



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use

HEARING DATE: SEPTEMBER 18, 2014

Date: September 11, 2014
Case No.: **2014.0487 C**
Project Address: **1501 Folsom Street**
Zoning: Western SoMa Mixed Use-Office Zoning District
Western SoMa Special Use District
55-X Height and Bulk District
Block/Lot: 3521/058
Project Sponsor: Leticia Luna
767 South Van Ness Avenue
San Francisco, CA 94110
Staff Contact: Brittany Bendix – (415) 575-9114
brittany.bendix@sfgov.org
Recommendation: **Approval with Conditions**

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PROJECT DESCRIPTION

The Project Sponsor, and new owner, is seeking Conditional Use authorization to expand an entertainment use as part of the existing venue (d.b.a. Calle Once) and to establish an outdoor activity area. The proposal includes a vertical expansion that will add a third story to the existing building and result in a total of 8,913 gross square feet. The third story addition will accommodate a kitchen, additional interior seating area and access to the proposed roof deck dining area. The roof deck will be approximately 1,180 square feet. Areas dedicated to dancing and performances will be kept on the first and second floors.

The proposed use is an independent use and locally owned, which has been encouraged throughout San Francisco. The new owner has 35 years of prior experience as an owner and manager of restaurants and nightclubs in San Francisco. She has held eight liquor licenses and two entertainment permits prior to the current project.

SITE DESCRIPTION AND PRESENT USE

The project is located on the southern corner of the intersection of 11th and Folsom Streets, Lot 058 of Assessor's Block 3521. The subject property is located within the WMUO (Western SoMa Mixed Use-Office) Zoning District, the Western SoMa Special Use District and a 55-X Height and Bulk District. The lot is approximately 3,749 square feet and has 40.9 feet of frontage on 11th Street and 70 feet of frontage on Folsom Street. The property is developed with a two-story commercial building that has been occupied by an entertainment activity since 1966, most recently as (d.b.a. Paradise Lounge) which occupied the building since 1985. The existing venue occupies approximately 7,433 square-feet.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The Western SoMa Mixed Use-Office Zoning District encourages office uses along with small-scale light industrial and arts activities. Nighttime entertainment activities are generally permitted through Conditional Use Authorization when not within 200-feet of an RED or RED-MX districts. Nevertheless, as a result of historic land use patterns, the subject property is surrounded by a cluster of entertainment, retail, and non-residential activities.

Directly opposite of the subject corner, and north of the subject property, is a single-story automotive retail use (d.b.a. Mercedes Benz of San Francisco). East of the subject property is a 6-story mixed use building (the former Jackson Brewery) with a restaurant on the ground floor (d.b.a. Basil Canteen) and live work units on the upper floors. West of the property is a single-story entertainment venue (previously d.b.a. Club Caliente), a three-story commercial building with ground floor restaurant (d.b.a. Izakaya House), and a two-story warehouse (d.b.a. Action Rentals). Immediately adjacent to, and south, of the subject property is a collection of entertainment activities including: the Holy Cow, a vacant theater, and the Beatbox. The project site is located 300-feet from the nearest RED Zoning District.

ENVIRONMENTAL REVIEW

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption.

HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	August 29, 2014	August 27, 2014	22 days
Posted Notice	20 days	August 29, 2014	August 29, 2014	20 days
Mailed Notice	20 days	August 29, 2014	August 29, 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 has received three e-mails in opposition to the proposal, two of which are from residents of the live work building at 1489 Folsom Street. The Department has also received 25 letters and one phone call, from the Alliance for a Better District Six, in support of the project.

ISSUES AND OTHER CONSIDERATIONS

- The entertainment activities would include live music and DJ performances. The live music would be restricted to the inside area and the sound equipment must be inspected and permitted by the Entertainment Commission prior to operation.
- The performing and dancing areas will be located in the interior of the first and second stories, with accessory dining on the third floor and roof deck.

- The hours of operation for the restaurant are between 4:00 P.M. to 11:00 p.m., Wednesday through Saturday and 11:00 A.M. to 11:00 P.M. on Sunday. The expected hours of operation for the entertainment use will be from 4:00 P.M. to 2:00 A.M. Wednesday through Sunday. On Mondays and Tuesdays the venue will be open as demand warrants and will also be available for private events that will occur within the aforementioned timeframes.
- The Good Neighbor Policies further restrict sound levels of any indoor or outdoor activity, located within 100-feet of a live/work unit, during the period from 10:00 P.M. to 6:00 A.M., such that sound levels emanating from such activities do not exceed the acceptable noise levels established for residential uses by the San Francisco Noise Ordinance.
- The Project Sponsor's current soundproofing applications include providing double paned windows, closing an existing skylight, and locating performance space at the back of the venue and away from the front door. Applying drapes over the windows will take place if necessary to comply with the Noise Ordinance. The Project Sponsor voluntarily hired a sound engineer to confirm such compliance.

REQUIRED COMMISSION ACTION

In order for the project to proceed, the Commission must grant Conditional Use Authorization to expand an entertainment use and establish an outdoor activity area within the WMUO (Western SoMa Mixed Use-Office) Zoning District, pursuant to Planning Code Sections 145.2, 303, 845.13, and 845.56.

BASIS FOR RECOMMENDATION

- The project promotes the establishment of a locally-owned business and contributes to the viability of the overall Western SoMa Mixed Use-Office District.
- The retention and expansion of the entertainment venue will enable the new business to expand and diversify programming while offering additional performance space to both emerging and renowned talent.
- The District is well served by transit, therefore customers and employees should not impact traffic.
- The business would serve the immediate neighborhood and is not a Formula Retail use.
- The proposed Project meets all applicable requirements of the Planning Code.
- The project is desirable for, and compatible with the surrounding neighborhood.

RECOMMENDATION:	Approval with Conditions
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Attachments:

Block Book Map
Sanborn Map
Aerial Photographs
Public Correspondence (see also Project Sponsor Submittal)
Reduced Plans

Attachment Checklist

- | | |
|---|--|
| <input checked="" type="checkbox"/> Executive Summary | <input checked="" type="checkbox"/> Project sponsor submittal |
| <input checked="" type="checkbox"/> Draft Motion | Drawings: <u>Existing Conditions</u> |
| <input checked="" type="checkbox"/> Environmental Determination | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Zoning District Map | Drawings: <u>Proposed Project</u> |
| <input checked="" type="checkbox"/> Height & Bulk Map | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Parcel Map | 3-D Renderings (new construction or significant addition) |
| <input checked="" type="checkbox"/> Sanborn Map | <input type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Aerial Photo | <input type="checkbox"/> Wireless Telecommunications Materials |
| <input checked="" type="checkbox"/> Context Photos | <input type="checkbox"/> Health Dept. review of RF levels |
| <input checked="" type="checkbox"/> Site Photos | <input type="checkbox"/> RF Report |
| | <input type="checkbox"/> Community Meeting Notice |
| | <input type="checkbox"/> Housing Documents |
| | <input type="checkbox"/> Inclusionary Affordable Housing Program: Affidavit for Compliance |

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

_____BB_____
Planner's Initials

BB: G:\DOCUMENTS\Conditional Use\1501 Folsom - Entertainment Use & Outdoor\ExecutiveSummary.doc



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 414)
- Other (TIDF & EN Impact Fees)

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Planning Commission Draft Motion

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ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 145.2, 303, 823, 845.13 AND 845.56 OF THE PLANNING CODE TO EXPAND THE EXISTING NIGHTTIME ENTERTAINMENT USE (D.B.A. CALLE ONCE) AND TO ESTABLISH AN OUTDOOR ACTIVITY AREA WITHIN THE WESTERN SOMA MIXED USE-OFFICE ZONING DISTRICT, THE WESTERN SOMA SPECIAL USE DISTRICT AND A 55-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On April 3, 2014, Leticia Luna (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Section(s) 145.2, 303, 823, 845.13 and 845.56 to expand the existing nighttime entertainment use (d.b.a. Calle Once) and to establish an outdoor activity area within the Western SoMa Mixed Use-Office (WMUO) Zoning District, the Western SoMa Special Use District and a 55-X Height and Bulk District.

On September 18, 2014, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2014.0487C.

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption

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. 2014.0487C, 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 is located on the southern corner of the intersection of 11th and Folsom Streets, Lot 058 of Assessor's Block 3521. The subject property is located within the WMUO (Western SoMa Mixed Use-Office) Zoning District, the Western SoMa Special Use District and a 55-X Height and Bulk District. The lot is approximately 3,749 square feet and has 40.9 feet of frontage on 11th Street and 70 feet of frontage on Folsom Street. The property is developed with a two-story commercial building that has been occupied by an entertainment activity since 1966, most recently as (d.b.a. Paradise Lounge) which occupied the building since 1985. The existing venue occupies approximately 7,433 square-feet.
3. **Surrounding Properties and Neighborhood.** The Western SoMa Mixed Use-Office Zoning District encourages office uses along with small-scale light industrial and arts activities. Nighttime entertainment activities are generally permitted through Conditional Use Authorization when not within 200-feet of an RED or RED-MX districts. Nevertheless, as a result of historic land use patterns, the subject property is surrounded by a cluster of entertainment, retail, and non-residential activities.

Directly opposite of the subject corner, and north of the subject property, is a single-story automotive retail use (d.b.a. Mercedes Benz of San Francisco). East of the subject property is a 6-story mixed use building (the former Jackson Brewery) with a restaurant on the ground floor (d.b.a. Basil Canteen) and live work units on the upper floors. West of the property is a single-story entertainment venue (previously d.b.a. Club Caliente), a three-story commercial building with ground floor restaurant (d.b.a. Izakaya House), and a two-story warehouse (d.b.a. Action Rentals). Immediately adjacent to, and south, of the subject property is a collection of entertainment activities including: the Holy Cow, a vacant theater, and the Beatbox. The project site is located 300-feet from the nearest RED Zoning District.

The site is well served by local and regional public transit. The 9-San Bruno, 12-Folsom/Pacific, 14-Mission, and the 47-Van Ness Muni Bus lines operate within a ¼-mile from the subject property. The site is also within ½-mile from the Van Ness Muni Station and the Civic Center BART station. After-hours paid parking until 3 a.m. is available one block away from the project in the large Costco parking lot serving entertainment and nighttime activities in the area.

4. **Project Description.** The Project Sponsor, and new owner, is seeking Conditional Use authorization to expand an entertainment use as part of the existing venue (d.b.a. Calle Once) and to establish an outdoor activity area. The proposal includes a vertical expansion that will add a third story to the existing building and result in a total of 8,913 gross square feet. The third story addition will accommodate a kitchen, additional interior seating area and access to the proposed roof deck dining area. The roof deck will be approximately 1,180 square feet. Areas dedicated to dancing and performances will be kept on the first and second floors.

The proposed use is an independent use and locally owned, which has been encouraged throughout San Francisco. The new owner has 35 years of prior experience as an owner and manager of restaurants and nightclubs in San Francisco. She has held eight liquor licenses and two entertainment permits prior to the current project.

5. **Public Comment.** The Department has received three e-mails in opposition to the proposal, two of which are from residents of the live work building at 1489 Folsom Street. The Department has also received 25 letters and one phone call, from the Alliance for a Better District Six, in support of the project.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Nighttime Entertainment Use.** Planning Code Sections 823 and 845.56 require Conditional Use Authorization to establish an entertainment use within the WMUO Zoning District and the Western SoMa Special Use District, if such use is not within 200 linear feet of any property within an RED (Residential Enclave) or RED-MX (Residential Enclave – Mixed) District. Additionally, such uses must also comply with the Good Neighbor Policies for nighttime entertainment activities outlined in Planning Code Section 803.5(b).

The Project Sponsor is seeking Conditional Use Authorization to expand an existing entertainment use at a property that is not within 200 linear feet of an RED or RED-MX Zoning District. The live music would be restricted to the inside area and the sound equipment must be inspected and permitted by the Entertainment Commission prior to operation. Additionally, the Good Neighbor Policies will be memorialized as part of the Conditions of Approval and will specifically restrict noise and vibration associated with the entertainment use to within the interior space.

- B. **Good Neighbor Policies.** Planning Code Section 803.5 (a) and (b) establishes good neighbor policies for restaurants and nighttime entertainment activities in Mixed Use Districts. Such

uses are not to be allowed except on conditions which, in the judgment of the City agency, board or commission, are reasonably calculated to insure that:

1. 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; and
2. Employees of the establishment shall be posted at all the entrances and exits to the establishment during the period from 10:00 p.m. to such time past closing that all patrons have left the premises. These employees shall insure that patrons waiting to enter the establishment and those exiting in the premises are urged to respect the quiet and cleanliness of the neighborhood as they walk to their parked vehicle or otherwise leave the area; and,
3. Employees of the establishment shall walk a 100-foot radius from the premises sometime 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; and,
4. Sufficient toilet facilities shall be made accessible to patrons within the premises, and toilet facilities shall be made accessible to prospective patrons who may be lined up waiting to enter the establishment; and,
5. The establishment shall provide outside lighting in a manner that would illuminate outside street and sidewalk areas and adjacent parking, as appropriate; and,
6. The establishment shall provide adequate parking for patrons free of charge or at a rate or manner that would encourage use of parking by establishment patrons. Adequate signage shall be well-lit and prominently displayed to advertise the availability and location of such parking resources for establishment patrons; and,
7. The establishment shall provide adequate ventilation within the structures such that doors and/or windows are not left open for such purposes resulting in noise emission from the premises; and,
8. Any indoor and/or outdoor activity allowed as a principal or conditional use and located within 100-feet of a residential or live/work unit shall, during the period from 10:00 p.m. to 6:00 a.m., insure that sound levels emanating from such activities do not exceed the acceptable noise levels established for residential uses by the San Francisco Noise Ordinance; and,
9. The establishment shall implement other conditions and/or management practices, including the prohibition of dancing to recorded music (disco dancing), as determined by the Zoning Administrator, in consultation with Police Department and other appropriate

public agencies, to be necessary to insure that management and/or patrons of the establishments 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.

The Conditions of Approval set forth in Exhibit A ensure that the Project Sponsor will continue to practice the Good Neighbor Policies as outlined above through ongoing compliance with the Planning Code. Additionally, failure to adhere to the Planning Code requirements may result in a revocation of the Conditional Use authorization. Parking is not included in the subject proposal, nor is it required by the Planning Code. Furthermore, the Entertainment Commission also refers to the City's Good Neighbor Policies when reviewing entertainment permits for related or special events.

- C. **Outdoor Activity.** Planning Code Sections 145.2(a) and 845.13 require Conditional Use Authorization for an Outdoor Activity Area, as defined by Planning Code Section 890.71, within the WMUO Zoning District.

The Project Sponsor requests Conditional Use Authorization to establish an outdoor activity on the roof of the second story per Planning Code Section 845.13. The Outdoor Activity use will not include live performance space and will primarily accommodate food and beverage patrons as an accessory dining area. Any ambient music will be pre-recorded, directed towards the street, and will be turned off by midnight.

- D. **Neighborhood Notification.** Pursuant to Planning Code Section 312, the expansion of an entertainment use and the establishment of an outdoor activity area within a Mixed Use District requires Section 312 neighborhood notification to all owners and occupants within a 150-foot radius from the project site.

The project site is located within the WMUO Zoning District. The project proposal includes the expansion of an entertainment use and the establishment of an outdoor activity area. Therefore, the project requires neighborhood notification. Section 312 notification was conducted in conjunction with the Conditional Use authorization notification.

- E. **Parking.** Pursuant to Planning Code Section 151.1 off-street parking for any arts activity is principally permitted at a ratio of one parking space for each 2,000 square feet of occupied floor area.

The subject property has not historically provided any off-street parking spaces for the venue. The proposal does not include changes to this existing condition.

7. **Additional Criteria for Outdoor Activity Areas 145.2(a)(2).** An Outdoor Activity Area is subject to additional criteria that the Planning Commission shall find that:
- A. The nature of the activity operated in the Outdoor Activity Area is compatible with surrounding uses;

The subject property is located within the WMUO Zoning District which encourages a mixture of commercial uses and prohibits residential uses, such that throughout the day the neighborhood remains active and safe. The proposed outdoor activity use is in keeping with the context of commercial uses within the immediate and broader neighborhood. The outdoor area will accommodate restaurant patrons and will be the only outdoor seating area on this block of Folsom Street.

- B. The operation and design of the Outdoor Activity Area does not significantly disturb the privacy or affect the livability of adjoining or surrounding residences;

The two adjacent properties to the subject site are non-residential uses. Furthermore, the outdoor area is arranged to project noise towards the intersection of Folsom and 11th Street. This minimizes impact to residents of properties within the immediate area.

- C. The hours of operation of the activity operated in the Outdoor Activity Area are limited so that the activity does not disrupt the viability of surrounding uses.

The expected hours of operation for the restaurant are between 4:00 P.M. to 11:00 P.M. Wednesday through Saturday and 11:00 A.M. to 11:00 P.M. on Sunday. The expected hours of operation for the entertainment use will be from 4:00 P.M. to 2:00 A.M. Wednesday through Sunday. On Mondays and Tuesdays the venue will be open as demand warrants and will also be available for private events that will occur within the aforementioned timeframes.

Additionally, per the Good Neighbor Policies, any indoor and/or outdoor activity within 100-feet of a residential or live/work unit must insure that sound levels emanating from such activities do not exceed the acceptable noise levels established for residential uses by the San Francisco Noise Ordinance, during the period from 10:00 P.M. to 6:00 A.M..

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:

- D. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The project is necessary and desirable because it will enhance an existing commercial activity and will not result in the displacement of any other neighborhood serving use. The entertainment use will complement the mix of goods and services currently available in the immediate vicinity, and will also be within a cluster of other entertainment activities.

- E. 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:

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

The size and shape of the project site are compatible with the pattern of development in the area. The new construction of a partial third floor is setback from both 11th and Folsom Street and is approximately 1,450 square-feet.

- ii. 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 project would not adversely affect public transit or overburden the existing supply of parking in the neighborhood because the project site is well-served by public transit. The project is within ¼ mile of four MUNI Bus lines, and ½ mile of the Van Ness Muni Station and the Civic Center Bart Station. After-hours paid parking until 3 a.m. is available one block away from the project in the large Costco parking lot serving entertainment and nighttime activities in the area.

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

Noxious or offensive emissions will be prevented through stringent Conditions of Approval. The musical 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 entertainment use to within the interior space. The Project Sponsor's current soundproofing applications include providing double paned windows, closing an existing skylight, and locating performance space at the back of the venue and away from the front door. Applying drapes over the windows will take place if necessary to comply with the Noise Ordinance. The Project Sponsor voluntarily hired a sound engineer to confirm such compliance.

- iv. 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 guarantee 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.

- F. 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.

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

WESTERN SOMA AREA PLAN

Objectives and Policies

OBJECTIVE 1:

MINIMIZE NOISE IMPACTS AND ENSURE APPROPRIATE NOISE ORDINANCE REQUIREMENTS ARE MET.

Policy 1.3.2:

Reduce potential land use conflicts by carefully considering the location and design of both noise-generating uses and sensitive uses in the Western SoMa.

All entertainment activities at the site will be situated in the interior of the space and must adhere to the soundproofing measures identified in the Conditions of Approval, as well as, undergo review and testing by the Entertainment Commission. Additionally, any noise associated with the restaurant activities on the outdoor roof deck are directed towards the intersection of 11th and Folsom Street and will be limited during the hours of 10:00 P.M. and 6:00 A.M..

OBJECTIVE 2.1:

RETAIN AND ENCOURAGE GROWTH OPPORTUNITIES FOR EXISTING NEIGHBORHOOD BUSINESSES.

Policy 2.1.1:

Promote a wide range of neighborhood-serving commercial uses north of Harrison Street.

The subject entertainment venue has operated at this location since the mid-1980s. Under new ownership the entertainment venue will re-open and expand to include a third floor and roof deck that will enable the continued commercial viability of the site by including a kitchen and additional seating area. The proposal thereby retains and expands an existing neighborhood business that is north of Harrison Street.

OBJECTIVE 8.1:

REINFORCE THE IMPORTANCE OF THE ARTS BY PRESERVING AND ENHANCING EXISTING ARTS USES.

Policy 8.1.2:

Create, expand and protect space for the arts.

Under new ownership, the entertainment venue will feature salsa activities, live DJ performances and amplified music from the 70s. The target demographic is diverse and includes a range of ages and cultural backgrounds, which will generate new opportunities for the City's emerging artists.

OBJECTIVE 8.3:

PROTECT AND ENCOURAGE APPROPRIATE NEIGHBORHOOD ENTERTAINMENT USES.

Policy 8.3.7:

Encourage clustering neighborhood serving uses around existing entertainment facilities.

The subject property has operated as an entertainment venue for approximately 50 years. The site is also adjacent to a number of other long-established entertainment venues within the Western SoMa neighborhood. The proposal will alter the existing venue to include a restaurant and outdoor activity area – features which will separate the venue from other performance spaces in clustered in the vicinity.

COMMERCE AND INDUSTRY ELEMENT

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.

Allowing the requested expansion of the entertainment use and addition of the outdoor seating area will create greater entertainment choices for those who live and work in the City without displacing an existing business. Additionally, Conditions of Approval guarantee containment of any significant noise generated by the use during operation.

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 expansion of the entertainment use to accommodate on-site dining will create an improved social and cultural environment in the neighborhood. Additionally, the outdoor activity area will be a unique feature within the immediate area and will be available for dining, as well as social and cultural gatherings. 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.

The project will provide approximately 35 employment opportunities for local residents and performers. Additionally, the interior of the existing entertainment space will be renovated so that it can accommodate both emerging local artists and established performers with a growing San Francisco Bay Area fan base.

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 expansion of the entertainment use will enable the venue to continue to provide musical performance activities on-site on a regular basis. This activity also enhances 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 the entertainment use to the existing bar will enable the current business to continue the existing use while creating a new performance space in San Francisco. Additionally, the entertainment use contributes to a cluster of arts activities within the District.

10. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

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

The project will contribute to a greater number of employment opportunities for city residents and will not displace any existing retail uses within the neighborhood.

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

The Project will not adversely affect existing housing and is consistent with the surrounding neighborhood character. Further, the Conditions of Approval will ensure the entertainment activity occurs indoors and complies with the San Francisco Noise Ordinance.

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

No housing is removed for this Project.

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

The subject site is at the intersection of Folsom and 11th Streets and is well served by transit. It is presumable that the employees and patrons would commute by transit; therefore, effects on street parking should be minimized.

- 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 or alter any elements of the City's industrial or service sectors.

- 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 Building Code. This proposal will not impact the property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

The subject property was evaluated as part of the South of Market Historic Resource Survey and determined not to be a historic resource.

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

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

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

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2014.0487C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated August 28, 2014, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. XXXXX. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

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

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

I hereby certify that the Planning Commission **ADOPTED** the foregoing Motion on September 18, 2014.

Jonas P. Ionin
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: September 18, 2014

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to expand an entertainment use (d.b.a. Calle Once) and establish an outdoor activity area located at 1501 Folsom Street, Block 3521, Lot 058, pursuant to Planning Code Sections 145.2, 303, 823, 845.13 and 845.56 within the Western SoMa Mixed Use-Office Zoning District, the Western SoMa Special Use District and a 55-X Height and Bulk District; in conformance with plans, dated August 28, 2014, and stamped "EXHIBIT B" included in the docket for Case No. 2014.0487C and subject to conditions of approval reviewed and approved by the Commission on September 18, 2014, under Motion No XXXXXX. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on **September 18, 2014**, under Motion No XXXXXX.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

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

SEVERABILITY

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

CHANGES AND MODIFICATIONS

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

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

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

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

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

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

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

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

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

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

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

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

MONITORING

6. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
7. **Monitoring.** The Project requires monitoring of the conditions of approval in this Motion. The Project Sponsor or the subsequent responsible parties for the Project shall pay fees as established under Planning Code Section 351(e) (1) and work with the Planning Department for information about compliance.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
8. **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

9. **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>
10. **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>
11. **Noise Control.** The premises 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.

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 415-553-1012 or 415-5530123, www.sf-police.org

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

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

- 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 only. 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 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. The quiet, safety and cleanliness of the premises and its adjacent area are maintained;
- B. Adequate off-street parking is provided, for which purpose the agency, board or commission may require parking in excess of that required under the provisions of Section 150(c) of this Code and may include participation in a South of Market Parking Management Program if and when such a program exists;
- C. Proper and adequate storage and disposal of debris and garbage is provided;
- D. Noise and odors are contained within the premises so as not to be a nuisance to neighbors; and
- E. Sufficient toilet facilities are made accessible to patrons, including persons waiting to enter the establishment.
- F. 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; and
- G. Employees of the establishment shall be posted at all the entrances and exits to the establishment during the period from 10:00 p.m. to such time past closing that all patrons have left the premises. These employees shall insure that patrons waiting to enter the establishment and those existing in the premises are urged to respect the quiet and cleanliness of the neighborhood as they walk to their parked vehicle or otherwise leave the area; and,
- H. Employees of the establishment shall walk a 100-foot radius from the premises sometime 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; and,
- I. Sufficient toilet facilities shall be made accessible to patrons within the premises, and toilet facilities shall be made accessible to prospective patrons who may be lined up waiting to enter the establishment; and,
- J. The establishment shall provide outside lighting in a manner that would illuminate outside street and sidewalk areas and adjacent parking, as appropriate; and,

- K. The establishment shall provide adequate parking for patrons free of charge or at a rate or manner that would encourage use of parking by establishment patrons. Adequate signage shall be well-lit and prominently displayed to advertise the availability and location of such parking resources for establishment patrons; and,
- L. The establishment shall provide adequate ventilation within the structures such that doors and/or windows are not left open for such purposes resulting in noise emission from the premises; and,
- M. Any indoor and/or outdoor activity allowed as a principal or conditional use and located within 100-feet of a residential or live/work unit shall, during the period from 10:00 p.m. to 6:00 a.m., insure that sound levels emanating from such activities do not exceed the acceptable noise levels established for residential uses by the San Francisco Noise Ordinance; and,
- N. The establishment shall implement other conditions and/or management practices, including the prohibition of dancing to recorded music (disco dancing), as determined by the Zoning Administrator, in consultation with Police Department and other appropriate public agencies, to be necessary to insure that management and/or patrons of the establishments 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.

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)	
1501 Folsom Street		3521/058	
Case No.	Permit No.	Plans Dated	
2014.0487C	2014.05.08.5264	August 28, 2014	
<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. Expansion of an entertainment use and establishment of an outdoor activity area.			

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>Maher program, or other documentation from Environmental Planning staff that hazardous material effects would be less than significant (refer to EP_ArcMap > Maher 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.</i> (refer to EP_ArcMap > CEQA Catex Determination Layers > Topography) 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.</i> (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) 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.</i> (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) 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.</i> (refer to EP_ArcMap > CEQA Catex Determination Layers > Serpentine)
*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 type="checkbox"/>	Category B: Potential Historical Resource (over 45 years of age). GO TO STEP 4.
<input checked="" 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 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 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 <i>Secretary of the Interior Standards for the Treatment of Historic Properties</i> (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 <i>Environmental Evaluation Application</i> to be submitted. GO TO STEP 6.
<input 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:	

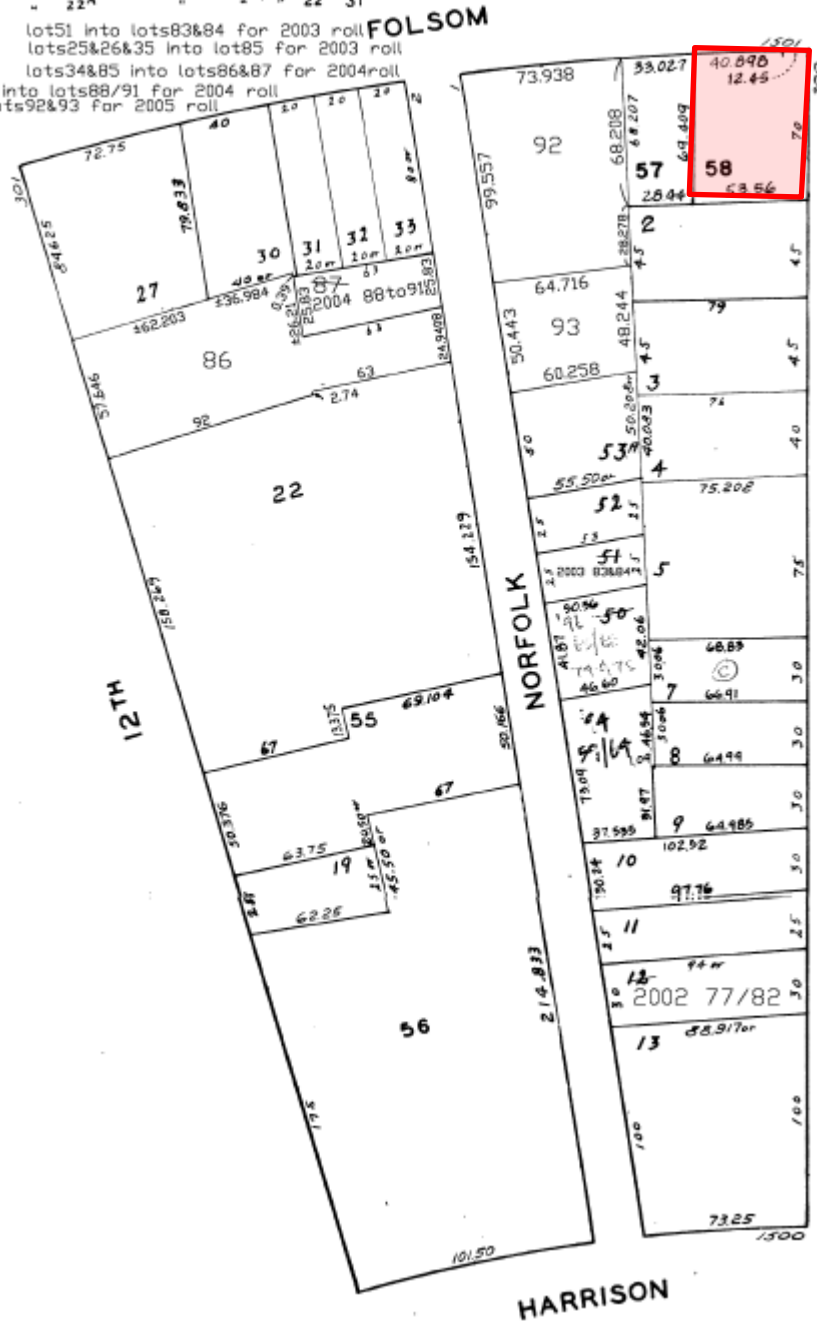
**STEP 6: CATEGORICAL EXEMPTION DETERMINATION
TO BE COMPLETED BY PROJECT PLANNER**

<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 <i>Environmental Evaluation Application</i>.	
<input checked="" type="checkbox"/>	No further environmental review is required. The project is categorically exempt under CEQA.	
	Planner Name: Brittany Bendix Project Approval Action: Planning Commission Hearing <small>*If Discretionary Review before the Planning Commission is requested, the Discretionary Review hearing is the Approval Action for the project.</small>	Signature:  Brittany Bendix <small>Digitally signed by Brittany Bendix DN: dc=org, dc=sfgov, dc=cityplanning, ou=CityPlanning, ou=Current Planning, cn=Brittany Bendix, email=brittany.bendix@sfgov.org Date: 2014.09.09 12:36:36 -07'00'</small>
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

Lots 6 merged into Lot 5 "43"
 15 16 18
 23 24 36 40
 45
 47
 29
 22A

lot 51 into lots 83 & 84 for 2003 roll
 lots 25 & 26 & 35 into lot 85 for 2003 roll
 lots 34 & 85 into lots 86 & 87 for 2004 roll
 into lots 88 & 91 for 2004 roll
 lots 92 & 93 for 2005 roll

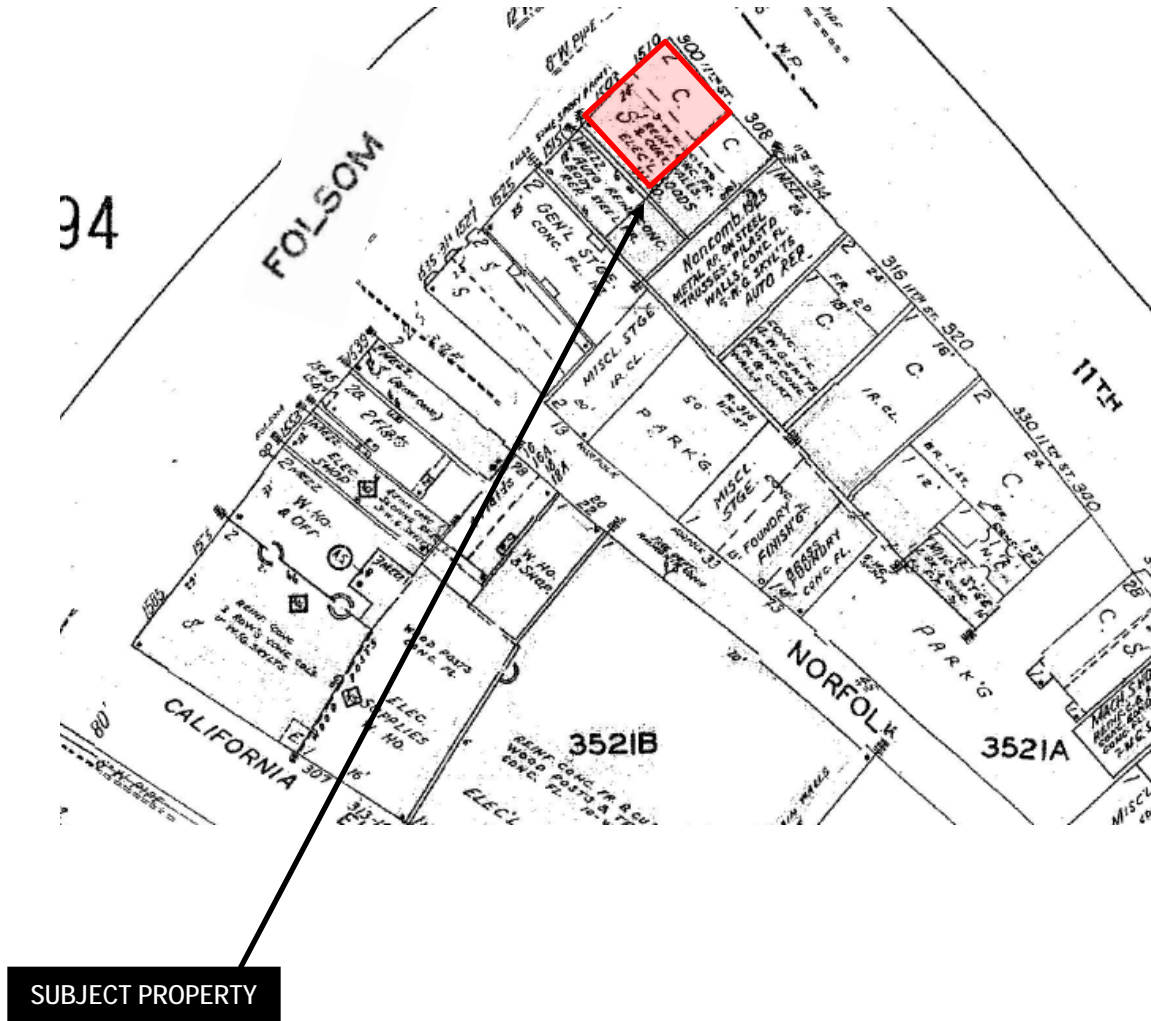


SUBJECT PROPERTY



Conditional Use Authorization Hearing
 Case Number 2014.0487C
 Calle Once
 1501 Folsom Street

Sanborn Map*



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

Conditional Use Authorization Hearing
Case Number 2014.0487C
Calle Once
1501 Folsom Street

Aerial Photo



SUBJECT PROPERTY



Conditional Use Authorization Hearing
Case Number 2014.0487C
Calle Once
1501 Folsom Street

Zoning Map



SUBJECT PROPERTY

Conditional Use Authorization Hearing
Case Number 2014.0487C
Callle Once
1501 Folsom Street

Site Photo



Conditional Use Authorization Hearing
Case Number 2014.0487C
Calle Once
1501 Folsom Street

Bendix, Brittany (CPC)

From: Kelly Ellis <fountaingoats@gmail.com>
Sent: Tuesday, September 02, 2014 8:56 PM
To: Bendix, Brittany (CPC)
Subject: 1501 Folsom St Project

Hello, I am a homeowner at 1489 Folsom Street. I just received information in the mail about the proposed project at 1501 Folsom St, which is directly adjacent to my home.

I am extremely extremely concerned about the proposal to create an outdoor entertainment space. The noise is already out of control between Beatbox and Audio Nightclub, the two clubs that are already on that corner. From the noise that the patrons make to the loud music at all hours of the night. In fact I have talked to one of the owners of Beatbox, and they intend to install better soundproofing so as to be good neighbors.

I can't even *imagine* the noise levels were there to be an outdoor entertainment space, which presumably would have loud music playing at night, along with noise from patrons being outside. This is directly adjacent to my home and my bedroom windows. Being a proposed open air space, there would be no soundproofing whatsoever and it would be like trying to sleep in a club. The city needs to fix its planning so that noise like this isn't placed anywhere adjacent to areas zoned as housing. If this project were to go forward, it would cause significant problems for the peace and mental health of the owners in my building. Please do not allow this to go forward. The noise is already bad enough, and an outdoor entertainment space would make it beyond unbearable.

Thank you,
Kelly Ellis

Bendix, Brittany (CPC)

From: Charles Wehrenberg <charlie@solozone.com>
Sent: Thursday, September 11, 2014 8:53 AM
To: Bendix, Brittany (CPC)
Cc: George Miller; Jim Meko
Subject: Entertainment Zones & SB 968

Brittany Bendix

SF Planning

MS Bendix,

I oppose the expansion of the club scene along 11th Street because the de facto "Entertainment Zone" intrudes aggressively and intentionally on my Constitutional rights as a property owner. This includes my opposition the proposed roof deck at 1501 Folsom which will broadcast even more widely because the club will want their music audible on this deck . That won't do. Clubs are fine so long as they keep ALL noise to themselves, and so long as they police the crowds which they attract. Clubs and alcohol vendors in San Francisco should simply pay ALL the social costs resulting from their business. I believe the recent California Legislative ruling (SB 968 on the nearby Martin's Beach access) pertains to the plan to allow the 11th Street clubs to disturb the peace: SB 968 mandates that while governmental agencies have the right to establish use-specific zones, neither the City of San Francisco nor any commission have the right to limit any Constitutional rights by fiat. The City of San Francisco must take control of all property infringed upon and must do so through eminent domain purchase.

San Francisco should anticipate court challenges.

It is foolish to assert the rights of club owners who are already playing amplified music so loud that their employees and their patrons must wear earplugs to attend. These clubs should be told that they must adhere to OSHA sound standards in a way that those who want to attend without ear protection can do so without incurring harm. Otherwise the City must assume all liability for resulting hearing disabilities. That could become exceedingly costly. The real planning issue at hand is how cigarette smoking might be allowed inside these venues? Only this will bring the club scene back inside and thus minimize neighborhood disturbances.

Charles Wehrenberg

72 Kissling Street

SF CA 94103

415 864-0797

From: George A Miller <gameleven@comcast.net>
Subject: **why I think a 1,180 square foot roof deck at 1501 Folsom is a bad idea**
Date: September 10, 2014 4:47:06 PM PDT
To: brittany.bendix@sfgov.org

I am very much in favor of having a responsible entertainment/dining venue at 1501 Folsom. But I have very serious reservations about having a 1,180 roof area directly across the street from five floors of bed rooms. (Please see my enclosed May 6 e-mail to Leticia Luna)

Robin Reichart owned and operated the Paradise Lounge at 1501 Folsom for many years. During that era he booked as many as 1,000 acts a year. I met him in the early 1990's and we were good friends for many years.

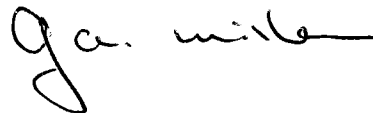
At the same time Kevin Murphy was operating VSF at 298 Eleventh Street. It was a nightmare (See enclosed July 9, 1998 letter to Gavin Newsom.) VSF had a retractable roof. As a result we were exposed not only whatever music was on, but also loud conversations of people enjoying the view of 11th Street. This went on until 6 am 7 days a week.

This all finally ended up in San Francisco Superior Court with a real honest to goodness three day trial. Judge Goldsmith wrote a scathing 15 page opinion (attached) which pretty much lays out the rules and what is acceptable behavior.

I watch a lot of sfgov. tv I have watched the Entertainment Commission go into great detail explaining the importance of keeping sound inside the venue. They go to great length explaining the importance of keeping doors and windows closed as well as soundproofing walls and ceilings/roofs. Having folks on the roof sort of negates the whole process.

I am also enclosing a photo of the Jackson Brewery where I have lived since 1993. The building has been here for 108 years, is National Landmark #199 and houses 7 residences. The wall shown directly faces 1501 Folsom, is 5 floors of bedrooms.

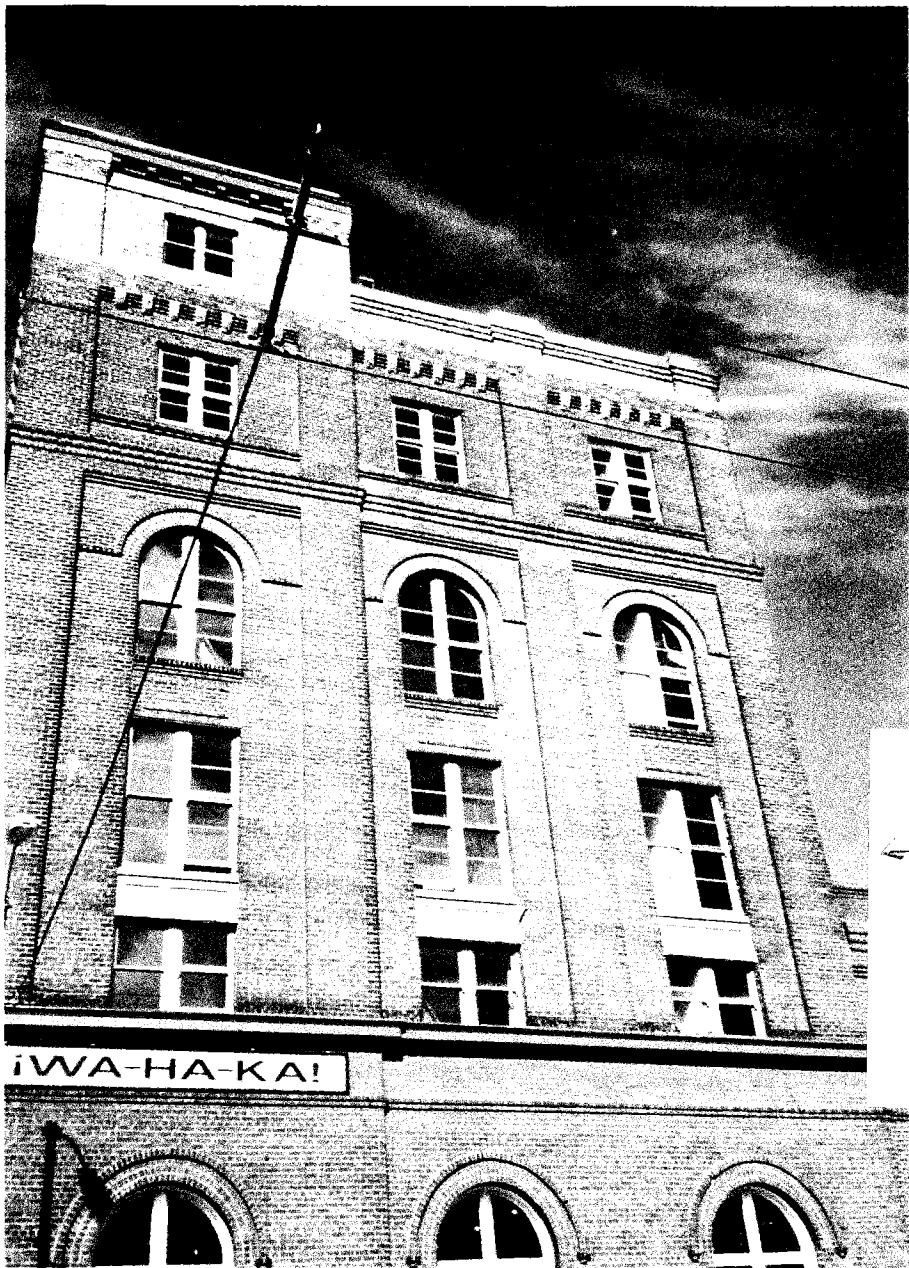
Again, I am all for entertainment. (See attached letter to SFPD and ABC). I just don't think a 1180 square foot roof deck immediately across the street is compatible with folks having the reasonable use of their homes.



From: George A Miller <gameleven@comcast.net>
Subject: 1501 folsom project
Date: May 6, 2014 3:58:53 PM PDT
To: Leticia Luna <leticialuna14@yahoo.com>

my name is George Miller , I have lived at the Jackson Brewery(across the street) for over 20 years. I was at your gathering on March 27 and introduced myself then. I was planning on being at your meeting this week, but unfortunately thought it was last night(I actually showed up) I have a long standing commitment Wednesday night so I will be unable to attend . If I were there I would again urge you to think again about having a roof deck where people can gather and chat it up. If you go up your roof you will look directly at 5 floors of bedrooms. People actually have lived in this building since shortly after the 1989 earth quake. We had some experience with folks gathering on nearly roofs with the Oasis in the mid 1990's. That did not end well. The basic problem is that you will have folks chatting it up 20 some feet above street level, the sound carries very well directly into our bedrooms, not a good idea. I very much look forward to your opening and great success.

No response P



THE ROOF
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WILL BE
ABOUT
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LEVEL

Local

San Francisco Chronicle

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Residential development threatens S.F.'s music, dance clubs

Venues threatened with demolition as upscale housing moves in

Image – out of 19

J.K. Dineen

August 10, 2014 | Updated: August 11, 2014 1:18pm

The explosion of new housing projects across San Francisco is threatening to pull the plug on music and dance clubs from North of the Panhandle to Potrero Hill to the Mission.

In a city going through a housing crisis, every unit is badly needed. But for live music fans, the pressure is stereophonic.

On the one hand, nightclubs in the path of progress are being targeted for demolition to make way for housing, including the eclectic indie rock venue the Elbo Room on Valencia Street; Cafe Cocomo, a salsa dance bar at 650 Indiana St.; and the Sound Factory, a dance club on Rincon Hill.

Still other club owners are looking over their shoulders uneasily as housing proposals crop up across the street or next door, because residences and nightclubs often don't mix well.

The Independent on Divisadero faces the possibility of new, upscale housing on both sides: the former Harding Theater to the south and the Alouis Auto Radiator shop to the north. Both properties are slated for nine units over retail. The Independent, which started out as the Half Note jazz club, has been around for 60 years.

"We are very much aware of the fact that residential development has the potential to disrupt the way that we operate," said Allen Scott of Another Planet Entertainment, which handles booking and promotion for the club. "We welcome the extension of the commercial corridor on Divisadero Street, but we do so with our eyes wide open."

Negotiating survival

Across the street from the Bottom of the Hill on 17th Street in the Potrero Hill neighborhood, developers are hoping to build 395 units at an old Cor-o-van storage center as well as two smaller projects on Missouri Street around the corner. The smaller projects would include units with decks from which condo owners could peer down at Bottom of the Hill's popular patio.

"For us it seems like development is a train coming down the track," said Tim Benetti, an owner of Bottom of the Hill. "We will do our best to negotiate survival, but if it's too big and comes too fast, I don't know how we are going to negotiate that."

Theoretically, those who choose to move close to a rock club know what they're signing up for. But as every club owner knows, what sounds good in theory is very different at midnight when you have an early appointment or are trying to get your baby back to sleep.

"We have had several people move in behind us and the next day they are calling the police," said Jason Perkins, who owns Brick and Mortar Music Hall on Mission Street as well as the New Parish in Oakland. "We have people moving in who look upon this as a bedroom community. They have to go to bed so they can get up in the morning and get to the Google bus."

The tension between infill housing and nightlife is nothing new. In the 1990s and early 2000s, nightclub owners along 11th Street in SoMa were in frequent conflict with residents moving into new live/work lofts springing up in the area. Those disputes led to the formation of the city's Entertainment Commission to settle disputes, but complaints persisted.

Slim's, on 11th Street between Folsom and Harrison, spent \$259,000 on soundproofing and other improvements to try to appease a single neighbor.

"She is still there, and she still complains," said Dawn Holliday, who manages Slim's and the Great American Music Hall. "The police got over her. She was taking away from vital city services."

The situation at Slim's and other SoMa clubs helped influence the zoning in the Western SoMa Community Plan, according to West SoMa resident and neighborhood activist Jim Meko. The final plan creates a special nightlife district along 11th Street where housing is not permitted. It includes a stricter building code that requires developers to do extensive sound testing and a plan to mitigate sound. As new housing pops up in that area, the plan "will lessen the likelihood of complaints significantly," Meko said.

'I like to sleep at night'

George Miller, who lives in the heart of the SoMa nightclub district at 11th and Folsom, spent several years fighting an all-night dance club called V/SF. He said he almost sold his place and moved to Oregon. Instead, he fought, winning five judgments in small claims court and five in San Francisco Superior Court. The club closed, and Miller hasn't had a problem since.

"I'm damn near 80 years old, and I like to sleep at night," he said. "The vast majority of people are decent and sensible and treat their neighbors with respect. So it's not a problem. Sometimes you get a bad apples, and it is a problem. It could be a nightclub or a dog kennel or a 24-hour car wash. That's the way it works."

Club owners might not like to admit it - but nightlife is a factor in gentrification. Bottom of the Hill put Potrero Hill on the map for a generation of hipsters, some of whom ended up living in condo developments in the neighborhood.

When it opened almost 23 years ago, that section of Potrero Hill was so quiet, "you didn't have to look before crossing the street," said Lynn Schwarz, another Bottom of the Hill owner.

"People thought it was ridiculous to put a bar down here, completely off the beaten path," Benetti said. "We struggled mightily. It was tough to pay the bills."

It was the quality of the music that brought people from all over the Bay Area to the club. Green Day, Rancid, Oasis, the Beastie Boys, the White Stripes and the Strokes have all graced the stage.

Hundreds of units planned

The fears over development at the Cor-o-van site emerged four years ago when Walden Development proposed to build a medical office building for Kaiser, in addition to about 200 units. The neighborhood successfully fought that proposal, and Walden came back with a new plan for 395 units without a Kaiser building. Schwarz said the new plan is much preferable to the last one, but still worrisome.

"If you live in a city, you should expect a certain amount of noise and that your sleep is going to be interrupted at times, especially if you move in next to a nightclub," Schwarz said. "It baffles me over and over when we see people move in next to nightclub and are shocked to find out their sleep might be interrupted."

Acoustical awareness

Josh Smith of Walden Development said the "project design team, which includes a top acoustical engineer who is very familiar with the acoustics of the area, is being mindful of Bottom of the Hill and is designing the project in a way that takes the neighborhood, including Bottom of the Hill, into account."

Tom Schindler, senior vice president with Charles Salter, an acoustical consulting firm, said most developers don't do any more soundproofing than they are required to do, except at high-end projects. Even that won't help with noise from the street.

"The club doesn't have that much sway over patrons when they are staggering down the street, but it's still laid at the feet of the club," he said.

The challenge to the nightlife industry isn't going unnoticed at City Hall, said Todd Rufo, director of the San Francisco Office of Economic and Workforce Development.

Working with Supervisor Scott Wiener, the agency created NightLifeSF, which is meant to "connect

nightlife and entertainment businesses to information about new development projects and help these businesses effectively engage in the planning process in their communities. We believe that nightlife businesses and residents can succeed together," Rufo said.

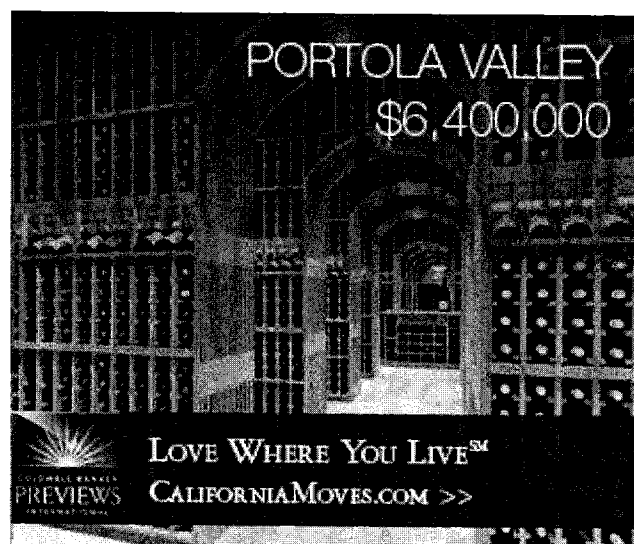
New resident complains

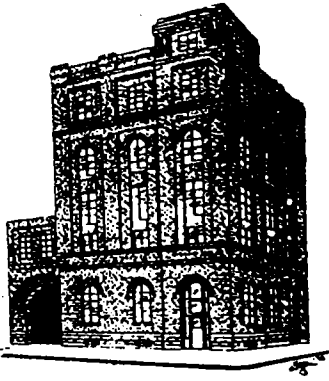
But Holliday doubts that the city has taken any steps that will protect the city's music scene from residential construction. Already, a resident who bought a \$1 million unit last year at 3500 19th St. is complaining about the Chapel, a newer club on Valencia Street, which opened less than a year before the condos.

Even though the Chapel spent money on soundproofing, "We are going to end up with the same problem," Holliday said. "It's baffling."

Jocelyn Kane, who heads the city's Entertainment Commission, acknowledged "there is danger lurking" for the industry. "It's not unique to San Francisco, but it's sad for me personally," she said. "There are not that many live music venues, and we need to keep the ones we have."

J.K. Dineen is a San Francisco Chronicle staff writer. E-mail: jdineen@sfgate.com Twitter: [@sfjkdineen](https://twitter.com/sfjkdineen)





Jackson Brewery

September 25, 1997

301 11th Street (at Folsom)
San Francisco, CA 94103

george a. miller

Officer Dan O'Shea
San Francisco Police Department
850 Bryant Street
San Francisco, CA 94103

Officer Dan Gallagher
San Francisco Police Department
850 Bryant Street
San Francisco, CA 94103

Investigator Christine Diep ✓
Department of Alcohol & Beverage Control
105 Berry Street, Suite 5600
San Francisco, CA 94107

Dear Officers and Investigator:

Mr. Simmons, a couple other members of the SFPD and Kevin Murphy have asked why I pick on VSF (278 11th Street) and have not complained about any of the other clubs. The purpose of this letter is to address this issue as clearly as I am able. I would appreciate you forwarding copies to Mr. Simmons, Lopez and Ortega (June 13, 1997), and as well as any others that seem confused on this issue.

Let me make clear at the outset that I am not a Calvinistic prude. I love bars, restaurants, clubs, pool halls, booze, food, and music. I certainly would not have started working on this building in 1989 if this were not so.

SLIMS - Before we started construction this was my number one noise concern. I spent several evenings on the roof and could never hear their music. I still can't hear their music ever. The reasons are simple. The sound system is oriented south - that's where the audience is. They have a very well insulated roof. It's the same as ours - about six inches of reinforced concrete. Any sound that makes it through the roof would then need to penetrate two vertical brick walls, each about 18 inches thick. The sound waves would then need to bend about 90° to come through my windows. Not likely!

It should also be noted that Slims is open 3 or 4 nights a week at most and is pretty much closed down by 1 AM. So they are going say 12 hours a week - whereas VSF is going 35 to 40 hours a week.

I might add that I frequently pay \$10 to \$20 to go to Slims, stand all night and buy their drinks. I would much prefer to sit on my roof and drink my own booze and hear their music from here. But it doesn't work!

PAGE - 2 -

20 TANKS - I have never heard their music.

TRANSMISSION - There have been 2 or 3 occasions when the noise was pretty loud. Incredible strange wrestling can get a bit raucous! I have talked to Robin (he brought it up) and he has installed baffles or something at the east end of the building to solve it.

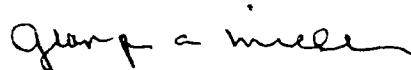
PARADISE - Noise can be a problem in the early evening if they leave the fire door open on the second floor. This happens maybe once a month. I call and they close the door within a few minutes.

VSF - Seven nights a week from 10 PM until between 4 and 7 AM, loud music, straight up through the open roof. Sort of like an outdoor concert!

Hopefully this will help clarify things. I have no particular desire to see VSF close. I don't like empty buildings. I ask only that they obey the law and act responsibly! Everyone else in the neighborhood seems to manage and do quite well.

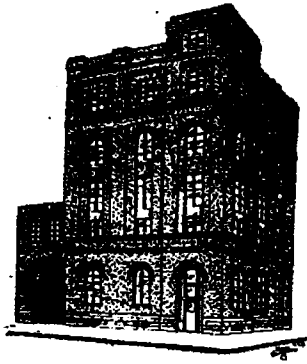
As always, I am available 24 hours a day, 7 days a week to help resolve this issue.

Sincerely,

A handwritten signature in cursive script that reads "George A. Miller".

George A. Miller

GAM/ltc



301 11th Street (at Folsom)
San Francisco, CA 94103

george a. miller

July 9, 1998

Supervisor Gavin Newsom
401 Van Ness Avenue
Room 300
San Francisco, CA 94102

Dear Supervisor Newsom,

I am writing to you in response to your proposal to convert our neighborhood into the South of Market Nighttime Entertainment District. Presumably the proposal resulted from a meeting you had with J. Kevin Murphy (owner of VSF) and Robin Reichert (owner of the Paradise Lounge) on June 12th.

I came to San Francisco in 1959. I have lived in this neighborhood since 1989. I have lived at the corner of Eleventh and Folsom since 1993.

The Jackson Brewery (where I live) was severely damaged in the 1989 earthquake and was "red tagged" to be torn down within 72 hours. A partnership of which I was a member, spent the next 4 years saving the building from destruction, did a major seismic upgrade and ended up with National Historic Landmark #199. We created a restaurant and seven apartments, five of which sold for about \$200,000, well under the average cost of housing in San Francisco. I thought we were doing a good thing!

Critical to this effort were various zoning and planning regulations in effect at the time we began. This area was zoned for mixed use and had very specific guidelines as to what was considered appropriate behavior -- these were laid out in the so called "Good Neighbor Policies." (Section 803.5a.)

To give Ken Garcia his due, this neighborhood was never envisioned to be Pasadena. There has long been a fair amount of street noise -- I have referred to it as a din. This was not a problem until December 1996, when Kevin Murphy started operating VSF as an after-hours club. We were then bombarded with incessantly loud base thumping (70 decibels inside my bedroom) seven nights a week until 4 or even 6AM. On weekends the "music" could run 16 hours straight.

This was the beginning of hundreds of calls to the San Francisco Police and Alcohol Beverage Control. I personally wrote several letters to the SFPD and had numerous conversations with officer Dan O'Shea (permits) and officer Dan Gallagher (noise abatement.) On July 2, 1997, residents of the building sent a letter complaining about the noise from VSF (attached.) On November 19, 1997, Felix Gonzalez forwarded a petition with 127 signatures on the same subject (copy attached -- I do not have the signatures, but officer O'Shea does.) It is important to understand that these 127 folks are not exactly newcomers to the neighborhood. Many of them have lived here for over 20 years. A neighborhood meeting with the SFPD and ABC on March 18, 1998 attracted 67 people. They were not happy campers! I suspect that for every resident that attended in person there were two more equally upset.

Despite hundreds of complaints to the police, numerous citations and citizen arrests, the noise continued.

On September 24, 1997, five residents of the Jackson Brewery building sued Kevin Murphy for damages (loss of the use of residence) in Small Claims Court. He did not appear. A subsequent hearing was held on October 31st. The judge awarded each plaintiff \$2500. Kevin Murphy appealed. A three day trial was held in Superior Court in February 1998. The judge saw fit to double our damages to \$5000 each. His 15 page opinion is a rather remarkable indictment of Kevin Murphy and his behavior! (Attached.)

The bottom line of all of this is that the concept of a mixed use neighborhood remains valid. The "Good Neighbor Policy" works -- with one exception. That exception is Kevin Murphy. I know most of the club owners in this neighborhood. I know a lot of the residents. Nobody has any serious problems with anyone other than Kevin Murphy.

There is no doubt in my mind that a noise level of 85 decibels will drive me out of my home. (I suggest you folks arrange to have a demonstration of this noise level in your office!) Since I am retired and reasonably well off, I am free to live quite well anywhere in the world. Once the boxes are packed, it only takes a few more hours to move to Seattle or Paris than Pacific Heights. In any case I'm sure I will do just fine.

I'm not so sure how the other 200 or so affected residents in my neighborhood will fare. Most of them live in frame structures. (I have 18 inch brick walls.) They don't have a lot of money to obtain new housing. And many of them are quite fearful or distrustful of "the system." I guess that is your problem -- not mine.

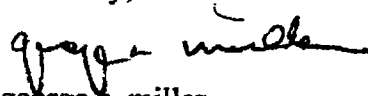
Page - 3

I think you folks are making a terrible mistake with this proposal. Converting this neighborhood to the acoustical equivalent of a "free fire zone" benefits only one person.

I am told that Kevin Murphy has been "throwing a lot of money around the Board of Supervisors." A quick stroll over to the Ethics Commission will clarify that.

Sometimes doing the right thing isn't necessarily the most popular.

Sincerely,



Handwritten signature of George A. Miller in cursive script.

george a. miller

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ENDORSED
FILED
San Francisco County Superior Court

APR 16 1998

ALAN CARLSON, Clerk
BY: AUGUSTO J. SALAS
Deputy Clerk

CALIFORNIA SUPERIOR COURT
CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT NUMBER 28

GEORGE A. MILLER,
Plaintiffs,

vs.

KEVIN MURPHY aka JAMES KEVIN MURPHY, et al.,
Defendants.

NO. SCA 25333

MUNICIPAL COURT
NO. 767649

MARK EDWARDS,
Plaintiff,

vs.

KEVIN MURPHY aka JAMES KEVIN MURPHY, et al.,
Defendants.

NO. SCA 25337

MUNICIPAL COURT
NO. 767620

KENNETH S. FREESTONE,
Plaintiff,

vs.

KEVIN MURPHY aka JAMES KEVIN MURPHY, et al.,
Defendants.

NO. SCA 25335

MUNICIPAL COURT
NO. 76743

STATEMENT OF DECISION

1 GAIL GOEDINGHAUS,)

NO. SCA 25336

2 Plaintiff,)

MUNICIPAL COURT
NO. 767617

3 vs.)

4 KEVIN MURPHY aka JAMES KEVIN MURPHY, et al.,)

5 Defendants.)

6 _____)
7 GERALD R. SPEISEN,)

NO. SCA 25334

8 Plaintiff,)

MUNICIPAL COURT
NO. 767683

9 vs.)

10 KEVIN MURPHY aka JAMES KEVIN MURPHY, et al.,)

11 Defendants.)

STATEMENT OF DECISION

12 _____)
13 **INTRODUCTION**

14 This action arises from an appeal from judgment in five San Francisco Municipal Court
15 Small Claims actions which were filed on or about August 21, 1997¹ and heard in Small Claims
16 Court on October 31, 1998. Each plaintiff filed his or her claim individually; however, the claims
17 were heard as consolidated actions. Each plaintiff alleged the same basis for recovery, claiming that
18 the defendant caused noise and disturbance which kept plaintiffs awake at night. Following trial in
19 Small Claims Court, judgments were rendered in favor of each plaintiff individually and against
20 defendant. Defendant appealed to the Superior Court. The instant proceeding is a trial de novo in
21 Superior Court pursuant to Code of Civil Procedure section 116.710, et seq. This court ordered the
22 five claims consolidated for purposes of the trial de novo. The trial was held before this Court on
23 February 5 and 9, 1998.

24 Plaintiffs are George A. Miller, Mark Edwards, Kenneth S. Freestone, Gail Goedinghaus
25 and Gerald R. Speisen. All plaintiffs are represented by Joseph A. Hearst, Esq. Defendant is Kevin
26 Murphy, represented by Kevin J. Holl, Esq., and Jeremy Sugarman, Esq. Plaintiffs sue for damage

27 ¹ Plaintiffs filed actions in San Francisco Municipal Court, Small Claims, as follows:
28 Edwards, August 21, 1997; Goedinghaus, August 21, 1987; Miller, August 22, 1987; Speisen,
August 24, 1987; Freestone, August 27, 1987.

1 caused by loud music and vibrations alleged to be emanating from defendant's nightclub. Plaintiffs
2 claim that the disturbance caused by noise has disturbed their peace and quiet enjoyment of their
3 property. Several plaintiffs allege that defendant violated the San Francisco Noise Ordinance.
4 Plaintiffs claim damages based on nuisance. Defendant asserts that these complaints of disturbance,
5 if proved, constitute a claim for relief based upon public nuisance for which private individuals
6 under the facts of this case, are unable to sue and recover damages.

7 FINDINGS OF FACT

8 All plaintiffs are residents of residential condominium units located at 301 - 11th Street,
9 located at the corner of Folsom Street, in San Francisco. All except Goedinghaus are owners of the
10 unit in which they reside. Goedinghaus, however, shares a residence with owner/plaintiff ^{Edwards} Miller.
11 The condominium building in which plaintiffs reside is a multi-story brick structure which was
12 converted from warehouse use to residential use approximately five years ago. This structure, which
13 has brick walls over two feet thick, dates back to the late 1900s. The structure originally housed a
14 brewery from which the condominium derives its name, The Jackson Brewery. The structure has
15 been designated as a historical landmark.

16 Defendant is the owner and operator of a cabaret known as Club VSF, which is located at
17 278 - 11th Street, at the cross-corner from The Jackson Brewery. Defendant operates as an "after
18 hours cabaret and dance club" pursuant to license issued by the State Board of Equalization and
19 permits issued by the City and County of San Francisco. Defendant is the owner of the structure in
20 which the Club VSF is situated. The structure was converted for nightclub use by the defendant
21 pursuant to valid building permits. The use of the structure as a nightclub was and is consistent with
22 local zoning laws.

23 Eleventh and Folsom Streets in San Francisco is located in the South of Market (SOMA)
24 district, in an area of mixed residential, warehouse, commercial and entertainment use. Defendant
25 established his cabaret business approximately 15 years ago at a time when the prevailing use of the
26 neighborhood was warehouse or industrial, and residential use was negligible. Defendant
27 established one of the first, of what was to become many, nightclub type entertainment
28 establishments in the South of Market area. These establishments are characterized by entertainment

1 attractions such as dancing and the playing of amplified music. Their hours of operation typically
2 extend into the early morning hours if they hold what is known as an "after-hours" permit, such as
3 defendant's business. The Club VSF is popular and well attended and it enjoys a reputation as an
4 entertainment and tourist attraction.

5 In the years since defendant opened his cabaret the SOMA neighborhood has changed
6 considerably, most obviously by the issuance of permits for residential use and the conversion of
7 warehouse, industrial and commercial structures into residential condominium units. The Jackson
8 Brewery where plaintiffs reside is such a multi-unit condominium building. Loud music and bass
9 sound vibrations frequently emanate from the Club VSF and penetrates into plaintiffs' residences in
10 The Jackson Brewery Building during the late evening hours and the early morning hours. This
11 disturbance occasionally continues until 6:00 a.m. The volume and vibrations are of such magnitude
12 that the windows in plaintiffs' residences are shaken by the sound. Each plaintiff claims that these
13 disturbances have occurred almost nightly as long as they have lived at The Jackson Brewery. All
14 plaintiffs complain about being constantly prevented from sleeping and of suffering physical and
15 emotional distress and other discomfort as a result of the inability to sleep.

16 The result is serious disruption of the plaintiffs' way of life and a pervasive infringement
17 on the use of their premises. The experience of all plaintiffs is that their residences are rendered
18 unfit to live in during the hours the noise and vibration from the Club VSF penetrates inside. They
19 state that they continue to live at The Jackson Brewery Building because of the substantial
20 investments in their homes. Plaintiffs also claim inability or unwillingness to sell because of a
21 perceived diminution in value of their property; however, no evidence was presented to support this
22 claim. They also desire to enjoy their unique residences, except for the disturbance complained of.
23 The most persistent and demonstrable injury to plaintiffs is that they are deprived of their use of their
24 properties for the purpose of sleeping, although other home-related activities such as taking meals,
25 resting and enjoyment of family and interpersonal relationships are also compromised. All plaintiffs
26 state that there are other nightclubs in the immediate vicinity of The Jackson Brewery, which also
27 play amplified music; however, they experience no disturbance from sound coming from the other
28 nightclubs.

1 The structure in which the Club VSF is housed has an unusual sliding roof, which is
2 capable of being opened and closed. On many occasions in which the plaintiffs complained of noise
3 and vibrations, the roof was in an open position, thus allowing the sound and vibrations to penetrate
4 with greater intensity into The Jackson Brewery Building. The sliding roof was and is an attraction
5 of the Club VSF, apparently contributing to the entertainment atmosphere by allowing dancing under
6 the night sky.

7 Plaintiffs have registered over 200 complaints with the San Francisco Police Department.
8 Defendant states that he has paid fines for five citations issued for violation of the San Francisco
9 Noise Ordinance, 49 Municipal Police Code.² On at least one occasion the noise level emanating
10 from the Club VSF was found by the police to be almost 10 decibels above the ambient noise level,
11 exceeding the allowable level as defined by section 2901.11, San Francisco Municipal Police Code.
12 by five decibels. Licensing requirements by the State of California, Alcohol Beverage Control

13 _____
14 ² San Francisco Police Code

Section 47.2

15 **SEC. 49. UNNECESSARY NOISE, AUTHORIZED**
16 **EMERGENCY VEHICLES.** Except as provided in Sections 43, 45, 46,
17 47.1, 47.2, and 48 of this Code, and to amplifying equipment used in
18 authorized emergency vehicles as defined in the California Vehicle Code, it
19 shall be unlawful for any person to use, operate, maintain, or permit to be
20 played, used or operated any radio or television receiving set, musical
21 instrument, phonograph, juke box, broadcasting equipment or other
22 machine or device for the producing, reproducing or amplification of sound
23 or human voice in such manner as to produce raucous noises or in such
24 manner so as to disturb the peace, quiet and comfort of persons in the
25 neighborhood or with volume louder than is necessary for convenient
26 hearing for the person or persons for whom said machine, instrument or
27 device is operated.

28 The operation of any such set, instrument, phonograph, juke box,
broadcasting equipment, machine or device between the hours of 10:00
p.m. and 7:00 a.m., in such a manner as to be plainly audible at a distance
of 50 feet from the property line of the property from whence the sound is
emitted, shall be prima facie evidence of a violation of this Section.

The operation of any such set, instrument, phonograph, juke box,
broadcasting equipment, machine or device at any time in such a manner as
to cause a noise level in excess of the ambient noise by more than five
decibels (5 dBA), as those terms are defined in Section 2901 of this Code,
when measured at the nearest property line of the property from whence the
sound is emitted or, in the case of multiple-family residential buildings,
when measured anywhere in one dwelling unit with respect to a noise
emanating from another dwelling unit or from common space in the same
building, shall be prima facie evidence of a violation of this Section.
(Amended by Ord. 274-72, App. 9/20/72)

1 Board, for an "after-hours" cabaret, which apply to the Club VSF, provides that no noise from live
2 entertainment or recorded music shall be heard in the exterior of the premises. While action by the
3 Alcohol Beverage Control Board has not been taken against Club VSF, defendant has failed to
4 comply with this licensing limitation inasmuch as plaintiffs have continuously experienced the noise
5 and vibrations during all relevant periods for which plaintiffs claim damages and up to the date of the
6 trial de novo. Thus, defendant is in violation of both statutory and licensing requirements relating to
7 sound emanating from his premises.

8 Defendant has taken certain remedial steps, at substantial expense, during the year
9 preceding the trial to reduce the intrusive effect of the sound emanating from his premises. These
10 consist of soundproofing measures as well as limiting the instances in which the sliding roof is
11 opened. The attempts to reduce the disturbance has been noticed by several of the plaintiffs;
12 however, the disturbance and loss of sleep due to noise and vibrations has continued up through the
13 trial date despite the care and efforts taken by the defendant to reduce the disturbance.

14 Plaintiffs filed their actions in Small Claims Court on or about August 21, 1997. They
15 claim continuing disturbance and damages from 1993 to the date of the trial de novo, which ended
16 on February 9, 1998.

17 ISSUES PRESENTED

- 18 1. Did the sounds and vibrations emanating from defendant's nightclub cause a
19 nuisance?
- 20 2. If a nuisance was caused, was it a public nuisance, a private nuisance, or both?
- 21 3. Is the public and/or private nuisance actionable by these plaintiffs for money
22 damages?
- 23 4. Are the pleadings filed in Small Claims Court sufficient to state a cause of action
24 for damages based on nuisance?
- 25 5. Does defendant's entry into the neighborhood pursuant to valid permit and
26 compliance with zoning laws prior to the conversion of The Jackson Brewery to
27 residential condominium units foreclose plaintiffs' private action, for damages?
28

- 1 6. Does public policy mandate that plaintiffs' remedies for alleged nuisance of this
- 2 nature be brought by a public agency or by a publicly initiated abatement action.
- 3 and not by private individuals in a small claims action for damages?
- 4 7. Does defendants' effort at remedial efforts before and after the filing date of the
- 5 Small Claim's actions affect plaintiffs' causes of action for damages?

PLEADINGS

7 Each plaintiff has generally plead a cause of action for damages arising from the noise
8 emanating from defendant's nightclub. Plaintiff Speisen stated in his Plaintiff's Claim in Small
9 Claims Court as follows:

10 "1. Defendant owes me the sum of \$5,000, not including
11 court costs, because: the music coming from his
12 building at 278 - 11th Street keeps me awake until 3,
4, and up to 6 a.m. despite repeated police calls."

13 Plaintiff Miller's Claim states:

14 "1. Defendant owes me the sum of \$5,000, not including
15 court costs, because: owns a building located at 278 -
11th St., S.F. 94103 where loud music is played for
long periods in the viol. SF Noise Ordinance."

16 Plaintiff Freestone's Claim stated:

17 "1. Defendant owes me the sum of \$5,000, not including
18 costs because: he owns a building located at 278 -
19 11th Street, San Francisco, CA 94103, where loud
20 music is played for long periods in violation of the
21 San Francisco Noise Ordinance, disturbing my quiet
enjoyment of my apartment, located at 301 - 11th
Street, San Francisco, CA 94103. Despite many
requests, he has failed to remedy this for over three
years prior to today's date."

22 Plaintiffs Goedinghaus and Edwards state claims almost identical to that of Freestone.

23 Defendant asserted that plaintiffs' claims failed to state a cause of action for private
24 nuisance, the central issue in this case, which will be discussed below. California Code of Civil
25 Procedure section 116.310 provides: "Pleadings necessary to initiate action. (a) No formal pleading
26 other than the claim is necessary to initiate a small claims action." California Code of Civil
27 Procedure 116.510 goes on to provide: "The hearing and disposition of the small claims action shall
28 be informal, the object being to dispense justice promptly, fairly, and inexpensively." The claims

1 asserted above by all plaintiffs were set forth in a manner consistent with the statutory scheme
2 contemplated by the legislature for small claims actions. The statements of claims and the
3 allegations cited above were on their face sufficient to inform the defendant of the conditions
4 complained of and to raise all relevant theories of law available for relief. Therefore, the pleadings
5 were sufficient to state causes of action alleging nuisance and to claim money damages.

6 ANALYSIS

7 Plaintiffs plead and asserted at trial that the noise and vibrations generated by the
8 operation of defendant's nightclub is an interference with the use and enjoyment of their properties
9 and constitutes a private nuisance within the meaning of Civil Code section 3481. Plaintiffs also
10 allege that the noise generated by defendant's club interferes with the interest of the community and
11 comfort and convenience of the public and constitutes a public nuisance within the meaning of Civil
12 Code section 3480. Each plaintiff seeks to recover compensatory damages in the amount of \$5,000
13 for past injuries suffered as a result of the nuisance generated by the operation of defendant's
14 business.

15 Defendant asserts that the noise originated by the club, if it is a nuisance at all, is a public
16 nuisance only and not a private nuisance because it affects the entire community at the same time and
17 not only the plaintiffs. Defendant asserts that if a nuisance is to be found, public policy requires that
18 it be treated as a public rather than a private nuisance because the City and County of San Francisco
19 has granted permits allowing nightclubs in this neighborhood to operate and has zoned the area as a
20 commercial district. Defendant also argues that plaintiffs, as private individuals, cannot maintain an
21 action for public nuisance because the alleged injury they have suffered is not different in kind than
22 that suffered by the general public and therefore plaintiffs are foreclosed from a private cause of
23 action to abate a public nuisance.

24 ///

25 ///

1 **I. NUISANCE**

2 Civil Code section 3479 in pertinent part, defines a nuisance as "anything which is
3 injurious to health, or an obstruction to the free use of property, so as to interfere with the
4 comfortable enjoyment of life and/or property" The undisputed evidence presented in these
5 consolidated cases mandates a finding that defendant caused a nuisance injurious to these plaintiffs.
6 Plaintiffs' comfortable enjoyment of life and property was interfered with to a significant degree by
7 the intrusion of sound emanating from defendant's nightclub into their premises.

8 a. **Public Nuisance**

9 A public nuisance defined in Civil Code section 3480 as " . . . one which affects at the
10 same time an entire community or neighborhood, or any considerable number of persons, although
11 the extent of the annoyance or damage inflicted upon individuals may be unequal." Within the
12 meaning of Civil Code section 3479 and 3480, plaintiffs have pleaded, by inference, facts stating a
13 cause of action for a public nuisance inasmuch as it is presumed that loud noise is heard more
14 broadly than just by plaintiffs and also because defendant has violated the San Francisco Noise
15 Ordinance, a public statute. Therefore, plaintiffs make out at least a prima facie case that defendant
16 caused a public nuisance. Presumably the sound is an obstruction to the free use of property to many
17 residents of the neighborhood and interferes with the comfortable enjoyment of life and property in
18 the vicinity of the Club VSF. Defendant appeared to have conceded that a public nuisance was
19 created but argues that plaintiffs have no redress, as individuals, against a public nuisance.

20 The remedies against a public nuisance are by indictment, information, a civil action, or
21 abatement. (Civ. Code § 3491.) In *Venuto v. Owens-Corning Fiberglas Corp.* (1971) 22
22 Cal.App.3d 116, 123, the court held that action under Civil Code section 3491 is ordinarily left to the
23 appointed representative of the community and may be maintained by a private person, only if the
24 public nuisance is specially injurious to him. Civil Code section 3493 provides that "a private person
25 may maintain an action for public nuisance, if it is specifically injurious to himself, but not
26 otherwise." In applying the rule articulated in Civil Code 3493 to a particular case, cognizance must
27 be taken as to whether the public nuisance alleged is also a private nuisance since this factor is
28 important in determining how the statute is to be applied. (*Venuto, supra*, 23 Cal.App.3d 116 at

1 p. 124.) The *Venuto* court stated that where a nuisance alleged is not also a private nuisance as to a
2 private individual, he does not have a cause of action on account of a public nuisance unless facts are
3 alleged showing special injury to self, person or property of a character different in kind from that
4 suffered by the general public. Thus, defendant in the instant case argues that plaintiffs do not have a
5 cause of action because they suffer the same type of injury as everyone else who may be affected by
6 the sound coming from defendant's nightclub and not as special injury. This Court will not
7 undertake the determination of whether or not plaintiffs plead and proved a special injury to
8 themselves or their property of a character different from that suffered by the general public nor will
9 it attempt determination of public nuisance. This is unnecessary because this Court finds that the
10 pleadings have stated a private nuisance and the facts produced at trial indicate the relevant inquiry
11 in this dispute is as to private nuisance.

12 **b. Private Nuisance**

13 Civil Code section 3481 defines private nuisance as "every nuisance not included in the
14 definition of the last section (Civ. Code § 3480, *supra*) is private." An action for a private nuisance
15 is designed to redress a substantial and unreasonable invasion of one's interest in the free use and
16 enjoyment of one's property. (*Lussier v. San Lorenzo Valley Water Dist.* (1988) 206 Cal.App.3d 92,
17 100.) The court in *Lussier* explained that the central idea of nuisance is the unreasonable invasion of
18 a property interest and not the particular type of conduct subjecting the actor to liability. Liability
19 depends on some sort of conduct that either directly and unreasonably interferes with plaintiff's
20 property interest or creates a condition that does so.

21 In *San Diego Gas & Elect. Co. v. Superior Court* (1996) 13 Cal.4th 893, 938, the court
22 imposed two requirements for recovery of damages on a private nuisance theory. The first is proof
23 that the invasion of the plaintiff's interest in the use and enjoyment of the land was substantial, i.e.,
24 that it caused the plaintiff to suffer "substantial actual damage." The degree of harm is to be judged
25 by an objective standard, i.e., what in fact would the invasion have on persons of normal health and
26 sensibilities living in the same community? This is, of course, a question of fact that turns on the
27 circumstances of each case. (*Id.*)

28

1 The second requirement is that the interference with the protected property interest must
2 not only be substantial, but it must also be unreasonable, i.e., it must be "of such a nature, duration or
3 amount as to constitute unreasonable interference with the use and enjoyment of the land." (*Id.*)

4 Both of these requirements are satisfied in the instant case. The invasion of plaintiffs'
5 interest in the use and enjoyment of their residential property is substantial and they suffered
6 substantial actual damages. Excessive and inappropriate noise occurred almost every night between
7 the hours of 10:00 p.m. and 6:00 a.m. It was a constant window-rattling plague which deprived
8 plaintiffs of sleep, social interaction and the ability to read, listen to music and enjoy a meal in peace.
9 By any objective standard, any reasonable person in that neighborhood or any neighborhood in San
10 Francisco would be substantially annoyed and disturbed by this invasion from defendant's nightclub.
11 Moreover, the interference with plaintiffs' property interest is manifestly unreasonable. It happens
12 almost every night, lasts for long periods of time and plaintiffs' have been deprived of the enjoyment
13 of their property to the extent described for as long as five years.

14 Defendant's supplemental brief cites the *Venuto* case as authority supporting the
15 contention that plaintiffs have failed to allege facts sufficient to support the claim of private nuisance
16 and that *Venuto* stands for the proposition that relief under a private nuisance theory is not available
17 to plaintiffs on the facts they have presented. This Court disagrees with defendant's reliance on
18 *Venuto* in support of his contention. In *Venuto*, four private individuals sought an injunction and
19 damages against a manufacturer on account of public nuisance consisting of emission of air
20 pollutants. Plaintiffs did not claim to have suffered compensatory damages in any specific amount
21 but prayed for punitive damages. The court held that the plaintiffs did not have a cause of action for
22 private nuisance. (*Venuto, supra*, at p. 125.) The court reasoned that plaintiffs merely alleged that
23 they were residents of Santa Clara County and failed to allege any interference with the known
24 property right.

25 In contrast to the plaintiffs in the *Venuto* case, the instant plaintiffs are owners and
26 occupiers of their property and claimed with specificity that their property rights were violated in that
27 the noise interfered with the enjoyment of their property. Moreover they are seeking compensatory
28

1 damages, not punitive damages, in the specific amount of \$5,000 for the injuries they sustained as a
2 result of defendant's tortious behavior.

3 Prosser, in discussing private nuisance, states that "So long as the interference is
4 substantial and unreasonable, and such as would be offensive or inconvenient to the normal person,
5 virtually any disturbance of the enjoyment of the property may amount to a nuisance." (*Venuto*,
6 *supra*, at p. 126; quoting Prosser on Torts (3d Ed.) at p. 613.) Furthermore, the court in *Venuto*
7 stated that in this State activities that disturb or prevent the comfortable enjoyment of property have
8 been held to constitute nuisance even though they did not directly damage the land or prevent its
9 use." (See *Wilson v. Edwards* (1927) 82 Cal.App.4th 564, 568-569 (noise and offensive odors from
10 operation of refreshment stand); *Fendley v. City of Anaheim* (1930) 110 Cal.App. 731, 736 (noise
11 and vibration from machinery); *Morton v. Superior Court* (1954) 124 Cal.App.2d 577 (noise and
12 excessive dust from rock quarry).)

13 This Court concludes that sleeping, resting, eating, conversing, etc., in one's home are the
14 expected enjoyments of a residential property. The intrusion of noise, vibration and disturbance is
15 on its face substantial, unreasonable, and offensive, to a normal person. Furthermore, the pleadings
16 which in this case are the claims stated by the plaintiffs in their small claims actions, set forth claims
17 for injuries resulting from substantial and unreasonable injury to interests in property.³ Accordingly,
18 it is the finding of this Court that defendant has caused injury to plaintiffs by commission of a private
19 nuisance.

20 Where the nuisance alleged is a private as well as public one, there is no requirement that
21 the plaintiffs suffered damage different in kind from that suffered by the general public and he "does
22 not lose his rights as a land owner merely because others suffer damages in kind, or even of the same
23 degree" (*Venuto, supra*, at p. 124.) Thus, if a public nuisance does exist, an issue not
24 undertaken here, plaintiffs' action and remedies for private nuisance remain unaffected.

25 _____
26 ³ All plaintiffs own their residences except Goedinghaus who lives with ^{Edward} Miller and whose
27 home is Miller's unit. Goedinghaus has rights in the property as a householder and tenant. A tenant
28 may sue for nuisance based on interference with the tenancy. (*Institoris v. City of Los Angeles*
(1989) 210 Cal.App.3d 10; *Smith v. David* (1981) 120 Cal.App.3d 101.) Any property right may
give rise to an action based on a private nuisance. (*Venuto, supra*, at p. 125, citing Prosser on Torts.)

1 **II. NOISE AS A CONTINUING NUISANCE**

2 Two distinct classifications have emerged in nuisance law which determine the remedies
3 available to the injured parties and the applicable statute of limitations. On the one hand, permanent
4 nuisances are of the type where, by one act a permanent injury is done, and damages are assessed
5 once and for all. (*Baker v. Burbank-Glendale-Pasadena Airport Auth.* (1985) 39 Cal.3d 862, 868.)

6 On the other hand, if a nuisance is a use which may be discontinued at any time, it is
7 considered continuing in character and the person that is harmed by it may bring successive actions
8 for damages until the nuisance is abated. (*Id.* at p. 869.) Recovery is limited, however, to actual
9 injuries suffered prior to the commencement of each action. Prospective damages are unavailable.
10 (*Id.*)

11 Every repetition of a continued nuisance is a separate wrong for which the person injured
12 may bring successive actions for damages until the nuisance is abated, even though an action based
13 on the original wrong would be barred. (*Mangini v. Aero-Jet General Corp.* (1930) 230 Cal.App.3d
14 1125, 1143.)

15 "The classic example of a continuing nuisance is an ongoing or repeated disturbance, such
16 as the one before us today, caused by noise and vibration." (*Baker*, Cal.3d at p. 869.) Therefore,
17 excessive noise and vibration caused by the operation of defendant's nightclub, which can be abated
18 at any time by turning off or turning down the volume of the amplified music, is a continuing
19 nuisance and plaintiffs may recover damages for injuries they suffered prior to the commencement of
20 this action. The statute of limitations period for an abatable, continuing nuisance is three years.
21 (*Wilshire Westwood Assocs. v. Atlantic Richfield* (1993) 20 Cal.App.4th 732.) Recovery is limited to
22 actual injury suffered within the three years prior to commencement of each action. (*Capogeannis v.*
23 *Superior Court* (1993) 12 Cal.App.4th 668, 669.)

24 Defendant argues it is bad public policy for defendants in a nuisance action to be subject
25 to multiple actions, not only for the same nuisance, but by the same plaintiffs. "But where the
26 nuisance involves a use that can be discontinued at any time, it is characterized as a continuing
27 nuisance and persons harmed by it may bring successive actions for damages. (*Baker v.*
28 *Burbank-Glendale-Pasadena Airport Auth.*, *supra*, at p. 869.) Accordingly, plaintiffs are entitled to

1 damages for private nuisance from defendants for the three-year period preceding the filing of each
2 plaintiff's respective complaint (claim) in Small Claims Court on or about August 20, 1997.

3 **III. CONSENT AS A DEFENSE**

4 It is uncontested that defendant's nightclub preceded this all plaintiffs' entry into the
5 affected area by taking up residence in The Jackson Brewery. Defendant argues that plaintiffs
6 entered with knowledge of the noise condition. Therefore, defendant reasons plaintiffs' cause of
7 action for nuisance based on preexisting conditions should not lie. This is an assumption of risk or
8 consent theory.

9 Plaintiff has stated, without citation, the doctrine of "coming to a nuisance."⁴ This concept
10 has long been repudiated. (See *Freedman v. Pacific Outdoor Advert. Co.* (1946) 74 Cal.App.2d
11 946.) Neither knowledge nor consent was defense to violation of a fire hazard ordinance. (See also,
12 11 Witkin, summary of California Law (9th Ed. 1990), Equity, § 150, p. 130.) Assumption of risk
13 and consent is not a defense to nuisance.

14 **IV. REMEDIAL ACTION BY DEFENDANT**

15 Defendant gave evidence of his efforts to ameliorate the disturbance by means of
16 expensive soundproofing and other methods. He argues that, given the care he has exercised in
17 recent months, it is unfair and bad public policy to find nuisance and award damages; however,
18 defendant's recent actions do not provide a defense. A nuisance is determined by the consequences
19 rather than the nature, of the defendant's conduct. Hence, it is no defense that the activity was
20 conducted with due care or even great care. (*Judson v. Los Angeles Suburban Gas Co.* (1910) 157
21 Cal. 168, 173.)

22 **V. PUBLIC POLICY**

23 Evidence at trial established that Club VSF provides valuable employment and contributes
24 to the success of San Francisco's entertainment and tourist industry. Accordingly, defendant argues,

25
26 ⁴ *Mangini v. Aerojet-General, supra*, at p. 1139, reviewed this concept and affirmed its
27 rejection. "The early common law 'coming to a nuisance,' as stated in the leading case of *Rex v.*
28 *Cross* (1826) 172 Eng. Rep. 219, was that if a noxious trade were established in a place remote from
habitations, those who afterward acquired property in the vicinity were barred from obtaining either
damages or an injunction, having assumed the risk of the nuisance by purchasing property with
knowledge of the conditions."

1 from a public policy standpoint, that an economic enterprise that is valuable to the local economy,
 2 should not be harmed or penalized by individual lawsuits for damages. Furthermore, defendant
 3 argues that Small Claims Court is an improper forum, presumably because it is easily available and a
 4 multiplicity of lawsuits may result.

5 The plaintiffs, as residents of The Jackson Brewery, also reside there in conformity with
 6 the permitting and zoning laws. Uses for property in a city constantly change. The problems
 7 presented by such change in the instant case are as old as the urban experience itself, reaching back
 8 throughout recorded history. These lawsuits reflect such expected change.

9 Plaintiffs have chosen to invoke those rights and remedies available under statute and case
 10 law in California. "The Small Claims Court shall give judgment for damages, or equitable relief, or
 11 both damages and equitable relief, within the jurisdictional limits stated in sections 116.220 and
 12 116.231, and may make such orders as to time of payment or otherwise as the court deems just and
 13 equitable for the resolution of the dispute." (Cal. Code Civ.Proc. § 116.610(a).) Therefore, Small
 14 Claims Court is an appropriate forum in this case. The availability of this forum to the public "to
 15 dispense justice promptly, fairly and impersonally" (Cal. Code Civ.Proc. § 116.510) constitutes
 16 sound public policy.

17 **VI. JUDGMENT**

18 Plaintiffs shall take judgment against defendant Murphy, for private nuisance, as follows:

19	Miller	\$5,000.00	costs \$40.00
20	Edwards	\$5,000.00	costs \$40.00
21	Freestone	\$5,000.00	costs \$40.00
22	Goedinghaus	\$5,000.00	costs \$40.00
23	Speisen	\$5,000.00	costs \$40.00

24 Plaintiffs' claims for attorneys' fees are denied.

25 DATED: April 15, 1998

26 ERNEST H. GOLDSMITH

27 _____
 28 ERNEST H. GOLDSMITH
 Judge of the Superior Court

REUBEN, JUNIUS & ROSE, LLP

September 10, 2014

By Hand Delivery

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

Re: 1501 Folsom Street – Brief in Support of Project
Our file: 8631.01

Dear President Wu:

Our office represents Leticia Luna, the project sponsor of a proposed nightclub and restaurant at 1501 Folsom Street (the “Property”). The Property is currently improved with a two-story, 7,433 square foot building that has been used as the Paradise Lounge nightclub since 1985. Ms. Luna proposes to renovate the interior of the existing building to be used as a new nightclub, and to construct a 1,450 square foot partial third story to be used as a restaurant. The Project plans are attached as Exhibit A.

Ms. Luna is a San Francisco native and has 35 years of experience as an owner and manager of restaurants and nightclubs in San Francisco. During that time, she has held eight liquor licenses and two entertainment permits. She has an impeccable record of running her establishments in a safe (and fun) manner that does not have negative impacts on neighboring residents and businesses. Since 1979, she has operated the Line Up restaurant at 398 7th Street, Leticia’s at various locations in Duboce Triangle and Fillmore, the Albatross Salon on Columbus Street and La Posada restaurant on Fillmore. She also established and operated the Roccapulco Supper Club, a 500+ capacity nightclub in the Mission with a focus on Latin music and culture.

A. Project Description

Ms. Luna proposes to renovate the interior of the existing building at the Property and to construct a 1,450 square foot partial third story setback away from the intersection. A roof deck would wrap around much of the new partial third story.

Ms. Luna proposes to establish a new 21+ nightclub, Calle Once, to be operated at the building. The first two floors would encompass the live music and entertainment portions of the operation. The ground floor would feature local bands varying in style from American to jazz, but with an emphasis on Latin music. The second floor would consist of a more intimate piano bar setting. The partial third floor and roof deck would consist of a restaurant only. No live music or other entertainment will take place in the partial third floor and on the roof deck.

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 | Kenda H. McIntosh | Jared Eigerman^{2,3} | John McInerney III²

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

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Ms. Luna expects to operate the third floor restaurant Wednesdays through Saturdays from 4 p.m. to 11 p.m. and on Sundays from 11 a.m. to 11 p.m. She expects to operate the nightclub portion of the business on the first two floors Wednesday through Sunday from 4 p.m. to 2 a.m. She plans to run the restaurant and nightclub on Mondays and Tuesdays as demand warrants, and will also offer the building for private events on those days. The business will create 35 full-time employment positions.

On April 1, 2014, the San Francisco Entertainment Commission approved the entertainment permit for the nightclub, subject to a security plan being approved by the Commission prior to the club's opening. Ms. Luna is currently going through the liquor license transfer process for the club.

B. Outreach

Ms. Luna has held a pre-application meeting as well an open house to present the project to the community. She has also gone door to door to reach out to neighbors and respond to any concerns they have. To date, she has received 25 supporter letters for the club project, the vast majority from the local vicinity around the project. The letters are attached as **Exhibit B**.

C. Project Benefits

The project will have many benefits to the neighborhood and city, including:

- Establishment of a new nightclub/restaurant operation at a location that has been used for entertainment purposes since 1985. The nightclub is also located in the Western SoMa Community Plan area, which is designed to expressly protect and support entertainment uses.
- Application of extensive "Good Neighbor Policies" to the nightclub operation that did not apply during the 25+ years that the Paradise Lounge operated at the Property. This includes a requirement that the club comply with the residential standards of the San Francisco Noise Ordinance due its location near existing live-work units.
- Creation of 35 new jobs in San Francisco.
- Enhancement of diverse cultural experiences and outlets in the City with the nightclub's focus on Latin music and culture.

E. Conclusion

Ms. Luna is excited to begin operation Calle Once, just the latest in a long line of restaurant and nightclub establishments in her career. The club and restaurant will maintain the

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President Cindy Wu
September 10, 2014
Page 3

vibrancy and increase the cultural offerings of the neighborhood, all while subjecting the Property to higher good neighbor standards than the operation that preceded it for over 25 years. Ms. Luna has vast experience with responsibly and successfully operating restaurants and nightclubs in San Francisco, as is shown by her long resume absent of any significant problems. The project fulfills the goals of the recently-enacted Western SoMa Community Plan. For all of these reasons, we respectfully request that the Planning Commission vote to approve the project. Thank you for your consideration.

Very truly yours,

REUBEN, JUNIUS & ROSE, LLP

A handwritten signature in blue ink, appearing to read "John Kevlin". The signature is stylized and fluid, with a large loop at the bottom.

John Kevlin

cc: Vice President Rodney Fong
Commissioner Michael Antonini
Commissioner Christine Johnson
Commissioner Rich Hillis
Commissioner Kathrin Moore
Commissioner Dennis Richards
Jonas Ionan - Commission Secretary
Brittany Bendix – Planner
Leticia Luna – Project Sponsor

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EXHIBIT A

NOTE:
 SITE PLAN HAS BEEN PREPARED
 BY LOCATION OF FENCE & ADJACENT
 PROPERTIES & BY NO MEAN SHOWS ACCURATE
 LOCATION OF THE PROPERTY LINE.
 FOR LOCATION OF PROPERTY LINES A LICENSED
 LAND SURVEYOR SHOULD BE HIRED.

PROJECT NAME

**1501 Folsom St.
 SAN FRANCISCO, CA**



SIA CONSULTING CORPORATION
 1256 HOWARD STREET
 SAN FRANCISCO CA 94103
 TEL: (415) 922.0200
 FAX: (415) 922.0203
 WEBSITE: WWW.SIACONSULT.COM

SHEET TITLE

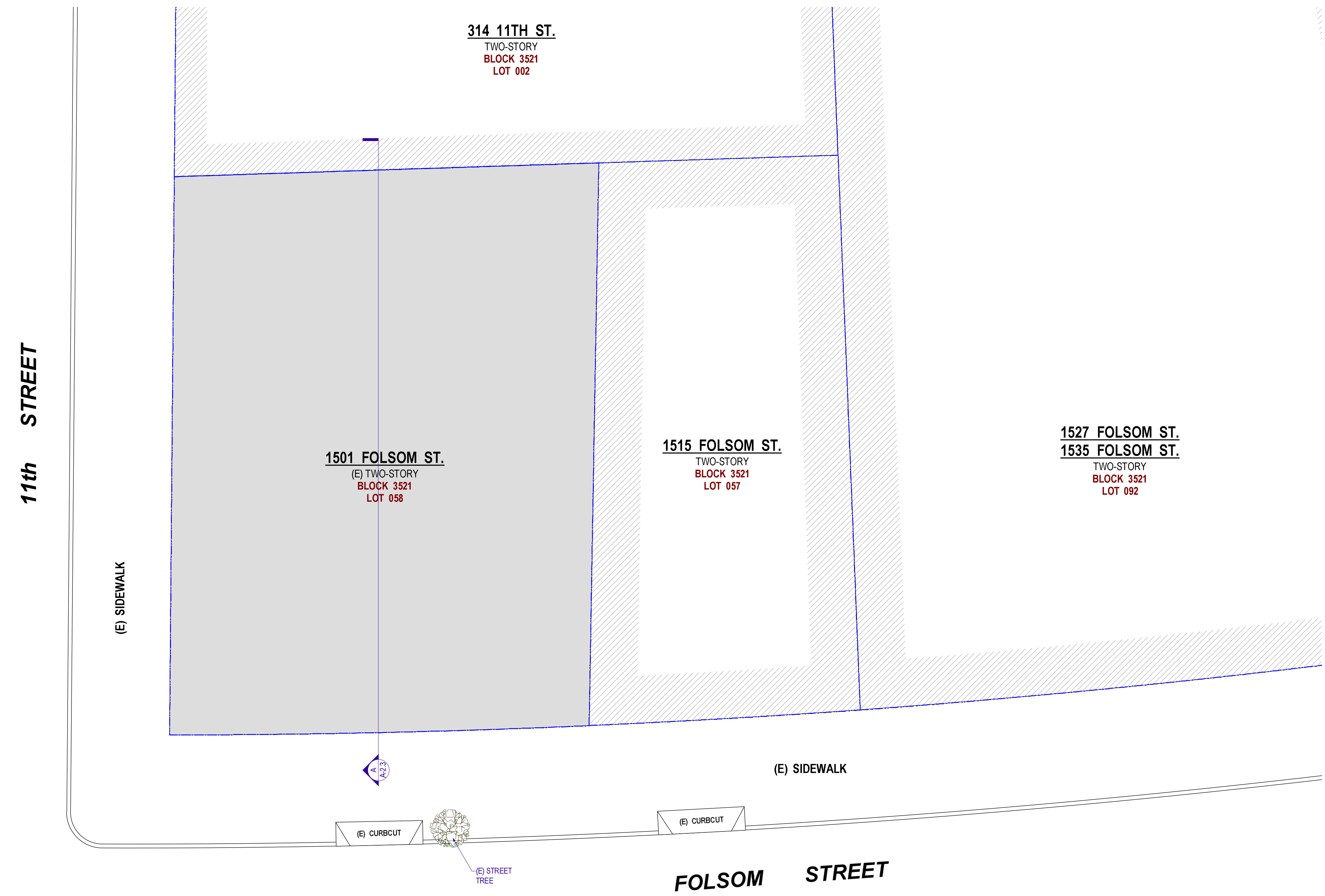
Site Plan

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 CONSULTING ENGINEERS.

ISSUES / REVISIONS

NO.	DATE	DESCRIPTION

DRAWN	A.A
CHECKED	R.K.
DATE	10/23/2013
REVISED DATE	08/28/2014
JOB NO.	13-1591
SHEET NO.	A-1.1



(E) Site Plan
 1/8"=1'-0"



NOTE:
 SITE PLAN HAS BEEN PREPARED
 BY LOCATION OF FENCE & ADJACENT
 PROPERTIES & BY NO MEAN SHOWS ACCURATE
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 FOR LOCATION OF PROPERTY LINES A LICENSED
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 WEBSITE: WWW.SIACONSULT.COM

SHEET TITLE

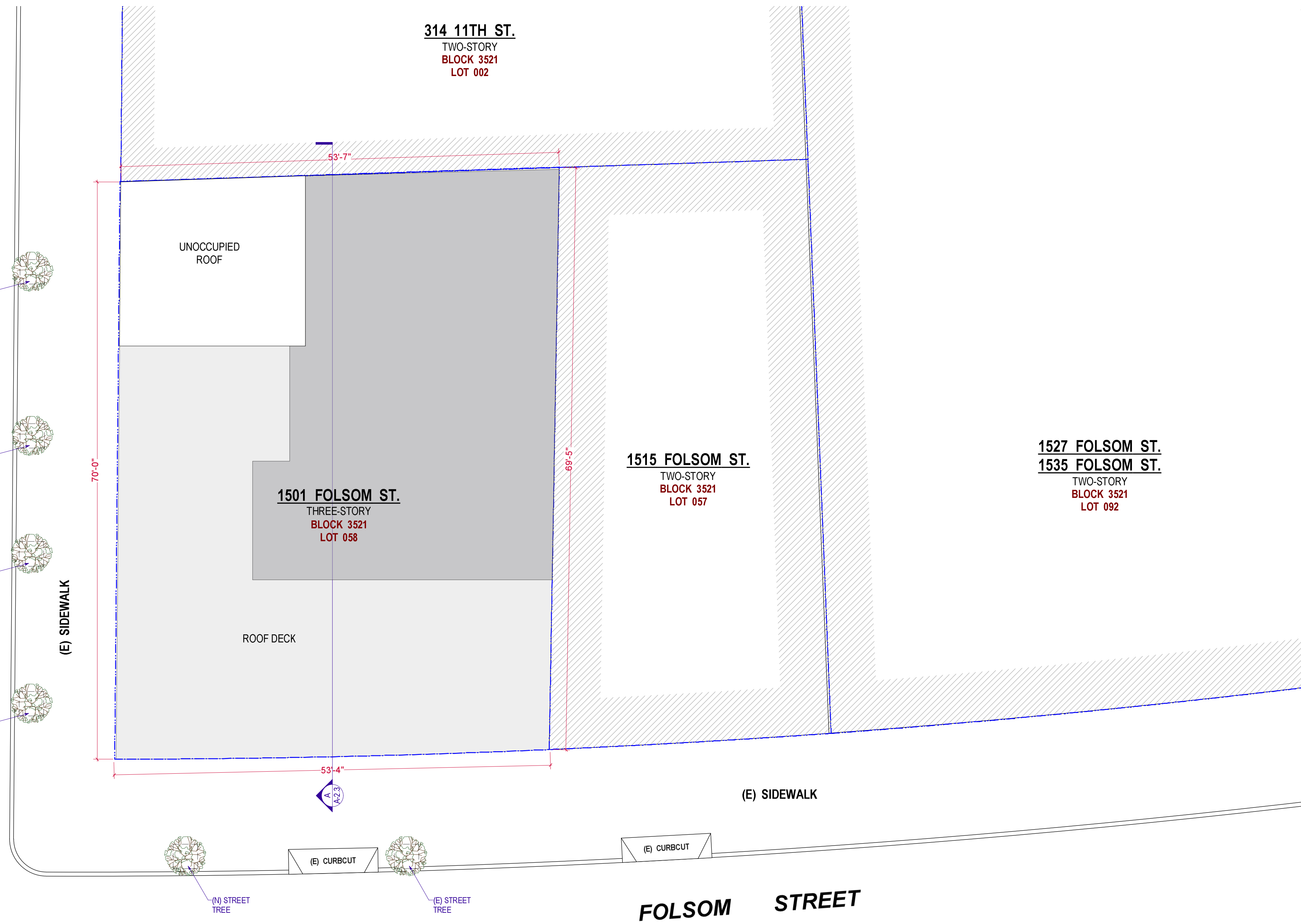
Site Plan

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 CONSULTING ENGINEERS.

ISSUES / REVISIONS

NO.	DATE	DESCRIPTION

DRAWN	A.A
CHECKED	R.K.
DATE	10/23/2013
REVISED DATE	08/28/2014
JOB NO.	13-1591
SHEET NO.	A-1.2



(N) Site Plan

1/8"=1'-0"

NORTH



---	PROPERTY LINE
---	(E) WALL TO BE REMOVED
---	(E) WALL TO REMAIN
---	(E) WALL TO BE RETROFITTED TO 1-HR. FIRE RATED
---	(N) WALL TO BE CONSTRUCTED
---	(N) WALL TO BE 1-HR. FIRE RATED



SIA CONSULTING CORPORATION
1256 HOWARD STREET
SAN FRANCISCO CA 94103
TEL: (415) 922.0200
FAX: (415) 922.0203
WEBSITE: WWW.SIACONSULT.COM

SHEET TITLE

Floor Plan

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ISSUES / REVISIONS

NO.	DATE	DESCRIPTION

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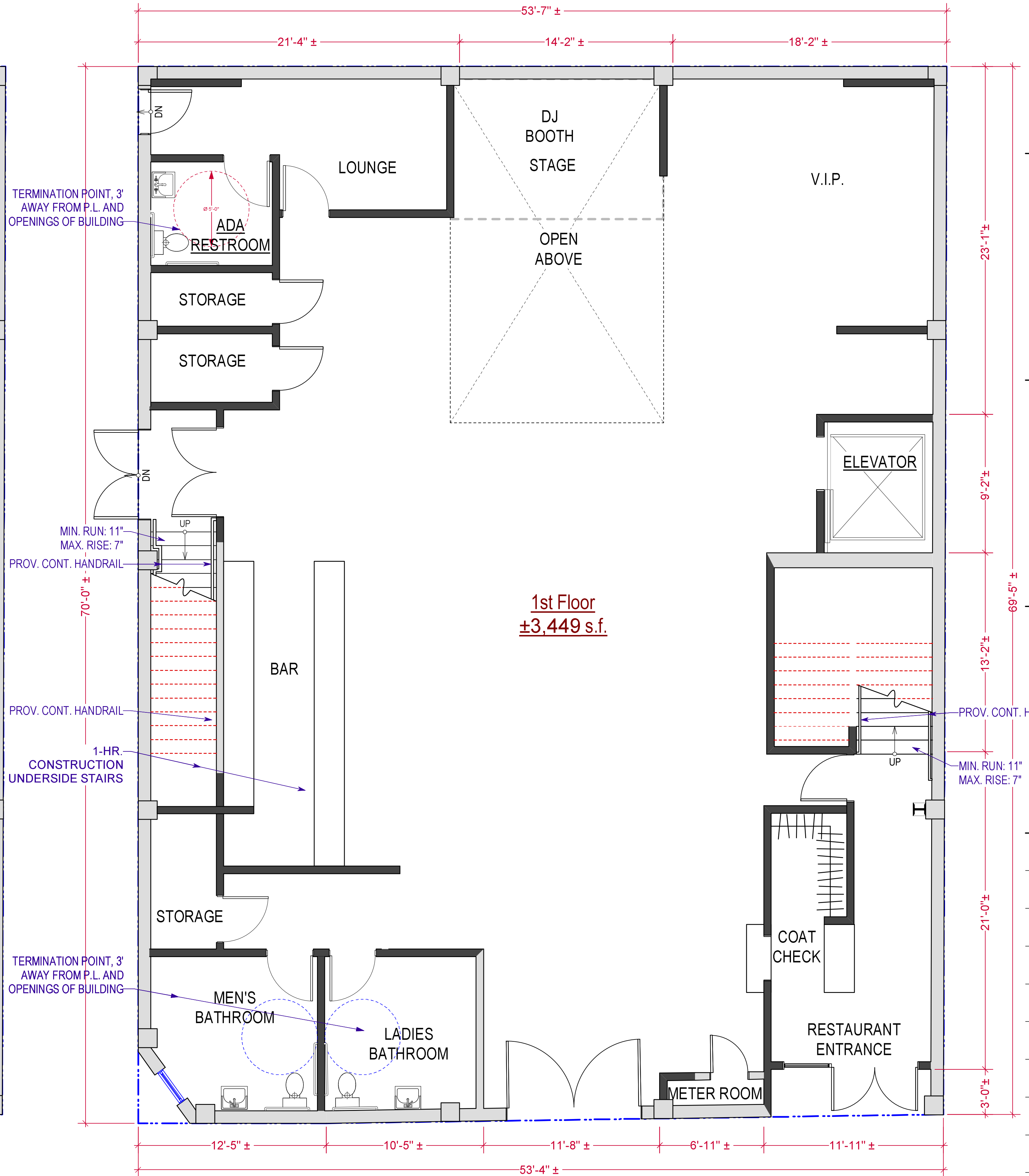
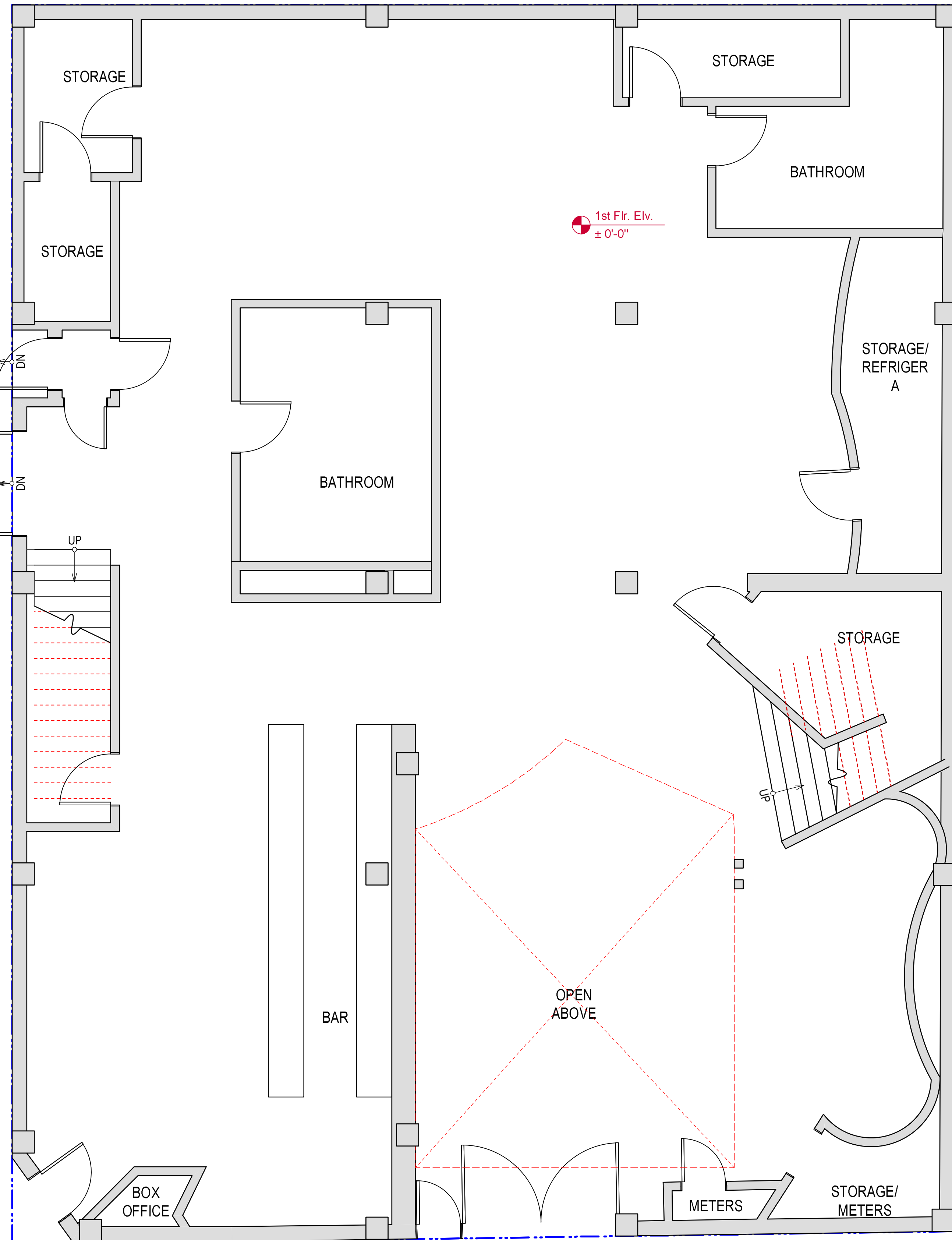
DATE 10/23/2013

REVISED DATE 08/28/2014

JOB NO. 13-1591

SHEET NO.

A-1.3



1st Floor
±3,449 s.f.



---	PROPERTY LINE
---	(E) WALL TO BE REMOVED
---	(E) WALL TO REMAIN
---	(E) WALL TO BE RETROFITTED TO 1-HR. FIRE RATED
---	(N) WALL TO BE CONSTRUCTED
---	(N) WALL TO BE 1-HR. FIRE RATED



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SHEET TITLE

Floor Plan

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ISSUES / REVISIONS

NO.	DATE	DESCRIPTION

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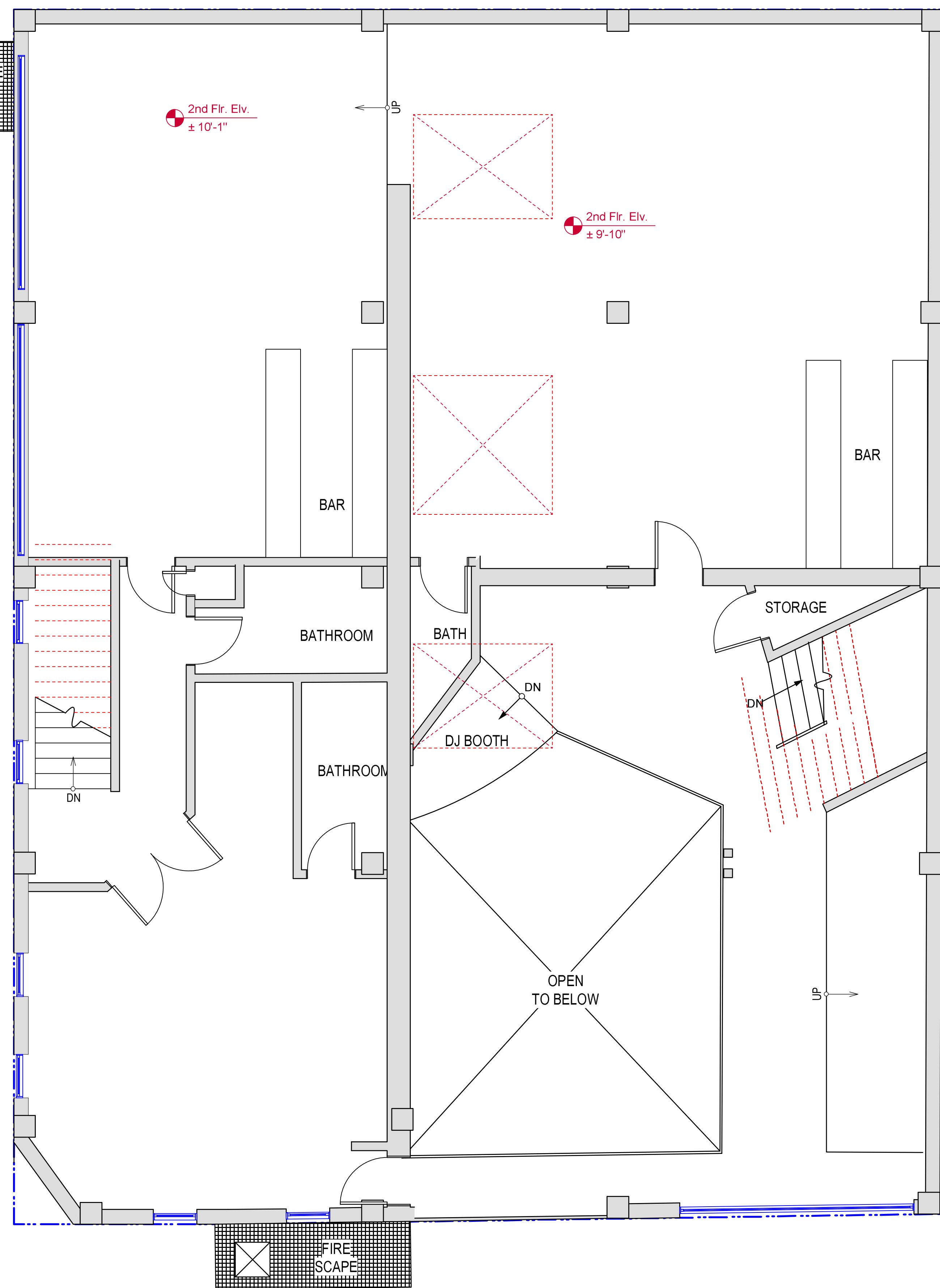
DATE 10/23/2013

REVISED DATE 08/28/2014

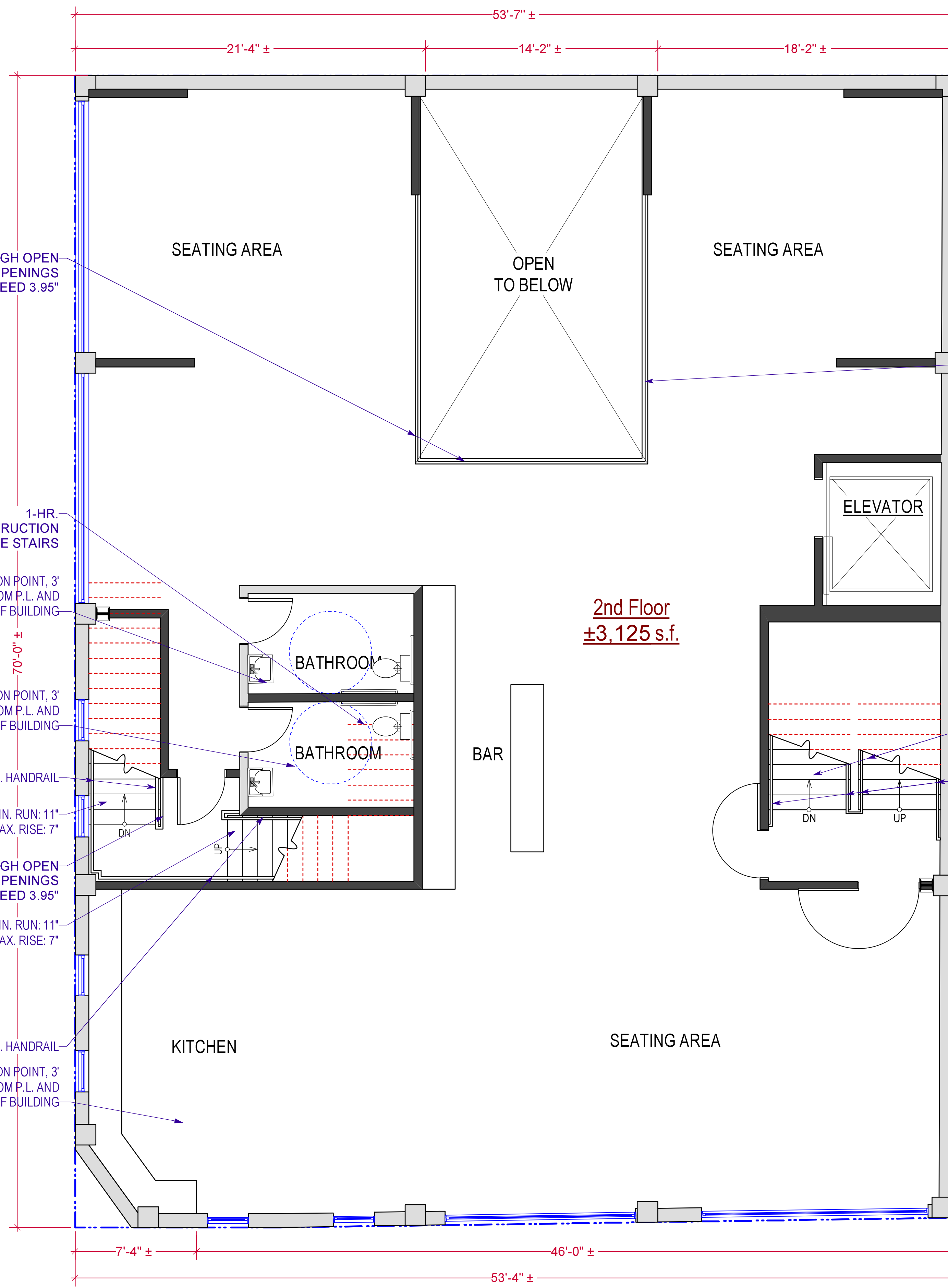
JOB NO. 13-1591

SHEET NO.

A-1.4



Existing Second Floor Plan
1/4"=1'-0"

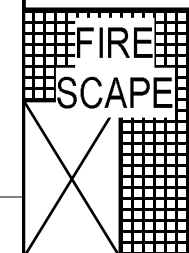


Proposed Second Floor Plan
1/4"=1'-0"



**2nd Floor
±3,125 s.f.**

---	PROPERTY LINE
---	(E) WALL TO BE REMOVED
---	(E) WALL TO REMAIN
---	(E) WALL TO BE RETROFITTED TO 1-HR. FIRE RATED
---	(N) WALL TO BE CONSTRUCTED
---	(N) WALL TO BE 1-HR. FIRE RATED



RAISED ROOF (SKYLIGHT OPENING)

Roof Elev. $\pm 19'-4"$

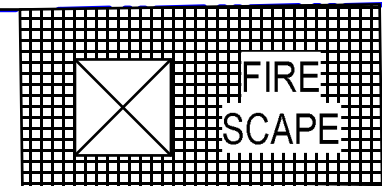
RAISED ROOF (SKYLIGHT OPENING)

RAISED ROOF (SKYLIGHT OPENING)

MECHANICAL

(E) PARAPET AROUND ROOF, TYP.

(E) PARAPET AROUND ROOF, TYP.



Existing Roof Floor Plan
1/4"=1'-0"



FLOOR DRAIN, TYP.
1/4":1'-0" SLOPE TO MAIN DRAIN SYSTEM
PROVIDE DRAIN & OVER FLOW

TERMINATION POINT, 3' AWAY FROM P.L. AND OPENINGS OF BUILDING

(E) PARAPET, TYP.

42" HIGH OPEN RAILINGS, OPENINGS NOT TO EXCEED 3.95"

42" HIGH 1-HR. WALL

70'-0" \pm

PROV. CONT. HANDRAIL

MIN. RUN: 11"
MAX. RISE: 7"

UNOCCUPIED ROOF

ROOF DECK

RAISED ROOF

ROOF DECK $\pm 1,500$ s.f.

ROOF DECK

42" HIGH 1-HR. WALL

16'-1" \pm

37'-3" \pm

53'-4" \pm



Proposed Roof Floor Plan
1/4"=1'-0"

53'-7" \pm
22'-6" \pm 12'-11" \pm 18'-2" \pm

KITCHEN

STORAGE

BATHROOM

BAR

BATHROOM

ELEVATOR

STORAGE



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TERMINATION POINT, 3' AWAY FROM P.L. AND OPENINGS OF BUILDING

TERMINATION POINT, 3' AWAY FROM P.L. AND OPENINGS OF BUILDING

69'-5" \pm

MIN. RUN: 11"
MAX. RISE: 7"

PROV. CONT. HANDRAIL

ISSUES / REVISIONS	
NO.	DESCRIPTION

42" HIGH 1-HR. WALL

19'-7" \pm

PROVIDE DRAIN & OVER FLOW

FLOOR DRAIN, TYP.
1/4":1'-0" SLOPE TO MAIN DRAIN SYSTEM

DATE 10/23/2013

REVISED DATE 08/28/2014

JOB NO. 13-1591

SHEET NO.

A-1.5

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MIN. RUN: 11"
MAX. RISE: 7"

42" HIGH 1-HR. WALL

19'-7" \pm

PROVIDE DRAIN & OVER FLOW

FLOOR DRAIN, TYP.
1/4":1'-0" SLOPE TO MAIN DRAIN SYSTEM

DATE 10/23/2013

REVISED DATE 08/28/2014

JOB NO. 13-1591

SHEET NO.

A-1.5

PROJECT NAME

1501 Folsom St.
SAN FRANCISCO, CA



SIA CONSULTING CORPORATION
1256 HOWARD STREET
SAN FRANCISCO CA 94103
TEL: (415) 922.0200
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SHEET TITLE

Elevation

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JOB NO. 13-1591

SHEET NO.

A-2.1

314 11th Street

1501 Folsom Street

(E) Roof F.
19'-4"

2nd F.F.
9'-10"

1st F.F.
± 0'-0"

SIDEWALK

FOLSOM ST.

Existing Left Elevation

1/4"=1'-0"

Elevator Penthouse
Beyond

1501 Folsom Street

314 11th Street

(N) Roof F.
30'-4"

PLASTER FIN. W/
CONTROL JOINTS

(N) DBL. GLZ. ALUM. WIN.

(N) FIRE RATED DOOR

(N) DBL. GLZ. ALUM. PATIO
DOOR

3rd F.F.
19'-4"

(E) WIN. TO BE
REPLACED INKIND W/
DBL. GLZ. WIN.

2nd F.F.
9'-10"

(N) DBL. GLZ. WIN.

(N) DBL. GLZ. GLASS DOOR

1st F.F.
± 0'-0"

SIDEWALK

FOLSOM ST.

Proposed Left Elevation

1/4"=1'-0"

PROJECT NAME
1501 Folsom St.
 SAN FRANCISCO, CA



SIA CONSULTING CORPORATION
 1256 HOWARD STREET
 SAN FRANCISCO CA 94103
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SHEET TITLE

Elevation

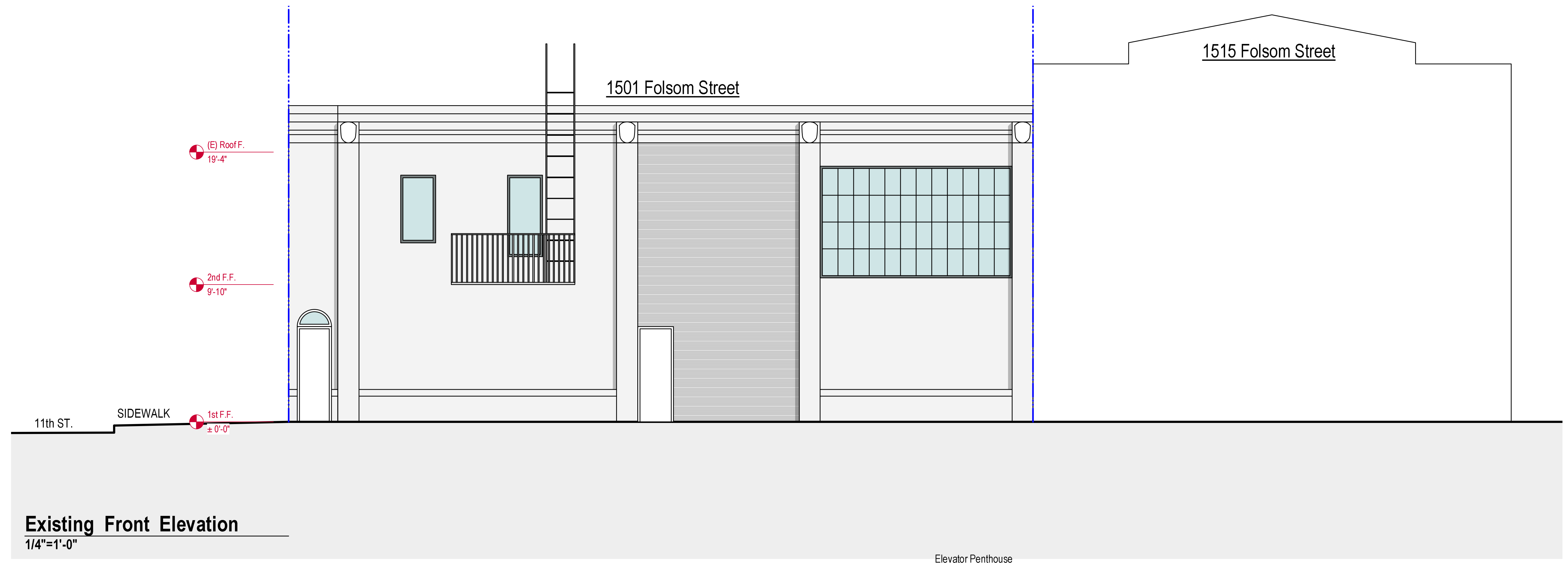
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ISSUES / REVISIONS

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SHEET NO.
A-2.2



PROJECT NAME
1501 Folsom St.
 SAN FRANCISCO, CA



SIA CONSULTING CORPORATION
 1256 HOWARD STREET
 SAN FRANCISCO CA 94103
 TEL: (415) 922.0200
 FAX: (415) 922.0203
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SHEET TITLE

Section

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ISSUES / REVISIONS

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SHEET NO.	A-2.3

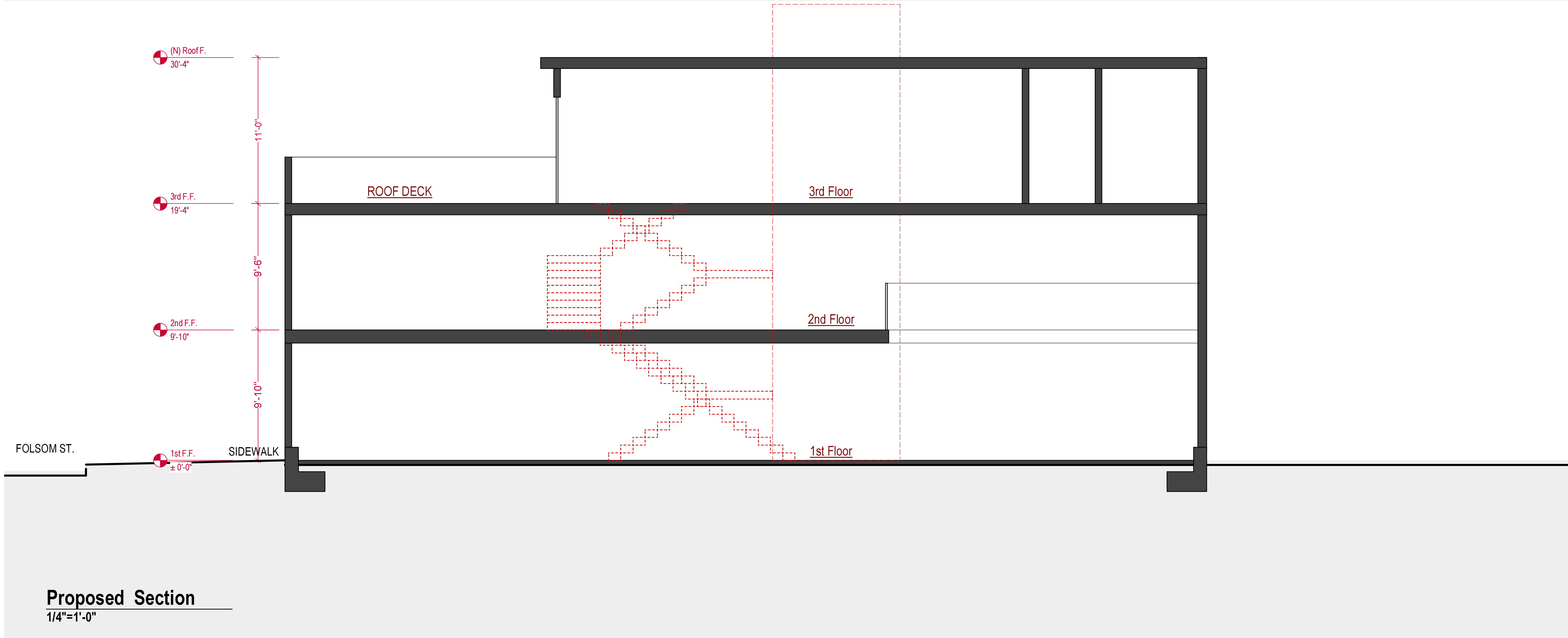
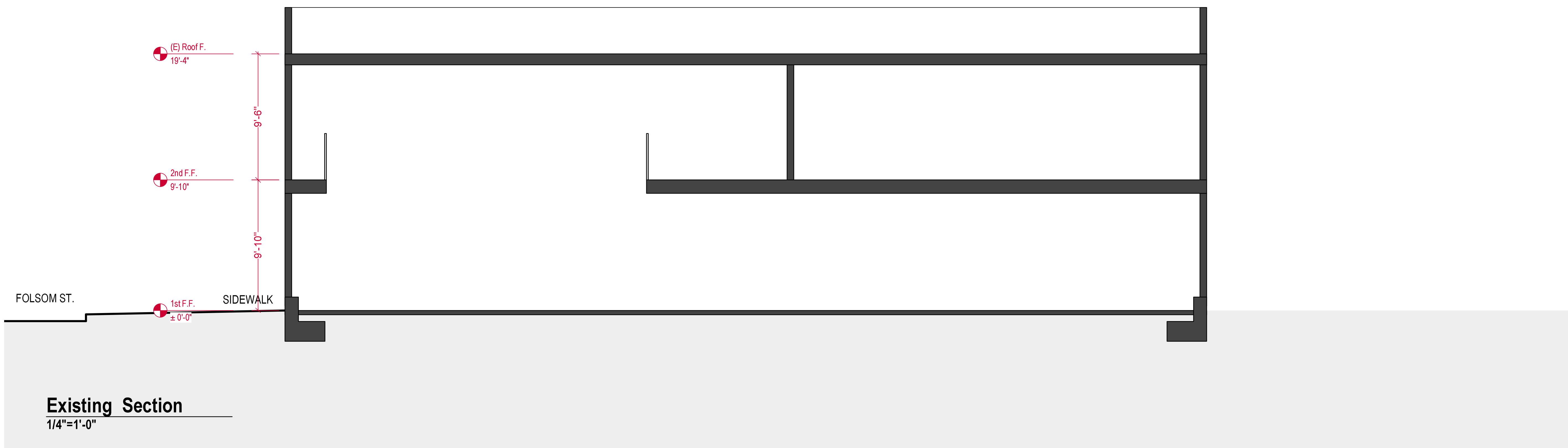


EXHIBIT B



Limousine & Sedan Service

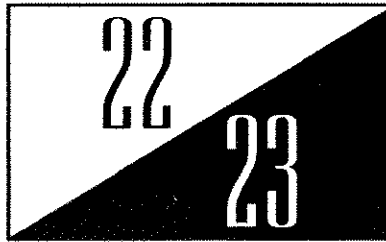
August 29th, 2014

To Whom It May Concern,

Leticia Luna is the owner of the building next-door to my property on 7th St in San Francisco. We have been neighbors for almost 10 years and I could not recommend her more highly as a co-operative, responsible and caring person. There have been no issues with her tenants or with the way she manages her business and she truly understands the advantages of working together to improve the neighborhood

Sincerely

Mark R. Dyson
CEO, MDM Limousine & Sedan Service
390 7th St
San Francisco, CA 94103



2223 Market Street Restaurant & Bar
2223 Market Street
San Francisco, CA
94114

To Whom It May Concern:

My name is Melinda Randolph and I was chef and owner of 2223 Restaurant & Bar that was located at 2223 Market Street in San Francisco for 17 years from 1995 to 2011. Leticia Luna had previously leased the space prior to me opening. She moved down a few buildings to 2247 Market Street a building she purchased.

I have known and been a neighbor to Leticia for a very long time, and she has been and remains a helpful and conscientious business operator.

Always supportive and active in her community, any neighborhood would be lucky to have her on their block.

If you should have any further questions please don't hesitate to call.

Sincerely

Melinda Randolph cell #415-350-2808



September 1, 2014


To Whom It May Concern:

It is a pleasure to commend and recommend LUTICIA LUNA for a permit to develop property in San Francisco.

I have personally known MS. LUNA for over 25 years as a fellow merchant in the upper Market St. area as an owner and operator. She has always operated her various properties in a very reputable manner, adhering to strict neighborhood policies and requests.

She is a very important asset to our neighborhood and to the City of San Francisco.

Respectfully submitted,


James J. Sullivan
Co-owner of Sullivan's Funeral Home
2254 Market Street
San Francisco, CA 94114

September 1, 2014

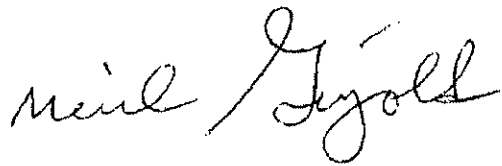
To whom it may concern:

I have known Leticia Luna since 1981, from the opening of her previous restaurant La Posada, located at 2298 Fillmore Street in the Pacific Heights area of San Francisco.

M. Luna was a great neighbor and very approachable. She was easy to deal with when issues would arise, as she has always been involved with her community.

I'm sure wherever she opens a new business she will be equally responsive and involved in the neighborhood. I'm available by phone at my work - 415-321-7000 should you need to speak with me. I wish her the best in her new endeavor!

Thank you,

A handwritten signature in black ink that reads "Neil Gingold". The signature is written in a cursive style with a large, stylized "G" and "O".

Neil Gingold
2323 Fillmore Street

Residents & Business owners of SOMA

To whom it may concern,

Hello my name is Leticia Luna and I have been in the restaurant and bar business since 1979 and in the nightclub business since 1998.

I am currently in the process of opening 1501 Folsom St. the former location of Paradise Lounge.

My plans are for a night club on the 1st and 2nd floor and a rooftop restaurant on the top 3rd floor.

My court date for my conditional use permit is set for April 1st at 5:30pm at SF City Hall Room #416.

I am asking for signatures from my soon to be SOMA neighbors in support of my new restaurant, bar, nightclub business.

Thank you,

Leticia Luna

415-786-2940

leticialuna14@yahooo.com

x Jordan Lewis Jay 1425 Folsom St
Business owners & Residents of SOMA Address

Folsom Street Foundry

Residents & Business Owners of SOMA

To whom it may concern

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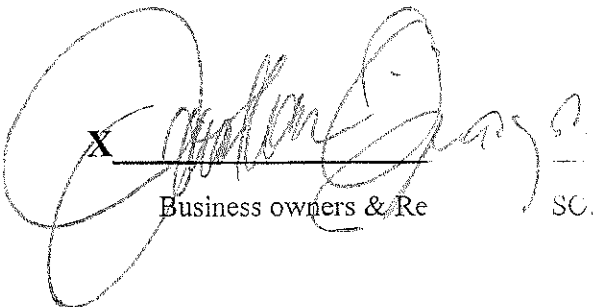
I am asking for signatures from neighborhood to be SOMA neighbors in support of my new restaurant, bar, nightclub business.

Thank you,

Leticia Luna

415-786-2940

leticialuna14@yahoo.com

X 
Business owners & Residents of SOMA

299 9th St, SF, CA 94103
Address

Residents & Business owners of SOMA

To whom it may concern,

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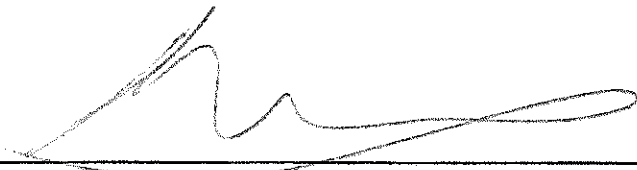
Thank you,

Leticia Luna

415-786-2940

leticialuna14@yahoo.com

X



Business owners & Residents of SOMA

Address

43 Dore St

94103

PAUL NATANA

PAUL@firemagic.com

Residents & Business owners of SOMA

To whom it may concern,

Hello my name is Leticia Luna and I have been in the restaurant and bar business since 1979 and in the nightclub business since 1998.

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Leticia Luna

415-786-2940

leticialuna14@yahooo.com

I have concerns^{only} about the proposed roof deck. There may be significant uncontained noise.

Emery Mandel

X _____ 16 Norfolk

Business owners & Residents of SOMA

Address

Residents & Business owners of SOMA

To whom it may concern,

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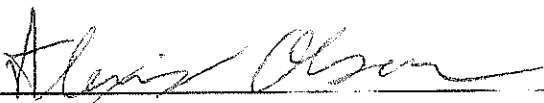
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Thank you,

Leticia Luna

415-786-2940

leticialuna14@yahoo.com

X 

601 VAN NESS AVE #E-503

Business owners & Residents of SOMA

Address

ALEXIS OLSON
SPECIAL ATM

Residents & Business owners of SOMA

To whom it may concern,

Hello my name is Leticia Luna and I have been in the restaurant and bar business since 1979 and in the nightclub business since 1998.

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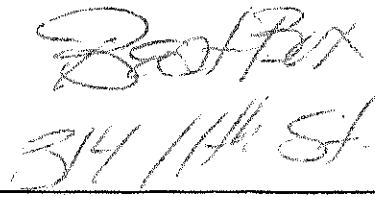
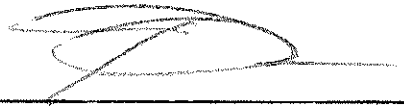
Thank you,

Leticia Luna

415-786-2940

leticialuna14@yahoo.com

X



Business owners & Residents of SOMA

Address

Residents & Business owners of SOMA

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Thank you,

Leticia Luna

415-786-2940

leticialuna14@yahoo.com

X Lyle Farrell 365 11th St

Business owners & Residents of SOMA

Address

3/27/14

Residents & Business owners of SOMA

To whom it may concern,

Hello my name is Leticia Luna and I have been in the restaurant and bar business since 1979 and in the nightclub business since 1998.

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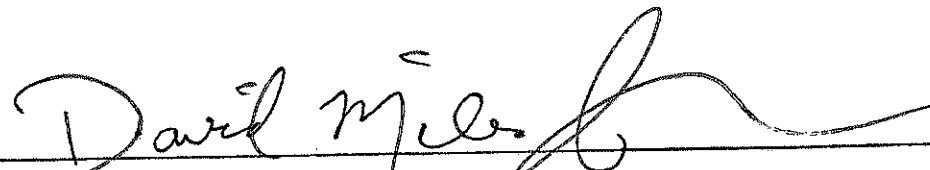
I am asking for signatures from my soon to be SOMA neighbors in support of my new restaurant, bar, nightclub business.

Thank you,

Leticia Luna

415-786-2940

leticialuna14@yahooo.com

X  _____
Business owners & Residents of SOMA Address

275 10th St, #221, SF CA.

(415) 724-5943

DEFERRED BY CLUB RUTTE

Residents & Business owners of SOMA

To whom it may concern,

Hello my name is Leticia Luna and I have been in the restaurant and bar business since 1979 and in the nightclub business since 1998.

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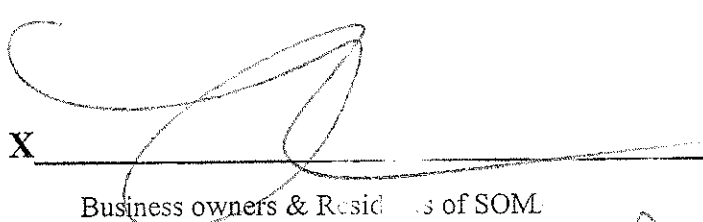
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Thank you,

Leticia Luna

415-786-2940

leticialuna14@yahoo.com

X 

Business owners & Residents of SOMA

3025 11th St
~~3025 11th St~~
SF

Address

Jennifer Coval

Residents & Business owners of SOMA

To whom it may concern,

Hello my name is Leticia Luna and I have been in the restaurant and bar business since 1979 and in the nightclub business since 1998.

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Thank you,

Leticia Luna

415-786-2940

leticialuna14@yahoo.com

X Thomas Hayes

Business owners & Residents of SOMA

375 ELEVENTH ST.

Address

Residents & Business owners of SOMA

To whom it may concern,

Hello my name is Leticia Luna and I have been in the restaurant and bar business since 1979 and in the nightclub business since 1998.

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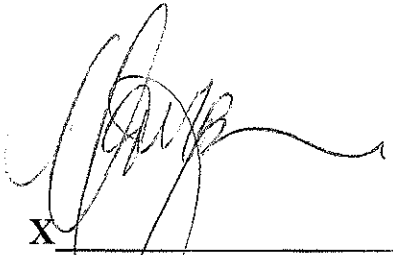
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Thank you,

Leticia Luna

415-786-2940

leticialuna14@yahoo.com



3.27.2014

X

Business owners & Residents of SOMA

Address

CHRISTOPHER MARTINEZ
BAR MANAGER DNA LOUNGE
OWNER ARBOR CAFE OAKLAND.

Residents & Business owners of SOMA

To whom it may concern,

Hello my name is Leticia Luna and I have been in the restaurant and bar business since 1979 and in the nightclub business since 1998.

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Leticia Luna

415-786-2940

leticialuna14@yahoo.com

X


Business owners & Residents of SOMA


Address

Residents & Business owners of SOMA

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Leticia Luna

415-786-2940

leticialuna14@yahoo.com

X  _____ 375 11th St SF CA 94103
Business owners & Residents of SOMA Address

Residents & Business owners of SOMA

To whom it may concern,

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I am currently in the process of opening 1501 Folsom St. the former location of Paradise Lounge.

My plans are for a night club on the 1st and 2nd floor and a rooftop restaurant on the top 3rd floor.

My court date for my conditional use permit is set for April 1st at 5:30pm at SF City Hall Room #416.

I am asking for signatures from my soon to be SOMA neighbors in support of my new restaurant, bar, nightclub business.

Thank you,

Leticia Luna

415-786-2940

leticialuna14@yahoo.com

x Mike Runkle [Colby Michaels] 1088 Natoma St.

Business owners & Residents of SOMA

Address

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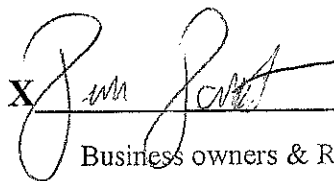
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375 - 11 14 St, 94103

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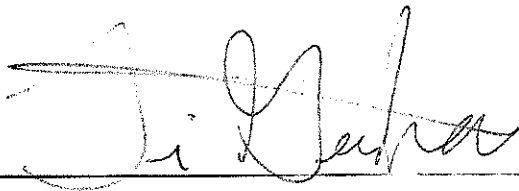
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X Michelle Bousley 275 10TH ST APT 313 SF CA
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X DAMIŁZAWINSKA DINA LOUNGE 375 11TH ST

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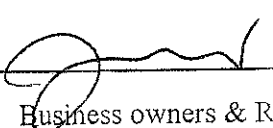
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X  Barry Synagris, DNA Lounge / DNA Pizza
Business owners & Residents of SOMA Address

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leticialuna14@yahooo.com

X *Butter/Buzzworks*

[Handwritten Signature]
1501 Folsom

Business owners & Residents of SOMA

Address

354 + 365 11th St

415-342-9600

Residents & Business owners of SOMA

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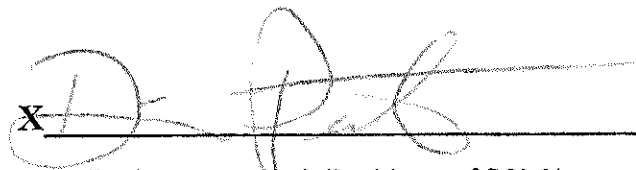
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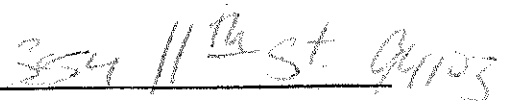
415-786-2940

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Business owners & Residents of SOMA

DENNIS PETROW



Address