



# SAN FRANCISCO PLANNING DEPARTMENT

## Executive Summary Conditional Use

HEARING DATE: FEBRUARY 7, 2013

*Date:* January 31, 2013  
*Case No.:* **2012.1193C**  
*Project Address:* **1109 Fillmore Street**  
*Zoning:* NC-3 (Neighborhood Commercial District, Moderate-scale)  
50-X Height and Bulk District  
*Block/Lot:* 0755/002  
*Project Sponsor:* Ahmad Larizadeh  
71 Blake Street  
San Francisco, CA 94118  
*Staff Contact:* Sharon Lai – (415) 575-9087  
[sharon.w.lai@sfgov.org](mailto:sharon.w.lai@sfgov.org)  
*Recommendation:* **Approval with Conditions**

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### PROJECT DESCRIPTION

The applicant proposes to establish a new Formula Retail, Limited-Restaurant, at a ground floor commercial storefront. The commercial space is currently occupied by a Limited-Restaurant (d.b.a. Preet Palace Indian Cuisine & Pizza) and historically has been occupied by other restaurant uses. The proposal includes minor tenant improvements to the interior but the existing commercial space would not be enlarged. The existing commercial space is approximately 1,000 square feet in size.

The proposed Limited-Restaurant use (d.b.a. Domino's Pizza) is a formula retail use, per Planning Code Section 703.3. It is a franchise formula retail business that is locally operated. The proposed Formula Retail use will be a take-out and delivery establishment with five counter seats available. The proposed operation will consist of five employees, two in-store staff and three delivery drivers. The proposed hours of operation are 11 a.m. to midnight Sunday through Thursday, and 11 a.m. to 2 a.m. Friday and Saturday. Section 312-neighborhood notification is required for establishing a new Formula Retail use and was conducted in conjunction with the Conditional Use Authorization process.

There is currently a Domino's Pizza location at 1408 Fillmore Street, three blocks north of the subject site that is proposed to be closed. The lease at 1408 Fillmore Street had expired in 2009 and Domino's have since been renting month to month. Domino's provided notice of termination to the property owner in June 2012, and according to the Sponsor, will have to vacate the premises by February, 2013. Aside from 1408 Fillmore Street, the next closest Domino's Pizza location is at 876 Geary Boulevard, approximately 0.9 miles away. One other proposal for Domino's Pizza is currently pending at 3015 Geary Boulevard, approximately 1 mile away.

## **SITE DESCRIPTION AND PRESENT USE**

The project is located in the ground floor of a corner building at the northwest corner of Fillmore Street and Golden Gate Avenue, Block 0755, Lot 002. The property is located within the NC-3 (Neighborhood Commercial, Moderate Scale) district with 50-X height and bulk district. The property is developed with five ground floor commercial uses within the four-story mixed-use building. The ground floor is developed with Franchise Wash House and Dry cleaning, Tsing Tao Chinese Restaurant, A&J Discount Beauty Supplies, Preet Palace Indian Cuisine & Pizza (subject site), and Charlie's Pharmacy. The subject corner lot has approximately 137.5 feet of frontage on Fillmore Street and 80 feet of frontage on Golden Gate Avenue.

## **SURROUNDING PROPERTIES AND NEIGHBORHOOD**

The project site is located at the intersection of Fillmore Street and Golden Gate Avenue. The parcel across from the subject site is occupied by a 24 hour McDonald's that contains a drive-thru component. To the north is Geary Boulevard and to the east is Jefferson Square. The Project site is located in an NC-3 District within the Western Addition neighborhood and was formerly within the Western Addition A-2 Redevelopment Area. A mixture of goods and services intended for a population greater than the immediate neighborhood such as convenience goods, food establishments, personal services, entertainment, offices, financial service and other retail establishments defines the District. The scale of the district varies greatly and is lined with buildings ranging from one to over ten-stories in height. The surrounding properties along Fillmore Street are also zoned NC-3 and other lots within the immediate area are zoned RM-3 (Mixed Medium Density).

## **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	January 18, 2013	January 16, 2013	22 days
Posted Notice	20 days	January 18, 2013	January 18, 2013	20 days
Mailed Notice	20 days	January 18, 2013	January 15, 2013	23 days

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

## **PUBLIC COMMENT**

- To date, the Department has not received any public comment.

## **ISSUES AND OTHER CONSIDERATIONS**

- The proposed use will operate until 2 a.m. on Friday and Saturday.
- The Commerce and Industry Element of the General Plan contains Guidelines that discourage the overconcentration of eating and drinking establishments within NCD's. Overconcentration is defined as more than 20% of street frontage dedicated to eating and drinking establishments. The existing concentration within the subject NC-3 district is 17.6%.
- The project would relocate an existing Formula Retail, Limited-Restaurant, from a nearby location three blocks north of the subject site, and would not result in a net increase in the number of Formula Retail uses in the area.
- With respect to an application for a formula retail use as defined in Section 703.3 of the Planning Code, the Planning Commission shall consider the following additional findings:
  - The existing concentrations of formula retail uses within the NC District;
  - The availability of other similar retail uses within the NC District;
  - The compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the NC District;
  - The existing retail vacancy rates within the NC District;
  - The existing mix of Citywide-servicing retail uses and neighborhood-servicing retail uses within the NC District
- Although the proposed use is defined as a formula retail use under the Planning Code Section 703.3, it is a franchise business that would be locally operated.
- There are five existing Domino's Pizza locations in San Francisco. Another pending location is proposed at 3015 Geary Boulevard, which is approximately 1 mile away.

## **REQUIRED COMMISSION ACTION**

In order for the project to proceed, the Commission must grant conditional use authorization to allow the establishment of a Formula Retail establishment within the NC-3 district, pursuant to Planning Code Sections 303, 703.3, and 703.4.

## **BASIS FOR RECOMMENDATION**

- The proposed use would operate within the permitted hours of operation for the NC-3 district.
- The proposed Limited-Restaurant relocation would decrease the eating and drinking establishment concentration by 0.1% to 17.5%, which is 20% threshold specified in the General Plan.
- The project promotes the continued operation of an established, locally-operated business and contributes to the viability of the overall Fillmore Street NC-3 district.
- The existing Domino's Pizza location within the subject NC-3 at 1408 Fillmore Street will terminate operation prior to the opening of the subject location.
- The project would retain the existing Limited-Restaurant use at the subject site and will not increase the concentration of eating and drinking establishments and Formula Retail uses in the neighborhood.
- There are 24 existing Formula Retail establishment within the subject NC-3 district, however, the proposal will not increase the concentration.

- The subject NC-3 corridor has a variety of mixed goods and services and a Limited-Restaurant use is an appropriate compliment to the surrounding entertainment, business and residential uses.
- Limited-Restaurants are permitted as-of-right within the NC-3 neighborhood.
- The project meets all applicable requirements of the Planning Code.
- The project is desirable for, and compatible with the surrounding neighborhood.

<b>RECOMMENDATION:</b> <b>Approval with Conditions</b>
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- Attachments:**  
Block Book Map  
Sanborn Map  
Zoning Map  
Formula Retail Map  
Aerial Photographs  
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 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"/> Formula Retail Map  | <input checked="" type="checkbox"/> Check for legibility      |
| <input checked="" type="checkbox"/> Parcel Map          |   |
| <input checked="" type="checkbox"/> Sanborn Map         |   |
| <input checked="" type="checkbox"/> Aerial Photo        |   |
| <input checked="" type="checkbox"/> Context Photos      |   |
| <input checked="" type="checkbox"/> Site Photos         |   |

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

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Planner's Initials

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# SAN FRANCISCO PLANNING DEPARTMENT

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Subject to: (Select only if applicable)

- |  |  |
|--|--|
| <input type="checkbox"/> Affordable Housing (Sec. 415)           | <input type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 413) | <input type="checkbox"/> Child Care Requirement (Sec. 414) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 412)            | <input type="checkbox"/> Other                             |

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## Planning Commission Draft Motion

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**ADOPTING FINDINGS RELATED TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 303, 703.3, AND 703.4, TO ESTABLISH A FORMULA RETAIL LIMITED-RESTAURANT (DBA DOMINO'S PIZZA) IN A SPACE CURRENTLY OCCUPIED BY A LIMITED-RESTAURANT (DBA PREET PALACE INDIAN CUISINE & PIZZA) STOREFRONT WITHIN THE NC-3 (NEIGHBORHOOD COMMERCIAL, MODERATE SCALE) ZONING DISTRICT AND 50-X HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On September 18, 2012, Ahmad Larizadeh (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Section(s) 303, 703.3, 703.4 and 703.5 to establish a formula retail Limited-restaurant (d.b.a. Domino's Pizza) within the NC-3 (Neighborhood Commercial, Moderate Scale) District and a 50-X Height and Bulk District.

On February 7, 2013, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2012.1193C.

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. 2012.1193C, 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 in the ground floor of a corner building at the northwest corner of Fillmore Street and Golden Gate Avenue, Block 0755, Lot 002. The property is located within the NC-3 (Neighborhood Commercial, Moderate Scale) district with 50-X height and bulk district. The property is developed with five ground floor commercial uses within the four-story mixed-use building. The ground floor is developed with Franchise Wash House and Dry cleaning, Tsing Tao Chinese Restaurant, A&J Discount Beauty Supplies, Preet Palace Indian Cuisine & Pizza (subject site), and Charlie's Pharmacy. The subject corner lot has approximately 137.5 feet of frontage on Fillmore Street and 80 feet of frontage on Golden Gate Avenue.
3. **Surrounding Properties and Neighborhood.** The project site is located at the intersection of Fillmore Street and Golden Gate Avenue. The parcel across from the subject site is occupied by a 24 hour McDonald's that contains a drive-thru component. To the north is Geary Boulevard and to the east is Jefferson Square. The project site is located in an NC-3 District within the Western Addition neighborhood and was formerly within the Western Addition A-2 Redevelopment Area. A mixture of goods and services intended for a population greater than the immediate neighborhood such as convenience goods, food establishments, personal services, entertainment, offices, financial service and other retail establishments defines the District. The scale of the district varies greatly and is lined with buildings ranging from one to over ten-stories in height. The surrounding properties along Fillmore Street are also zoned NC-3 and other lots within the immediate area are zoned RM-3 (Mixed Medium Density).
4. **Project Description.** The applicant proposes to establish a new Formula Retail, Limited-Restaurant, at a ground floor commercial storefront. The commercial space is currently occupied by a Limited-Restaurant (d.b.a. Preet Palace Indian Cuisine & Pizza) and historically has been occupied by other restaurant uses. The proposal includes minor tenant improvements to the

interior but the existing commercial space would not be enlarged. The existing commercial space is approximately 1,000 square feet in size.

The proposed Limited-Restaurant use (d.b.a. Domino's Pizza) is a Formula Retail use, per Planning Code Section 703.3. It is a franchise Formula Retail business that is locally operated by the owner of two other Domino's establishments. The proposed Formula Retail use will be a take-out and delivery establishment with five counter seats available. The proposed operation will consist of five employees, two in-store staff and three delivery drivers. The proposed hours of operation are 11a.m. to midnight Sunday through Thursday, and 11 a.m. to 2a.m. Friday and Saturday. Section 312-neighborhood notification is required for establishing a new Formula Retail use and was conducted in conjunction with the Conditional Use Authorization process.

There is currently a Domino's Pizza location at 1408 Fillmore Street, three blocks north of the subject site that is proposed to be closed. The lease at 1408 Fillmore Street had expired in 2009 and Domino's have since been renting month to month. Domino's provided notice of termination to the property owner in June 2012, and according to the Sponsor, will have to vacate the premises by February, 2013. Aside from 1408 Fillmore Street, the next closest Domino's Pizza location is at 876 Geary Boulevard, approximately 0.9 miles away. One other proposal for Domino's Pizza is currently pending at 3015 Geary Boulevard, approximately 1 mile away.

5. **Public Comment.** The Department has no public comment.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
  - A. **Use Size.** Planning Code Sections 121.2, 712.21, and 790.130, establish size limits on non-residential use sizes in the NC-3 District. Within the District, Conditional Use Authorization is required for any non-residential use that meets or exceeds 6,000 square feet of floor area.

*At 1,007 square feet of floor area, the proposed use size is within the principally permitted use size limitations.*
  - B. **Hours of Operation.** Planning Code Section 712.27 states that in NC-3 Districts there are no limits to the hours of operation, as defined by Planning Code Section 790.48.

*The proposed hours of operation are 11 a.m. to midnight Sunday through Thursday, 11 a.m. to 2 a.m. Friday and Saturday, which are within the permitted hours of operation.*
  - C. **Parking.** Planning Code Section 151 of the Planning Code requires off-street parking for every 200 square-feet of occupied floor area, where the occupied floor area exceeds 5,000 square-feet.

*The Subject Property contains approximately 1,007 square-feet of occupied floor area and thus does not require any off-street parking. The delivery vehicles intent to utilize existing on-street metered parking.*

- D. **Loading.** Section 152 of the Planning Code requires off-street freight loading for uses in NC-3 Districts over 10,000 square feet.

*The proposed use contains approximately 1,007 square-feet of floor area and thus does not require any off-street freight loading. Sponsor intends to have deliveries twice a week on Tuesday and Friday, between midnight and 6am.*

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

*The subject commercial space has approximately 21 feet of frontage on Fillmore Street with approximately 20 feet devoted to either the entrance or window space. The windows are clear and unobstructed.*

- F. **Formula Retail.** Planning Code Section 703.3 defines Formula Retail as a type of retail sales activity or retail sales establishment which, along with eleven or more other retail sales establishments located in the United States, maintains two or more of the following features: a standardized array of merchandise, a standardized façade, a standardized décor and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark.

*The proposed Formula Retail Limited-Restaurant would share a standardized array of merchandise, a standardized décor and color scheme, standardized signage and trademark with approximately 5,000 other existing Domino's Pizza establishments.*

Planning Code Section 703.3(h) further states that the Planning Commission in considering a Formula Retail request shall include but are not limited to consideration of the following factors:

1. Existing concentrations of formula retail uses within the Neighborhood Commercial District.

*Within this 9 block NC-3 district, there are presently 24 Formula Retail establishments, including McDonald's, Popeye's Fried Chicken, Subway, Quickly's, Panda Express, Domino's Pizza, Money Mart, Safeway, Extreme Pizza, Walgreens, Burger King, Site for Sore Eyes, Hanmi Bank, Nijiya, Daiso, Andersen Bakery, Benihana, Union Bank, Sanrio, Duxiana, Starbucks, Wells Fargo, Ace Hardware and Goodwill. The Sponsor intends to relocate the existing Domino's Pizza at 1408 Fillmore Street to the subject location; hence there will be no net change in the number of Formula Retail uses in this neighborhood.*

2. Availability of other similar retail uses within the Neighborhood Commercial District.

*There is one other Formula Retail pizza delivery use within the subject NCD, located six blocks north of the subject site at 1730 Fillmore Street, d.b.a. Extreme Pizza.*

3. Compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the Neighborhood Commercial District.

*Domino's Pizza proposes to utilize the existing awning on the storefront and the proposed lettering is in keeping with that of the adjacent ground floor commercial uses.*

4. Existing retail vacancy rates within the Neighborhood Commercial District.

*Based on a survey conducted by staff within the last six months, there are 14 vacant commercial spaces in the subject NCD.*

5. Existing mix of Citywide-serving retail uses and neighborhood-serving retail uses within the Neighborhood Commercial District.

*The subject NC-3 district contains a variety of Citywide- and neighborhood-serving retail uses including grocery stores, restaurants, entertainment, and financial and professional services. The proposed Limited-Restaurant use is compatible with the existing mix in that it is relocating an existing Domino's Pizza within the subject NCD.*

- G. **Limited-Restaurant.** Planning Code Section 712.43 permits the establishment of a Limited-Restaurant as-of-right.

*The proposed Limited-Restaurant replacement is permitted as-of-right, however, it is a Formula Retail and therefore requires a Conditional Use authorization as per Planning Code Section 703.4.*

Section 790.90 of the Planning Code defines a Limited-Restaurant as:

- (a) A retail eating and/or drinking use which serves ready-to-eat foods and/or drinks to customers for consumption on or off the premises, that may or may not have seating. It may include wholesaling, manufacturing, or processing of foods, goods, or commodities on the premises as an accessory use as set forth in Section [703.2\(b\)\(1\)\(C\)\(v\)](#).

(b) It includes, but is not limited to, specialty foods provided by bakeries, delicatessens, and confectioneries meeting the above characteristics, but it is distinct from a Restaurant, as defined in Section [790.91](#), and a Bar, as defined in Section [790.22](#). It may also operate as a Take-Out Food use as defined in Section [790.122](#).

(c) It shall not provide on-site beer and/or wine sales for consumption on the premises, but may provide off-site beer and/or wine sales for consumption off the premises with a California Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) within the accessory use limits as set forth in Section [703.2\(b\)\(1\)\(C\)\(vi\)](#).

*The proposed Domino's Pizza contains approximately 1,007 square feet of floor area and is classified as a Limited-Restaurant use. The change of use from the current Limited-Restaurant use (Preet Palace Indian Cuisine & Pizza) to a Limited-Restaurant use which is also a Formula Retail use is permitted with Conditional Use Authorization and requires Section 312 Notification. Section 312 Notification was conducted in conjunction with the Conditional Use Notification.*

H. **Operating Conditions.** Planning Code Section 703.5 sets forth operating conditions addressing entrances, noise, odor and garbage for all eating and drinking establishments. The subject establishment will be required to comply.

I. **Signage.** The proposed signage and awning meets Planning Code Section 136.1. Any proposed signage will be subject to the review and approval of the Planning Department.

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

A. The proposed new uses 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 to replace an existing Limited-Restaurant location and will not alter the size and intensity of the existing condition. The proposed use is in keeping with other storefronts on the block face and the Limited-Restaurant use is compatible with the other goods and services provided along the subject NC-3 corridor. This use will preserve the location as an eating establishment and will maintain an active storefront which will contribute to the economic vitality of the neighborhood.*

B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

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 site and the size, shape, and arrangement of this mixed-use building will not be altered as part of this project. The proposed work will not affect the building envelope as all tenant improvements are internal. The overall massing and scale of the building will be unaltered and compatible with the surrounding tenant spaces as well as the ground floor commercial development pattern.*

- 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 Planning Code does not require parking or loading for a 1,007 occupied square-foot, Limited-Restaurant. The proposed use is designed to meet the needs of the immediate neighborhood and should not generate a significant amount of vehicular trips from the immediate neighborhood or citywide. The majority of vehicular trips will be conducted by the delivery drivers as this will be predominantly a take-out use; therefore, trips from customers are not anticipated to affect the parking demand. Public transportation is available for customers along Fillmore Street as the subject corridor is utilized by several major bus lines.*

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

*The proposed use is subject to the standard conditions of approval for restaurants and outlined in Exhibit A. Condition Nos. 2, 5, and 6 specifically obligate the project Sponsor to mitigate odor and noise generated by the restaurant use.*

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

*The proposed Limited-Restaurant does not require any exterior tenant improvements and the Department shall review all lighting and signs proposed for the new business in accordance with Article 6 of the Planning Code.*

- C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

*The project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below.*

- D. That the use as proposed would provide development that is in conformity with the purpose of the applicable Neighborhood Commercial District.

*The proposed project is consistent with the stated purpose of NC-3 Districts in that the intended use is located at the ground floor, and will provide a compatible convenience service for the immediately surrounding neighborhoods during daytime hours.*

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

## NEIGHBORHOOD COMMERCE

### Objectives and Policies

#### **OBJECTIVE 1:**

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

#### **Policy 1.1:**

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

#### **Policy 1.2:**

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

#### **Policy 1.3:**

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

*The project will provide desirable goods and services to the neighborhood and will provide resident employment opportunities to those who live or go to school in the community. The project will preserve the existing use by replacing a Limited-Restaurant to serve the immediate neighborhood as well as a population greater than the immediate neighborhood. The project site is located within a Neighborhood Commercial District and is thus consistent with activities in the commercial land use plan. In addition, the project's close walking proximity to multi-story offices and nearby residences, the availability of public transit on Fillmore Street and Geary Boulevard, and on-street parking will mitigate any traffic and parking effects on the area.*

#### **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.

*The project will retain an existing commercial activity and will enhance the diverse economic base of the City.*

#### **OBJECTIVE 3:**

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

**Policy 3.1:**

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

**Policy 3.2:**

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

*Domino's Pizza will retain existing employment opportunities for unskilled and semi-skilled workers from its existing location at 1408 Fillmore Street.*

**OBJECTIVE 6:**

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

**Policy 6.1:**

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

*This storefront will remain as a Limited-Restaurant use and the new tenant will continue to provide neighborhood-serving goods and services to the Neighborhood Commercial District. No commercial tenant would be displaced, as the existing tenant is voluntarily departing according to the Sponsor. The project would not prevent the District from achieving optimal diversity in the types of goods and services available throughout the neighborhood.*

The following guidelines, in addition to others in this objective for neighborhood commercial districts, should be employed in the development of overall district zoning controls as well as in the review of individual permit applications, which require case-by-case review and City Planning Commission approval. Pertinent guidelines may be applied as conditions of approval of individual permit applications. In general, uses should be encouraged which meet the guidelines; conversely, uses should be discouraged which do not.

**Eating and Drinking Establishments**

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

- Regulate the distribution and proliferation of eating and drinking establishments, especially in districts experiencing increased commercial activity;
- Control nuisances associated with their proliferation;
- Preserve storefronts for other types of local-serving businesses; and
- Maintain a balanced mix of commercial goods and services.

- The regulation of eating and drinking establishments should consider the following:
- Balance of retail sales and services;
- Current inventory and composition of eating and drinking establishments;
- Total occupied commercial linear frontage, relative to the total district frontage;
- Uses on surrounding properties;
- Available parking facilities, both existing and proposed;
- Existing traffic and parking congestion; and
- Potential impacts on the surrounding community.

*There is not a concern with the potential over-concentration of food-service establishment in this NC-S District. The Commerce and Industry Element of the General Plan contains Guidelines for Specific Uses. For eating and drinking establishments, the Guidelines state, "the balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage." Planning staff has performed a site survey of the subject NC-3 District and found an existing eating and drinking establishment concentration of 17.6%. The proposal is to relocate an existing Domino's Pizza from within the subject NCD to an existing Limited-Restaurant use location and the concentration will decrease to 17.5%.*

*his establishment is a neighborhood-serving establishment – specifically for Western Addition residents – that will not attract a high volume of customers who arrive by automobile. The use also provides adequate space for walk-in patrons, and approximately five seats will be provided for customers who wish to dine in. The conditions of approval help to ensure that the area around the business is kept clean. The owner wishes to operate within Tthe NC-3 District's permitted hours of operation.*

9. **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 would preserve the district by relocating an existing Limited-Restaurant in an area that is appropriate for restaurant use. Although Domino's Pizza is a franchise Formula Retail business, the business would be locally operated, and it will continue to provide unskilled and semi-skilled employment opportunities.*

- 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 would not affect the character and diversity of the neighborhood.*

- 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 site is on Fillmore Street and is well served by transit. It is presumable that employees would commute by transit thereby mitigating possible effects on street parking. Fillmore Street has four MUNI bus lines (5, 21, 22, and 33) and nine bus stops within a ¼ mile radius from the subject site.*

- 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 adversely affect industrial or service sector uses or related employment opportunities. Rather, it will preserve the existing service sector employment opportunities by relocating a Limited-Restaurant within the subject NCD.*

- 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 affect the property's ability to withstand an earthquake.*

- G. That landmarks and historic buildings be preserved.

*A landmark or historic building does not occupy the project site.*

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

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

10. 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.

11. 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. 2012.1193C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated September 18, 2012, 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.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on February 7, 2013.

Jonas P. Ionin  
Acting Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: February 7, 2013

## EXHIBIT A

### AUTHORIZATION

This authorization is for a conditional use to allow a Formula Retail, Limited-Restaurant (d.b.a. **Domino's Pizza**) located at 1109 Fillmore Street, Block 0755, and Lot 002 pursuant to Planning Code Sections 303, 703.3, and 703.4 within the NC-3 (Neighborhood Commercial, Moderate Scale) District and a 50-X Height and Bulk District; in general conformance with plans, dated September 18, 2012, and stamped "EXHIBIT B" included in the docket for Case No. 2012.1193C and subject to conditions of approval reviewed and approved by the Commission on February 7, 2013 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 **February 7, 2013** 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 and Expiration.** The authorization and right vested by virtue of this action is valid for three years from the effective date of the Motion. A building permit from the Department of

Building Inspection to construct the project and/or commence the approved use must be issued as this Conditional Use authorization is only an approval of the proposed project and conveys no independent right to construct the project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained within three (3) years of the date of the Motion approving the Project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. The Commission may also consider revoking the approvals if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org).*

## DESIGN

2. **Odor Control Unit.** In order to ensure any significant noxious or offensive odors are prevented from escaping the premises once the project is operational, the building permit application to implement the project shall include air cleaning or odor control equipment details and manufacturer specifications on the plans. Odor control ducting shall not be applied to the primary façade of the building.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

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

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) .*

## MONITORING

4. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## OPERATION

5. **Odor Control.** While it is inevitable that some low level of odor may be detectable to nearby residents and passersby, appropriate odor control equipment shall be installed in conformance

with the approved plans and maintained to prevent any significant noxious or offensive odors from escaping the premises.

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

6. **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](http://www.sfdph.org)*

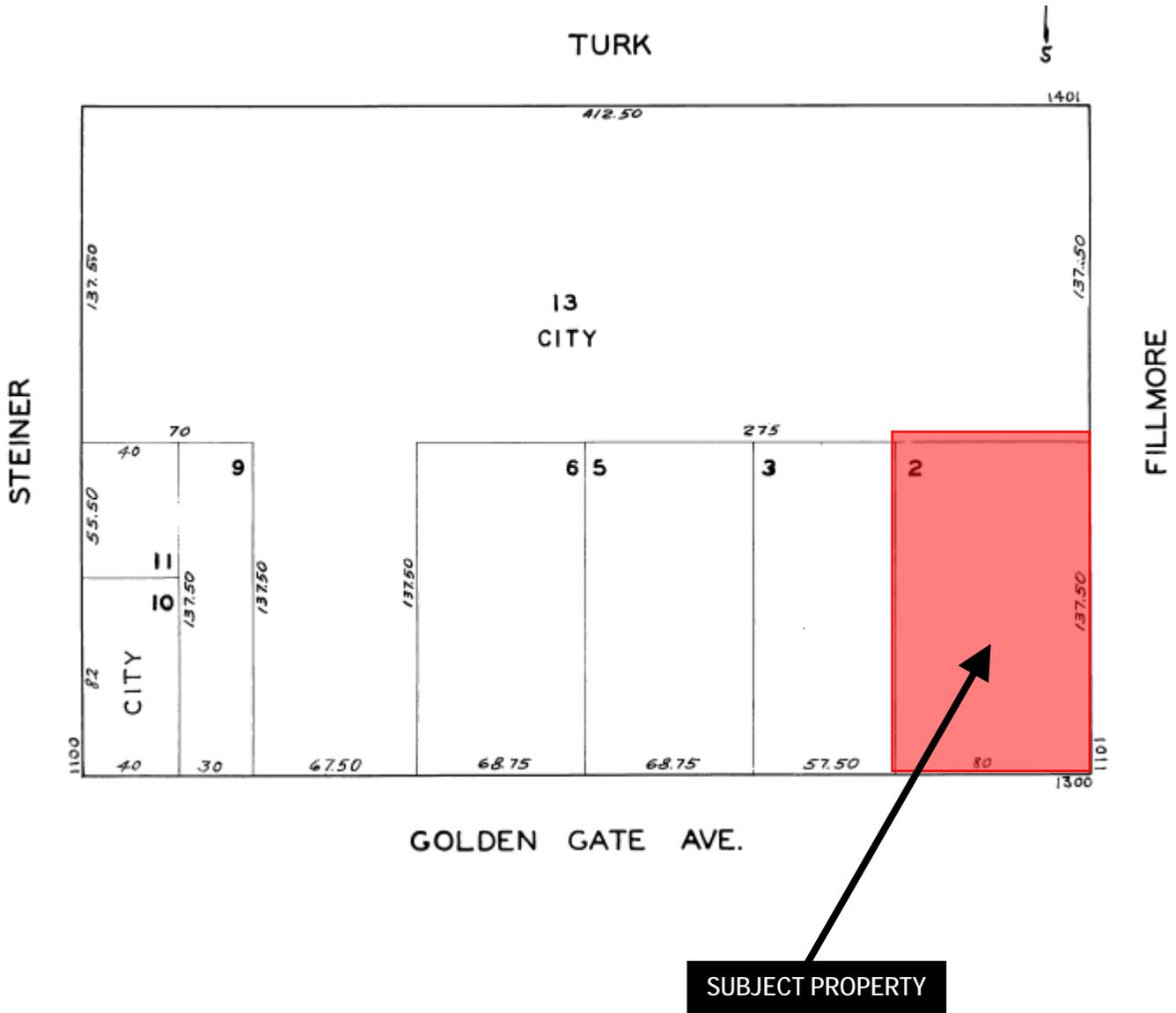
*For information about compliance with the construction noise, contact the Department of Building Inspection, 415-558-6570, [www.sfdbi.org](http://www.sfdbi.org)*

*For information about compliance with the amplified sound including music and television contact the Police Department at 415-553-0123, [www.sf-police.org](http://www.sf-police.org)*

7. **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/>*

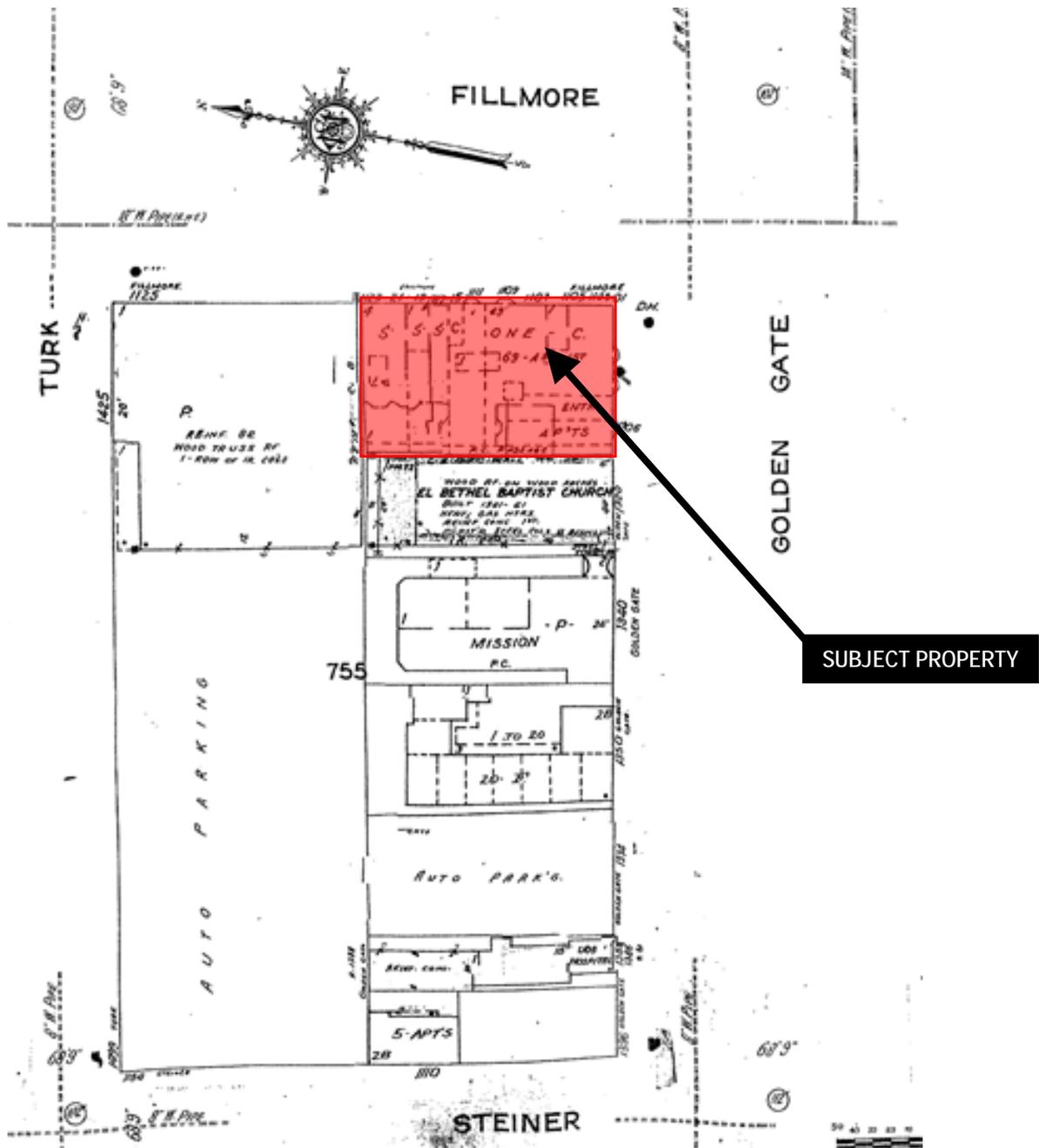
8. The existing Domino's Pizza location at 1408 Fillmore Street shall end all operations prior to beginning operations in the subject location at 1109 Fillmore Street.

# Parcel Map



Conditional Use Authorization  
Case Number 2012.1193C  
Formula Retail – Domino's Pizza  
1109 Fillmore Street

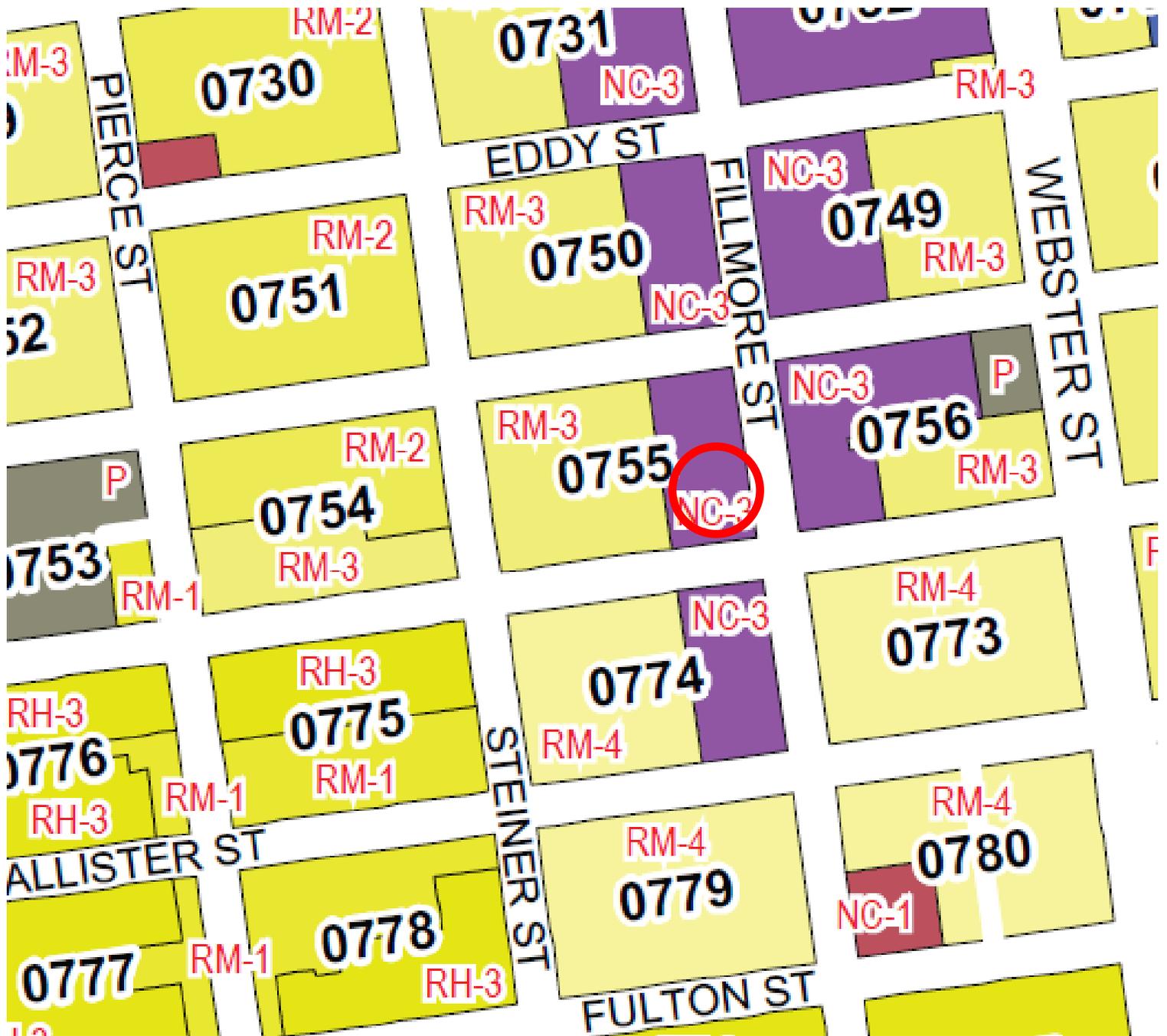
# Sanborn Map\*



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



# Zoning Map



Conditional Use Authorization  
Case Number 2012.1193C  
Formula Retail – Domino's Pizza  
1109 Fillmore Street

# Formula Retail Map

- A Domino's Pizza
- B Extreme Pizza
- C Walgreens Store San Francisco
- D Safeway
- E Wells Fargo Bank
- F Goodwill
- G Burger King
- H Popeye's Chicken & Biscuits
- I Panda Express
- J McDonald's
- K Central Ace Hardware
- L Subway Sandwiches
- M Quickly
- N Money Mart
- O Site for Sore Eyes - Fillmore St -
- P Hanmi Bank
- Q Nijiya Market
- R Daiso California
- S Andersen Bakery
- T Benihana Japanese Steakhouse
- U Union Bank
- V Sanrio
- W Duxiana-The Dux Bed
- X Starbucks

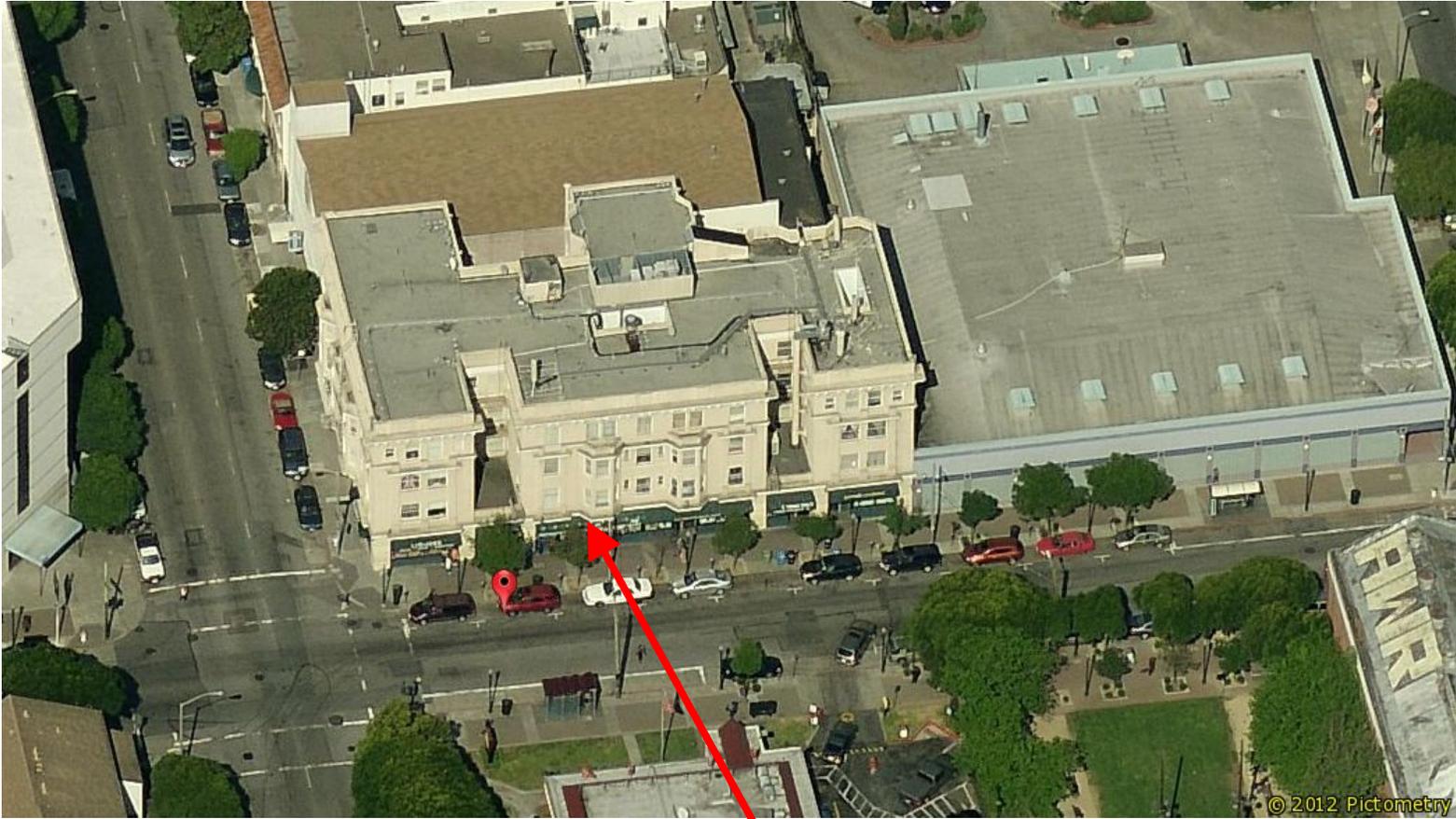


**SUBJECT PROPERTY**



Conditional Use Authorization  
 Case Number 2012.1193C  
 Formula Retail – Domino's Pizza  
 1109 Fillmore Street

# Aerial Photo View to West

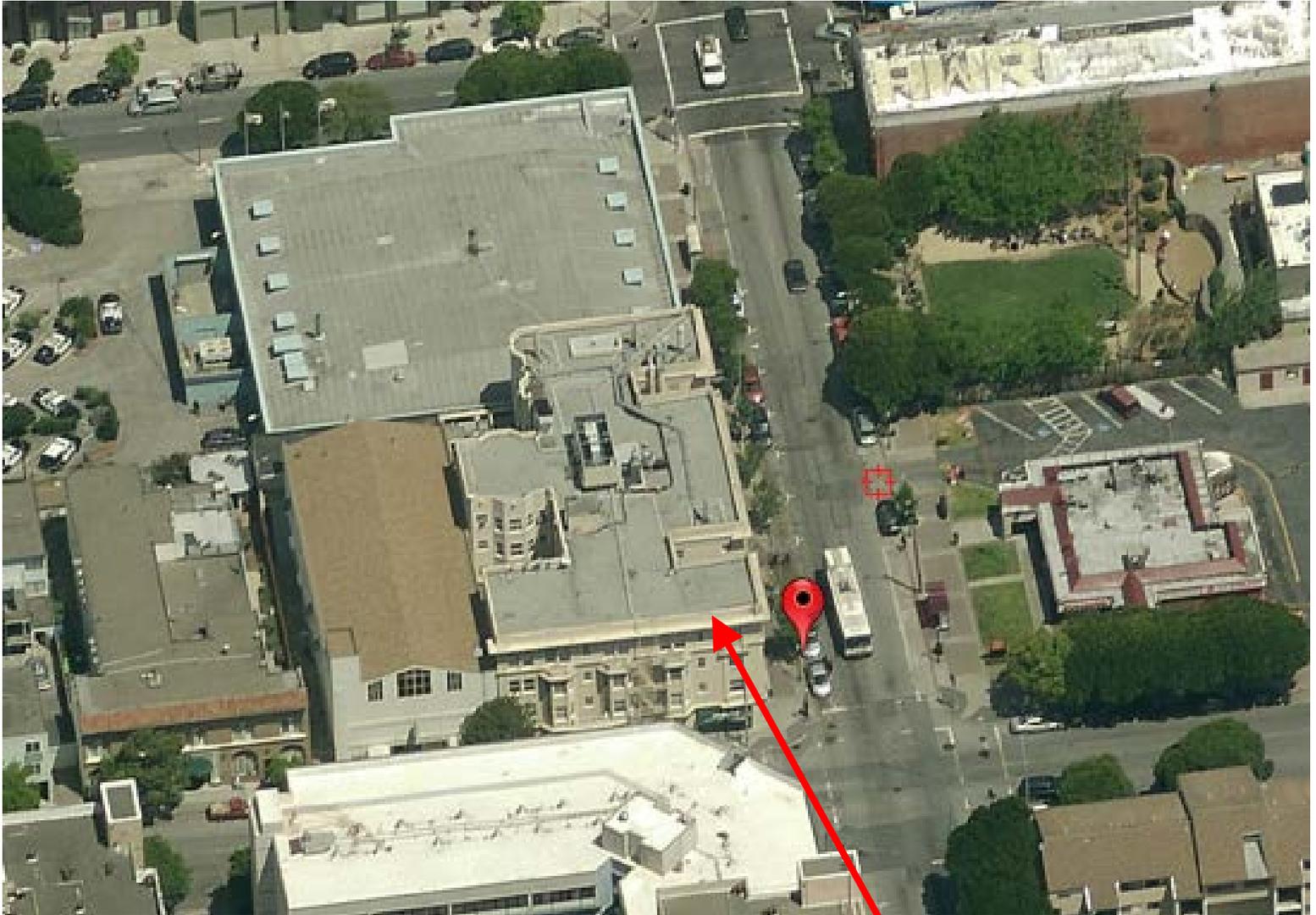


SUBJECT PROPERTY



Conditional Use Authorization  
Case Number 2012.1193C  
Formula Retail – Domino's Pizza  
1109 Fillmore Street

# Aerial Photo View to North



**SUBJECT PROPERTY**



Conditional Use Authorization  
Case Number 2012.1193C  
Formula Retail – Domino's Pizza  
1109 Fillmore Street

# Site Photo



Conditional Use Authorization  
Case Number 2012.1193C  
Formula Retail – Domino's Pizza  
1109 Fillmore Street

# Site Photo



Conditional Use Authorization  
Case Number 2012.1193C  
Formula Retail – Domino's Pizza  
1109 Fillmore Street

# T.I. FOR NEW DOMINO'S PIZZA

## 1109 FILLMORE STREET

### SAN FRANCISCO, CA. 94115

#### GENERAL NOTES:

1. CONTRACTOR SHALL VISIT THE SITE, REVIEW THE BUILDING SHELL DRAWINGS AS SUBMITTED BY THE LANDLORD AND BECOME THOROUGHLY FAMILIAR WITH THE SITE CONDITIONS PRIOR TO BIDDING OR CONSTRUCTION.
2. ALL WORK SHALL BE PERFORMED IN STRICT COMPLIANCE WITH LOCAL, COUNTY, STATE AND FEDERAL CODES AND ORDINANCES.
3. CONTRACTOR SHALL VERIFY THE LOCATION OF ALL UTILITIES.
4. CONTRACTOR TO VERIFY ALL DIMENSIONS, INCLUDING CLEARANCES REQUIRED BY OTHER TRADES, AND NOTIFY THE LANDLORD OF ANY DISCREPANCIES PRIOR TO PROCEEDING WITH THE WORK. ALL DIMENSIONS ARE TO THE FACE OF THE FINISHED SURFACE UNLESS NOTED OTHERWISE. ALL DIMENSIONS TO BE TAKEN FROM DESIGNATED DATUM POINT. DO NOT SCALE DRAWINGS.
5. CONTRACTOR SHALL PATCH AND REPAIR ALL EXISTING WALLS, FLOORS, CEILINGS OR OTHER SURFACES IDENTIFIED TO REMAIN THAT MAY BECOME DAMAGED DURING THE COURSE OF THE WORK.
6. THE CONTRACTOR IS RESPONSIBLE FOR OBTAINING PERMITS FOR FIRE PROTECTION, PLUMBING, MECHANICAL AND ELECTRICAL SYSTEMS PRIOR TO INSTALLATION OF SUCH SYSTEMS.

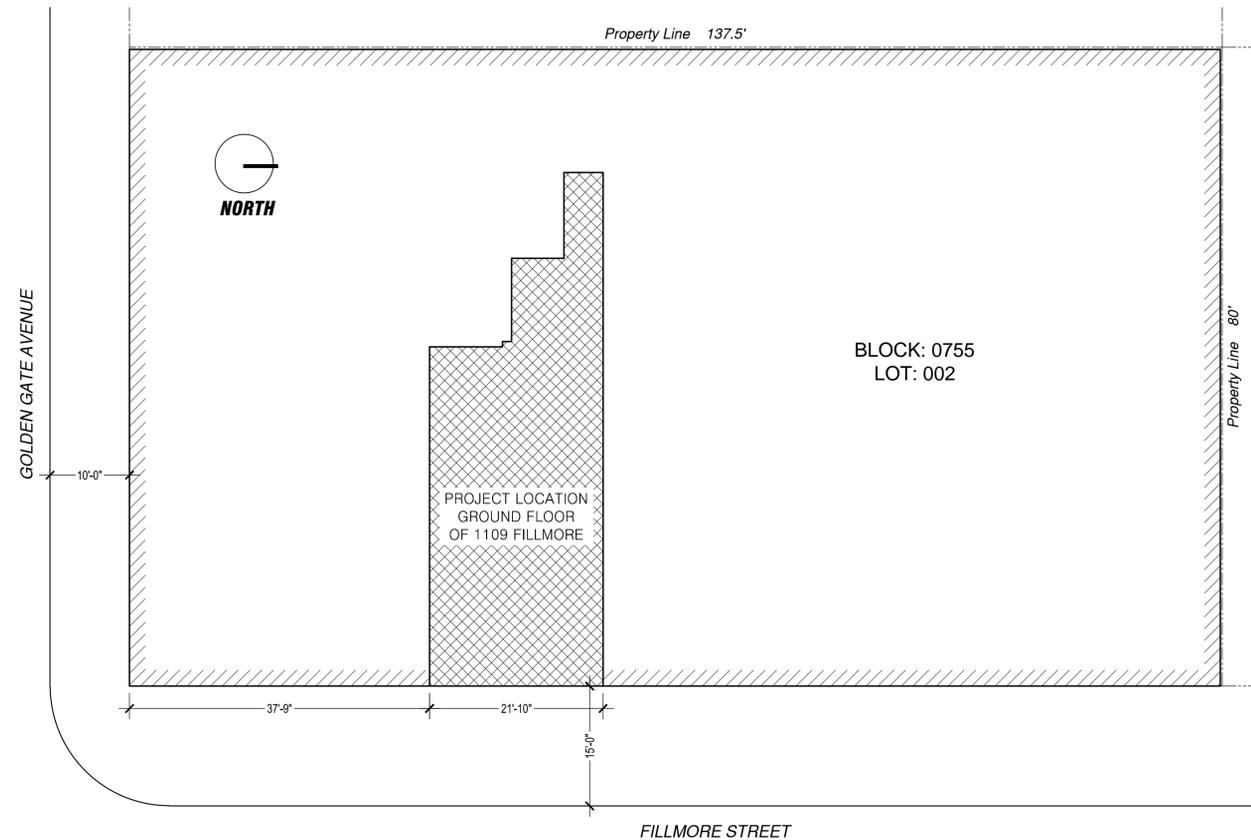
#### SHEET INDEX

- A-0 COVER SHEET, PROJECT DATA AND SITE PLAN
- A-1 EXISTING AND PROPOSED FLOOR PLANS

#### SCOPE OF WORK

- CONDITIONAL USE FOR TENANT IMPROVEMENT ON GROUND FLOOR FOR NEW FORMULA RETAIL DOMINO'S PIZZA IN EXISTING RESTAURANT.

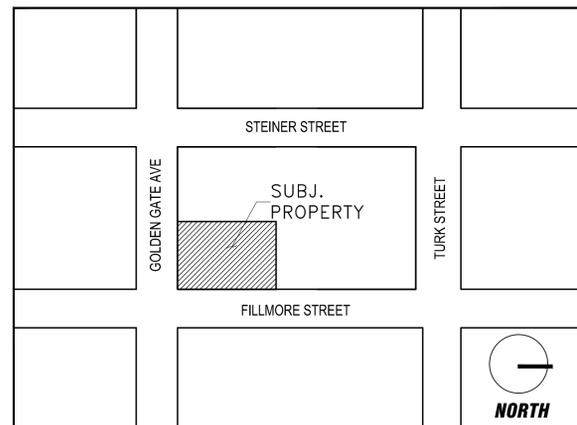
#### SITE PLAN SCALE: 3/32" = 1'-0"



#### PROJECT DATA

LESSEE:  
 ADDRESS: 1109 FILLMORE ST, SAN FRANCISCO, CA.94115  
 BLOCK: 0755  
 LOT: 002  
 TYPE OF CONSTR: TYPE-VB  
 NO. OF STORIES: 4  
 NO. OF BASEMENTS: 0  
 PRESENT USE: RESTAURANT  
 PROPOSED USE: RESTAURANT  
 OCCUPANCY CLASS: B

#### VICINITY MAP SCALE: NTS



#### APPLICABLE CODES:

JURISDICTION: CITY AND COUNTY OF SAN FRANCISCO BUILDING CODE:

- 2010 CALIFORNIA BUILDING CODE ADMENDMENTS
- 2010 CALIFORNIA MECHANICAL CODE
- 2010 CALIFORNIA ELECTRICAL CODE
- 2010 CALIFORNIA PLUMBING CODE
- 2010 CALIFORNIA ENERGY CODE
- 2010 CALIFORNIA FIRE CODE & ALL RELATED
- 2010 SAN FRANCISCO BUILDING CODE ORDINANCES OF THE CITY & COUNTY OF SAN FRANCISCO

#### REVISIONS

BANA INC.  
 71 BLAKE STREET  
 SAN FRANCISCO, CA 94118  
 TEL. 415-752-2824

1109 FILLMORE STREET  
 SAN FRANCISCO CALIFORNIA

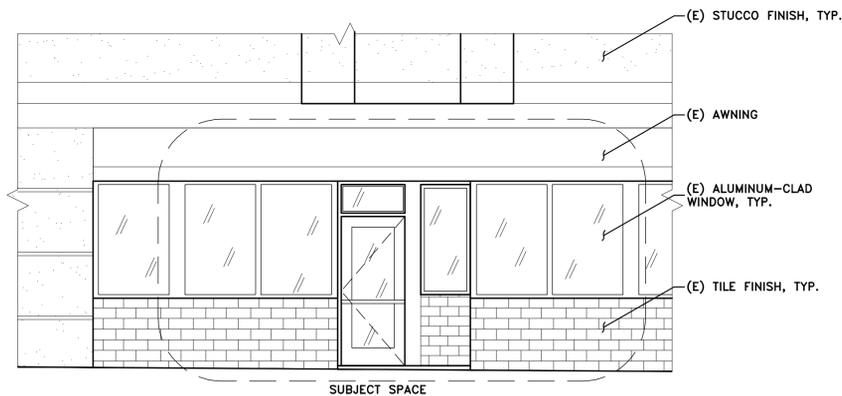
PROJECT DATA AND SITE PLAN

DATE: 09/2012

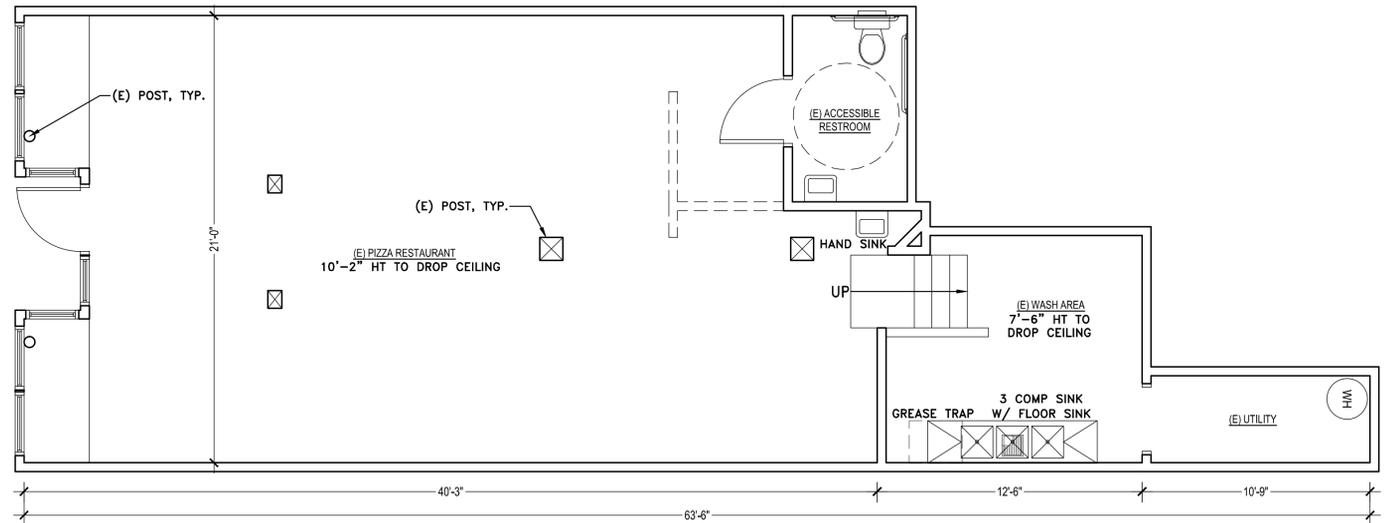
SCALE: AS NOTED

SHEET:

A-0



**EXISTING FRONT ELEVATION**  
Scale: 1/4" = 1'-0"

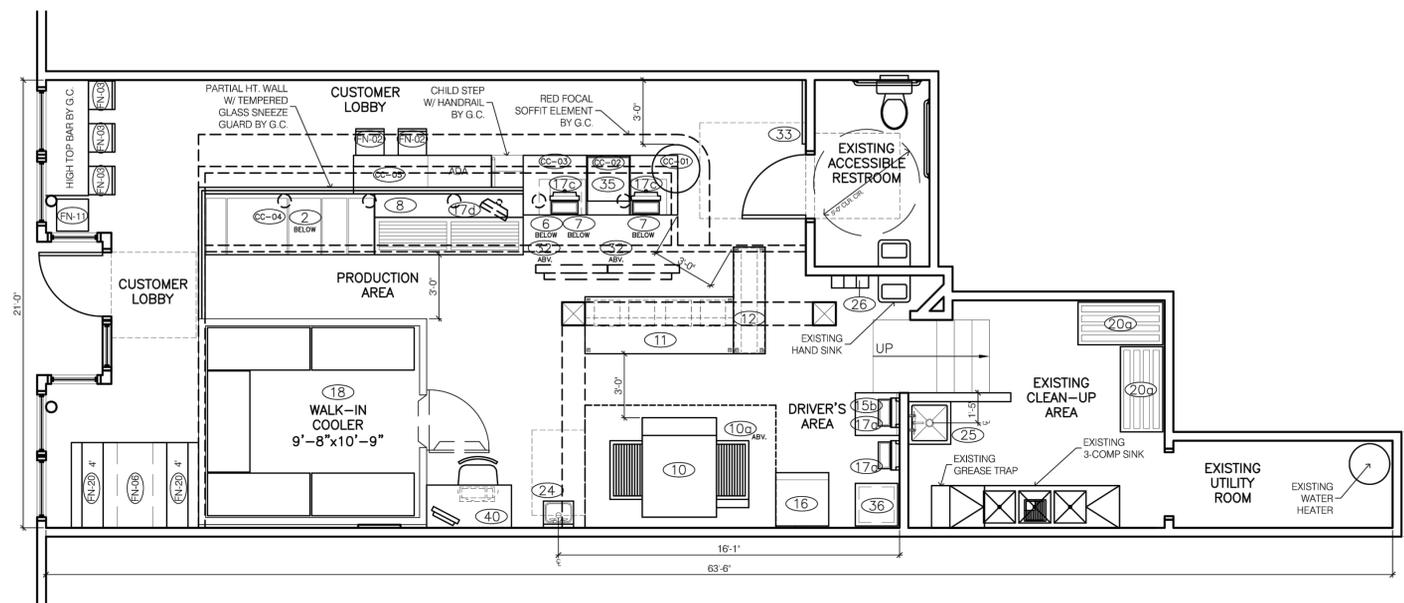


**LEGEND**

- (E) WALLS
- (E) WALLS TO BE REMOVED

**EXISTING GROUND FLOOR PLAN**

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



**PROPOSED GROUND FLOOR PLAN**

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



REVISIONS

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71 BLAKE STREET  
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1109 FILLMORE STREET  
SAN FRANCISCO CALIFORNIA

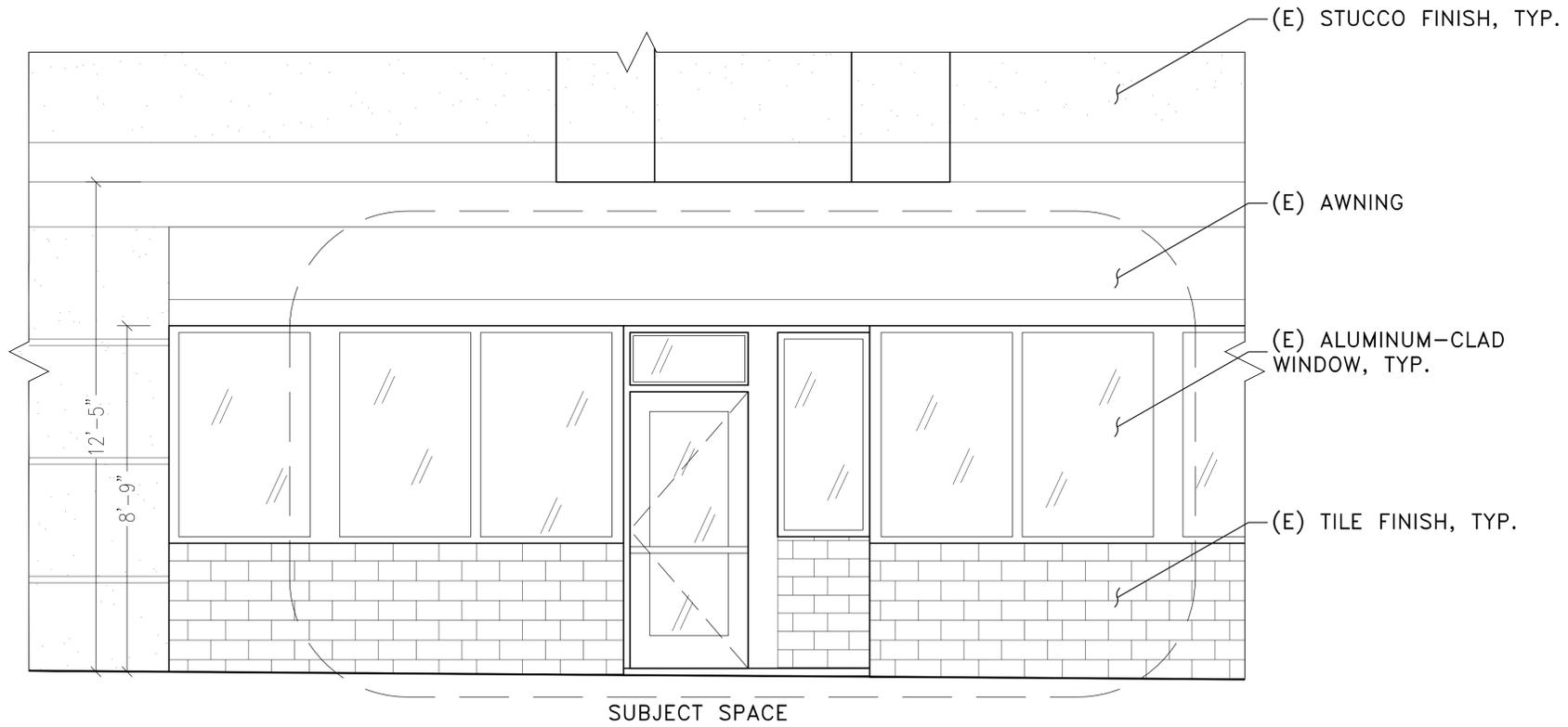
EXISTING AND PROPOSED FLOOR PLANS

DATE: 09/2012

SCALE: AS NOTED

SHEET:

**A-1**



EXISTING FRONT ELEVATION  
Scale: 1/2" = 1'-0"



PROPOSED FRONT ELEVATION  
Scale: 1/2" = 1'-0"

REVISIONS

BANA INC.  
71 BLAKE STREET  
SAN FRANCISCO, CA 94118  
TEL. 415-752-2824

1109 FILLMORE STREET  
SAN FRANCISCO CALIFORNIA

ELEVATIONS

DATE: 11/2012  
SCALE: AS NOTED

SHEET:

A-3