



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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

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Planning Commission Motion #17637

HEARING DATE: JUNE 26, 2008

Date: June 18, 2008
Case No.: **2008.0444 C**
Project Address: **2342-2348 MARKET STREET**
Zoning: Upper Market Neighborhood Commercial District
 65-B Height and Bulk District
Block/Lot: 3562/007
Project Sponsor: Greg Bronstein
 2342-2348 Market Street
 San Francisco, CA 94114
Staff Contact: Elizabeth Watty – (415) 558-6620
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ADOPTING FINDINGS RELATING TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION, UNDER PLANNING CODE SECTIONS 303, 721.21, 790.130, 721.41, 790.22, 721.48, AND 790.38, FOR A USE SIZE EXCEEDING 2,999 SQUARE FEET THAT WILL ACCOMMODATE AN EXPANSION OF THE EXISTING BAR AND OTHER ENTERTAINMENT USES (DBA JET) INTO THE ADJACENT GROUND-FLOOR COMMERCIAL TENANT SPACE, LOCATED WITHIN THE UPPER MARKET NEIGHBORHOOD COMMERCIAL DISTRICT (NCD) AND 65-B HEIGHT AND BULK DISTRICT.

PREAMBLE

On April 17, 2008, Greg Bronstein of Jet, (hereinafter “Applicant”), made application (hereinafter “Application”) for Conditional Use on the property at 2342-2348 Market Street, Assessor’s Lot 007 in Block 3562 (hereinafter “Property”), for a use size exceeding 2,999 square feet that will accommodate an expansion of the existing bar and other entertainment uses (DBA Jet) into the adjacent ground-floor commercial tenant space, per the application and plans dated April 14, 2008 and labeled “EXHIBIT B” (hereinafter “Project”), within the Upper Market Neighborhood Commercial District (hereinafter “Upper Market NCD”) in a 65-B Height and Bulk District.

On June 26, 2008 the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. **2008.0444C**. Conditional Use Authorization is required pursuant to Planning Code Section 303, 721.21, 790.130,

721.41, 790.22, 721.48, and 790.38, in order to allow a use size over 2,999 square feet with a bar and other entertainment uses in the Upper Market NCD.

The Application was determined by the San Francisco Planning Department (hereinafter "Department") to be Categorically Exempt from the environmental review process pursuant to Title 14, Class 1(a) of Category 15301 (Existing Facilities) of the California Administrative Code. The Commission has reviewed and concurs with said determination.

This Commission has heard and considered the testimony presented to it at the public hearing and has further considered the written materials and oral testimony presented on behalf of the Applicant, the Department staff, and other interested parties.

MOVED, that the Commission hereby approves the Conditional Use requested in Application No. 2008.0444 C subject to the conditions contained in "EXHIBIT A", attached hereto and incorporated herein by reference thereto, based on the following findings:

FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Project Description.** The Project seeks a Conditional Use Authorization, pursuant to Planning Code Sections 303, 721.21, 790.130, 721.41, 790.22, 721.48, 790.38, for a use size exceeding 2,999 square feet that will accommodate the expansion of the existing bar with other entertainment (dba Jet) into the adjacent ground-floor commercial space, which is currently occupied by a campaign headquarters. The Project also includes an outdoor activity area, pursuant to Planning Code Sections 721.24 and 790.70 consisting of a front smoking patio, which is permitted-by-right when located at the front of a property. The Subject Property is within the Upper Market Neighborhood Commercial District and 65-B Height and Bulk District.

Jet is currently permitted to be open and serving alcohol with other entertainment from 6:00 a.m. to 2:00 a.m., seven days a week.

3. **Site Description and Present Use.** The Subject Property is located at 2342-2348 Market Street, at the north side of Market Street, between Castro and 16th Streets. The lot currently contains a one-story commercial structure – built in 1907 – that is divided into two commercial tenant spaces, and one dwelling unit that is located in the eastern corner of the lot. The commercial tenant on the west side of the lot is currently dedicated to Jet bar, with approximately 1,611 square feet of gross floor area (including a mezzanine of 294 square feet), and the commercial tenant on the east side of the lot is currently occupied by a temporary political campaign headquarters, and contains approximately 1,746 square feet of gross floor area (including a mezzanine of 345 square feet). The existing commercial tenant spaces together have approximately 45 feet of frontage; approximately 21'-6" dedicated to Jet's tenant space, and 23'-6" dedicated to the political

headquarters. The proposed bar expansion will merge these two tenant space and include an expansion to the mezzanine level to accommodate a new storage room. This Project will result in a use size of approximately 3,240 square feet of gross floor area, and thus requires Conditional Use authorization for a use size that exceeds 2,999 square feet. The northeastern corner of the lot contains a detached structure with one dwelling unit that is not involved in the proposed Project. The Property is located within the Upper Market Neighborhood Commercial District and 65-B Height and Bulk District.

4. **Surrounding Properties and Neighborhood.** Land uses located within the subject block of Market Street include one-, two-, three-, and four-story buildings containing primarily commercial uses on the ground floor with residential units located above. The properties on the subject block are all located within the Upper Market Neighborhood Commercial District. Land uses located along Castro Street include a mix of commercial and residential uses, and uses along 16th Street are primarily residential in character, with mostly two-, three-, and four-story buildings that are zoned RH-3 (Residential, House, Three Units). To the east of the Subject Lot is a property containing Shala Yoga studio, John Brody salon, and Copy Central; and to the west is a property containing Streetlight Records at the ground floor. Across Market Street are mixed-use buildings with ground floor commercial and one-to-two stories of residential occupancy above.

The Subject Property is located within the Upper Market NCD (Neighborhood Commercial District). The Upper Market NCD controls are designed to encourage a diversified commercial environment with a wide variety of uses, with special emphasis on neighborhood-serving businesses, and limits on the number of eating, drinking and entertainment uses at the ground story.

5. **Public Comment.** As of June 17, 2008, the Planning Department has received letters of support from approximately 55 people and/or organizations – including Eureka Valley Promotion Association (EVPA), Duboce Triangle Neighbors Association (DTNA), and Merchants of Upper Market & Castro (MUMC) – as well as a petition with approximately 360 signatures. The Department has received two (2) letters in opposition to the Project, one of which only expressed opposition to the front smoking patio.
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. **Floor Area Ratio (FAR).** Planning Code Section 721.20 allows a floor area ratio of up to 3.0 in the Upper Market Neighborhood Commercial District.

The Project will result in a floor area ratio of .88.
 - B. **Use Size.** Planning Code Section 721.21 permits a use size of 3,000 square feet and above in the Upper Market NCD with Conditional Use Authorization.

The Project seeks Conditional Use Authorization under Planning Code Sections 721.21 and 790.130 to allow a use size of approximately 3,240 square feet.

- C. **Outdoor Activity Area:** Planning Code Section 721.24 permits an outdoor activity area by-right if it is located in the front of the property, and permits an outdoor activity area with Conditional Use Authorization if it is located elsewhere on the lot.

The Project includes a new outdoor activity area that abuts the front property line. The intention of this space is to allow an area for patrons who smoke on the Subject Property rather than having patrons loitering on the public sidewalk. This outdoor activity area is located entirely within the Subject Property, and is accessed via a succession of two doors so to prevent noise from escaping the interior space as patrons travel to and from the smoking patio.

- D. **Bar Use:** Planning Code Section 721.41 permits bars in the Upper Market NCD with Conditional Use Authorization.

The Project seeks Conditional Use Authorization, under Planning Code Sections 721.41 and 790.22, to permit the expansion of the existing bar into the adjacent commercial tenant space.

- E. **Other Entertainment Use:** Planning Code Section 721.48 permits other entertainment in the Upper Market NCD with Conditional Use Authorization.

The Project seeks Conditional Use Authorization, under Planning Code Sections 721.48 and 790.38, to permit the expansion of the existing other entertainment into the adjacent commercial tenant space.

- F. **Parking:** Section 151 of the Planning Code states that off-street parking is required for every 200 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square-feet.

The Project will result in approximately 3,240 of floor area. A bar and entertainment use of this size does not require any off-street parking.

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

The Project has approximately 45 feet of frontage on Market Street. Approximately 36 feet of the frontage is devoted to either the business entrance or window space. This is an increase from the existing conditions, which contains 23 feet of frontage that is dedicated to entrances, windows, or

display space. The Project includes eliminating the existing roll-down metal security gate and aluminum storefront windows, and creating a uniform façade with channel glass walls.

H. **Signage.** Currently, there is not a proposed sign program on file with the Planning Department. Any new signage will be subject to the Upper Market Sign provisions of the Planning Code and will be reviewed by the Planning Department prior to the issuance of any sign permit.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project complies with said criteria in that:

A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The Project will provide uses that are both necessary and desirable for the neighborhood in that it will expand a well-used existing neighborhood-serving use. There appears to be a demand for the existing use in this neighborhood and the existing space is not practical in its current configuration. The space is small and the single bathroom is deficient. The expansion is necessary to meet the neighborhood demand and to make the necessary improvements to the facility.

The proposed commercial use is compatible with the existing uses in the general vicinity of the Subject Property. The exiting use provides the community a choice of nighttime entertainment venues, specifically one that permits dancing. The proposed expansion into the adjacent commercial space will allow tenant improvements that will enhance and preserve a desirable use. The envelope of the existing building will not be enlarged, and the façade alterations will utilize high quality materials and will be compatible with the existing character 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;

There are no modifications proposed to the exterior of the structure on the Subject 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;

Traffic conditions will remain substantially unaltered by this Project, because the proposed use is a neighborhood-serving business, frequented via foot, cab, or public transportation by many residents of the surrounding neighborhoods. This Property is well served by public transit, being

on Market Street near the Castro Street MUNI Station, and along or in close proximity to the 24-Divisadero, 35-Eureka, and 37-Corbet buses, and the K-, L-, M-, T-, S-, and F-MUNI train lines. Further, Condition of Approval number 22 will limit the hours allowed for loading activities and garbage collection.

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

The Project will not create any noxious or offensive emissions, such as glare, dust, or odor, seeing as the Project is an expansion of existing uses on the Property that do not currently create such offensive emissions. The front smoking patio is provided on the Subject Property so to deter smoking on the public right-of-way in an attempt to contain such offensive emissions within a designated area. The amplified entertainment will be regulated by the Entertainment Commission and Police Department so that it will meet the Noise Ordinance, and not be heard outside of the enclosed structure. The Project Sponsor has redesigned his entrances to have two sets of doors so that interior noise from the bar patrons and/or entertainment will be contained within the structure at all times. Furthermore, Condition of Approval numbers 11, 13, 14, and 15 restricts noise and vibration associated with the entertainment use to within the enclosed structure.

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

There are no setbacks to allow for landscaping in front of the Subject Property, although the project sponsor has committed to providing new street trees/trash receptacles in front of the Subject Property. There is no parking or dedicated loading space required for the Subject Property, although the Project Sponsor has agreed in Condition of Approval number 22 to prohibit loading activities along Market Street during early morning hours and peak-commute hours. Although there is no signage plan on file with the Planning Department, all signage at this site is required to meet the Upper Market Sign provisions of the Planning Code and the Project Sponsor will be required to obtain the necessary building permits for any new business signs.

- C. With respect to applications filed pursuant to Article 7, Section 703.2(a), zoning category .48 (Other Entertainment), that such use or feature will:

- i. Not be open between 2:00 a.m. and 6:00 a.m.;

The entertainment use will cease at 2:00 a.m., seven days-a-week.

- ii. Not use electronic amplification between midnight and 6:00 a.m.; and

Amplification will be permitted between midnight and 2:00 a.m., seven days-a-week, based on the results of a sound test conducted by the Entertainment Commission. The Entertainment Commission will not permit noise and vibration associated with the entertainment use to be audible beyond the enclosed structure. Condition of Approval numbers 11, 13, 14, and 15 further

limits the bass and vibrations of the other entertainment from being heard and/or felt outside the enclosed structure.

- iii. 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 on the San Francisco Noise Control Ordinance.

The San Francisco Entertainment Commission will regulate noise, verifying that the decibel levels specified in the San Francisco Noises Control Ordinance are not exceeded. Further, the Project Sponsor has proposed interior alterations to the facility that include two sets of doors at all entrances so that at least one set of doors are closed at all times so to prevent noise associated with the entertainment from leaving the enclosed building.

- D. Notwithstanding the above, the Planning Commission may authorize a Conditional Use which does not satisfy the criteria set forth in C (1)(2) and (3) above if facts presented are such to establish that the use will be operated in such a way as to minimize disruption to residences in and around the district with respect to noise and crowd control.

The Planning Commission authorizes this Conditional Use to allow amplified entertainment between midnight and 2:00 a.m. seven (7) days-a-week. Although this does not satisfy the criteria set forth in C (2) above, the Commission relies on the Entertainment Commission and Police Department to regulate the City's Noise Ordinance. The Noise Ordinance does not permit sound to be audible beyond the enclosed structure, and Condition of Approval numbers 11, 13, 14, and 15 further restrict any bass and vibrations from being heard and/or felt outside the enclosed structure. This Condition of Approval will minimize disruption to residences in and around the district. Further, Condition of Approval number 23 requires the Project Sponsor to hire security guards to monitor the area within one block (500-feet) of the Subject Property to assure that patrons and employees of the bar are respectful and quiet when traveling to and from Jet.

8. **General Plan Compliance.** The Project meets the criteria in Section 303(c)(3) by complying with applicable provisions of the Planning Code as established in the Findings 6 and 7 above and by affirmatively promoting the objectives and policies of the General Plan as outlined below:

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.1:

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

Policy 1.2:

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

Policy 1.3:

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

The Project will provide desirable goods and services to the neighborhood and will provide resident employment opportunities to people in the community. Jet is an independently-owned business and a popular nighttime destination for many people. The intensity of uses proposed at the Site are compatible with the other businesses along Market Street, and the Conditions of Approval shown in Exhibit A are imposed to mitigate potential quality of life concerns expressed by some of the residential neighbors.

OBJECTIVE 2:

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1:

Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

The Project will retain an existing commercial activity and will enhance the diverse economic base of the City by allowing an expansion of a successful business and by creating an opportunity for more jobs. The tenant space that will be absorbed by this Project has been operating as a temporary political headquarters and will be vacant shortly. No neighborhood-serving businesses will be displaced by Jet's expansion.

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 opportunities for unskilled and semi-skilled workers.

Policy 3.4:

Assist newly emerging economic activities.

Jet is a small independently-owned and operated business that provides employment opportunities for San Francisco residents. This Authorization will allow for more employment opportunities for local residents and musicians, and will also provide employment opportunities during non-traditional business hours.

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 by the authorization of this Conditional Use, and the Project would not prevent the Upper Market District from achieving optimal diversity in the types of goods and services available in the neighborhood.

Policy 6.2:

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

The Project is sponsored by an independent entrepreneur who seeks to provide a larger bar and entertainment venue for patrons of the existing bar. The expansion includes exterior alterations that will improve the exterior façades, by removing the roll-down metal gate and creating one contemporary commercial frontage.

EATING AND DRINKING ESTABLISHMENTS

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

Eating and drinking establishments include bars, 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.

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

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

The General Plan states that there is a concern with the potential over-concentration of food-service establishments. The Commerce and Industry Element of the General Plan contains Guidelines for Specific Uses. For eating and drinking establishments, the Guidelines state, "the balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage." Planning staff has performed a site survey of the Upper Market NCD, which contains the proposed use. Including the expanded bar use, approximately 16.88% of the commercial frontage of the Upper Market NCD is dedicated to eating and drinking establishments.

The Project is not located within a 500-foot walking distance of an elementary or secondary school. The closest elementary or secondary school is Sanchez Elementary School, which is located at 325 Sanchez Street, approximately 1,060 feet from the Subject Property.

Parking is not required in this District for uses that occupy less than 5,000 square-feet. Traffic impacts are not anticipated because the bar draws patrons primarily from the surrounding neighborhoods. Further, this establishment is well served by public transit so that patrons and employees alike can arrive by means other than an automobile.

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 granting of this Conditional Use Authorization will not adversely affect the existing neighborhood retail uses because the existing use is a bar with other entertainment, and the adjacent commercial space that will be absorbed under this Project is being used as a temporary political campaign headquarters. The business is owned and operated by a San Francisco resident, and the expanded business will allow for additional employment opportunities for residents.

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

The immediate vicinity is characterized by predominantly commercial and mixed-use buildings of two-to-three stories in height with ground-floor retail stores along Market Street. No changes are proposed to the existing building envelope and no existing housing will be removed. Therefore, the existing housing and neighborhood character will be preserved.

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

This Project does not include any residential dwelling units. There is one dwelling unit located at the rear of the property in a detached structure, and that unit will not be affected by the Project. The expansion of the existing bar with other entertainment will not impact the City's supply of affordable housing as the Project does not contain or remove housing.

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

The Project has less than 5,000 square feet and will have a low demand on neighborhood parking. The area is well-served by public transit, with a MUNI underground station at the corner of Castro and Market Streets, and numerous bus lines along Market Street. The Project will not impede MUNI transit or overburden the City's streets or neighborhood 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 existing buildings do not contain industrial uses, and no industrial uses will be displaced as part of this Project. Service sector employment opportunities may increase as a result of the expanded bar and entertainment uses.

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

The building will comply with all required seismic and life-safety codes in order to achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

- G. That landmarks and historic buildings be preserved.

The proposed façade alterations will not significantly impact the existing structure and appear to be consistent with the Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties.

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

This Project will not affect any parks or open space because it does not include any expansion to the existing building envelope.

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. 2008.0444C** 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. 17637. 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 94103.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on June 26, 2008.

Linda Avery
Commission Secretary

AYES: Commissioners Christina Olague, Michael J. Antonini, Kathrin Moore, Bill Sugaya, Ron Miguel

NAYS: None

ABSENT: Commissioner William L. Lee

ADOPTED: June 26, 2008

Exhibit A

Conditions of Approval

1. The Project seeks a Conditional Use Authorization, pursuant to Planning Code Sections 303, 721.21, 790.130, 721.41, 790.22, 721.48, 790.38, for a use size exceeding 2,999 square feet that will accommodate the expansion of the existing bar with other entertainment (dba Jet) into the adjacent ground-floor commercial space, which is currently occupied by a temporary campaign headquarters. The Project also includes an outdoor activity area, pursuant to Planning Code Sections 721.24 and 790.70 consisting of a front smoking patio. The Subject Property is within the Upper Market Neighborhood Commercial District and 65-B Height and Bulk District. Such modifications apply to the property located at 2342-2348 Market Street, in general conformance with plans filed with the Application as received on May 30, 2008, and stamped "EXHIBIT B" included in the docket for Case No. 2008.0444C, reviewed and approved by the Commission on June 26, 2008.
2. After the Conditional Use Authorization for the Project becomes final and before the issuance of any building permit, the Zoning Administrator shall approve and order the recordation of a Notice of Special Restrictions in the Official Records of the Recorder of the City and County of San Francisco against the land record of the Subject Lot. Said notice shall state that the operation of the proposal has been authorized by and is subject to the conditions of this Motion applicable to the Project. From time to time, after the recordation of such notice, at the request of the Applicant or the successor-in-interest thereto, the Zoning Administrator shall affirm in writing the extent to which the conditions of this motion have been satisfied.
3. 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 of not less than \$200 a day in accordance with Planning Code Section 176.
4. 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).
5. 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 are subsequently reported to the Zoning Administrator 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 in accordance with the hearing notification and conduct procedures as set forth in Section 174, 306.3 and 306.4 of the Planning Code to consider revocation of this Conditional Use Authorization.
6. The Project Sponsor shall implement any other conditions and/or management practices – as determined by the Zoning Administrator, in consultation with the Police Department and other

appropriate public agencies – to be necessary to ensure that management and/or patrons of the establishment maintain the quiet, safety, and cleanliness of the premises and the vicinity of the use.

7. This Authorization is valid for a period of three (3) years from the date of approval by the Planning Commission. This Authorization may be extended at the discretion of the Zoning Administrator for up to two years where the failure to implement the Project is caused by delay by any other public agency or by legal challenge.
8. The Project Sponsor shall appoint a Community Liaison Officer to address issues of concern to neighbors related to the operation of this Project. The Community Liaison Officer will be the current manager, Greg Bronstein, who can be contacted at (415) 259-1123. The Applicant will keep the Zoning Administrator updated with any changes to the contact information or if a different liaison is designated.
9. The Project Sponsor – though the Community Liaison – shall work with existing neighbors and neighborhood groups toward resolving any problems identified as being caused by the bar and the entertainment use. The Zoning Administrator shall report to the Commission any unresolved matters brought to the Department's attention regarding noncompliance with or ineffectiveness of any condition contained in this Exhibit.
10. The operator shall comply with all conditions required by the Entertainment Commission and Police Department at all times.
11. Prior to commencement of the entertainment use expansion, a final sound test shall be conducted by the Entertainment Commission's Sound Technician in order to set the maximum decibel limit allowed for the Subject Property. Any future structural or soundproofing alterations made to the building shall require a new sound check by the Entertainment Commission's Sound Technician to ensure compliance with the San Francisco Sound Ordinance and to verify that all sound, bass, and vibrations are contained within the enclosed structure. It is the responsibility of the Project Sponsor to recognize when such change to the building occurs and schedule the required sound check with the Entertainment Commission.
12. During the nine-month timeframe following completion of Jet's entitlement process, Planning Department staff shall work with the Entertainment Commission's Sound Technician to ensure that two unannounced sound checks are successfully conducted.
13. The Other Entertainment shall be performed within the enclosed building only. All entertainment shall comply with the conditions imposed by the Entertainment Commission Permit and the City's Noise Ordinance, and shall not be audible outside the enclosed building. Bass and vibrations shall also be contained within the enclosed structure.
14. The business operation shall be conducted in such a manner that noise, vibration, odors and nuisance factors shall be adequately controlled so that nearby residents are not adversely affected. The heating, ventilation and air-conditioning (HVAC) systems in the building shall be upgraded as

necessary to allow implementation of the conditions of this Motion. These systems shall have noise baffling panels or walls to minimize noise emission.

15. The building walls of the Subject Property, including doors and windows, shall be adequately soundproofed, and made of highly-rated sound-limiting material. Windows serving Jet (other than the window system along the front property line that separates the smoking patio from the sidewalk along Market Street) shall be inoperable or locked in such a manner that patrons are unable to unlock the windows at their leisure. The Project Sponsor shall ensure that the establishment provides adequate ventilation within the structure such that doors and/or windows are not left open during business hours.
16. Amplified music is not permitted in the smoking patio area.
17. Dancing shall be permitted only on the dance floor as indicated on the plans filed with the Application for Conditional Use Authorization and labeled as "Exhibit B" and under no circumstances shall dancing be permitted in the designated smoking patio area.
18. On those evenings when dancing or live entertainment occurs, employees of the establishment shall be posted at all entrances and exists for the establishment to ensure that patrons waiting to enter and/or exit the establishment are encouraged not to park motorcycles on the sidewalk and to respect the quiet and cleanliness of the neighborhood as they leave the vicinity.
19. The Project Sponsor shall maintain the Subject Property and all sidewalks abutting the Subject Property in a clean, sound and attractive condition, consistent with the general appearance of the neighborhood. Such maintenance shall include at a minimum, daily litter pick-up and disposal, and washing or steam cleaning of the main entrance and abutting sidewalks at least once each week.
20. The Project Sponsor shall designate employees of the establishment to walk down the north side of Market Street between Castro and 16th Streets some time between 30 minutes after closing time and 8:00 a.m. the following morning to pick-up and dispose of any trash.
21. All garbage and recycling containers shall be stored within the enclosed building or designated storage areas except during collection periods.
22. The Project Sponsor shall prohibit loading activities and garbage/recycling collection at the Subject Property during early morning hours and weekday peak commute hours. Such loading activities on Market Street shall not be permitted any day of the week from 11:00 p.m. and 9:30 a.m., and shall not be permitted during weekday evening commute hours from 4:00 p.m. to 6:30 p.m.
23. The Project Sponsor shall retain the services of private "Police Specials" officers or other legally authorized and trained professional security whose duties include ensuring that patrons behave in an orderly, peaceful and respectful manner, not only within Jet, but also within a one-block distance from Jet (or approximately 500-feet from the Subject Property, whichever is greater). In addition, the Project Sponsor shall have Jet staff or hired security guards stationed at every entrance and exit (emergency exits do not require such monitoring) of Jet. The staff and/or security stationed at these

24. The Project Sponsor shall provide well lit notices that are prominently displayed at all entrances and exits of the establishment urging patrons to leave the establishment and neighborhood in a quiet, peaceful and orderly fashion and to not litter or block driveways in the neighborhood. These notices shall be made of durable material and permanently affixed to the building.

25. The Project Sponsor and Jet management shall at all times keep a copy of these "Conditions of Approval-Exhibit A" on the premises for reference. Jet management shall review with new employees as part of their training and orientation, and periodically (at least at twelve month intervals) review with the other Jet employees, these Conditions of Approval related to operational concerns and quality of life issues, with emphasis on noise control, street cleanliness, and respectful behavior towards neighbors by Jet patrons. Employees are to be reminded that continued successful operation of Jet, and their respective jobs are dependant on compliance with these Conditions of Approval.

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