



# SAN FRANCISCO PLANNING DEPARTMENT

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## Executive Summary Condominium Conversion Subdivision

HEARING DATE: NOVEMBER 14, 2013  
CONSENT CALENDAR

*Date:* November 7, 2013  
*Case No.:* **2013.1316Q**  
*Project Address:* **1865 CLAY STREET**  
*Zoning:* RM-3 (Residential, Mixed, Moderate Density) District  
105-D Height and Bulk District  
*Block/Lot:* 0623/008  
*Project Sponsor:* Goldstein, Gellman, Melbostad, Harris & McSparran  
Brian de los Santos  
1388 Sutter Street, Suite 1000  
San Francisco, CA 94109  
*Staff Contact:* Christine Lamorena – (415) 575-9085  
[christine.lamorena@sfgov.org](mailto:christine.lamorena@sfgov.org)  
*Recommendation:* **Approval**

### PROJECT DESCRIPTION

The project proposes to convert a three-story over garage, six-unit building into residential condominiums. No alterations to the building are proposed other than those that result from the Department of Building Inspection’s Physical Inspection Report. The Subdivision Code requires that the Planning Commission hold a public hearing to review condominium conversion subdivisions containing five to six residential units for consistency with the General Plan.

#### Residential Unit Description

Unit No.	Square-Feet	No. of Bedrooms
1	1630	3
2	1630	3
3	1630	3
4	1630	4
5	1630	3
5	1630	3

**Rental History:**

- Five out of six dwelling units are owner-occupied.

**Five-Year Rental History**

Unit #	Duration	Occupant	Rent	Reason for Leaving	Purchaser
1	1/1/12-present	Greig & Kelly McKale	\$5,100	n/a	No
	11/30/11-1/1/12	Vacant	n/a	n/a	n/a
	3/15/10-11/30/11	Kelly Campbell & Bill Kotzman	\$4,500	Relocated	n/a
2	5/31/07-3/14/10	Percival Edwin Perry III	Own	Relocated	Yes
	6/29/07-present	John & Amy Kirschbaum	Own	n/a	Yes
	7/17/07-present	James R. Henry & Margaret M. Kelly	Own	n/a	Yes
3	10/8/10-present	Brian & Bethany Proses	Own	n/a	Yes
	6/20/05-9/15/10	Miriam Lipton	Own	Sold	n/a
	4/15/13-present	Mark Richter & Carly Kerper	Own	n/a	Yes
4	1/15/12-4/15/13	Albert & Kristin Leung	\$5,750	Relocated	n/a
	5/15/07-11/1/11	Mark Richter	Own	Relocated	n/a
	11/6/07-present	Marcella Ward Laderman	Own	n/a	Yes

**SITE DESCRIPTION AND PRESENT USE**

The project site is located at 1865 Clay Street on the south side of Clay Street Street between Franklin Street and Van Ness Avenue on Assessor’s Block 0623, Lot 008. The project site is located within a RM-3 (Residential, Mixed, Moderate Density) Zoning District and 105-D Height and Bulk District. The subject lot is approximately 4,900 square feet in size (approximately 39 wide by 128 feet deep). The three-story over garage building contains six dwelling units and was constructed circa 1914.

**SURROUNDING PROPERTIES AND NEIGHBORHOOD**

The project site is located in the Pacific Heights neighborhood. The surrounding development consists of multi-unit residential buildings with the scale of development in the area consisting of four- to 11-story structures. The property immediately adjacent to the west at 1856 Franklin Street is a four-story building containing eight dwelling units. The property immediately adjacent to the east at 1855 Clay Street is a three-story over garage building containing six dwelling units.

**ENVIRONMENTAL REVIEW STATUS**

The project is exempt from the California Environmental Quality Act (“CEQA”) as a Class 1 categorical exemption.

### HEARING NOTIFICATION REQUIREMENTS

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Posted Notice	10 days	November 4, 2013	November 4, 2013	10 days
Mailed Notice	10 days	November 4, 2013	November 4, 2013	10 days

### PUBLIC COMMENT

- To date, the Department has not received any letters or phone calls in support of or in opposition to the project.

### ISSUES AND OTHER CONSIDERATIONS

- The Subdivision Code requires that the Planning Commission hold a public hearing to review condominium conversion subdivisions containing five to six units, where at least one unit is residential, for consistency with the General Plan. Similar projects with four or fewer units are approved administratively. This provision requiring Planning Commission review for larger projects may be a residual of former rent control regulations.

### REQUIRED COMMISSION ACTION

The proposed project requires Planning Commission approval under Section 3.527 of the Charter and Sections 1332 and 1381 of the Subdivision Code to allow the condominium conversion subdivision of five to six residential unit buildings. Findings must be made that the proposal is consistent with the General Plan and the Subdivision Code.

### BASIS FOR RECOMMENDATION

- The proposed project is consistent with the Housing Element of the General Plan in that the existing supply of housing will be maintained, the condominium subdivision application is subject to the restrictions of the Subdivision Code, and the subdivision will allow for home ownership opportunities for San Francisco residents.
- The eight priority planning policies set forth by City Planning Code Section 101.1 are met.
- The project meets the requirements for condominium conversions under the California State Map Act and the San Francisco Subdivision Code.

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

Block Book Map  
Sanborn Map  
Zoning Map  
Aerial Photograph  
Site Photograph

## Exhibit Checklist

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Executive Summary   | <input type="checkbox"/> Project sponsor submittal        |
| <input checked="" type="checkbox"/> Draft Motion        | Drawings: <u>Existing Conditions</u>                      |
| <input type="checkbox"/> Environmental Determination    | <input type="checkbox"/> Check for legibility             |
| <input checked="" type="checkbox"/> Zoning District Map | Drawings: <u>Proposed Project</u>                         |
| <input type="checkbox"/> Height & Bulk Map              | <input type="checkbox"/> Check for legibility             |
| <input checked="" type="checkbox"/> Block Book Map      | <input type="checkbox"/> Health Dept. review of RF levels |
| <input checked="" type="checkbox"/> Sanborn Map         | <input type="checkbox"/> RF Report                        |
| <input checked="" type="checkbox"/> Aerial Photos       | <input type="checkbox"/> Community Meeting Notice         |
| <input type="checkbox"/> Context Photo                  | <input type="checkbox"/> Public Correspondence            |
| <input checked="" type="checkbox"/> Site Photo          |   |

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

\_\_\_\_\_  
CL  
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

HEARING DATE: NOVEMBER 14, 2013

*Date:* November 7, 2013  
*Case No.:* **2013.1316Q**  
*Project Address:* **1865 CLAY STREET**  
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**ADOPTING FINDINGS RELATING TO THE REVIEW FOR CONSISTENCY WITH THE GENERAL PLAN TO ALLOW A CONDOMINIUM CONVERSION SUBDIVISION OF A THREE-STORY OVER GARAGE, SIX-UNIT BUILDING INTO RESIDENTIAL CONDOMINIUMS WITHIN A Rm-3 (RESIDENTIAL, MIXED, MODERATE DENSITY) ZONING DISTRICT AND A 105-D HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On September 6, 2013, Brian de los Santos (hereinafter “Project Sponsor”) filed an application with the Department of Public Works, Bureau of Street Use and Mapping for Planning Department review to allow the Condominium Conversion Subdivision of a three-story over garage, six-unit building into residential condominiums within a RM-3 (Residential, Mixed, Moderate Density) Zoning District and a 105-D Height and Bulk District. The subject building is considered a legal use as the Report of Residential Building Record indicates that the legal authorized occupancy and use is six dwellings.

On November 14, 2013, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Condominium Conversion Subdivision Application No. 2013.1316Q.

Section 1396, Article 9 of the Subdivision Code of the City and County of San Francisco sets forth the following rules and regulations for condominium conversions:

- A. Units may be converted to condominiums so long as they meet the requirements of the Expedited Conversion Program per the Subdivision Code. An exception is provided for two-unit buildings where both units are owner-occupied for one year.
- B. The following categories of buildings may be converted to condominiums:
  - i. Buildings consisting of four units or less in which at least one of the units has been occupied continuously by one of the owners of record for five years prior to the date of application for conversion.
  - ii. Buildings consisting of six units or less in which at least three of the units have been occupied continuously by three of the owners of record for five years prior to the date of application for conversion.

The Subdivision Code requires that the Planning Commission hold a public hearing to review condominium conversion subdivisions containing five to six units for consistency with the General Plan where at least one unit is residential. The Code calls for a sales program which promotes affirmative action in housing, a non-transferable tenant right of first-refusal to purchase the unit occupied by the tenant and various relocation requirements, including the right to a \$1,000 relocation payment.

The Subdivision Code further provides for a lifetime lease for all tenants aged 62 years or older and/or are permanently disabled, and requires that no less than 40 percent of the tenants either have signed Intent to Purchase forms or be in a position of accepting such a lifetime lease. The Code prohibits any increase in rents while the conversion application is pending before the City.

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 approves the Condominium Conversion Subdivision requested in Application No. 2013.1316Q 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. The applicant requests Planning Department review of a Condominium Conversion Subdivision Application to allow for the conversion of the multi-unit building.
3. As required by Section 1396 of the San Francisco Subdivision Code, at least three of the units have been owner occupied continuously by one or more of the owners of record for five years prior to the date of application for conversion.
4. Tenants in the subject building were notified of their right-of-first refusal to purchase the unit they occupy, as required by the Subdivision Code, and of other rights to which they are entitled under provisions of the same Code.
5. A search of the Rent Board database did not show any tenant petitions or eviction notices filed with the Rent Board in the last 5 years.
6. On balance, the Project is consistent with the Objectives and Policies of the General Plan, as follows:

## 2009 HOUSING ELEMENT

### Objectives and Policies

#### OBJECTIVE 3:

PROTECT THE AFFORDABILITY OF THE EXISTING HOUSING STOCK, ESPECIALLY RENTAL UNITS.

#### Policy 3.1:

Preserve rental units, especially rent controlled units, to meet the City's affordable housing needs.

*This application was submitted through the Expedited Conversion Program, which sets owner-occupancy requirements for condominium conversions. Conversion of the subject property would allow for home ownership opportunities for San Francisco residents.*

7. **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 would have no adverse effect upon existing neighborhood-serving retail uses as it is a change in form of residential tenure.*
  - 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 a change in form of residential tenure and would not alter the existing housing and neighborhood character of the vicinity.*

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

*No housing would be removed for this project.*

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

*The proposal is a change in form of residential tenure and would not affect public transit or neighborhood parking.*

- 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 proposal is a change in form of residential tenure and would not involve the industrial or service sectors of the City.*

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

*The proposal is subject to inspection by the Department of Building Inspection and will be required to make any code required repairs, including those related to life safety issues, prior to the recordation of the final condominium subdivision map.*

- G. That landmarks and historic buildings be preserved.

*The proposal is a change in form of residential tenure and would not affect landmarks or historic buildings.*

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

*The proposal is a change in form of residential tenure and would not affect public parks or open space.*

8. 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.

9. The Commission hereby finds that approval of the Condominium Conversion Subdivision would promote the health, safety and welfare of the City.

**DECISION**

That based upon the Record, the submissions by the Applicant, Department staff 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 Condominium Conversion Subdivision Application No. 2013.1316Q.**

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on November 14, 2013.

Jonas Ionin  
Acting Commission Secretary

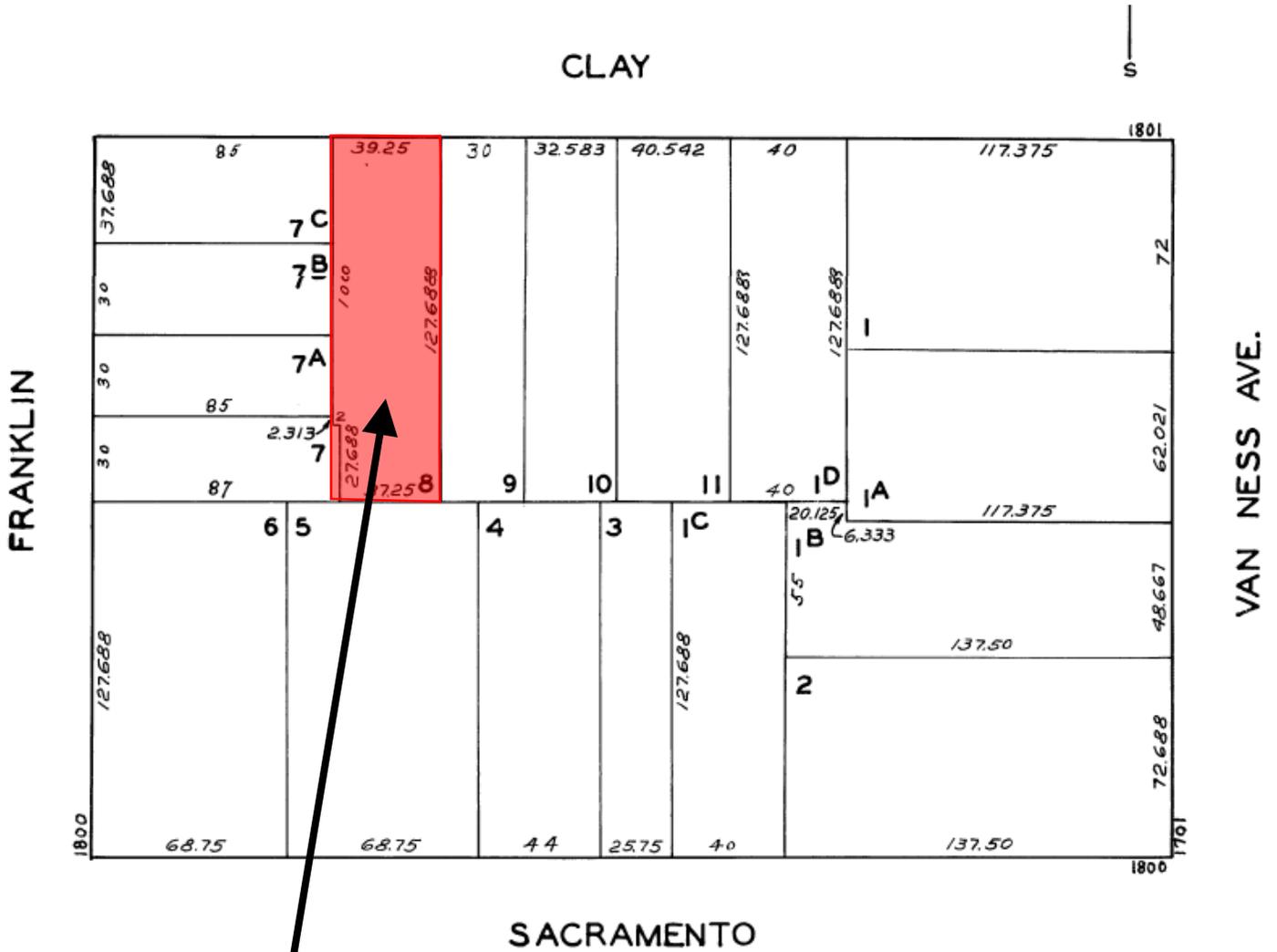
AYES:

NAYS:

ABSENT:

ADOPTED: November 14, 2013

# Block Book Map

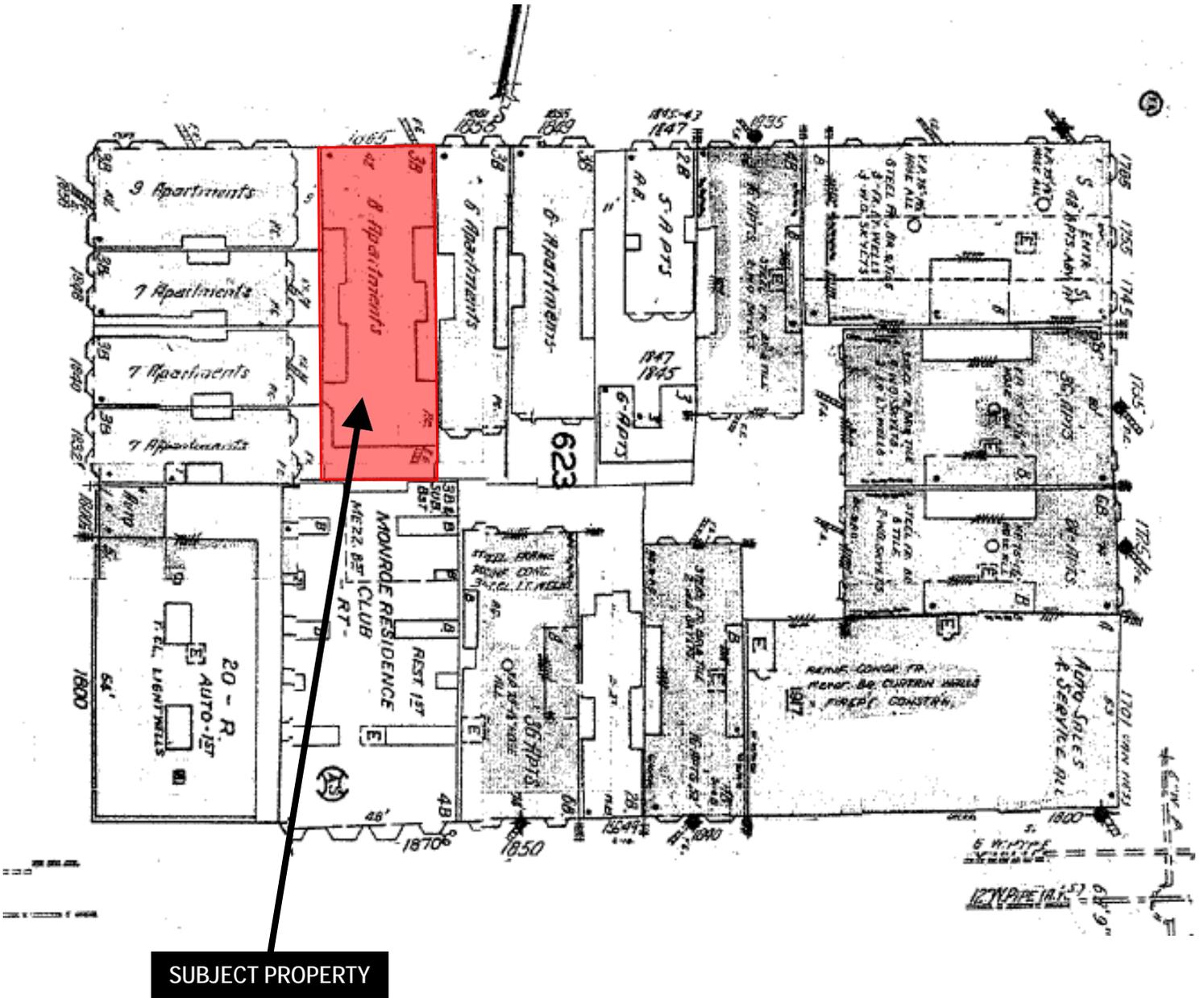


**SUBJECT PROPERTY**



Condominium Conversion Hearing  
 Case Number 2013.1316Q  
 1865 Clay Street  
 Block 0623 Lot 008

# Sanborn Map\*

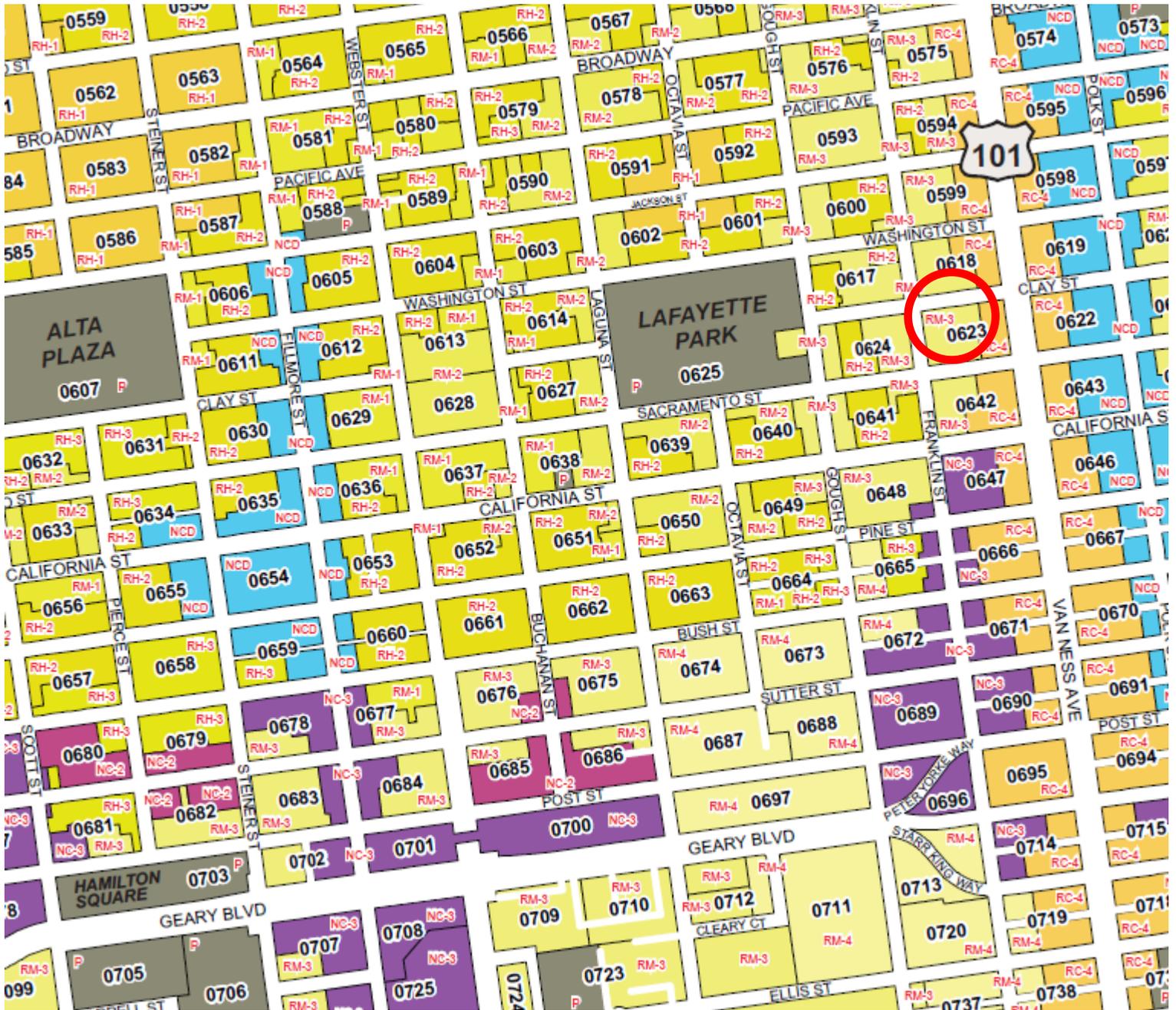


\*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.



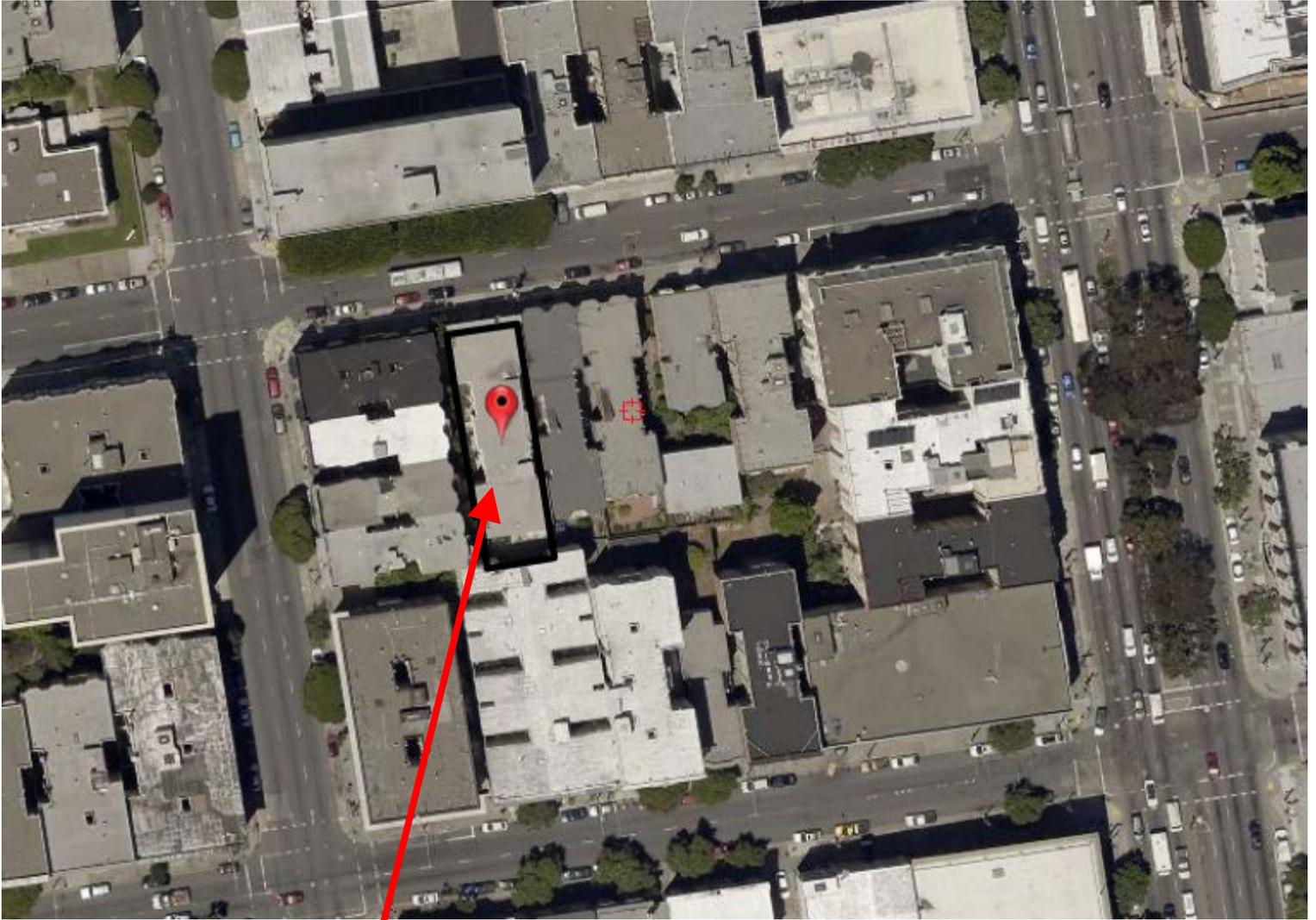
Condominium Conversion Hearing  
Case Number 2013.1316Q  
1865 Clay Street  
Block 0623 Lot 008

# Zoning Map



Condominium Conversion Hearing  
Case Number 2013.1316Q  
1865 Clay Street  
Block 0623 Lot 008

# Aerial Photo



**SUBJECT PROPERTY**



Condominium Conversion Hearing  
Case Number 2013.1316Q  
1865 Clay Street  
Block 0623 Lot 008

# Site Photo



SUBJECT PROPERTY

Condominium Conversion Hearing  
Case Number 2013.1316Q  
1865 Clay Street  
Block 0623 Lot 008