



# SAN FRANCISCO PLANNING DEPARTMENT

## Letter of Determination

October 10, 2017

Philip Lesser  
Agent for: 1145 Polk LLC  
555 Laurel Avenue, #501  
San Mateo, CA 94401

<b>Site Address:</b>	<b>1131 -1145 Polk Street</b>
<b>Assessor's Block/Lot:</b>	<b>0691, Lot 001</b>
<b>Zoning District:</b>	<b>Polk Street NCD; 65-A</b>
<b>Staff Contact:</b>	<b>Tina Chang, (415) 575.9197 or <a href="mailto:tina.chang@sfgov.org">tina.chang@sfgov.org</a></b>
<b>Record No.:</b>	<b>2017-011774ZAD</b>

Dear Mr. Lesser,

This letter is in response to your request for a Letter of Determination regarding the property at 1131 Polk Street. This parcel is located in the Polk Street NCD (Neighborhood Commercial District) and 65-A Height and Bulk District. The request is to determine the portability of an existing 2,800 square foot bar doing business as Hemlock Tavern from the current building on Assessor's Block 0691, Lot 001 to a future replacement building on the same block and lot.

Pursuant to Motion No. 13530, the Planning Commission approved a Conditional Use Authorization allowing the expansion of a bar located at 1131-1133 Polk Street from 1,750 square feet to approximately 2,800 square feet on May 27, 1993. An application has been filed to demolish the current building and erect a five-story mixed-use residential over ground floor retail building. The proposal is to reopen the existing bar, Hemlock Tavern, in the same corner location on the northeast corner of Hemlock Street and Polk Street as a 2,800 square foot space depicted in the floor plans submitted with your request.

Pursuant to Planning Code Section 178(c), a permitted conditional use may not be significantly altered, enlarged, or intensified, except upon approval of a new conditional use application pursuant to the provisions of Section 303 of the Planning Code. Further, Section 178(f) stipulates that any structure occupied by a permitted conditional use that is voluntarily razed by the owner thereof may not be restored except upon approval of a new conditional use application.

Demolition of the existing structure and its replacement with a new structure is considered a significant alteration, and since the structure in which the use exists will be voluntarily razed, the use in question will not be permitted unless a new conditional use authorization is granted. Accordingly, a bar within an existing building is not portable to a bar in a future replacement building despite being on the same block and lot and same location within the subject block and lot.

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

Philip Lesser  
555 Laurel Avenue, #501  
San Mateo, CA 94401

October 10, 2017  
Letter of Determination  
1145 Polk Street

Additionally, the bar is located in the Lower Polk Street Alcohol Restricted Use District which maintains that whenever a liquor establishment has discontinued its use for a continuous period of one year or more, the liquor establishment shall be deemed to have abandoned its use as a liquor establishment (pursuant to Planning Code Section 788). Although exceptions to the controls exist, they do not apply to the project since the building will be voluntarily demolished. Note that these controls do not apply to Bona Fide Eating Place as defined in the Planning Code. To prevent abandonment of the bar, it must relocate in the same location without an increase to the amount of square footage used for the sale of alcoholic beverages, in less than one year.

**Please note that a Letter of Determination is a determination regarding the classification of uses and interpretation and applicability of the provisions of the Planning Code. This Letter of Determination is not a permit to commence any work or change occupancy. Permits from appropriate Departments must be secured before work is started or occupancy is changed.**

**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 this letter. 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: Tina Chang, Planner  
Property Owner  
Neighborhood Groups

September 1, 2017

Mr. Scott Sanchez  
Zoning Administrator  
San Francisco Planning Department  
1650 Mission Street  
Suite 400  
San Francisco CA 94103

R# 2017-011774 ZAD  
CR# 1319 \$664.-  
M. LUELLEN (NE)  
WITH \$14.50 CASH

RECEIVED

SEP 01 2017

CITY & COUNTY OF S.F.  
DEPT. OF CITY PLANNING  
ADMINISTRATION

Re: Requested Letter of Determination – Portability of Approved (Bar) Use at APN 0691/001

Dear Mr. Sanchez,

1131 POLK ST.

1145 Polk LLC would like a determination from your office as to the portability of an existing bar use from the current building on APN 0691/001 to a future replacement building on this same parcel.

An application has been filed to demolish the current mixed-use building and to erect a mixed-use building with retail space on the first floor and 5 floors of residential space above the retail. (2014-001674ENV)

A permitted bar has operated in the building slated for demolition for over a quarter century.

On May 27, 1993 the San Francisco Planning Commission approved Conditional Use Application No. 93.187C, which expanded this use for the "existing bar (1131 Polk Street) from approximately 1,750 square feet to a total of approximately 2,800 square feet." (Finding #4; Motion No. 13530 attached hereto.)

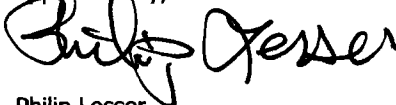
The Hemlock Tavern (bar with night-time entertainment) has been operating continuously under this 1993 CUA within the approved 2,800 square feet area of the existing mixed-use building since 2000.

The Hemlock Tavern would like to reopen in the proposed mixed-use building in the same approved location and within the same approved 2,800 square feet area.

1145 Polk LLC is desirous of a Letter of Determination from your office specifically establishing whether the approved 1993 CUA would continue forward into the proposed replacement building on APN 0691/001.

Feel free to have your staff contact me for any additional information that may be needed.

Appreciatively,



Philip Lesser  
Agent for: 1145 Polk LLC  
555 Laurel Avenue, #501  
San Mateo CA 94401

[phnsan@msn.com](mailto:phnsan@msn.com)  
(650) 346-2903 cell

Attachments: \$664 Check for Written Determination Fee  
San Francisco City Planning Commission Motion No. 13530

CC Corey Teague, Assistant Zoning Administrator  
Nicholas Foster, Assigned Project Planner

Case No. 93.187C  
1131-1133 Polk Street

SAN FRANCISCO  
CITY PLANNING COMMISSION  
MOTION NO. 13530

**ADOPTING FINDINGS RELATING TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION FOR EXPANSION OF AN EXISTING BAR WITHIN THE POLK STREET NEIGHBORHOOD COMMERCIAL ZONING DISTRICT AND A 65-A HEIGHT AND BULK DISTRICT.**

Preamble

On March 30, 1993, Stephen Antonaros, Architect, (hereinafter "Applicant") made application (hereinafter "Application") for LCS Polk Enterprises, (hereinafter "Lessee") for Conditional Use on the property at 1131-1133 Polk Street; Lot 1 in Assessor's Block 691, (hereinafter "Subject Property") to permit expansion of an existing bar into an adjacent vacant ground story retail space in general conformity with plans filed with the Application and labeled "Exhibit B" (hereinafter "Project") within the Polk Street Neighborhood Commercial District.

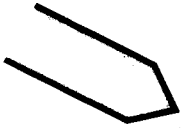
On May 27, 1993, the San Francisco City Planning Commission (hereinafter "Commission") conducted duly noticed public hearings at a regularly scheduled meeting on **Conditional Use Application No. 93.187C.**

The proposed Conditional Use application was determined by the San Francisco Department of City Planning (hereinafter "Department") to be categorically exempt from the environmental review process pursuant to Title 14 of the California Administrative Code. The Commission has reviewed and concurs with said determination.

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.

Findings

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

1. The Polk Street Neighborhood Commercial District controls are designed to encourage and promote development which is compatible with the surrounding neighborhood. The building standards monitor large-scale development and protect rear yards at residential levels. Consistent with Polk Street's existing mixed use character, new buildings may contain most commercial uses at the first two stories. The controls limit new ground-story eating, drinking, adult and other entertainment, and financial services uses, which can produce parking congestion, noise and other nuisances or displace other types of local-serving convenience goods and services. Restrictions on drive-up and most automobile uses protect the district's continuous retail frontage and prevent further traffic congestion. Housing development in new buildings is encouraged above the second story.
2. New bars or expansion of existing bars are restricted to the ground story and below and require Conditional Use authorization under Section 723.41 of the Planning Code in the Polk Street Neighborhood Commercial District. The Commission must consider the findings of Section 303 (of the Planning Code) in review of any such request.
3. The Commerce and Industry Element of the Master Plan calls for promoting the multiple uses of neighborhood commercial areas with priority given to the neighborhood-serving retail and service activity. The Element calls for special efforts to be directed at protecting the diversity of neighborhood-serving uses from over-concentration of any given use such as financial institutions, bars or restaurants.
4.  The proposal is to expand the existing bar (1131 Polk Street) from approximately 1,750 square feet to a total of approximately 2,800 square feet. The expansion results from merger of the existing bar with an adjacent vacant ground story retail space (1133 Polk Street). The existing bar, at 1131 Polk Street, The Giraffe Lounge, is currently authorized for an capacity of 130 persons. The proposed expansion would add 70 persons for a total capacity of 200 persons.
5. Under the provisions of Code Section 303, the Commission may authorize a Conditional Use after finding that the proposed use will provide a development that is necessary or desirable for and compatible with the neighborhood or the community, that such use will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property, improvements or potential development in the vicinity and that such use will not adversely affect the Master Plan. The proposed project will not adversely affect the Master Plan. The proposed project complies with the criteria of Section 303 of the Code in that:

- a. **The subject storefront has been vacant for a number of months. Therefore, this authorization is necessary to restore a commercial property to a productive condition and to enhance the economic viability of this existing commercial neighborhood.**  
**At least four other ground story retail storefronts are also vacant along this section of Polk Street. Expansion of the existing bar will create sufficient floor area to provide space for handicapped-accessible bathrooms in addition to the increased floor area for additional tables and chairs.**
- b. **While there are three other drinking establishments on the 1100 block of Polk Street, expansion of the existing bar will not result in a proliferation of eating or drinking establishments within the immediate neighborhood. A variety of neighborhood-serving retail and service uses continue to operate along this section of Polk Street.**
- c. **The project will not be a detriment to the health, safety convenience or general welfare of persons residing or working in the vicinity or injurious to property, improvements or potential development in the vicinity in that:**
  - i. **No exterior remodel or expansion is required to accommodate the project.**
  - ii. **No off-street parking is required. The expected peak hours of the establishment are expected to be during evening hours when on-street parking demand is reduced.**
  - iii. **The property is currently authorized for both Dance Hall Keeper and Place of Entertainment Permits issued by the Police Department Permit Bureau and has been since 1979. By limiting the hours of operation together with proper insulation potential noise impacts on nearby residents can be mitigated. Ventilation equipment will comply with Health Code requirements.**
  - iv. **New signage, awnings or canopies for the project will be regulated by Article 6 and Section 136.1 of the Planning Code. New signage will be integrated into the existing motif.**

6. The project is consistent with the following Objectives and Policies of the Commerce and Industry Element of the Master Plan:

**OBJECTIVE 6: MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.**

**Policy 1: Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing diversity among the districts.**

**Policy 2: Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to economic and technological innovation in the marketplace and society.**

7. City Planning Code Section 101.1 establishes eight priority planning policies and requires review of permits for consistency with said policies. The project complies with said policies in that:
- a. The project will require at least two additional employees (bartender and waiter/waitress) and as such will provide additional employment opportunities for residents of San Francisco.
  - b. The project would not affect existing housing and will preserve the neighborhood character and diversity. Conditions included in this authorization will mitigate noise impacts on nearby housing and ensure that the use operates as a "good neighbor."
  - c. No residential uses exist on the Subject Property and as such the supply of affordable housing would be unaffected.
  - d. Municipal transit service would not be impeded and neighborhood parking would not be overburdened due to the nature of the business activity.
  - e. Earthquake safety requirements will be considered during review of tenant improvement building permit applications.
  - f. The subject building has not been identified as historically or architecturally significant. The proposed facade and signage appear to be in character with the existing building and other commercial spaces within the building.

The subject building is not a designated landmark or within a designated historic district.

- g. There are no public parks or open spaces near the Subject Property. Therefore, the addition will not affect any open spaces.
8. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1 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 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. 93.187C subject to the following conditions attached hereto as EXHIBIT A which is incorporated herein by reference as though fully set forth.

I hereby certify that the foregoing Motion was ADOPTED by the City Planning Commission at its regular meeting of May 27, 1993.

Linda Avery  
Secretary

AYES: Commissioners Fung, Boldridge, Levine, Lowenberg, Martin, Prowler and Unobskey  
NOES: None  
ABSENT: None  
ADOPTED: May 27, 1993

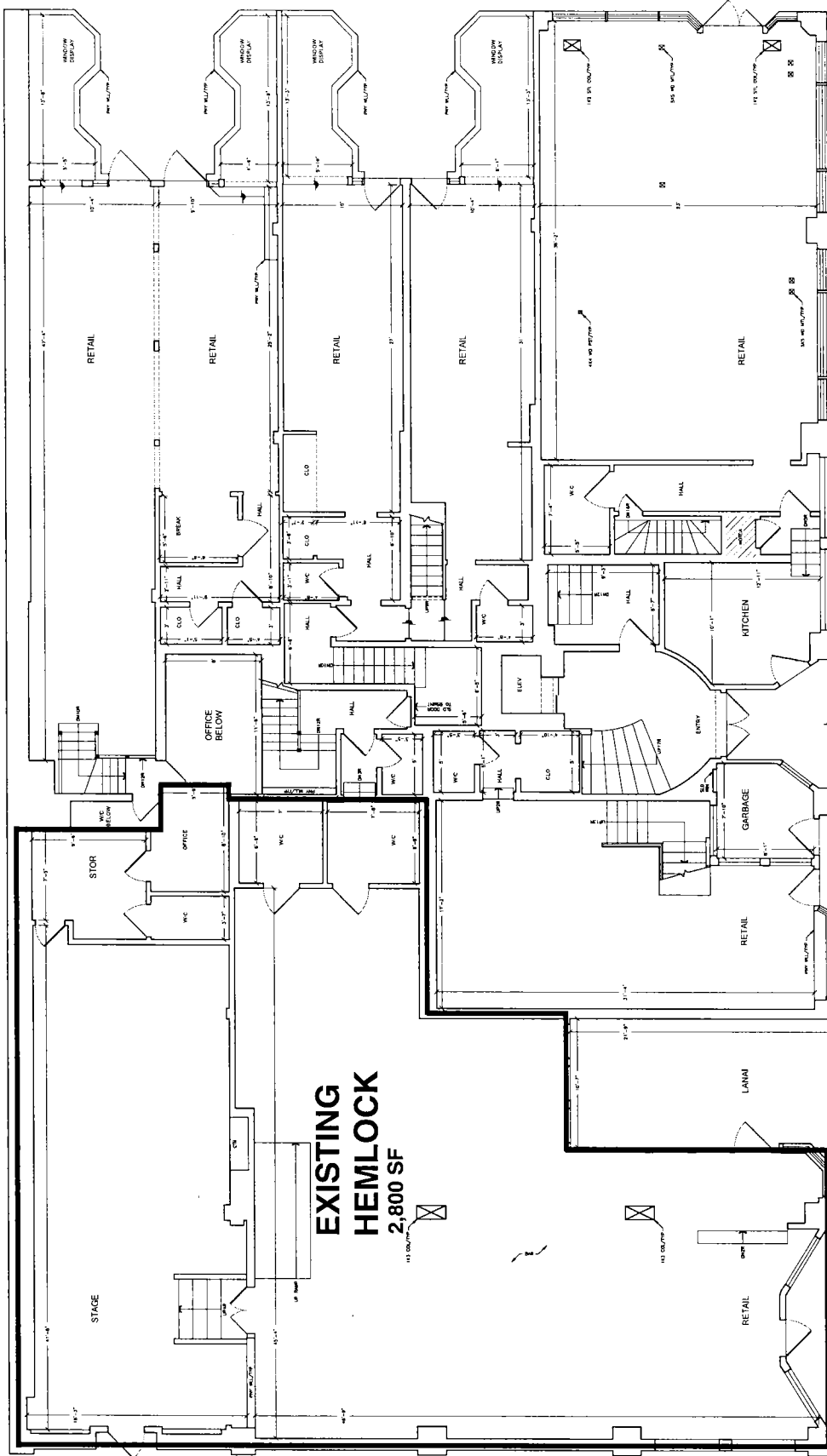
**EXHIBIT A**

**CONDITIONS OF APPROVAL**

1. This authorization is to expand an existing bar at 1131 Polk Street of approximately 1,750 gross square feet into an adjacent vacant ground story retail space at 1133 Polk Street of approximately 1,050 square feet for a total floor area of approximately 2,800 square feet with a total capacity not to exceed 200 persons in general conformity with plans submitted with the Application dated May 5, 1993 and labelled Exhibit B.
2. All trash must be stored indoors until the morning of pick-up by a disposal service.
3. The Applicant shall submit final facade and signage design for review and approval by the Department staff, prior to approval of any application for building permit.
4. Noise, odors and other nuisance factors shall be adequately controlled.
5. The authorized expansion is approved for expansion of the bar seating area and handicapped-accessible bathrooms only and does not authorize enlargement of the areas previously approved for dancing or entertainment by the San Francisco Police Department. The granting of a new conditional use authorization will be required to expand the areas currently approved for dancing or entertainment.
6. The Applicant shall cause an acoustical study to be conducted to identify any sound mitigation measures to be employed. The acoustical study shall be completed within thirty (30) days of the effective date of this authorization and any identified mitigation measures shall be installed within thirty (30) days of completion of the acoustical study.
7. Notices shall be well-lit and prominently displayed at all entrances to and exits from the establishment urging patrons to leave the establishment and neighborhood in a quiet, peaceful, and orderly fashion and to please not litter or block driveways in the neighborhood.
8. Employees of the establishment shall be posted at all the entrances and exits to the establishment during the period from 10:00 p.m. to such time past closing that all patrons have left the premises. These employees shall insure that patrons waiting to enter the establishment and those existing in the premises are urged to

respect the quiet and cleanliness of the neighborhood as they walk to their parked vehicle or otherwise leave the area.

9. The establishment shall provide adequate ventilation within the structure such that doors and/or windows are not left open for such purposes resulting in noise emission from the premises.
10. Any indoor and/or outdoor activity allowed as a principal or conditional use and located within 100 feet of a residential or live/work unit shall, during the period from 10:00 p.m. to 6:00 a.m., insure that sound levels emanating from such activities do not exceed the acceptable noise levels established for residential uses by the San Francisco Noise Ordinance.
11. The establishment shall implement other conditions and/or management practices, including the prohibition of dancing to recorded music (disco dancing), as determined by the Zoning Administrator, in consultation with Police Department and other appropriate public agencies, to be necessary to insure that management and/or patrons of the establishments maintain the quiet, safety, and cleanliness of the premises and the vicinity of the use, and do not block driveways of neighboring residents or businesses.
12. The property owner shall execute and record a copy of these conditions at the Office of the County Recorder.



**EXISTING HEMLOCK**  
**2,800 SF**

1145 POLK STREET  
 SAN FRANCISCO, CA 94109

**BUILT SERVICES**  
 ARCHITECTS  
 FOR THE RECORD SINCE 1990  
 4800 18th Street  
 San Francisco, CA 94114  
 (415) 774-8888  
 www.built-services.com

**EXISTING FLOOR PLAN**

SCALE: 1/4" = 1'-0"  
 DATE: 05/13/2015  
 DRAWN BY: JTL

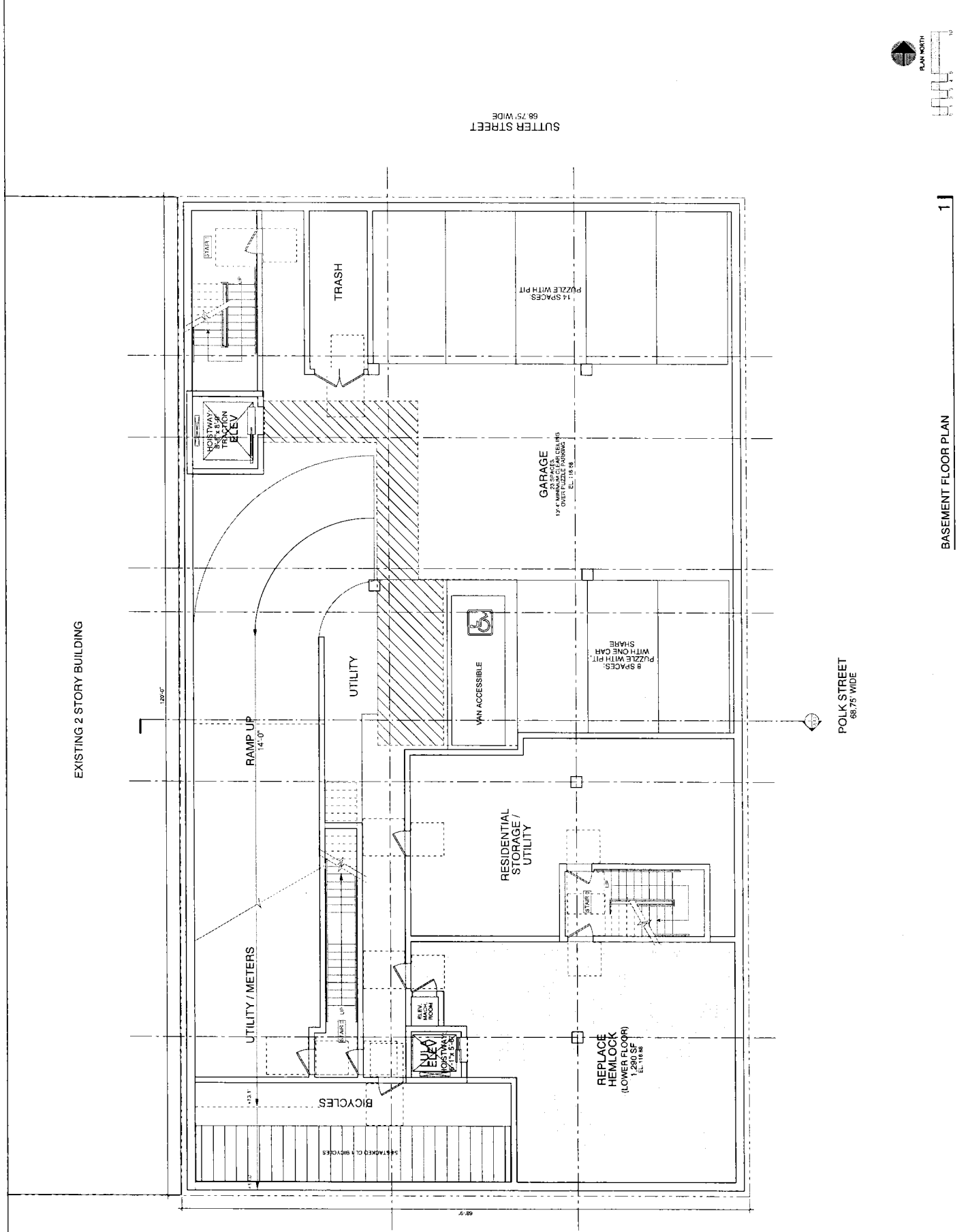
**AX-103**  
 1 OF 1

THIS PLAN WAS PREPARED BY THE ARCHITECT FOR THE CLIENT AND IS NOT TO BE USED FOR ANY OTHER PROJECT WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT.

NOTE: ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.

1 EXISTING ENTRY LEVEL FLOOR PLAN  
 1774 SQ FT UNRECORDED AREA  
 1774 SQ FT UNRECORDED AREA  
 1774 SQ FT UNRECORDED AREA

DATE



EXISTING 2 STORY BUILDING

HEMLOCK STREET  
 35.16' WIDE

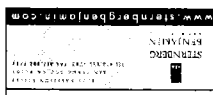
SUTTER STREET  
 68.75' WIDE

POLK STREET  
 68.75' WIDE



BASEMENT FLOOR PLAN 1

A2.0



STEVEN BERG ARCHITECTS  
 1145 POLK STREET, SUITE 100  
 SAN FRANCISCO, CA 94109  
 WWW.STEVENBERGARCHITECTS.COM

NO.	DATE	DESCRIPTION
1	08/15/17	ISSUED FOR PERMITS
2	08/15/17	ISSUED FOR PERMITS
3	08/15/17	ISSUED FOR PERMITS
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