



MEMO TO THE PLANNING COMMISSION

HEARING DATE: FEBRUARY 4, 2021

Case Number: 2017-015181CUA
Project Address: 412 BROADWAY
Zoning: Broadway Neighborhood Commercial (NCD) Zoning District
65-A-1 Height and Bulk District
Block/Lot: 0144 / 033
Project Sponsor: Jeremy Paul
854 Castro Street, #466
San Francisco, CA 94114
Staff Contact: Andrew Perry – (628) 652-7430
andrew.perry@sfgov.org

Recommendation: None – Informational Hearing

Background

On October 25, 2018, the Planning Commission approved a Conditional Use Authorization pursuant to Planning Code Sections 303 and 714, to allow the extension of operating hours until 4 a.m. daily for an existing Restaurant and Nighttime Entertainment use (d.b.a. Penthouse Club and Restaurant) located at 412 Broadway within the Broadway Neighborhood Commercial District (NCD). As part of the approval (Motion No. 20330), the Commission imposed three Conditions of Approval related to post-approval monitoring: Ongoing Community Engagement (Condition No. 9), a Written Performance Update (Condition No. 10), and additional responsibilities of the Community Liaison (Condition No. 12). This memo serves to satisfy condition No. 10 related to performance updates. The Department finds the Project to be in compliance with the Conditions of Approval and that the extension of operating hours has not been detrimental to the surrounding neighborhood.

History Since Planning Commission Approval

On November 26, 2018, the Project Sponsor met with representatives from the Barbary Coast Neighborhood Association, the Telegraph Hill Dwellers, and the Golden Gateway Tenants Association to discuss and formulate metrics to be used in evaluating the effects of the extended hours on the surrounding neighborhood.

On December 18, 2018, the Entertainment Commission held a hearing and granted an Extended Hours Premises permit for the Penthouse Club and Restaurant to operate until 4 a.m. consistent with the Planning Commission authorization.

On January 18, 2019, the Project Sponsor mailed postcards to residents and property owners within 500 feet of 412 Broadway and to the neighborhood group organizations. This postcard provided notice to the surrounding community of the upcoming change to operating hours and also provided the name and contact phone number of the Community Liaison, who neighbors could reach out to if they should experience any issues from the business or its patrons.

On February 25, 2019, the Project Sponsor filed Building Permit Application No. 201902253746 to memorialize the Planning Commission's approval of a Conditional Use Authorization for the extended operating hours; this permit was issued on February 27, 2019.

On March 7, 2019, the Penthouse Club and Restaurant commenced extended hours operations. In general, the business remained open past 2 a.m. every Thursday through Saturday night, on Sunday nights when followed by a holiday, and on other select occasions at the discretion of the club manager. Additionally, as reported by the Project Sponsor, "Of the estimated 170 nights the business was open after 2 a.m., on less than 20 of those nights did the club actually remain open until 4 a.m.," frequently closing at around 3 a.m.

On June 5, 2019, the Project Sponsor and neighborhood group representatives met to discuss the business' extended hours operations to date.

On December 31, 2019, The Penthouse Club and Restaurant rebranded as Vixen Cabaret.

Project Conditions of Approval and Evaluation

The Project has complied with the Conditions of Approval of Motion No. 20330 as follows:

1. Condition No. 9 – Ongoing Community Engagement. The Project Sponsor met with neighborhood group representatives approximately one month following Commission approval, and again after operations were in place for a few months. No major concerns were reported about the business' operations during the second meeting.
2. Condition No. 10 – Written Performance Update. The Project Sponsor provided a written performance update to the Planning Department on March 9, 2020, one year after the extended hours operations took effect. Planning Department staff reviewed the information and continued to work with the Project Sponsor on the information provided, in an effort to evaluate the project using the metrics previously discussed. A revised performance update was submitted on October 30, 2020. The project's performance will be evaluated below through agreed-upon metrics and other standards as outlined in the condition of approval.
 - During the period from March 2019 to March 2020, the Entertainment Commission received three noise complaints from a nearby resident, stating that bass noise could be heard and felt from their

residence. The Entertainment Commission subsequently visited the business on January 11, 2020, January 17, 2020, and February 23, 2020 after these complaints were made. At the last visit, a sound test was performed to set a new interior sound limit for the business, however, there were no formal citations by the Entertainment Commission or other repercussions that affected the business' Extended Hours Premises permit.

- SFPD Central Station provided Planning staff with incident data occurring between the hours of midnight and 5 a.m., and between December 1, 2018 and February 1, 2020, for the area along Broadway from Montgomery St. to Columbus Ave., and along Columbus Ave. from Pacific St. to Union St. There was only one incident in this report that was specifically associated with the “412 Broadway” address, occurring on January 19, 2019 at 1:30 a.m. prior to the start of extended hours operations in March 2019, and not within the extended hours window. SFPD did not otherwise indicate any major issues that have occurred with this business or its clientele specifically, or that there have been problems that have resulted specifically from the extended hours operation.
- Department staff additionally analyzed SFPD incident report data made available through DataSF, for the period from March 2018 – March 2020, capturing a full year both prior to and after extended hours operations. Staff analyzed data both for the Central Police District as a whole as well as for the area more immediately surrounding the subject property, roughly bound by Grant Ave. to the west, Green St. to the north, Sansome St. to the east, and Jackson St. to the south. Staff conducted a similar analysis in preparing the original staff report for Commission and a similar methodology was followed; however, the data here cannot be broadly compared to data pre-2018, as there is a different source for data from 2018-present.¹ Staff has prepared summary incident report tables for the two years as an attachment to this memo.

As shown in the summary tables, total incidents between 10 p.m. and 5 a.m. decreased between the March 2018-19 and March 2019-20 periods in both the Central District and in the immediate vicinity of the subject business, though there was a sharper decline for the latter geography. Staff also focused on a subset of incident categories that were of particular concern – Assault and Sexual Offenses; Drugs, Drunkenness, Driving Under Influence, and Disorderly Conduct; Burglary and Theft (including Vehicle Theft); and Robbery and Weapon Offenses. In total, these incident categories saw similar percent decreases as the overall decrease in incidents between the two years across both geographies. In the vicinity of the project, the sharp decrease also primarily occurred in the midnight – 2 a.m. and 2 a.m. – 5 a.m. periods, while the number of incidents between 10 p.m. and midnight remained approximately constant across the two years. Lastly, looking specifically at those incident categories discussed above, the largest decreases occurred in “Drugs, Drunkenness, Driving Under Influence and Disorderly Conduct” and in “Robbery and Weapon Offenses”. Incidents for “Assault and Sexual Offenses” decreased slightly, while “Burglary and Theft” increased slightly. While the decrease of incidents cannot be fully attributed to the extended hours operations, there is also no evidence from this data that the extended hours resulted in increased crime activity or had detrimental effects on the neighborhood.

¹ <https://datasf.org/blog/new-police-department-incident-report-data-now-live/>

- Except for communications with the neighborhood group representatives that attended the meetings with the Project Sponsor, Planning staff has not received any emails or phone calls from other neighborhood residents regarding this business or its extended hours operations. At the meeting on June 5, 2019, neighborhood group representatives acknowledged that the extended hours operations had largely been successful and free of any major conflicts, and also acknowledged the business' efforts to notify the neighborhood when the changes took effect and their responsiveness to calls on the "hot line". Emails with neighborhood group representatives have not identified any specific problematic incidents, but have indicated continued concern among their members regarding the overall high incident rate in the area.
3. Condition No. 12 – Community Liaison. The Project Sponsor has appointed a community liaison, Mark Calcagni, who was the General Manager for The Penthouse Club and now, Vixen Cabaret. The Project Sponsor and community liaison completed a postcard mailing approximately one month prior to the start of extended hours operations, in fulfillment of the additional requirements of this condition. This mailing included notice of the creation of a "hot line" number that residents could call if they were experiencing issues with the establishment, the name of the community liaison and notice of the date when the extended hours would take effect. A full call log from the "hot line" can be found with the Project Sponsor's performance update submittal, but in general, there were no major issues or complaints from neighborhood residents reported. The community liaison and business management would also take steps to ensure that particularly on nights after 3:00 a.m., guests would have a very clear transportation arrangement when leaving the venue.

Required Commission Action

This is an informational report back to the Commission and no further action is required at this time. The Commission could choose to initiate a separate revocation hearing process or hearing to change any of the existing conditions of approval, if necessary.

Attachments:

SFPD Incident Report Summary Tables
Project Sponsor Performance Update, dated October 30, 2020
Motion No. 20330

SFPD INCIDENT REPORT SUMMARY TABLES

Summary Data for Incidents in Project Vicinity

All Incident Categories

Year	10 p.m. – Midnight	Midnight – 2 a.m.	2 a.m. – 5 a.m.	TOTALS
March '18 – March '19	86	126	82	294
March '19 – March '20	84	89	54	227
% Change	(- 2.3 %)	(- 29.4 %)	(- 34.1 %)	(- 22.8 %)

Incident Categories of Interest: Assault and Sexual Offenses; Drugs, Drunkenness, Driving Under Influence and Disorderly Conduct; Burglary and Theft (including Vehicle Theft); Robbery and Weapon Offenses

Year	10 p.m. – Midnight	Midnight – 2 a.m.	2 a.m. – 5 a.m.	TOTALS
March '18 – March '19	51	82	50	183
March '19 – March '20	49	61	36	146
% Change	(- 3.9 %)	(- 25.6 %)	(- 28 %)	(- 20.2 %)

Detail Breakdown for Incident Categories of Interest

Year	Assault and Sexual Offenses	Drugs, Drunkenness, Driving Under Influence and Disorderly Conduct	Burglary and Theft (including Vehicle Theft)	Robbery and Weapon Offenses
March '18 – March '19	39	44	72	28
March '19 – March '20	35	23	76	12
% Change	(- 10.3 %)	(- 47.7 %)	5.6 %	(- 57.1 %)

Detail Breakdown for Incident Categories of Interest by Time

Time and Year	Assault and Sexual Offenses	Drugs, Drunkenness, Driving Under Influence and Disorderly Conduct	Burglary and Theft (including Vehicle Theft)	Robbery and Weapon Offenses
10 p.m. – Midnight March 2018 - 2019	8	13	19	11
10 p.m. – Midnight March 2019 - 2020	9	9	30	1
% Change	12.5 %	(- 30.8 %)	57.9 %	(- 90.9 %)
Midnight – 2 a.m. March 2018 - 2019	16	16	37	13
Midnight – 2 a.m. March 2019 - 2020	18	9	25	9
% Change	12.5 %	(- 43.8 %)	(- 32.4 %)	(- 30.8 %)
2 a.m. – 5 a.m. March 2018 - 2019	15	15	16	4
2 a.m. – 5 a.m. March 2019 - 2020	8	5	21	2
% Change	(- 46.7 %)	(- 66.7 %)	31.3 %	(- 50 %)

Summary Data for Incidents in all SFPD Central District

All Incident Categories

Year	10 p.m. – Midnight	Midnight – 2 a.m.	2 a.m. – 5 a.m.	TOTALS
March '18 – March '19	1848	1651	1275	4774
March '19 – March '20	1909	1527	1220	4656
% Change	3.3 %	(- 7.5 %)	(- 4.3 %)	(- 2.5 %)

Incident Categories of Interest: Assault and Sexual Offenses; Drugs, Drunkenness, Driving Under Influence and Disorderly Conduct; Burglary and Theft (including Vehicle Theft); Robbery and Weapon Offenses

Year	10 p.m. – Midnight	Midnight – 2 a.m.	2 a.m. – 5 a.m.	TOTALS
March '18 – March '19	1242	983	847	3072
March '19 – March '20	1260	917	807	2984
% Change	1.4 %	(- 6.7 %)	(- 4.7 %)	(- 2.9 %)

Detail Breakdown for Incident Categories of Interest

Year	Assault and Sexual Offenses	Drugs, Drunkenness, Driving Under Influence and Disorderly Conduct	Burglary and Theft (including Vehicle Theft)	Robbery and Weapon Offenses
March '18 – March '19	295	643	1901	233
March '19 – March '20	321	602	1876	185
% Change	8.8 %	(- 6.4 %)	(- 1.3 %)	(- 20.6 %)

Detail Breakdown for Incident Categories of Interest by Time

Time and Year	Assault and Sexual Offenses	Drugs, Drunkenness, Driving Under Influence and Disorderly Conduct	Burglary and Theft (including Vehicle Theft)	Robbery and Weapon Offenses
10 p.m. – Midnight March 2018 - 2019	110	252	801	79
10 p.m. – Midnight March 2019 - 2020	109	240	845	66
% Change	(- 0.9 %)	(- 4.8 %)	5.5 %	(- 16.5 %)
Midnight – 2 a.m. March 2018 - 2019	91	192	614	86
Midnight – 2 a.m. March 2019 - 2020	125	182	551	59
% Change	37.4 %	(- 5.2 %)	(- 10.3 %)	(- 31.4 %)
2 a.m. – 5 a.m. March 2018 - 2019	94	199	486	68
2 a.m. – 5 a.m. March 2019 - 2020	87	180	480	60
% Change	(- 7.4 %)	(- 9.5 %)	(- 1.2 %)	(- 11.8 %)



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Mr. Andrew Perry, Senior Planner
San Francisco Planning Department
49 South Van Ness Avenue
San Francisco, CA 94103

Re: 412 Broadway After Hours Conditional Use

Updated 10/30/2020

Dear Mr. Perry:

It's my pleasure to report that March 7, 2020 was the anniversary of our first night of after hours operation under our Conditional Use Authorization and in our first full year, absolutely nothing surprising or unexpected happened.

And then Covid-19 shut the entertainment industry down. THAT was unexpected. Our last day of operation was March 14, 2020, two days before Mayor Breed's Shelter In Place Order. There has been no public activity at 412 Broadway since that date.

Our operations went smoothly and successfully following our first late-night on March 7, 2019. Our 4:00 AM closing time has been popular with both our guests and our workers.

On most weekends we have observed few guests actually leaving the club directly at 2:00 AM following cessation of alcohol service. More typically groups of guests tend to trickle out between 2:15 and 2:45 - especially those guests who had ordered another round of drinks at 1:40AM last call.

This indicates that folks are sticking around to let the effects of the alcohol wear off before heading home or to their next destination. This is exactly the effect we had hoped to realize.

We have operated with extended hours every Thursday night through Saturday night, and have on occasion stayed open after hours to accommodate large parties or unexpected convention groups on other nights. The ability to remain flexible and act in the interest of customer safety and neighborhood tranquility has been a tremendous benefit from the Planning Commission's action on our permit.

In addition to remaining open past 2:00AM every Thursday, Friday and Saturday night from March 2019 to March 2020. We also remained open late Sunday night on all three day holiday weekends - Memorial Day, Labor Day, Veterans Day, Indigenous Peoples Day, etc... Other special events led to late closings on an ad hoc basis (my wife and I were present during Pride Week 2019 for one particularly memorable late-night party). It is left to the discretion of the club on-site manager to determine the appropriateness of keeping a crowd of patrons in the house for another hour or so.

Of the estimated 170 nights the business remained open after 2:00AM, on less than 20 of those nights did the club actually remain open until 4:00 AM. Typically, at 3:00AM the manager on duty walks the premises to evaluate how many customers remain and the disposition of the employees. The manager may then decide how much longer to stay open. Often there would be fewer than 30 patrons remaining in the club at this hour and the DJ would be instructed to change the mood and the lighting to indicate closing time.

Part of the managers obligation at this time was to observe customer behavior and make direct contact with any person appearing inebriated or out of sorts and to arrange safe transportation. It was our intention that no one left the club after 3:00 without knowing where they were going and how they would get there. We are very conscious of our obligation to our neighbors to discourage guests from wandering the neighborhood after leaving our premises.

The club has had an excellent relationship with SFPD, and our security team is always on a first name basis with the patrol officers in the neighborhood. We've had no police actions or incidents that could be classified as out of the normal range of activity for a nightclub such as ours. There have been several calls over the year for refusal to settle up a bill, or similar situations; but there clearly has been no increase in police activity resulting from our extended hours.

The SFPD crime incident spreadsheet provided by Officer Matthias to the Planning Department shows no incidents connected with 412 Broadway from March 2019 through March 2020. It comes as no surprise, but we are also pleased to see that Ms. Taylor's letter on behalf of the Barbary Coast Neighborhood Association draws no connection between the changes to our hours of operation and observed "crime activities" in the broader district.

Our community telephone "hotline" rarely rings, excepting of course the spam calls we all get. We have had several phone calls over the months from one resident at a nearby hotel, however these calls do not directly pertain to our operations or our clientele. She

has called us about neighbors trash cans being left out and rummaged, litter from the pizza shop down the street, noise from police activity and other similar neighborhood concerns. Our staff is uniformly patient and courteous with this neighbor despite her irregular habits and demeanor. This is North Beach after all.

There have been very few other calls received on our managers "hotline"; excepting requests from folks in the neighborhood asking for guest passes and free cocktails at our club (which we generously extend to our neighbors; but only once). As you'll see from the attached "hotline" call log nearly all the calls received on this number are wrong numbers or spam that is simply blocked by our cellular provider.

There have been a handful of calls primarily complaining about denial of entry by our door security and occasionally a complaint about our security activity keeping the sidewalk clear. We believe our security personnel have acted responsibly in all circumstances, and we have apologized to the occasional late night dog walker upset by the diligence of our anti-loitering policy.

Despite our invitations, we have had no neighborhood organizations nor their representatives visit our nightclub in an official capacity, representing groups who have engaged with the Planning Department through the Conditional Use process.

In February 2019 we sent out postcards to all residents and property owners within a 500' radius, as well as neighborhood interest groups. This postcard announced our change of hours, provided the "hotline" number and encouraged folks to come visit us, and to feel comfortable calling us should any issues arise that require our attention.

Our community engagement program has been a success. We have a friendly relationship with all our neighbors and our security guys are well-liked by the residents on the block. Even the neighborhood groups who actively opposed our changes, have acknowledged the benign impact of after hours entertainment in the neighborhood.

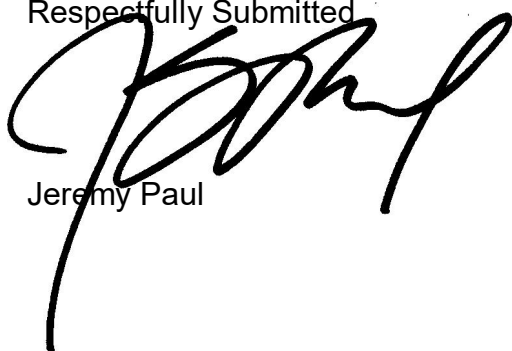
On New Year's Eve 2020 Penthouse Club successfully rebranded as Vixen Cabaret and has experienced a small increase in patronage, without any changes in our operation or neighborhood impacts. On New Year's Eve itself we did have a large crowd hoping to enter the club after 2:00 AM. When it became clear that no further entry would be permitted the crowd eventually dispersed without incident. I observed SFPD beat officers present at the time, but their action was not required and no arrests were made.

In April 2020, following the Covid-19 business shut down, our management contract ended with the company that supervised nightclub operations. In response to Planning staff's request for data on customer entry and exit, we have reached out to our former management partner, but have had no response. Their business may have dissolved entirely in the intervening months, so we are not optimistic that we will be able to access the log data as requested.

We are very proud of our late night entertainment program. It's been a win-win for everyone, and we appreciate everything Planning Staff and the Commission has done to facilitate this change in our operations. After hours at 412 Broadway is an excellent example of how well-planned implementation, and careful execution of changes in entertainment policy can be a good thing for neighborhoods and a good thing for our city.

. . . and boy do we look forward to nightlife returning to San Francisco!

Respectfully Submitted

A large, stylized handwritten signature in black ink, appearing to read 'JP' or 'J Paul', written over the typed name 'Jeremy Paul'.

Jeremy Paul

Club Manager's log of incidents and "Neighborhood Hot Phone" calls March 7 of 2019 to March 5 of 2020

March 17th, a group set off Fireworks on the corner of Montgomery and Broadway. This incident had nothing to do with Penthouse.

March 25th, we had an incoming call at 12:18 pm. The number was 415-924-7707, called back left a message no return call.

March 26th, wrong number from 510-422-7154 @ 9:48pm

April 2nd, Missed call from 415-845-3110 @ 11:48am turned out to be a wrong dialed call
Call from an inactive line 415-363-5982 @ 3:10pm

April 6th, Chinose Fondue Restaurant had their trash can spilled over in front of their door and near our side fire escape entrance. Around 11pm an anonymous lady residing at the Golden Eagle Hotel complained about the club.

April 9th, Missed Call from 916-947-9085, called back directly but went straight to voicemail

April 11th, Missed call from 646-896-2583 @1:27pm. Attempted to call back but no answer.

April 12th, Test call from 415-572-3144 Mark Calcagni @ 12:01am...test was good.

April 13th, @1:37am Car(s) were playing loud music at the parking lot down street on Broadway.
@ 1:45am unruly guest refused to sign bar tab...police was called to deal with this guest.

April 18th @2:30am intoxicated male whom was refused entry to the club started a scene at the front door. Passerby felt like it was warranted to call the police. The police came at 2:40am. Nothing came about from the incident after that.

April 19th, Missed call from 415-294-9227 @ 3:09pm, called back but the line was out of service

April 23rd, Missed call from 415-845-3724 @ 1:15pm

April 25th, Missed call from 323-167-2600 a Spanish telemarketer did not call back

May 14th, Missed call from 209-210-2663 @ 12:22pm from Dept of SSA
Missed call from 415-603-2085 @ 3:40pm wrong number

May 18th, Missed call from 425-583-2943 @ 3:14pm No response back

May 22nd, Missed call from 415-845-2493 but was wrong number dial

July 18th, Missed call from 800-772-5865 @ 2:37pm number was temporarily unavailable

July 19th, Missed call from 800-772-9905 @11:11am called back but a busy signal.

July 26th , Missed call from 415-561-4374 @ 3:05pm A voicemail was left by James Marks of the Golden Gate National Recreation Area. Called back and left a voicemail inquiry about the voicemail he left.

August 26th , Missed call from 415-910-1256; called back but no answer

September 3rd , Missed call from 949-852-6484; called back but no answer

September 4th , Missed call from 510-878-2604 @ 8:28am and Missed call from 415-298-6417 @ 2:18pm both voice message ask for Jane

September 10th , Missed call from 206-604-6069 @ 9:13am; called back but no answer

September 12th , Missed call from UNKNOWN number @ 10:10pm No message was left

September 28th , Guest David Hong incident ambulance was called. More detail on incident report.

October 2nd , Missed from 415-497-9268 @ 11:56am No answer when called back

October 9th , Missed from 844-823-4665 @ 1:35pm No answer when called back

October 14th , Missed from 513-964-1313 @ 9:30am No answer when called back

October 17th , Missed from 505-666-3530 @ 12:57pm No answer when called back

October 21st , Missed from 415-583-1073 @ 6:07pm Called back but number did not accept calls

October 24th , Incident with unruly guest at the front door between 1:45am to 2:05am

November 6th , Missed from 415-920-9285 @ 12:45pm No answer when called back

November 7th , Missed from 415-849-1493 @ 11:19am No answer when called back

November 20th , Missed from 916-805-7632 @ 8:47am No answer when called back

December 4th , Missed from 510-305-6114 @ 11:57am Called back but wrong number

December 9th , Missed from 510-534-7923 @ 2:34pm No answer when called back

December 17th , Missed from 800-505-3200 @ 5:53pm Telemarketer

December 27th , Missed from 669-203-8401 @ 2:12pm No answer when called back

January 3rd ,2020 , Lady from the Golden Eagle Hotel complained about noise at around 11:50pm

January 8th ,2020 , Missed from 207-550-0037 @ 9:16am No answer when called back

January 10th , 2020, At 11:30pm, 11:32pm and 11:41pm, Lady from the Golden Eagle Hotel called the Vanity Phone line and complained about noise.

At around 12:30am Entertainment Commissioner Michael came in to check on the permit to see what decibel level is allowed.

January 19th , 2020, Noise complaint from the Lady from Golden Eagle Hotel again. She called the Vixen Phone line. Officer Scott Gaines came into the club @ around 2:10am. Checked on the Capacity limit Signage and if alcohol was being serve beyond 2am.

January 23rd , 2020 Noise complaint from Gentleman from the Golden Eagle Hotel. Called the Vixen Phone Line.

February 3rd , 2020 Missed from 415-791-6020 @ 12:51pm No answer when called back

February 14th , 2020 Missed from 925-526-2552 @ 9:01am No answer when called back and missed from 805-638-1406 @ 8:42am No answer when called back

February 21st , 2020 Missed from 804-220-6924 @ 1:57pm from telemarketer

February 24th , 2020 Missed from 415-298-6417 @ 4:15pm No answer when called back

February 25th , 2020 Missed from 804-220-6924 @ 11:13am from telemarketer

March 4th , 2020 Missed from 786-495-8359 @ 1:11pm No answer when called back

March 5th , 2020 Missed from 925-214-0524 @ 11:58am No answer when called back

DEAR NEIGHBORS

Penthouse Club Bar and Restaurant at 412 Broadway, San Francisco is please to announce new late night hours commencing February 1, 2019. On weekends and select occasions our restaurant service and entertainment will continue until 4AM.



Should you experience any concern or disturbance that may be connected with Penthouse Club please call Mark Calcagni our Community Liaison at 415-845-4742. This phone will be answered by Mark or another qualified member of our security team whenever the club is open so that we may promptly respond to issues that may arise.

Please come join us for our new late night hours!

Present this card after 2:AM for free entry and a nonalcoholic drink for you and your guest.

The
PENTHOUSE 
Club & Restaurant



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Motion No. 20330

HEARING DATE: OCTOBER 25, 2018

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Project Address: 412 BROADWAY
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65-A-1 Height and Bulk District
Block/Lot: 0144/033
Project Sponsor: Jeremy Paul
854 Castro Street, #466
San Francisco, CA 94114
Property Owner: 408-412 Broadway LLC
250 Columbus Avenue, #207
San Francisco, CA 94133
Staff Contact: Andrew Perry – (415) 575-9017
andrew.perry@sfgov.org

ADOPTING FINDINGS TO APPROVE A CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 303 AND 714, TO PERMIT AN EXTENSION OF OPERATING HOURS UNTIL 4 A.M. DAILY FOR AN EXISTING RESTAURANT AND NIGHTTIME ENTERTAINMENT USE (D.B.A. THE PENTHOUSE CLUB & RESTAURANT), WITHIN THE BROADWAY NEIGHBORHOOD COMMERCIAL DISTRICT (NCD) AND 65-A-1 HEIGHT AND BULK DISTRICT.

PREAMBLE

On November 29, 2017, Jeremy Paul of Quickdraw Permit Consulting (hereinafter "Project Sponsor") filed Application No. 2017-015181CUA (hereinafter "Application") with the Planning Department (hereinafter "Department") for a Conditional Use Authorization pursuant to Planning Code Sections 303 and 714, to permit an extension of operating hours until 4 a.m. daily for an existing Restaurant and Nighttime Entertainment use (d.b.a. The Penthouse Club & Restaurant) (hereinafter "Project") at 412 Broadway, Block 0144 Lot 033 (hereinafter "Project Site").

The Planning Department Commission Secretary is the custodian of records; the File for Case No. 2017-015181CUA is located at 1650 Mission Street, Suite 400, San Francisco, California.

On June 14, 2018 and August 30, 2018, the San Francisco Planning Commission (hereinafter "Commission") continued this Project without public comment or hearing to September 13, 2018. On September 13, 2018 the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Authorization Application No. 2017-015181CUA and continued the hearing to October 25, 2018.

The project is not subject to the California Environmental Quality Act ("CEQA") as the extension of hours is not considered a "project" under CEQA.

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 Authorization as requested in Application No. 2017-015181CUA, 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. **Project Description.** The Project is a request for Conditional Use Authorization to permit the extension of operating hours until 4 a.m. daily for an existing Restaurant and Nighttime Entertainment use (d.b.a. The Penthouse Club & Restaurant) within the Broadway Neighborhood Commercial District (NCD) per Planning Code Section 714. As state law currently prohibits the sale of alcohol past 2 a.m., the business would not allow the sale of alcohol during the additional hours of operation. No other changes are proposed to the uses on-site, or to physical aspects of the building itself.
3. **Site Description and Present Use.** The Project is located at 412 Broadway, Lot 33 in Assessor's Block 144, within Supervisor District 3. The lot measures 137.5-feet deep with 69.5 feet of frontage along Broadway for a total area of approximately 9,556 square feet. The site is developed with a two-story building built circa 1968, and which contains approximately 15,000 square feet. A Restaurant and Entertainment use has been in existence at the site dating back to at least 1999, with the current tenant (d.b.a. The Penthouse Club & Restaurant) having occupied the subject space since March 2012.
4. **Surrounding Properties and Neighborhood.** The Project Site is located within the Broadway Neighborhood Commercial District (NCD), which primarily extends along Broadway for roughly 3 blocks, starting just west of Columbus Avenue and extending east to Osgood Place. The immediate context along Broadway is mixed in character, with buildings typically ranging between two and four stories, although the street is zoned for heights up to 65 feet. There are also several vacant lots along the NCD used for automobile parking. The Broadway corridor is recognized as a citywide and regional entertainment district, with a concentration of nightclubs, cabaret venues, adult theaters, bars and restaurants, and the Broadway NCD is one of only a few neighborhood commercial districts in the city that may allow adult businesses with a Conditional Use Authorization. Above the ground floor uses are typically nonconforming office uses, tourist hotels, or residential uses including several residential hotels.

Beyond the immediate context, the Broadway corridor is part of a larger commercial area which includes Chinatown to the west and southwest, North Beach to the northwest, and the Jackson Square area to the immediate south, and which subsequently extends into the Downtown

Financial District. Just over a quarter-mile from the project site to the east lies the Embarcadero, and to the immediate north of Broadway is the predominantly residential neighborhood of Telegraph Hill. On the immediate subject block, there is a large change in grade of approximately 100 feet between Broadway and Vallejo (the next parallel street to the north), with one large lot at the top of the hill containing forty-five residential condo dwelling units.

5. **Public Outreach and Comments.** The Project Sponsor held a Department-facilitated pre-application meeting on September 26, 2017 prior to filing the current application. The Project Sponsor subsequently sent an email on January 22, 2018 to those meeting attendees and interested neighborhood groups to inform them that the application would be moving forward, also offering to meet at any upcoming neighborhood meetings. Lastly, the Project Sponsor has held two open houses at the subject property prior to business hours on May 8 and May 15, 2018; the Project Sponsor reports that invitations were again sent to pre-application meeting attendees, registered neighborhood groups, and all owners and occupants within 300 feet.

The Department has received opposition to the proposal from approximately forty individuals and has received a joint letter of opposition on behalf of the Telegraph Hill Dwellers, Barbary Coast Neighborhood Association, Golden Gateway Tenants Association, and the 455 Vallejo Street Homeowners Association.

The Department has also received one letter of support for the proposal from the Top of Broadway Community Benefit District, and one letter of support for a 6-month trial extension of the hours from the North Beach Business Association. The Department has received 25 emails of support for the proposal, including from employees of the business.

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. **Hours of Operation.** Planning Code Section 714 states that a Conditional Use Authorization is required within the Broadway NCD for maintaining hours of operation from 2 a.m. to 6 a.m., as defined by Planning Code Section 102.

The current hours of operation for the subject business extend until 2 a.m. daily. The subject application requests Conditional Use Authorization to allow for the extension of operating hours until 4 a.m. daily.

- B. **Use.** Planning Code Section 714 states that both Restaurant and Nighttime Entertainment uses are principally permitted within the Broadway NCD.

The existing business is legal and has been permitted as both a Restaurant and Nighttime Entertainment use, which are principally permitted in the subject District. There is no proposed change of use, or further addition of uses as part of the proposal.

- C. **Use Size.** Planning Code Section 714 states that a Conditional Use Authorization is required for use sizes 3,000 square feet and above within the Broadway NCD.

The existing commercial space contains approximately 15,000 square feet and is considered a legal, permitted conditional use, in existence prior to enactment of the Broadway NCD controls. No further expansion is proposed as part of the project, therefore the use size is permitted to continue in its existing configuration.

7. **Conditional Use Findings.** Planning Code Section 303 establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use authorization. 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 proposed project involves an extension of the hours of operation for an existing Restaurant and Nighttime Entertainment business located in the Broadway NCD, which is a District characterized by a number of bars, entertainment venues, and nighttime-oriented activity. In a quarter-mile vicinity of the site, there are six businesses authorized for late-night hours past 2 a.m., including one similar entertainment establishment at 1031 Kearny Street (d.b.a. "Larry Flynt's Hustler Club") with extended hours on weekends. The requested extension of hours is therefore compatible with the existing entertainment-oriented nature of the Broadway NCD. Additionally, the existing entertainment venue is thoroughly soundproofed, whereby this intensification to hours of entertainment will not be detrimental to surrounding residential areas. Although neighboring residents have concerns about ongoing nuisance impacts during late-night hours, the existing club has demonstrated a commitment to quality in their operation of the venue, and management of crowds, noise, and disruptive behavior. Lastly, the proposed extension of hours is viewed as necessary and desirable for many members of the community, particularly those employees of the club that would be able to supplement their current earnings with a few extra hours of work each week. From a public health perspective, this proposal may also be viewed as desirable as it reduces the number of patrons that might otherwise be forced out onto the street at the regular 2 a.m. bar closing time; large gatherings of patrons around bar closing times have been linked to increased incidents of violence and other socially disruptive behavior.

- 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:

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

There are no changes proposed to the existing building envelope, nor any other physical alterations proposed to the space.

- (2) 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 any off-street parking or loading for an extension of hours, and the proposal is not likely to be detrimental to existing parking or transit operations in the vicinity. The proposal would likely result in fewer patrons exiting onto the Broadway corridor and surrounding areas immediately at 2 a.m. when most establishments are closing; however, this may also mean that patrons are remaining along the Broadway corridor even later into the evening.

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

The existing building would not be physically modified in any way, so there are no potential noxious or offensive emissions that would be linked to construction activity. Additionally, the existing building is currently soundproofed and insulated adequately in order to prevent the direct transmission of noise or odors beyond the premises. In an effort to provide crowd control and noise management, the current operator employs security personnel to patrol the block and discourage loitering by patrons, regardless of whether they originated at the subject establishment.

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

The proposed project would not require any additional treatments related to landscaping, screening, open spaces, parking and loading areas, service areas, lighting or signs.

- 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, on balance, consistent with the 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 generally consistent with the stated purpose of the Broadway NCD, in that the proposal would enhance the existing Restaurant and Nighttime Entertainment use and generally promote late-night activity in the District, which are characteristics of this NCD. The Broadway NCD does have some limitations on proposed late-night activity in order to help protect the livability of the area; however, the operator has an excellent track record in the neighborhood, which suggests that they will continue to employ security personnel and measures that will help protect the livability of the surrounding area. While broad extension of hours for bars and entertainment venues in the District may result in negative impacts to the surrounding residential areas, the extension of hours for a single establishment should cause minimal detrimental effect. The staggering of closing times for bars and entertainment venues in the area overall could lead to reduced conflicts and nuisance incidents as nightlife patrons would not all empty onto the street at a single designated closing time; an extension of hours for the subject business would provide for increased variability among closing times.

E. That the use as proposed would satisfy any criteria specific to Adult Business, Nighttime Entertainment, and General Entertainment uses, as required under Planning Code Section 303(p).

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

a. If the use is an Adult Business, it shall not be located within 1,000 feet of another such use; and/or

The existing use at the subject property is Restaurant and Nighttime Entertainment. There is no proposed change or addition of use to the property; therefore, this requirement does not apply to the project.

b. Not be open between 2 a.m. and 6 a.m.; and

The business does propose to operate past 2 a.m. until 4 a.m.; however, the Planning Commission may still authorize such a Conditional use that does not satisfy this criterion, as described below.

c. Not use electronic amplification between midnight and 6 a.m.; and

The subject business currently uses electronic amplification during their existing hours of operation until 2 a.m. As part of the proposed extension of hours, the project would include the use of electronic amplification until the requested closing time of 4 a.m. The Planning Commission may still authorize such a Conditional Use that does not satisfy this criterion, as described below.

d. 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.

The subject establishment has been soundproofed and insulated to prevent noise transmission beyond the premises. The current establishment has been evaluated by the Entertainment Commission and meets the standards of the San Francisco Noise Control Ordinance for fixed-source equipment noise. The Project Sponsor has also submitted a report from Charles M. Salter Associates, Inc. who evaluated the property for sound isolation, and finds that it complies with the ordinance.

(2) Notwithstanding the above, the Planning Commission may authorize a Conditional Use which does not satisfy the criteria set forth in (b) and (c) 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.

Evidence has been presented that the existing building is adequately soundproofed, and that the current operator has a security and operational management plan in place that is sufficient to control crowd behavior and discourage loitering in front of the establishment. Due to the

building's existing soundproofing, it seems unlikely then that additional hours of amplified entertainment would have a direct impact on surrounding building occupants. Likewise, due to the business' security plan and positive track record in the neighborhood, it seems unlikely that patrons would cause disruptions to the immediately adjacent properties along Broadway, provided the existing operator remains. As operators may change over time, a comparable security plan should be required of all future operators so as to minimize the possibility for disruptions to the adjacent residential area. Additionally, should disruptions occur in the future as a result of either this or a future operator, the Commission retains the right to consider revocation at a future hearing.

- (3) The action of the Planning Commission approving a Conditional Use does not take effect until the appeal period is over or while the approval is under appeal.

In the event the Planning Commission approves a Conditional Use for the proposed expansion of amplified entertainment hours, the decision will not take effect until the conclusion of any relevant appeal period.

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

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

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.

Approval of the proposed extension of hours will help to preserve and enhance an existing Restaurant and Nighttime Entertainment business that has been in operation at the subject location since 2012. The proposed extension of hours could encourage more patronage of the Broadway entertainment district generally, and would specifically help to increase the wage earning potential of this particular business' employees. Particularly for this class of entertainment, the earning potential during late-night hours is far greater than a proposal that would extend the business' hours by two hours earlier in the day. While there are nearby residential areas which could be impacted by the proposed extension of hours, it is unlikely that a change to a single venue's closing time would be significantly detrimental to neighborhood character or livability, particularly given the positive track record of the subject business in the neighborhood with regard to security operations, noise and crowd control. Lastly, the Broadway NCD is recognized as a nightlife and entertainment hub within the City, and the subject application strengthens and encourages this specific characteristic which provides diversity among districts.

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 complies 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.

Through the addition of operating hours, the project will provide for increased resident employment opportunities and work hours. However, the existing use is not neighborhood-serving, rather drawing patrons from throughout the City and broader region.

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

The project will not result in the physical expansion of the existing building, and the existing uses at the project site are consistent with the character of the Broadway Neighborhood Commercial District. While increased late-night activity past 2 a.m. has the potential to result in increased nuisance activities to nearby residential neighborhoods, the subject business has an effective security and operations plan that should minimize disruption to adjacent areas.

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

The project does not propose any affordable housing, nor would have any effect on existing affordable housing.

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

The project is not likely to have any effect on commuter traffic, MUNI transit service, or the availability of neighborhood parking due to the hours associated with the proposal. Extending hours of operation past the closing times of other nearby bars and places of entertainment, the proposal may help alleviate transportation demands around 2 a.m. when patrons are forced to leave other establishments.

- 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 does not include commercial office development, and helps to enhance service sector employment by providing the option for additional working hours.

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

The project will not include any physical alteration of the building and will therefore have no effect on this policy.

G. That landmarks and historic buildings be preserved.

The project would not have any effect on City Landmarks or historic buildings.

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

The project will have no effect on parks and 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

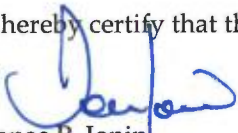
That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Authorization Application No. 2017-015181CUA** 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. 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.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives **NOTICE** that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on October 25, 2018.


Jonas P. Ionin
Commission Secretary

AYES: Hillis, Melgar, Johnson, Koppel

NAYS: Richards

ABSENT: Fong, Moore

ADOPTED: October 25, 2018

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow an extension of operating hours until 4 a.m. daily for an existing Restaurant and Nighttime Entertainment use (d.b.a. The Penthouse Club & Restaurant) located at 412 Broadway, Assessor's Block 0144 and Lot 033, pursuant to Planning Code Sections 303 and 714 within the Broadway Neighborhood Commercial District (NCD) and a 65-A-1 Height and Bulk District and subject to conditions of approval reviewed and approved by the Commission on October 25, 2018 under Motion No. 20330. 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 October 25, 2018 under Motion No. 20330.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 20330 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.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.

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

2. **Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.

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

3. **Diligent pursuit.** 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. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.

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

4. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

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

5. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.

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

MONITORING - AFTER ENTITLEMENT

6. **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
7. **Monitoring.** The Project requires monitoring of the conditions of approval in this Motion. The Project Sponsor or the subsequent responsible parties for the Project shall pay fees as established under Planning Code Section 351(e)(1) and work with the Planning Department for information about compliance.
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org
8. **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
9. **Ongoing Community Engagement.** Within thirty (30) days of the effective date of this Motion, the Project Sponsor shall meet at least once with neighborhood groups and other stakeholders to discuss and select metrics that will be used to inform the Commission about the subject business' operations, and possible effects that the 4 a.m. hours extension has had on the neighborhood with regard to crime and nuisance activities. If metrics are not agreed upon within thirty (30) days, the authorization to begin operating extended hours granted under this Motion would still take effect after the 30-day period. Once extended hours operations begin, the Project Sponsor shall meet at least twice more with neighborhood groups and other stakeholders over the course of the subsequent year, to discuss any ongoing operational issues associated with the extended hours and preliminary results from the studied metrics.
For information about compliance, contact the assigned Planner, Andrew Perry at 415-575-9017, www.sf-planning.org
10. **Written Performance Update.** The Project Sponsor shall provide a written performance update to the Planning Department no later than one year following the effective start date for the extended hours of operation. Planning Department staff shall then prepare a report, including the performance update and such other information as staff considers relevant, to the Planning Commission, within thirty (30) days of receipt of the performance update. The performance update memo shall include any complaints or citations issued against the subject business by either SFPD or the Entertainment Commission, general feedback from neighbors with regard to the extended hours of operation, SFPD data with regard to calls for service within a three block

radius of the subject property, and any specific data collected over the course of the prior year pertaining to the metrics agreed upon by the Project Sponsor, neighborhood groups and interested stakeholders, as discussed in Condition No. 9 above. The Planning Commission shall hold a full update hearing to discuss the business' performance during the year-long period of authorization and may choose to initiate a revocation hearing process to be heard at a subsequent date.

For information about compliance, contact the assigned Planner, Andrew Perry at 415-575-9017, www.sf-planning.org

OPERATION

11. **Eating and Drinking Uses.** As defined in Planning Code Section 202.2, Eating and Drinking Uses, as defined in Section 102, shall be subject to the following conditions:

- A. The business operator 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 Street and Sidewalk Maintenance Standards. In addition, the operator shall be responsible for daily monitoring of the sidewalk within a one-block radius of the subject business to maintain the sidewalk free of paper or other litter associated with the business during business hours, in accordance with Article 1, Section 34 of the San Francisco Police Code.

For information about compliance, contact the Bureau of Street Use and Mapping, Department of Public Works at 415-554-.5810, <http://sfdpw.org>

- B. When located within an enclosed space, 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 of 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 construction noise requirements, contact the Department of Building Inspection at 415-558-6570, www.sfdbi.org

For information about compliance with the requirements for amplified sound, including music and television, contact the Police Department at 415-553-0123, www.sf-police.org

- C. 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

D. 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 the Bureau of Street Use and Mapping, Department of Public Works at 415-554-.5810, <http://sfdpw.org>

12. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator, all registered neighborhood groups for the area, and neighbors within at least a 300-foot radius with written notice of the name, business address, and telephone number of the community liaison, as well as provide written notice of the date when extended hours operations take effect. Should the contact information change, the Zoning Administrator and registered neighborhood groups shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

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

13. **Notices Posted at Bars and Entertainment Venues.** Notices 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, shall be well-lit and prominently displayed at all entrances to and exits from the establishment.

For information about compliance, contact the Entertainment Commission, at 415 554-6678, www.sfgov.org/entertainment

14. **Other Entertainment.** The Other Entertainment shall be performed within the enclosed building only. The building 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. Bass and vibrations shall also be contained within the enclosed structure. The Project Sponsor shall obtain all necessary approvals from the Entertainment Commission prior to operation. The authorized entertainment use shall also comply with all of the conditions imposed by the Entertainment Commission.

For information about compliance, contact the Entertainment Commission, at 415 554-6678, www.sfgov.org/entertainment

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

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

16. **Hours of Operation.** Upon commencement of the extended hours of operation authorized by this Conditional Use, the subject establishment is limited to the following hours of operation: Sunday through Saturday (i.e. 7 days per week) from 6:00a.m. to 4:00a.m.

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