



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use

HEARING DATE: FEBRUARY 13, 2014

Date: February 6, 2014
Case No.: **2013.1648C**
Project Address: **1945 Hyde Street**
Zoning: NC-1 Neighborhood Commercial Cluster District
40-X Height and Bulk District
Block/Lot: 0123/002
Project Sponsor: Jay Esopenko
312 Union Street
San Francisco, CA 94133
Staff Contact: Kanishka Burns – (415) 575-9112
kanishka.burns@sfgov.org
Recommendation: **Approval with Conditions**

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415.558.6377

PROJECT DESCRIPTION

The project sponsor seeks a Conditional Use Authorization, pursuant to Planning Code Section 303 and 710.44 to establish an 850 square foot Restaurant (d.b.a Union Larder) which will operate as a Bona Fide Eating Place with accessory retail specialty grocery, in a vacant ground floor commercial space. The building was previously occupied by an automotive service station and private parking garage and was converted to seven residential condominiums with ground floor commercial space in 2012. The project sponsor is proposing to operate an eating and drinking establishment with ABC license type 41 allowing the sale of beer and wine for consumption on the premises. The proposed restaurant is independently owned and operated and is not a formula retail use. No exterior alterations are proposed.

SITE DESCRIPTION AND PRESENT USE

The Project Site is located on the west side of Hyde Street between Russell and Union Streets, Assessor's Block 0123, Lot 002. It is located within the Neighborhood Commercial Cluster (NC-1) Zoning District and the 40-X Height and Bulk District. The Project Site is located within a ¼ mile of the Polk Street Neighborhood Commercial District and the Pacific Avenue Neighborhood Commercial District.

The Project Site is occupied by a three-story over basement mixed-use building, with one first story commercial space and seven dwelling units above. From 1910 to 2011 the subject structure was operating as an automotive service station and parking garage. The change of use project was approved by this Commission on June 16, 2011 as a Discretionary Review and has been under construction since 2012. The commercial space has been vacant since December 16, 2013 when construction was completed.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The area surrounding the Project Site is mixed-use in character. A variety of commercial establishments are located within ground floor storefronts in this Neighborhood Commercial Cluster District, including eating and drinking uses, personal services, grocery stores and other types of retailers. In some cases residential and office uses are located the ground floor. Buildings in the vicinity typically range from two to four stories in height.

The adjacent property to the north consists of a two story mixed use building with two ground floor commercial uses including a retail jewelry store (d.b.a. No. 3) and a limited restaurant (d.b.a. Swensen's Ice Cream). Across Hyde Street is a three story mixed-use building consisting of ten dwelling units above a grocery store (d.b.a. Searchlight Market), laundromat (d.b.a. The Missing Sock Laundry) and a bar (d.b.a. Bacchus Wine Bar). The Hyde Street Cable Car operates on Hyde Street in front of the project site.

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 24, 2014	January 24, 2014	20 days
Posted Notice	20 days	January 24, 2014	January 24, 2014	20 days
Mailed Notice	20 days	January 24, 2014	January 24, 2014	20 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 received no public comment regarding the project.

ISSUES AND OTHER CONSIDERATIONS

- The business is locally owned and operated. The Project Sponsor also owns a specialty grocery (d.b.a. The Little Vine) in the North Beach neighborhood and intends to expand his business model with the proposed restaurant.
- The change of use from vacant commercial to Restaurant will increase the concentration of eating and drinking uses within the NC-1 District and the immediate area from 22 percent to 25 percent.
- The subject NC-1 District is two blocks long along Hyde Street, approximately 550 feet between Allen Street and Green Street. It includes 23 ground floor commercial uses, including seven eating and drinking uses, five of which are restaurants. The District is intersected by six cross streets, creating a disproportionately high number of corner buildings with increased frontages.

Of the seven eating and drinking uses in the District, four of them are located at corner buildings contributing to the elevated frontage percentage of eating and drinking uses.

REQUIRED COMMISSION ACTION

In order for the Project to proceed, the Commission must grant Conditional Use Authorization to establish a Restaurant, pursuant to Planning Code Section 303, 710.44 and 790.91.

BASIS FOR RECOMMENDATION

- The proposed Restaurant will enable an independent, local business owner to continue his business model while providing desirable goods and services to the surrounding neighborhood.
- The Project meets all applicable requirements of the Planning Code.
- The Project is desirable for, and compatible with the surrounding neighborhood.
- The business is not a Formula Retail use and would serve the immediate neighborhood.

RECOMMENDATION: Approval with Conditions
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Attachments:

- Draft Motion
- Block Book Map
- Sanborn Map
- Zoning Map
- Aerial Photographs
- Site Photo
- Reduced Plans
- Public Correspondence

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 type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Aerial Photo | <input type="checkbox"/> Wireless Telecommunications Materials |
| <input 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

KB

Planner's Initials

KB: G:\Documents\Cases\2013.1648C - 1945 Hyde St\Official Documents\1945 Hyde St. - Exec Summary.doc



SAN FRANCISCO PLANNING DEPARTMENT

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 RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303, 710.44, and 790.91 OF THE PLANNING CODE TO ESTABLISH A RESTAURANT (DBA UNION LARDER) WHICH WILL OPERATE AS A BONA FIDE EATING PLACE. THE PROPERTY IS LOCATED WITHIN THE NEIGHBORHOOD COMMERCIAL CLUSTER DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On November 11, 2013, Jay Espopenko (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Section(s) 710.44 and 790.91 to establish a restaurant (d.b.a. Union Larder) within the Neighborhood Commercial Cluster (NC-1) District and a 40-X Height and Bulk District.

On February 13, 2014, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing of a regularly scheduled meeting on Conditional Use Application No. 2013.1648C.

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 Authorization requested in Application No. 2013.1648C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The Project Site is located on the west side of Hyde Street between Russell and Union Streets, Assessor's Block 0123, Lot 002. It is located within the Neighborhood Commercial Cluster (NC-1) Zoning District and the 40-X Height and Bulk District.

The Project Site is occupied by a three-story over basement mixed-use building with one first story commercial space and seven dwelling units above. From 1910 to 2011 the subject structure was operating as an automotive service station and parking garage. The change of use project was approved by this Commission on June 16, 2011 as a Discretionary Review and has been under construction since 2012. The commercial space has been vacant since December 16, 2013 when construction was completed.

3. **Surrounding Properties and Neighborhood.** The area surrounding the Project Site is mixed-use in character. A variety of commercial establishments are located within ground floor storefronts in this Neighborhood Commercial Cluster District, including eating and drinking uses, personal services, grocery stores and other types of retailers. In some cases residential and office uses are located above the ground floor. Buildings in the vicinity typically range from two to four stories in height.

The adjacent property to the north consists of a two story mixed use building with two ground floor commercial uses including a retail jewelry store (d.b.a. No. 3) and a limited restaurant (d.b.a. Swensen's Ice Cream). Across Hyde Street is a three story mixed use building consisting of ten dwelling units above a grocery store (d.b.a. Searchlight Market), laundromat (d.b.a. The Missing Sock Laundry) and a bar (d.b.a. Bacchus Wine Bar). The Hyde Street Cable Car operates on Hyde Street in front of the Project Site.

4. **Project Description.** The project sponsor seeks a Conditional Use Authorization, pursuant to Planning Code Section 303 and 710.44 to establish an 850 square foot Restaurant (d.b.a. Union Larder) which will operate as a Bona Fide Eating Place in a vacant ground floor commercial space. The Restaurant will include an accessory retail specialty grocery selling specialty cheese,

meat and other specialty grocery items. The building was previously occupied by an auto garage and converted to seven residential condominiums with ground floor commercial space in 2012. The Project Sponsor is proposing to operate an eating and drinking establishment with ABC license type 41 allowing the sale of beer and wine for consumption on the premises. The proposed Restaurant is independently owned and operated and is not a formula retail use.

5. **Public Comment.** To date, the Department has received no communication regarding the project.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Use.** Section 710.44 principally permits restaurants on the first floor in the NC-1 District if the property is more than ¼ mile away from any Neighborhood Commercial District or Restricted Use Subdistrict with more restrictive controls; otherwise, the more restrictive controls apply. A restaurant is defined in Section 790.91 of the Planning Code as a retail eating or eating and drinking use which serves prepared, ready-to-eat cooked foods to customers for consumption on or off the premises and which has seating. It may provide on-site beer, wine and/or liquor sales for drinking on the premises (with ABC license types 41, 47, 49, 59 or 75); however, if it does so it shall be required to operate as a Bona Fide Eating Place as defined in Section 790.142.

The Subject Property is located in the NC-1 District, within a quarter mile of the Polk Street Neighborhood Commercial District and the Pacific Avenue Neighborhood Commercial District. The Polk Street NCD (Section 723.44) and the Pacific Avenue NCD (Section 732.44) both require a Conditional Use Authorization for Restaurants. The Polk Street NCD further stipulates that a Restaurant may only add ABC license types 47, 49 or 75 if it is operating as a Bona Fide Eating Place. The Project Sponsor proposes to establish a Restaurant and provide on-site beer and wine sales for drinking on the premises with an ABC license type 41. The proposed Restaurant will operate as a Bona Fide Eating Place as defined by Section 790.142.

- B. **Use Size.** Section 121.21 establishes size limits on non-residential uses in the NC-1 Zoning District. Under Planning Code Section 710.21, Conditional Use authorization is required for any non-residential use that meets or exceeds 3,000 square feet.

At 850 gross square feet (gsf), the Project is within the principally permitted use size.

- C. **Hours of Operation.** Section 710.27 states that hours of operation from 6 AM to 11 PM as of right and requires Conditional Use Authorization to operate between the hours of 11 PM and 2 AM. Hours of operation are defined by Planning Code Section 790.48 as the permitted hours during which any commercial establishment may be open.

The Project's proposed hours of operation will be from 11 AM to 11 PM, daily. The Project will operate within the principally permitted hours of operation.

- D. **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 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 tenant space has approximately 798 square foot façade along Hyde Street. This entire space will be occupied by the active use of "Union Larder", which is a Restaurant use that complies with Section 145.1(c)(3). Approximately 30 feet of the 42 foot Hyde Street frontage provides visibility into the active use through clear glazed windows in three large arches at the façade. Unobstructed views into the interior of the tenant space provide approximately 71% transparency. There are no changes proposed to the commercial frontage.

- E. **Off-Street Parking and Loading.** Section 151 requires off-street parking for every 200 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet. Section 152 requires one off-street loading space for retail stores between 10,001 and 60,000 gross square feet. Section 231(h)(3) requires that all truck loading associated with this business shall be limited in such a way as to avoid undue interference with sidewalks, or with crosswalks, bus stops, hydrants and other public features.

The Subject commercial tenant space, with approximately 850 square feet of floor area, will not require any off-street parking or loading spaces. All loading for this business is required to be conducted in such a way as to avoid undue interference with sidewalks, crosswalks, bus stops, hydrants and other public features.

- F. **Signage.** Currently, there is not a proposed sign program on file with the Planning Department. Any proposed signage will be subject to Planning Department review for code compliance and historical compatibility.

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 will occupy the storefront with a desirable neighborhood-serving use. The proposed use will activate the commercial space that has been in development for the past two years. There are no exterior changes proposed and the small, 850 square foot Restaurant will be compatible with the existing mix of small commercial and retail establishments in the District.

- 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 Project Site is compatible with the patterns of development in the area. The Project does not involve any alterations to the exterior of the subject building and will not affect the building envelope.

- ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

The Project would not adversely impact public transit or overburden the existing supply of parking in the neighborhood. The Project Site is well served by public transit as it is located along the Hyde Mason Cable Car line and is within ¼ mile of seven MUNI lines with stops. The proposed Restaurant will primarily serve neighborhood residents within walking distance.

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

The Project is not anticipated to produce noxious or offensive emissions related to noise, glare and dust or odor. The Restaurant will be subject to the Condition of Approval No. 11 regarding odor control. The Project Sponsor will not be installing any rooftop mechanical equipment and will be using the "Turbochef i5 Ventless Oven" which emits very low particulate matter and is considered a low grease emissions appliance by the Department of Public Health.

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

The Project does not propose any exterior modifications 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. The Project as a whole 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 purposes of the Neighborhood Commercial Cluster Zoning District. The NC-1 District is intended to serve as the local neighborhood shopping district, providing convenience and retail goods and services for the immediately surrounding neighborhoods. The proposed Restaurant will be a positive addition to the existing convenience and retail goods by providing French and Spanish influenced food offerings, not currently available in the Russian Hill neighborhood. The specialty grocery component of the proposed Restaurant will primarily be a neighborhood serving retailer of specialty grocery items that may not be available in the District.

- E. The existing concentration of eating and drinking uses shall not exceed 25% of the total commercial frontage as measured in linear feet within the immediate area of the subject site, per Planning Code Section 303(p). The immediate area shall be defined as all properties located within 300 feet of the subject property and also located within the same zoning district.

Planning staff has performed a site survey of the Neighborhood Commercial Cluster District including the immediate area of the Subject Site. With the proposed Restaurant use, approximately 25% of the frontage of the immediate area (within a 300 foot radius) of the Subject Site is attributed to eating and drinking establishments. The proposed change of use from vacant commercial to Restaurant will result in a net increase of 3% of commercial frontage dedicated to eating and drinking uses within the immediate area.

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 service and create an active use in the neighborhood. No existing commercial tenant will be displaced as the Project will fill a vacant commercial space that was previously an auto garage and has been in development for the past two years. The conditions of approval will ensure that the use meets minimum, reasonable performance standards. Further, the Project Site is located within a Neighborhood Commercial District and is thus consistent with activities in the commercial land use plan. The 850 square foot Restaurant will seat approximately 30 customers, making it a small-scale neighborhood service.

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 enable a new business to be located in a compatible neighborhood. The Project will allow a desirable neighborhood-serving use to operate, thereby contributing to the commercial activity for the subject block and neighborhood and enhancing 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.

The Project will provide additional employment opportunities for local residents as well as unskilled and semi-skilled workers.

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.

No commercial tenant would be displaced and the Project would not prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood.

Policy 6.2:

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

An independent entrepreneur is sponsoring the proposal. The Project Sponsor owns and operates a successful specialty grocery store in the North Beach neighborhood and wishes to bring that concept to the Russian Hill neighborhood as a Restaurant with accessory specialty grocery. The proposed use is a neighborhood-serving use. The proposed eating and drinking establishment is not considered a formula retail use.

Eating and Drinking Establishments

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 include bars, limited restaurants, and restaurants. 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.

In districts where the proliferation of eating and drinking establishments could generate problems, the following guidelines should be employed in the consideration of new establishments, relocations, changes from one kind of eating and drinking establishment to another (e.g. from self-service restaurant to full-service restaurant), expansion or intensification of existing establishments:

- The establishment should not add to an over-concentration of eating and drinking establishments in a single district. The balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage. Proposals for eating and drinking establishments which would increase the proportion of total occupied commercial frontage above 20% should be reviewed to ensure that they would not reduce the variety of neighborhood-serving uses; nor create substantial noise, traffic, parking problems or other nuisances in the district or surrounding neighborhood. Those establishments that would do the above should not be permitted. Except in districts with an established pattern of service to a broad market, such as North Beach, such establishments should not occupy more than 25% of the total commercially occupied frontage in a district. To minimize the problems they can create, eating and drinking uses should generally be at least 100 feet apart from each other, unless there are factors making clustering of uses appropriate. For example, a configuration of clustered eating and drinking uses where off-street parking is shared might be more appropriate than an even distribution of such establishments.
- New, expanding or relocating eating and drinking uses should not impose significant adverse impacts on traffic and transit volumes and circulation and parking congestion. If such impacts are anticipated, especially on transit-preferential streets, the proposed use, expansion or relocation should be redesigned to mitigate such impacts, or it should be prohibited.
- Eating and drinking uses should be adequately soundproofed or insulated for noise and operated so as to reasonably protect adjoining and surrounding upper-story residences from disturbances from fixed source equipment.

The General Plan states that there is a concern with the potential over-concentration of food-service establishments. 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 Neighborhood Commercial Cluster District which contains the proposed use. The proposed change of use from vacant commercial to Restaurant will change the eating and drinking concentration in the NC-1 District from 22% to 25%. This NC-1 District consists of 23 ground floor commercial uses and stretches along approximately two blocks (550 feet). Only seven of the 23 ground floor commercial uses are eating and drinking

establishments, five of which are Restaurants. While the NC-1 is only two blocks long, it includes four alleys, which add to the total commercial frontage disproportionately by increasing the number of corner locations with two frontages. Therefore, even though there are only seven eating and drinking uses, four of them are located at intersections creating an increased frontage amount. Additionally, the Project Site is located within ¼ mile of the Polk Street NCD and the Pacific Avenue NCD, offering a greater variety of good and services for neighborhood residents within walking distance.

Policy 6.2:

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

An independent entrepreneur is sponsoring the proposal. The proposed use is a neighborhood-serving use. The proposed eating and drinking establishment is not considered a Formula Retail Use.

Policy 6.3:

Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity.

The proposed project will contribute to the mixed-use character of the neighborhood and District. The Project Site consists of an 850 square foot ground floor commercial space and seven residential condominiums.

Policy 6.9:

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

The proposed project would not adversely affect public transit or place a burden on the existing supply of parking in the neighborhood. Many patrons would be able to walk from their residences or places of employment and the proposed project is well served by public transportation.

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 will not displace any existing retail uses within the neighborhood. The business would be locally owned and will be complementary to the existing commercial establishments within the immediate neighborhood. The proposed project will create approximately five full-time job opportunities for local residents.

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

The existing residential units in the surrounding neighborhood would not be adversely affected by the Project. The Project is consistent with the surrounding neighborhood character and the proposed hours of operation are within the standard principally permitted hours in the NC-1 District.

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

No housing will be removed for this Project.

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

The proposed Project would not significantly increase the automobile traffic congestion and parking problems in the neighborhood. The proposal is a neighborhood-serving use which residents can access by walking or taking public transit.

- 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. The Project will not affect industrial or service sector uses or related employment opportunities. Ownership of industrial or service sector businesses will not be affected by this Project.

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

The Project will comply with all applicable earthquake safety standards and be built to the current standards of the California Building Code.

- G. That landmarks and historic buildings be preserved.

The subject property is a known historic resource and the proposed use is considered appropriate. There are no exterior changes proposed. The Project will not significantly affect the historic building.

- 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 as there are no exterior expansions.

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. 2013.1648C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated December 12, 2013, 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 13, 2014.

Jonas P. Ionin
Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED: February 13, 2014

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow a change of use from limited-restaurant to restaurant (d.b.a. Union Larder) located at 1945 Hyde Street, Lot 002 in Assessor's Block 0123 pursuant to Planning Code Section(s) 303, 716.44 and 790.91 within the Neighborhood Commercial Cluster District and a 40-X Height and Bulk District; in general conformance with plans, dated December 12, 2013, and stamped "EXHIBIT B" included in the docket for Case No. 2013.1648C and subject to conditions of approval reviewed and approved by the Commission on February 13, 2014 under Motion No XXXXX. 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 13, 2014 under Motion No XXXXX.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

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

SEVERABILITY

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

CHANGES AND MODIFICATIONS

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

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

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

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

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

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

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

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

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

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

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

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

MONITORING – AFTER ENTITLEMENT

6. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or

Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

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

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

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

OPERATION

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. **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

11. **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 and Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

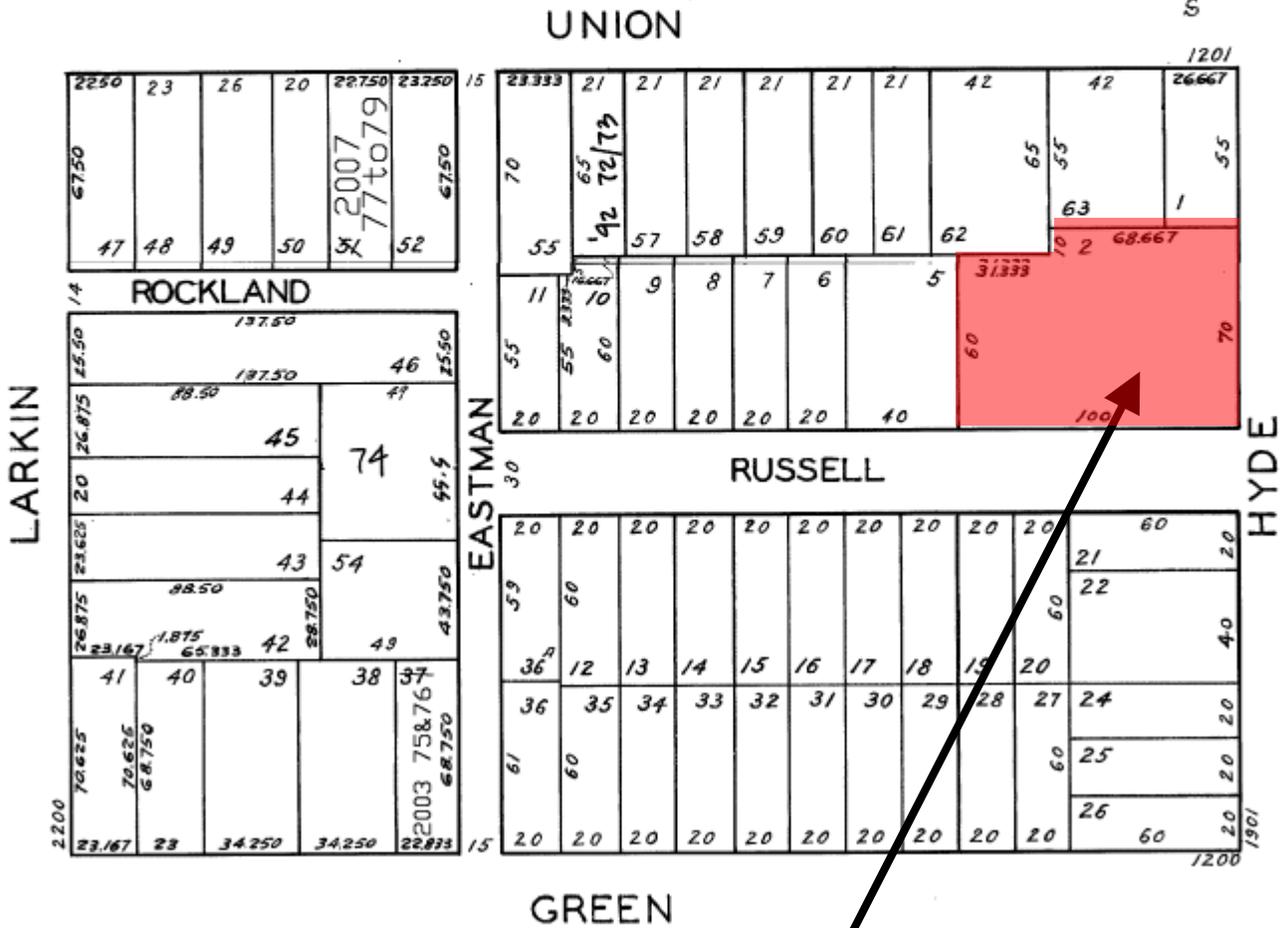
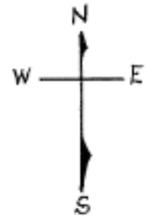
12. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the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

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

Parcel Map

Lot 3-into Lot 2-43
 " 4- " " 2- "
 " 23- " " 22- "

lot 37 into lots 75&76 for 2003 roll
 lot 51 into lots 77 to 79 for 2007 roll

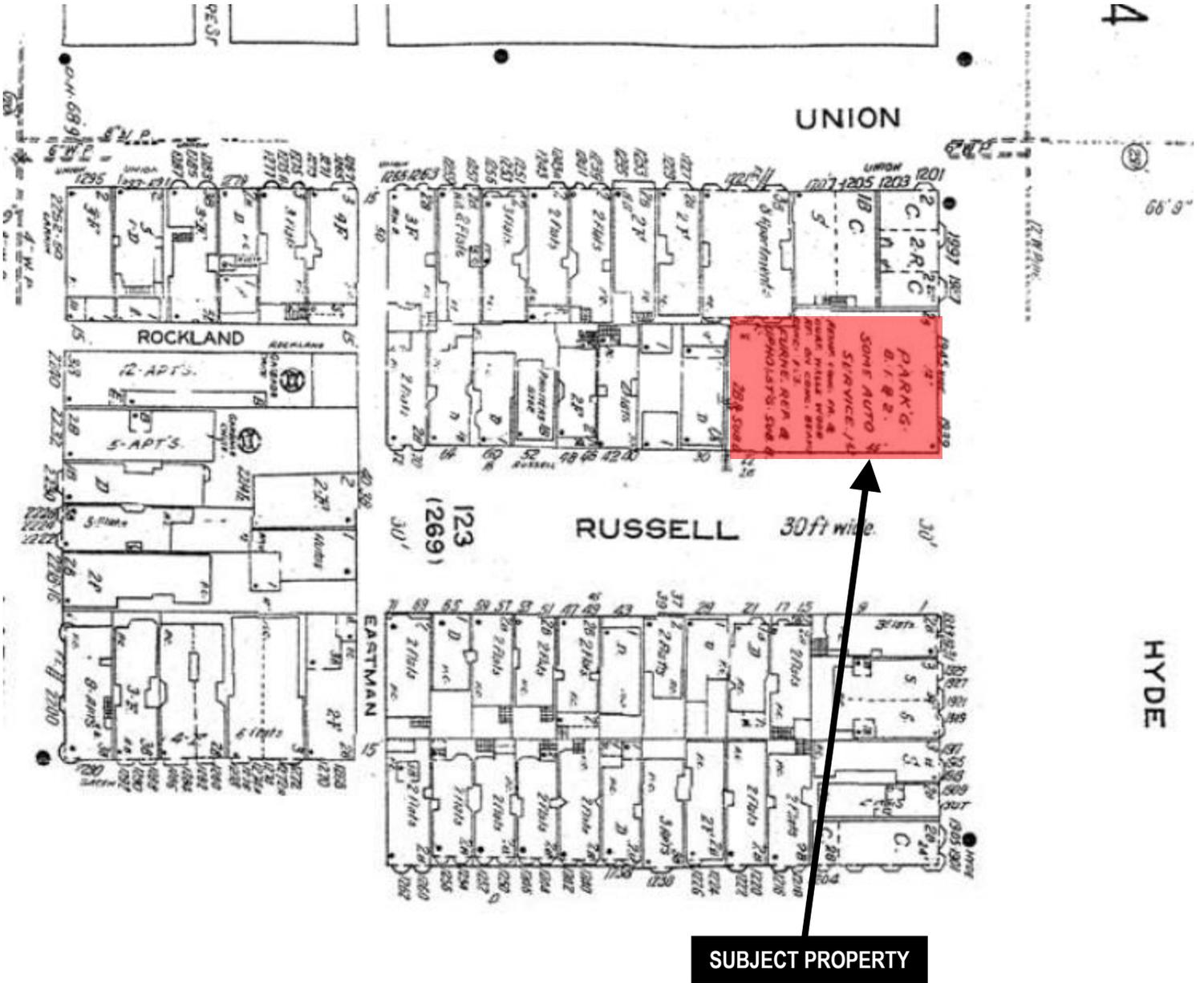


SUBJECT PROPERTY

Conditional Use Authorization
 Case Number 2013.1648C
 Restaurant – Union Larder
 1945 Hyde Street



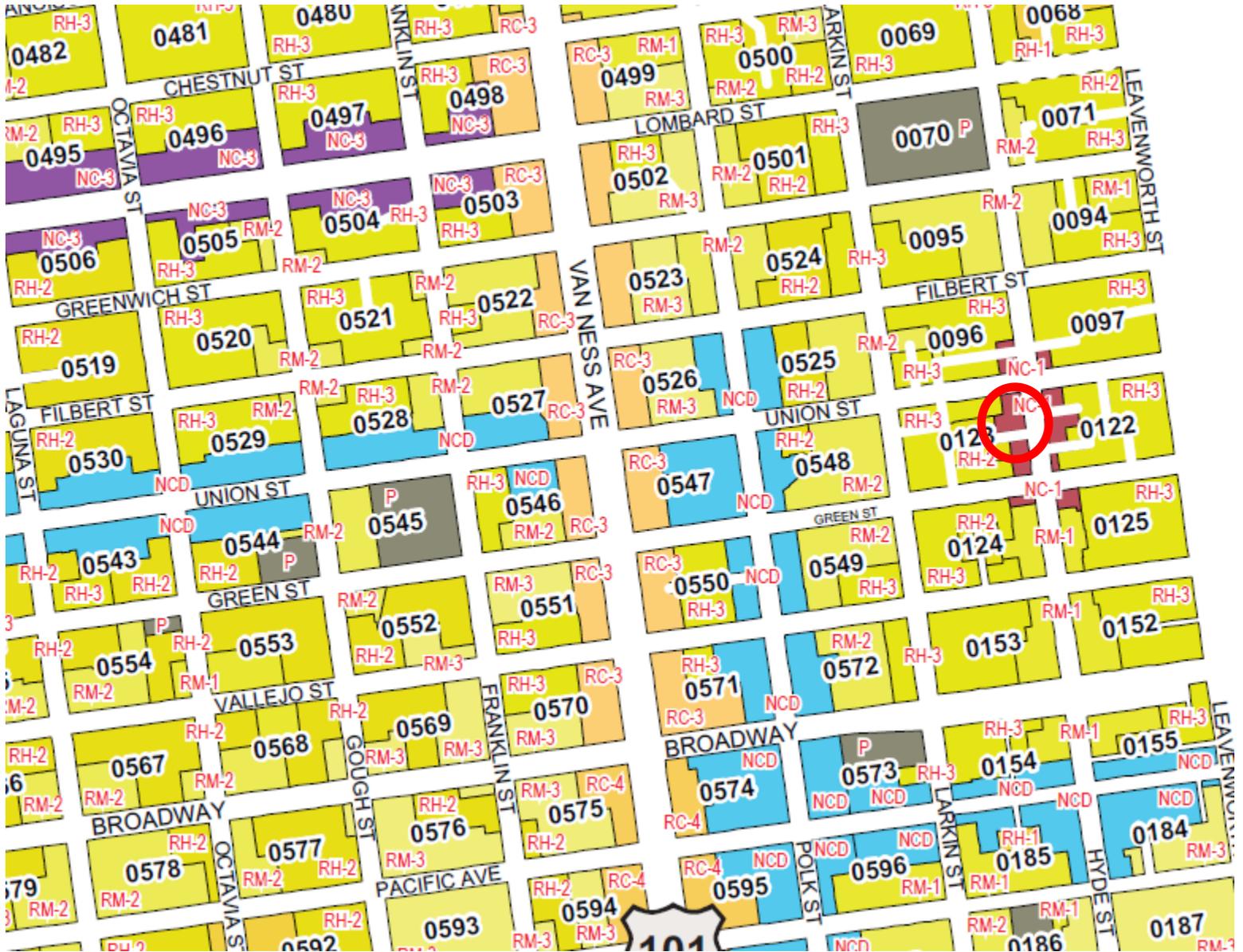
Sanborne Map*



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

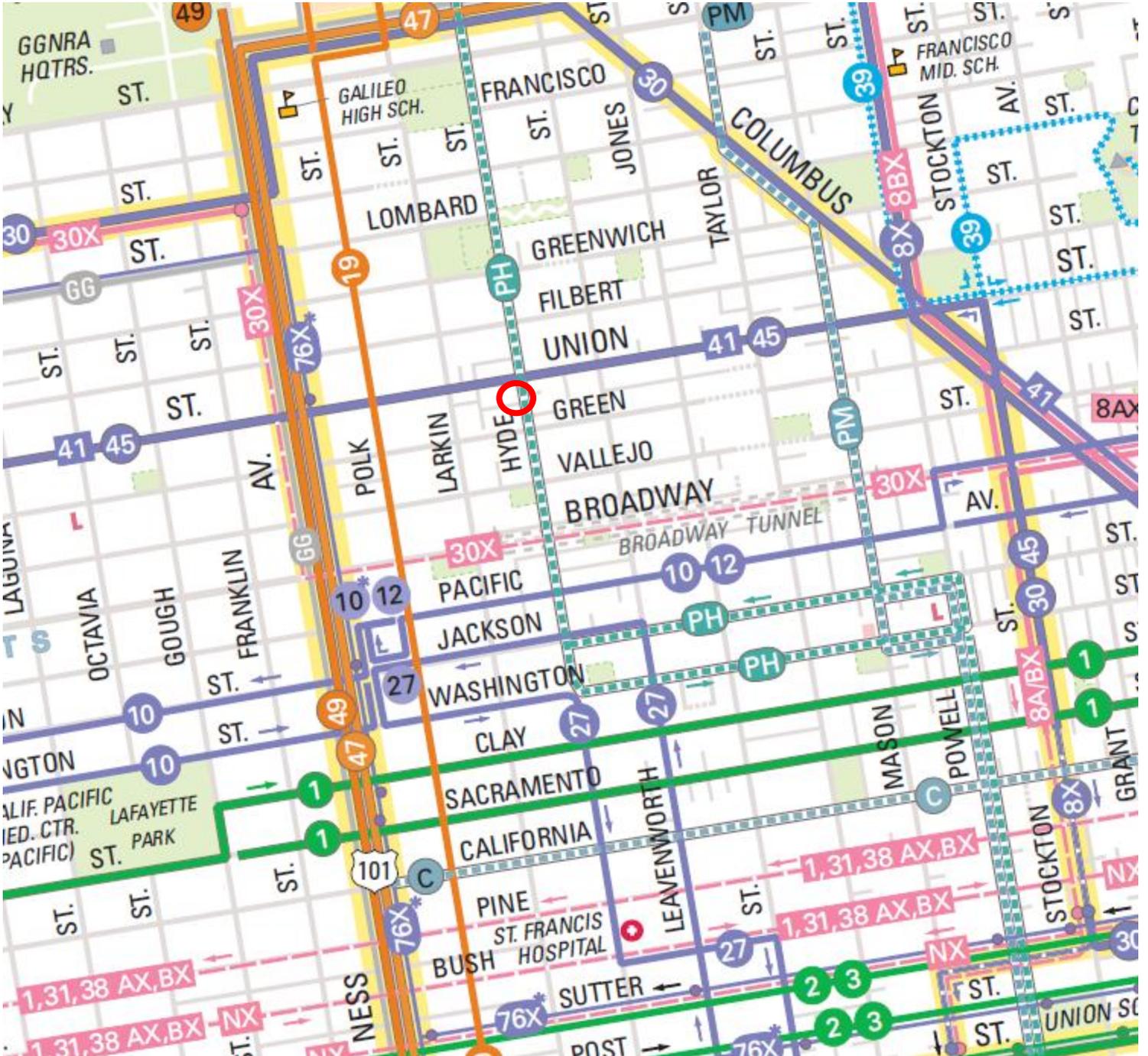


Zoning Map



Conditional Use Authorization
Case Number 2013.1648C
Restaurant – Union Larder
1945 Hyde Street

SFMTA Transit Map



Conditional Use Authorization
Case Number 2013.1648C
Restaurant – Union Larder
1945 Hyde Street

Aerial Photo (looking west)



SUBJECT PROPERTY

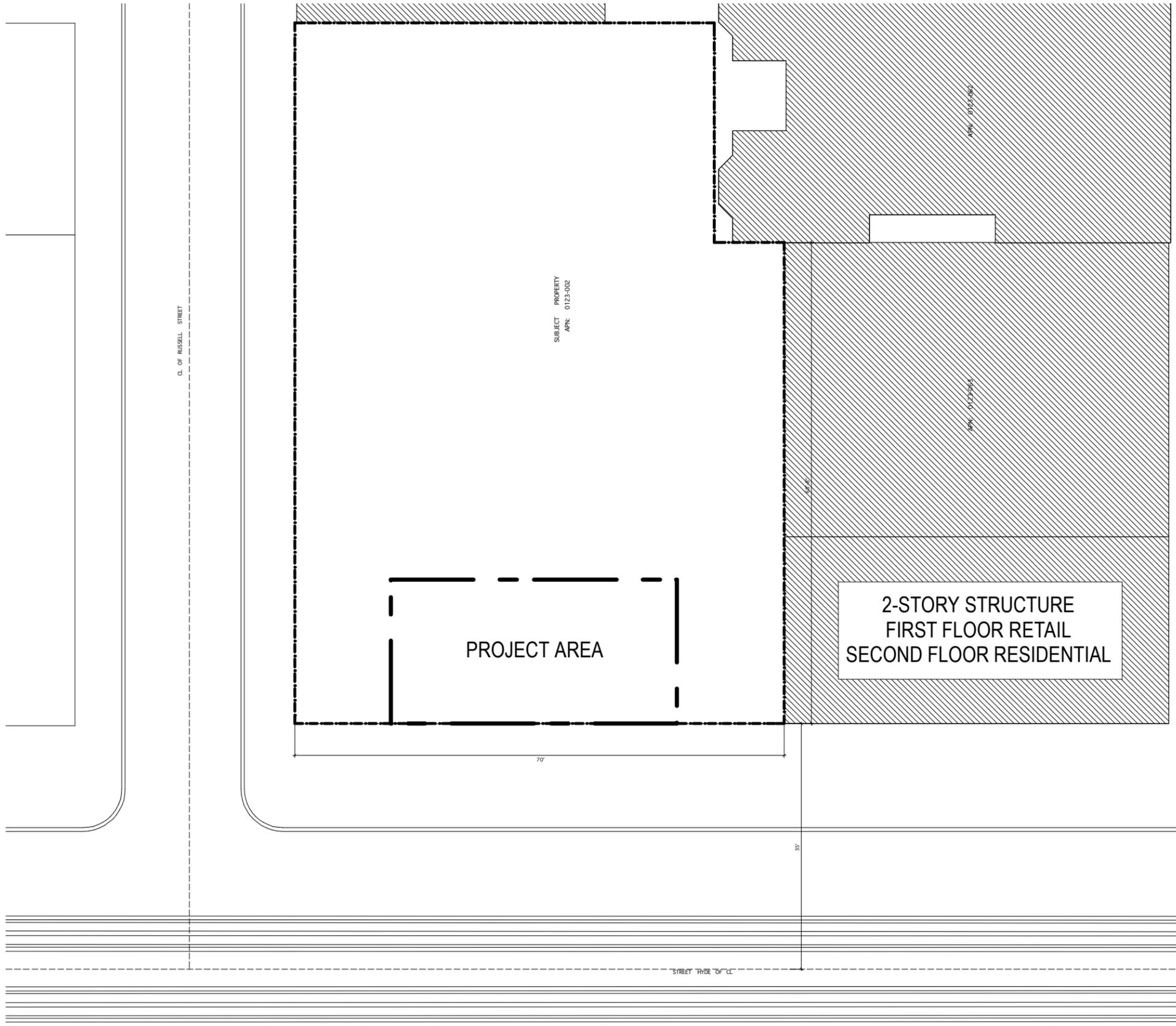
Conditional Use Authorization
Case Number 2013.1648C
Restaurant – Union Larder
1945 Hyde Street



Site Photo



Conditional Use Authorization
Case Number 2013.1648C
Restaurant – Union Larder
1945 Hyde Street



eight inc.
 675 california street
 san francisco, ca 94108
 415 434 8462 v
 415 434 8464 f

8

CLIENT:
 JAY ESOPENKO
 1541 GRANT AVENUE
 SAN FRANCISCO, CA 94133
 415 738-2221

NO: ISSUE: / REVISION: DATE:

STAMP:

JOB TITLE:
 1945 HYDE ST

PROJECT NUMBER: DRAWN BY:
 13933

CHECKED BY:

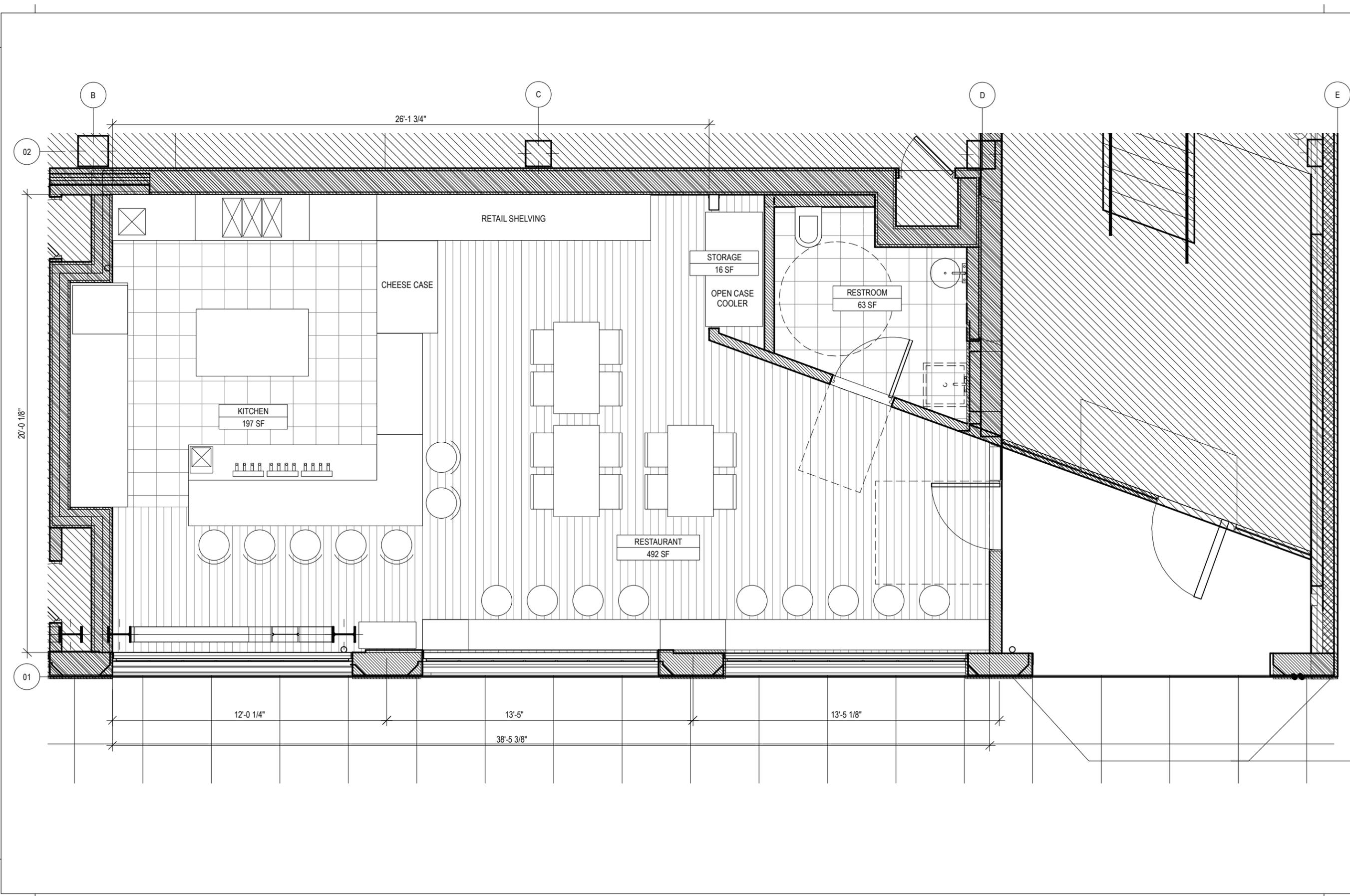
SITE PLAN

NORTH

SCALE: SHEET SIZE:
 1/16" = 1'-0" 11" X 17"

DATE: 02.04.2014

A1.00



eight inc.
 675 california street
 san francisco, ca 94108
 415 434 8462 v
 415 434 8464 f

8

CLIENT:
 JAY ESOPENKO
 1541 GRANT AVENUE
 SAN FRANCISCO, CA 94133
 415 738-2221

NO: ISSUE: / REVISION: DATE:

STAMP:

JOB TITLE:
 1945 HYDE ST

PROJECT NUMBER: 13933 DRAWN BY:

CHECKED BY:

FLOOR PLAN

NORTH
 SCALE: 1/4" = 1'-0"
 SHEET SIZE: 11" X 17"
 DATE: 02.04.2014

A1.01

CLIENT:
 JAY ESOPENKO
 1541 GRANT AVENUE
 SAN FRANCISCO, CA 94133
 415 738-2221

NO: ISSUE: / REVISION: DATE:

STAMP:

JOB TITLE:
 1945 HYDE ST

PROJECT NUMBER:
 13933

DRAWN BY:
 CHECKED BY:

EXTERIOR
 ELEVATION -
 HYDE STREET

SCALE:
 1/8" = 1'-0"

SHEET SIZE:
 11" X 17"

DATE:
 02.04.2014

