



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use

HEARING DATE: DECEMBER 4TH, 2014

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Date: November 24th, 2014
Case No.: **2014.0417C**
Project Address: **531 CASTRO STREET**
Zoning: Castro Street Neighborhood Commercial District
40-X Height and Bulk District.
Block/Lot: 3583/093
Project Sponsor: John Kevlin
Reuben, Junius & Rose LLP
One Bush Street, Suite 600
San Francisco, CA 94104
Staff Contact: Tom Wang – (415) 558-6335
thomas.wang@sfgov.org

PROJECT DESCRIPTION

The Project Sponsor seeks Conditional Use authorization, pursuant to Planning Code Sections 703.3, 703.4, 790.38, 303(c), and 303(i) to convert the existing vacant Patio Restaurant and Café into Hamburger Mary's, a formula retail restaurant, including an other entertainment use, within a three-story, mixed-use building at 531 Castro Street. The proposed Hamburger Mary's would occupy an already built-out restaurant space on the ground floor, containing a gross floor area of approximately 5,844 square feet and would not change the existing building envelope. Approximately 10% of the restaurant operation will be devoted to take-out dining.

Hamburger Mary's is a gay-themed and LGBT-friendly restaurant that originally opened at 1582 Folsom Street in San Francisco in 1972. It was closed in 2001.

The proposed Hamburger Mary's floor plan includes Dining Area No. 1 and Bar No. 1 at the front of the restaurant; Dining Area No. 2 adjacent to kitchen; and Dining Area No. 3 and Bar No. 2 in the rear outdoor area under a retractable skylight roof.

The proposed Hamburger Mary's restaurant hours are as follows:

- (a) Dining Area No.1, Bar No. 1 and Dining Area No. 2 will be between 6 a.m. and 2 a.m. seven day a week;
- (b) Dining Area No. 3 and Bar No. 2 will be between 6 a.m. and 12 o'clock midnight seven days a week;
- (c) The two rear outdoor dining areas that are not under the retractable skylight roof will be between 6 a.m. and 9 p.m. seven days a week; and

- (d) The retractable skylight roof above Dining Area No. 3 and Bar No. 2 will be closed by 9 p.m. seven days a week.

The other entertainment use in association with the proposed Hamburger Mary's will include DJ/VJ performances, emceed television-watching nights, bingo, karaoke and live drag performances. The live music will be restricted to the inside area of the restaurant and the sound equipment and soundproofing must be inspected and permitted by the Entertainment Commission prior to operation.

The proposed Hamburger Mary's other entertainment hours will be between 12 noon and 1:30 a.m. Mondays through Fridays and between 10 a.m. and 1:30 a.m. Saturdays and Sundays.

SITE DESCRIPTION AND PRESENT USE

The Project Site, at 531 Castro Street, is on the east side of Castro Street between 18th and 19th streets, Lot 093 in Assessor's Block 3583 in The Castro Street Neighborhood Commercial District and a 40-X height and Bulk District. The Subject Property measures 74 feet wide and averaging 112 feet 6 inches deep and was originally developed with two buildings circa 1900. The northerly building (Project Site), 527-531 Castro Street, is three stories, with the Patio Restaurant and Café and a vacant retail space on the ground floor and one residential unit on each of the two upper floors. The southerly building, 533-541 Castro Street, is two stories, with a retail store on the ground floor and a commercial office on the second floor. The Project Site is well served by public transportation, including Muni Bus Lines 24 and 35 operating on Castro Street and nearby Muni Bus Line 33 operating on 18th Street.

SURROUNDING PROPERTIES & NEIGHBORHOOD

To the north and south of the Subject Property are mixed-use buildings, with ground floor commercial businesses, including Bars, Restaurants, Limited-Restaurants, Financial Services, Personal Services and Business and Professional Services. The surrounding residential district is the RH-3 Zoning District.

The Castro Street NCD is situated in Eureka Valley, close to the geographic center of San Francisco between the Mission District, Twin Peaks, and Upper Market Street. The physical form of the District is a crossing at Castro and 18th streets, the arms of which contain many small but intensely active commercial businesses. The multi-purpose commercial district provides convenience goods to its immediate neighborhood as well as comparison shopping goods and services on a specialized basis to a wider trade area. Commercial businesses are active both in the daytime and late into the evening and include a number of gay-oriented bars and restaurants, as well as several specialty clothing and gift stores. The district also supports a number of offices in converted residential buildings.

Based on analysis of Planning Department data from as recent as the 2 quarter of 2014, approximately 26% of all ground floor uses within the Castro Street Neighborhood Commercial District consist of food and beverage establishments while 32% of all uses in the NCD are considered retail. For the Castro Street NCD and Upper Market NCT, the percentage of ground floor frontage in linear feet occupied by food/beverage establishments amount to 17%, whereas retail uses amounted to 25%. This information is summarized in the table below. Vacancies occupy 5% of the ground floor frontage within the Castro Street NCD, whereas 7% of ground floor frontage within both the Castro and Upper Market Street NC districts.

Table 1. Castro Street NCD / Upper Market NCT Ground Floor Frontage Breakdown per Land Use¹

LAND USE TYPE	CASTRO FRONTAGE TOTAL (FT.)	CASTRO %	CASTRO/ UPPER MARKET FRONTAGE TOTAL (FT.)	CASTRO/ UPPER MARKET %
RETAIL SALES	1214	32%	3651	25%
FOOD/BEVERAGE	1015.5	26%	2507.5	17%
RESIDENTIAL	595.5	16%	1833	13%
MEDICAL OFFICE	217	6%	524	4%
VACANT	184.5	5%	1397	10%
PERSONAL SERVICE	211	5%	974	7%
FINANCIAL ESTABLISHMENT	155.5	4%	272.8	2%
PARKING	85	2%	777	5%
HOTEL	58.5	2%	160	1%
INSTITUTION	49	1%	208.5	1%
THEATER	44	1%	65.5	0%
OFFICE	7	0%	1090	7%
UNDER CONSTRUCTION	0	0%	907	6%
AUTO SERVICE (GAS STATION)	0	0%	176	1%
TOTAL	3836.5	100%	14543.3	100%

ENVIRONMENTAL REVIEW STATUS

The Project was determined by the Department to be categorically exempt from the California Environmental Quality Act ("CEQA") as a Class 1 Categorical Exemption under CEQA. The Commission has reviewed and concurs with said determination.

HEARING NOTIFICATION REQUIREMENTS

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	November 14 th , 2014	November 14 th , 2014	20 days
Posted Notice	20 days	November 14 th , 2014	November 14 th , 2014	20 days
Mailed Notice	20 days	November 14 th , 2014	November 14 th , 2014	20 days

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

PUBLIC COMMENT

- The Department received two email both expressed opposition to the Project.
- The Department received approximately 668 emails throughout the surrounding neighborhood that all expressed support of the Project.

¹ The Castro/ Upper Market Land Use table was developed using data collected during a foot survey performed by Planning Department Staff in 2012 and updated with permits applying for a change of use since 2012.

- The Department further received letters and emails from Castro Merchants, Castro/Eureka Valley Neighborhood Association and Castro/Upper Market Community Benefit District that also expressed support of the Project.

ISSUES AND OTHER CONSIDERATIONS

- In order for a Neighborhood Commercial District to remain viable and be compatible with the surrounding neighborhood, it must exhibit a healthy balance of different types of commercial uses. This policy includes guidelines that prioritize uses that will provide goods and services to serve residents of the area. Additionally, the existing concentration of eating and drinking uses in the area should not exceed 25% of the total commercial frontage as measured in linear feet within the immediate area of the Subject Site. For the purposes of Section 303(p)(1)(A) of the Planning Code, the immediate area shall be defined as all properties located within 300 feet of the Subject Property and also located within the same zoning district.

Based upon a site survey performed by staff, the existing total commercial frontage within 300 feet of the Project Site is 2,148 linear feet, and the existing concentration of eating and drinking uses within 300 feet, including the vacant Patio Restaurant and Café, is 553 linear feet, or 25.74%. Although the existing concentration of eating and drinking uses within 300 feet is slightly over the 25% threshold, the Project, which would reactivate an existing vacant restaurant, would not result in any increase of the current concentration of eating and drinking uses within 300 feet of the Project Site.

- Based upon the site survey performed by the Project Sponsor in March 2014, there were 10 vacant commercial storefronts, including the vacant Patio Restaurant and café, in the Castro Street NCD that consists of lively and vibrant street-level retail uses. It is particularly important to avoid any vacancies on this block of Castro Street, as the Project Site containing a vacant restaurant for a number of years near the center of the Castro Street NCD causes a significant detractor from the lively character of the district. The proposed Hamburger Mary's would remove an existing vacant commercial storefront and would complement the mix of goods and services currently available within the Castro Street NCD by offering neighborhood residents and visitors an additional choice for dining.
- Although the Castro Street NCD is a neighborhood serving district, including a mixture of retail sales, restaurants, professional and business service, financial institutions, and medical and personal service, it draws residents throughout the City because it is also the center of LGBT culture. The commercial uses in this district; therefore, serve both local and non-local residents. The Project will be a reestablishment of Hamburger Mary's, an LGBT-friendly restaurant, originally opened in San Francisco in the 1970s but closed in 2001. The Project will generate no significant impact on traffic or on-street parking in the district because the Project Site and the surrounding area are well served by public transit.
- To allow an other entertainment in the proposed Hamburger Mary's will enhance the meal service offered by Hamburger Mary's and will not result in the displacement of any other neighborhood serving use. Furthermore, allowing an other entertainment in Hamburger Mary's will complement the mix of goods and services currently available in the Castro Street NCD and

contribute to the economic vitality of this district by providing an additional entertainment option for local residents and visitors of the neighborhood.

- The proposed other entertainment in Hamburger Mary's would be unique; it would not oversaturate current entertainment activities within the immediate vicinity. The Project will also provide performance employment opportunities. Because most of the entertainment performance will take place amongst tables and bars and not on a formal stage such employment opportunities are; therefore, more appropriate for emerging local artists.
- A sound technician from San Francisco Entertainment Commission has conducted a sound inspection at the Project Site and did not detect any sound escaping the premises which would violate Article 29 of the San Francisco Municipal Police Code. A further official sound test would still have to be performed once Hamburger Mary's is in operation and live entertainment takes place.

REQUIRED COMMISSION ACTION

In order for the Project to proceed, the Commission must grant Conditional Use authorization under Planning Code Sections 703.3, 703.4, 790.38, 303(c), and 303(i) in order to allow a formula retail restaurant with an other entertainment use within the Castro Street Neighborhood Commercial District.

BASIS FOR RECOMMENDATION

The Department believes this Project is necessary and/or desirable, and compatible with the neighborhood under Section 303 of the Planning Code for the following reasons:

- The Project will convert a vacant restaurant into an active restaurant and eliminate neighborhood blight which will contribute to the economic vitality of and complement the current mix of goods and services in the Castro Street NCD.
- The Project will neither prevent the availability of other similar retail uses nor result in an increase in the number of restaurants in the Castro Street NCD.
- The Project Site is well served by public transit; therefore, the Project should have a negligible impact upon the current traffic pattern and available parking on the surrounding streets.
- The Project will create approximately thirty restaurant job openings for local residents
- An other entertainment will not only enhance Hamburger Mary's restaurant operation, but will also offer performance job opportunities especially to emerging local artists because it will mostly take place amongst tables and bar area and not on a formal stage.
- The Project meets all applicable provisions of the Planning Code and is compatible with the envisioned development in the surrounding neighborhood.

RECOMMENDATION:	Approve with Conditions
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Attachments:

Draft Motion
Block Book Map
Sanborn Map
Zoning Map
Aerial Photographs
Context Photographs
Site Photograph
Reduced Plans

Exhibit Checklist

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

TCW
Planner's Initials

TCW: G:\DOCUMENTS\Conditional Use\531 Castro Street \Formula Retail Restaurant and Entertainment\Executive Summary.doc



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RECOMMENDATION:	Approve with Conditions
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Attachments:

Draft Motion
Block Book Map
Sanborn Map
Zoning Map
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Context Photographs
Site Photograph
Reduced Plans

Exhibit Checklist

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SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- | | |
|--|--|
| <input type="checkbox"/> Inclusionary Housing (Sec. 315) | <input type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 313) | <input type="checkbox"/> Child Care Requirement (Sec. 314) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 139) | <input type="checkbox"/> Other |

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ADOPTING FINDINGS RELATING TO CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 703.3, 703.4, 790.38, 303(c), AND 303(i) OF THE PLANNING CODE TO CONVERT AN EXISTING VACANT RESTAURANT (D.B.A. THE PATIO RESTAURANT AND CAFÉ) INTO A FORMULA RETAIL RESTAURANT (D.B.A. HAMBURGER MARY'S), INCLUDING AN OTHER ENTERTAINMENT, WITHIN THE CASTRO STREET NEIGHBORHOOD COMMERCIAL DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On March 25th, 2014 John Kevlin, Reuben, Junius & Rose LLC (hereinafter "Project Sponsor") filed an application with the San Francisco Planning Department (hereinafter "Department") for Conditional Use authorization under Sections 703.3, 703.4, 790.38, 303(c), and 303(i) of the Planning Code to convert an existing vacant restaurant (d.b.a. the Patio Restaurant and Café) into a formula retail restaurant (d.b.a. Hamburger Mary's), including an other entertainment use, (hereinafter "Project"), at 531 Castro Street (hereinafter "Project Site") within the Castro Street Neighborhood Commercial District and a 40-X Height and Bulk District.

On December 4th, 2014 the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2014.0417C (hereinafter "Application").

The Project was determined by the Department to be categorically exempt from the California Environmental Quality Act ("CEQA") as a Class 1 Categorical Exemption under CEQA. The Commission has reviewed and concurs with said determination.

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

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2014.0417C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The Project Site, at 531 Castro Street, is on the east side of Castro Street between 18th and 19th streets, Lot 093 in Assessor's Block 3583 in The Castro Street Neighborhood Commercial District and a 40-X height and Bulk District. The Subject Property measures 74 feet wide and averaging 112 feet 6 inches deep and was originally developed with two buildings circa 1900. The northerly building at 527-531 Castro Street (Project Site) is three stories, with the vacant Patio Restaurant and Café on the ground floor and one residential unit on each of the two upper floors. The southerly building, 533-541 Castro Street, is two stories, with a retail store on the ground floor and a commercial office on the second floor. The Project Site is well served by public transportation, including Muni Bus Lines 24 and 35 operating on Castro Street and nearby Muni Bus Line 33 operating on 18th Street.
3. **Surrounding Properties and Neighborhood.** To the north and south of the Project Site are mixed-use buildings, with ground floor commercial businesses, including Bars, Restaurants, Limited-Restaurants, Financial Services, Personal Services and Business and Professional Services. The surrounding residential district is the RH-3 Zoning District.

The Castro Street NCD is situated in Eureka Valley, close to the geographic center of San Francisco between the Mission District, Twin Peaks, and Upper Market Street. The physical form of the District is a crossing at Castro and 18th streets, the arms of which contain many small but intensely active commercial businesses. The multi-purpose commercial district provides convenience goods to its immediate neighborhood as well as comparison shopping

goods and services on a specialized basis to a wider trade area. Commercial businesses are active both in the daytime and late into the evening and include a number of gay-oriented bars and restaurants, as well as several specialty clothing and gift stores. The district also supports a number of offices in converted residential buildings.

Based on analysis of Planning Department data from as recent as the 2 quarter of 2014, approximately 26% of all ground floor uses within the Castro Street Neighborhood Commercial District consist of food and beverage establishments while 32% of all uses in the NCD are considered retail. For the Castro Street NCD and Upper Market NCT, the percentage of ground floor frontage in linear feet occupied by food/ beverage establishments amount to 17%, whereas retail uses amounted to 25%. This information is summarized in the table below. Vacancies occupy 5% of the ground floor frontage within the Castro Street NCD, whereas 7% of ground floor frontage within both the Castro and Upper Market Street NC districts.

Table 1. Castro Street NCD / Upper Market NCT Ground Floor Frontage Breakdown per Land Use¹

LAND USE TYPE	CASTRO FRONTAGE TOTAL (FT.)	CASTRO %	CASTRO/ UPPER MARKET FRONTAGE TOTAL (FT.)	CASTRO/ UPPER MARKET %
RETAIL SALES	1214	32%	3651	25%
FOOD/BEVERAGE	1015.5	26%	2507.5	17%
RESIDENTIAL	595.5	16%	1833	13%
MEDICAL OFFICE	217	6%	524	4%
VACANT	184.5	5%	1397	10%
PERSONAL SERVICE	211	5%	974	7%
FINANCIAL ESTABLISHMENT	155.5	4%	272.8	2%
PARKING	85	2%	777	5%
HOTEL	58.5	2%	160	1%
INSTITUTION	49	1%	208.5	1%
THEATER	44	1%	65.5	0%
OFFICE	7	0%	1090	7%
UNDER CONSTRUCTION	0	0%	907	6%
AUTO SERVICE (GAS STATION)	0	0%	176	1%
TOTAL	3836.5	100%	14543.3	100%

The Castro Street District controls are designed to maintain existing small-scale development and promote a balanced mix of uses. Building standards permit small-scale buildings and uses and protect rear yards above the ground story and at residential levels. In new buildings, most commercial uses are permitted at the ground and second stories. Special controls are necessary to preserve the existing equilibrium of neighborhood-serving convenience and specialty commercial uses. In order to maintain convenience stores and protect adjacent residential

¹ The Castro/ Upper Market Land Use table was developed using data collected during a foot survey performed by Planning Department Staff in 2012 and updated with permits applying for a change of use since 2012.

livability, controls prohibit additional eating and drinking establishments and permit with certain limitations new late-night uses, adult and other entertainment, and financial service uses. The continuous retail frontage is maintained by prohibiting most automobile and drive-up uses. Housing development in new buildings is encouraged above the second story. Existing housing units are protected by limitations on demolitions and upper-story conversions.

4. **History of the Patio Restaurant and Café.** Based upon the Project Sponsor's statement, the Patio Restaurant and Café was established in the 1960s. The restaurant and three retail spaces were within the subject building when it was acquired by the current owner in 1989.

In 1992, the current property owner filed a Building Permit Application No. 9221678S (hereinafter "1992 Building Permit"). Plans filed with the 1992 Building Permit indicated three retail uses and one full-service restaurant were on the ground floor of the Subject Property. The proposal under the 1992 Building Permit included the legalization of a rear outdoor seating area, associated with the restaurant, as well as an enclosure of this seating area with a "retractable skylight" roof. Pursuant to Planning Code Section 179, the Department approved the 1992 Building Permit with an attached Notice of Special Restrictions (hereinafter "1992 NSR"). The restrictions and conditions of which notice are (1) The said outdoor seating area proposed for legalization, expansion and enclosure shall be restricted in size to approximately 2,100 square feet and shall be restricted in seating to approximately 160 seats. (2) That any further expansion of this area or any other area of the restaurant shall require Conditional Use Authorization under Planning Code Section 186.1 because any such expansion, considered in conjunction with the expansion being authorized by the 1992 Building Permit, shall constitute a significant expansion as explained in Section 186.1, subsection (b).

In 2005, the current property owner filed a Building Permit Application No. 2005.05.03.1487 (hereinafter "2005 Building Permit"), proposing to renovate the restaurant, including the addition of a bar and seating area that occupied part of the three retail spaces. The 2005 Building Permit was approved by the Department and subsequently issued by the Department of Building Inspection (hereinafter "DBI") on April 10th, 2006. All work authorized under the 2005 Building Permit has been completed and received a Final Certificate of Completion from DBI on June 6th, 2012. The current property owner then filed for an application with the Department of Public Health to operate the restaurant and upon a Health Permit Referral, the Department indicated that the 2005 Building Permit was approved in error and that a Conditional Use authorization would be required to legalize the expansion of the restaurant into previously dedicated retail spaces, pursuant to the 1992 NSR and Planning Code Section 186.1.

On March 5th, 2013, the Project Sponsor filed an application No. 2013.0290C for Conditional Use authorization, proposing to allow the Patio Restaurant and Café, a nonconforming use, for the legalization of the expansion into part of the three vacant retail spaces under the 2005 Building Permit and an expansion into the remaining area of the three vacant retail spaces. The rear outdoor seating area would remain at 160 seats, complying with the 1992 NSR.

On August 1st, 2013, the Commission approved Conditional Use application No. 2013.0290C, including Conditions of Approval, under Motion No. M18939. However, the Patio Restaurant and Café has not been in operation since and remains closed today.

5. **Project Description.** The Project Sponsor seeks Conditional Use authorization, pursuant to Planning Code Sections 703.3, 703.4, 790.38, 303(c), and 303(i) to convert the existing vacant Patio Restaurant and Café into Hamburger Mary's, a formula retail restaurant, including an other entertainment use, within a three-story, mixed-use building at 531 Castro Street. The proposed Hamburger Mary's would occupy an already built-out restaurant space on the ground floor, containing a gross floor area of approximately 5,844 square feet and would not change the existing building envelope. Approximately 10% of the restaurant operation will be devoted to take-out dining.

Hamburger Mary's is a gay-themed and LGBT-friendly restaurant that originally opened at 1582 Folsom Street in San Francisco in 1972. It was closed in 2001.

The proposed Hamburger Mary's floor plan includes Dining Area No. 1 and Bar No. 1 at the front of the restaurant; Dining Area No. 2 adjacent to kitchen; and Dining Area No. 3 and Bar No. 2 in the rear outdoor area under a retractable skylight roof.

The proposed Hamburger Mary's restaurant hours are as follows:

- A. Dining Area No.1, Bar No. 1 and Dining Area No. 2 will be between 6 a.m. and 2 a.m. seven day a week;
- B. Dining Area No. 3 and Bar No. 2 will be between 6 a.m. and 12 o'clock midnight seven days a week;
- C. The two rear outdoor dining areas that are not under the retractable skylight roof will be between 6 a.m. and 9 p.m. seven days a week; and
- D. The retractable skylight roof above Dining Area No. 3 and Bar No. 2 will be closed by 9 p.m. seven days a week.

The other entertainment use in association with the proposed Hamburger Mary's will include DJ/VJ performances, emceed television-watching nights, bingo, karaoke and live drag performances. The live music will be restricted to the inside area of the restaurant and the sound equipment and soundproofing must be inspected and permitted by the Entertainment Commission prior to operation.

The proposed Hamburger Mary's other entertainment hours will be between 12 noon and 1:30 a.m. Mondays through Fridays and between 10 a.m. and 1:30 a.m. Saturdays and Sundays.

6. **Public Comment.** The Department received two email both expressed opposition to the Project. The Department received approximately 668 emails throughout the surrounding neighborhood that all expressed support of the Project. The Department further received letters and emails from Castro Merchants, Castro/Eureka Valley Neighborhood Association and Castro/Upper Market Community Benefit District that also expressed support of the Project.

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

A. **Restaurant.** Planning Code Section 715.44 provides that a restaurant is permitted as a Conditional Use on the first story. Planning Code Section 790.91 provides that a restaurant is a retail eating or eating and drinking use which serves foods to customers for consumption on or off the premises and which has seating. It may have a Take-Out Food use as defined by Planning Code Section 790.122 as a minor and incidental use. It may provide on-site beer, wine, and/or liquor sales for drinking on the premises (with ABC license types 41, 47, 49, 59, or 75); however, if it does so it shall be required to operate as a Bona Fide Eating Place as defined in Section 790.142.

B. **Use Size [Non-Residential] Standard in Castro Street Neighborhood Commercial District.** Planning Code Section 715.21 provides that Use Size [Non-Residential] at a gross floor area of 4,000 square feet and above is not permitted in the Castro Street Neighborhood Commercial District.

C. **Outdoor Activity Areas.** Planning Code Section 790.70 defines outdoor activity area as an area, not including primary circulation space or any public street, located outside of a building or in a courtyard which is provided for the use or convenience of patrons of a commercial establishment including, but not limited to, sitting, eating, drinking, dancing, and food-service.

(a) Planning Code Sections 715.24 provides that an outdoor activity area operated by a commercial use is permitted if it complies with provisions governing outdoor activity areas in NC Districts under Planning Code Section 145.2(a)(1) in that an outdoor activity area operated by a commercial use is permitted as a principal use if located outside a building and contiguous to the front property line of the lot on which the commercial use is located.

(b) Planning Code Sections 715.24 provides that an outdoor activity area operated by a commercial use, which does not comply with provisions governing outdoor activity areas in NC Districts under Planning Code Section 145.2(a)(1) is permitted as a conditional use.

The existing Patio Restaurant and Café was granted a Conditional Use authorization under Case No. 2013.0290C, Motion No. M18939, as a restaurant on the first floor of a three-story, mixed-use building with a total floor area of 5,844 square feet, including two bars and a rear outdoor seating area enclosed with a retractable skylight roof.

The Project Sponsor proposes to convert the currently vacant Patio Restaurant and Café into Hamburger Mary's which is a continual restaurant use. The Project will occupy the existing vacant Patio Restaurant and Café's exact total floor area of 5,844 square feet, including two bars and a rear outdoor seating area enclosed with a retractable skylight roof. The Project will include no expansion of the existing building envelope.

- D. Other Entertainment Use.** Planning Code Section 715.48 requires Conditional Use Authorization to establish an entertainment use within the Castro Street Neighborhood Commercial District. Planning Code Section 790.38 defines an "other entertainment" use as a retail use which provides live entertainment, including dramatic and musical performances and/or provides amplified taped music for dancing on the premises, including but not limited to Places of Entertainment and Limited Live Performance Locales as defined in Section 1060 of the Police Code, and which is adequately soundproofed or insulated so as to confine incidental noise to the premises.

The Project Sponsor seeks Conditional Use authorization not only to convert the existing vacant Patio Restaurant and Café into Hamburger Mary's, a formula retail restaurant, but also to establish an entertainment use in Hamburger Mary's. The proposed entertainment would include live music and DJ performances. The live music would be restricted to the inside area of the restaurant and the sound equipment must be inspected and permitted by the San Francisco Entertainment Commission prior to operation.

- E. Hours of Operation.** Planning Code Section 715.27 provides that hours of operation in the Castro Street NCD, as defined by Planning Code Section 790.48, from 6 a.m. to 2 a.m. is permitted by right and from 2 a.m. to 6 a.m. is permitted by Conditional Use authorization.

- (1) *The proposed Hamburger Mary's restaurant hours are as follows:*

- (a) *Dining Area No.1, Bar No. 1 and Dining Area No. 2 will be between 6 a.m. and 2 a.m. seven day a week;*
- (b) *Dining Area No. 3 and Bar No. 2 will be between 6 a.m. and 12 o'clock midnight seven days a week;*
- (c) *The two rear outdoor dining areas that are not under the retractable skylight roof will be between 6 a.m. and 9 p.m. seven days a week; and*
- (d) *The retractable skylight roof above Dining Area No. 3 and Bar No. 2 will be closed by 9 p.m. seven days a week.*

- (2) *The proposed Hamburger Mary's other entertainment hours will be between 12 noon and 1:30 a.m. Mondays through Fridays and between 10 a.m. and 1:30 a.m. Saturdays and Sundays.*

The proposed hours of restaurant and other entertainment use at Hamburger Mary's are all within those hours principally permitted by Planning Code Section 715.27.

- F. Street Frontage in Neighborhood Commercial Districts.** Section 145.1 of the Planning Code provides that no more than 1/3 of the width of new or altered structures, parallel to and facing a street, shall be devoted to ingress/egress to parking.

The subject ground floor commercial storefront does not devote any area to the ingress/egress to off-street parking.

- G. Off-Street Parking and Freight Loading.** Planning Code Section 151 provides that for restaurant or bar use, one off street parking space is required for each 200 square feet of

occupied floor area, where the occupied floor area exceed 5,000 square feet. Planning Code Section 152 provides one off-street freight loading space for retail stores between 10,001 and 60,000 gross square feet.

The existing Patio Restaurant and Café with an occupied floor area of 3,744 square feet was granted Conditional Use authorization under Case No. 2013.0290C, Motion No. 18939.

The Project Sponsor proposes to convert the currently vacant Patio Restaurant and Café into Hamburger Mary's, a formula retail restaurant. The Project will maintain the current occupied floor area of 3,744 square feet with no expansion; therefore, no off-street parking or freight loading spaces will be required.

- H. **Signage.** Any proposed signage will be subject to the review and approval of the Planning Department.

Any application for proposed signage at the Subject Property shall be subject to the review of the Planning Department and required to meet all provisions set forth in Article 6 of the Planning Code.

- I. **Neighborhood Commercial Permit Review.** Planning Code Section 312 requires neighborhood notification to all owners and occupants within a 150-foot radius from the Project Site for the establishment of an entertainment use in a Neighborhood Commercial District. Planning Code 703.3 provides that a use permitted in a Neighborhood Commercial District which is also a "formula retail use" shall be subject to the Neighborhood Commercial Notification Procedures of Planning Code Section 312.

The Project Sponsor proposes to convert an existing vacant Patio Restaurant and Café restaurant into Hamburger Mary's, a formula retail restaurant, including an other entertainment use. Section 312 neighborhood notification was conducted in conjunction with the Conditional Use authorization notification.

8. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:

- A. The proposed new uses, 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.

- (a) **Hamburger Mary's.**

The Project is necessary and desirable because it will establish a formula retail restaurant in a built-out restaurant space (the Patio Restaurant and Café) which has been vacant for a number of years. The Castro Street NCD consists of lively and vibrant street-level retail uses. It is particularly important to avoid any vacancies on this block of Castro Street, as the Project Site containing a vacant restaurant for a number of years near the center of the Castro Street NCD

causes a significant detracting from the lively character of the district. The proposed Hamburger Mary's would remove an existing vacant commercial storefront and would complement the mix of goods and services currently available within the Castro Street NCD by offering neighborhood residents and visitors an additional choice for dining.

The Castro Street NCD is also an area surrounded by large residential neighborhoods. The surrounding neighborhoods currently are served by approximately 34 eating and drinking establishments in this district, many of which have co-existed for years – demonstrating the surrounding neighborhoods' demand for a large number and variety of eating and drinking establishments. The Project, including no interior tenant improvement or expansion to the exterior of the subject building, proposes to convert an existing vacant restaurant to an active restaurant – a use which will be compatible with the established pattern and character of the Castro Street NCD. The Project will generate no significant impact on traffic or on-street parking in the district because it is not a destination restaurant and the Project Site and the surrounding area are well served by public transit.

(b) Other Entertainment Use.

It is necessary and desirable to include an other entertainment in the proposed Hamburger Mary's because it will enhance the meal service offered by Hamburger Mary's and will not result in the displacement of any other neighborhood serving use.

Furthermore, allowing an other entertainment in Hamburger Mary's will complement the mix of goods and services currently available in the Castro Street NCD and contribute to the economic vitality of this district by providing an additional entertainment option for local residents and visitors of the neighborhood.

- 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:

- (a) 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 without change. The Project will not involve interior tenant improvement or expansion of the existing building envelope and therefore, will not alter the existing appearance or character of the vicinity.

- (b) 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 off-street parking or freight loading for the proposed Hamburger Mary's, containing an occupied floor area of proposed 3,744 square feet. The Project is designed to mainly meet the needs of the residents in the immediate neighborhood and the Project Site is well served by public transit, including Muni Bus Lines 24 and 35

operating on Castro Street and nearby Muni Bus Line 33 operating on 18th Street Castro Street, minimizing the amount of vehicular traffic from the immediate neighborhood or citywide.

- (c) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

The Project will be subject to the standard Conditions of Approval for eating and drinking establishments as outlined in Exhibit A that obligate the Project Sponsor to mitigate noxious or offensive noise and odor generated by the eating and drinking use.

The live entertainment will be regulated by the Entertainment Commission and Police Department so that it will meet the San Francisco Noise Control Ordinance. Furthermore, the Conditions of Approval specifically restrict noise and vibration associated with the live entertainment to within the interior space of Hamburger Mary's.

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

There are no proposed changes to existing conditions as they relate to landscaping, screening, open spaces, parking and loading areas, service areas, lighting, and signage. Furthermore, Conditions of Approval provide that any adverse impacts of increased patronage resulting from the entertainment activity will be mitigated both by litter removal, maintenance of the sidewalk, and signage requesting patrons be respectful of neighbors.

- 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 Project is consistent with the stated purpose of the Castro Street Neighborhood Commercial District in that the intended eating and drinking use is located at the ground floor, will maintain the retail frontage by not including automobile drive up uses, will contribute to a mixture of convenience and comparison shopping goods and services to a predominantly local market.

- E. Planning Code Section 303(c)(5) provides that with respect to applications filed pursuant to Article 7, Section 703.2(a), for a movie theater use as defined in Planning Code Section 790.64, an Adult Entertainment use as defined in Planning Code Section 790.36, or Other Entertainment uses as defined in Planning Code Section 790.38, that such use or feature will:

- (a) Not be located within 1,000 feet of another such use, if the proposed use or feature is an Adult Entertainment Use, as defined by Section 790.36 of this Code; and/or

Planning Code Section 715.47 is for 'adult entertainment.' The proposed live entertainment in Hamburger Mary's is NOT adult entertainment. The proposal for 'other entertainment' pursuant to Planning Code Section 715.48 is permitted within the Castro Street Neighborhood Commercial District and is not restricted by location within 1,000 feet from another 'other entertainment' use.

- (b) Not be open between 2:00 A.M. and 6:00 A.M.; and

The Proposed Hamburger Mary's, including an other entertainment use, will be closed between 2:00 A.M. and 6:00 A.M.

- (c) Not use electronic amplification between 12:00 A.M. and 6:00 A.M.; and

The Planning Commission is approving 'electronic amplification' in the form of DJs and recorded music during regular hours of operation every day of the week. In addition, the proposed live entertainment is subject to the Good Neighbor Policies placed on the permit by the Entertainment Commission. One condition provides 'there shall be no noise audible outside the establishment during the daytime or nighttime hours that violates the San Francisco Municipal Code Section 49 or 2900 et. Seq.' This policy will be enforced by the San Francisco Police Department.

- (e) Be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance.

A sound technician from San Francisco Entertainment Commission has conducted a sound inspection at the Project Site and did not detect any sound escaping the premises which would violate Article 29 of the San Francisco Municipal Police Code. A further official sound test would still have to be performed once Hamburger Mary's is in operation and live entertainment takes place.

9. Sections 303(i) and 703.4 require Conditional Use authorization for the establishment of a formula retail use in Neighborhood Commercial Districts. The Planning Commission shall consider the following criteria set forth in Section 303(i) in addition to the criteria set forth in Section 303(c):

- A. The existing concentrations of formula retail uses within the Neighborhood Commercial District;

Based upon a site survey performed by the Project Sponsor in March 2014, there were approximately 100 retail, service and restaurant businesses in the Castro Street NCD. Out of these

businesses, eleven (11%) were formula retail non-restaurant uses and only two (2%) were formula retail limited-restaurants (Starbucks Coffee and Philz Coffee).

B. The availability of other similar retail uses within the Neighborhood Commercial District;

Within the site survey of Castro Street NCD, there were 34 limited-restaurant and restaurant uses. The Project would not prevent the availability of other similar retail uses in this district because Hamburger Mary's would be established in an existing vacant restaurant space. Although Planning Code does not regulate the type of cuisine offered within the use of a restaurant, it is apparent that the Castro Street NCD has a large diversity of different types of restaurants that all co-exist due to their respective niches within the restaurant market. Hamburger Mary's, a one-of-a-kind restaurant in the nation, would offer a different dining experience not found at other restaurants in the Castro Street NCD.

C. The compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the Neighborhood Commercial District;

The Project will not include either modifications to the building's existing architectural and aesthetic character or expansion of the existing building envelope.

D. The existing retail vacancy rates within the Neighborhood Commercial District;

Based upon the site survey performed by the Project Sponsor, there were 10 vacant commercial storefronts, including the vacant Patio Restaurant and café, in the Castro Street NCD.

E. The existing mix of City-serving retail uses and neighborhood-serving retail uses within the Neighborhood Commercial District;

Although the Castro Street NCD is a neighborhood serving district, including a mixture of retail sales, restaurants, professional and business service, financial institutions, and medical and personal service, it draws residents throughout the City because it is the center of LGBT culture. The commercial uses in this district therefore, serve both local and nonlocal residents. The Project will be a reestablishment of Hamburger Mary's, an LGBT-friendly restaurant, originally opened in San Francisco in the 1970s but closed in 2001 and would complement the mix of goods and services currently available within the Castro Street NCD by offering neighborhood residents and visitors an additional choice for dining.

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

NEIGHBORHOOD COMMERCE

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.1:

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

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.

The Project will reactivate an existing vacant restaurant on the ground floor commercial space and will resume its contribution to the neighborhood, including enhanced goods and service and employment opportunities. The Project is consistent with the activities within the Castro Street Neighborhood Commercial District and the commercial land use plan.

Allowing the requested addition of a live entertainment use in Hamburger Mary's will create greater entertainment choices for those who live and work in the City without displacing an existing business. Additionally, this venue is limited in size and will add a smaller performance space that is more accessible to emerging talent within the City. Conditions of Approval provide that any significant noise generated by such use during operation shall be confined within the restaurant.

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.

Policy 2.3:

Maintain a favorably social and cultural climate in the city in order to enhance its attractiveness as a firm location.

The Project will enhance the City's economic base by reactivate a current vacant restaurant within the Castro Street NCD.

The addition of an entertainment use to the proposed Hamburger Mary's will create an improved social and cultural environment by providing expanded entertainment offerings in the neighborhood. Furthermore, Conditions of Approval guarantee that the business will improve conditions at the subject

property, take residential neighbors into consideration and contribute to an active street life during evening hours.

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.

The Project Site is currently occupied by the vacant Patio Restaurant and Café; therefore, no commercial tenant will be displaced by the Project. The Project proposes to reactivate a vacant restaurant that has already been renovated to better serve the residents of the neighborhood and will not prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood. The Project is uniquely different from many other formula retail restaurants and will bring approximately 30 restaurant jobs to this neighborhood, specifically for unskilled and semi-skilled workers. The Project will also provide performance job opportunities. Because most of the entertainment performance will take place amongst tables and bar area and not on a formal stage such employment opportunities are; therefore, more appropriate for emerging local artists.

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.

In order for a Neighborhood Commercial District to remain viable and be compatible with the surrounding neighborhood, it must exhibit a healthy balance of different types of commercial uses. This policy includes guidelines that prioritize uses that will provide goods and services to serve residents of the area. Additionally, the existing concentration of eating and drinking uses in the area should not exceed 25% of the total commercial frontage as measured in linear feet within the immediate area of the Subject Site. For the purposes of Section 303(p)(1)(A) of the Planning Code, the immediate area shall be defined as all properties located within 300 feet of the Subject Property and also located within the same zoning district.

Based upon a site survey performed by staff, the existing total commercial frontage within 300 feet of the Project Site is 2,148 linear feet, and the existing concentration of eating and drinking uses within 300

feet, including the vacant Patio Restaurant and Café, is 553 linear feet, or 25.74%. Although the existing concentration of eating and drinking uses within 300 feet is slightly over the 25% threshold, the Project, which would reactivate an existing vacant restaurant, would not result in any increase of the current concentration of eating and drinking uses within 300 feet of the Project Site.

Policy 6.9:

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

The Project is not expected to be a heavy vehicle trip generator, as many of the expected customers live or work in Castro Street neighborhood, and will travel to the restaurant by foot, bicycle, or public transit. In addition, the Project Site is well served by public transit, including Muni Bus Lines 24 and 35 operating on Castro Street and nearby Muni Bus Line 33 operating on 18th Street Castro Street, minimizing the amount of vehicular traffic from the immediate neighborhood or citywide.

OBJECTIVE 6:

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

Guidelines for Entertainment Uses

Entertainment uses may be appropriate in certain districts or parts of districts. The following guidelines shall be used for their review:

- Except in the Broadway district, where later hours may be appropriate under carefully regulated conditions, entertainment uses should not be open after 2:00 A.M. in order to minimize disruption to residences in and around a district. For uses involving liquor service, potentially loud music, dancing or large patron volumes, earlier closing hours may be necessary.
- Entertainment uses should be adequately soundproofed or insulated for noise, as certified by an acoustical engineer, and operated so as to reasonable protect surrounding residences.
- New adult entertainment uses should be at least 1000 feet from the nearest existing adult entertainment use.

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.

To reactivate a vacant restaurant at the Project Site ensures the provision of a diversity of neighborhood-serving goods and services. There are five active entertainment permits within a ¼ mile of the Project Site. Each of these two permits is in association with a bar. Each of the other three permits is accessory to a restaurant. Because the proposed other entertainment use in Hamburger Mary's would be unique, it would not over-saturate current entertainment activities within the immediate vicinity.

Policy 6.2:

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

The addition of an other entertainment will contribute to the success of the proposed Hamburger Mary's because it will also attract new customers outside of the neighborhood by bringing them attention to the neighborhood's LGBT cultural and historic background. A sound technician from San Francisco Entertainment Commission has conducted a sound inspection at the Project Site and did not detect any sound escaping the premises which would violate Article 29 of the San Francisco Municipal Police Code. A further official sound test would still have to be performed once Hamburger Mary's is in operation and live entertainment takes place. Furthermore, the presence of an evening activity at this location will assist in improving the safety conditions in the area.

ARTS ELEMENT

Objectives and Policies

OBJECTIVE I-2:

INCREASE THE CONTRIBUTION OF THE ARTS TO THE ECONOMY OF SAN FRANCISCO.

Policy I-2.1:

Encourage and promote opportunities for the arts and artists to contribute to the economic development of San Francisco.

Policy I-2.2:

Continue to support and increase the promotion of the arts and arts activities throughout the City for the benefit of visitors, tourists, and residents.

The addition of a live entertainment use will enable Hamburger Mary's to provide musical and dancing performance activities on-site on a regular basis. These arts activities also enhance San Francisco's arts sector and supplies residents, tourists and visitors with a greater diversity of entertainment offerings.

OBJECTIVE VI-1:

SUPPORT THE CONTINUED DEVELOPMENT AND PRESERVATION OF ARTISTS' AND ARTS ORGANIZATIONS' SPACES.

Policy VI-1.9:

Create opportunities for private developers to include arts spaces in private developments city-wide.

Policy VI-1.11

Identify, recognize and support existing arts clusters and wherever possible, encourage the development of clusters of arts facilities and arts related businesses through the city.

The addition of an other entertainment will enable the proposed Hamburger Mary's to create a new performance space in San Francisco. Currently, arts activities within the Castro Street NCD include only the Scary Cow, a film co-up.

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 does comply with said policies in that:

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

The Project proposes to reactivate a vacant restaurant at the same site; therefore, it will not result in an additional eating and drinking establishment and will not displace any existing retail uses in the Castro Street NCD. The Project will create restaurant and art performance employment opportunities for local residents.

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

The scale and use proposed by the Project is within the existing character of the Castro Street Neighborhood Commercial District. The existing two residential units on the two upper floors of the Subject Property will remain and not be affected by the Project. Further, the Conditions of Approval provide that the live entertainment shall occur indoors and comply with San Francisco Noise Control Ordinance.

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

The Project will not affect the City's supply of affordable housing, as it is to reactivate an existing vacant restaurant.

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

The Project will not adversely affect public transit or place a burden on the existing supply of on-street parking in the neighborhood. The Castro Street NCD is well-served by public transportation, including Muni Bus Lines 24 and 35 operating on Castro Street and nearby Muni Bus Line 33 operating on 18th Street, and many of the business' customers will walk, bicycle, or take public transit to the proposed restaurant.

- 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 will not displace any service or industry establishment and will not affect industrial or service sector uses or related employment opportunities.

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

The Project is designed and will be constructed to conform to the structural and seismic safety requirements of the City's Building Code.

- G. That landmarks and historic buildings be preserved.

The Project will involve no proposed alteration to the existing building envelope or the front façade. The Project was determined by the Department to be categorically exempt from the California Environmental Quality Act ("CEQA") as a Class 1 Categorical Exemption under CEQA as described in the determination contained in the Department files for the Project.

- 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 their access to sunlight and vistas.

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 Application No. 2014.0417C** subject to the following conditions attached hereto as "EXHIBIT A" which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. MXXXXX. 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 December 4th, 2014.

Jonas Ionin
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: December 4th, 2014

Exhibit A

AUTHORIZATION

This authorization is for a Conditional Use to convert an existing vacant restaurant (d.b.a. the Patio Restaurant and Café) into a formula retail restaurant (d.b.a. Hamburger Mary's), including an other entertainment use, located at 531 Castro Street, Assessor's Block 3583, Lot 093, pursuant to Planning Code Sections 703.3, 703.4, 790.38, 303(c), and 303(i), in The Castro Street Neighborhood Commercial District and a 40-X Height and Bulk District; in general conformance with plans dated March 25th, 2014 and labeled "EXHIBIT B" included in the docket for Case No. 2014.0417C and subject to Conditions of Approval reviewed and approved by the Commission on December 4th, 2014 under Motion No. MXXXXX. 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 December 4th, 2014 under Motion No. MXXXXX.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. MXXXXX 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 and Expiration.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. A building permit from the Department of Building Inspection to construct the project and/or commence the approved use must be issued as this Conditional Use authorization is only an approval of the proposed

project and conveys no independent right to construct the project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained within three (3) years of the date of the Motion approving the Project. 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. The Commission may also consider revoking the approvals if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved.

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

2. **Extension.** This authorization may be extended at the discretion of the Zoning Administrator only where failure to issue a permit by the Department of Building Inspection to perform said tenant improvements is caused by a delay by a local, State or Federal agency or by any appeal of the issuance of such permit(s).

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

3. **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

DESIGN

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

MONITORING

5. **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

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

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

OPERATION

7. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>

8. **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>

9. **Noise Control.** The premises shall be adequately soundproofed or insulated for noise and predated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance.

For information about compliance with the fixed mechanical objects such as rooftop air conditioning, restaurant ventilation systems, and motors and compressors with acceptable noise levels, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, www.sfdph.org

For information about compliance with the construction noise, contact the Department of Building Inspection, 415-558-6570, www.sfdbi.org

For information about compliance with the amplified sound including music and television contact the Police Department at 415-553-0123, www.sf-police.org

10. **Odor Control.** While it is inevitable that some low level of odor may be detectable to nearby residents and passersby, appropriate odor control equipment shall be installed to prevent any significant noxious or offensive odors from escaping the premises.

For information about compliance with odor or other chemical air pollutants standards, contact the Bay Area Air Quality Management District, (BAAQMD), 1-800-334-ODOR (6367), www.baaqmd.gov and Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

11. **Community Liaison.** Prior to the implementation of the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

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

12. **Hours of Operation.** The proposed Hamburger Mary's floor plan includes Dining Area No. 1 and Bar No. 1 at the front of the restaurant; Dining Area No. 2 adjacent to kitchen; and Dining Area No. 3 and Bar No. 2 in the rear outdoor area under a retractable skylight roof.

A. Hamburger Mary's restaurant hours shall be as follows:

- (a) Dining Area No. 1, Bar No. 1 and Dining Area No. 2 shall be limited between 6 a.m. and 2 a.m. seven days a week;
- (b) Dining Area No. 3 and Bar No. 2 shall be limited between 6 a.m. and 12 o'clock midnight seven days a week;
- (c) The two rear outdoor dining areas that are not under the retractable skylight roof shall be limited between 6 a.m. and 9 p.m. seven days a week; and
- (d) The retractable skylight roof above Dining Area No. 3 and Bar No. 2 shall be closed by 9 p.m. seven days a week.

B. Hamburger Mary's other entertainment hours shall be limited between 12 noon and 1:30 a.m. Mondays through Fridays and between 10 a.m. and 1:30 a.m. Saturdays and Sundays.

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

13. **Notices Posted at Bars and Entertainment Venues.** Notices urging patrons to leave the establishment and neighborhood in a quiet, peaceful, and orderly fashion and to not litter or block driveways in the neighborhood, shall be well-lit and prominently displayed at all entrances to and exits from the establishment.

For information about compliance, contact the Entertainment Commission, at 415 554-6678, www.sfgov.org/entertainment

14. **Other Entertainment.** The Other Entertainment shall be performed within the enclosed building, including Dining Area No. 3 and Bar No. 2 only when the retractable skylight roof is closed. The building shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance. Bass and vibrations shall also be contained within the enclosed structure. The Project Sponsor shall obtain all necessary approvals from the Entertainment Commission prior to operation. The authorized entertainment use shall also comply with all of the conditions imposed by the Entertainment Commission.

For information about compliance, contact the Entertainment Commission, at 415 554-6678, www.sfgov.org/entertainment

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

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

16. **Good Neighbor Policies.** The Project shall comply with the following "Good Neighbor" policies to insure that management and/or patrons of the establishment maintain the quiet, safety, and cleanliness of the premises and the vicinity of the use, and do not block driveways of neighboring residents or businesses:
- A. Notices shall be well-lit and prominently displayed at all entrances to and exits from the establishment urging patrons to leave the establishment and neighborhood in a quiet, peaceful, and orderly fashion and to please not litter or block driveways in the neighborhood;
 - B. Employees of the establishment shall walk a 100-foot radius from the premises at a time between 30 minutes after closing time and 8:00 a.m. the following morning, and shall pick up and dispose of any discarded beverage containers and other trash left by area nighttime entertainment patrons;
 - C. The operator of the restaurant and entertainment use shall maintain the main entrance, outdoor activity area, parking lot, loading dock area, and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at minimum, daily sweeping and litter pickup, and disposal and washing or steam/pressure cleaning of all frontage entrances and abutting sidewalks at least once every two weeks; and
 - D. The establishment shall provide adequate ventilation within the structure such that doors and/or windows are not left open for such purposes resulting in noise emission from the premises.

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



SAN FRANCISCO PLANNING DEPARTMENT

CEQA Categorical Exemption Determination

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address		Block/Lot(s)	
531 Castro Street		3583/093	
Case No.	Permit No.	Plans Dated	
2014.0417C	N/A	no plans	
<input checked="" type="checkbox"/> Addition/ Alteration	<input type="checkbox"/> Demolition (requires HRER if over 45 years old)	<input type="checkbox"/> New Construction	<input type="checkbox"/> Project Modification (GO TO STEP 7)
Project description for Planning Department approval. To convert an existing vacant restaurant (d.b.a. The Patio Restaurant and Café) into a formula retail restaurant (d.b.a. Hamburger Mary's), including an other entertainment use, (hereinafter "Project"), at 531 Castro Street (hereinafter "Project Site") within the Castro Street Neighborhood Commercial District and a 40-X Height and Bulk District.			

STEP 1: EXEMPTION CLASS

TO BE COMPLETED BY PROJECT PLANNER

Note: If neither class applies, an <i>Environmental Evaluation Application</i> is required.	
<input checked="" type="checkbox"/>	Class 1 – Existing Facilities. Interior and exterior alterations; additions under 10,000 sq. ft.
<input type="checkbox"/>	Class 3 – New Construction/ Conversion of Small Structures. Up to three (3) new single-family residences or six (6) 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"/>	Class _____

STEP 2: CEQA IMPACTS

TO BE COMPLETED BY PROJECT PLANNER

If any box is checked below, an <i>Environmental Evaluation Application</i> is required.	
<input type="checkbox"/>	Transportation: Does the project create six (6) or more net new parking spaces or residential units? 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"/>	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)
<input type="checkbox"/>	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 yes, this box must be checked and the project applicant must submit an Environmental Application with a Phase I Environmental Site Assessment. <i>Exceptions: do not check box if the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Maher program, a DPH waiver from the</i>

	<i>Maier program, or other documentation from Environmental Planning staff that hazardous material effects would be less than significant (refer to EP_ArcMap > Maier layer).</i>
<input type="checkbox"/>	Soil Disturbance/Modification: 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? (refer to EP_ArcMap > CEQA Catex Determination Layers > Archeological Sensitive Area)
<input type="checkbox"/>	Noise: Does the project include new noise-sensitive receptors (schools, day care facilities, hospitals, residential dwellings, and senior-care facilities) fronting roadways located in the noise mitigation area? (refer to EP_ArcMap > CEQA Catex Determination Layers > Noise Mitigation Area)
<input type="checkbox"/>	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)
<input type="checkbox"/>	Slope = or > 20%: Does the project involve excavation of 50 cubic yards of soil or more, square footage expansion greater than 1,000 sq. ft., shoring, underpinning, retaining wall work, or grading on a lot with a slope average of 20% or more? <i>Exceptions: do not check box for work performed on a previously developed portion of site, stairs, patio, deck, or fence work. (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography)</i> If box is checked, a geotechnical report is required and a Certificate or higher level CEQA document required
<input type="checkbox"/>	Seismic: Landslide Zone: Does the project involve excavation of 50 cubic yards of soil or more, square footage expansion greater than 1,000 sq. ft., shoring, underpinning, retaining wall work, grading –including excavation and fill on a landslide zone – as identified in the San Francisco General Plan? <i>Exceptions: do not check box for work performed on a previously developed portion of the site, stairs, patio, deck, or fence work. (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones)</i> If box is checked, a geotechnical report is required and a Certificate or higher level CEQA document required
<input type="checkbox"/>	Seismic: Liquefaction Zone: Does the project involve excavation of 50 cubic yards of soil or more, square footage expansion greater than 1000 sq ft, shoring, underpinning, retaining wall work, or grading on a lot in a liquefaction zone? <i>Exceptions: do not check box for work performed on a previously developed portion of the site, stairs, patio, deck, or fence work. (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones)</i> If box is checked, a geotechnical report will likely be required
<input type="checkbox"/>	Serpentine Rock: Does the project involve any excavation on a property containing serpentine rock? <i>Exceptions: do not check box for stairs, patio, deck, retaining walls, or fence work. (refer to EP_ArcMap > CEQA Catex Determination Layers > Serpentine)</i>
*If no boxes are checked above, GO TO STEP 3. <u>If one or more boxes are checked above, an Environmental Evaluation Application is required, unless reviewed by an Environmental Planner.</u>	
<input checked="" type="checkbox"/>	Project can proceed with categorical exemption review. The project does not trigger any of the CEQA impacts listed above.
Comments and Planner Signature (optional):	

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

PROPERTY IS ONE OF THE FOLLOWING: (refer to Parcel Information Map)	
<input type="checkbox"/>	Category A: Known Historical Resource. GO TO STEP 5.
<input checked="" type="checkbox"/>	Category B: Potential Historical Resource (over 45 years of age). GO TO STEP 4.
<input type="checkbox"/>	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.	
<input checked="" type="checkbox"/>	1. Change of use and new construction. Tenant improvements not included.
<input type="checkbox"/>	2. Regular maintenance or repair to correct or repair deterioration, decay, or damage to building.
<input type="checkbox"/>	3. Window replacement that meets the Department's <i>Window Replacement Standards</i> . Does not include storefront window alterations.
<input type="checkbox"/>	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.
<input type="checkbox"/>	5. Deck, terrace construction, or fences not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	6. Mechanical equipment installation that is not visible from any immediately adjacent public right-of-way.
<input type="checkbox"/>	7. Dormer installation that meets the requirements for exemption from public notification under <i>Zoning Administrator Bulletin No. 3: Dormer Windows</i> .
<input type="checkbox"/>	8. Addition(s) that are not visible from any immediately adjacent public right-of-way for 150 feet in each direction; does not extend vertically beyond the floor level of the top story of the structure or is only a single story in height; does not have a footprint that is more than 50% larger than that of the original building; and does not cause the removal of architectural significant roofing features.
Note: Project Planner must check box below before proceeding.	
<input type="checkbox"/>	Project is not listed. GO TO STEP 5.
<input type="checkbox"/>	Project does not conform to the scopes of work. GO TO STEP 5.
<input type="checkbox"/>	Project involves four or more work descriptions. GO TO STEP 5.
<input checked="" type="checkbox"/>	Project involves less than four work descriptions. GO TO STEP 6.

STEP 5: CEQA IMPACTS – ADVANCED HISTORICAL REVIEW
TO BE COMPLETED BY PRESERVATION PLANNER

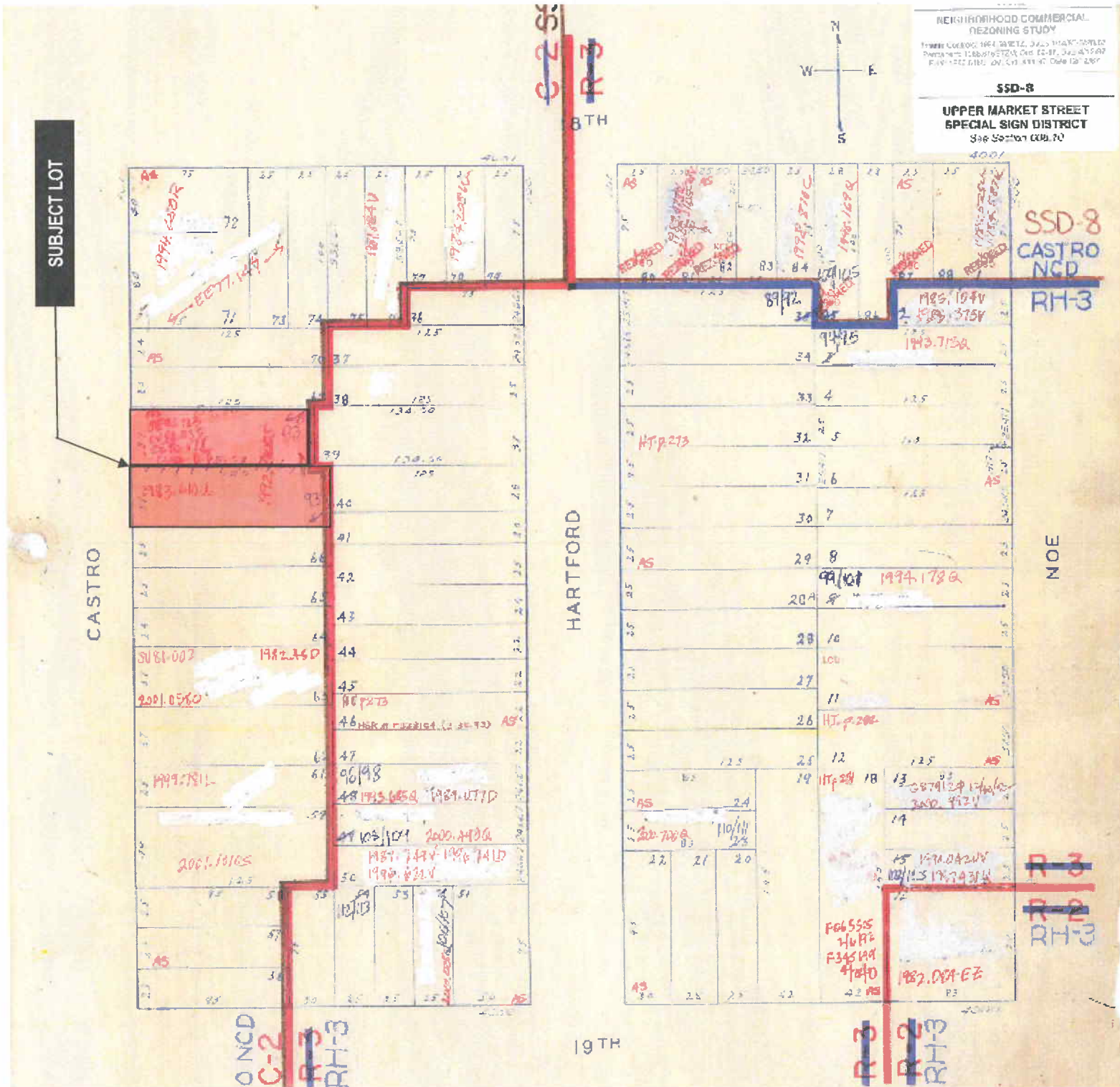
Check all that apply to the project.	
<input type="checkbox"/>	1. Project involves a known historical resource (CEQA Category A) as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.
<input type="checkbox"/>	2. Interior alterations to publicly accessible spaces.
<input type="checkbox"/>	3. Window replacement of original/historic windows that are not "in-kind" but are consistent with existing historic character.
<input type="checkbox"/>	4. Façade/storefront alterations that do not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	5. Raising the building in a manner that does not remove, alter, or obscure character-defining features.
<input type="checkbox"/>	6. Restoration based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.
<input type="checkbox"/>	7. Addition(s) , including mechanical equipment that are minimally visible from a public right-of-way and meet the <i>Secretary of the Interior's Standards for Rehabilitation</i> .

<input type="checkbox"/>	8. Other work consistent with the Secretary of the Interior Standards for the Treatment of Historic Properties (specify or add comments):
<input type="checkbox"/>	9. Reclassification of property status to Category C. (Requires approval by Senior Preservation Planner/Preservation Coordinator) a. Per HRER dated: _____ (attach HRER) b. Other (specify):
Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST check one box below.	
<input type="checkbox"/>	Further environmental review required. Based on the information provided, the project requires an Environmental Evaluation Application to be submitted. GO TO STEP 6.
<input checked="" type="checkbox"/>	Project can proceed with categorical exemption review. The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review. GO TO STEP 6.
Comments (optional):	
Preservation Planner Signature:	

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

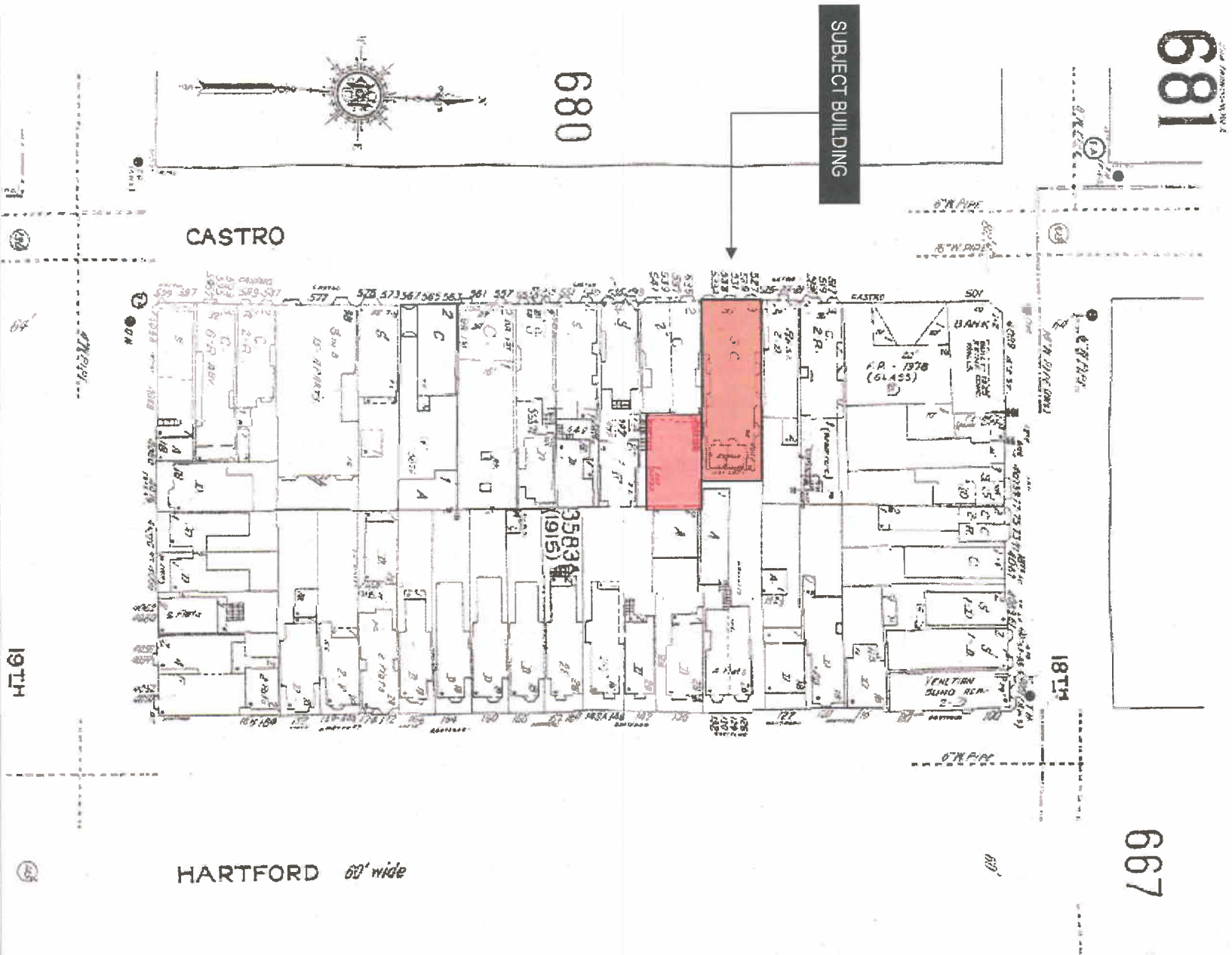
<input type="checkbox"/>	Further environmental review required. Proposed project does not meet scopes of work in either (check all that apply): <input type="checkbox"/> Step 2 – CEQA Impacts <input type="checkbox"/> Step 5 – Advanced Historical Review STOP! Must file an Environmental Evaluation Application.	
<input checked="" type="checkbox"/>	No further environmental review is required. The project is categorically exempt under CEQA.	
	Planner Name: Tom Wang	Signature: Tom Wang
	Project Approval Action: Select One *If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.	Digitally signed by Tom Wang DN: dc=org, dc=sfgov, dc=cityplanning, ou=CityPlanning, ou=Current Planning, cn=Tom Wang, email=thomas.wang@sfgov.org, Date: 2014.10.29 15:25:09 -0700'
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 first approval action.		

Parcel Map



Planning Commission Hearing
Case Number 2014.0417C
531 Castro Street

Sanborn Map*



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

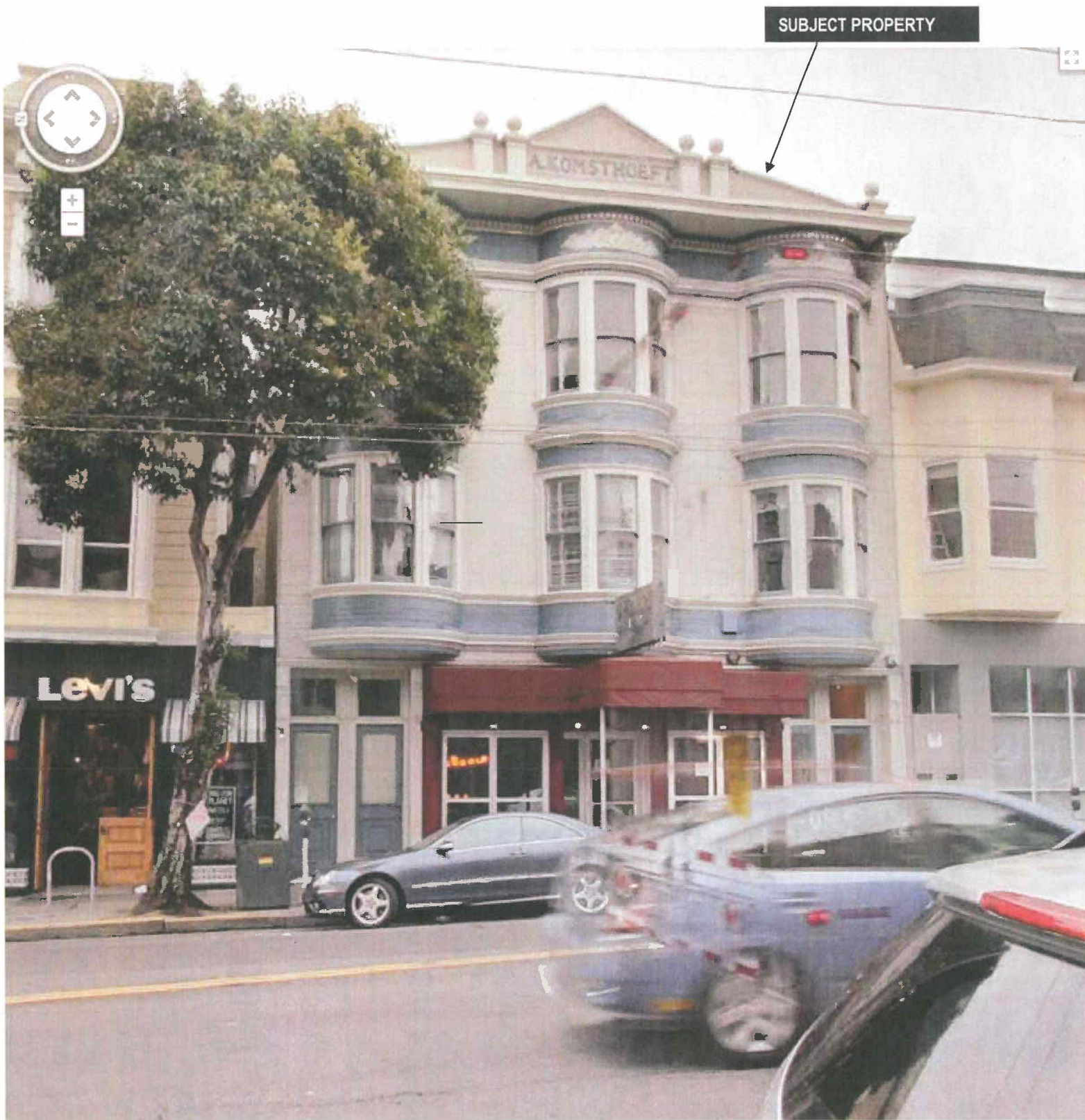


Zoning Map

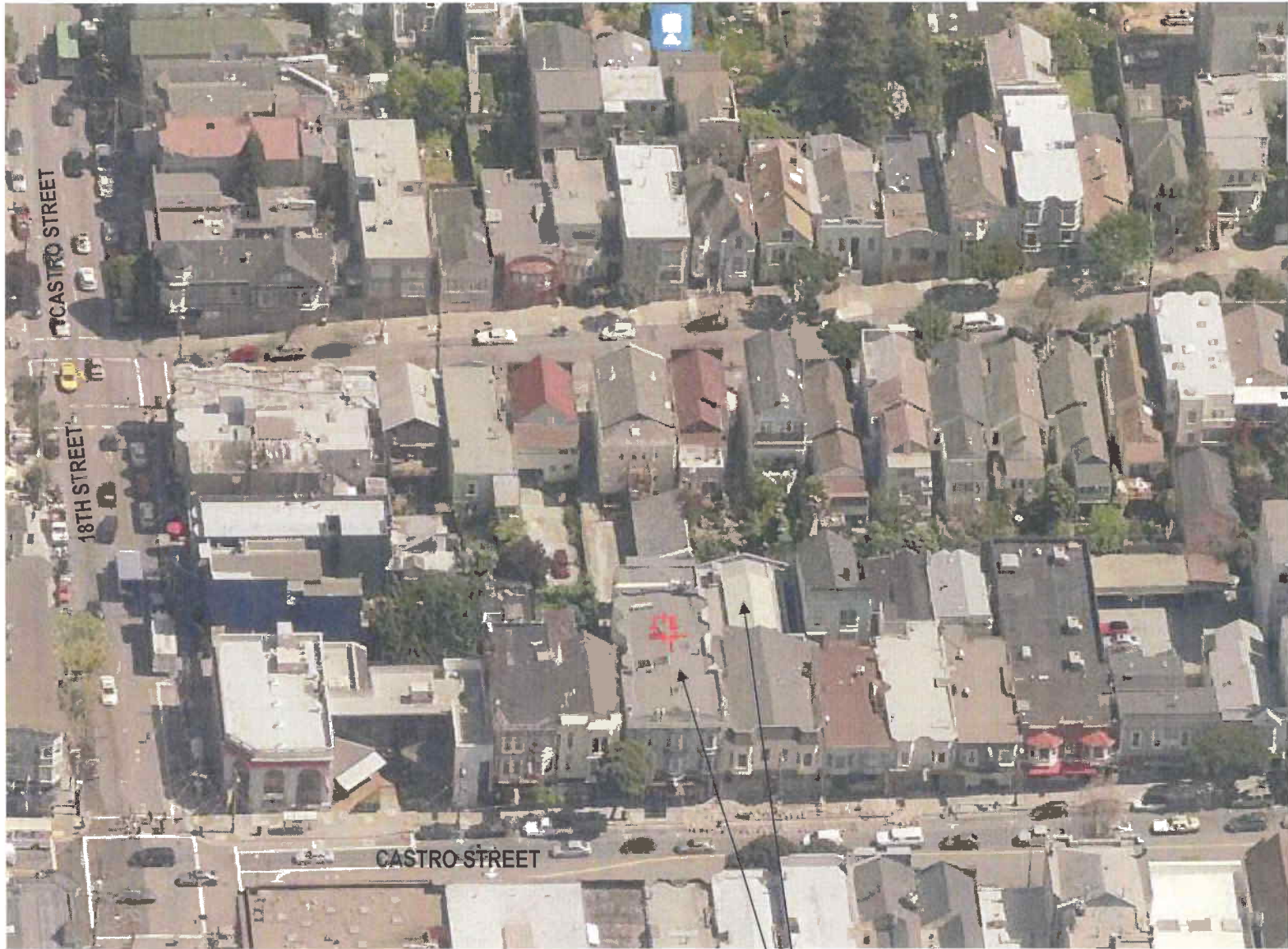


Planning Commission Hearing
Case Number 2014.0417C
531 Castro Street

Site Photo



Aerial Photo



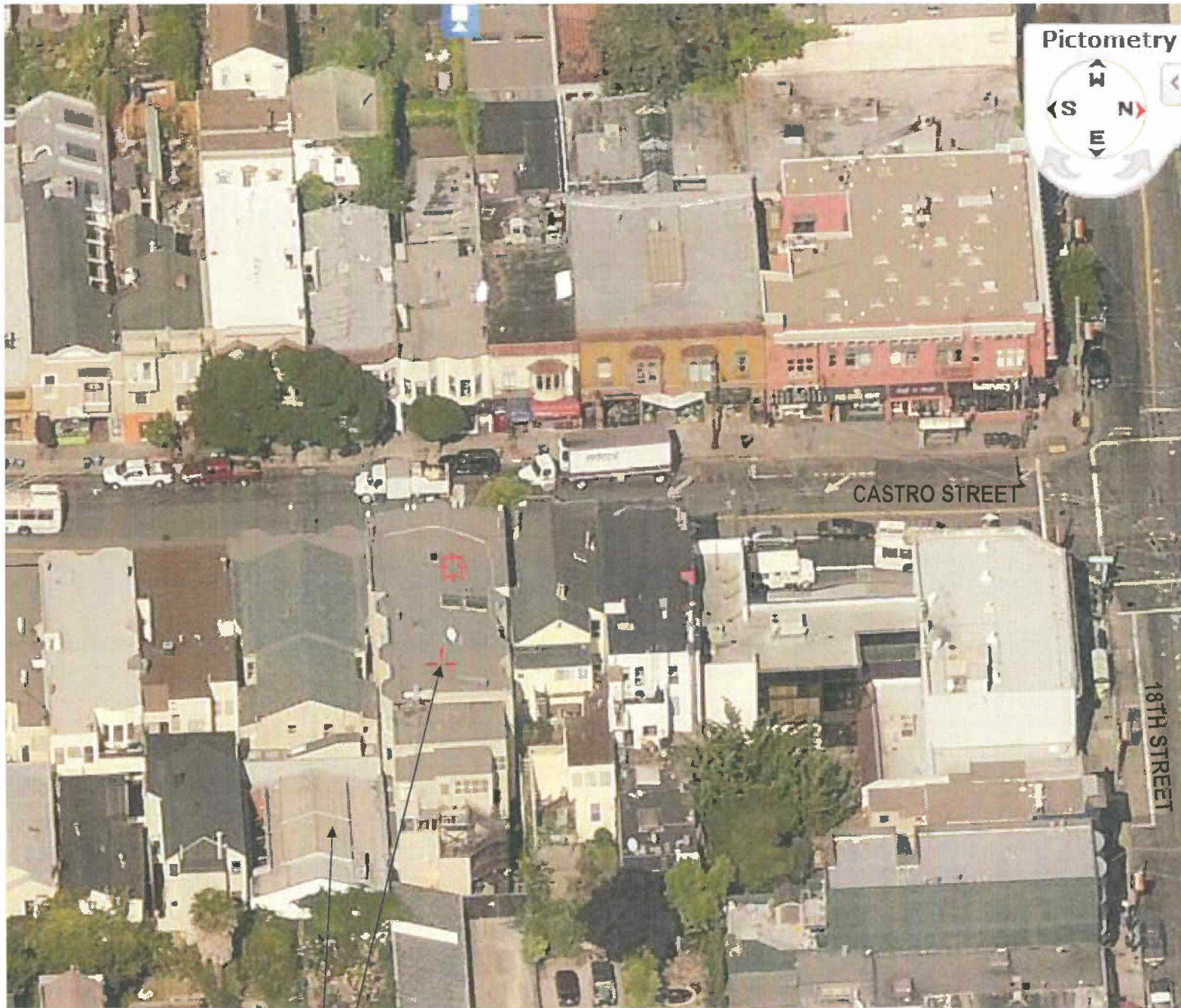
SUBJECT PROPERTY



SAN FRANCISCO
PLANNING DEPARTMENT

Planning Commission Hearing
Case Number 2014.0417C
531 Castro Street

Aerial Photo



SUBJECT PROPERTY



SAN FRANCISCO
PLANNING DEPARTMENT

Planning Commission Hearing
Case Number 2014.0417C
531 Castro Street

REUBEN, JUNIUS & ROSE, LLP

November 18, 2014

President Cindy Wu
San Francisco Planning Commission
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: 531 Castro Street - Case No. 2014.0417C
Hearing Date: December 4, 2014
Our File No.: 7588.02

Dear President Wu and Commissioners:

This office represents Les Natali, owner of the building located at 531-541 Castro Street (the "Property"). On August 1, 2013, the Planning Commission approved the legalization of the entire ground floor space at the Property for use as a restaurant. Mr. Natali now proposes to establish a Hamburger Mary's restaurant at the Property. The space is fully built-out and no tenant improvements are currently proposed. Since there are 12 Hamburger Mary's in existence in the United States, it is considered a formula retail use and requires conditional use authorization. Mr. Natali also proposes to establish live entertainment, consistent with Hamburger Mary's LGBT and drag queen theme, which also requires conditional use authorization.

A floor plan of the existing restaurant space is attached as **Exhibit A**.

A. Hamburger Mary's History

Hamburger Mary's has a special place in San Francisco history. Hamburger Mary's is a drag-themed and LGBT-friendly burger restaurant chain that started in San Francisco in 1972. Its original location was at 1582 Folsom Street, which ultimately closed in 2001. A photograph of the original location is attached as **Exhibit B**.

Hamburger Mary's is a San Francisco institution. According to the San Francisco Chronicle, Michael Bauer included the restaurant on his list of 101 Reasons We're America's Culinary Mecca. When the original Hamburger Mary's closed in 2001, Chronicle columnist Ken Garcia noted: "It's far too big for a time capsule, but if anybody wanted a snapshot of San Francisco in the mid to late '70s, they could just pop in to Hamburger Mary's." The Project would return Hamburger Mary's to its home city, and locate it in the Castro, the epicenter of gay culture in San Francisco and the country.

James A. Reuben | Andrew J. Junius | Kevin H. Rose | Daniel A. Frattin
Sheryl Reuben¹ | David Silverman | Thomas Tunny | Jay F. Drake | John Kevlin
Lindsay M. Petrone | Melinda A. Sarjapur | Mark H. Loper | Jody Knight | Jared Eigerman^{2,3} | John McInerney III²

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B. Live Entertainment

In Hamburger Mary's fashion, there will also be regular comedy-drag performances and a dj/vj will play music. As a result, Mr. Natali will also be filing an application for a Limited Live Performance Permit from the San Francisco Entertainment Commission. Mr. Natali has a long history of operating bars and restaurants in the Castro and has worked directly with the local neighborhood groups to work out a set of conditions for the entertainment, specifically with respect to noise.

Among other things, these conditions require that live entertainment be provided within the building and that noise not be audible outside the building. This will be confirmed by the Entertainment Commission's sound engineer, who has already conducted a preliminary sound test and determined there is no sound leaking from the building. Mr. Natali is a long-standing member of the Castro business community, and will continue to communicate with the community to ensure the Hamburger Mary's operation is not having a negative impact on other residents and businesses. The entertainment conditions are attached as **Exhibit C**.

Based on these entertainment conditions, the project has the support from (1) the Castro/Eureka Valley Neighborhood Association, (2) the Castro Merchants, and (3) the Castro Community Benefits District.

C. Other Operating Conditions

As discussed above, the restaurant space at the Property was legalized by Planning Commission Motion 18939 in August of 2013, subject to a number of operating conditions. Importantly, these conditions included the following restrictions on hours of operation:

- The front dining area and Bar #1 will close by 2 a.m., seven day a week;
- The rear dining area and Bar #2 will close by 12 a.m., seven days a week;
- The two outdoor dining areas at the rear will close by 9 p.m., seven days a week;
- The retractable skylight over the rear dining area will close by 9 p.m., seven days a week.

Hamburger Mary's will continue to operate subject to all conditions of Motion 18939, including the hours of operation. The following additional hours of operation restrictions will apply to the entertainment use:

- Entertainment in the front dining area and Bar #1 will close by 1:30 a.m., seven days a week;
- Entertainment in the rear dining area and Bar #2 will close by 12 a.m., seven days a week;
- Entertainment throughout the restaurant will not begin before 12 p.m. noon Monday through Friday and 10 a.m. Saturday and Sunday.

D. Community Support

Mr. Natali has conducted neighborhood outreach for the project, and has received overwhelming support. **As of the date of this letter, the project has received 668 letters of support.** These have been provided to the project planner and are in the project file.

E. Conclusion

The Project requires conditional use authorization from the Planning Commission. It provides substantial benefits to the neighborhood by returning an historic, LGBT-themed restaurant to the Castro. Mr. Natali has reached out to the neighborhood, which has shown overwhelming support for the Project. For all of these reasons and those listed in the application, we respectfully request the Commission grant this conditional use authorization for the Project.

Very truly yours,

REUBEN & JUNIUS, LLP


John Kevlin

Enclosures

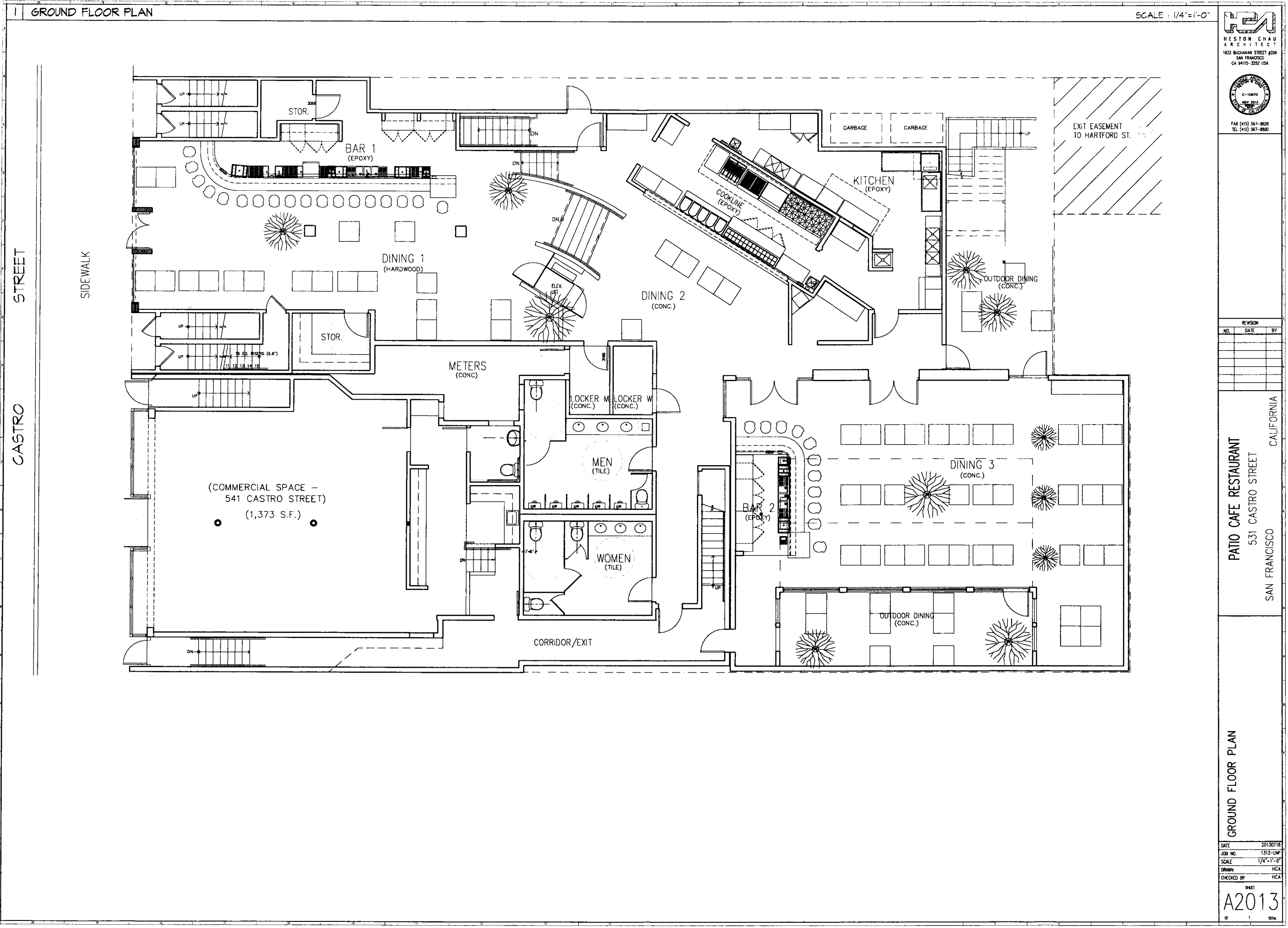
cc: Vice President Rodney Fong
Commissioner Michael Antonini
Commissioner Rich Hillis
Commissioner Christine Johnson
Commissioner Kathrin Moore
Commissioner Dennis Richards
Jonas Ionan – Commission Secretary
Tom Wang – Project Planner
Les Natali – Project Sponsor

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San Francisco, CA 94104

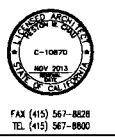
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HSTON CHAU
ARCHITECT
1832 BUCHANAN STREET #209
SAN FRANCISCO, CA 94115-2252 USA



REVISION		
NO.	DATE	BY

PATIO CAFE RESTAURANT
531 CASTRO STREET
SAN FRANCISCO
CALIFORNIA

GROUND FLOOR PLAN

DATE	2013.07.18
JOB NO.	1312-UNP
SCALE	1/4"=1'-0"
DRAWN	HEA
CHECKED BY	HEA

SHEET
A2013
OF 1 TOTAL



Hamburgers May's
RESTAURANT & BAR
EASY TO FIND.
HARD TO FORGET!

BREAKFAST
BURGERS
BEER

Hamburgers May's

Exhibit A: Conditions of Approval 2013.0290C. 531- FINAL
Mutually agreed to by
Les Natali, Project Sponsor Hamburger Mary's at the Patio Café
and
Castro/Eureka Valley Neighborhood Association

In the section **Design**, which is #3:

- Exterior signage and other aspects of the restaurant/bar will differ from standard locations of Hamburger Mary's to ensure that the establishment is substantially different and unique from others in the chain.

The following items added to the existing Exhibit A in the section **Monitoring** [#4], which didn't seem to highlight financial penalties which are all standard.

- Violation of the conditions contained in this Motion or of any other provisions of the Planning Code may be subject to abatement procedures and fines not less than \$200 a day in accordance with Planning Code Section 176.
- Should monitoring of the Conditions of Approval contained in Exhibit A of this Motion be required, the Project Sponsor or successors shall pay fees as established in Planning Code Section 351(e)(1).
- If there is a lapse of this use for a period of two or more years, this authorization shall become null and void and use of the Project shall revert to a use for which it is currently permitted.

The following section should be added to the **Sidewalk** section [#7], to ensure more attention to a large area that could become part of the establishment.

- Should sidewalk areas in front of the premises be used for dining/bar purposes, Project Sponsor will maintain cleanliness and orderliness of the area during operating hours and not provide music/television in his area.
- Use of sidewalk area for dining/bar purposes will cease no later than 10PM

The following sections should be added to the **Noise** section of the existing Exhibit, which is item #8. Overall, we want some more teeth in the noise section, given the size and scope of the establishment.

- Uses shall be performed within the enclosed building only. All uses shall comply with the conditions imposed by the City' Noise Ordinance, and shall not be audible outside the enclosed building. Bass and vibration shall also be contained within the enclosed structure. To ensure containment of noise, including bass and vibrations, project sponsor agrees not to permit Live Music while the retractable roof is open. Further, in the event that there are complaints regarding sound leakage, project sponsor agrees to take all steps necessary to ensure that such sound leakage is immediately mitigated, including solutions such as a professional limiter on sound systems.

- The Project Sponsor shall ensure that the establishment provides adequate ventilation within the structures such that doors and windows are not left open for such purposes. Noise, odors and nuisance factors shall be adequately controlled. The operation uses shall be conducted in such a fashion that nearby residents are not affected by arriving or departing patrons or from noise, vibrations, or odors emanating from the use. The HVAC systems in the building shall be upgraded if necessary to allow implementation of the conditions of this Motion. If necessary, these systems shall have noise baffling panels or walls to minimize noise emission.
- NO amplification of any kind, including music and television, is permitted at any time in the two small outdoor patios in the rear of the building that are not enclosed by the retractable roof.
- The building walls, including doors and windows, shall be adequately soundproofed. The Project Sponsor shall take all necessary measures to ensure that sound levels emanating from activities at the site do not exceed the acceptable noise levels established for residential uses by the San Francisco Noise Ordinance.
- All exterior windows shall be adequately soundproofed or insulated to comply with the conditions of this Motion. Under all circumstances, windows shall be closed and locked from 10PM through 2AM.

This bullet should be added to the **Community Liaison** section [#10], to ensure they need to work with community groups if needed.

- The Project Sponsor, through the Community Liaison, shall work with existing neighbors and neighborhood groups toward resolving any problems identified as being caused by the restaurant/bar use. The Zoning Administrator shall report to the Commission any unresolved matters brought to the Department's attention regarding noncompliance with or ineffectiveness of any condition contained in this Exhibit.