



# SAN FRANCISCO PLANNING DEPARTMENT

## Executive Summary Conditional Use

HEARING DATE: DECEMBER 19, 2013

*Date:* December 12, 2013  
*Case No.:* **2013.0863C**  
*Project Address:* **1 ENTERPRISE STREET**  
*Zoning:* PDR-1-G (Production, Distribution, Repair - General)  
58-X Height and Bulk District  
*Block/Lot:* 3572/018  
*Project Sponsor:* David Silverman  
1 Bush Street, Ste 600  
San Francisco, CA 94104  
*Staff Contact:* Diego Sánchez – (415) 575-9082  
[diego.sanchez@sfgov.org](mailto:diego.sanchez@sfgov.org)  
*Recommendation:* **Approval with Conditions**

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

Reception:  
**415.558.6378**

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**415.558.6409**

Planning  
Information:  
**415.558.6377**

### PROJECT DESCRIPTION

The project proposes to establish a 1,800 square foot residential use as a single family dwelling on the second and third floors of a 4,350 square foot building located at 1 Enterprise Street. The proposal is utilizing Planning Code Section 179.1, Legitimization of Uses Located in the Eastern Neighborhoods, as part of its request to legitimize the residential use.

### SITE DESCRIPTION AND PRESENT USE

The project is located on the north side of Enterprise Street, Lot 018 in Assessor's Block 3572. Enterprise Street is a public right of way approximately 130 feet in length, intersecting with Folsom Street at its most westerly point and is south of 16<sup>th</sup> Street and north of 17<sup>th</sup> Street. The property is located within the PDR-1-G (Production, Distribution, Repair – General) District and a 58-X height and bulk district. The property is improved with a 4,350 square foot, three-story building that contains an arts activity use and a residential use.

### SURROUNDING PROPERTIES AND NEIGHBORHOOD

The properties surrounding the project site include two-story warehouse buildings with retail components, an office building for a utility with an associated automobile storage lot and three-story multifamily buildings. Immediately to the west of the property is a paint contractors store; to the east is an industrial building with retail on 16<sup>th</sup> street; to the south of the project is an accessory automobile storage lot. The surrounding properties are located within the PDR-1-G (Production, Distribution, Repair – General) 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	November 29, 2013	November 29, 2013	20 days
Posted Notice	20 days	November 29, 2013	November 29, 2013	20 days
Mailed Notice	20 days	December 9, 2013	November 27, 2013	22 days

## PUBLIC COMMENT

- As of the date of this report, the Planning Department has not received any input from the public.

## ISSUES AND OTHER CONSIDERATIONS

- The Zoning Administrator determined the existing residential use to be eligible for the legitimization process afforded under Planning Code Section 179.1. The legitimization process allows the existing building to be approved for 1,800 square feet of residential use despite the controls under Planning Code Section 215 that now prohibit residential uses within the PDR-1-G zoning district. The site was formerly zoned M-1 (Light Industrial), which allowed residential uses with Conditional Use authorization.
- The project site is within an area of the Mission Plan Area that exhibits a mixed use character. The project would complement this character in that it proposes a mixed use project with an arts activity use and a residential use.

## REQUIRED COMMISSION ACTION

In order for the project to proceed, the Commission must authorize the legitimization of a residential use per Planning Code Sections 179.1, 215 and 303.

## BASIS FOR RECOMMENDATION

- The Zoning Administrator determined the proposed residential use to be eligible for legitimization pursuant to Planning Code Section 179.1.
- The project will maintain a residential use within the Eastern Neighborhoods Plan Area, a Plan Area proposed for increased residential density.
- The project meets all applicable requirements of the Planning Code or the Planning Code deems those aspects not meeting the strict quantitative requirements to be legal, nonconforming, pursuant to Section 179.1(f).

- The project is desirable for, and compatible with the surrounding neighborhood.
- The project is consistent with the Planning Code, the Mission Area Plan and the General Plan

<b>RECOMMENDATION:</b> <b>Approval with Conditions</b>
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**Attachments:**

Block Book Map

Sanborn Map

Aerial Photographs

Zoning Map

Site Image

Project Sponsor Submittal

Attachment Checklist

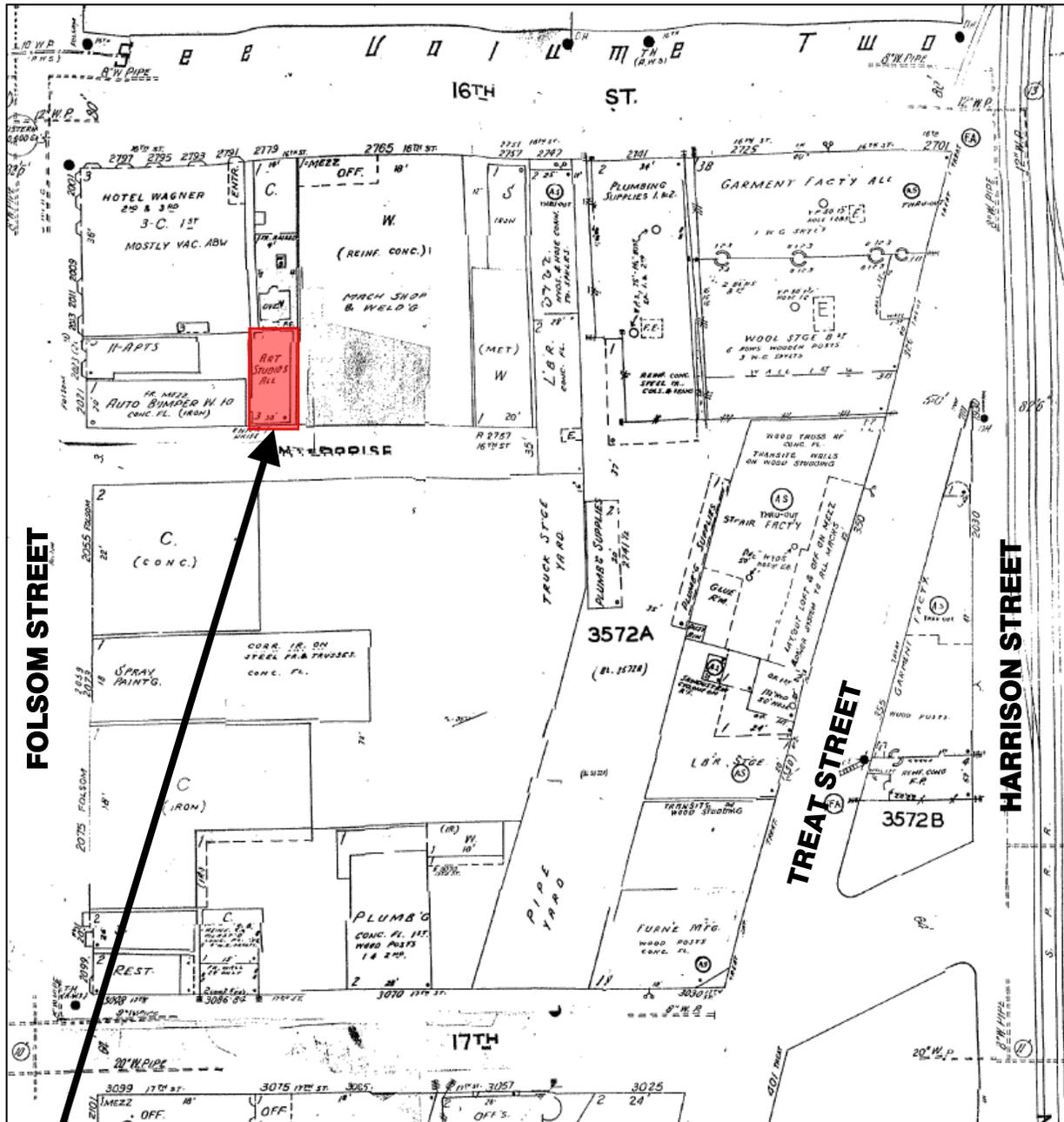
- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Executive Summary   | <input checked="" type="checkbox"/> Project sponsor submittal                              |
| <input checked="" type="checkbox"/> Draft Motion        | Drawings: <u>Existing Conditions</u>   |
| <input type="checkbox"/> Environmental Determination    | <input checked="" type="checkbox"/> Check for legibility                                   |
| <input checked="" type="checkbox"/> Zoning District Map | Drawings: <u>Proposed Project</u>  |
| <input 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 checked="" 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 |
|   | <input type="checkbox"/> Residential Pipeline  |

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

\_\_\_\_\_  
Planner's Initials



# Sanborn Map\*



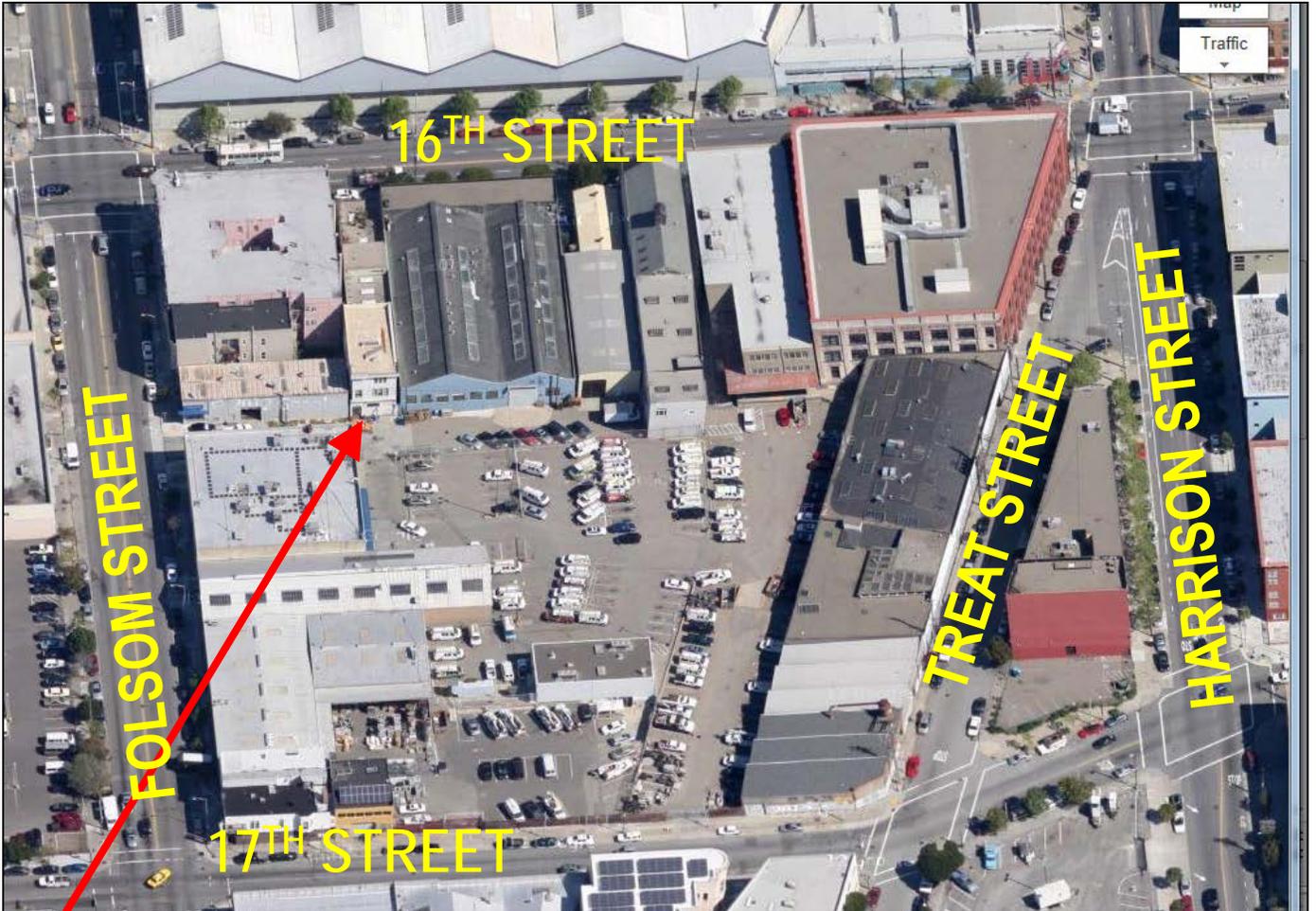
\*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.

**SUBJECT PROPERTY**



Conditional Use Authorization  
 Case Number 2013.0863C  
 1 Enterprise Street

# Aerial Photo

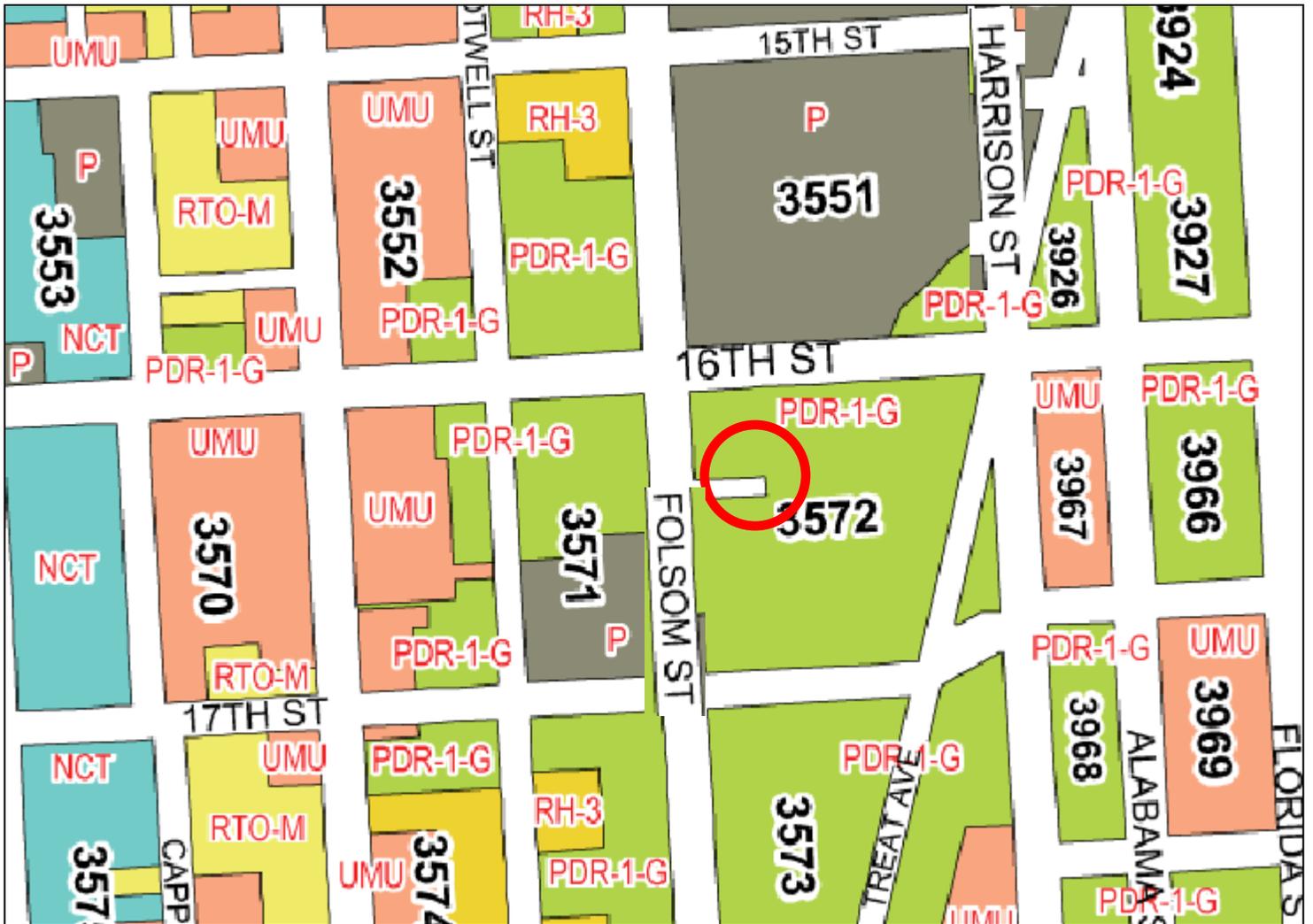


SUBJECT PROPERTY



Conditional Use Authorization  
Case Number 2013.0863C  
1 Enterprise Street

# Zoning Map



Conditional Use Authorization  
Case Number 2013.0863C  
1 Enterprise Street

# Site Photo



Conditional Use Authorization  
Case Number 2013.0863C  
1 Enterprise Street



# 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

HEARING DATE: DECEMBER 19, 2013

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*Project Address:* **1 ENTERPRISE STREET**  
*Zoning:* PDR-1-G (Production, Distribution, Repair - General)  
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[diego.sanchez@sfgov.org](mailto:diego.sanchez@sfgov.org)

**ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 179.1, 215 AND 303 OF THE PLANNING CODE TO ESTABLISH A RESIDENTIAL USE WITHIN THE PDR-1-G (PRODUCTION, DISTRIBUTION, REPAIR – GENERAL) DISTRICT AND A 58-X HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On June 27, 2013 David Silverman (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Section(s) 179.1, 215 and 303 to establish a residential use within the PDR-1-G (Production, Distribution, Repair – General) District and a 58-X Height and Bulk District.

On December 19, 2013, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.0863C.

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. 2013.0863C, 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 north side of Enterprise Street, Lot 018 in Assessor's Block 3572. Enterprise Street is a public right of way approximately 130 feet in length, intersecting with Folsom Street at its most westerly point and is south of 16th Street and north of 17th Street. The property is located within the PDR-1-G (Production, Distribution, Repair – General) District and a 58-X height and bulk district. The property is improved with a 4,350 square foot, three-story building that contains an arts activity use and a residential use
3. **Surrounding Properties and Neighborhood.** The properties surrounding the project site include two-story warehouse buildings with retail components, an office building for a utility with an associated automobile storage lot and three-story multifamily buildings. Immediately to the west of the property is a paint contractors store; to the east is an industrial building with retail on 16th street; to the south of the project is an accessory automobile storage lot. The surrounding properties are located within the PDR-1-G (Production, Distribution, Repair – General) District.
4. **Project Description.** The project proposes to establish a 1,800 square foot residential use as a single family dwelling on the second and third floors of a 4,350 square foot building located at 1 Enterprise Street. The proposal is utilizing Planning Code Section 179.1, Legitimization of Uses Located in the Eastern Neighborhoods, as part of its request to legitimize the residential use
5. **Public Comment.** The Department has not received any input from the public regarding the proposed project.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
  - A. **Legitimization.** Planning Code Section 179.1 established a time limited program wherein existing uses in the Eastern Neighborhoods plan area that have operated without the benefit of required permits may seek those permits. Uses that could be "legitimized" under this Section are those uses which, under the current provisions of this Code and without this Section, could not otherwise seek the required permits.

*The Zoning Administrator issued a Letter of Legitimization on May 14, 2013 for this project stating that the project had met all the eligibility requirements of Section 179.1, and the requested 1,800 square feet of residential use on the second and third floors are eligible to be approved as a residential use pursuant to the Legitimization program.*

- B. **Development Fees.** Projects seeking legitimization under Planning Code Section 179.1 are subject to development fees according to the use to be legitimized, in accordance with Planning Code Section 179.1(g).

*Planning Code Section 179.1(g) indicates that uses to be legitimized that are not office, integrated PDR, retail or entertainment are subject to the Transit Impact Development Fee and Jobs-Housing Linkage Fees, as applicable. However because residential uses are not subject to the Transit Impact Development Fee and Jobs-Housing Linkage Fees, no fees are applicable.*

- C. **Rear Yard Requirement.** Planning Code Section 134 states that the minimum rear yard depth shall be equal to 25 percent of the total depth of a lot in which it is situated, but in no case less than 15 feet.

*The proposal does not provide a rear yard. However, pursuant to Planning Code Section 179.1(f) those portions of the use or structure that do not comply with current provisions of this Code shall be deemed nonconforming uses or noncomplying structures under Article 1.8 of the Planning Code.*

- D. **Useable Open Space.** Planning Code Section 135 requires at least 36 square feet for each new dwelling use within the Industrial districts.

*The proposal provides a roof deck of approximately 180 square feet, satisfying the useable open space requirement.*

- E. **Street Tree.** Planning Section 138.1 of the Planning Code requires the addition of at least one new street tree for every 20 feet of lineal frontage when a project proposes a new dwelling unit.

*The Subject Property has 29 feet of lineal frontage and requires at least one new street tree. However, pursuant to Planning Code Section 179.1(f) those portions of the use or structure that do not comply with current provisions of this Code shall be deemed nonconforming uses or noncomplying structures under Article 1.8 of the Planning Code.*

- F. **Dwelling Unit Exposure.** Planning Code Section 140 requires any new dwelling unit have at least one window that opens onto a public street or alley of at least 25 feet in width.

*The subject property is proposing a new residential use and provides a bedroom meeting the minimum dimensional requirement that opens onto Enterprise Street, a public street of 35 feet in width.*

- G. **Parking.** Planning Section 151 of the Planning Code requires off-street parking for each new dwelling unit proposed for projects within the Industrial, Commercial and Production, Distribution and Repair zoning districts.

*The Subject Property is proposing a new dwelling unit but does not provide a required off-street parking space. However, pursuant to Planning Code Section 179.1(f) those portions of the use or structure that do not comply with current provisions of this Code shall be deemed nonconforming uses or noncomplying structures under Article 1.8 of the Planning Code.*

- H. **Dwelling Unit Density.** Planning Code Section 215 establishes the dwelling unit density limitations for residential uses within the Industrial, Commercial and Production, Distribution and Repair zoning districts. The density limit shall be that of the nearest Residential district, but in no case less than the density allowed by an RM-1 district.

*The nearest Residential district is an RH-3 district, approximately 600 feet to the northwest of the project site. The RH-3 district generally allows up to three dwelling units. The proposal is for one dwelling unit, which is within the density limit for the RH-3 district.*

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 sponsor has provided documentation that indicates that 1,800 square feet of the second and third floors of the subject property have been used as a dwelling unit since 2007. Given the history of the use of the subject property and a lack of complaints regarding incompatibility, it is clear that the proposal is necessary and compatible with the neighborhood. Furthermore, the neighborhood is mixed use in character. The subject building would contain a residential use and an arts activity, which are compatible uses.*

- 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 height and bulk of the existing building will remain the same as there are no exterior alterations proposed.*

- 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;

*It is not anticipated that the proposal will aggravate accessibility and traffic patterns as the proposed use has been in existence since 2007 and the use itself is not one that will generate conditions that would adversely affect accessibility and traffic patterns.*

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

*The nature of the use is one where noxious or offensive emissions are not common.*

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

*The proposal does not include alterations to landscaping, screening or open spaces and does not add or alter parking and loading areas.*

- 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.*

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

## HOUSING ELEMENT

### Objectives and Policies

#### OBJECTIVE 1:

IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

#### Policy 1.8:

Promote mixed use development, and include housing, particularly permanently affordable housing, in new commercial, institutional or other single use development projects.

*The proposal will create a mixed use development with an arts activity use and a residential use within the same building.*

#### OBJECTIVE 11:

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

**Policy 11.8:**

Consider a neighborhood's character when integrating new uses, and minimize disruption caused by expansion of institutions into residential areas.

*The proposed legitimization of the residential use will complement the existing mixed use and mixed character of the project's surroundings as there are multifamily buildings, industrial and office uses in the immediate vicinity.*

**MISSION AREA PLAN**

**Objectives and Policies**

**OBJECTIVE 1.2:**

IN AREAS OF THE MISSION WHERE HOUSING AND MIXED-USE IS ENCOURAGED, MAXIMIZE DEVELOPMENT POTENTIAL IN KEEPING WITH NEIGHBORHOOD CHARACTER.

**Policy 1.2.1:**

Ensure that in-fill housing development is compatible with its surroundings.

*The proposal is in an area that is mixed use in character and that is adjacent to multiple multifamily buildings. As such, the proposal is found to be compatible with the neighborhood character.*

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 proposal is wholly residential and will not affect the retail uses in the vicinity,*

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

*The proposal is complimentary to the existing mixed use neighborhood character as the proposal seeks to legitimize a residential use.*

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

*The City's supply of affordable housing will not be affected as the project seeks to legitimize a residential use.*

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

*The proposal will not impede MUNI service or overburden neighborhood parking as there exists ample on-street parking on Enterprise Street and the use is the legitimization of an existing residential use.*

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

*The project will not displace any service or industry establishment as the project seeks to legitimize a residential use in existence since 2007.*

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

*The project will be required 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.

*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 impact on existing parks and open spaces. The Project does not have an impact 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. 2013.0863C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated September 18, 2010, 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 December 19, 2013.

Jonas P. Ionin  
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: December 19, 2013

## EXHIBIT A

### AUTHORIZATION

This authorization is for a conditional use to allow a residential use located at 1 Enterprise Street, Lot 018 in Assessor's Block 3572, pursuant to Planning Code Sections 179.1, 215 and 303 within the PDR-1G (Production, Distribution, Repair - General) District and a 58-X Height and Bulk District; in general conformance with plans, dated **September 18, 2010**, and stamped "EXHIBIT B" included in the docket for Case No. 2013.0863C and subject to conditions of approval reviewed and approved by the Commission on **December 19, 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 **December 19, 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).*

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

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

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

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

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

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

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

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

## MONITORING

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

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

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

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

## OPERATION

8. **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>*

9. **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>*

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

**Before the  
San Francisco Planning Commission**

**PROJECT SPONSOR'S SUBMITTAL IN SUPPORT OF  
APPLICATION FOR CONDITIONAL USE AUTHORIZATION**

**(PLANNING CODE SECTIONS 215 and 303)**

**For**

**Property Located at One Enterprise Street  
Block 3572, Lot 18**

**Project Sponsor:  
Baikonur 1701 LLC**

**Planning Department Case No. 2013.0863C**

**Hearing Date: December 19, 2013**

*Attorneys for Project Sponsor:*

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**REUBEN, JUNIUS & ROSE, LLP**

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t] 415 567 9000 f] 415 399 9480

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**A. INTRODUCTION**

In accordance with the Zoning Administrator’s (“ZA”) Letter of Legitimization dated May 14, 2013 (“ZA Letter”) for residential use at One Enterprise Street (“Property”), the owner, Baikonur 1701 LLC (“Project Sponsor”), seeks conditional use authorization pursuant to Planning Code Sections 215 and 303. The proposal meets the requirements of San Francisco’s General Plan and Planning Code, and is necessary to effectuate the Zoning Administrator’s determination. The residential portion of the property is currently occupied by Issac Roth, manager of Baikonur 1701 LLC and has been used continuously for residential use for over 35 years.

**B. SITE INFORMATION**

**Street Address:** One Enterprise Street  
**Cross Streets:** Folsom Street and Harrison Street  
**Assessor’s Block/Lot:** 3572/018  
**Zoning District:** PDR-1-G  
**Height/Bulk District:** 50-X  
**Lot Area:** 1,799 square feet  
**Existing Improvements:** Artist studio on ground floor and portion of second floor; residential use on portion of second floor and third floor.

**C. DESCRIPTION OF THE PROPOSED PROJECT**

On April 17, 2008, prior to the Eastern Neighborhoods Area Plan, the Property was zoned M-1 (Light Industrial). Planning Code Section 215 states that residential use is permitted with a Conditional Use Authorization at “a density ratio permitted in the closest residential district or no less than for an RM (Residential, Moderate Density)” in this Zoning District. The nearest residential district is RH-3 (Residential, House, Three-Family), thus, the single residential unit would be permitted through the approval of a Conditional Use Authorization.

The Eastern Neighborhoods Plan Area, which rezoned the subject property from M-1 to PDR-1-G, went into effect on January 17, 2009. Section 179.1 states that for a use to qualify for legitimization it must be “regularly operating or function[ing] on a continuous basis for no less than 2 years” prior to the date this section went into effect. Therefore, under this provision, January 17, 2007, is one qualifying date for determining whether a use qualifies for legitimization.

1. First Floor: This floor contains 1,335 square feet of artist studio space, with a 115 square-foot entry to the building. The studio space is classified as an “Arts Activity”

under Planning Code Section 102.2, and is not subject to the legitimization program, as it is permitted as-of-right in the PDR-1-G District under Planning Code Section 227(p).

2. Second Floor: This floor contains two distinct spaces: 500 square feet is used as an artist's studio (the two rooms at the front, or eastern part of the floor), and 350 square feet is used as residential space (in conjunction with the residential uses on the third floor). There is a 600 square foot 'common room' which is shared.

As detailed above, documentation was presented to the Zoning Administrator showing that the building is divided into two separate uses – an artist's studio space and a residential space. The residential space exceeds the threshold of ¼ the amount of use to which it might be considered accessory. Therefore, the residential space is not accessory to the artist studio space.

#### **D. COMPLIANCE WITH SECTION 303 (CONDITIONAL USE) CRITERIA**

The Project requires conditional use authorization by the Planning Commission to authorize the use legitimized by the ZA in his Letter of Legitimization dated May 14, 2013 (attached as **Exhibit A**) under the provisions of Planning Code Sections 215 and 303.

1. Desirability and Compatibility of Project

Planning Code section 303(c)(1) requires that facts be established which demonstrate the following:

**That the proposed use or feature, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.**

The property has been used as a dwelling unit continuously for more than 35 years. Prior to the adoption of the Eastern Neighborhoods Area Plan on April 17, 2008, the property was zoned M-1, which principally permitted residential use. Thirty-five years of experience has demonstrated compatibility with the neighborhood and the community.

2. Effect of Project on Health, Safety, Convenience or General Welfare

Planning Code section 303(c)(2) requires that facts be established which demonstrate the following:

**That such use or feature as proposed will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injuries to property, improvements or potential development in the vicinity, with**

respect to aspects including but not limited to the following:

- (a) **The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of the structure.**
- (b) **The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading.**
- (c) **The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor.**
- (d) **Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs.**

(a) The nature of the Project Site is appropriate for the Project.

No construction is proposed. Thirty five years of residential use has demonstrated that such use is not detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity. The existing single residential unit is of typical size and shape for older San Francisco buildings.

(b) Traffic patterns and parking will not be affected by the Project.

The existing use has had no effect on traffic patterns. The building provides off-street parking.

(c) The Project will not produce noxious emissions, noise, dust, etc.

The dwelling unit does not produce any offensive emissions such as noise, glare, dust or odor.

(d) Appropriate treatment has been given to landscaping, open space, parking, loading, service areas and lighting.

The building provides parking, landscaping, and exterior lighting.

### 3. Compliance with the General Plan

Planning Code Section 303(c)(3) requires that facts be established that demonstrate the following:

**That such use or feature as proposed will comply with the applicable provisions of this code and will not adversely affect the General Plan.**

*The Project will comply with the Planning Code and will affirmatively promote, will be consistent with, and will not adversely affect the General Plan, including the following objectives and policies:*

**Housing Element Objectives and Policies**

The objectives and policies of the Residence Element of the General Plan encourage the provision of new housing, the affordability of housing and a quality living environment.

**Housing Supply**

Objective 1. Provide new housing in appropriate locations which meets identified housing needs and takes into account the demand for affordable housing created by employment demand.

Policy 1.7. Encourage and support the construction of quality, new housing.

**Housing Density, Design and Quality of Life**

Objective 11. In increasing the supply of housing, pursue place making and neighborhood building principles and practices to maintain San Francisco’s desirable urban fabric and enhance livability in all neighborhoods.

Policy 11.1. Use new housing development as a means to enhance neighborhood vitality and diversity.

*The Project appropriately locates housing in an established neighborhood and increases the City’s supply of housing.*

**Neighborhood Environment**

Objective 4. Improvement of the neighborhood environment to increase personal safety, comfort, pride and opportunity.

**E. MASTER PLAN PRIORITY POLICIES**

Code Section 101.1 establishes the following eight priority planning policies and requires review of permits for consistency with said policies. The Project and this Conditional Use application are consistent with each of these policies as follows:

1. That Existing Neighborhood-Serving Retail Uses Be Preserved and Enhanced and Future Opportunities for Resident Employment in and Ownership of Such Businesses Enhanced

The Project does not affect retail uses.

2. That Existing Housing And Neighborhood Character Be Conserved And Protected In Order To Preserve The Cultural And Economic Diversity Of Our Neighborhoods

The existing housing will be preserved.

3. That the City's Supply Of Affordable Housing Be Preserved And Enhanced

The Project does not affect affordable housing.

4. That Commuter Traffic Not Impede MUNI Transit Service Or Overburden Our Streets or Neighborhood Parking

The Project does not affect commuter traffic.

5. That A Diverse Economic Base Be Maintained By Protecting Our Industrial And Service Sectors From Displacement Due To Commercial Office Development, and That Future Opportunities for Resident Employment and Ownership in These Sectors Be Enhanced

The Project does not affect industrial or service sectors.

6. That The City Achieve the Greatest Possible Preparedness to Protect Against Injury And Loss of Life in an Earthquake

The Project does not affect earthquake preparedness.

7. That Landmarks And Historic Buildings Be Preserved

The subject building is neither a landmark nor a historic building. In any event, the building is being completely preserved.

8. That Our Parks And Open Space And Their Access To Sunlight And Vistas Be Protected From Development

The Project does not affect open space or access to sunlight.

F. CONCLUSION

The Project satisfies all of the criteria of the Planning Code and the Master Plan for approval of a Conditional Use Authorization, and the use has been legitimized by the Zoning Administrator Letter of Legitimization attached as Exhibit A. Accordingly, we respectfully request the Planning Commission to authorize the requested conditional use.

Respectfully,

REUBEN, JUNIUS & ROSE, LLP  
Attorneys for Project Sponsor

A handwritten signature in black ink, appearing to read "David Silverman", written over a horizontal line.

Dated: December 2, 2013

By: David Silverman

**LIST OF EXHIBITS**

- Exhibit A – Zoning Administrator Letter of Legitimization dated May 14, 2013
- Exhibit B – Plans, Elevations, and Sections
- Exhibit C – Photograph of Site

# EXHIBIT A



# SAN FRANCISCO PLANNING DEPARTMENT

## Letter of Legitimization

May 14, 2013

David Silverman  
Reuben & Junius, LLP  
One Bush Street, Suite 600  
San Francisco, CA 94104

Site Address:  
Assessor's Block/Lot:  
Zoning District:  
Staff Contact:

One Enterprise Street  
3572/018  
PDR-1-G (Production, Distribution, Repair)/58-X  
Julian J. Bañales (415) 558-6339  
[julian.banales@sfgov.org](mailto:julian.banales@sfgov.org)

Dear Mr. Silverman:

This letter is in response to your request for a Letter of Legitimization per Planning Code Section 179.1 regarding the property at One Enterprise Street. This parcel is sited on the north side of the street, which is located off Folsom Street between 16<sup>th</sup> and 17<sup>th</sup> Streets. It is located within the PDR-1-G (Production, Distribution, Repair, General) Zoning District and 58-X Height and Bulk District. The request is to legitimize approximate 1,800 square feet of residential space on the second and third floors of the building.

### Procedural Background

The Department received the request for legitimation of the residential space at One Enterprise Street on January 13, 2012. Staff reviewed the request and associated materials and the Zoning Administrator issued a 30-day public notice of the intent to issue the Letter of Legitimization on April 10, 2013. The public notice also included a draft letter for review, and was sent to 1) all owners of property within 300 feet of the subject property, 2) all current tenants of the subject property, and 3) all individuals and neighborhood associations that had requested to receive such notice. Additionally, notice was posted on the site during the notification period. The notification period expired on May 9, 2013.

### Eligibility

The land use proposed for legitimation is deemed eligible if it meets the following criteria:

- i. The land use existed as of the date of the application;

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

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

*Documentation was presented that 1,800 square feet of residential use on the second and third floors existed as of January 13, 2012, the date the application was filed with the Planning Department.*

- ii. The land use would have been principally permitted or permitted with a Conditional Use Authorization under provisions of the Planning Code that were effective on April 17, 2008;

*On April 17, 2008, prior to the Eastern Neighborhoods Area Plan, the subject property was zoned M-1 (Light Industrial). Planning Code Section 215 states that residential use is permitted with a Conditional Use Authorization at "a density ratio permitted in the closest residential district or no less than for an RM (Residential, Moderate Density)" in this Zoning District. The nearest residential district is RH-3 (Residential, House, Three-Family), thus, the single residential unit would be permitted through the approval of a Conditional Use Authorization.*

- iii. The land use would not be permitted under current provisions of the Planning Code;

*The property is currently zoned PDR-1-G (Production, Distribution, Repair, General). Planning Code Section 215 outlines what uses are permitted, not permitted, or requires a Conditional Use Authorization in the PDR-1-G Zoning District. Residential uses are not permitted pursuant to Planning Code Section 215.*

- iv. The land use either has been (1) regularly operating or functioning on a continuous basis for no less than 2 years prior to the effective date of Planning Code Section 179.1, or (2) functioning in the space since at least April 17, 2008, and is associated with an organization, entity or enterprise which has been located in this space on a continuous basis for no less than 2 years prior to the effective date of Planning Code Section 179.1;

*At the date of qualification on January 17, 2007,<sup>1</sup> the building was owned by Beth Weintraub, who used the space as an artist's studio and residence. Documentation including property insurance and utility bills show that the building was used for residential purposes. In 2005, Beth Weintraub leased a portion of the building to 'Weintraub Studios Inc.' for a thirty-year term. Grant deeds submitted with the application show that the property was sold to 'Baikonur 1701 LLC' on June 11, 2011. On July 1, 2011, the owner leased the property to two tenants: Jamie Emerick, individual, for artist's studio space on the first and second floors, and Issac Roth, individual, for residential use on the second and third floors.*

*The following outlines the land uses by floor:*

---

<sup>1</sup> The Eastern Neighborhoods Plan Area, which rezoned the subject property from M-1 to PDR-1-G, went into effect on January 17, 2009. Section 179.1 states that for a use to qualify for legitimization it must be "regularly operating or function[ing] on a continuous basis for no less than 2 years" prior to the date this section went into effect. Therefore, under this provision, January 17, 2007, is one qualifying date for determining whether a use qualifies for legitimization.

1. First Floor: This floor contains 1,335 square feet of artist studio space, with a 115 square-foot entry to the building, which is used by both tenants. The studio space is classified as an "Arts Activity" under Planning Code Section 102.2, and is not subject to the legitimization program, as it is permitted as-of-right in the PDR-1-G District under Planning Code Section 227(p) ("Other Uses").
2. Second Floor: This floor contains two distinct spaces: 500 square feet is used as an artist's studio (the two rooms at the front, or eastern part of the floor), and 350 square feet is used as residential space (in conjunction with the residential uses on the third floor). There is a 600 square foot 'common room' which is shared by both tenants. This space does not qualify as residential use as it is shared between both uses and lease documentation does not call out this space for the residential tenant.
3. Third Floor: This floor contains 1,450 square feet of residential space.

- v. The land use is not accessory to any other use;

*As detailed above, documentation was presented showing that the building is divided into two separate uses – an artist's studio space and a residential space. The residential space exceeds the threshold of ¼ the amount of the use to which it might be considered accessory. Therefore, the residential space is not accessory to the artist studio space.*

- vi. The land use is not discontinued and abandoned pursuant to the provisions of Planning Code Section 183 that would otherwise apply to nonconforming uses.

*Documentation submitted indicates that 1,800 square feet of space on the second and third floors have remained occupied during the required period.*

## Determination

It is my determination that only 1,800 gross square feet on the second and third floors meets all the required criteria of Planning Code Section 179.1 and is therefore deemed to be a legal "Residential Use" as defined in Planning Code 215. A Notice of Special Restrictions shall be filed on the subject property documenting the specific building area legitimized as residential space as listed in this letter and documented on the proposed plans, attached as Exhibit B, prior to the approval of a site or building permit establishing such residential space. This determination is not a project approval, or in any way a substitute for a Building Permit Application for the change of use to residential space.

Please note that before a Building Permit Application may be approved to legally convert the subject gross floor area to residential use, this project must obtain Planning Commission approval for a Conditional Use Authorization pursuant to Planning Code Sections 215 and 303 and must pay the applicable legitimization and other associated fees.

David Silverman  
Reuben & Junius LLP  
One Bush Street, Suite 600  
San Francisco, CA 94104

May 14, 2013  
Land Use Legitimization Letter  
One Enterprise Street

APPEAL: If you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals within 15 days of the date of the Letter of Legitimization. For information regarding the appeals process, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

Sincerely,

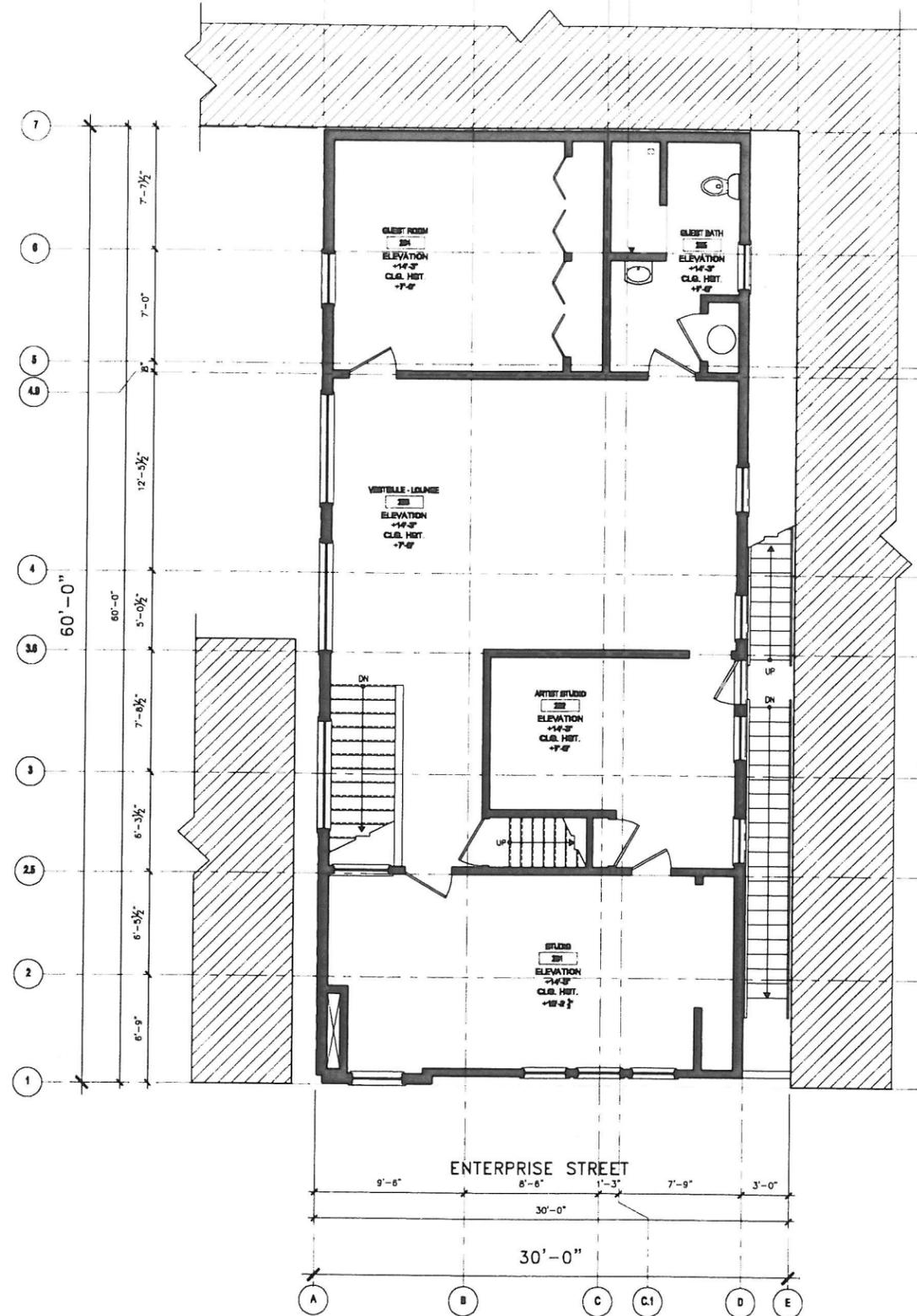


Scott F. Sanchez  
Zoning Administrator

cc: Julian J. Bañales, Planner  
Planning Commissioners  
All Parties on the Notification Request List

## EXHIBIT B





**1** EXISTING SECOND FLOOR PLAN  
 scale: 1/4" = 1'-0"

## SECOND FLOOR SQUARE FOOTAGE TABULATIONS

### COMMERCIAL USE

201 ARTIST STUDIO 308 SF  
 202 ARTIST STUDIO 192 SF

### ANCILLARY USE

203 SHARED VESTIBULE - LOUNGE 600 SF

### RESIDENTIAL USE

204 GUEST ROOM 245 SF  
 205 GUEST BATH 105 SF

**TOTAL INTERIOR SQUARE FOOTAGE 1450 SF**

1 ENTERPRISE STREET  
 SAN FRANCISCO, CA 94103

BLOCK 3572, LOT 018

Ken Brogno, AIA LEED AP



52 SHOTWELL STREET  
 SAN FRANCISCO, CA 94103  
 T: 415.360.7549  
 ken@brogno.com

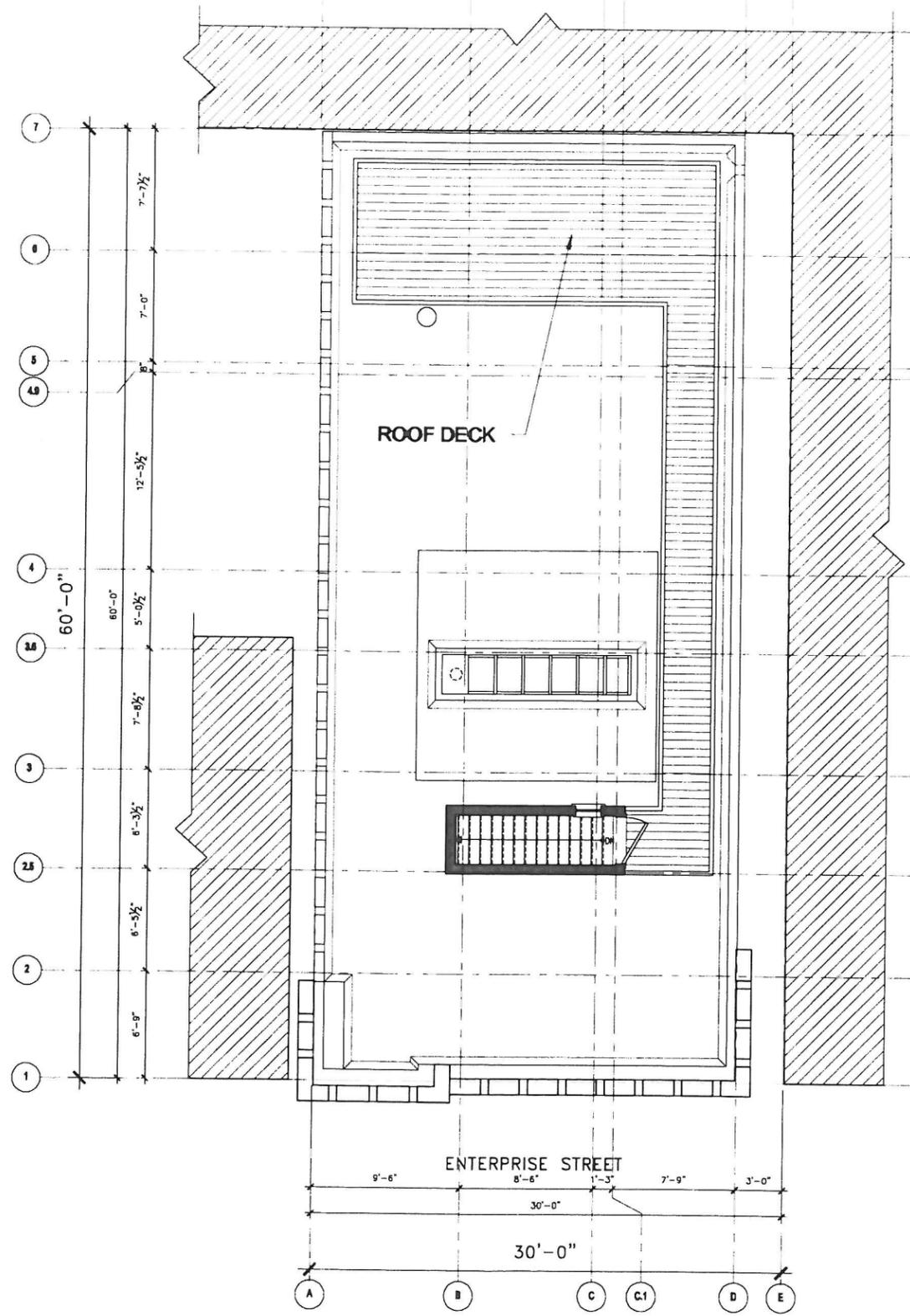
DATE	DESCRIPTION
10-28-2011	ZONING ADMINISTRATOR EXHIBITS

JOB NUMBER: 1-ENTERPRISE DRAWN BY:  
 DATE: 01/18/10 CHECKED BY: KB  
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 SHEET TITLE: EXISTING SECOND FLOOR PLAN  
 SHEET NUMBER:

**A1-2**



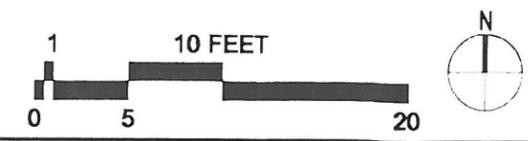




# ROOF SQUARE FOOTAGE TABULATIONS

ROOF DECK                      348 SF

**1** EXISTING ROOF PLAN  
scale: 1/4" = 1'-0"



1 ENTERPRISE STREET  
SAN FRANCISCO, CA 94103

BLOCK 3572, LOT 018

Ken Brogno, AIA LEED AP



52 SHOTWELL STREET  
SAN FRANCISCO, CA 94103  
T: 415.350.7549  
ken@brogno.com

DATE	DESCRIPTION
10-28-2011	ZONING ADMINISTRATOR EXHIBITS

JOB NUMBER: 1-ENTERPRISE                      DRAWN BY:

DATE: 01/18/10                                      CHECKED BY: KB

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SHEET NUMBER:

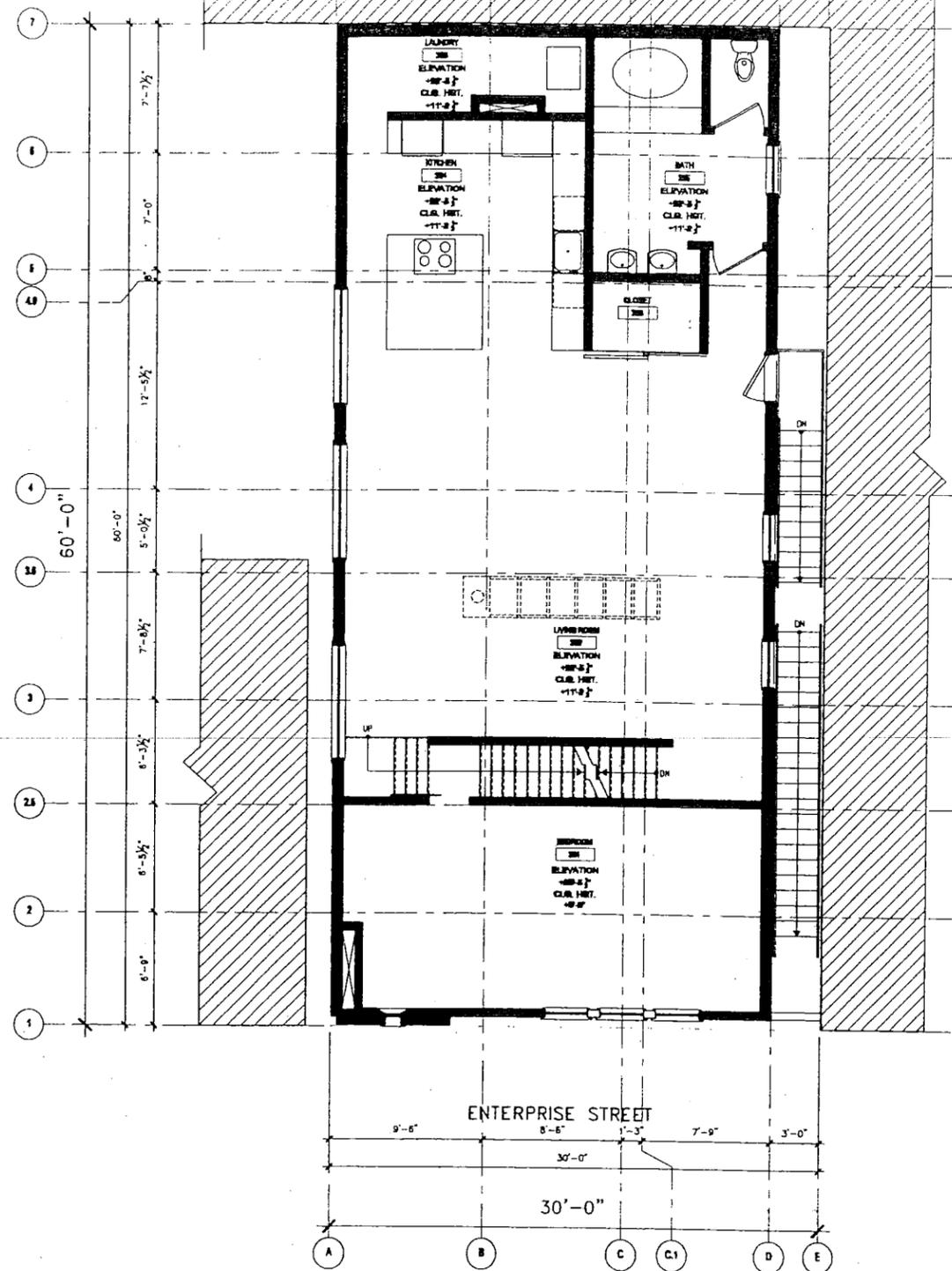
**A1-4**

## EXHIBIT C









**1** EXISTING THIRD FLOOR PLAN  
 scale: 1/4" = 1'-0"

## THIRD FLOOR SQUARE FOOTAGE TABULATIONS

### RESIDENTIAL USE

301 BEDROOM	306 SF
302 LIVING ROOM	712 SF
303 CLOSET	28 SF
304 KITCHEN	200 SF
305 BATH	142 SF
306 LAUNDRY	62 SF

**TOTAL INTERIOR SQUARE FOOTAGE 1450 SF**

1 ENTERPRISE STREET  
 SAN FRANCISCO, CA 94103

BLOCK 3572, LOT 018

Ken Brogno, AIA LEED AP



62 SHOTWELL STREET  
 SAN FRANCISCO, CA 94103  
 T: 415.360.7549  
 ken@brogno.com

10-28-2011	ZONING ADMINISTRATOR EXEMPTS

JOB NUMBER: 1-ENTERPRISE  
 DATE: 07/18/18  
 SCALE: 1/4" = 1'-0"

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 CHECKED BY: KB

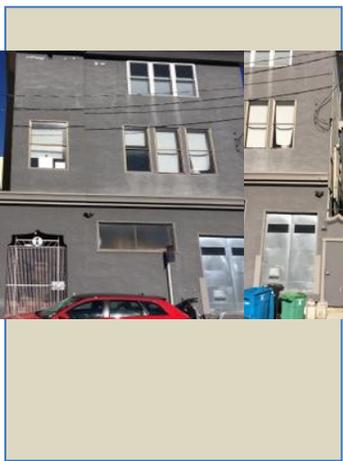
SHEET TITLE: EXISTING THIRD FLOOR PLAN

SHEET NUMBER: **A1-3**





Enterprise St - North side



Folsom

1 Enterprise  
Subject Property

Enterprise St  
South side

