



# SAN FRANCISCO PLANNING DEPARTMENT

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- Jobs Housing Linkage Program (Sec. 313)
- Downtown Park Fee (Sec. 139)
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- Child Care Requirement (Sec. 314)
- Other

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## Planning Commission Motion No. 18670

HEARING DATE: JULY 26, 2012

*Date:* July 19, 2012  
*Case No.:* **2012.0672C**  
*Project Address:* **777 VALENCIA STREET**  
*Zoning:* Valencia Street NCT (Neighborhood Commercial Transit)  
 55-X Height and Bulk District  
*Block/Lot:* 3589 / 088 and 108  
*Project Sponsor:* Phil Lesser  
 555 Laurel Avenue #501  
 San Mateo, CA 94401  
*Staff Contact:* Erika S. Jackson – (415) 558-6363  
*Recommendation:* **Approval with Conditions**

**ADOPTING FINDINGS RELATING TO CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 121.2, 303, AND 726.53, TO ENLARGE THE USE SIZE AUTHORIZATION FOR A JAZZ CLUB (DBA PRESERVATION HALL WEST) AND RESTAURANTS APPROVED UNDER MOTION 18225 FROM 8,595 SQUARE FEET TO 10,015 SQUARE FEET, AND TO ALLOW 2,952 SQUARE FEET OF BUSINESS AND PROFESSIONAL SERVICES ON THE SECOND FLOOR WITHIN THE VALENCIA STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT (VALENCIA NCT), A 55-X HEIGHT AND BULK DISTRICT, AND THE MISSION ALCOHOLIC BEVERAGE SPECIAL USE SUBDISTRICT.**

### PREAMBLE

On May 24, 2012, Phil Lesser, on behalf Valencia Street Properties, Inc. (hereinafter "Project Sponsor"), filed Application No. 2012.0150C (hereinafter "Application") with the Planning Department (hereinafter "Department") for Conditional Use Authorization pursuant to Planning Code Sections 121.2, 303, and 726.53, to enlarge the use size authorization for a Jazz Club (dba *Preservation Hall West*) and Restaurants approved under Motion 18225 from 8,595 square feet to 10,015 square feet, and to allow 2,952 square feet of Business and Professional Services on the second floor. The project is located within the Valencia Street Neighborhood Commercial Transit District (Valencia NCT), a 55-X Height and Bulk District, and the Mission Alcoholic Beverage Special Use Subdistrict.

On July 26, 2012, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2012.0672C.

## **PROJECT BACKGROUND**

On August 19, 2010, an application was filed with the Planning Department for Conditional Use Authorization under Planning Code Sections 121.2, 303, 316, 726.24, 726.41, and 726.48, to convert an existing vacant two-story building to two new Full-Service Restaurant & Bar Establishments on the ground floor, an Other Entertainment Establishment (Jazz Club) on the ground floor, and accessory offices on the second floor with an outdoor activity area on the adjacent vacant lot.

On November 18, 2010, the Commission approved the Conditional Use Authorization under Motion 18225, to convert the former New College space into a new entertainment and restaurant venue. The ground floor will be converted to two Full-Service Restaurants, each with a separate bar and kitchen, and a Jazz Club. The restaurants (dba *Preservation Hall West* and *Second Line Café*) will be 4,581 square feet and 539 square feet in area. The 2,575 square foot Jazz Club (dba *Preservation Hall West*) will serve as the new West Coast venue for the existing Preservation Hall Jazz Band, which is known as both the home of Traditional New Orleans Jazz and the headquarters of the Preservation Hall Jazz Band. The ground floor restaurant uses will operate as separate restaurants, but will be connected internally. Both restaurants will share the same Type 47 Liquor License. The second floor will contain approximately 900 square feet of accessory offices and storage to support the uses on the ground floor. The proposal also includes an 860 square foot outdoor seating area located on the lot adjacent to the subject building to be used by the adjacent café.

On August 23, 2010 the Proposed Project was determined to be exempt from the California Environmental Quality Act ("CEQA") as a Class 3 Categorical Exemption under CEQA as described in the determination contained in the Planning Department files for this Project. On July 3, 2012, this Categorical Exemption was rescinded and a new one was issued under the new case number.

The Planning Department, Linda Avery, is the custodian of records, and they are located in the File for Case No. 2012.0672C at 1650 Mission Street, Fourth Floor, San Francisco, California.

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. 2012.0672C, 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 east side of Valencia Street, between 18<sup>th</sup> and 19<sup>th</sup> and Streets, within the Valencia Street Neighborhood Commercial Transit District and a 55-X Height and Bulk District. The Proposed Project is located on two adjacent lots. One lot is improved with a vacant two story tall 11,178 square foot building. This 7,360 square foot lot is the site of the former New College. The adjacent 4,640 square foot lot is currently used as a surface parking lot. The Proposed Project would occupy 108 linear feet of frontage on Valencia Street.
3. **Surrounding Properties and Neighborhood.** The Project site is located toward the center of the 13 block Valencia Street Neighborhood Commercial District. A number of neighborhood serving uses including bars, eating establishments, general grocery stores, liquor stores, automobile-related uses, professional and personal service uses and retail sales and services uses characterize this neighborhood commercial district. In general, residential uses are found in the immediate vicinity. Properties in the vicinity are located within the RTO-M (Residential, Transit-Oriented, Mission Neighborhood), NC-1 (Neighborhood Commercial, Cluster) and P (Public Use) Districts. The site is well served by transit.
4. **Project Description.** The Proposed Project is to enlarge the use size authorization for a Jazz Club (dba *Preservation Hall West*) and Restaurants approved under Motion 18225 from 8,595 square feet to 10,015 square feet, and to allow 2,952 square feet of Business and Professional Services on the second floor. The previously approved accessory space will be expanded from 900 square feet to 2,320 square feet. The new square footage will be added as follows: 360 square feet in the basement to be used as accessory space, an increase from 900 square feet to 1,960 square feet on the second floor to be used as accessory space, and 2,952 on the second floor to be used as Business and Professional Services. The existing building is being expanded on the second floor in the rear to add 1,352 square feet, which increases the total square footage from 11,615 to 12,967.

The additional square footage is needed for accessory space for the operations of the venue. The space will be used for storage space for tables and chairs, office space for employees, and a waiting area for performing musicians. There are three tenants and one backup tenant selected to occupy the second floor Business and Professional Services – 1) a real estate brokerage company, 2) a special event production, talent management, and marketing company, 3) an architectural firm, and 4) a law firm.

The proposed use is an independent use and locally owned, which has been encouraged throughout San Francisco. The proposed use is not a Formula Retail use. A Section 312 Neighborhood Notification was conducted in conjunction with the Conditional Use Authorization process.

5. **Public Comment.** The Department has received no public comment.

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.** Planning Code Section 726.53 requires a Conditional Use Authorization for Business and Professional services located on the second floor of a building within the Valencia Street NCT Zoning District. The proposal is for 2,952 square of Business and Professional Services.

*The Project is proposing 2,952 square feet of Business and Professional Services on the second floor.*

- B. **Rear Yard.** Planning Code Section 134 establishes minimum required rear yards in all zoning districts. The rear yard is generally a function of lot depth, with the exception of corner lots. Planning Code Section 134 requires a rear yard of 25% of lot depth at the second floor and above within the Valencia NCT Zoning District.

*The Proposed Project maintains a 20 foot rear yard at the second floor. The subject lot is 80 feet deep and therefore the proposed rear yard complies with Planning Code Section 134.*

- C. **Parking.** Planning Code Section 151 establishes minimum required rear yards in all zoning districts. No parking is required in the Valencia NCT Zoning District.

*The Planning Code does not require parking or loading in the Valencia Street NCT. The proposed use should not generate significant amounts of vehicular trips from the immediate neighborhood or citywide because the neighborhood is well served by public transit.*

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 size of the proposed use is in keeping with other storefronts on the block face. The proposed restaurants and entertainment venue are not anticipated to adversely impact traffic or parking in the District. This will compliment the mix of goods and services currently available in the district and contribute to the economic vitality of the neighborhood by removing a vacant storefront. The Police Department is aware of the Proposed Project and has no opposition to the proposed use. The Proposed Project will provide a venue for a long standing musical group that will enhance the cultural diversity of the Mission District and will compliment the variety of arts activities present in the Mission District. The Proposed Project will also provide low-impact neighborhood-serving offices in an area where such space is in short supply.*

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project

that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

*The height and bulk of the existing building will remain the same. The Project will not alter the existing appearance or character of the Project vicinity. The proposed work will not affect the building envelope, yet the inclusion of outside seating will alter the use of the property.*

- 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 Planning Code does not require parking or loading in the Valencia Street NCT. The proposed use should not generate significant amounts of vehicular trips from the immediate neighborhood or citywide because the neighborhood is well served by public transit. Furthermore, parking is not required in the Valencia Street NCT District.*

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

*The proposed use is subject to the standard conditions of approval for restaurants and entertainment uses as outlined in Exhibit A. The Project Sponsor shall maintain the maximum sound levels and comply with the noise reduction measures as stated in the Noise Study submitted by Charles M. Salter Associates dated November 5, 2010. The sound levels stated in the Noise Study complies with the San Francisco Noise Ordinance and meets the requirements of the Entertainment Commission. In addition, the Project Sponsor shall operate the proposed uses such that noise is kept at reasonable levels so as not to unduly disturb neighboring businesses and residents. Conditions of Approval 10 and 14 as outlined in Exhibit A specifically obligates the Project Sponsor to mitigate odor and noise generated by the restaurant and entertainment uses.*

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

*The Department shall review all lighting and signs proposed for the new business in accordance with Condition 7 of Exhibit A. Landscaping and screening of the outdoor activity area will be reviewed by the Planning Department during review of the Building Permit Application.*

- 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 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.*

- 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 Valencia Street NCT District in that the intended use is located at the ground floor, will provide a compatible convenience service for the immediately surrounding neighborhoods and will contribute to the street's mixed-use character and activity in the evening hours. Parking is not required in the Valencia Street NCT District. Finally, the Valencia Street NCT District is intended to encourage pedestrian-oriented ground floor uses and serve a wider trade area. The Proposed Project will also provide low-impact neighborhood-serving offices in an area where such space is in short supply.*

8. **Use Size.** Planning Code Section 121.2 requires a Conditional Use Authorization for a non-residential use that is larger than 3,000 square feet within the Valencia Street NCT Zoning District. This applies both to the square footage of the entire project or the square footage of one use. The Jazz Club and Restaurants are 10,015 square feet combined including the new accessory space. Planning Code Section 121.2 sets forth additional criteria which the Commission shall consider in addition to those of Section 303 when reviewing an application for a non-residential use size in excess of that which is permitted as-of-right:

- a. The intensity of activity in the district is not such that allowing the larger use will be likely to foreclose the location of other needed neighborhood-serving uses in the area.

*The Valencia NCT is a vibrant and intense cluster of businesses and dwellings. In relation to the general availability of commercial space in the district, the proposed non-residential expansion is comparatively minor. Other neighborhood serving uses would continue to locate in the Valencia NCT; approval of the Proposed Project would not preclude this. The proposal supports the intention of the neighborhood commercial zoning districts in that it would promote the growth of an existing small business. Furthermore, historically this site contained a large use, namely the New College campus.*

- b. The proposed use will serve the neighborhood, in whole or in significant part, and the nature of the use requires a larger size in order to function.

*The 2,575 square foot Jazz Club (dba Preservation Hall West) will serve as the new West Coast venue for the existing Preservation Hall Jazz Band. The original Preservation Hall Jazz Club is located in New Orleans' French Quarter and was established in 1961 by Allen and Sandra Jaffe. The Preservation Hall Jazz Club is known as both the home of Traditional New Orleans Jazz and the headquarters of the Preservation Hall Jazz Band. Preservation Hall West Jazz Club will be comparable in size and operation to the venue in New Orleans. Entertainment venues of this type have historically required larger spaces in order to serve the number of patrons. The proposed restaurants, by their food-serving nature, would serve neighborhood residents and business-people. Furthermore, in order to accommodate the needs of an efficient and code-compliant modern kitchen, and to provide for the volume of customers necessary to make such a kitchen feasible, a larger use size that which is permitted as-of-right is appropriate. The restaurants would serve as a complement to the Jazz Club, allowing patrons to eat at the same location.*

- c. The building in which the use is to be located is designed in discrete elements which respect the scale of development in the district.

*There are no proposed modifications to the existing building. The existing building was constructed in approximately 1917 and is an interesting complement to the modern buildings on the same block. The existing building is a two story building that respects the scale of development in the district that ranges from two to four stories in height.*

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

## **COMMERCE AND INDUSTRY ELEMENT**

### **Objectives and Policies**

#### **General/Citywide**

##### **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 proposed development will provide desirable goods and services to the neighborhood and will provide resident employment opportunities to those in the community. The expanded scope of the existing business to include outdoor activity and other entertainment will not result in undesirable consequences. Further, the Project Site is located within a Neighborhood Commercial Transit District and is thus consistent with activities in the commercial land use plan.*

##### **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 subject property contains a vacant educational building. Therefore, the Proposed Project will not displace an existing commercial or industrial activity. The addition of the proposed uses will enhance the diverse economic base of the City. The Proposed Project will also provide low-impact neighborhood-serving offices in an area where such space is in short supply.*

**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.

**Policy 3.2:**

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

*The Proposed Project will provide employment opportunities, including entry-level employment opportunities, for the area's unskilled and semi-skilled workers.*

**Neighborhood Commerce**

**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 Proposed Project would not prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood.*

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.

*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 Valencia Street NCT District that contains the proposed building. With the proposed restaurant use, approximately 15% of the frontage of the Valencia Street NCT District would be attributed to eating and drinking establishments. Furthermore, the Project has already received approval, and this Conditional Use Authorization would not increase the amount of frontage devoted to eating and drinking uses.*

**Entertainment Uses:**

Entertainment uses may be appropriate in certain districts or parts of districts. The following guidelines should be used in their review:

- Except in the Broadway district, where later hours may be appropriate under carefully regulated conditions, entertainment uses should not be open after 2:00 a.m. in order to minimize disruption to residences in and around a district. For uses involving liquor service, potentially loud music, dancing or large patron volumes, earlier closing hours may be necessary.
- Entertainment uses should be adequately soundproofed or insulated for noise, as certified by an acoustical engineer, and operated so as to reasonably protect surrounding residences. Fixed source equipment noise should not exceed the decibel levels specified in the San Francisco Noise Control Ordinance. Ventilation systems should be adequate to permit doors to stay closed during performances.
- Except for movie theaters with substantial soundproofing, entertainment uses should not involve electronic amplification after midnight, in order to minimize disruption to surrounding residences.

*The proposed entertainment use will operate between the hours of 6:00 a.m. to 2:00 a.m., which are the permitted hours of operation within the Valencia Street Neighborhood Commercial Transit District. The Project Sponsor shall maintain the maximum sound levels and comply with the noise reduction measures as stated in the Noise Study submitted by Charles M. Salter Associates dated November 5, 2010. The sound levels stated in the Noise Study complies with the San Francisco Noise Ordinance and meets the requirements of the Entertainment Commission. In addition, the Project Sponsor shall operate the proposed uses such that noise is kept at reasonable levels so as not to unduly disturb neighboring businesses and residents. Condition of Approval 14 as outlined in Exhibit A specifically obligates the Project Sponsor to mitigate noise generated by the restaurant and entertainment uses.*

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

**MISSION AREA PLAN**

**Objectives and Policies**

**Land Use**

**OBJECTIVE 1.5 :**

MINIMIZE THE IMPACT OF NOISE ON AFFECTED AREAS AND ENSURE GENERAL PLAN NOISE REQUIREMENTS ARE MET.

**Policy 1.5.1:**

Reduce potential land use conflicts by providing accurate background noise-level data for planning.

**Policy 1.5.2:**

Reduce potential land use conflicts by carefully considering the location and design of both noise generating uses and sensitive uses in the Mission.

*The Project Sponsor shall maintain the maximum sound levels and comply with the noise reduction measures as stated in the Noise Study submitted by Charles M. Salter Associates dated November 5, 2010. The sound levels stated in the Noise Study complies with the San Francisco Noise Ordinance and meets the requirements of the Entertainment Commission. In addition, the Project Sponsor shall operate the proposed uses such that noise is kept at reasonable levels so as not to unduly disturb neighboring businesses and residents. Conditions of Approval 10 and 14 as outlined in Exhibit A specifically obligates the Project Sponsor to mitigate odor and noise generated by the restaurant and entertainment uses.*

**OBJECTIVE 1.8:**

MAINTAIN AND STRENGTHEN THE MISSION'S NEIGHBORHOOD COMMERCIAL AREAS.

**Policy 1.8.2:**

Ensure that the Mission's neighborhood commercial districts continue to serve the needs of residents, including immigrant and low-income households.

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

10. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the Proposed Project does comply with said policies in that:

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

*The proposal would enhance the district by providing restaurants and jazz club in an area that is not over concentrated by restaurants. The business would be locally owned and it creates more employment opportunities for the community. The Proposed Project will provide employment opportunities, including entry-level employment opportunities, for the area's unskilled and semi-skilled workers. The Proposed Project will also provide low-impact neighborhood-serving offices in an area where such space is in short supply.*

- 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 units in the surrounding neighborhood would not be adversely affected. Any entertainment use must be approved by the Entertainment Commission, who also regulates noise which may be of concern to the neighbors.*

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

*No housing is removed for this Project.*

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

*The site is on Valencia Street and is well served by public transit. It is presumable that the employees would commute by transit thereby mitigating possible impacts on street parking.*

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

*The Proposed Project will not displace any service or industry establishment. The Proposed 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 the Proposed Project.*

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

*The Proposed Project is designed and will be constructed to conform to the structural and seismic safety requirements of the City Building Code. This proposal will not impact the property's ability to withstand an earthquake.*

- G. That landmarks and historic buildings be preserved.

*A landmark or historic building does not occupy the Project site.*

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

*The Proposed Project will have no negative impact on existing parks and open spaces. The Proposed Project does not have an impact on open spaces.*

11. 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.
12. 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. 2012.0672C** 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. 17855. 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 July 26, 2012.

Linda Avery  
Commission Secretary

AYES: Commissioners Antonini, Sugaya, Fong, Antonini, Borden, and Wu

NAYES: None

ABSENT: None

ADOPTED: July 26, 2012

## Exhibit A

# Conditions of Approval

Whenever "Project Sponsor" is used in the following conditions, the conditions shall also bind any successor to the Project or other persons having an interest in the Project or underlying property.

This approval is for Conditional Use Authorization, pursuant to Planning Code Sections 121.2, 303, and 726.53, to enlarge the use size authorization for a Jazz Club (dba *Preservation Hall West*) and Restaurants approved under Motion 18225 from 8,595 square feet to 10,015 square feet, and to allow 2,952 square feet of Business and Professional Services on the second floor. The original proposal was for a Conditional Use Authorization under Planning Code Sections 121.2, 303, 316, 726.24, 726.41, and 726.48, to convert an existing vacant two-story building to two new Restaurant & Bar Establishments on the ground floor, an Other Entertainment Establishment (Jazz Club) on the ground floor, and accessory offices on the second floor with an outdoor activity area on the adjacent vacant lot. All previous Conditions of Approval under Motion No. 18225 would remain and are attached as Exhibit C.

### AUTHORIZATION

This authorization is for a conditional use to enlarge the use size authorization for a Jazz Club (dba *Preservation Hall West*) and Restaurants approved under Motion 18225 from 8,595 square feet to 10,015 square feet, and to allow 2,952 square feet of Business and Professional Services on the second floor located at 777 Valencia Street, Blocks 3589, and Lots 088 and 108 pursuant to Planning Code Sections 121.2, 303, and 726.53 within the Valencia Street Neighborhood Commercial Transit District (Valencia NCT), a 55-X Height and Bulk District, and the Mission Alcoholic Beverage Special Use Subdistrict; in general conformance with plans, dated **May 24, 2012**, and stamped "EXHIBIT B" included in the docket for Case No. **2012.0672C** and subject to conditions of approval reviewed and approved by the Commission on **July 26, 2012** under Motion No. **18670**. 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 **July 26, 2012** under Motion No. **18670**.

### PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **18670** 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.

## Exhibit C

# Conditions of Approval

1. This authorization is for a Conditional Use Authorization under Planning Code Sections 121.2, 303, 316, 726.24, 726.41, and 726.48, to convert an existing vacant two-story building to two new Full-Service Restaurant & Bar Establishments on the ground floor, an Other Entertainment Establishment (Jazz Club) on the ground floor, and accessory offices on the second floor with an outdoor activity area on the adjacent vacant lot. The Proposed Project is located within the Valencia Street Neighborhood Commercial Transit District (Valencia NCT), a 55-X Height and Bulk District, and the Mission Alcoholic Beverage Special Use Subdistrict, in general conformance with plans filed with the Application dated October 24, 2010 and stamped "EXHIBIT B" included in the docket for **Case No. 2010.0710C**, reviewed and approved by the Commission on November 18, 2010.
2. Prior to the issuance of the Building Permit 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 premises (Assessor's 3589, Lots 088 and 108), which notice shall state that construction has been authorized by and is subject to the conditions of this Motion.
3. The Project Sponsor shall secure an Entertainment Permit from the Entertainment Commission prior to any entertainment use.
4. Violation of the conditions contained in this Motion or of any other provisions of the Planning Code may be subject to abatement procedures and fines up to \$250 a day in accordance with Planning Code Section 176.
5. Should monitoring of the Conditions of Approval contained in Exhibit A of this Motion be required, the Project Sponsor or successors shall pay fees as established in Planning Code Section 351(e)(1).
6. The property owner shall maintain the main entrance to the building, outdoor activity area, and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at a minimum, daily litter pickup and disposal, and washing or steam cleaning of the main entrance and abutting sidewalks at least once each week.
7. Signs and exterior lighting for the business shall be reviewed and approved by the Planning Department before they are installed.
8. The Project Sponsor shall maintain an attractive storefront providing visibility of the restaurant interior through the storefront windows.
9. The Project Sponsor shall appoint a Community Liaison Officer to address issues and matters of concern to neighbors, nearby residents, and commercial lessees related to the operation of

- this Project. The Project Sponsor shall report the name and telephone number of this Officer to the Zoning Administrator and the neighborhood for reference. The Project Sponsor will keep the above parties apprised should a different staff liaison be designated. This liaison or a designated representative shall be available at the establishment at all times during business hours.
10. The Project Sponsor shall maintain appropriate odor control equipment to prevent any significant noxious or offensive kitchen odors from escaping the premises.
  11. Refuse containers shall be provided both inside and outside the establishment for use by patrons of the restaurant. The operator of the use shall be responsible for maintaining the sidewalk within a one-block radius of the site free of paper or litter generated by the restaurant.
  12. An enclosed garbage and recycling area shall be provided within the establishment. All garbage and recycling containers shall be kept within the building until pick-up by the disposal company.
  13. The authorization and right vested by virtue of this action shall be deemed void and canceled if, within 3 years of the date of this Motion, a site permit or building permit for the Project has not been secured by Project Sponsor. This authorization may be extended at the discretion of the Zoning Administrator only if the failure to issue a permit by the Department of Building Inspection is delayed by a city, state, or federal agency or by appeal of the issuance of such permit.
  14. The Project Sponsor shall maintain the maximum sound levels and comply with the noise reduction measures as stated in the Noise Study submitted by Charles M. Salter Associates dated November 5, 2010. The sound levels stated in the Noise Study complies with the San Francisco Noise Ordinance and meets the requirements of the Entertainment Commission. In addition, the Project Sponsor shall operate the proposed uses such that noise is kept at reasonable levels so as not to unduly disturb neighboring businesses and residents.
  15. The Project shall comply with the following "Good Neighbor" policies to insure that management and/or patrons of the establishment 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.
    - a. 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; and
    - b. Employees of the establishment shall walk a 100-foot radius from the premises some time between 30 minutes after closing time and 8:00 a.m. the following morning, and shall pick up and dispose of any discarded beverage containers and other trash left by area nighttime entertainment patrons; and



- c. The operator of the restaurant and entertainment use shall maintain the main entrance, outdoor activity area, parking lot, loading dock area, and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at minimum, daily sweeping and litter pickup, and disposal and washing or steam/pressure cleaning of all frontage entrances and abutting sidewalks at least once every two weeks; and
  - d. The establishment shall provide outside lighting in a manner that would illuminate outside street and sidewalk areas and adjacent parking, as appropriate; and
  - e. 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.
16. The Project shall comply with all City Codes.
  17. The Project Sponsor shall pass a noise test of the proposed entertainment conducted by the Entertainment Commission prior to Building Permit issuance.
  18. The Planning Department will not approve any Building Permit application, or any referral permit from the Entertainment Commission until the Entertainment Commission verifies that adequate sound proofing is in place to meet the conditions imposed by the Planning Department, the Police Department and the Entertainment Commission regarding appropriate noise levels.
  19. Should the monitoring of the Conditions of Approval contained in Exhibit A of this Motion be required, the Project Sponsor or successor(s) shall pay fees as established in Planning Code Section 351(e)(1).
  20. The Project Sponsor or its successors shall comply fully with all conditions specified in this authorization. Failure to comply with any condition shall constitute grounds for revocation under the provisions of Planning Code sections 303(f). The Zoning Administrator shall schedule a public hearing before the Planning Commission to receive testimony and other evidence to demonstrate a finding of a violation of a condition of the authorization of the use of the facility and, finding that violation, the Commission shall revoke the Conditional Use authorization. Such revocation by the Planning Commission is appealable to the Board of Supervisors.
  21. The Planning Department will conduct a public information hearing at the Planning Commission on the compliance of these Conditions of Approval six (6) months from the first day of business operations. After this public information hearing and with the advice and input of the Planning Commission, the Zoning Administrator may extend or reduce the permitted hours of the outdoor activity area. In preparation for the hearing, the Project Sponsor shall conduct a noise study six (6) months from the first day of business operations. This study will compare the actual versus expected level of noise from the noise study conducted by Charles M. Salter Associates, Inc. dated November 5, 2010, or subsequent study, requested above. This study shall be made available to the public.

22. The hours of operation for the outdoor activity area shall be 11:00 a.m. to 10:00 p.m. Sunday through Thursday and 11:00 a.m. to 12:00 a.m. Friday and Saturday, with no patrons remaining after closing time. Staff may remain in the facility as necessary for cleaning and other duties related to the operations of the outdoor activity area one hour past the closing hour stated above. No employees may be in the outdoor activity area after the clean up time.
23. The outdoor activity area is not allowed to have amplified music or a bar.
24. The Project Sponsor shall enhance proposed noise abatement by constructing sound walls around outdoor activity area that are a minimum of eight (8) feet in height and reinforced with stucco.
25. Deliveries shall be limited to 8:00 a.m. to 10:00 p.m. daily.

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