



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use

HEARING DATE: JUNE 12, 2014

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

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Information:
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Date: June 2, 2014
Case No.: 2014.0176C
Project Address: 2200B MARKET STREET
Zoning: Upper Market Neighborhood Commercial Transit District
40-X and 60/65-X Height and Bulk District
Block/Lot: 3560/054
Project Sponsor: Shawn Vergara
633 Fillmore Street
San Francisco, CA 94117
Staff Contact: Eiliesh Tuffy – (415) 575-9191
eiliesh.tuffy@sfgov.org
Recommendation: **Approval with Conditions**

PROJECT DESCRIPTION

The project sponsor proposes to establish a Bar per Planning Code Section 733.41 that would include up to ten (10) arcade games per Planning Code Section 733.48 Entertainment, Other. The alcohol service would comply with ABC license type 42, which allows the sale of beer and wine. No distilled spirits may be on the premises. Minors are not allowed to enter and remain. Food service is not required. Separate approval through the Department of Public Works is being sought to create an Outdoor Activity Area in the form of an outdoor patio area along the sidewalk facing Market Street, which is allowable under the Planning Code for this location. The Bar (d.b.a. Project 22) is to be located within the Upper Market Street Neighborhood Commercial Transit District (NCT) and a 40-X and 60/65-X Height and Bulk District. The business is independently-owned and not considered a Formula Retail Restaurant.

The current proposal is limited to housing up to ten (10) mechanical amusement devices, as eleven (11) or more machines is considered an Amusement Game Arcade under P.C. Section 733.69B and is not currently allowed within the Upper Market Street NCT. In response to this proposal, Supervisor Breed has stated an intent to work towards a permanent change in the municipal codes that would allow the potential for future expansion of the subject property's total number of allowable mechanical amusement devices on site.

SITE DESCRIPTION AND PRESENT USE

The Project Site is located on the north side of Market Street between 15th and Sanchez streets, Assessor's Block 3560, Lot 054. It is located within the Upper Market Neighborhood Commercial Transit District (NCT) and the 40-X and 60/65-X Height and Bulk Districts.

The Project Site is occupied by a five-story mixed use building with underground parking that is in the final stages of construction at the corner of 15th and Market streets, with two ground floor commercial spaces (including the subject space) and dwelling units above. The Project Site, which is proposed to be used as a Bar, consists of 1,986 square feet of ground floor commercial space.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The area surrounding the project site is mixed-use in character. A variety of commercial establishments are located within ground floor storefronts in the Upper Market NCT, including restaurants, bars, personal services, convenience stores, grocery stores and other types of retailers. Buildings in the vicinity typically range from two to four stories in height. Upper floors of buildings are generally occupied by offices or residential units. The Upper Market Street NCT is bounded by residential and mixed-uses in the surrounding RH-2, RH-3 and RTO Districts.

ENVIRONMENTAL REVIEW

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption.

HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	May 23, 2014	May 21, 2014	22 days
Posted Notice	20 days	May 23, 2014	May 23, 2014	20 days
Mailed Notice	20 days	May 23, 2014	May 22, 2014	21 days

The proposal requires a Section 312-neighborhood notification, which was not conducted in conjunction with the conditional use authorization process. The Section 312-neighborhood notification mailing will occur as part of the building permit review process for the tenant improvement application.

PUBLIC COMMENT

- To date, the Department has received five letters regarding the project, stating their support of the proposed use with the condition that noise is adequately buffered from residential units through noise control and soundproofing methods.

ISSUES AND OTHER CONSIDERATIONS

- The Sanborn map and an aerial photograph included with this report show the building that previously occupied the lot on which the subject property has now been constructed.

REQUIRED COMMISSION ACTION

In order for the project to proceed, the Commission must grant Conditional Use authorization to allow a Bar with a Type 42 ABC beer and wine license and Other Entertainment Use in the form of up to ten (10) mechanical amusement devices, pursuant to Planning Code Sections 303, 733.41 and 733.48.

BASIS FOR RECOMMENDATION

- The proposed Bar use would not increase the concentration of eating and drinking establishments within in 300-foot radius in the Upper Market NCT beyond either the 25% or 20% limitations outlined in the Planning Code.
- Clustering of uses can lead to economic vitality of the Upper Market NCT, where public transit is accessible, which is consistent with General Plan policy 6.1.
- The project proposes to operate within the principally permitted hours of operation, which are between the hours of 6am and 2am.
- The proposed Bar will enable an independent, locally-owned business to provide desirable goods and services to the surrounding neighborhood.
- The Project meets all applicable requirements of the Planning Code.
- The business is not a Formula Retail use and would serve the immediate neighborhood.
- There is no known opposition to the project.

RECOMMENDATION: Approval with Conditions
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Attachments:

Draft Motion
Parcel Map
Sanborn Map
Zoning Map
Aerial Photographs
Site Photo
Diagrammatic Floor Plan
Preliminary Interior Tenant Improvement Plan
Public Correspondence

Attachment Checklist

- | | |
|---|--|
| <input checked="" type="checkbox"/> Executive Summary | <input checked="" type="checkbox"/> Project sponsor submittal |
| <input checked="" type="checkbox"/> Draft Motion | Drawings: <u>Existing Conditions</u> |
| <input type="checkbox"/> Environmental Determination | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Zoning District Map | Drawings: <u>Proposed Project</u> |
| <input type="checkbox"/> Height & Bulk Map | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Parcel Map | 3-D Renderings (new construction or significant addition) |
| <input checked="" type="checkbox"/> Sanborn Map | <input type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Aerial Photo | <input type="checkbox"/> Wireless Telecommunications Materials |
| <input type="checkbox"/> Context Photos | <input type="checkbox"/> Health Dept. review of RF levels |
| <input checked="" type="checkbox"/> Site Photos | <input type="checkbox"/> RF Report |
| | <input type="checkbox"/> Community Meeting Notice |
| | <input type="checkbox"/> Housing Documents |
| | <input type="checkbox"/> Inclusionary Affordable Housing Program: Affidavit for Compliance |
| | <input type="checkbox"/> Residential Pipeline |

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

ET

Planner's Initials

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SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 414)
- Other

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Planning Commission Draft Motion

HEARING DATE: JUNE 12, 2014

Date: June 5, 2014
Case No.: 2014.0176C
Project Address: 2200B MARKET STREET
Zoning: Upper Market Street Neighborhood Commercial Transit District
 40-X and 60/65-X Height and Bulk District
Block/Lot: 3560/054
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ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303, 733.41 and 733.48 OF THE PLANNING CODE TO ESTABLISH AN ARCADE BAR (D.B.A. PROJECT 22) WITH A TYPE 42 ABC LICENSE AND UP TO TEN (10) MECHANICAL AMUSEMENT DEVICES THAT WILL OPERATE IN THE UPPER MARKET STREET NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT (NCT) AND A 40-X AND 60/65-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On January 31, 2014, Shawn Vergara (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization to establish a Bar (733.41) with a Type 42 ABC License that will include up to ten (10) mechanical entertainment devices (733.48) in the Upper Market NCT District. The Arcade Bar (d.b.a. Project 22) is to be located within the Upper Market Street Neighborhood Commercial Transit District (NCT) and a 40-X and 60/65-X Height and Bulk District.

On, June 12, 2014 the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2014.0176C.

The project is categorically exempt as a Class 1 exemption under CEQA Guidelines.

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. 2014.1076C, 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 property is occupied by a newly-constructed five-story mixed-use building containing two commercial tenant units on the ground floor with primary frontage on Market Street and secondary frontage on 15th Street (Block 3560, Lot 054). The upper four floors of the building are residential units. The subject property for this motion is a 1,998 square foot commercial space with 46 feet of frontage on Market Street.

The original entitlement for the project was granted on December 16, 2008, under Case No. 2006.1409D, allowing demolition of the previous restaurant on the site to make way for new construction.

The present project would occupy one of the two new ground floor commercial spaces created by the earlier mixed-use new construction project. Conditions of approval for the earlier project included provisions relating to the commercial storefronts, stating that the building should have attractive storefronts that provide visibility of the commercial interiors through the storefront windows and that the Project Sponsor should continue to work with the Department on building design elements.

3. **Surrounding Properties and Neighborhood.** The subject property is one of six corner lots created by the intersection of three streets: Market Street, Sanchez Street and 15th Street. Sanchez Street is residential in character, with commercial development concentrated on the lots closest to Market Street. The same pattern of use occurs along 15th Street in this location, with commercial use concentrated on the lots that intersect with Market Street. Properties along Market Street in the vicinity of the project are occupied by commercial uses or mixed-use buildings with commercial uses on the ground floor and occasionally second floors, or residential uses above the ground floor. The adjacent property to the west, which is also a through-lot between Market Street and 15th Street, is occupied by a three-story hotel.
4. **Project Description.** The applicant proposes to operate an Arcade Bar (d.b.a. Project 22) selling alcohol and housing up to ten (10) mechanical amusement devices. The ABC Type 42 license

allows the sale of beer and wine for consumption. Minors are not allowed on the premises. Food service is not required. The proposed use is not Formula Retail; rather it is an independent use and locally owned which has been encouraged throughout San Francisco. The hours of operation are limited to 6:00 a.m. to 2:00 a.m.

5. **Public Comment.** As of June 5, 2014, the Department has received five letters from local neighborhood groups and members of the public in support of the request.
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. **Eating and Drinking Uses.** Planning Code Section 303(p) requires that with regard to a conditional use authorization application for a Restaurant, Limited-Restaurant and Bar uses in Neighborhood Commercial Districts or Mixed Use Districts, the Planning Commission shall consider, in addition to the criteria set forth in Subsection 303(c) the existing concentration of eating and drinking uses in the area. Such concentration should not exceed 25% of the total commercial frontage as measured in linear feet within the immediate area of the subject site. For the purposes of this Section of the Code, the immediate area shall be defined as all properties located within 300' of the subject property and also located within the same zoning district.

No concentration of eating and drinking uses exists within 300 feet of the subject property within the Upper Market Street NCT. Including the proposed Bar use, eating, and drinking uses occupy a total of 12% of the lineal street frontage in the 300-foot radius. The proposed Bar would not cause a concentration of such uses.

- B. **Formula Retail.** Planning Code Section 730.4 stated that Conditional Use authorization is required for Formula Retail Uses in the Upper Market Street NCT.

The proposed use is an independent and locally owned use and is not a Formula Retail use.

- C. **Outdoor Activity.** Planning Code Section 733.24 states that an Outdoor Activity Area, as defined by Planning Code Section 790.70, is permitted in the Upper Market Street NCT if located in front of the establishment.

The Project Sponsor intends to include outdoor activity per Planning Code Section 733.24. The Outdoor Activity included with this proposal is outdoor seating along the Market Street sidewalk. The outdoor area would be used both day and night. Evening hours for the outside area will be set to mitigate neighbors' concerns about potential noise.

- D. **Hours of Operation.** Planning Code Section 733.27 states that Conditional Use Authorization is required for maintaining hours of operation from 2 a.m. to 6 a.m, as defined by Planning Code Section 790.48.

The intended hours of operation for the proposed bar at the time of application are within the permitted timeframe established for the Upper Market NCT, which allows for hours of operation between 6 a.m.-2 a.m.

- E. **Bar Use.** Planning Code Section 733.41 states that Conditional Use authorization is required for a Bar on the 1st floor in the Upper Market Street NCT.

The proposed use will be a Bar with a Type 42 beer and wine license. No distilled spirits may be on the premises. Minors are not allowed to enter and remain. Food service is not required.

- F. **Other Entertainment.** Planning Code Section 733.48 states that a Conditional Use Authorization is required for Other Entertainment on the 1st floor, as defined by Planning Code Section 790.38.

The other entertainment to be included would be mechanical amusement devices in the form of arcade games, and not exceeding ten (10) in number. The location of the machines would be restricted to the inside area and must be inspected and permitted by the Entertainment Commission prior to operation.

- G. **Street Frontage in Neighborhood Commercial Transit Districts.** Section 733.13 of the Planning Code requires that within NC Districts space for active uses shall be provided within the first 25 feet of building depth on the ground floor and 15 feet on floors above from any facade facing Market Street. In addition, the floors of street-fronting interior spaces housing non-residential active uses and lobbies shall be as close as possible to the level of the adjacent sidewalk at the principal entrance to these spaces. Frontages with active uses that must be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level and allow visibility to the inside of the building. The use of dark or mirrored glass shall not count towards the required transparent area. Any decorative railings or grillwork, other than wire mesh, which is placed in front of or behind ground floor windows, shall be at least 75 percent open to perpendicular view. Rolling or sliding security gates shall consist of open grillwork rather than solid material, to provide visual interest to pedestrians when the gates are closed, and to permit light to pass through mostly unobstructed. Gates, when both open and folded or rolled as well as the gate mechanism, shall be recessed within, or laid flush with, the building facade.

The subject commercial space has approximately 46 feet of frontage on Market Street devoted to the bar entrance and window space. The windows are clear and unobstructed.

- H. **Signage.** Currently, there is not a proposed sign program on file with the Planning Department. Any proposed signage will be subject to the review and approval of the Planning Department.

Sign permit plans are required to be filed and approved by the department prior to installation.

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 bar would not affect traffic or parking in the District because it is well served by transit. The use would complement the mix of goods and services currently available in the district and contribute to the economic vitality of the neighborhood.

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 would remain the same and the project would not alter the existing appearance or character of the project vicinity.

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 for the proposed use. The proposed use is designed to meet the needs of the neighborhood and should not generate significant amounts of vehicular trips from the immediate neighborhood or citywide.

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 bars and other entertainment venues outlined in Exhibit A. Two conditions specifically obligate the project sponsor to mitigate odor and noise that may be generated by the arcade bar use.

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

The proposed arcade bar does not require any additional tenant improvements. The Department shall review all lighting and signs proposed for the new business in accordance with the Planning Code.

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

The project complies with all relevant requirements and standards of the Planning Code 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 Upper Market Street NCT in that the intended use is located at the ground floor and would provide a compatible entertainment service for the immediately surrounding neighborhoods.

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

NEIGHBORHOOD COMMERCE

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.1:

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

Policy 1.2:

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

Policy 1.3:

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

The proposed development would provide desirable goods and entertainment services to the neighborhood and would provide resident employment opportunities to those in the community. 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 project would create a new commercial entertainment activity and enhance the diverse economic base of the City.

OBJECTIVE 6:

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.1:

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

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

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 NCT District which contains the proposed building. With the proposed bar use, approximately 12 % of the lineal street frontage within a 300-foot radius of the subject property is attributed to eating and drinking establishments. The proposed Bar would not cause an over-concentration of such 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.

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

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

The proposal would enhance the district by providing an active social and entertainment use on the ground floor of the building at a heavily traveled six-point intersection. The business would be locally owned and it creates employment opportunities for the community.

- 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.

- 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 at a six-point intersection, where three streets converge: Market, 15th and Sanchez streets. This area is well served by transit.

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

The project would not displace any service or industry establishment. The project would not affect industrial or service sector uses or related employment opportunities. Ownership of industrial or service sector businesses would not be affected by this project.

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

The project is designed and would be constructed to conform to the structural and seismic safety requirements of the City Building Code. This proposal would not affect 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 project would have no negative impact on existing parks and open spaces. The project does not have an impact on open spaces.

10. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
11. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2014.0176C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with the floor plan on file 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. _____. 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 June 12, 2014.

Jonas P. Ionin
Acting Commission Secretary

AYES: Commissioners Antonini, Borden, Fong, Hillis, Moore, Sugaya, and Wu.

NAYS: none

ABSENT: none

ADOPTED: June 12, 2014

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow an Arcade Bar (d.b.a. Project 22) located at 2200B Market Street, Block 3560, and Lot 054 pursuant to Planning Code Section(s) 303, 733.41 and 733.48 within the Upper Market Street Neighborhood Commercial Transit District and a 40-X and 60/65-X Height and Bulk District and subject to conditions of approval reviewed and approved by the Commission on June 12, 2014 under Motion No XXXXXX. 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 June 12, 2014 under Motion No. _____.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. _____ 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 (3) 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

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

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

4. **Odor Control Unit.** In order to ensure any significant noxious or offensive odors are prevented from escaping the premises once the project is operational, the building permit application to implement the project shall include air cleaning or odor control equipment details and manufacturer specifications on the plans. Odor control ducting shall not be applied to the primary façade of the building.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, 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

6. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

OPERATION

7. **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>
8. **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>
9. **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
For information about compliance with the construction noise, contact the Department of Building Inspection, 415-558-6570, www.sfdbi.org
For information about compliance with the amplified sound including music and television, contact the Police Department at 415-553-0123, www.sf-police.org
10. **Odor Control.** While it is inevitable that some low level of odor may be detectable to nearby residents and passersby, appropriate odor control equipment shall be installed in conformance with the approved plans and maintained to prevent any significant noxious or offensive odors from escaping the premises.
For information about compliance with odor or other chemical air pollutants standards, contact the Bay Area Air Quality Management District, (BAAQMD), 1-800-334-ODOR (6367), www.baaqmd.gov and Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

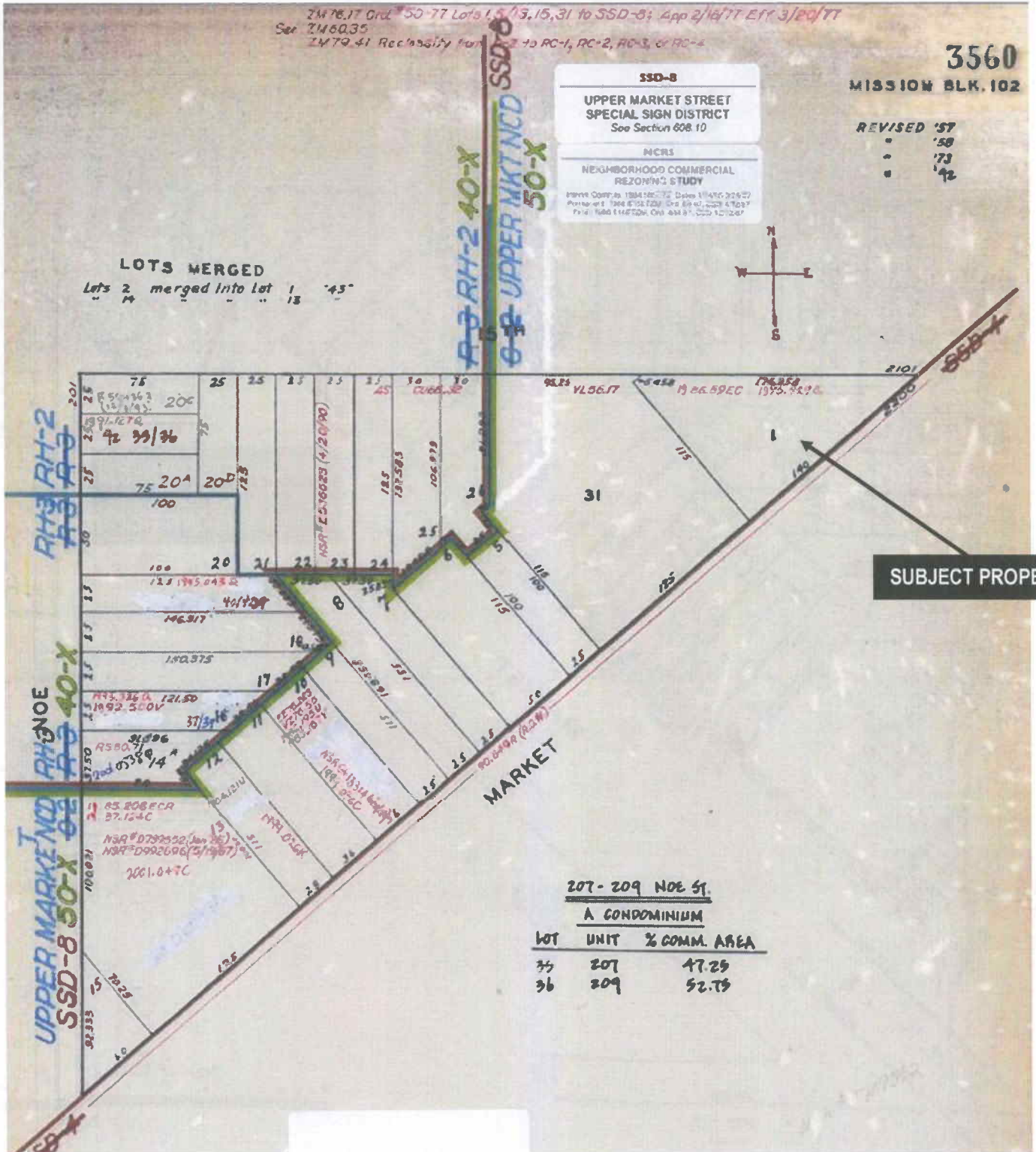
11. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the 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 a 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

12. **Hours of Operation.** The subject establishment is limited to hours of operations from 6:00 a.m. to 2:00 a.m. seven days a week.

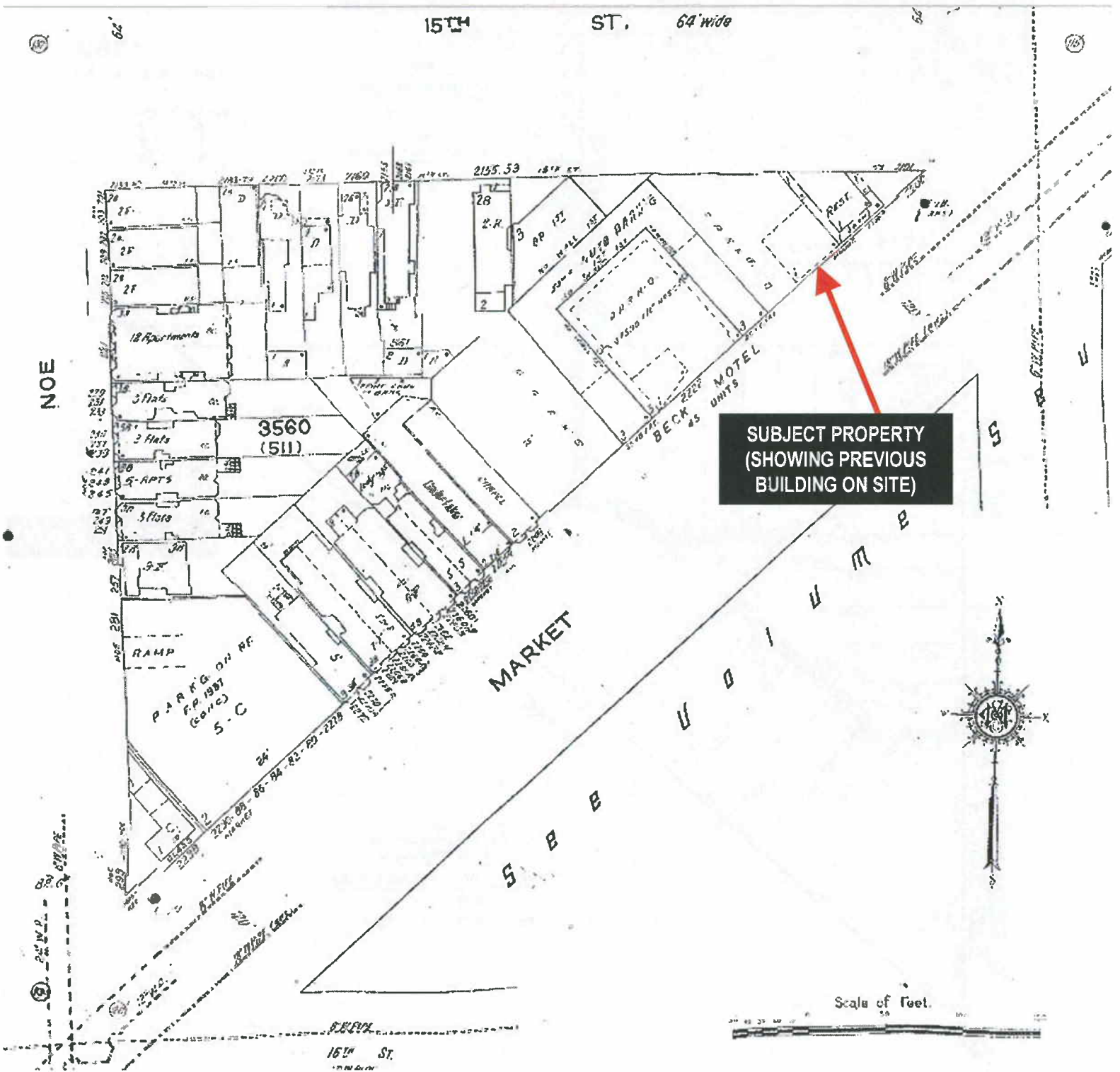
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Parcel Map



Conditional Use Request Hearing
 Case Number 2014.0176 C
 Arcade Bar
 2200B Market Street

Sanborn Map



Conditional Use Request Hearing
Case Number 2014.0176 C
Arcade Bar
2200B Market Street

Zoning Map

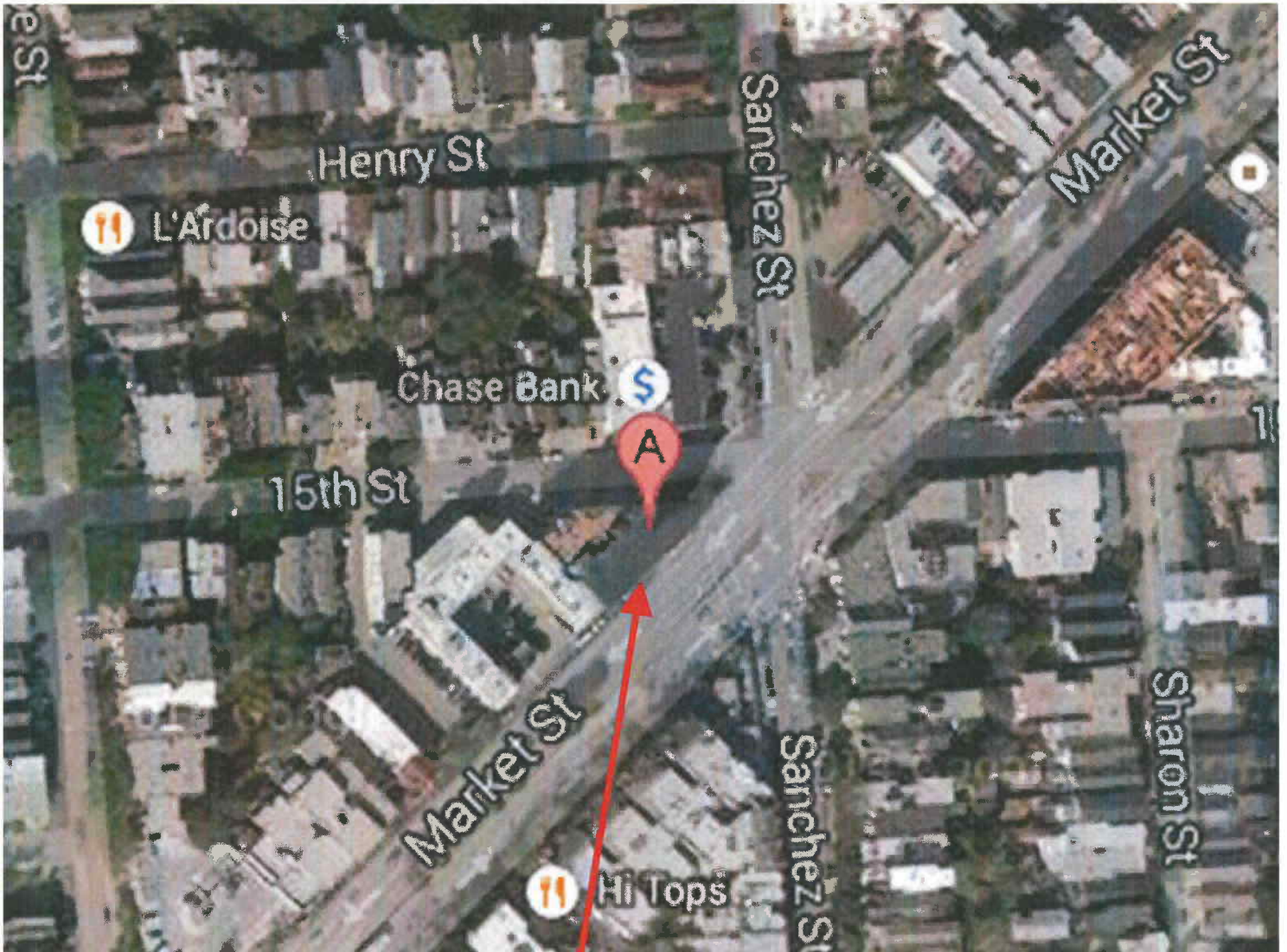
View Looking North



Conditional Use Request Hearing
Case Number 2014.0176 C
Arcade Bar
2200B Market Street

Aerial Photo

View Looking North



SUBJECT PROPERTY

Conditional Use Request Hearing
Case Number 2014.0176 C
Arcade Bar
2200B Market Street

Aerial Photo View Looking Northwest



**SUBJECT PROPERTY
(PRE-CONSTRUCTION)**

Conditional Use Request Hearing
Case Number 2014.0176 C
Arcade Bar
2200B Market Street

Site Photo - Subject Property View from the corner of Market and Sanchez Streets

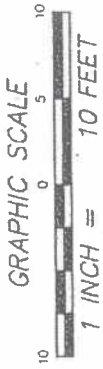


SUBJECT PROPERTY

Conditional Use Request Hearing
Case Number 2014.0176 C
Arcade Bar
2200B Market Street

EXHIBIT "A"

CONDOMINIUM PLAN
2200-2204 MARKET STREET
DIAGRAMMATIC FLOOR PLAN
LEVEL ONE - UNIT 101 & 102
SHEET 9 OF 33



UNIT 101
2925± SQ.FT.
COMMERCIAL UNIT
L.E.=118.80
U.E.=133.55

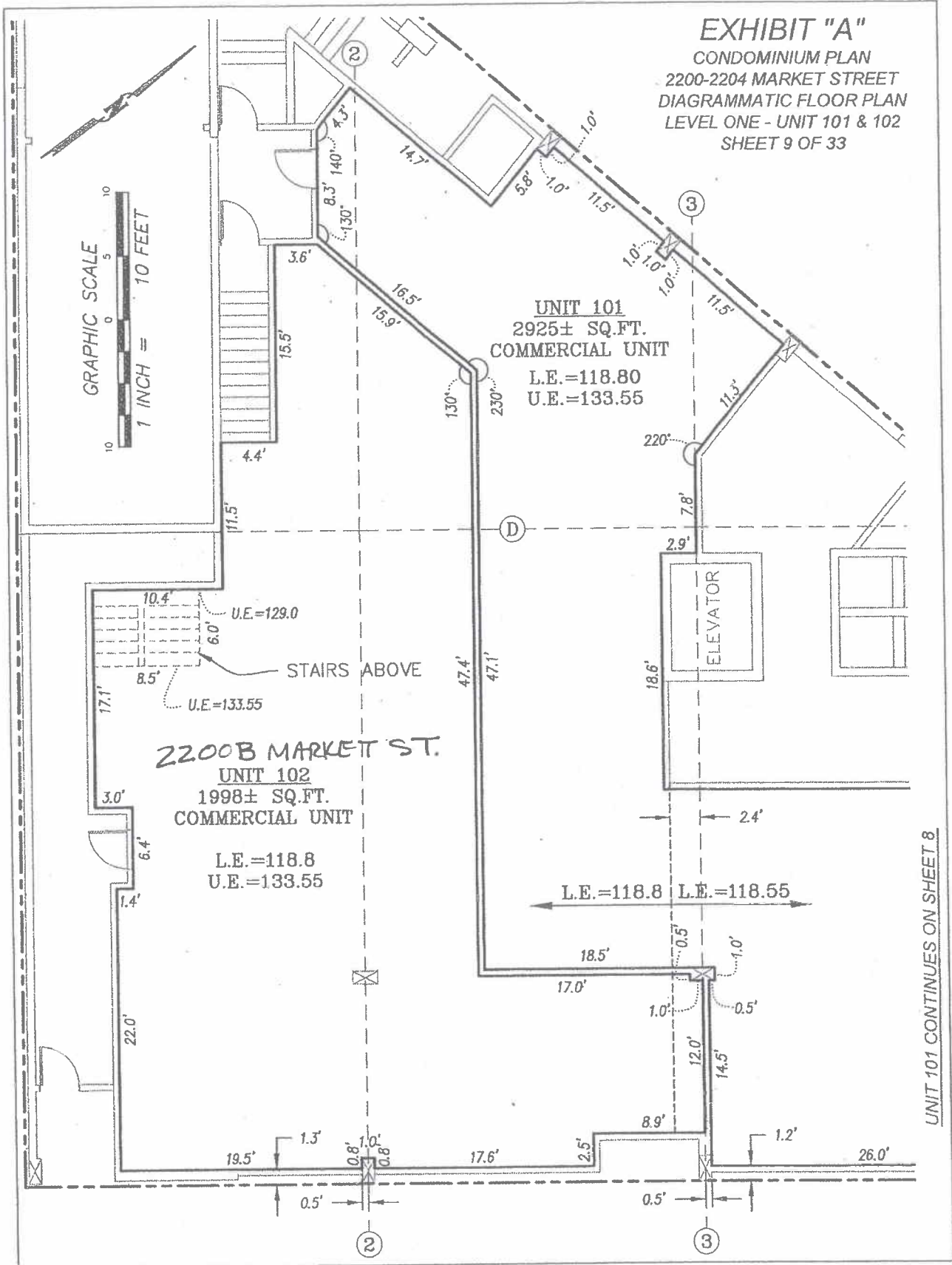
2200B MARKET ST.
UNIT 102
1998± SQ.FT.
COMMERCIAL UNIT

L.E.=118.8
U.E.=133.55

STAIRS ABOVE

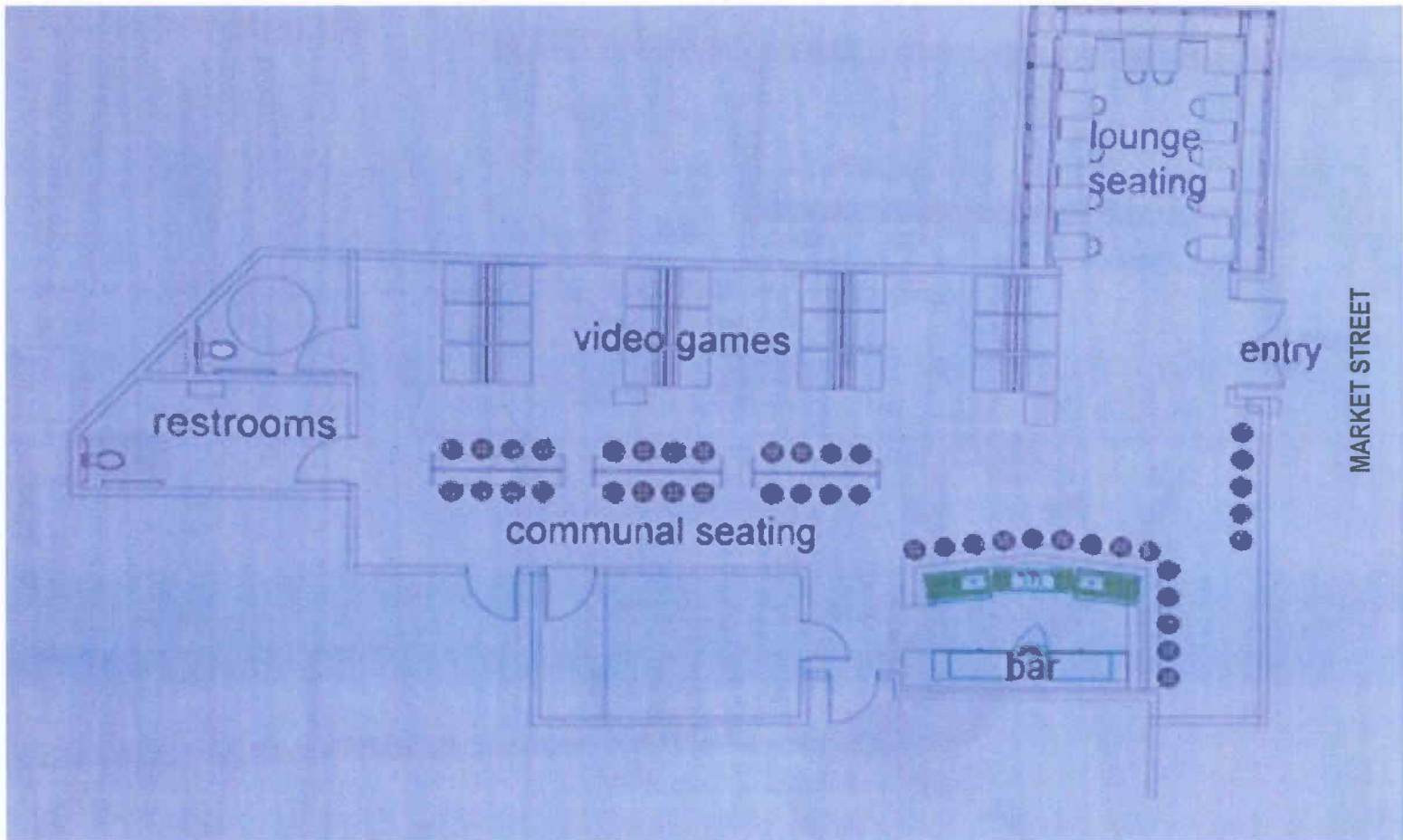
ELEVATOR

UNIT 101 CONTINUES ON SHEET 8



2200B Market Street (d.b.a. Project 22)

- Current application under review proposes up to 10 games maximum
- Project Sponsor is working with Sup. Wiener's & Sup. Breed's staff on a resolution to increase the number of allowable machines in an NCT



PRELIMINARY TENANT IMPROVEMENT PLAN



Conditional Use Request Hearing
Case Number 2014.0176 C
Arcade Bar
2200B Market Street

2/28/14

To Whom It May Concern:

I am a resident of 2130 Market St, a residential building directly adjacent to the Blackbird Bar, located at 2124 Market St.

When Blackbird first moved into their location there was some initial trouble with noisy patrons gathering outside the bar and under the bedroom and living room windows of my building. I am very pleased to report that upon notification of the problem, Shawn Vergara, owner of Blackbird, took immediate actions to remedy the problem. He instructed his doorman to monitor and curb noise from patrons. He gave the residents of my building text numbers for the doorman so that we could notify them when the noise was disruptive. He also gave me his personal phone number and has

been very responsive on the few occasions when I needed to contact him.

I personally met with Shawn to let him know about the concerns of myself and my neighbors. He was approachable and proactive in helping the bar and residents build a good relationship.

Since meeting with ~~Shawn~~^{Shawn} and on rare occasions using the numbers he provided, the problem with noisy patrons has dramatically decreased. ~~Shawn~~^{Shawn} is very interested in building a good relationship with local residents and takes positive steps to ensure his bar is a good member of the neighborhood.

Respectfully,

Janeason Lord

2130 Market St., #10

SF 94114-1343



584 Castro Street #333
San Francisco CA 94114-2512

formerly "Merchants of Upper Market & Castro – MUMC"

415/431-2359

Info@CastroMerchants.com

www.CastroMerchants.com

April 29, 2014

By Email and USPS hardcopy

Eiliesh Tuffy, Staff Planner
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco CA 94103-2479

Re: Planning Case No. 2014.0176C, 2200B Market Street ("Project 22"), Conditional Use Authorization

Dear Ms. Tuffy,

The Project Sponsors for the above-referenced Case tell us that you are the Staff Planner for this Case. On Planning Department's website, Delvin Washington is named. If this letter regarding Case No. 2014.0176C should be directed to one of your colleagues, please do so, and acknowledge to us.

This confirms that the Members of **CASTRO MERCHANTS** (formerly "Merchants of Upper Market & Castro – MUMC") have voted to SUPPORT the Request for Conditional Use Authorization, Case No. 2014.0176C (business known at least temporarily as "Project 22") by Project Sponsors Tiffany Vergara Chung and Shawn Vergara, to establish a beer and wine bar (ABC License Type 42) with arcade games (as allowed by applicable San Francisco Planning, Police and related Codes).

Our approval is based on information provided by the Project Sponsors during their presentation at our Members Meeting on April 3, 2014. We have asked the Project Sponsors to notify us if there are any subsequent, substantive changes to their proposal, so we can evaluate whether it would affect the previous approval. We have received no such notification, to date.

CASTRO MERCHANTS is the merchants' organization serving San Francisco's Castro-Upper Market area, generally along Upper Market Street from Octavia Blvd. to Castro Street; Castro from Market to 19th Street; and cross streets throughout that area. **CASTRO MERCHANTS** has about 260 paid Members for 2013-2014. The property covered by this matter is within our organization's primary service area.

..... continued

CASTRO MERCHANTS

San Francisco Planning Department
re: Case No. 2014.0176C

April 29, 2014

In addition to today's email to you and to the individuals cc'd below, a hardcopy of this letter will be mailed to you and to the Project Sponsors on April 30.

Please let us know if you have any questions regarding **CASTRO MERCHANTS's** SUPPORT for this Request. Please include this letter in the matter's permanent file, and assure that it is provided to all Planning Staff and Commissioners and to any other hearing panels at the time that this matter is considered by them. Thank you for considering our comments.

Respectfully,



Daniel Bergerac, President

Email and hardcopy cc's: Tiffny Vergara Chung, Shawn Vergara, "Project 22"
email cc: Supervisor Scott Wiener and staff
Capt. Dan Perea, SFPD Mission Station

.... LtrPlanningVergara042914.docx

Rec'd 5/15/2014



CASTRO/EUREKA VALLEY NEIGHBORHOOD ASSOCIATION

The neighborhood association for the Castro, Upper Market and all of Eureka Valley since 1878

EVNA (formerly EVPA)
PO Box 14137
San Francisco, CA 94114
www.evna.org
Board@EVNA.org

May 11, 2014

Eiliesh Tuffy
San Francisco Planning Department
1660 Mission Street, #400
San Francisco, CA 94103

Re: **2200B Market Street, proposed bar/arcade**

EXECUTIVE COMMITTEE

Alan Beach-Nelson
President
Castro Street

Rob Cox
Secretary
Hartford Street

Gary Weiss
Treasurer
IXIA

DIRECTORS:

Patrick Crogan
Market Street

Tim Eicher
Q Bar

Mary Edna Harrell
Castro Street

Judith Hoyem
17th Street

Mark McHale
Hearth Real Estate

Dan Risman Jones
22nd Street

Aaron Seivertson
Hartford Street

Josh Bleacher Snyder
Hancock Street

EX OFFICIO DIRECTORS:

Steve Clark Hall
19th Street

Dear Eiliesh:

I am writing a letter of support with conditions from the Eureka Valley Neighborhood Association Planning and Land Use Committee regarding the proposed bar/arcade at 2200B Market Street seeking a variance to add more than 10 video games at their establishment at this address.

After reviewing the project with the owners, and learning more of their operation of the Blackbird Bar near Church and Market Streets, we determined that a letter of support to exceed a limit of 10 video games for the establishment is appropriate with a primary condition.

The condition is that we require any establishment moving into our neighborhood, where there is a mix of commercial and residential units, to provide significant noise control plans to ensure that the noise coming from the bar area does not cause a nuisance to neighboring businesses and residents. Our communications with the project sponsor indicate that they are implementing noise controls in the areas of game noise, street noise and acoustics.

Our committee appreciates the commitment of investment in our neighborhood as evidenced by the project sponsors, and look forward to a business establishment that enhances the fabric of our neighborhood, while respecting its neighbors' need for noise controls.

Regards,


Jack Keating

Chair, Eureka Valley Neighborhood Association Planning and Land Use Committee

March 13, 2014

San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: Shawn Vergara's project

To Whom It May Concern

I've lived at 2130 Market Street right next to Blackbird bar at 2124 Market since 2005. My apartment actually shares a wall with the bar. I'd like to state that Shawn and his staff have always been communicative and understanding about noise issues created by a bar. In the beginning there were nights when it was a bit loud but I was able to call and speak with his staff about it. They had just opened and installed a sound system and were working out noise levels. They've adjusted the bass as I suggested and it hasn't been a problem in many years. I believe that any new business Shawn opens will be just as considerate and he'll make an effort to get to know the neighbors as he did with me and others who live in my building. Feel free to contact me with any questions.

A handwritten signature in cursive script, appearing to read "Kay Hoskins".

Kay Hoskins
2130 Market #2
San Francisco, CA 94114
415-845-4610
kayhoskins@earthlink.net

Luke Cottrill
2130 Market Street #12
San Francisco, California, 94114

To Whom it may Concern,

I have lived at 2130 Market Street for over 25 years. I would like to recommend to you Mr. Shawn Vergara and his business, "The Blackbird". This establishment is a very nice cocktail bar.

Having lived at the same place for many years I have seen the space known as "The Blackbird", for many years it was a bar called "The Expansion". There was always a noise problem with this bar. The manager played very loud music, 7 days a week, from open to closing time. No matter who or how he was asked to be a good neighbor, he did nothing.

There also was a problem with "street people" going into the bar, going to the outside patio, and then prowling and burglarizing nearby apartments in different buildings. This culminated in a man with a knife staring into my Christmas party. He tried to hide in the Expansion and when confronted he ran from the police.

When Mr. Vergara bought this property many tenants in my building asked me to go and speak to him about these problems. I found and find Mr. Vergara to be open-minded, responsive, and very polite. He listened and then responded in a positive manner.

The back patio was closed and since then we have not had any prowlers or burglarizing in our building. The noise problem was dealt with quickly and since the opening of this establishment, the noise problem has almost ceased. I would give Mr. Vergara a 9.5 out of 10 for the way he dealt with these serious problems.

All his employees are kind, professional, and polite. Saying that about a cocktail bar is not always easy!. The bar is so popular that there sometimes are crowds of people in front of the bar. His employees control all problems. If there are trouble makers, they are dealt with swiftly and kindly.

I like Mr. Vergara. Over the several years that this establishment has been open, he has become my friend. A few employees also are my friends. I like this place now. It is very difficult to recommend a "bar" since I have been clean and sober for over 20 years, but I do!

Mr. Vergara and his establishment are very good neighbors!

Sincerely,



Mr. Luke Cottrill