



# SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Inclusionary Housing (Sec. 315)
- Jobs Housing Linkage Program (Sec. 313)
- Downtown Park Fee (Sec. 139)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 314)
- Other

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## Planning Commission Motion No. 18464

HEARING DATE: OCTOBER 20, 2011

*Date:* October 24, 2011  
*Case No.:* **2011.0701C**  
*Project Address:* **545 IRVING STREET (FORMERLY 555 IRVING STREET 'RETAIL #1')**  
*Zoning:* Inner Sunset Neighborhood Commercial District (NCD)  
 40-X Height and Bulk District  
*Block/Lot:* 1761/041  
*Project Sponsors:* John Nettesheim (applicant) Marsha Garland (agent)  
 2027 - 17<sup>th</sup> Avenue 535 Green Street  
 San Francisco, CA 94116 San Francisco, CA 94133  
 Denis Francis and Phillip McCarthy (property owners)  
 Sunset Cross, LLC  
 2118 - 26<sup>th</sup> Avenue  
 San Francisco, CA 94116  
*Staff Contact:* Sharon M. Young – (415) 558-6346  
 sharon.m.young@sfgov.org  
*Recommendation:* **Approval with Conditions**

**ADOPTING FINDINGS RELATED TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION UNDER PLANNING CODE SECTIONS 178(e)(2) AND 303 TO MODIFY THE CONDITIONS OF A PRIOR CONDITIONAL USE AUTHORIZATION UNDER CASE NO. 2009.1048C (MOTION NO. 18014) TO EXTEND THE HOURS OF OPERATION OF AN EXISTING WINE BAR (D.B.A. INNERFOG) LOCATED AT 545 IRVING STREET IN THE INNER SUNSET NEIGHBORHOOD COMMERCIAL DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On July 5, 2011, Marsha Garland, acting agent on behalf of John Nettesheim (hereinafter "Project Sponsors") made an application for Conditional Use authorization for the property at **545 Irving Street, Lot 041 in Assessor's Block 1761** (hereinafter "Subject Property"), pursuant to Planning Code Sections 178(e)(2) and 303 to modify the conditions of a prior conditional use authorization under Case No. (Motion No. 18014) to extend the hours of operation of an existing wine bar (d.b.a. InnerFog) in the Inner Sunset Neighborhood Commercial District and a 40-X Height and Bulk District, in general conformity with plans dated November 12, 2009, and labeled "Exhibit B" (hereinafter "Project").

On **October 20, 2011**, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on **Conditional Use Application No. 2011.0701C**. Currently, the permitted hours of operation of the wine bar under Motion No. 18014 are 11 a.m. to midnight Sunday through Thursday, and 11 a.m. to 1 a.m. on Friday and Saturday. The proposal is to extend the permitted hours of operation of the wine bar from 10 a.m. to 2 a.m., seven days a week.

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. 2011.0701C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

## **FINDINGS**

Having reviewed the materials identified in the recitals 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 at 545 Irving Street is on the southeast corner of Irving Street and 7<sup>th</sup> Avenue; Assessor's Block 1761; Lot 041. It is located within the Inner Sunset Neighborhood Commercial Zoning District and a 40-X Height and Bulk District. The subject lot is 7,125 square-feet (95 feet wide by 75 feet deep) in size and is occupied by a four-story commercial and residential building. Currently, the wine bar occupies one of three ground floor commercial tenant spaces. There are eight residential units on the 2<sup>nd</sup> through 4<sup>th</sup> floor levels of the building.
3. **Surrounding Properties and Neighborhood.** The Project Site is located within the Inner Sunset Neighborhood. The surrounding development consists of a variety of commercial, residential, and mixed-use buildings. The scale of development in the area consists primarily of one- to four-story structures. The shopping area within the neighborhood contains a variety of small-scale convenience businesses which primarily include a mix of cafés, restaurants, specialty stores, variety merchandise stores, financial institutions, and personal service establishments. Some of the existing commercial establishments on the subject and opposite blocks include The Yellow Submarine, Hahn's Hibachi, Baan Thai House & Wine Bar, Loving Hut Vegan Cuisine, Surreal You, La Avenida, and Lavash Persian Cuisine. On 6<sup>th</sup> and 7<sup>th</sup> Avenues running north and south of the project site, there are one- to two-family dwellings, a few multi-family dwellings, and Newcomer High School located within the RH-1 (Residential House, One-Family) and RH-1 (Residential House, Two-Family) Zoning Districts.

4. **Project Description.** The proposal is for Conditional Use authorization pursuant to Planning Code Sections 178(e)(2) and 303 to modify the conditions of a prior Conditional Use authorization under Case No. 2009.1048C (Motion No. 18014) to extend the hours of operation of an existing wine bar (d.b.a. InnerFog) in the Inner Sunset Neighborhood Commercial District and a 40-X Height and Bulk District.

Currently, the permitted hours of operation of the wine bar, as approved under Motion No. 18014, are 11 a.m. to midnight Sunday through Thursday, and 11 a.m. to 1 a.m. on Friday and Saturday. The proposal is to extend the permitted hours of operation of the wine bar from 10 a.m. to 2 a.m., seven days a week. The existing wine bar with approximately 900 square feet of floor area consists of a bar and seating areas for approximately 49 persons, office/storeroom area, and restrooms. The proposal will not involve any tenant improvements to the existing ground floor commercial space. There will be no expansion of the existing building envelope.

5. **Issues and Other Considerations.**

- According to the project sponsor, Inner Fog operates as a wine bar specializing in serving small production wines from around the world. The wine bar is independently owned and is not considered a formula retail use under Section 703.3 of the Planning Code.
- The current hours of operation of the wine bar are 4 p.m. to 10 p.m. Monday, 4 p.m. to 11 p.m. Tuesday through Thursday, 4 p.m. to midnight Friday and Saturday, and 3 p.m. to 10 p.m. Sunday. The project sponsor had limited the wine bar's closing hours of operation up to midnight to comply with the permitted hours of operation approved by the Department of Alcohol Beverage Control under its liquor license (ABC License Type 42). According to the project sponsor, extending the permitted hours of operation for serving alcohol under its liquor license is contingent upon receiving Conditional Use approval for extending the permitted hours of operation of the wine bar to 2 a.m.

6. **Public Comment.** As of October 20, 2011, the Department has not received any letters or phone calls in opposition to the project. The project sponsor has submitted four letters to the Planning Department and submitted a petition at the Planning Commission hearing with approximately 700 signatures in support of the proposed project.

7. **Use District.** The project site is within the Inner Sunset Neighborhood Commercial District (NCD). The Inner Sunset NCD is located in the Inner Sunset neighborhood, consisting of the NC-2 district bounded by Lincoln Way on the north, Fifth Avenue on the east, Kirkham Street on the south, and Nineteenth Avenue on the west. The shopping area provides convenience goods and services to local Inner Sunset residents, as well as comparison shopping goods and services to a larger market area. The commercial district is also frequented by users of Golden Gate Park on weekends and by City residents for its eating, drinking, and entertainment places. Numerous housing units establish the district's mixed residential-commercial character.

8. **Planning Code Compliance:** The Commission finds that the project is consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Bar Use in the Inner Sunset NCD.** Planning Code Section 730.41 allows a bar use on the 1<sup>st</sup> (ground) floor in the Inner Sunset Neighborhood Commercial Zoning District with Conditional Use authorization, as defined by Planning Code Section 790.22.

*On January 21, 2010, the Planning Commission authorized Conditional Use under Motion No. 18014 (Case No. 2009.1048C) for the establishment of the existing wine bar on the 1<sup>st</sup> (ground) floor.*

A bar is defined under Planning Code Section 790.22 as a retail use which provides on-site alcoholic beverage sales for drinking on the premises, including bars serving beer, wine and/or liquor to the customer where no person under 21 years of age is admitted (with Alcohol Beverage Control [ABC] licenses 42, 48, or 61) and drinking establishments serving liquor (with ABC licenses 47 or 49) in conjunction with other uses which admit minors, such as restaurants, movie theaters, and other entertainment.

- B. **Modification of Prior Conditional Use Authorization & Hours of Operation.** Planning Code Section 178(e)(2) allows a permitted use to be changed to another use upon approval of a new conditional use application. Within the Inner Sunset NCD, Planning Code Section 730.27 allows hours of operation from 6 a.m. until 2 a.m. as of right and requires Conditional Use authorization to operate between the hours of 2 a.m. and 6 a.m.

*Under Motion No. 18014 (Case No. 2009.1048C), the wine bar was granted Conditional Use authorization to operation between the hours of 11 a.m. to midnight Sunday through Thursday, and 11 a.m. to 1 a.m. on Friday and Saturday. The current proposal is to modify the conditions of the prior Conditional Use authorization to extend the permitted hours of operation of the wine bar from 10 a.m. to 2 a.m., seven days a week.*

- C. **Street Frontage in Neighborhood Commercial Districts.** Section 145.1 requires that NC Districts containing specific uses, including retail stores, have at least ½ the total width of the new or altered structure at the commercial street frontage devoted to entrances to commercially used space, windows or display space at the pedestrian eye-level. Such windows shall use clear, un-tinted glass, except for decorative or architectural accent. Any decorative railings or decorated grille work, other than wire mesh, which is placed in front or behind such windows, shall be at least 75 percent open to perpendicular view and no more than six feet in height above grade.

*The subject commercial space has approximately 20 feet of frontage on Irving Street with glass frontage devoted to either the entrance or window space.*

- D. **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.

*The subject commercial tenant space, with approximately 900 square feet in floor area, does not require any off-street or loading parking spaces.*

- E. **Signage.** Any existing and proposed signage will be subject to the review and approval of the Planning Department and must comply with Article 6 of the Planning Code.
9. **Section 303(c)** 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:

- (1) 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 proposed project is to modify the conditions of approval from a prior Conditional Use authorization approved under Motion No. 18014 (Case No. 2009.1048C) to extend the permitted hours of operation of the wine bar from 10 a.m. to 2 a.m., seven days a week. The proposal will not involve any tenant improvements to the existing ground floor commercial space.*

- (2) 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:

- (A) Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

*The size and shape of the site and the arrangement of the structures on the site are adequate for the proposed project. There will be no physical expansion of the existing building.*

- (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;

*Existing traffic patterns will not be significantly affected by the proposed project. Public transit that is in close proximity to the proposed wine bar includes Muni Line N-Judah within walking distance of the project site. There is on-street parking in front of the subject property and in the surrounding neighborhood.*

- (C) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

*No noxious or offensive emissions such as glare, dust, or odor are expected to be produced by the proposed project.*

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

*The proposed project does not propose any exterior alterations to the building. There will be no addition of parking spaces, loading facilities, open space or service areas. All project signage and projections will be consistent with the controls of the Planning Code.*

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

*The proposed 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.*

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

*The proposed project is consistent with the stated purpose of the Inner Sunset NCD in that the intended use is a neighborhood-serving business.*

10. **General Plan Compliance.** The project is consistent with the Objectives and Policies of the General Plan in that:

**COMMERCE AND INDUSTRY ELEMENT**

**GENERAL/CITYWIDE**

**OBJECTIVE 1:**

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

**Policy 1:**

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

*The existing wine bar continues to be compatible and complimentary with the types of uses characterizing this portion of the Inner Sunset NCD, which include a mixture of cafés, restaurants, specialty stores, variety merchandise stores, financial institutions, and personal service establishments.*

**Policy 3:**

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

*Approval of the proposed project would be consistent with the mixed commercial-residential character of the Inner Sunset NCD. The proposed project would not adversely affect any affordable housing resources in the neighborhood.*

**OBJECTIVE 3:**

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

**Policy 1:**

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

*The proposed project will continue to provide enhanced opportunities for employment by employing four people.*

**NEIGHBORHOOD COMMERCE**

**Objectives and Policies**

**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 and encouraging diversity among the districts.

*No existing commercial tenant will be displaced. The proposed project will not prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood since the proposal is modify the permitted hours of operation of an existing wine bar.*

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.

**Policy 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 proposed use is a neighborhood-serving use. This is not a Formula Retail Use.*

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

#### **Eating and Drinking Establishments**

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

- Regulate the distribution and proliferation of eating and drinking establishments, especially in districts experiencing increased commercial activity;
  - Control nuisances associated with their proliferation;
  - Preserve storefronts for other types of local-serving businesses; and
  - Maintain a balanced mix of commercial goods and services.
- The regulation of eating and drinking establishments should consider the following:
- Balance of retail sales and services;
  - Current inventory and composition of eating and drinking establishments;
  - Total occupied commercial linear frontage, relative to the total district frontage;
  - Uses on surrounding properties;
  - Available parking facilities, both existing and proposed;
  - Existing traffic and parking congestion; and
  - Potential impacts on the surrounding community.

*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 percent of the total occupied commercial frontage." The current proposal to modify the conditions of the prior Conditional Use authorization to extend the permitted hours of operation of the existing wine bar will not result in a net change in the number of existing eating and drinking establishments within the Inner Sunset NCD.*

#### **Policy 4:**

Encourage the location of neighborhood shopping areas throughout the city so that essential retail goods and personal services are accessible to all residents.

*The proposed project will continue to provide a bar use which is accessible to all residents in this portion of the Inner Sunset NCD.*

#### **Policy 9:**

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



*The proposed project would not adversely impact 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 project is well served by public transportation. There is on-street parking in front of the subject property and in the surrounding neighborhood.*

## **URBAN DESIGN ELEMENT**

### **CITY PATTERN**

#### **Objectives and Policies**

##### **OBJECTIVE 1:**

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE AND A MEANS OF ORIENTATION.

##### **Policy 3:**

Recognize that buildings, when seen together, produce a total effect that characterizes the City and its districts.

*The project's design would preserve the existing neighborhood character since the proposal does not include any facade and exterior changes.*

### **NEIGHBORHOOD ENVIRONMENT**

#### **Objectives and Policies**

##### **OBJECTIVE 4:**

IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

##### **Policy 15:**

Protect the livability and character of residential properties from the intrusion of incompatible new buildings.

*The proposed project would improve the neighborhood environment by increasing safety during the daytime through the continued occupancy of the ground floor commercial tenant space.*

11. **Section 101.1(b)** establishes eight priority planning policies and requires the review of permits that authorize changes of use for consistency with said policies:

- (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 proposed project will preserve and enhance the existing neighborhood-serving retail uses by continuing to occupy a commercial space. The proposed project will not significantly alter the existing diverse mix of commercial establishments within the immediate neighborhood. The proposed project will continue to provide job opportunities to the City by employing approximately four people.*

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

*The proposed project will preserve and enhance the cultural and economic diversity of the neighborhood by helping to retain an existing business in the area. Existing housing will not be significantly affected by the proposed project.*

- (3) That the City's supply of affordable housing be preserved and enhanced.

*The proposed project will not displace any affordable housing.*

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

*The proposed project will 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.*

- (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.

*There is no commercial office development associated with the proposed project and there will be no displacement of any existing industrial or service businesses in the area.*

- (6) That the City achieves the greatest possible preparedness to protect against injury and loss of life in an earthquake.

*The proposed project will comply with all applicable earthquake safety standards and built to the current standards of the California Building Code.*

- (7) That landmark and historic buildings be preserved.

*The proposed project will not significantly affect any landmarks or historic buildings.*

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

*The proposed project will not affect any city-owned park or open space.*

12. 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.

13. 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. 2011.0701C** subject to the following conditions attached hereto as "EXHIBIT A" 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. 18464. 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 October 20, 2011.

Linda Avery  
Commission Secretary

AYES: Commissioners Antonini, Borden, Fong, Miguel, Moore, Sugaya

NAYS: None

ABSENT: Commissioner Olague

ADOPTED: October 20, 2011

## **EXHIBIT A**

### **AUTHORIZATION**

This authorization is for a Conditional Use to modify the conditions of a prior Conditional Use authorization, approved under Case No. 2009.1048C (Motion No. 18014) to extend the hours of operation of an existing wine bar (d.b.a. InnerFog) on the 1<sup>st</sup> (ground) floor of a four-story commercial and residential building located at 545 Irving Street (formerly 555 Irving Street 'Retail #1') in Assessor's Block 1761, Lot 041, pursuant to Planning Code Sections 178(e)(2) and 303 within the Inner Sunset Neighborhood Commercial District and a 40-X Height and Bulk District; in general conformance with plans, dated November 12, 2009, and stamped "EXHIBIT B" included in the docket for Case No. 2011.0701C and subject to conditions of approval reviewed and approved by the Commission on October 20, 2011, under Motion No. 18464. This authorization and the conditions contained herein run with the property and not with a particular project sponsor, business, or operator. Currently, the permitted hours of operation of the wine bar, as approved under Motion No. 18014, are 11 a.m. to midnight Sunday through Thursday, and 11 a.m. to 1 a.m. on Friday and Saturday. The proposal is to extend the permitted hours of operation of the wine bar from 10 a.m. to 2 a.m., seven days a week.

### **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 October 20, 2011 under Motion No. 18464.

### **PRINTING OF CONDITIONS OF APPROVAL ON PLANS**

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 18464 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. **Extension.** This authorization may be extended at the discretion of the Zoning Administrator only where failure to issue a permit by the Department of Building Inspection to perform said tenant improvements is caused by a delay by a local, State or Federal agency or by any appeal of the issuance of such permit(s).

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

### DESIGN – COMPLIANCE AT PLAN STAGE

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

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

4. **Signage.** All existing and proposed exterior signage shall be designed to compliment, not compete with, the existing architectural character and architectural features of the building and shall be consistent with the controls of Article 6 of the Planning Code. Project signage shall be reviewed and approved by the Planning Department. A Building Permit from the Department of Building Inspection must be obtained for all exterior proposed project signage.

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

## **MONITORING - AFTER ENTITLEMENT**

5. **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)*
6. **Monitoring.** The project requires monitoring of the conditions of approval in this Motion. The Project Sponsor or the subsequent responsible parties for the project shall pay fees as established under Planning Code Section 351(e) (1) and work with the Planning Department for information about compliance.  
*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. **Noise Control.** The premises shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance.

*For information about compliance with the fixed mechanical objects such as rooftop air conditioning, restaurant ventilation systems, and motors and compressors with acceptable noise levels, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, [www.sfdph.org](http://www.sfdph.org)*

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

*For information about compliance with the amplified sound including music and television contact the Police Department at 415-553-1012 or 415-5530123, [www.sf-police.org](http://www.sf-police.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](http://www.baaqmd.gov) and Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://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](http://www.sf-planning.org)*

13. **Lighting.** All project lighting shall be directed onto the project site and immediately surrounding sidewalk area only, and designed and managed so as not to be a nuisance to adjacent residents. Nighttime lighting shall be the minimum necessary to ensure safety, but shall in no case be directed so as to constitute a nuisance to any surrounding property.

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

14. **'Bar Use' - Hours of Operation.** Under the subject Conditional Use authorization, the permitted hours of operation of the wine bar is 10 a.m. to 2 a.m., seven days a week.

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