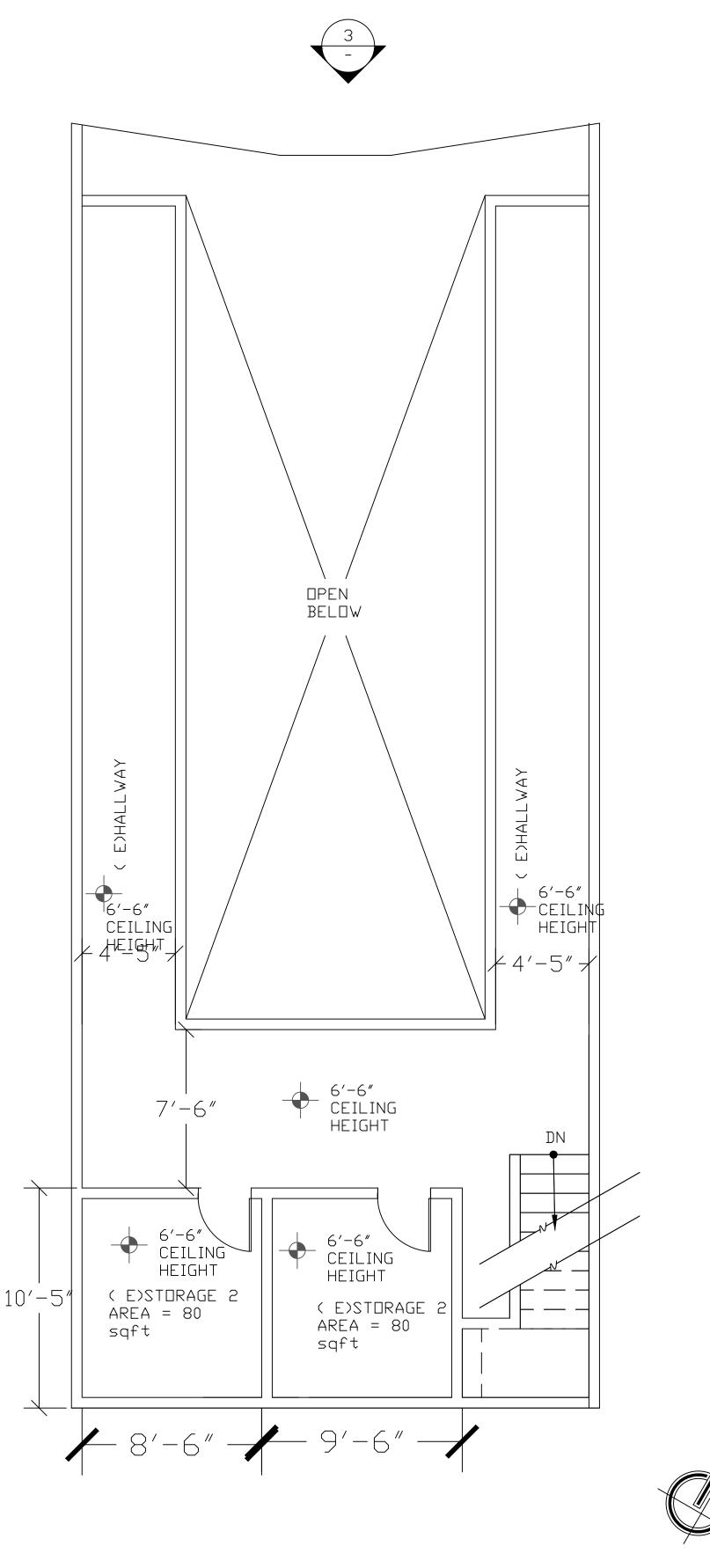
(E) 1st FLOOR & DEMOLITION PLAN

Revison 4/22/2021

Sheet:

A-1





EXISTING ATTIC FLOOR PLAN (NOT SCOPE OF WORK)

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



Joyful Design & Management Group

Tel: 1-415-320-9788 E mail: Stephentong9788@gmail.com

Owner

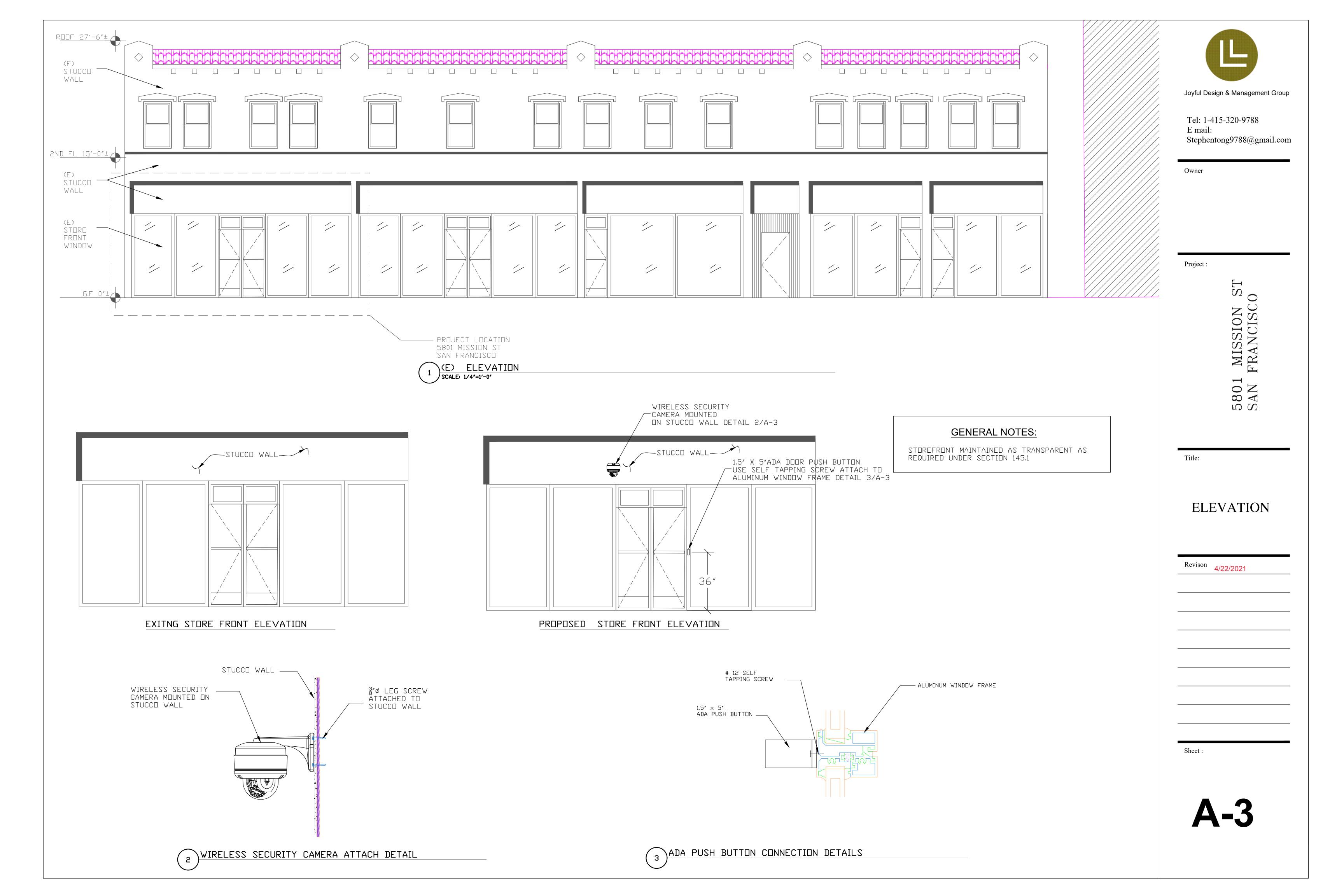
Project:

5801 MISSION ST SAN FRANCISCO

Title:

PROPOSED 1st
FLOOR PLAN & (E)
ATTIC FLOOR
PLAN

A-2





SAN FRANCISCO PLANNING DEPARTMENT

CEQA Common Sense Exemption Determination

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Name			Block/Lot(s)		
5801 Mission Street			6472/001		
Case No.			Permit No.		
2020-	007152ENV				
\boxtimes	Addition/ Alteration	Demolition (requires HRE for Category B Building)	☐ New Construction		
Projec	Project description for Planning Department approval. The project proposes the change of use for a medical cannabis dispensary. No façade alterations are proposed. The project does not include ground disturbance.				
	P 1: EXEMPTION D	ETERMINATION mined to be exempt under the California E	Environmental Quality Act (CEQA).		
	T	·			
\boxtimes	Common Sense E	xemption (CEQA Guidelines section 1506	1(b)(3)		
	P 2: CEQA IMPACT E COMPLETED BY PR				
	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? 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 childcare 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.
Con	nments and Planner Signature (optional):
letter healt proje overs desig subs	project site is listed on the GeoTracker database as a "COMPLETED — CASE CLOSED" site. This means that a closure or other formal closure decision has been issued for the site because corrective action to ensure protection of human th, safety, and the environment, in accordance with standards set by the State, has been completed for the site. The act site once contained an underground storage tank, subject to the State Water Resources Control Board's local sight program (LOP). Under the LOP, the San Francisco Department of Public Health (acting as a certified local agency gnated by the state) provided regulatory oversight for the abatement of any unauthorized releases of hazardous tances from underground storage tanks, in accordance with State laws and regulations. On May 1, 2014, the San cisco Department of Public Health issued a no further action letter.
and s	ed on the performance standards required by the State to ensure that no adverse impacts with respect to public health safety would occur, it can be clearly demonstrated that the project has no potential to have significant environmental sts with respect to hazardous substances on the site.
_	P 3: PROPERTY STATUS - HISTORIC RESOURCE E COMPLETED BY PROJECT PLANNER
PROP	ERTY IS ONE OF THE FOLLOWING: (refer to Property Information Map)
	Category A: Known Historical Resource. GO TO STEP 5.
\boxtimes	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 <i>Window Replacement Standards</i> . Does not include storefront window alterations.	
	4.	Garage work. 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.	
	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 <i>Zoning Administrator Bulletin No. 3: Dormer Windows.</i>	
	8.	Addition(s) that are not visible from ay 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	: Pr	oject Planner must check box below before proceeding.	
\boxtimes	Pr	oject 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.		
	Pr	oject 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 features.		
	6. Restoration based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.		
	7. Addition(s) , including mechanical equipment that are minimally visible from a public right-of-way and meet the Secretary of the Interior's Standards for Rehabilitation.		

1					
	8. Other work consistent with the Secretary of the Interior Standards for the Treatment of Historic Properties (specify or add comments):				
	9. Other work that would not materially impair a historic district (specify or add comments): (Requires approval by Senior Preservation Planner/Preservation Coordinator)				
]					
Ш	Reclassify to Category A	(Requires approval by Senior Preservation Planner/Preservation			
	a. Per HRER or PTR dated	☐ Reclassify to Category C (attach HRER or PTR)			
	a. i ei ilikelk oi i ilk dated	(attach fine to the first			
	b. Other (specify):				
	Note: If ANY box in STEP 5 above	ve is checked, a Preservation Planner MUST sign below.			
	Project can proceed with exemption review. The project has been reviewed by the Preservation Planner and can proceed with exemption review. GO TO STEP 6.				
Comm	ents (optional):				
Presei	vation Planner Signature:				
	P 6: EXEMPTION DETERMINATION E COMPLETED BY PROJECT PLANNER				
\boxtimes	No further environmental review is req significant effect on the environment.	uired. The project is exempt under CEQA. There is no possibility of a			
	Project Approval Action: Planning Commission Hearing	Signature:			
		De Ceis			
		Don Lewis 11/10/2020			
	Once signed or stamped and dated, this document constitutes an 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:						
DET	DETERMINATION IF PROJECT CONSTITUTES SUBSTANTIAL MODIFICATION					
Com	Compared to the approved project, would 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	d 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	east one of the above boxes is	checked, further environmental review is required.				
DET	ERMINATION OF NO SUBSTAN	TIAL MODIFICATION				
	The proposed modification wo	uld not result in any of the above changes.				
If this box is checked, the proposed modifications are 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.						
Plani	ner Name:	Date:				



LAND USE INFORMATION

PROJECT ADDRESS: 5801 MISSION ST RECORD NO.: 2020-007152PRJ

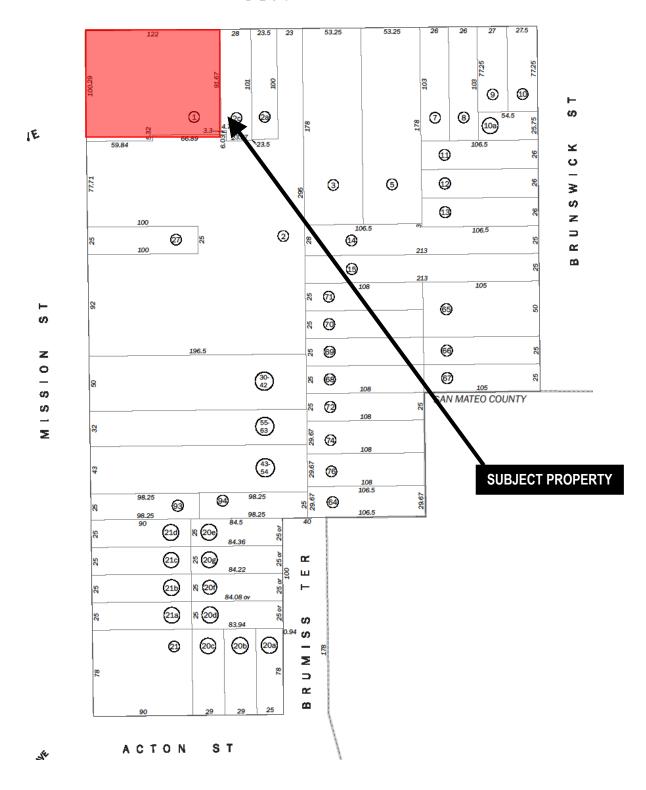
	EXISTING	PROPOSED	NET NEW	
GROSS SQUARE FOOTAGE (GSF)				
Parking GSF	0	0	0	
Residential GSF	0	0	0	
Retail/Commercial GSF	2,055	2,055	0	
Office GSF	0	0	0	
Industrial/PDR GSF Production, Distribution, & Repair	0	0	0	
Medical GSF	0	0	0	
Visitor GSF	0	0	0	
CIE GSF	0	0	0	
Usable Open Space	0	0	0	
Public Open Space	0	0	0	
Other	0	0	0	
TOTAL GSF	2,055	2,055	0	
	EXISTING	NET NEW	TOTALS	
	PROJECT FEATURES (I	Units or Amounts)		
Dwelling Units - Affordable	0	0	0	
Dwelling Units - Market Rate	0	0	0	
Dwelling Units - Total	0	0	0	
Hotel Rooms	0	0	0	
Number of Buildings	1	1	0	
Number of Stories	2	2	0	
Parking Spaces	1	1	0	
Loading Spaces	0	0	0	
Bicycle Spaces	0	0	0	
Car Share Spaces	0	0	0	
Other	0	0	0	

	EXISTING	PROPOSED	NET NEW
	LAND USE - RES	SIDENTIAL	
Studio Units	0	0	0
One Bedroom Units	0	0	0
Two Bedroom Units	0	0	0
Three Bedroom (or +) Units	0	0	0
Group Housing - Rooms	0	0	0
Group Housing - Beds	0	0	0
SRO Units	0	0	0
Micro Units	0	0	0
Accessory Dwelling Units	0	0	0



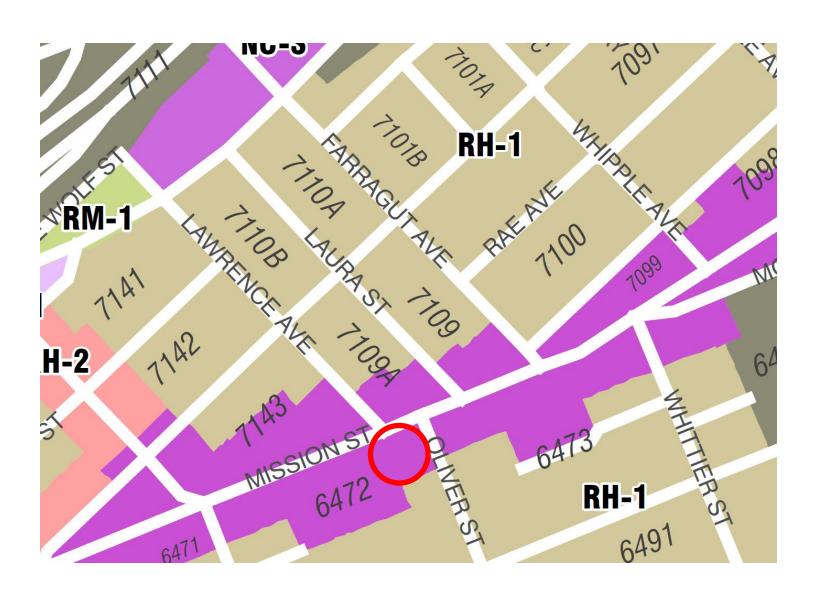
Parcel Map

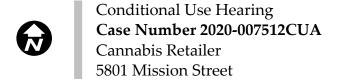
OLIVER ST



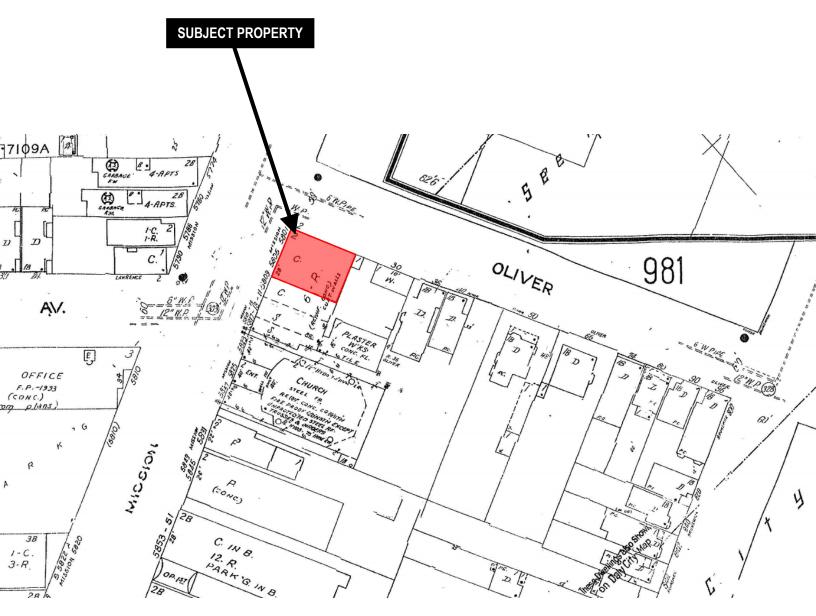


Zoning Map

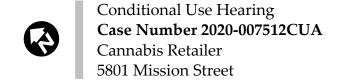




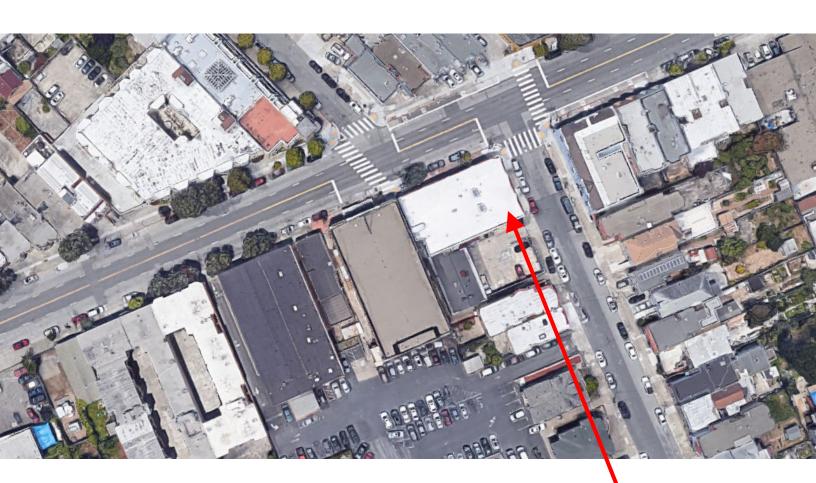
Sanborn Map*



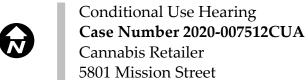
*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.



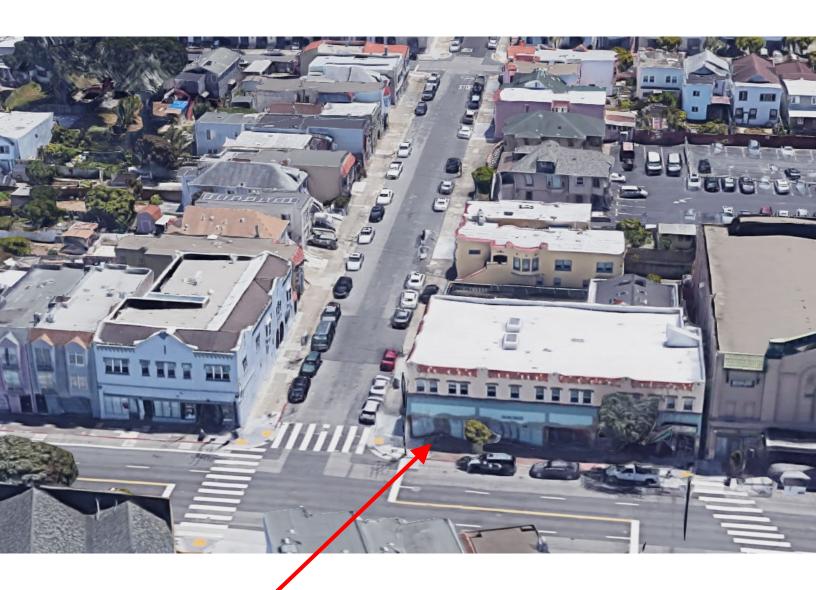
Aerial Photo – View 1



SUBJECT PROPERTY



Aerial Photo - View 2



SUBJECT PROPERTY



Site Photo



Cannabis Storefront Retail Map

