



MEMO TO THE PLANNING COMMISSION

HEARING DATE: NOVEMBER 12, 2020

Rescheduled from the June 18, 2020, August 27, 2020, and October 29, 2020 Hearings

Case Number:	2019-017867CUA
Project Address:	1566 - 1568 HAIGHT STREET
Zoning:	Haight Street Neighborhood Commercial Zoning District (NCD)
	Haight Street Alcoholic Restricted Use Subdistrict
	Fringe Financial Service Restricted Use District
	40-X Height and Bulk District
Block/Lot:	1231/017
Project Sponsor:	Tricia Wray and Brandon Wray
	2323 Loma Prieta Lane
	Menlo Park, CA 94025
Staff Contact:	Sharon M. Young – (628) 652-7349
	sharon.m.young@sfgov.org
Recommendation:	Approve with Conditions

Background

The Project was originally scheduled for the June 18, 2020 Planning Commission hearing and was further rescheduled from the August 27, 2020 and the October 29, 2020 Planning Commission hearings. The June 18, 2020 and August 27, 2020 Planning Commission hearings were rescheduled at the request of the project sponsors to allow time to conduct neighborhood community outreach efforts, to amend their original Conditional Use Application to add an entertainment use, and to evaluate their current and future business operating needs particularly during the recent challenges to eating and drinking establishments brought upon by the COVID-19 pandemic. The October 29, 2020 Planning Commission hearing had been cancelled and the Project was rescheduled by planning staff with the consent of the project sponsors to the November 12, 2020 Planning Commission hearing. Attached to this memo is a revised case report and revised draft motion to reflect the current proposal.

Current Proposal

The Project is for Conditional Use Authorization pursuant to Planning Code Sections 719, 303, and 178(e)(2) to legalize the merger of two ground floor commercial spaces of an existing restaurant and bar use d.b.a. Michael Collins Irish Bar & Restaurant with use size of approximately 3,650 square feet of floor area, modify the

conditions of approval from prior Conditional Use authorizations, legalize facade and interior modifications, and to add an entertainment use (if desired by current and future tenants at a future date) to the existing restaurant and bar. There will be no expansion of the existing building envelope or storefront modifications proposed under the current Project. The project site is located within the Haight Street Neighborhood Commercial Zoning District, Haight Street Alcohol Restricted Use Subdistrict, Fringe Financial Service Restricted Use District, and a 40-X Height and Bulk District.

Required Commission Action

In order for the Project to proceed, the Commission must grant Conditional Use Authorization under Planning Code Sections 719, 303, and 178(e)(2) to legalize the merger of two ground floor commercial spaces with use size over 2,500 square feet of floor area, modify the conditions of approval from prior Conditional Use authorizations, legalize facade and interior modifications, and to add an entertainment use to the existing restaurant and bar. The project site is located within the Haight Street Neighborhood Commercial Zoning District, Haight Street Alcohol Restricted Use Subdistrict, Fringe Financial Service Restricted Use District, and a 40-X Height and Bulk District.

Basis for Recommendation

The Department finds that the Project is, on balance, consistent with the Objectives and Policies of the General Plan. The Department also finds the Project to be necessary, desirable, and compatible with the surrounding neighborhood, and not to be detrimental to persons or adjacent properties in the vicinity. The Project may be desirable by allowing the existing business to remain on the Project Site. The existing restaurant and bar use has operated at the subject tenant space for over 40 years and has contributed to the economic vitality of the neighborhood.

Recommendation: Approve with Conditions

Attachment to memo:

Revised case report Revised draft motion





EXECUTIVE SUMMARY CONDITIONAL USE AUTHORIZATION

HEARING DATE: NOVEMBER 12, 2020

(CONTINUED FROM THE JUNE 18, 2020 AND AUGUST 27, 2020, AND OCTOBER 29, 2020 HEARINGS)

Record No.:	2019-017867CUA
Project Address:	1566 - 1568 HAIGHT STREET
Zoning:	Haight Street Neighborhood Commercial Zoning District
	Haight Street Alcoholic Restricted Use Subdistrict
	Fringe Financial Service Restricted Use District
	40-X Height and Bulk District
Block/Lot:	1231/017
Project Sponsors:	Tricia Wray and Brandon Wray
	2323 Loma Prieta Lane
	Menlo Park, CA 94025
Property Owners:	Tricia Wray and Brandon Wray
	2323 Loma Prieta Lane
	Menlo Park, CA 94025
Staff Contact:	Sharon M. Young – (628) 652-7349
	sharon.m.young@sfgov.org
Recommendation:	Approval with Conditions

Project Description

The Project is for Conditional Use Authorization to legalize the merger of two ground floor commercial spaces of an existing restaurant and bar use d.b.a. Michael Collins Irish Bar & Restaurant with use size of approximately 3,650 square feet of floor area, modify the conditions of approval from prior Conditional Use authorizations, legalize facade and interior modifications, and to add an entertainment use (if desired by current and future tenants at a future date) to the existing restaurant and bar. The current Project will also abate Planning Enforcement Case No. 10211_ENF. There will be no expansion of the existing building envelope or storefront modifications proposed under the current Project. The project site is located within the Haight Street Neighborhood Commercial Zoning District, Haight Street Alcohol Restricted Use Subdistrict, Fringe Financial Service Restricted Use District, and a 40-X Height and Bulk District.

Background

In 2008-2009, the pre-existing separate ground floor commercial spaces (with approximately 380 square feet of vacant retail space and 3270 square feet of restaurant/bar) had been merged from previous restaurant ownership under separate permit to repair exterior and interior fire damage to the building and to construct a new fire safety egress corridor in the location where the vacant retail space was to meet building and fire code requirements under Building Permit Application Nos. 200810234956 and 200909307969; the building permits had not been reviewed by the Planning Department for use size modifications which requires Conditional Use authorization if exceeding 2,500 square feet in size. The previous restaurant ownership d.b.a. Martin Macks Bar & Restaurant had filed Conditional Use Applications under Case No. 2010.0385C (to legalize the merger of the two-ground floor commercial spaces) and 2012.1290C (to add entertainment use) but later withdrew the Conditional Use Applications due to change in new restaurant ownership.

The project sponsors are requesting the Planning Commission consider their current Project to help their business thrive and be in good standing for the present time and future for an existing restaurant and bar that has been on the Project Site for approximately 40 years. The project sponsors are requesting that the current proposal modify the following conditions of approval of the prior Conditional Use Authorizations under Motion No. 11663 (Case No. 89.135C) and Motion No. 11899 (Case No. 89.135CC):

1) To legalize the existing use size of the restaurant and bar with approximately 3,650 square feet of floor area (Condition #2 under Case No. 89.135C – Motion No. 11663),

2) To modify the condition limiting seating capacity to allow an increase of up to 81 persons (Condition No. 1 under Case No. 89.135CC – Motion No. 11899),

3) To the remove the condition that there be no entertainment use on the premises (Condition No. 2 under Case No. 89.135CC - Motion No. 11899),

4) To amend the hours of operation to 8 a.m. to 10 p.m. for the restaurant and 8 a.m. to 2 a.m. for the bar (Condition No. 3 under Case No. 89.135CC - Motion No. 11899), and

5) To remove the condition requiring valet parking (Condition No. 4 under Case No. 89.135CC - Motion No. 11899).

Required Commission Action

In order for the Project to proceed, the Commission must grant Conditional Use Authorization under Planning Code Sections 719, 303, and 178(e)(2) to legalize the merger of two ground floor commercial spaces with use size over 2,500 square feet of floor area, modify the conditions of approval from prior Conditional Use authorizations, legalize facade and interior modifications, and to add an entertainment use to the existing restaurant and bar. The project site is located within the Haight Street Neighborhood Commercial Zoning District, Haight Street Alcohol Restricted Use Subdistrict, Fringe Financial Service Restricted Use District, and a 40-X Height and Bulk District.

Issues and Other Considerations

- Public Comment & Outreach.
 - Support/Opposition: As of the date of this Executive Summary, the Department has received correspondence from 3 persons in support and correspondence from 1 person in opposition to the Project.



- Planning Department has received correspondence from one person in opposition to the Project in regard to allowing entertainment use for the restaurant and bar because of concerns in regard to noise, the building's fire sprinkler system, and concerns about the eating and drinking establishment's alcohol beverage licensing from the Department of Alcohol Beverage Control. The Planning Department also received correspondence from one person who expressed concerns regarding the maintenance issues at the rear of the building but did not express support or opposition to the Project. The project sponsors have submitted correspondence from three persons in support of the Project, expressing support of legalizing the use size merger which allows for the fire safety exit and indicated that the business has been an iconic fixture in the neighborhood.
- Outreach: A pre-application meeting was not required for the project. The project sponsors have indicated that they have conducted community outreach to the following organizations and stakeholders: Haight Ashbury Merchants Association (HAMA), Haight Ashbury Improvement Association (HAIA), Haight Ashbury Neighborhood Council (HANC), SFPD Park Station, Supervisor Dean Preston for District 5, and businesses and local neighbors in the immediate 500 foot radius; the outreach has been done via mail, email, and phone conversations. The project sponsors also indicated that they contacted Kaitlyn Azevedo with the Entertainment Commission who informed them that there is currently only one active Place of Entertainment Permit within the Haight Street Neighborhood Commercial Zoning District; the project sponsors believe that their request to add entertainment is needed and would not contribute to clustering or overconcentration of entertainment uses within this area.

Environmental Review

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

Basis for Recommendation

The Department finds that the Project is, on balance, consistent with the Objectives and Policies of the General Plan. The Department also finds the Project to be necessary, desirable, and compatible with the surrounding neighborhood, and not to be detrimental to persons or adjacent properties in the vicinity. The proposed project may be desirable by allowing the existing business to remain on the Project Site. The existing restaurant and bar use has operated at the subject tenant space for over 40 years and has contributed to the economic vitality of the neighborhood.

Attachments:

- Draft Motion with Conditions of Approval Exhibit B – Plans Exhibit C – Environmental Determination Exhibit D – Land Use Data Exhibit E – Maps and Context Photos Exhibit F – Prior Conditional Use Authorizations
- Exhibit G Project Sponsor's Brief







PLANNING COMMISSION DRAFT MOTION

HEARING DATE: NOVEMBER 12, 2020

(CONTINUED FROM THE JUNE 18, 2020 AND AUGUST 27, 2020, AND OCTOBER 29, 2020 HEARINGS)

Record No.:	2019-017867CUA
Project Address:	1566 - 1568 HAIGHT STREET
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Property Owner:	Tricia Wray and Brandon Wray
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	2323 Loma Prieta Lane
Staff Contact:	Sharon M. Young – (628) 652-7349
	sharon.m.young@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 178(e)(2), 303, AND 719 TO LEGALIZE THE MERGER OF TWO GROUND FLOOR COMMERCIAL SPACES OF AN EXISTING RESTAURANT AND BAR USE D.B.A. MICHAEL COLLINS IRISH BAR & RESTAURANT, MODIFY THE CONDITIONS OF APPROVAL FROM PRIOR CONDITIONAL USE AUTHORIZATIONS, LEGALIZE FACADE AND INTERIOR MODIFICATIONS, AND ADD AN ENTERTAINMENT USE (IF DESIRED BY CURRENT AND FUTURE TENANTS AT A FUTURE DATE) TO THE EXISTING RESTAURANT AND BAR AT 1566 - 1568 HAIGHT STREET, LOT 017 IN ASSESSOR'S BLOCK 1231, WITHIN THE HAIGHT STREET NEIGHBORHOOD COMMERCIAL ZONING DISTRICT, HAIGHT STREET ALCOHOL RESTRICTED USE SUBDISTRICT, FRINGE FINANCIAL SERVICE RESTRICTED USE DISTRICT, AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On October 3, 2019, Tricia Wray and Brandon Wray (hereinafter "Project Sponsors") filed Application No. 2019-017867CUA (hereinafter "Application") with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Sections 719, 303, and 178(e)(2) to legalize the merger of two ground floor commercial spaces of an existing restaurant and bar use d.b.a. Michael Collins Irish Bar & Restaurant with approximately 3,650 square feet of floor area, modify the conditions of approval from prior Conditional Use authorizations, to legalize facade and interior modifications, and to add an entertainment use (if desired by current and future tenants at a future date) at 1566 – 1568 Haight Street (hereinafter "Project"), Lot 017 within Assessor's Block 1231 (hereinafter "Project Site"). The project site is located within the Haight Street Neighborhood Commercial Zoning District, Haight Street Alcohol Restricted Use Subdistrict, Fringe Financial Service Restricted Use District, and a 40-X Height and Bulk District.

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

On November 12, 2020, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Authorization Application No. 2019-017867CUA. The Project was originally scheduled for the June 18, 2020 Planning Commission hearing and was further rescheduled from the August 27, 2020 and October 29, 2020 Planning Commission hearings to allow the project sponsor time to amend their Conditional Use Application to add entertainment use and to conduct neighborhood outreach on the Project; the October 29, 2020 Planning Commission was cancelled and the Project was rescheduled to the November 12, 2020 Planning Commission hearing.

The Planning Department Commission Secretary is the custodian of records; the File for Record No. 2019-017867CUA is located at 49 South Van Ness Avenue, Suite 1400, San Francisco, California.

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

MOVED, that the Commission hereby authorizes the Conditional Use Authorization as requested in Application No. 2019-017867CUA, 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 for Conditional Use Authorization pursuant to Planning Code Sections 719, 303, and 178(e)(2) to legalize the merger of two ground floor commercial spaces of an existing restaurant and bar use d.b.a. Michael Collins Irish Bar & Restaurant with use size of approximately 3,650 square feet of floor area, modify the conditions of approval from prior Conditional Use authorizations, legalize facade and interior modifications, and to add an entertainment use (if desired by current and future tenants at a future date) to the existing restaurant and bar. The current Project will also abate Planning Enforcement Case No. 10211_ENF. There will be no expansion of the existing building envelope or storefront modifications proposed under the current Project. The project site is located within the Haight Street Neighborhood Commercial Zoning District, Haight Street Alcohol Restricted Use Subdistrict, Fringe Financial Service Restricted Use District, and a 40-X Height and Bulk District.

The project sponsors are requesting the Planning Commission consider their current Project to help their business thrive and be in good standing for the present time and future for an existing restaurant



and bar that has been on the Project Site for approximately 40 years. The project sponsors are requesting that the current proposal modify the following conditions of approval of the prior Conditional Use Authorizations under Motion No. 11663 (Case No. 89.135C) and Motion No. 11899 (Case No. 89.135CC) to legalize the existing use size of the restaurant and bar with approximately 3,650 square feet of floor area, to allow seating capacity to increase to up to 81 persons, to amend the hours of operation to 8 a.m. to 10 p.m. for the restaurant and 8 a.m. to 2 a.m. for the bar, and to remove the condition that there be no entertainment use, and to remove the condition requiring valet parking.

Background History of Project Site

In 2008-2009, the pre-existing separate ground floor commercial spaces (with approximately 380 square feet of vacant retail space and 3270 square feet of restaurant/bar) had been merged from previous restaurant ownership under separate permit to repair exterior and interior fire damage to the building and to construct a new fire safety egress corridor in the location where the vacant retail space was to meet building and fire code requirements under Building Permit Application Nos. 200810234956 and 200909307969; the building permits had not been reviewed by the Planning Department for use size modifications which requires Conditional Use authorization if exceeding 2,500 square feet in size. The previous restaurant ownership d.b.a. Martin Macks Bar & Restaurant had filed Conditional Use Applications under Case No. 2010.0385C (to legalize the merger of the two-ground floor commercial spaces) and 2012.1290C (to add entertainment use) but later withdrew the Conditional Use Applications due to change in new restaurant ownership.

- 3. Site Description and Present Use. The project site is located within the Haight-Ashbury Neighborhood. The surrounding development consists primarily of one-to-two story residential and commercial buildings within the Haight Street Neighborhood Commercial Zoning District. A mix of food establishments, personal services, and small retail establishments defines the Haight Street NCD corridor in the immediate vicinity. Some of the existing commercial establishments on the subject block include Haight Ashbury T-Shirts, Ashbury Tobacco Center, Haight Ashbury Music Center, Distractions, Haight Ashbury Free Clinic, and Haight Street Market. Some of the existing commercial establishments on the opposite block include Club Deluxe, Aviator Nation, Liquid Experience, Day Dreams, The Gold Cane, Held Over, Slice House, Cal Surplus, Body Rok, Haight Ashbury Tattoo, Crossroads Trading, and Buffalo Exchange. On Clayton and Ashbury Streets running north and south of the project site, there are two- to three-story residential dwellings within the RH-3 (Residential, House, Three-Family) Zoning District.
- 4. Surrounding Properties and Neighborhood. The project site is located within the Haight-Ashbury Neighborhood. The surrounding development consists primarily of one-to-two story residential and commercial buildings within the Haight Street Neighborhood Commercial Zoning District. A mix of food establishments, personal services, and small retail establishments defines the Haight Street NCD corridor in the immediate vicinity. Some of the existing commercial establishments on the subject block include Haight Ashbury T-Shirts, Ashbury Tobacco Center, Haight Ashbury Music Center, Distractions, Haight Ashbury Free Clinic, and Haight Street Market. Some of the existing commercial establishments on the opposite block include Club Deluxe, Aviator Nation, Liquid Experience, Day Dreams, The Gold Cane, Held Over, Slice House, Cal Surplus, Body Rok, Haight Ashbury Tattoo, Crossroads Trading, and Buffalo Exchange. On Clayton and Ashbury Streets running north and south of the project site, there are two- to three-story residential dwellings within the RH-3 (Residential, House,



Three-Family) Zoning District.

- 5. Public Outreach and Comments. As of the date of this Draft Motion, the Planning Department has received correspondence from one person in opposition to the Project in regard to allowing entertainment use for the restaurant and bar because of concerns in regard to noise, the building's fire sprinkler system, and concerns about the eating and drinking establishment's alcohol beverage licensing from the Department of Alcohol Beverage Control. The Planning Department also received correspondence from one person who expressed concerns regarding the maintenance issues at the rear of the building but did not express support or opposition to the Project. The project sponsors have submitted correspondence from three persons in support of the Project, expressing support of legalizing the use size merger which allows for the fire safety exit and indicated that the business has been an iconic fixture in the neighborhood. A pre-application meeting was not required for the project. The project sponsors have indicated that they have conducted community outreach to the following organizations and stakeholders: Haight Ashbury Merchants Association (HAMA), Haight Ashbury Improvement Association (HAIA), Haight Ashbury Neighborhood Council (HANC), SFPD Park Station, Supervisor Dean Preston for District 5, and businesses and local neighbors in the immediate 500 foot radius; the outreach has been done via mail, email, and phone conversations. The project sponsors also indicated that they contacted Kaitlyn Azevedo with the Entertainment Commission who informed them that there is currently only one active Place of Entertainment Permit within the Haight Street Neighborhood Commercial Zoning District; the project sponsors believe that their request to add entertainment is needed and would not contribute to clustering or overconcentration of entertainment uses within this area.
- **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. Restaurant and Bar Use within the Haight Street NCD and Haight Street Restricted Use Subdistrict. Section 719 of the Planning Code states that a restaurant and bar use (defined under Planning Code Sections 102 and 202.2a) is not currently permitted on the first, second and third stories and above. However under Section 719, a Restaurant use may be permitted as a Conditional Use on the ground level if, in addition to the criteria set forth in Section 303, the Planning Commission has approved no more than a total of 3 Restaurants in accordance with this Section. Should a Restaurant permitted under this Section cease operation and complete a lawful change of use to another principally or conditionally permitted use, the Commission may consider a new Restaurant in accordance with the terms of this Section.

The existing restaurant and bar use d.b.a. Michael Collins Irish Bar & Restaurant is a legal nonconforming use on the ground floor of the one-story commercial building.

B. Use Size. Section 121.2 establishes size limits on non-residential use sizes in the Haight Street Neighborhood Commercial Zoning District. Under Section 719, Conditional Use authorization is required for any non-residential use that meets or exceeds 2,500 square feet, in addition to the criteria of Section 303(c) of the Planning Code requiring the Commission to consider the extent to which the following criteria are met:



The Project is a request for Conditional Use authorization under Planning Code Sections 303 and 719 to legalize a use size that exceeds 2,500 square feet of floor area with the merger of two separate commercial tenant spaces located at 1566 Haight Street (with approximately 380 square feet preexisting floor area) and 1568 Haight Street (with approximately 3,270 square feet pre-existing floor area) currently occupied by a restaurant and bar use d.b.a. Michael Collins Irish Bar & Restaurant) within the Haight Street Neighborhood Commercial District and 40-X Height and Bulk District. The expanded space currently contains 3,650 square feet of floor area.

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

Conditional Use authorization is required pursuant to Planning Code Sections 121.2 and 719 to legalize the use size expansion of the existing restaurant and bar use. The existing restaurant and bar use, with approximately 3,650 square feet of floor area, will exceed the principally permitted use size limitations of 2,499 square feet, with the merger of the commercial tenant spaces at 1566 Haight Street and 1568 Haight Street. According to the project sponsors, the merger occurred under previous business ownership in 2008 - 2009 to repair exterior and interior fire damage to the building to meet the Building Code and Fire Code requirements to construct a fire safety egress corridor and required a larger footprint. Furthermore, the project sponsors indicated the previous vacant retail commercial space at 1566 Haight Street was underutilized because of its small square footage size.

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

The expansion into the adjacent vacant retail commercial space at 1566 Haight Street was to repair exterior and interior fire damage to the building and to construct a new fire safety egress corridor and interior stairs to the basement to meet Building and Fire Code requirements in 2008-2009 which occurred from previous restaurant ownership.

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

The Project will respect the scale of development in the district and has been further reviewed by a preservation planner to legalize the exterior and interior façade modifications. There will be no expansion of the existing building envelope or storefront modifications proposed under the current proposal.

C. Modification of Prior Conditional Use Authorization. Planning Code Section 178(e)(2) allows a permitted conditional use to be changed to another use upon approval of a new conditional use application.

On March 18, 1989, the Planning Commission authorized Conditional Use under Motion No. 11663 (Case No. 89.135C) to expand the existing full-service restaurant and bar from approximately 1,900 square feet to approximately 3,270 square feet at 1566 Haight Street which included conditions of



approval indicating that allowed seating for up to 49 persons and that the existing retail space with approximately 380 square feet in size shall be retained and operating with and operating with an On Sale General, Alcoholic Beverage License Type 47.

On March 15, 1990, the Planning Commission authorized Conditional Use under Motion No. 11899 (Case No. 89.135CC) to modify the prior Conditional Use Authorization under Case No. 89.135C to increase the person occupancy with an area of approximately 3,270 square feet which included conditions of approval indicating that allowed seating capacity of up to 66 persons, that there shall be no entertainment, Dance Hall or permanent installation of a large screen television on the premises, hours of operation shall be limited to 8:00 a.m. to 10:00 p.m., and applicant shall provide valet parking.

The project sponsors are requesting that the current proposal modify the prior Conditional Use Authorizations under Motion No. 11663 (Case No. 89.135C) and Motion No. 11899 (Case No. 89.135CC):

- To legalize the existing use size of the restaurant and bar with approximately 3,650 square feet of floor area (Condition #2 under Case No. 89.135C Motion No. 11663),
- To modify the condition limiting seating capacity to allow an increase of up to 81 persons (Condition No. 1 under Case No. 89.135CC Motion No. 11899),
- To the remove the condition that there be no entertainment use on the premises (Condition No. 2 under Case No. 89.135CC Motion No. 11899),
- To amend the hours of operation to 8 a.m. to 10 p.m. for the restaurant and 8 a.m. to 2 a.m. for the bar (Condition No. 3 under Case No. 89.135CC Motion No. 11899), and
- To remove the condition requiring valet parking (Condition No. 4 under Case No. 89.135CC Motion No. 11899).

Under the current Project, the project sponsors have requested these modifications to the prior Conditional Use authorizations and to add an entertainment use to meet their current and future business operating needs particularly during the recent challenges to eating and drinking establishments brought upon by the COVID-19 pandemic; a prior Conditional Use authorization request was disapproved by the Planning Commission approximately 25 years ago in 1995 under Case No. 94.663C - Motion No. 13866. The restaurant and bar use currently has and intends to maintain an Alcohol Beverage Control License Type 47 (On-Sale General - Eating Place) which allows for the sale of beer, wine and distilled spirits for consumption on the premises; the alcohol Beverage licensing requirements are under the jurisdiction of the California Department of Alcohol Beverage Control.

D. Exception of Nonconforming Uses in Neighborhood Commercial Districts Planning Code Section 186.1(b)(1) indicates a nonconforming use may not be significantly altered; enlarged or intensified, except upon approval of a Conditional Use application pursuant to the provisions of Section 303 of this Code, provided that the use not have or result in a greater height, bulk or floor area ratio, less required rear yard or open space, or less required off-street parking space or loading space than permissible under the limitations set forth in this Code for the district or districts in which such use is located.



The Project to legalize the merger of the vacant commercial space with 380 square feet of floor area with the existing 3,270 square feet of restaurant/bar commercial space is not considered a significant enlargement of an existing nonconforming use. Under Planning Code Section 186.1(b) Planning Code Interpretation (12/88, 5/98), enlargements are not significant for an expansion up to 25 percent of the floor area, but not exceeding 500 square feet, whichever is less.

- E. Eating and Drinking Uses. Planning Code Section 202.2 outlines the location and operating conditions for eating and drinking uses. 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.

As stated in the Conditions of Approval #13, the restaurant and bar use will be required to comply with the conditions outlined in Planning Code Section 202.2, as it relates to keeping the main entrance and surrounding streets and sidewalks clear of trash and debris; ensuring that the space is properly insulated to prevent noise in excess of the noise levels specified in the San Francisco Noise Control Ordinance; installation of proper odor control equipment to prevent any noxious of offensive odors from escaping the premises; and the proper storage and disposal of garbage, recycling and composting.

F. Hours of Operation. Section 719 of the Planning Code allows hours of operation from 6 a.m. until 2 a.m. as of right and requires Conditional Use authorization to operate between the hours of 2 a.m. and 6 a.m. within the Haight Street Neighborhood Commercial Zoning District.

The project sponsors are requesting Conditional Use Authorization to modify the previous restrictions on the hours of operation of the restaurant and bar use from Motion No. 11899 under Case No. 89.135CC (Condition No. 3) from 8 a.m. to 10 a.m. to the proposed hours of operation of 8 a.m. to 10 p.m. for the restaurant and 8 a.m. to 2 a.m. for the bar. Under the current Project, the proposed hours of operation of the restaurant and bar would be within the permitted hours of operation within the Haight Street Neighborhood Commercial Zoning District.



G. Entertainment Use. Section 719 of the Planning Code allows an entertainment use (general or nighttime) on the first story within the Haight Street Neighborhood Commercial Zoning District. Under Planning Code Section 102, entertainment use (general or nighttime) is defined as follows:

Entertainment, General. A Retail Entertainment, Arts and Recreation Use that provides entertainment or leisure pursuits to the general public including dramatic and musical performances where alcohol is not served during performances, arcades that provide eleven or more amusement game devices (such as video games, pinball machines, or other such similar mechanical and electronic amusement devices), billiard halls, bowling alleys, skating rinks, and mini-golf, when conducted within a completely enclosed building, and which is adequately soundproofed or insulated so as to confine incidental noise to the premises.

Entertainment, Nighttime. A Retail Entertainment, Arts and Recreation Use that includes dance halls, discotheques, nightclubs, private clubs, and other similar evening-oriented entertainment activities which require dance hall keeper police permits or Place of Entertainment police permits, as defined in Section 1060 of the Police Code, which are not limited to non-amplified live entertainment, including Restaurants and Bars which present such activities, but shall not include any Arts Activity, any theater performance space which does not serve alcoholic beverages during performances, or any temporary uses permitted pursuant to Sections 205 through 205.4 of the Planning Code.

The project sponsors are requesting Conditional Use Authorization to add an entertainment use (if desired by current and future tenants at a future date) to the existing restaurant and bar. The restaurant and bar use will be subject to the conditions pertaining to its operation in the conditions of approval of this Motion.

H. Off-Street Parking. Section 151 of the Planning Code requires off-street parking for eating and drinking uses at a maximum of 1.5 parking spaces for each 200 square feet of Occupied Floor Area, where the Occupied Floor Area exceeds 5,000 square feet.

The subject ground floor commercial space, with approximately 3,650 square feet in floor area, does not require any off-street parking spaces.

I. Off-Street Freight Loading. Section 152 does not require loading spaces if gross floor area is less than 10,000 square feet.

The subject commercial tenant space on the ground (1st) floor with approximately 3,650 square feet of floor area does not exceed 10,000 square feet and will not require any loading spaces.

J. Street Frontage in Neighborhood Commercial Districts. Section 145.1 of the Planning Code requires that within NC Districts space for active uses shall be provided within the first 25 feet of building depth on the ground floor and 15 feet on floors above from any facade facing a street at least 30 feet in width. In addition, the floors of street-fronting interior spaces housing non-residential active uses and lobbies shall be as close as possible to the level of the adjacent sidewalk at the principal entrance to these spaces. Frontages with active uses that must be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level and allow visibility to the inside of the building. The use of dark or mirrored glass shall not count towards the required transparent area. Any decorative railings or grillwork, other than wire mesh, which is placed in front of or behind ground floor windows, shall be at least 75 percent open to perpendicular view. Rolling or sliding security gates shall consist of open grillwork rather than solid material, so as to provide visual interest to pedestrians when the gates are closed, and to permit



light to pass through mostly unobstructed. Gates, when both open and folded or rolled as well as the gate mechanism, shall be recessed within, or laid flush with, the building facade.

Approximately 65% of the street frontage (18 feet) at the ground level on Haight Street is fenestrated with transparent windows and doorways allowing for visibility to the inside of the buildings. The Project does not propose any decorative railings or grillwork in front of or behind existing windows.

K. Signage. Any proposed signage will be subject to the review and approval of the Planning Department and must comply with Article 6 of the Planning Code.

The existing business signage will be required to have a separate sign permit and comply with the requirements of the Planning Code guidelines.

- 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 size and shape of the site and the arrangement of the structures on the site are adequate for the Project. There will be no physical expansion of the existing building with the Project. The proposal may be desirable by allowing the existing business to remain on the project site. According to the project sponsors, a restaurant and bar use has operated at the subject tenant space for over 40 years and has contributed to the economic vitality of the neighborhood.

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:
 - (1) Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

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

(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;

Existing traffic patterns will not be significantly affected by the Project. Public transit (Muni Lines 7, 33, 37, 43) is located within walking distance of the project site; a bus stop is located at the corner of Haight and Clayton Streets on the subject block. There is on-street parking in front of the subject property and in the surrounding neighborhood.



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

No noxious or offensive emissions such as glare, dust, or odor are expected to be produced by the Project and will be subject to the Conditions of Approval #7.

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

There will be no addition of off-street parking spaces, loading facilities, open space or service areas. All project signage and projections will be consistent with the controls of the Planning Code. The existing building has exterior lighting directed onto the project site and immediately surrounding sidewalk area.

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

The Project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below.

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

The Project is consistent with the stated purpose of the Haight Street Neighborhood Commercial Zoning District in that the intended use is a neighborhood-serving business.

8. Additional Conditional Use Criteria for Eating and Drinking Uses. Planning Code Section 303(o) establishes additional criteria for a Conditional Use Authorizations for a restaurant and bar use. Section 303(o) requires the Planning Commission to consider, in addition to the criteria set forth in Code Section 303(c), the existing concentration of eating and drinking uses in the area. Such concentration should not exceed 25% of the total commercial frontage as measured in linear feet within the immediate area of the subject site. For the purposes of Code Section 303(o), the immediate area shall be defined as all properties located within 300 feet of the subject property and also located within the same zoning district.

There are 6 eating and drinking establishment out of approximately 46 commercial businesses located within 300 feet of the Project Site. This comprises approximately 13% of the businesses. The existing total commercial frontage dedicated to eating and drinking establishments located within 300 feet of the Project Site is approximately 17% (195 feet of 1147 feet) of the total commercial frontage as measured in linear feet. The Project will not increase the existing concentration of eating and drinking uses in the area since the Project is an existing restaurant and bar use on the project site and legalizing the use size merger of the two commercial spaces will nominally affect the concentration of eating and drinking uses in the area.



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

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

OBJECTIVE 1

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

Policy 1

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

The Project would continue to be compatible with and complementary to the types of uses characterizing this portion of the Haight Street Neighborhood Commercial Zoning District, which includes a mixture of eating and drinking establishments, personal services, and small retail establishments.

Policy 3:

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

Approval of the Project would be consistent with the mixed commercial-residential character of this portion of the Haight Street Neighborhood Commercial Zoning District. The Project would not adversely affect any affordable housing resources in the neighborhood.

NEIGHBORHOOD COMMERCE

Objectives and Policies

OBJECTIVE 6

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

Policy 1:

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

No existing commercial tenant will be displaced. The Project will not prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood.



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

Policy 2:

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

An independent entrepreneur is sponsoring the Project. The eating and drinking establishment is not considered a Formula Retail Use and is a neighborhood-serving use.

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

Eating and Drinking Establishments

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

- Regulate the distribution and proliferation of eating and drinking establishments, especially in districts experiencing increased commercial activity;
- Control nuisances associated with their proliferation;
- Preserve storefronts for other types of local-serving businesses; and
- Maintain a balanced mix of commercial goods and services.

The regulation of eating and drinking establishments should consider the following:

- Balance of retail sales and services;
- Current inventory and composition of eating and drinking establishments;
- Total occupied commercial linear frontage, relative to the total district frontage;
- Uses on surrounding properties;
- Available parking facilities, both existing and proposed;
- Existing traffic and parking congestion; and
- Potential impacts on the surrounding community.



The Commerce and Industry Element of the General Plan contains Guidelines for Specific Uses. For eating and drinking establishments, the Guidelines state, "the balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20 percent of the total occupied commercial frontage." The current Project will not result in a net change in of the total occupied commercial frontage within the Haight Street Neighborhood Commercial Zoning District.

Policy 3:

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

The Project will help maintain the existing commercial-residential character in the neighborhood by occupying a ground floor commercial space in the neighborhood with a restaurant and bar use.

Policy 4:

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

The Project will be accessible to all residents in this portion of the Haight Street Neighborhood Commercial Zoning District.

Policy 8:

Preserve historically and/or architecturally important buildings or groups of buildings in neighborhood commercial districts.

There will be no expansion of the existing building envelope or storefront modifications proposed under the current Project. The Project will involve legalizing existing facade and interior modifications which have been further reviewed by a preservation planner that are compatible with the building's architectural and aesthetic character.

Policy 9:

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

The Project would not adversely affect public transit or place a burden on the existing supply of parking in the neighborhood since it will help maintain an eating and drinking establishment use which existed on the project site. Many patrons would be able to walk from their residences or places of employment, and the Project is well served by public transportation. There is on-street parking in the surrounding neighborhood.

URBAN DESIGN ELEMENT

Objectives and Policies



OBJECTIVE 6:

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

Policy 3:

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

The Project's design preserves the existing neighborhood character since the proposal does not include any additional facade and exterior envelope changes to the existing building.

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

The Project will be complementary to the existing commercial establishments within the immediate neighborhood and will continue providing job opportunities to the City.

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 preserve and enhance the cultural and economic diversity of the neighborhood by helping to maintain an existing restaurant and bar use in the area. Existing housing will not be affected by the Project.

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

The Project will not displace any affordable housing.

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

It is not anticipated that the Project would significantly increase the automobile traffic congestion and parking problems in the neighborhood.

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.

There is no commercial office development associated with the Project and there would be no displacement of any existing industrial or service businesses in the area.

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



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

G. That landmarks and historic buildings be preserved.

The Project will not significantly affect any 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 not affect any city-owned park or open space.

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



DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Authorization Application No. 2019-017867CUA** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated February 25, 2020, and stamped "EXHIBIT B", 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 November 12, 2020.

Jonas P. Ionin Commission Secretary AYES: NAYS: ABSENT:

ADOPTED:



EXHIBIT A

Authorization

This authorization is for conditional use to legalize the merger of two ground floor commercial spaces with a use size of approximately 3,650 square feet of an existing restaurant and bar use d.b.a. Michael Collins Irish Bar & Restaurant, modify the conditions of approval from prior Conditional Use authorizations under Motion No. 11663 (Case No. 89.135C) and Motion No. 11899 (Case No. 89.135CC), legalize facade and interior modifications, and to add an entertainment use (if desired by current and future tenants at a future date) at 1566 - 1568 Haight Street in Assessor's Block 1231, Lot 017 pursuant to Planning Code Sections 719, 303, and 178(e)(2) within the Haight Street Neighborhood Commercial Zoning District, Haight Street Alcohol Restricted Use Subdistrict, Fringe Financial Service Restricted Use District, and a 40-X Height and Bulk District in general conformance with plans, dated February 25, 2020, and stamped "EXHIBIT B" included in the docket for Case No. 2019-017867CUA and subject to conditions of approval reviewed and approved by the Commission on November 12, 2020 under Motion No. XXXXX. 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 **November 12, 2020** under Motion No. XXXXX.

Printing of Conditions of Approval on Plans

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. XXXXX 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. Previous Conditions of Approval Removed. This authorization removes Conditions of Approval Condition No. 2 per previous Motion No. 11663 under Case No. 89.135C pertaining to use size restricting use size to 3,270 square feet and Conditions of Approval (Conditions No. 1, 2, 3, 4) per previous Motion No. 11899 under Case No. 89.135CC restricting seating capacity to up to 66 persons, restricting entertainment use, limiting the hours of operation of both the restaurant and bar from 8 a.m. to 10 p.m., and requiring valet parking.
- 2. 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 628.652.7463, <u>www.sfplanning.org</u>

3. 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 628.652.7463, <u>www.sfplanning.org</u>

4. 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 628.652.7463, <u>www.sfplanning.org</u>

5. 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 628.652.7463, <u>www.sfplanning.org</u>



6. 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 628.652.7463, <u>www.sfplanning.org</u>

7. Validity. The authorization and right vested by virtue of this action is valid for three (3) years from the date that the Planning Code text amendment(s) and/or Zoning Map amendment(s) become effective. 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 628.652.7463, <u>www.sfplanning.org</u>

8. 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 628.652.7463, <u>www.sfplanning.org</u>

9. 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 the date that the Planning Code text amendment(s) and/or Zoning Map amendment(s) became effective.

For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, <u>www.sfplanning.org</u>

10. 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 628.652.7463, <u>www.sfplanning.org</u>

11. 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 628.652.7463, <u>www.sfplanning.org</u>

12. Signage. Any signs on the property shall be made to comply with the requirements of Article 6 of the Planning Code for signage and Formula Retail guidelines for signage.

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

Operation

- **13.** Eating and Drinking Uses. As defined in Planning Code Section 202.2, Eating and Drinking Uses, as defined in Section <u>102</u>, 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 <u>34</u> 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, <u>http://sfdpw.org</u>.

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, <u>www.sfdph.org</u>.

For information about compliance with construction noise requirements, contact the Department of Building Inspection at 415-558-6570, <u>www.sfdbi.org</u>.

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

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, <u>http://sfdpw.org</u>.

14. 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, <u>www.sfgov.org/entertainment</u>

15. 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 628.652.6030, <u>www.sfgov.org/entertainment</u>

16. Sidewalk Maintenance. The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 628.271.2000, <u>www.sfpublicworks.org</u>

17. 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 628.652.7463, <u>www.sfplanning.org</u>

18. Hours of Operation. The subject establishment is limited to the following hours of operation: 8 a.m. to 10 p.m. for the restaurant and 8 a.m. to 2 a.m. for the bar. These hours of operation will amend the previous Conditions of Approval (Condition #3) of previous Motion No. 11899 under Case No. 89.135CC which limited the hours of operation of both the restaurant and bar from 8 a.m. to 10 p.m.



For information about compliance, contact Code Enforcement, Planning Department at 628.652.7463, <u>www.sfplanning.org</u>

Monitoring - After Entitlement

19. 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 628.652.7463, <u>www.sfplanning.org</u>

20. 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, <u>www.sf-planning.org</u>

21. 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 628.652.7463, <u>www.sfplanning.org</u>

22. 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 and all registered neighborhood groups for the area with written notice of the name, business address, and telephone number of the community liaison. 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 628.652.7463, <u>www.sfplanning.org</u>



Exhibit B - Plans

Conditional Use Hearing **Case Number 2019-017867CUA** 1566 - 1568 Haight Street



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Exhibit C – Environmental Determination





CEQA Categorical Exemption Determination

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address		Block/Lot(s)
1566 - 1568 HAIGHT ST		1231017
Case No.		Permit No.
2019-017867PRJ		200810234956
Addition/ Alteration	Demolition (requires HRE for Category B Building)	New Construction

Project description for Planning Department approval.

Conditional Use Authorization per Planning Code Sections 303 and 719 to permit Commercial Use over 2,500 of a non-conforming full-service bar and restaurant. The project involves legalizing the merger of a vacant retail commercial space into an existing bar and restaurant. Legalize facade and interior tenant improvements. Modify conditions of approval of prior conditional use authorizations and add an entertainment use (if desired by current and future tenants at a future date).

STEP 1: EXEMPTION CLASS

The project has been determined to be categorically exempt under the California Environmental Quality Act (CEQA).		
	Class 1 - Existing Facilities. Interior and exterior alterations; additions under 10,000 sq. ft.	
	Class 3 - New Construction. Up to three new single-family residences or six dwelling units in one building; commercial/office structures; utility extensions; change of use under 10,000 sq. ft. if principally permitted or with a CU.	
	 Class 32 - In-Fill Development. New Construction of seven or more units or additions greater than 10,000 sq. ft. and meets the conditions described below: (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. (b) The proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses. (c) The project site has no value as habitat for endangered rare or threatened species. (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. (e) The site can be adequately served by all required utilities and public services. FOR ENVIRONMENTAL PLANNING USE ONLY 	
	Class	

STEP 2: CEQA IMPACTS TO BE COMPLETED BY PROJECT PLANNER

	Air Quality: Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities within an Air Pollution Exposure Zone? Does the project have the potential to emit substantial pollutant concentrations (e.g., backup diesel generators, heavy industry, diesel trucks, etc.)? (<i>refer to EP_ArcMap > CEQA Catex Determination Layers > Air Pollution Exposure Zone</i>)
	 Hazardous Materials: If the project site is located on the Maher map or is suspected of containing hazardous materials (based on a previous use such as gas station, auto repair, dry cleaners, or heavy manufacturing, or a site with underground storage tanks): Would the project involve 50 cubic yards or more of soil disturbance - or a change of use from industrial to residential? Note that a categorical exemption shall not be issued for a project located on the Cortese List if the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Maher program, a DPH waiver from the Maher program, or other documentation from Environmental Planning staff that hazardous material effects would be less than significant (refer to EP_ArcMap > Maher layer).
	Transportation: Does the project involve a child care facility or school with 30 or more students, or a location 1,500 sq. ft. or greater? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities?
	Archeological Resources: Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non-archeological sensitive area? If yes, archeo review is required (<i>refer to EP_ArcMap > CEQA Catex Determination Layers > Archeological Sensitive Area</i>)
	Subdivision/Lot Line Adjustment: Does the project site involve a subdivision or lot line adjustment on a lot with a slope average of 20% or more? (<i>refer to EP_ArcMap > CEQA Catex Determination Layers > Topography</i>). If yes, Environmental Planning must issue the exemption.
	Slope = or > 25%: Does the project involve any of the following: (1) square footage expansion greater than 500 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (<i>refer to EP_ArcMap > CEQA Catex Determination Layers > Topography</i>) If box is checked, a geotechnical report is required and Environmental Planning must issue the exemption .
	Seismic: Landslide Zone: Does the project involve any of the following: (1) square footage expansion greater than 500 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? <i>(refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones)</i> If box is checked, a geotechnical report is required and Environmental Planning must issue the exemption.
	Seismic: Liquefaction Zone: Does the project involve any of the following: (1) square footage expansion greater than 500 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report will likely be required and Environmental Planning must issue the exemption.
Com	ments and Planner Signature (optional):

STEP 3: PROPERTY STATUS - HISTORIC RESOURCE

TO BE COMPLETED BY PROJECT PLANNE	R

PROPERTY IS ONE OF THE FOLLOWING: (refer to Property Information Map)		
	Category A: Known Historical Resource. GO TO STEP 5.	
	Category B: Potential Historical Resource (over 45 years of age). GO TO STEP 4.	
	Category C: Not a Historical Resource or Not Age Eligible (under 45 years of age). GO TO STEP 6.	

STEP 4: PROPOSED WORK CHECKLIST

TO BE COMPLETED BY PROJECT PLANNER

Check all that apply to the project.		
	1. Change of use and new construction. Tenant improvements not included.	
	2. Regular maintenance or repair to correct or repair deterioration, decay, or damage to building.	
	3. Window replacement that meets the Department's Window Replacement Standards. Does not include storefront window alterations.	
	4. Garage work. A new opening that meets the <i>Guidelines for Adding Garages and Curb Cuts</i> , and/or replacement of a garage door in an existing opening that meets the Residential Design Guidelines.	
	5. Deck, terrace construction, or fences not visible from any immediately adjacent public right-of-way.	
	6. Mechanical equipment installation that is not visible from any immediately adjacent public right-of-way.	
	7. Dormer installation that meets the requirements for exemption from public notification under <i>Zoning</i> Administrator Bulletin No. 3: Dormer Windows.	
	8. Addition(s) that are not visible from any immediately adjacent public right-of-way for 150 feet in each direction; does not extend vertically beyond the floor level of the top story of the structure or is only a single story in height; does not have a footprint that is more than 50% larger than that of the original building; and does not cause the removal of architectural significant roofing features.	
Note: Project Planner must check box below before proceeding.		
	Project is not listed. GO TO STEP 5.	
	Project does not conform to the scopes of work. GO TO STEP 5.	
	Project involves four or more work descriptions. GO TO STEP 5.	
	Project involves less than four work descriptions. GO TO STEP 6.	

STEP 5: CEQA IMPACTS - ADVANCED HISTORICAL REVIEW

TO BE COMPLETED BY PROJECT PLANNER

Chec	Check all that apply to the project.		
	1. Project involves a known historical resource (CEQA Category A) as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.		
	2. Interior alterations to publicly accessible spaces.		
	3. Window replacement of original/historic windows that are not "in-kind" but are consistent with existing historic character.		
	4. Façade/storefront alterations that do not remove, alter, or obscure character-defining features.		
	5. Raising the building in a manner that does not remove, alter, or obscure character-defining features.		
	6. Restoration based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.		
	7. Addition(s), including mechanical equipment that are minimally visible from a public right-of-way and meet the Secretary of the Interior's Standards for Rehabilitation.		

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	8. Other work consistent with Properties (specify or add comn	•	ior Standards for the Treatment of Historic	
	9. Other work that would not i	materially impair a historic	district (specify or add comments):	
	(Requires approval by Senior	Preservation Planner/Pres	ervation Coordinator)	
	10. Reclassification of prope <i>Planner/Preservation</i>	rty status. (Requires appr	oval by Senior Preservation	
	Reclassify to Category	ν A	Reclassify to Category C	
	a. Per HRER or PTR o	lated	(attach HRER or PTR)	
	b. Other <i>(specify)</i> :			
	Note: If ANY box in S	TEP 5 above is checked,	a Preservation Planner MUST sign below.	
	Project can proceed with categorical exemption review . The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review. GO TO STEP 6.			
Comm	ents (optional):			
Preser	Preservation Planner Signature: Shannon Ferguson			
STE	P 6: CATEGORICAL EXE	MPTION DETERMINA	TION	
	BE COMPLETED BY PROJECT			
			ect is categorically exempt under CEQA.	
	There are no unusual circumstances that would result in a reasonable possibility of a significant			

Project Approval Action:	Signature:
Planning Commission Hearing	Sharon Young
	05/19/2020

Once signed or stamped and dated, this document constitutes a categorical exemption pursuant to CEQA Guidelines and Chapter 31of the Administrative Code.

In accordance with Chapter 31 of the San Francisco Administrative Code, an appeal of an exemption determination can only be filed within 30 days of the project receiving the approval action.

Please note that other approval actions may be required for the project. Please contact the assigned planner for these approvals.

STEP 7: MODIFICATION OF A CEQA EXEMPT PROJECT

TO BE COMPLETED BY PROJECT PLANNER

In accordance with Chapter 31 of the San Francisco Administrative Code, when a California Environmental Quality Act (CEQA) exempt project changes after the Approval Action and requires a subsequent approval, the Environmental Review Officer (or his or her designee) must determine whether the proposed change constitutes a substantial modification of that project. This checklist shall be used to determine whether the proposed changes to the approved project would constitute a "substantial modification" and, therefore, be subject to additional environmental review pursuant to CEQA.

MODIFIED PROJECT DESCRIPTION

Modified Project Description:

add an entertainment use (if desired by current or future tenants at a future date)

DETERMINATION IF PROJECT CONSTITUTES SUBSTANTIAL MODIFICATION

Compared to the approved project, would the modified project:		
	Result in expansion of the building envelope, as defined in the Planning Code;	
	Result in the change of use that would require public notice under Planning Code Sections 311 or 312;	
	Result in demolition as defined under Planning Code Section 317 or 19005(f)?	
	Is any information being presented that was not known and could not have been known at the time of the original determination, that shows the originally approved project may no longer qualify for the exemption?	
If at least one of the above boxes is checked, further environmental review is required.		

DETERMINATION OF NO SUBSTANTIAL MODIFICATION

If this box is checked, the proposed modifications are categorically exempt under CEQA, in accordance with prior project approval and no additional environmental review is required. This determination shall be posted on the Planning Department website and office and mailed to the applicant, City approving entities, and anyone requesting written notice. In accordance with Chapter 31, Sec 31.08j of the San Francisco Administrative Code, an appeal of this determination can be filed within 10 days of posting of this determination.		
The proposed modification would not result in any of the above changes.		

Planner Name:	Date:
Sharon Young	10/29/2020

Exhibit D - Land Use Data





Land Use Information

PROJECT ADDRESS: 1566 - 1568 HAIGHT STREET RECORD NO.: 2019-017867CUA

	EXISTING	PROPOSED	NET NEW
	GROSS SQUARE FOOTAGE	(GSF)	
Lot Area	±3,781	±3,781	No Change
Residential			
Commercial/Retail (subject commercial space)	Approx. ±3,650	Approx. ±3,650	No Change
Office			
Industrial/PDR Production, Distribution, & Repair			
Parking			
Usable Open Space			
Public Open Space			
Other ()			
TOTAL GSF	±3,650	±3,650	No Change
	EXISTING	NET NEW	TOTALS
	PROJECT FEATURES (Units or A	Amounts)	
Dwelling Units - Market Rate			
Dwelling Units - Affordable			
Hotel Rooms			
Parking Spaces			
Loading Spaces			
Car Share Spaces			
Bicycle Spaces			
Number of Buildings	1	1	No Change
Number of Stories	1	1	No Change
Height of Building(s)	Approx. 18 feet	Approx. 18 feet	No Change
Other ()			

Exhibit E - Maps and Context Photos

Zoning Map





Parcel Map



ASHBURY



Sanborn Map*



*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.



300- FOOT MILE RADIUS





Aerial Photo



SUBJECT PROPERTY



Project Sponsor Site Photos



SUBJECT PROPERTY

Project Sponsor Interior Site Photos





Project Sponsor Interior Site Photos





Site Photo

PORTION OF SUBJECT BLOCK ON HAIGHT STREET



Site Photo

PORTION OF OPPOSITE BLOCK ON HAIGHT STREET





Exhibit F – Prior Conditional Use Authorizations

File No. 89.135C 1566 Haight Street

SAN FRANCISCO

CITY PLANNING COMMISSION

MOTION NO. 11663

ADOPTING FINDINGS RELATING TO THE APPROVAL OF A REMODEL AND ENLARGEMENT OF AN EXISTING FULL-SERVICE RESTAURANT AND BAR WITHIN THE HAIGHT STREET NEIGHBORHOOD COMMERCIAL DISTRICT.

Preamble

Conditional Use Authorization No. 89.135C (hereinafter "Application"), to expand the existing bar/restaurant from approximately 1,900 square feet and a combined seating of up to 20 persons to approximately 3,600 square feet, with seating for up to 125 persons, and exchanging the Alcoholic Beverage License Type 48 (Liquor, No Minors) to Type 47 (Liquor, Food must be served) at 1566 Haight Street, Lot 17 in Assessor's Block 1231 (hereinafter "Subject Property"), as filed by Stephen Antonaros on March 14, 1989.

On March 18 1989, the San Francisco City Planning Commission (hereinafter "Commission") conducted duly noticed public hearings at a regularly scheduled meeting on Conditional Use Application No. 89.135C.

The proposed application was determined by the San Francisco Department of City Planning (hereinafter "Department") to be categorically exempt from the environmental review process pursuant to Title 14 of the California Administrative Code. The Commission has reviewed and concurs with said determination.

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.

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 Haight Street district controls are designed to protect the existing building scale and promote new mixed-use development which is in character with adjacent buildings. The building standards regulate large-lot and use development and protect rear yards above the ground story and at residential levels. To promote the prevailing mixed-use character, most commercial uses are directed primarily to the ground story with some upper-story restrictions in new buildings. In order to maintain the balanced mix and variety of commercial uses and regulate the more intensive commercial uses which can generate congestion and nuisance problems, special controls prohibit additional eating and drinking uses and limit entertainment and tourist hotels. Prohibitions on most automobile and drive-up uses protect the district's continuous retail frontage.

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File No. 89.135C 1566 Haight Street Motion No. 11663 Page Two

- 2. The Commerce and Industry Element of the Master Plan calls for promoting the multiple uses of neighborhood commercial areas with priority given to the neighborhood-serving retail and service activity. The Element calls for special efforts to be directed at protecting the diversity of neighborhood-serving uses from over-concentration of any given use such as financial institutions, bars or restaurants. Further, guidelines for neighborhood commercial districts encourage uses which primarily serve the local community.
- 3. Guidelines to be applied in the review of individual permit applications in Neighborhood Commercial Districts which require review and Commission approval are set forth in the Commerce and Industry Element. Guidelines specifically for eating and drinking establishment stress that the use should not detract from the livability of the district or adjacent residential areas by causing offensive noise, odors or light, particularly in the late night or very early morning hours and that uses on surrounding properties and impacts on the surrounding community should be considered.

The existing commercial space is underutilized, the proposed would reorganized and expand the space. The general concept of the proposal is in keeping with the guidelines, however, the specific expansion into the adjacent storefront is not in keeping with these guidelines.

4. Under the provisions of Code Section 303, the Commission may authorize a conditional use after finding that the proposed use will provide a development that is necessary or desirable for and compatible with the neighborhood or the community, that such use will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property, improvements or potential development in the vicinity and that such use will not adversely affect the Master Plan.

The proposed project to enlarge the existing restaurant without increasing maximum seating occupancy does comply with the criteria of Section 303 of the Code in that:

- a. The subject establishment is currently authorized for an occupancy of up to 49 persons even though there is seating for approximately 20 persons. In order to increase the occupancy to A-3 a second means of exit to Haight Street is required. The loss of adjacent retail space is necessary only to provide the required second means of exit to allow for the increased seating. The additional seating can be created without loss of separate commercial floor. Without a second means of exit the restaurant is limited to seating for up to 49 persons.
- b. Merging the subject restaurant with the adjacent commercial space will increase the percentage of commercial street frontage devoted to eating/drinking establishments. By allowing the remodel/expansion within the existing area (and without eliminating the adjacent retail space) the mix of commercial uses on this portion of Haight Street remains the same.

File No. 89.135C 1566 Haight Street Motion No. 11663 Page Three

- c. It is not anticipated that the addition of restaurant seating for up to 49 persons within the existing floor area will result in a significant increase in the number of customers. The proposal will result in added convenience to customers, because of the improved circulation and the inclusion of handicapped restrooms.
- d. The enlargement without expanding into adjacent commercial space will not affect the character along this portion of Haight Street and any more than the current condition.
- e. The proposal as recommended by staff is consistent with the policies and objectives of the Commerce and Industry Element of the Master Plan.
- 5. Section 101.1 establishes eight priority policies and requires review of permits for consistency with said policies. The project complies with said policies in that:
 - a. The addition of seating is not only an enhancement of the existing establishment but an added convenience for customers thus improving services to the neighborhood.
 - b. The approval will result in opportunities for resident employment and ownership in a neighborhood serving business, and preserves an existing retail space.
 - c. The establishment is already authorized for occupancy up to 49 persons even though only 20 seats exists. Approval of the proposal will not significantly affect on-street parking and transit services any more than the current establishment, does.
- 6. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101 in that, as designed, the project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
- 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. 89.135C subject to the following conditions attached hereto as <u>EXHIBIT A</u>, which is incorporated herein by reference as though fully set forth.

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File No. 89.135C 1566 Haight Street Motion No. 11663 Page Four

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I hereby certify that the foregoing Motion was ADOPTED by the City Planning Commission at its regular meeting of May 18, 1989.

Lori Yamauchi Secretary

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AYES: Commissioners Bierman, Boldridge, Engmann, Hu, and Morales
 NOES: Commissioner Karasick
 ABSENT: Commissioner Dick
 ADOPTED: May 18, 1989

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File No. 89.135C 1566 Haight Street Motion No. 11663

EXHIBIT A

CONDITIONS OF APPROVAL

- This authorization is for the remodel of a FULL SERVICE RESTAURANT AND BAR as defined by Section 790.92 and 790.22 with seating for up to 49 persons B-2 occupancy (as per San Francisco UBC) within an area approximately 3,270 square feet in size, and operating with an On Sale General, Alcoholic Beverage License Type 47.
- The existing retail space as shown on plans dated February 2, 1989 and submitted with the application, approximately 380 square feet in size shall be retained.
- 3. Final development drawings demonstrating compliance with the subject authorization as described in Condition #1 shall be developed in consultation with and approved by Department of City Planning staff prior to approval an application for building permit.
- The applicant shall be responsible for cleaning the sidewalk along Haight Street each day in accordance with Article 1, Section 34 of the San Francisco Police Code.
- Noise, odors, and garbage shall be contained within the premises so as not be a nuisance to nearby residents and neighbors.
- All outdoor seating along sidewalk shall be used in accordance with City and County of San Francisco Department of Public Works Order No. 133, 436.
- 7. The applicant shall transmit a copy of these conditions to the County Recorder to be recorded as a part of the property record.

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File No. 89.135CC 1566 Haight Street

SAN FRANCISCO

CITY PLANNING COMMISSION

MOTION NO. 11899

ADOPTING FINDINGS RELATING TO THE APPROVAL OF A MODIFICATION OF CONDITION SET FORTH IN CITY PLANNING COMMISSION MOTION NO. 11663 FOR AN EXISTING FULL-SERVICE RESTAURANT AND BAR WITHIN THE HAIGHT STREET NEIGHBORHOOD COMMERCIAL DISTRICT.

Preamble

Conditional Use Authorization No. 89.135CC (hereinafter "Application"), to modify condition for an existing bar/restaurant as set forth in City Planning Commission Motion No. 11663 to increase the person occupancy to for up to 115 persons at 1566 Haight Street, Lot 17 in Assessor's Block 1231 (hereinafter "Subject Property"), as filed by Stephen Antonaros on February 12, 1990.

On March 15 1990, the San Francisco City Planning Commission (hereinafter "Commission") conducted duly noticed public hearings at a regularly scheduled meeting on **Conditional Use Application No. 89.135CC.**

The proposed application was determined by the San Francisco Department of City Planning (hereinafter "Department") to be categorically exempt from the environmental review process pursuant to Title 14 of the California Administrative Code. The Commission has reviewed and concurs with said determination.

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.

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 Haight Street district controls are designed to protect the existing building scale and promote new mixed-use development which is in character with adjacent buildings. The building standards regulate large-lot and use development and protect rear yards above the ground story and at residential levels. To promote the prevailing mixed-use character, most commercial uses are directed primarily to the ground story with some upper-story restrictions in new buildings. In order to maintain the balanced mix and variety of commercial uses and regulate the more intensive commercial uses which can generate congestion and nuisance problems, special controls prohibit additional eating and drinking uses and limit entertainment and tourist hotels. Prohibitions on most automobile and drive-up uses protect the district's continuous retail frontage.

File No. 89.135CC 1566 Haight Street Motion No. 11899 Page Two

- 2. The Commerce and Industry Element of the Master Plan calls for promoting the multiple uses of neighborhood commercial areas with priority given to the neighborhood-serving retail and service activity. The Element calls for special efforts to be directed at protecting the diversity of neighborhood-serving uses from over-concentration of any given use such as financial institutions, bars or restaurants. Further, guidelines for neighborhood commercial districts encourage uses which primarily serve the local community.
- 3. Guidelines to be applied in the review of individual permit applications in Neighborhood Commercial Districts which require review and Commission approval are set forth in the Commerce and Industry Element. Guidelines specifically for eating and drinking establishment stress that the use should not detract from the livability of the district or adjacent residential areas by causing offensive noise, odors or light, particularly in the late night or very early morning hours and that uses on surrounding properties and impacts on the surrounding community should be considered.

The previous commercial space was underutilized, the approved proposal under Motion No. 11663 allowed the reorganization and expansion of the previous commercial space. The general concept of the proposal was in keeping with the guidelines, however, the expansion proposed an occupancy that would have allowed an increase number of patrons and impacting the neighborhood in some ways. Thus, the Commission approved the expansion with limitations on the persons occupancy.

4. Under the provisions of Code Section 303, the Commission may authorize a conditional use after finding that the proposed use will provide a development that is necessary or desirable for and compatible with the neighborhood or the community, that such use will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property, improvements or potential development in the vicinity and that such use will not adversely affect the Master Plan.

The proposed project to enlarge the existing restaurant without increasing maximum seating occupancy does comply with the criteria of Section 303 of the Code in that:

- a. The subject establishment is currently authorized for an occupancy of up to 49 persons even though there is sufficient floor area for approximately 115 persons according to Building and Fire Codes. In order to keep the occupancy of 49 or less persons the space would have to be reduced to almost half of the space which has already been completed by an approved building permit.
- b. Although the previous approval for an expansion allowed approximately 3,200 square feet of floor area, the limitation of keeping it as a B-2 occupancy contradicted Building and Fire Codes. The previous approval set forth such addition because

File No. 89.135CC 1566 Haight Street Motion No. 11899 Page Three

of the inability to provide a second means of egress (since it was also conditioned to retain the adjacent storefront). The intention was to retain the adjacent storefront in order to limit the occupancy to 49 persons. However, according to Fire and Building Codes, if a sprinkler system is installed, occupancy without the second means of egress would be permitted. Further, due to the size of floor area open to the the public, the Building Code requires the space to have a higher occupancy.

- c. Conditions set forth by this approval addresses some of the parking and traffic impacts this increase in occupancy may create.
- d. Although the occupancy increases to 115 persons, the actual seating capacity (as conditions in the approval) will remain at 49 for the restaurant and an additional 17 fixed stools at the bar. It is not anticipated that the addition of seating for the for to 17 persons within the existing floor area will result in a significant increase in the number of customers. The proposal will result in added convenience to customers, because of the improved circulation and the inclusion of handicapped restrooms.
- e. The increase in the occupancy of the newly created commercial space will not affect the character along this portion of Haight Street.
- f. The proposal as recommended by staff is consistent with the policies and objectives of the Commerce and Industry Element of the Master Plan.
- 5. Section 101.1 establishes eight priority policies and requires review of permits for consistency with said policies. The project complies with said policies in that:
 - a. The addition of seating is not only an enhancement of the existing establishment but an added convenience for customers thus improving services to the neighborhood.
 - b. The approval will result in opportunities for resident employment and ownership in a neighborhood serving business, and preserves an existing retail space.
 - c. The previous establishment although authorized for occupancy up to 49 persons often time the occupancy exceeded this limit. Approval of the proposal will not significantly affect on-street parking and transit services.
- 6. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101 in that, as designed, the project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.

File No. 89.135CC 1566 Haight Street Motion No. 11899 Page Four

7. 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. 89.135CC subject to the following conditions attached hereto as <u>EXHIBIT A</u>, which is incorporated herein by reference as though fully set forth.

I hereby certify that the foregoing Motion was ADOPTED by the City Planning Commission at its regular meeting of March 22, 1990.

Sharon Rogers Secretary

AYES: Commissioners Bierman, Boldridge, Engmann, Hu, Morales and Sewell

NOES: None

ABSENT: None

ADOPTED: March 22, 1990

ACC:g1p/pg/103

File No. 89.135CC 1566 Haight Street Motion No. 11899

EXHIBIT A

CONDITIONS OF APPROVAL

- This authorization is for a FULL SERVICE RESTAURANT AND BAR as defined by Section 790.92 and 790.22 with seating capacity for up to 66 persons within an area approximately 3,270 square feet in size, and operating with an On Sale General, Alcoholic Beverage License Type 47 in general conformity with plans dated February 12, 1990 submitted with the application and labelled Exhibit B.
- 2. There shall be no entertainment, Dance Hall or permanent installation of a large screen television on the premises.
- 3. Hours of operation shall be limited to from 8:00 a.m. to 10:00 p.m.
- 4. Applicant shall provide valet parking.
- 5. The applicant shall transmit a copy of these conditions to the County Recorder to be recorded as a part of the property record.

ACC:glp/pg/103

Case No. 94.633C 1568 Haight Street

SAN FRANCISCO

CITY PLANNING COMMISSION

MOTION NO. 13866

ADOPTING FINDINGS RELATING TO THE DISAPPROVAL OF A REQUEST FOR CONDITIONAL USE AUTHORIZATION TO MODIFY CONDITIONS OF A PREVIOUSLY GRANTED AUTHORIZATION UNDER MOTION NUMBER 11899 AND TO ADD OTHER ENTERTAINMENT (PLACE OF ENTERTAINMENT PERMIT) AS DEFINED IN SECTION 790.38 OF THE PLANNING CODE TO AN EXISTING BAR AND FULL-SERVICE RESTAURANT WITHIN THE HAIGHT STREET NEIGHBORHOOD COMMERCIAL DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

Preamble

On December 12, 1994, Eileen Long, Operator, (hereinafter "Applicant") made application (hereinafter "Application") for Conditional Use on the property at 1568 Haight Street; Lot 17 in Assessor's Block 1231, (hereinafter "Subject Property") to modify conditions of a previously granted authorization under Motion Number 11899 and to add Other Entertainment (Place of Entertainment Permit) to an existing bar and full-service restaurant in general conformity with plans filed with the Application and labeled "Exhibit B" (hereinafter "Project") within the Haight Street Neighborhood Commercial District.

On March 2, 1995, April 13, and April 20, 1995, the San Francisco City Planning Commission (hereinafter "Commission") conducted duly noticed public hearings at regularly scheduled meetings on **Conditional Use Application No. 94.633C**.

The proposed Conditional Use application was determined by the San Francisco Department of City Planning (hereinafter "Department") to be categorically exempt from the environmental review process pursuant to Title 14 of the California Administrative Code. The Commission has reviewed and concurs with said determination.

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.

Case No. 94.633C 1568 Haight Street Motion Number 13866 Page 2

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 Haight Street District controls are designed to protect the existing building scale and promote new mixed-use development which is in character with adjacent buildings. The building standards regulate large-lot and use development and protect rear yards above the ground story and at residential levels. To promote the prevailing mixed-use character, most commercial uses are directed primarily to the ground story with some upper-story restrictions in new buildings. In order to maintain the balanced mix and variety of neighborhood-serving commercial uses and regulate the more intensive commercial uses which can generate congestion and nuisance problems, special controls prohibit additional eating and drinking uses, restrict expansion and intensification of existing eating and drinking establishments, and limit entertainment and tourist hotels. Prohibitions of most automobile and drive-up uses protect the district's continuous retail frontage.

Housing development in new buildings is encouraged above the ground story. Existing residential units are protected by prohibition of upper-story conversions and limitations on demolitions.

- 2. Modification of conditions of a previously granted authorization under Sections 178.(c) and 303.(e) of the Planning Code require the granting of a new conditional use authorization. Live entertainment, including non-amplified live entertainment, and dancing are defined as Other Entertainment under Section 790.38 of the Planning Code. The existing bar is defined as such under Section 790.22 of the Code. To add Other Entertainment to the existing establishment requires Conditional Use Authorization by the Commission as required by Sections 178.(c) and 719.48. The findings contained in Code Section 303.(c) must be considered in the review of any such request.
- 3. This Application also requires a Place of Entertainment Permit from the San Francisco Police Department Permit Bureau. A Hearing has been held by the Police Department and a permit was granted pending action by the Commission on the requested Authorization. Issuance of the Place of Entertainment Permit was appealed to the Board of Permit Appeals under Case Number 95-007. The Board of Permit Appeals voted on March 1, 1995 to uphold issuance of the Permit on condition that conditions imposed by this Department, the Police Department and the Department of Building Inspection be met.

Case No. 94.633C 1568 Haight Street Motion Number 13866 Page 3

- 4. The proposal is to add non-amplified live entertainment to an existing restaurant and bar without physical alteration. The entertainment which would consist of piano and vocal music, with an occasional Jazz Combo or Irish Folk Music provided. The piano and vocal music would be performed Thursday through Saturday nights from 5:30 to 9:30 p.m. The Jazz or Irish Folk Music would be performed Sundays from 4:00 to 10:00 p.m. The live entertainment is proposed for the mezzanine level. Also, the proposal requests modification of condition number 2 to allow for installation of a projection television screen for special events, modification of condition number 3 to permit operation of the bar with a 2:00 a.m. closing time; and, modification of condition number 4 to eliminate the requirement for provision of valet parking.
- 5. The Commerce and Industry Element of the Master Plan calls for promoting the multiple uses of neighborhood commercial areas with priority given to the neighborhood-serving retail and service activity. The Element calls for special efforts to be directed at protecting the diversity of neighborhood-serving uses from over-concentration of any given use such as financial institutions, bars or restaurants.
- 6. The former Noise Abatement Officer of the San Francisco Police Department has inspected the property and has issued a final report which indicates that no appreciable noise was measured on the roof of the subject property if the rear doors and windows are kept closed, however, complaints received from nearby residents indicated that the windows are frequently kept open during business hours.
- 7. Michael Gannon, former Permit Officer for Park Station of the San Francisco Police Department reported that the current operation is in his opinion exceptional and that substantial physical changes were made to the property by the operators to reduce transmission of noise from inside to outside including: sealing six of nine rear windows, modification of skylights and installation of sound reducing wall materials.
- 8. A number of surrounding property owners and residents have contacted this Department expressing opposition to the proposed live entertainment indicating that the operation is frequently noisy. Complaints have also been received which raise questions as to whether the property complies with applicable San Francisco Building Code standards for conversion from a B-2 (Drinking and dining establishments having an occupant load of less than 50) to an A-3 (Public Assembly) occupancy. Information was presented to the Commission which failed to demonstrate compliance with San Francisco Building Code A-3 occupancy requirements. Building Permits to construct two-hour property line walls and a sprinkler system were issued but expired without final inspection or issuance of a Certificate of Final Completion. Complaints were also received which indicated that live entertainment was taking place at the property without the necessary permit or authorization. A satellite dish antenna was also installed without benefit of permit.

Case No. 94.633C 1568 Haight Street Motion Number 13866 Page 4

- 9. Plans prepared by Stephen Antonaros, Project Architect, dated April 4, 1994, identify a total seating capacity of 118, almost double the authorized capacity of 66 specified in City Planning Commission Motion Number 1 of Motion Number 11899 (Case Number 89.135CC).
- 10. The Applicant contends that the previous authorization limited the hours of operation of the restaurant to 10:00 p.m. and that the bar was to operate with a 2:00 a.m. closing time. The Applicant also contends that the existing projection television is not permanently installed, but is only used for certain special events (World Cup Soccer, Super Bowl, for examples). The Applicant also contends that attempts were made to secure necessary insurance for valet parking service, however, the only insurance available was prohibitively expensive.
- The Applicant previously filed Application Number 93.389C on June 23, 1993, to 11. request authorization to permit Other Entertainment (Place of Entertainment Permit). The Department determined that the restaurant and bar were being operated in violation of conditions imposed under Motion Number 11899 (Case Number 89.135CC). The Department required that the establishment be brought into compliance with the conditions of the earlier authorization or that Application Number 93.389C be amended to modify the conditions of Motion Number 11899. No action was taken by the Applicant to either amend Application Number 93.389C or to demonstrate compliance with Motion Number 11899 and the Application was considered withdrawn due to inactivity on October 20, 1994. The Department subsequently scheduled Case Number 93.389C for hearing on December 8, 1994 for consideration of revocation of the previously granted authorization. Upon the filing of Application Number 94.633C, consideration of revocation under Case Number 93.389C was continued to January 19, 1995. The Commission has continued Case Number 93.389C to June 15, 1995 during which time the Applicant must demonstrate compliance with the conditions specified in Motion Number 11899 or the Commission will consider revocation of the previous authorization.
- 12. Under the provisions of Section 303, the Commission may authorize a Conditional Use after finding that the proposed use will provide a development that is necessary or desirable for and compatible with the neighborhood or the community, that such use will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property, improvements or potential development in the vicinity and that such use will not adversely affect the Master Plan. The proposed modifications do not comply with the criteria of Section 303 of the Code in that:

Case No. 94.633C 1568 Haight Street Motion Number 13866 Page 5

- The Applicant has failed to demonstrate compliance with any of the conditions a. specified in Motion Number 11899, including the following: compliance with A-3 San Francisco Building Code occupancy requirements, compliance with the stated seating capacity of 66 seats, compliance with 10:00 p.m. hours of operation, preclusion of Place of Entertainment activities, or provision of valet parking. Furthermore, the Applicant was required to provide information to Department staff, to the Department of Building Inspection and to the Police Department to demonstrate compliance with the conditions of Motion Number 11899. Members of the Commission previously expressed frustration with the lack of compliance with the conditions of Motion Number 11899. The Applicant has failed to demonstrate to the satisfaction of the Commission an ability to comply with conditions in the future. Therefore, the use of the property is in violation of the provisions of Section 303.(d) of the Planning Code and is neither compatible with the neighborhood or the community, and that such use will be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity.
- b. The Applicant has not demonstrated that modification of previous conditions is necessary to guarantee an activity which is compatible with the neighborhood and will not result in future public nuisances.
- 13. The Applicant was given the opportunity to withdraw the Application prior to the hearing of April 13, 1995 in order to request reconsideration in less than one year. The Applicant chose not to withdraw the Application.
- 14. City Planning Code Section 101.1 establishes eight priority planning policies and requires review of permits for consistency with said policies. The project does not comply with said policies in that current use of the property is not in keeping with the neighborhood character and diversity.
- 15. The Project is not consistent with and would not promote the general welfare and specific purposes of the Code provided under Section 101 in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
- 16. The Commission hereby finds that approval of the Conditional Use authorization would not promote the health, safety and welfare of the City.

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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 hearing, and all other written materials submitted by all parties, the Commission hereby **DISAPPROVES** Conditional Use Application No. **94.633C**.

I hereby certify that the foregoing Motion was ADOPTED by the City Planning Commission at its regular meeting of April 20, 1995.

Linda Avery Secretary

AYES: Commissioners Boomer, Levine, Lowenberg, Prowler and Unobskey

NOES: None

ABSENT: Commissioners Fung and Martin

ADOPTED: April 20, 1995

BP:bnp\wp51\MOTION\F94-633C.BNP
Exhibit G - Project Sponsor Submittal

Conditional Use Hearing Case Number 2019-017867CUA 1566 - 1568 Haight Street 10/28/2020

San Francisco Planning Commission 49 South Van Ness Ave., Suite 1400 San Francisco, CA 94103

Project Address:1566 - 1568 Haight StreetAssessor's Block/Lot:1231/017Property Owner:Maybelle M Schumacher TrustZoning District:Haight Street Neighborhood Commercial District/40-XBuilding Permit Number:200810234956, 200905087985Planning Record Number:2019-017867CUA

RE: Addendum to Project Sponsor Brief dated 6/5/2020

Dear Honorable Planning Commissioners,

I wanted to update you on our current efforts and the status of our tenant's bar establishment at 1568 Haight Street. We had requested a continuance in August in order to do community outreach as well as to amend our current application to include a second authorized use for "other entertainment". Our amended project description is attached.

The project sponsor team for 1566-1568 Haight St. has conducted community outreach to the following organizations and stakeholders; Haight Ashbury Merchants Association (HAMA), Haight Ashbury Improvement Association (HAIA), Haight Ashbury Neighborhood Council (HANC), SFPD Park Station, Supervisor Dean Preston for District 5, and businesses and local neighbors in the immediate 500 foot radius. Outreach has been done via mail, email, and phone conversations.

In regards to our current tenant, Michael Collins Irish Bar, they have not operated or opened their doors since March 17th, 2020 due to the coronavirus mandated orders. During this time as well as prior to Covid-19, they have failed to pay rent and have become unresponsive to our requests. By all accounts, it appears that they will not be able to reopen their business. So our efforts with this application are being done with the anticipation of correcting the planning issues and providing the foundation for a new tenant to take over. Due to the current state of the Covid-19 virus, locating a new tenant could potentially take some time and most likely go into next year.

In addition, I was recently made aware of a prior Motion #13866 from December 1994 for our building. As I have only recently taken over the management of the building from my aging father, I had no prior knowledge of this application and unfortunately due to his health issues he is unable to provide any historical information for me to refer to. So upon reviewing the prior motion, I would like to address the following:

- There have been several business owners over the years and I am unaware of who Eileen Long is and which business she was operating at our location. I cannot speak to why she became unresponsive and did not follow through on the compliance requests made by the planning commission at that time as this was 26 years ago. However it is worth noting that according to item #3, the permit was initially granted pending certain actions.
- It will be our intent when we bring in a new tenant to insure their compliance with the conditions of approval from the prior motions including operating with a type 47 liquor license for a full restaurant and bar, adhering to the current occupancy limits and hours, and proactively managing any noise or nuisances. This would be stipulated in our lease agreement. Our expectation would be for them to be a good neighbor and conscientious business owner in the community.
- In 1994 the Entertainment Commission did not exist. The SFPD enforced the entertainment permits. Today with the Entertainment Commission in charge of this process, the new tenant would need to apply for the permit through them. The type of entertainment, days and hours it will offer entertainment would be determined at that time. We will expect the tenant to comply with conditions mandated by the commission including noise restrictions, decibel readings, sound curtains, the closing of certain doors or windows to limit noise, and any other reasonable conditions set forth by the commission. We will work with the local neighbors to address any noise concerns. Furthermore, we will expect the tenant to adhere to the Good Neighbor Policy as drafted by the entertainment commission (see attachment) and create a security plan to follow.
- With the proposed seating capacity of only 81 and by maintaining a restaurant with food service, the nature of the entertainment will be contained to a smaller venue conducive of a dining/entertainment experience as opposed to a larger nightclub venue. We are seeking the other entertainment use to be complementary to the restaurant use. This would be in keeping with the <u>less</u> intensive commercial use as noted in the attached Code 719 of the Haight Street Neighborhood Commercial District. We would be agreeable to a condition to allow food to be served continuously until one hour prior to closing on days that entertainment is being offered.
- Secondly, Code 719 restricts expansion and intensification of existing uses and limits entertainment. Currently there are only a few full POE licenses on Haight St. There is no clustering and no cumulative effect of excess congestion.
- In addition, with the current impact that COVID-19 has had on small businesses, it is important to consider the economic effect this has had. We want to do everything possible as property owners and as a city to try and preserve and protect the entertainment industry and our small businesses or this will become a part of our history and not our future.

In summary, it is our intent to abate the enforcement case by legalizing the merger of the two spaces which took place after the rebuilding from the fire in 2008. In addition, we seek to add the second authorized use for "other entertainment" which will lay the foundation for future tenants to provide this much needed attribute to the community. As a proactive property owner, we have chosen to go to the time and expense of including this with our CUA application in order to provide an easier pathway for the tenant in obtaining a POE permit. Our goal is to help our tenant succeed by offering an enhanced dining/entertainment experience, provide employment opportunities in the hospitality industry, as well as contribute to the vibrant entertainment life

and culture that is such an important part of San Francisco and the historical Haight Ashbury district. We respectfully ask for your approval of our project as proposed as it will provide a development that is necessary, desirable and compatible with the community. Thank you for your consideration.

Respectfully yours,

Tricia Wray tricia@triciawray.com 408-218-3055 Brandon Wray bdonwray@gmail.com 408-806-0453

Enclosure: Amended Project Description, Good Neighbor Policy, Code 719 Haight St Neighborhood Commercial District, Press Release- Fee Waivers

Full Project Description (Amended):

A bar and restaurant has operated at this location for over forty years, first as the Pall Mall Grill, then Martin Mack's, then HQ Bar and Restaurant and currently as Michael Collin's Irish Bar & Restaurant. There was a fire on September 5, 2008 which caused considerable damage to the building. Rebuilding was overseen by the current tenant at the time. Appropriate building permits were secured to repair the fire damage to the building. During the rebuilding process in order to be in compliance with the current building and fire codes, the basement had to be expanded, fire sprinklers installed, and an additional fire and emergency exit corridor created. This was a requirement by the SF Fire Department as a condition of permit approval. The corridor serves as both the basement access and the secondary safety ingress and egress for the building. These modifications were completed at considerable expense and with proper permits. In order to accommodate the new fire safety exit, the existing vacant retail space of approximately 380 sq feet had to be merged with the existing bar and restaurant space in order to incorporate these requirements. It is worth noting that the small retail space had been vacant for several years and was not contributing to the overall business health of the neighborhood.

The present authorized use for the building is as an existing full service restaurant and bar with a seating capacity for up to 66 persons within an area of 3270 sq feet. When the rebuild took place and the vacant retail space was merged with the bar, the resulting space is approximately 3650 sq feet with seating capacity for up to 81. It is our intent to continue the existing use of the space as a full service restaurant and bar as it historically has been for the past 40+ years.

In addition, we now seek to add a second authorized use for the building of "other entertainment" to allow our current and future tenants the ability to offer a meal/entertainment dining experience consistent with the historical Haight-Ashbury neighborhood culture. By providing this foundation, the tenant would then have the ability to apply for the Place of Entertainment (POE) Permit through the SF Entertainment Commission at a future date if they so desired. The type of entertainment and relevant days and hours would be addressed through the application process with the commission. San Francisco's nightlife and entertainment sector is an integral part of the city's vibrant corridors. Nightlife and entertainment uses compliment retail sales and services by providing destinations and gathering spaces for potential retail customers. This addition to our building use would enhance the Haight Ashbury community and draw business to the neighborhood.

In conclusion, the purpose of our request is to update and bring current the conditional use authorization for the building including the approval for the following:

- 1. Modify condition #2 under Motion #11663 to approve the merger of the two spaces which became a requirement for the permited rebuilding construction in 2009 and to reflect the current post fire repairs and improvements
- 2. Modify previous condition #1 under Motion #11899 to allow for seating up to 81 persons
- 3. Modify condition #2 under Motion #11899 to allow for other entertainment use in order to support the tenant's ability to apply for a Place of Entertainment permit through the SF Entertainment Commission if desired at a future date

- 4. Modify condition #3 under Motion #11899 to amend the hours of operation to 8a.m. to 10 p.m. for the restaurant and 8 a.m. to 2 a.m. for the bar which is consistent with what is typical for this type of establishment.
- 5. Remove condition #4 under Motion #11899 requiring valet parking which is not feasible in this location due to the limited street parking and unnecessary with the present day alternatives necessary such as bus, taxi, Uber, and Lyft which are preferred methods of transportation by most of today's patrons.



Good Neighbor Policy



- 1. While hosting entertainment, permit holder shall always have a staff member on site who is able to provide proof of permit, is trained in every aspect of venue operation, and is aware of all permit conditions.
- 2. Permit holder is responsible for the safety and security of venue patrons and the surrounding neighborhood. The Commission approved security plan shall be followed, and permit holder shall secure the sidewalk for a 100-foot radius in all directions around the premises of the business to prevent injury to persons and/or damage to property.¹ Security staff shall be placed at all entrances and exits during the period from 10:00pm to such time past closing that all patrons have left the vicinity.
- **3.** Permit holder shall post easily visible signs outside each entrance and exit instructing patrons to:
 - a) Respect the neighborhood by keeping voices low,
 - b) Follow City & County of SF smoking regulations², and
 - c) Obey City & County of SF anti-loitering regulations.³

All signs and walkways shall be well lit. Sidewalks shall be kept clear for pedestrians. Cars shall not be double parked.

4. Permit holder shall provide a phone number to all interested neighbors for immediate contact with a staff member on site who has direct authority over the premises, knowledge of all permit conditions, and shall respond in a timely manner to address concerns.

- Permit holder shall maintain, and be prepared to verify, records at the premises of current L.E.A.D certification⁴ for all persons working at the premises.
- 6. Permit holder shall maintain all entrances and exits to the building and all sidewalks within 100 feet of the premises in a clean and sanitary condition. At some point between 30 minutes after closing and 8:00am, permit holder shall walk the area within 100 feet of the property and dispose of any litter that may have been left by patrons.
- 7. Permit holder shall take measures to reduce the amount of sound that escapes the venue. All doors and windows must be kept closed while hosting entertainment, unless otherwise conditioned on the permit. Permit holder shall be familiar with, and abide by, sound ordinances enforced by the Entertainment Commission, including but not limited to, the following:
 - a) Regulation of Noise Noise Limits
 - 1) Commercial & Industrial Property⁵
 - 2) Public Property⁶
 - **b)** Outdoor Amplified Sound Regulations⁷
 - c) Unnecessary Noise⁸
- 8. Within 24 hours of any violent incident, or any time SFPD responds to a call for service at the premises, permit holder shall complete and send an incident report⁹ to (1) their SFPD District Station Permit Officer and (2) the Entertainment Commission.

- ⁴ https://www.abc.ca.gov/programs/LEAD/Online_LEAD_Training.html
- ⁵ SF Municipal Police Code Article 29 Section 2909(b)

- ⁶ SF Municipal Police Code Article 29 Section 2909(c)
- ⁷ SF Municipal Police Code Article 15.1 Section 1060.16(b)(3)
- ⁸ SF Municipal Police Code Article I Section 49(b)
- ⁹ https://sfgov.org/entertainment/sites/default/files/Incident_Report.pdf

Approved 2/5/19

¹ SF Municipal Police Code Article 15.1 "security plan" definition

² SF Health Code Article 19F SEC. 1009.22(i)(1)

³ SF Municipal Police Code Article 2 Section 121(b)

(6) C if a Macro WTS Facility; P if a Micro WTS Facility.

(Added by Ord. 69-87, App. 3/13/87; amended by Ord. 445-87, App. 11/12/87; Ord. 412-88, App. 9/10/88; Ord. 87-00, File No. 991963, App. 5/19/2000; Ord. 260-00, File No. 001424, App. 11/17/2000; Ord. 275-05, File No. 051250, App. 11/30/2005; Ord. 289-06, File No. 050176, App. 11/20/2006; Ord. 269-07, File No. 070671, App. 11/26/2007; Ord. 244-08, File No. 080567, App. 10/30/2008; Ord. 245-08, File No. 080696; Ord. 51-09, File No. 081620, App. 4/2/2009; Ord. 161-09, File No. 090367, App. 7/15/2009; Ord. 56-11, File No. 110070, App. 3/23/2011; Ord. 66-11, File No. 101537, App. 4/20/2011, Eff. 5/20/2011; Ord. 140-11, File No. 110482, App. 7/5/2011, Eff. 8/4/2011; Ord. 75-12, File No. 120084, App. 4/23/2012, Eff. 5/23/2012; Ord. 56-13, File No. 130062, App. 3/28/2013, Eff. 4/27/2013; Ord. 287-13, File No. 130041, App. 12/26/2013, Eff. 1/25/2014; Ord. 235-14, File No. 140844, App. 11/26/2014, Eff. 12/26/2014; Ord. 14-15, File No. 141210, App. 2/13/2015, Eff. 3/15/2015; Ord. 20-15, File No. 110548, App. 2/20/2015, Eff. 3/22/2015; redesignated and amended by Ord. 30-15, File No. 140954, App. 3/26/2015, Eff. 4/25/2015; amended by Ord. 33-16, File No. 160115, App. 3/11/2016, Eff. 4/10/2016; Ord. 162-16, File No. 160477, App. 8/11/2016, Eff. 9/10/2016; Ord. 129-17, File No. 170203, App. 6/30/2017, Eff. 7/30/2017; Ord. 130-17, File No. 170204, App. 6/30/2017, Eff. 7/30/2017)

AMENDMENT HISTORY

Zoning Control Table: 718.69C and 718.69D added; Ord. <u>66-11</u>, Eff. 5/20/2011. Zoning Control Table: 718.10 and 718.17 amended; Specific Provisions: 718.68 added; Ord. <u>140-11</u>, Eff. 8/4/2011. Zoning Control Table: 718.43 and 718.44 amended, former categories 718.42, 718.67, and 718.69A deleted; Specific Provisions: 718.43, 718.44 (Upper Fillmore NCD) added; Ord. <u>75-12</u>, Eff. 5/23/2012. Zoning Control Table: 718.13, 718.54, and 718.69B amended; Specific Provisions: 718.54 added; Ord. <u>56-13</u>, Eff. 4/27/2013. Zoning Control Table: former categories 718.38 and 718.39 redesignated as 718.36 and 718.37 and amended; Ord. <u>287-13</u>, Eff. 1/25/2014. Zoning Control Table: 718.26, 718.49 and 718.50 amended; Specific Provisions: 718.54 amended; Ord. <u>235-14</u>, Eff. 12/26/2014. Zoning Control Table: 718.92b added; Ord. <u>14-15</u>, Eff. 3/15/2015. Zoning Control Table: 718.14, 718.15, 718.16, and 718.17 amended; Ord. <u>20-15</u>, Eff. 3/22/2015. Section redesignated (formerly Sec. 718.1); Zoning Control Table: 718.54, 718.91, and 718.92 amended; Ord. <u>30-15</u>, Eff. 4/25/2015. Zoning Control Table: former categories 718.36 and 718.37 deleted, 718.96 and 718.97 added; Ord. <u>33-16</u>, Eff. 4/10/2016. Introductory material amended; Zoning Control Table: 718.91 amended; Specific Provisions: 718.91 added; Ord. <u>162-16</u>, Eff. 9/3/2016. Zoning Control Table: 718.33A added; Ord. <u>166-16</u>, Eff. 9/10/2016. New Zoning Control Table and notes added; Ord. <u>129-17</u>, Eff. 7/30/2017. Previous Zoning Control Table and Specific Provisions deleted; Ord. <u>130-17</u>, Eff. 7/30/2017.

CODIFICATION NOTE

1. So in Ord. <u>129-17</u>.

SEC. 719. HAIGHT STREET NEIGHBORHOOD COMMERCIAL DISTRICT.

Northwest of the City's geographical center, the Haight Street Neighborhood Commercial District is located in the Haight-Ashbury neighborhood, extending along Haight Street between Stanyan and Central Avenue, including a portion of Stanyan Street between Haight and Beulah. The shopping area provides convenience goods and services to local Haight-Ashbury residents, as well as comparison shopping goods and services to a larger market area. The commercial district is also frequented by users of Golden Gate Park on weekends and by City residents for its eating, drinking, and entertainment places. Numerous housing units establish the district's mixed residential-commercial character.

The Haight Street District controls are designed to protect the existing building scale and promote new mixed-use development which is in character with adjacent buildings. The building standards regulate large-lot and use development and protect rear yards above the ground story and at residential levels. To promote the prevailing mixed-use character, most commercial uses are directed primarily to the ground story with some upper-story restrictions in new buildings. In order to maintain the balanced mix and variety of neighborhood-serving commercial uses and regulate the more intensive commercial uses which can generate congestion and nuisance problems, special controls prohibit additional drinking uses, limit additional eating establishments, restrict expansion and intensification of existing eating and drinking establishments, and limit entertainment and tourist hotels. Prohibitions of most automobile and drive-up uses protect the district's continuous retail frontage.

Housing development in new buildings is encouraged above the ground story. Existing residential units are protected by prohibition of upper-story conversions and limitations on demolitions. Accessory Dwelling Units are permitted within the district pursuant to subsection 207(c)(4) of this Code.

Table 719. HAIGHT STREET NEIGHBORHOOD COMMERCIAL DISTRICTZONING CONTROL TABLE

		Haight Street NCD
Zoning Category	§ References	Controls
BUILDING STANDARDS		
Massing and Setbacks		
Height and Bulk Limits.	§§ <u>102</u> , <u>105</u> , <u>106</u> , <u>250–252</u> , <u>260</u> , <u>261.1</u> , <u>270</u> , <u>271</u> . See also Height and Bulk District Maps	40-X. See Height and Bulk Map Sheets HT06 and HT07 for more information. Height sculpting required on Alleys per § 261.1 .
5 Foot Height Bonus for Active Ground Floor Uses	§ <u>263.20</u>	NP
Rear Yard	§ <u>130</u> § <u>134</u> , <u>134</u> (a) (e)	Required at Grade level and at each succeeding level or Story: 25% of lot depth, but in no case less than 15 feet
Front Setback and Side Yard	§§ <u>130</u> , <u>131</u> , <u>132</u> , <u>133</u>	Not Required.
Street Frontage and Public Realm	•	
Streetscape and Pedestrian Improvements	§ <u>138.1</u>	Required
Street Frontage Requirements	§ <u>145.1</u>	Required; controls apply to above-grade parking setbacks, parking and loading entrances, active uses, ground floor ceiling height, street-facing ground-level spaces, transparency and fenestration, and gates, railings, and grillwork. Exceptions permitted for historic buildings.
Ground Floor Commercial	§ <u>145.4</u>	Not Required
Vehicular Access Restrictions	§ <u>155</u> (r)	None
Miscellaneous		
Lot Size (Per Development)	§§ <u>102</u> , <u>121.1</u>	P up to 4,999 square feet; C 5,000 square feet and above
Planned Unit Development	§ <u>304</u>	С
Awning, Canopy or Marquee	§ <u>136.1</u>	Р
Signs	§§ <u>262</u> , <u>602</u> - <u>604</u> , <u>607</u> , <u>607</u> .1, <u>608</u> , <u>609</u>	As permitted by Section § 607.1^{1}
General Advertising Signs	§§ <u>262</u> , <u>602.7¹-604</u> , <u>608</u> , <u>609</u> , <u>610</u> , <u>611</u>	NP
Design Guidelines	General Plan Commerce and Industry Element	Subject to the Urban Design Guidelines

Zoning Category	§ References	Controls		
RESIDENTIAL STANDARDS AND	USES			
Development Standards				
Usable Open Space [Per Dwelling Unit]	§§ <u>135</u> , <u>136</u>	80 square feet per unit if private, or 100 square feet per unit if common		
Off-Street Parking Requirements	§§ <u>145.1</u> , <u>150</u> , <u>151</u> , <u>153</u> - <u>156</u> , <u>159</u> - <u>161</u> , <u>166</u> , <u>204.5</u>	A minimum of one car parking space for every Dwelling Unit required. Certain exceptions permitted per § <u>161</u> . Bike parking required per § <u>155.2</u> . If car parking is provided, car share spaces are required when a project has 50 units or more per § <u>166</u> .		
Dwelling Unit Mix	§ <u>207.6</u>	Not required		
Use Characteristics				
Single Room Occupancy	§ <u>102</u>	Р		
Student Housing	§ <u>102</u>	Р		
Residential Uses		Controls By Story		
	1	1st	2nd	3rd+
Residential Uses	§ <u>102</u>	Р	Р	Р
Dwelling Unit Density	§§ <u>102</u> , <u>207</u>	1 unit per 600 square foot lot area or the density permitted in the nearest Residential District, whichever is greater.		
Senior Housing Density	\$\$ <u>102</u> , <u>202.2</u> (f), <u>207</u>	P up to twice the number of dwelling units otherwise permitted as a Principal Use in the district and meeting all the requirements of § 202.2(f)(1). C up to twice the number of dwelling units otherwise permitted as a Principal Use in the district and meeting all requirements of Section § 202.2(f)(1), ¹ except for § 202.2(f)(1)(D)(iv), related to location.		
Group Housing Density	§ <u>208</u>	1 bedroom per 210 square foot lot area or the density permitted in the nearest Residential District, whichever is greater.		
Accessory Dwelling Unit Density	§§ <u>102</u> , <u>207</u> (c)(4)	P within the existing building envelope. 1 ADU allowed in buildings with 4 or fewer Dwelling Units. No limit in buildings with 5 or more Dwelling Units. ADUs may not eliminate or reduce ground-story retail or commercial space.		
Homeless Shelters	§§ <u>102</u> , <u>208</u>	Density limits regulated by the Administrative Code		
Loss of Dwelling Units		C 1st	Controls by Sto 2nd	ory 3rd+
Residential Conversion	§ <u>317</u>	C	NP	NP
Residential Demolition and Merger	§ <u>317</u>	C	С	C

Zoning Category	§ References		Controls	
NON-RESIDENTIAL STANDARDS	U	<u> </u>		
Development Standards				
Floor Area Ratio	§§ <u>102, 123, 124</u>	1.8 to 1		
			square feet; C	2.500 square
Use Size	§§ <u>102</u> , <u>121.2</u>	feet and above	1 ·	, I
Off-Street Parking Requirements	\$\$ <u>145.1</u> , <u>150</u> , <u>151</u> , <u>153</u> - <u>156</u> , <u>159</u> - <u>161</u> , <u>166</u> , <u>204.5</u>	No car parking required if Occupied Floor Area is less than 5,000 sq. ft. See chart in § <u>151</u> for uses over 5,000 square feet. See § <u>161</u> for car parking waiver. Bike parking required per Section <u>155.2</u> . Car share spaces required when a project has 25 or more parking spaces per § <u>166</u> .		
Off-Street Freight Loading	§§ <u>150, 152, 153</u> - <u>155, 161, 204.5</u>	None required if gross floor area is less than $10,000$ square feet. Exceptions permitted per § <u>161</u> .		
Commercial Use Characteristics				
Drive-up Facility	§ <u>102</u>	NP		
Formula Retail	§§ <u>102</u> , <u>303.1</u>	С		
Hours of Operation	§ <u>102</u>	P 6 a.m 2 a.m.; C 2 a.m 6 a.m.		
Maritime Use	§ <u>102</u>	NP		
Open Air Sales	§§ <u>102</u> , <u>703</u> (b)	See Section 703(b)		
Outdoor Activity Area	§§ <u>102</u> , <u>145.2</u>	P if located in front; C if located elsewhere		
Walk-up Facility	§ <u>102</u>	Р		
		Controls by Story		
		1st	2nd	3rd+
Agricultural Use Category				
Agriculture, Neighborhood	§§ <u>102</u> , <u>202.2</u> (c)	Р	Р	Р
Agriculture, Large Scale Urban	§§ <u>102</u> , <u>202.2</u> (c)	С	С	С
Greenhouse	§§ <u>102</u> , <u>202.2(</u> c)	NP	NP	NP
Automotive Use Category				
Automotive Uses*	§§ <u>102, 187.1,</u> <u>202.2</u> (b), <u>202.5</u>	NP	NP	NP
Automotive Repair	§ <u>102</u>	С	NP	NP
Parking Garage, Private	§ <u>102</u>	С	С	С
Parking Garage, Public	§ <u>102</u>	С	С	С
Parking Lot, Private	§§ <u>102, 142, 156</u>	С	С	С
Parking Lot, Public	§§ <u>102, 142, 156</u>	С	С	С
Entertainment, Arts and Recreation	Use Category	·	·	·
Entertainment, Arts and Recreation Uses*	§ <u>102</u>	NP	NP	NP

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Entertainment, General	§ <u>102</u>	С	NP	NP
Entertainment, Nighttime	§ <u>102</u>	С	NP	NP
Movie Theater	§§ <u>102</u> , <u>202.4</u>	Р	NP	NP
Open Recreation Area	§ <u>102</u>	С	С	С
Passive Outdoor Recreation	§ <u>102</u>	С	С	С
Industrial Use Category				L
Industrial Uses	§§ <u>102</u> , <u>202.2</u> (d)	NP	NP	NP
Institutional Use Category				
Institutional Uses*	§ <u>102</u>	Р	С	С
Child Care Facility	§ <u>102</u>	Р	P <u>(1)</u>	P <u>(1)</u>
Hospital	§ <u>102</u>	NP	NP	NP
Job Training	§ <u>102</u>	Р	С	С
Medical Cannabis Dispensary	§§ <u>102</u> , <u>202.2</u> (e)	DR	NP	NP
Philanthropic Admin. Services	§ <u>102</u>	NP	NP	NP
Public Facilities	§ <u>102</u>	С	С	С
Residential Care Facility	§ <u>102</u>	Р	P(2)	P(2)
Sales and Service Use Category				
Retail Sales and Service Uses*	§§ <u>102</u>	Р	С	NP
Adult Business	§ <u>102</u>	NP	NP	NP
Animal Hospital	§ <u>102</u>	С	NP	NP
Bar	§§ <u>102</u> , <u>202.2</u> (a)	NP	NP	NP
Grocery, General	§ <u>102</u> , <u>202.3</u>	P <u>(3)</u>	C <u>(3)</u>	NP
Grocery, Specialty	§ <u>102</u>	P <u>(3)</u>	C <u>(3)</u>	NP
Hotel	§ <u>102</u>	C	C	NP
Kennel	§ <u>102</u>	С	NP	NP
Liquor Store	§ <u>102</u>	NP	NP	NP
Massage Establishment	§ <u>102</u>	С	NP	NP
Massage, Foot/Chair	§ <u>102</u>	Р	NP	NP
Mortuary	§ <u>102</u>	NP	NP	NP
Motel	§§ <u>102</u> , <u>202.2</u> (a)	NP	NP	NP
Pharmacy	§§ <u>102</u> , <u>202.2</u> (a)	P <u>(3)</u>	C(3)	NP
Restaurant	§§ <u>102</u> , <u>202.2</u> (a)	NP(3)(4)	NP	NP
Restaurant, Limited	§§ <u>102</u> , <u>202.2</u> (a)	P	P	 P
Retail Sales and Service, General	§ <u>102</u>	P <u>(3)</u>	C <u>(3)</u>	NP
Services, Financial	§ <u>102</u>	P	NP	NP
Services, Fringe Financial	§ <u>102</u>	NP(5)	NP(5)	NP(5)
Services, Health	§ <u>102</u>	NP	C	NP
Services, Limited Financial	§ <u>102</u>	P	NP	NP
Storage, Self	§ <u>102</u>	NP	NP	NP
Tobacco Paraphernalia Establishment	§ <u>102</u>	C <u>(6)</u>	C <u>(6)</u>	C <u>(6)</u>
Trade Shop	§ <u>102</u>	Р	NP	NP
Non-Retail Sales and Service*	§ <u>102</u>	NP	NP	NP
	<u> </u>	- , -		

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	Design Professional	§ <u>102</u>	Р	С	NP
	Trade Office	§ <u>102</u>	Р	С	NP
	Utility and Infrastructure Use Category				
	Utility and Infrastructure*	§ <u>102</u>	C <u>(7)</u>	C <u>(7)</u>	C <u>(7)</u>
	Power Plant	§ <u>102</u>	NP	NP	NP
	Public Utilities Yard	§ <u>102</u>	NP	NP	NP

* Not listed below

- (1) C required for 13 or more children.
- (2) C required for seven or more persons.

(3) HAIGHT STREET ALCOHOL RESTRICTED USE SUBDISTRICT: Retail establishments selling off-sale or on-sale alcoholic beverages are not permitted pursuant to Section $\frac{781.9}{2}$.

(4) HAIGHT STREET RESTAURANTS

Boundaries: Applicable to the Haight Street Neighborhood Commercial District and Haight Street Alcohol Restricted Use Subdivision.

Controls: A Restaurant may be permitted as a Conditional Use on the ground level if, in addition to the criteria set forth in Section <u>303</u>, the Planning Commission has approved no more than a total of 3 Restaurants in accordance with this Section. Should a Restaurant permitted under this Section cease operation and complete a lawful change of use to another principally or conditionally permitted use, the Commission may consider a new Restaurant in accordance with the terms of this Section.

↓ (5) FRINGE FINANCIAL SERVICE RESTRICTED USE DISTRICT (FFSRUD)

Boundaries: The FFSRUD and its 1/4 mile buffer includes, but is not limited to, the Haight Street Neighborhood Commercial District.

Controls: Within the FFSRUD and its 1/4 mile buffer, fringe financial services are NP pursuant to Section 249.35. Outside the FFSRUD and its 1/4 mile buffer, fringe financial services are P subject to the restrictions set forth in subsection 249.35(c)(3).

(6) TOBACCO PARAPHERNALIA ESTABLISHMENTS – the special definition of "Tobacco Paraphernalia Establishments" applicable to the Haight Street Neighborhood Commercial District shall be repealed three years after its initial effective date, unless the Board of Supervisors, on or before that date, extends or re-enacts it. In the Haight Street Neighborhood Commercial District, the period of non-use for a non-conforming Tobacco Paraphernalia Establishment to be deemed discontinued shall be 18 months.

(7) C if a Macro WTS Facility; P if a Micro WTS Facility.

(8) Within the Haight Street Neighborhood Commercial District, that portion of an General Entertainment use comprised of mechanical amusement game devices will be considered an Amusement Game Arcade Use, for the purposes of the Planning Code.

⁽Added by Ord. 69-87, App. 3/13/87; amended by Ord. 445-87, App. 11/12/87; Ord. 88-08, File No. 071669, App. 5/21/2008; Ord. 412-88, App. 9/10/88; Ord. 229, File No. 990991, App. 8/20/99; Ord. 87-00, File No. 991963, App. 5/19/2000; Ord. 260-00, File No. 001424, App. 11/17/2000; Ord. 275-05, File No. 051250, App. 11/30/2005; Ord. 289-06, File No. 050176, App. 11/20/2006; Ord. 269-07, File No. 070671, App. 11/26/2007; Ord. 88-08, File No. 071669, App. 5/21/2008; Ord. 244-08, File No. 080567, App. 10/30/2008; Ord. 245-08, File No. 080696; Ord. 51-09, File No. 081620, App. 4/2/2009; Ord. 151-09, File No. 090141, App. 7/10/2009; Ord. <u>66-11</u>, File No. 101537, App. 4/20/2011; Ord. <u>140-11</u>, File No. 110482, App. 7/5/2011, Eff. 8/4/2011; Ord. <u>75-12</u>, File No. 120084, App. 4/23/2012, Eff. 5/23/2012; Ord. <u>56-13</u>, File No. 130062, App. 3/28/2013, Eff. 4/27/2013; Ord. <u>287-13</u>, File No. 130041, App. 12/26/2013, Eff. 1/25/2014; Ord. <u>223-14</u>, File No. 140804, App. 11/7/2014, Eff. 12/7/2014; Ord. <u>235-14</u>, File No. 140844, App. 11/26/2014, Eff. 12/26/2014; Ord. <u>14-15</u>, File No. 141210, App. 2/13/2015, Eff. 3/15/2015; Ord. <u>20-15</u>, File No. 110548, App. 2/20/2015, Eff. 3/22/2015; redesignated and amended by Ord. <u>30-15</u>, File No. 160657, App. 8/4/2016, Eff. 9/3/2016; Ord. <u>166-16</u>, File No. 160477, App. 8/11/2016; Ord. <u>162-16</u>, File No. 160657, App. 8/4/2016, Eff. 9/3/2016; Ord. <u>160-17</u>, File No. 160477, App. 8/11/2016; Eff. 9/10/2016; Ord. <u>162-16</u>, File No. 160657, App. 8/4/2016, Eff. 7/30/2017; Ord. <u>130-17</u>, File No. 170204, App. 6/30/2017, Eff. 7/30/2017; Ord. <u>130-17</u>, File No. 170204, App. 6/30/2017, Eff. 7/30/2017; Ord. <u>130-17</u>, File No. 170204, App. 6/30/2017, Eff. 7/30/2017)

ARTICLE 7: NEIGHBORHOOD COMMERCIAL DISTRICTS AMENDMENT HISTORY

Zoning Control Table: 719.69C and 719.69D added; Ord. <u>66-11</u>, Eff. 5/20/2011. Zoning Control Table: 719.10, 719.17, 719.69, and 719.69A amended; Ord. <u>140-11</u>, Eff. 8/4/2011. Zoning Control Table: 719.41, 719.43, and 719.44 amended, former categories 719.42, 719.67, and 719.69A deleted; Specific Provisions: 719.42 and 719.44 amended; Ord. <u>75-12</u>, Eff. 5/23/2012. Zoning Control Table: 719.13, 719.54, and 719.69B amended; Specific Provisions: 719.54 added; Ord. <u>56-13</u>, Eff. 4/27/2013. Zoning Control Table: 719.69B amended; Specific Provisions: 719.54 added; Ord. <u>287-13</u>, Eff. 1/25/2014. Zoning Control Table: 719.69B amended; Specific Provisions: 719.7014. Zoning Control Table: 719.26 amended; Specific Provisions: 719.54 added; Ord. <u>223-14</u>, Eff. 12/7/2014. Zoning Control Table: 719.26 amended; Specific Provisions: 719.54 added; Ord. <u>235-14</u>, Eff. 12/26/2014. Zoning Control Table: 719.26 amended; Specific Provisions: 719.54 amended; Ord. <u>235-14</u>, Eff. 12/26/2014. Zoning Control Table: 719.92b added; Ord. <u>14-15</u>, Eff. 3/15/2015. Zoning Control Table: 719.19, 719.15, 719.16, and 719.17 amended; Ord. <u>20-15</u>, Eff. 3/22/2015. Section redesignated (formerly Sec. 719.1); Zoning Control Table: 719.54, 719.91, and 719.92 amended; Ord. <u>30-15</u>, Eff. 4/25/2015. Zoning Control Table: former categories 719.36 and 719.37 deleted, 719.96 and 719.97 added; Ord. <u>33-16</u>, Eff. 4/10/2016. Introductory material amended; Zoning Control Table: 719.91 amended; Specific Provisions: 719.91 added; Ord. <u>162-16</u>, Eff. 9/3/2016. Zoning Control Table: 719.33A added; Ord. <u>166-16</u>, Eff. 9/10/2016. New Zoning Control Table: and notes added; Ord. <u>129-17</u>, Eff. 7/30/2017. Previous Zoning Control Table and Specific Provisions deleted; Ord. <u>130-17</u>, Eff. 7/30/2017.

CODIFICATION NOTE

1. So in Ord. <u>129-17</u>.

SEC. 720. EXCELSIOR OUTER MISSION NEIGHBORHOOD COMMERCIAL DISTRICT.

The Excelsior Outer Mission Street Neighborhood Commercial District is located along Mission Street between Alemany Boulevard and the San Francisco-San Mateo county line. Outer Mission Street is mixed use, combining street-fronting retail businesses on the ground floor and housing on upper floors. The range of comparison goods and services offered is varied and often includes specialty retail stores, restaurants, and neighborhood-serving offices. The area is transit-oriented and the commercial uses serve residents of the area as well as residents and visitors from adjacent and other neighborhoods.

The Excelsior Outer Mission Street Neighborhood Commercial District is intended to provide convenience goods and services to the surrounding neighborhoods as well as limited comparison shopping goods for a wider market. Housing development in new buildings is encouraged above the second story. Existing residential units are protected by limitations on demolitions and upper-story conversions. Parking for residential and commercial uses is not required. Buildings range in height, with height limits generally allowing up to four stories. Lots vary in size, generally small- or medium-sized with some very large parcels.

Table 720. EXCELSIOR OUTER MISSION STREET NEIGHBORHOOD COMMERCIAL DISTRICT ZONING CONTROL TABLE

		Excelsior Outer Mission NCD
Zoning Category	§ References	Controls
BUILDING STANDARDS		
Massing and Setbacks		
Height and Bulk Limits.	§§ <u>102</u> , <u>105</u> , <u>106</u> , <u>250–252</u> , <u>260</u> , <u>261.1</u> , <u>270</u> , <u>271</u> . See also Height and Bulk District Maps	Generally 40-X. See Height and Bulk Map Sheets HT11 and HT12 for more information. Height Sculpting on Alleys per § 261.1 .
5 Foot Height Bonus for Active Ground Floor Uses	§ <u>263.20</u>	Р

Office of the Mayor San Francisco



FOR IMMEDIATE RELEASE:

Monday, October 26, 2020 Contact: Mayor's Office of Communications, mayorspressoffice@sfgov.org

*** PRESS RELEASE *** MAYOR LONDON BREED ANNOUNCES FEE AND TAX WAIVERS TO SUPPORT ENTERTAINMENT AND NIGHTLIFE BUSINESSES

Fee and tax waiver will help approximately 300 businesses that have been unable to open due to COVID-19

San Francisco, CA — Mayor London N. Breed and Treasurer José Cisneros today announced San Francisco will provide \$2.5 million in support for entertainment and nightlife venues in the form of additional fee and tax waivers. These businesses have been in large part unable to open due to COVID-19 and need assistance now. Waiving license and business registration fees and taxes for these businesses is part of Mayor Breed's efforts to support San Francisco's economic recovery, as is aligned with the policy recommendations from the Economic Recovery Task Force.

"We need to do more to support those businesses that contribute to San Francisco's unique and vibrant culture, which is a cornerstone for our economic recovery as a city," said Mayor London Breed. "As we recover and keep up our progress on reopening, we want to make sure these businesses are still around to bring music, performances and excitement, as well as provide jobs for so many. Entertainment and nightlife are such an important part of why people live and visit our city, and we hope these additional fee waivers reduce some of the financial stress they're experiencing."

During the COVID-19 pandemic, San Francisco's entertainment and nightlife businesses and venues have either not been able to operate at all, or in a very limited capacity, which has reduced their ability to survive. These businesses include music venues, clubs, bars, restaurants with live performances, all of which contribute tremendously to San Francisco's culture. Despite not being able to operate, these businesses were still required to pay certain license and business registration fees and taxes.

"When San Francisco faces an incredible challenge, the entire community pulls together," said Treasurer José Cisneros. "This tax and fee relief will remove a looming burden from many businesses who've been shuttered by COVID-19."

The City will provide financial relief for approximately 300 businesses that are permitted as entertainment venues and that have gross receipts of less than \$20 million, representing a total of approximately \$2.5 million in support for these businesses. Relief will be provided by waiving these businesses' regulatory license fees and Business Registration Fees for two years and by waiving their Payroll Expense Taxes for 2020. This is a fee waiver, not a deferral, so businesses

1 DR. CARLTON B. GOODLETT PLACE, ROOM 200 SAN FRANCISCO, CALIFORNIA 94102-4681 TELEPHONE: (415) 554-6141



will not have to pay back these fees at a later date. Businesses will still be required to file all business tax returns.

"Our entertainment venues are a large part of the reason people flock to San Francisco and rave about our culture," said Ben Bleiman, President of the San Francisco Entertainment Commission. "They are also particularly vulnerable during these times due to their business models. We must do all we can to support these businesses, so that we have places to be able to come together once we're able to come together again. Thank you to Mayor Breed for her continued support of our entertainment and nightlife venues."

Waiving these fees aligns with the Economic Recovery Task Force's policy recommendations of preserving operations and lessening regulatory burdens for businesses. Additionally, the ERTF recommended supporting arts and cultural organizations, and this new policy provides financial relief for those organizations, many of which have been unable to open since March.

These new fee waivers build on Mayor Breed's prior support for San Francisco small businesses. In August, Mayor Breed and Treasurer Cisneros announced they would continue to defer collection of Business Registration Fees and the Unified License Fees until March 1, 2021. These deferrals remain in place for other businesses.

Mayor Breed's other recently announced efforts to support small business and arts and cultural organizations include:

- Extending Shared Spaces permits through June 30, 2021 and working to make elements of the program permanent beyond that date.
- SF Shines Program, providing \$1.6 million in grants and design services to support neighborhood businesses that need to purchase furniture and fixtures and reconfigure space in order to meet health requirements for operating.
- Directing nearly \$6 million in funding for artists, teaching artists, arts organizations, and cultural workers, including a new universal basic income pilot program for San Francisco artists.
- The Cultural Districts Community Building and Impact program will award \$265,000 to each legislatively approved Cultural District working to preserve, strengthen, and promote their cultural communities.

Since the beginning of the COVID-19 pandemic, Mayor Breed has launched several initiatives and programs to assist businesses in San Francisco:

- Business tax deferrals for small businesses with up to \$10 million in gross receipts. Mayor Breed and Treasurer Cisneros notified small businesses that their first quarter businesses taxes can be deferred until February 2021. No interest payments, fees, or fines will accrue as a result of the deferral.
- \$10 million Workers and Families First Paid Sick Leave Program, proving up to 40 hours of paid sick leave per employee.
- \$9 million Emergency Loan Fund providing up to \$50,000 in zero-interest loans for individual small businesses.

Office of the Mayor San Francisco



- \$2.5 million Resiliency Grants providing up to \$10,000 grants to over 300 small businesses.
- \$3.2 million for the African American Small Business Revolving Loan Fund.
- \$1 million for Neighborhood Mini-Grants to Support 300 Small Businesses in Underserved Communities.
- \$2.5 million in support for working artists and arts and cultural organizations financially impacted by COVID-19.
- Supporting nonprofits funded by the City so workers do not lose their incomes.
- Issuing a Moratorium on Commercial Evictions for small and medium sized businesses that cannot afford to pay rent.
- Capping the commission at 15% on 3rd party food delivery companies.
- Advocating for additional resources for small business and workers through the federal CARES Act.
- Establishing City Philanthropic <u>www.Give2SF.org</u> Fund, where donations will support housing stabilization, food security, and financial security for workers and small businesses impacted by coronavirus.
- Launching a one-stop City website for businesses and workers seeking resources, contacts, and updates during the COVID-19 emergency: <u>www.oewd.org/covid19</u>.

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SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use Authorization

HEARING DATE: JUNE 18, 2020

Record No.:	2019-017867CUA		
Project Address:	1566 - 1568 HAIGHT STREET		
Zoning:	Haight Street Neighborhood Commercial Zoning Distric		
	Haight Street Alcoholic Restricted Use Subdistrict		
	Fringe Financial Service Restricted Use District		
	40-X Height and Bulk District		
Block/Lot:	1231/017		
Project Sponsors:	Tricia Way and Brian Way		
	2323 Loma Prieta Lane		
	Menlo Park, CA 94025		
Property Owner:	Tricia Way and Brian Way		
	2323 Loma Prieta Lane		
	Menlo Park, CA 94025		
Staff Contact:	Sharon M. Young - (415) 558-6346		
	<u>sharon.m.young@sfgov.org</u>		
Recommendation:	Approval with Conditions		

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

Reception: 415.558.6378

Fax: 415.558.6409

Planning Information: **415.558.6377**

PROJECT DESCRIPTION

The proposal is for Conditional Use Authorization pursuant to Planning Code Sections 719, 303, and 178(e)(2) to legalize the merger of two ground floor commercial spaces of an existing restaurant and bar use d.b.a. Michael Collins Irish Bar & Restaurant with approximately 3,650 square feet of floor area, modify the conditions of approval from prior Conditional Use authorizations, and to legalize facade and interior modifications. There will be no expansion of the existing building envelope or storefront modifications proposed under the current proposal. The project site is located within the Haight Street Neighborhood Commercial Zoning District, Haight Street Alcohol Restricted Use Subdistrict, Fringe Financial Service Restricted Use District, and a 40-X Height and Bulk District.

In 2008-2009, the pre-existing separate ground floor commercial spaces (with approximately 380 square feet of vacant retail space and 3270 square feet of restaurant/bar) had been merged from previous restaurant ownership under separate permit to repair exterior and interior fire damage to the building and to construct a new fire safety egress corridor in the location where the vacant retail space was to meet building and fire code requirements under Building Permit Application Nos. 200810234956 and 200909307969. The previous restaurant ownership d.b.a. Martin Macks Bar & Restaurant had filed Conditional Use Applications under Case No. 2010.0385C (to legalize the merger of the two ground floor commercial spaces) and 2012.1290C (to add entertainment use) but later withdrew the Conditional Use Applications due to change in new restaurant ownership.

REQUIRED COMMISSION ACTION

In order for the Project to proceed, the Commission must grant Conditional Use Authorization under Planning Code Sections 719, 303, and 178(e)(2) to legalize the merger of two ground floor commercial spaces with use size over 2,500 square feet of floor area, modify the conditions of approval from prior Conditional Use authorizations,

Executive Summary Hearing Date: 6/18/2020

CASE NO. 2019-017867CUA 1566 - 1568 HAIGHT STREET

and to legalize facade and interior modifications. The project site is located within the Haight Street Neighborhood Commercial Zoning District, Haight Street Alcohol Restricted Use Subdistrict, Fringe Financial Service Restricted Use District, and a 40-X Height and Bulk District.

ISSUES AND OTHER CONSIDERATIONS

- Public Outreach and Outreach. The Planning Department has not received public comment on the Project as of the date of this Executive Summary. A pre-application meeting was not required for the proposed project.
- On March 18, 1989, the Planning Commission authorized Conditional Use under Motion No. 11663 (Case No. 89.135C) to expand the existing full-service restaurant and bar from approximately 1,900 square feet to approximately 3,270 square feet at 1566 Haight Street which included conditions of approval indicating that allowed seating for up to 49 persons and that the existing retail space with approximately 380 square feet in size shall be retained.
- On March 15, 1990, the Planning Commission authorized Conditional Use under Motion No. 11899 (Case No. 89.135CC) to modify the prior Conditional Use Authorization under Case No. 89.135C to increase the person occupancy with an area of approximately 3,270 square feet which included conditions of approval indicating that allowed seating capacity of up to 66 persons, that there shall be no entertainment, Dance Hall or permanent installation of a large screen television on the premises, hours of operation shall be limited to 8:00 a.m. to 10:00 p.m., and applicant shall provide valet parking.
- The project sponsors are requesting that the current proposal modify the prior Conditional Use Authorizations under Motion No. 11663 (Case No. 89.135C) and Motion No. 11899 (Case No. 89.135CC) to allow seating capacity to increase to up to 81 persons and to legalize the existing use size of the restaurant and bar with approximately 3,650 square feet of floor area, the removal of the condition that there be no entertainment use (as they may want to add limited live performance as an accessory use to the existing restaurant and bar in the future), and remove the condition requiring valet parking.

BASIS FOR RECOMMENDATION

The Department finds that the Project is, on balance, consistent with the Objectives and Policies of the General Plan. The Department also finds the Project to be necessary, desirable, and compatible with the surrounding neighborhood, and not to be detrimental to persons or adjacent properties in the vicinity. The proposed project may be desirable by allowing the existing business to remain on the Project Site. The existing restaurant and bar use has operated at the subject tenant space for over 40 years and has contributed to the economic vitality of the neighborhood.

ATTACHMENTS:

Draft Motion – Conditional Use Authorization Exhibit A – Conditions of Approval Exhibit B – Plans Exhibit C – Environmental Determination Exhibit D – Land Use Data Exhibit E – Maps and Context Photos Exhibit F – Project Sponsor's Brief

SAN FRANCISCO PLANNING DEPARTMENT



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Draft Motion

HEARING DATE: JUNE 18, 2020

Record No.:	2019-017867CUA		
Project Address:	1566 - 1568 HAIGHT STREET		
Zoning:	Haight Street Neighborhood Commercial Zoning District (NCD)		
	Haight Street Alcoholic Restricted Use Subdistrict		
	Fringe Financial Service Restricted Use District		
	40-X Height and Bulk District		
Block/Lot:	1231/017		
Project Sponsors:	Tricia Way and Brian Way		
	2323 Loma Prieta Lane		
	Menlo Park, CA 94025		
Property Owner:	Tricia Way and Brian Way		
	2323 Loma Prieta Lane		
	Menlo Park, CA 94025		
Staff Contact:	Sharon M. Young – (415) 558-6346		
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1650 Mission St. Suite 400 San Francisco, CA 94103-2479

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Planning Information: 415.558.6377

ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 178(e)(2), 303, AND 719 TO LEGALIZE THE MERGER OF TWO GROUND FLOOR COMMERCIAL SPACES OF AN EXISTING RESTAURANT AND BAR USE D.B.A. MICHAEL COLLINS IRISH BAR & RESTAURANT, MODIFY THE CONDITIONS OF APPROVAL FROM PRIOR CONDITIONAL USE AUTHORIZATIONS, AND TO LEGALIZE FACADE AND INTERIOR MODIFICATIONS AT 1566 - 1568 HAIGHT STREET, LOT 017 IN ASSESSOR'S BLOCK 1231, WITHIN THE HAIGHT STREET NEIGHBORHOOD COMMERCIAL ZONING DISTRICT, HAIGHT STREET ALCOHOL RESTRICTED USE SUBDISTRICT, FRINGE FINANCIAL SERVICE **RESTRICTED USE DISTRICT, AND A 40-X HEIGHT AND BULK DISTRICT.**

PREAMBLE

On October 3, 2019, Tricia Wray and Brian Wray (hereinafter "Project Sponsors") filed Application No. 2019-017867CUA (hereinafter "Application") with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Sections 719, 303, and 178(e)(2) to legalize the merger of two ground floor commercial spaces of an existing restaurant and bar use d.b.a. Michael Collins Irish Bar & Restaurant with approximately 3,650 square feet of floor area, modify the conditions of approval from prior Conditional Use authorizations, and to legalize facade and interior modifications at 1566 - 1568 Haight Street (hereinafter "Project"), Lot 017 within Assessor's Block 1231 (hereinafter "Project Site"). The project site is located within the Haight Street Neighborhood Commercial Zoning District, Haight Street Alcohol Restricted Use Subdistrict, Fringe Financial Service Restricted Use District, and a 40-X Height and Bulk District.

The Planning Department Commission Secretary is the custodian of records; the File for Record No. 2019-017867CUA is located at 1650 Mission Street, Suite 400, San Francisco, California.

On June 18, 2020, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Authorization Application No. 2019-017867CUA.

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

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

MOVED, that the Commission hereby authorizes the Conditional Use Authorization as requested in Application No. 2019-017867CUA, 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 proposal is for Conditional Use Authorization pursuant to Planning Code Sections 719, 303, and 178(e)(2) to legalize the merger of two ground floor commercial spaces of an existing restaurant and bar use d.b.a. Michael Collins Irish Bar & Restaurant with use size of approximately 3,650 square feet of floor area, modify the conditions of approval from prior Conditional Use authorizations, and to legalize facade and interior modifications. There will be no expansion of the existing building envelope or storefront modifications proposed under the current proposal. The proposal will abate Planning Enforcement Case No. 10211_ENF. The project site is located within the Haight Street Neighborhood Commercial Zoning District, Haight Street Alcohol Restricted Use Subdistrict, Fringe Financial Service Restricted Use District, and a 40-X Height and Bulk District.

In 2008-2009, the pre-existing separate ground floor commercial spaces (with approximately 380 square feet of vacant retail space and 3270 square feet of restaurant/bar) had been merged from previous restaurant ownership under separate permit to repair exterior and interior fire damage to the building and to construct a new fire safety egress corridor in the location where the vacant retail space was to meet building and fire code requirements under Building Permit Application Nos. 200810234956 and 200909307969. The previous restaurant ownership d.b.a. Martin Macks Bar & Restaurant had filed Conditional Use Applications under Case No. 2010.0385C (to legalize the merger of the two ground floor commercial spaces) and 2012.1290C (to add entertainment use) but later withdrew the Conditional Use Applications due to change in new restaurant ownership.

- 3. Site Description and Present Use. The project site at 1566 1568 Haight Street is located on the north side of Haight Street between Clayton and Ashbury Streets, Assessor's Block 1231 Lot 017. It is located within the Haight Street Neighborhood Commercial Zoning District, Haight Street Alcohol Restricted Use Subdistrict, Fringe Financial Service Restricted Use District, and a 40-X Height and Bulk District. The subject lot is 3,781 square feet (approximately 27.5 feet wide by 137.5 feet deep) in size and is occupied by a one-story commercial building constructed in 1908. The subject property at 1566 1568 Haight Street is located on the ground floor of the commercial building. In 2008-2009, the pre-existing separate ground floor commercial spaces (with approximately 380 square feet of vacant retail space and 3270 square feet of restaurant/bar) had been merged from previous restaurant ownership under separate permit to repair exterior and interior fire damage to the building and to construct a new fire safety egress corridor in the location where the vacant retail space was to meet building and fire code requirements. According to the project sponsors, the project site has been a restaurant and bar use for over 40 years.
- 4. Surrounding Properties and Neighborhood. The project site is located within the Haight-Ashbury Neighborhood. The surrounding development consists primarily of one-to-two story residential and commercial buildings within the Haight Street Neighborhood Commercial Zoning District. A mix of food establishments, personal services, and small retail establishments defines the Haight Street NCD corridor in the immediate vicinity. Some of the existing commercial establishments on the subject block include Haight Ashbury T-Shirts, Ashbury Tobacco Center, Haight Ashbury Music Center, Distractions, Haight Ashbury Free Clinic, and Haight Street Market. Some of the existing commercial establishments on the opposite block include Club Deluxe, Aviator Nation, Liquid Experience, Day Dreams, The Gold Cane, Held Over, Slice House, Cal Surplus, Body Rok, Haight Ashbury Tattoo, Crossroads Trading, and Buffalo Exchange. On Clayton and Ashbury Streets running north and south of the project site, there are two- to three-story residential dwellings within the RH-3 (Residential, House, Three-Family) Zoning District.
- 5. **Public Outreach and Comments.** The Planning Department has not received public comment on the Project as of the date of this Draft Motion. A pre-application meeting was not required for the proposed project.
- 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. Restaurant and Bar Use within the Haight Street NCD and Haight Street Restricted Use Subdistrict. Section 719 of the Planning Code states that a restaurant and bar use (defined under Planning Code Sections 102 and 202.2a) is not currently permitted on the first, second and third stories and above. However under Section 719, a Restaurant use may be permitted as a Conditional Use on the ground level if, in addition to the criteria set forth in Section 303, the Planning Commission has approved no more than a total of 3 Restaurants in accordance with this Section. Should a Restaurant permitted under this Section cease operation and complete a lawful change of use to another principally or conditionally permitted use, the Commission may consider a new Restaurant in accordance with the terms of this Section.

The existing restaurant and bar use d.b.a. Michael Collins Irish Bar & Restaurant is a legal nonconforming use on the ground floor of the one-story commercial building.

B. Use Size. Section 121.2 establishes size limits on non-residential use sizes in the Haight Street Neighborhood Commercial Zoning District. Under Section 719, Conditional Use authorization is required for any non-residential use that meets or exceeds 2.500 square feet, in addition to the criteria of Section 303(c) of the Planning Code requiring the Commission to consider the extent to which the following criteria are met:

The proposal is a request for Conditional Use authorization under Planning Code Sections 303 and 719 to legalize a use size that exceeds 2,500 square feet of floor area with the merger of two separate commercial tenant spaces located at 1566 Haight Street (with approximately 380 square feet pre-existing floor area) and 1568 Haight Street (with approximately 3,270 square feet pre-existing floor area) currently occupied by a restaurant and bar use d.b.a. Michael Collins Irish Bar & Restaurant) within the Haight Street Neighborhood Commercial District and 40-X Height and Bulk District. The expanded space currently contains 3,650 square feet of floor area.

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

Conditional Use authorization is required pursuant to Planning Code Sections 121.2 and 719 to legalize the use size expansion of the existing restaurant and bar use. The existing restaurant and bar use, with approximately 3,650 square feet of floor area, will exceed the principally permitted use size limitations of 2,499 square feet, with the merger of the commercial tenant spaces at 1566 Haight Street and 1568 Haight Street. According to the project sponsors, the merger occurred under previous business ownership in 2008 - 2009 to repair exterior and interior fire damage to the building to meet the Building Code and Fire Code requirements to construct a fire safety egress corridor and required a larger footprint. Furthermore, the project sponsors indicated the previous vacant retail commercial space at 1566 Haight Street was underutilized because of its small square footage size.

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

The expansion into the adjacent vacant retail commercial space at 1566 Haight Street was to repair exterior and interior fire damage to the building and to construct a new fire safety egress corridor and interior stairs to the basement to meet Building and Fire Code requirements. in 2008-2009 which occurred from previous restaurant ownership.

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

The proposed project will respect the scale of development in the district and has been further reviewed by a preservation planner to legalize the exterior and interior façade modifications. There will be no expansion of the existing building envelope or storefront modifications proposed under the current proposal.

C. **Modification of Prior Conditional Use Authorization.** Planning Code Section 178(e)(2) allows a permitted conditional use to be changed to another use upon approval of a new conditional use application.

On March 18, 1989, the Planning Commission authorized Conditional Use under Motion No. 11663 (Case No. 89.135C) to expand the existing full-service restaurant and bar from approximately 1,900 square feet to approximately 3,270 square feet at 1566 Haight Street which included conditions of approval indicating that allowed seating for up to 49 persons and that the existing retail space with approximately 380 square feet in size shall be retained.

On March 15, 1990, the Planning Commission authorized Conditional Use under Motion No. 11899 (Case No. 89.135CC) to modify the prior Conditional Use Authorization under Case No. 89.135C to increase the person occupancy with an area of approximately 3,270 square feet which included conditions of approval indicating that allowed seating capacity of up to 66 persons, that there shall be no entertainment, Dance Hall or permanent installation of a large screen television on the premises, hours of operation shall be limited to 8:00 a.m. to 10:00 p.m., and applicant shall provide valet parking.

The project sponsors are requesting that the current proposal modify the prior Conditional Use Authorizations under Motion No. 11663 (Case No. 89.135C) and Motion No. 11899 (Case No. 89.135CC) to allow seating capacity to increase to up to 81 persons and to legalize the existing use size of the restaurant and bar with approximately 3,650 square feet of floor area, the removal of the condition that there be no entertainment use (as they may want to add limited live performance as an accessory use to the existing restaurant and bar in the future), and remove the condition requiring valet parking.

D. Exception of Nonconforming Uses in Neighborhood Commercial Districts Planning Code Section 186.1(b)(1) indicates a nonconforming use may not be significantly altered; enlarged or intensified, except upon approval of a Conditional Use application pursuant to the provisions of Section <u>303</u> of this Code, provided that the use not have or result in a greater height, bulk or floor area ratio, less required rear yard or open space, or less required off-street parking space or loading space than permissible under the limitations set forth in this Code for the district or districts in which such use is located.

The proposed project to legalize the merger of the vacant commercial space with 380 square feet of floor area with the existing 3270 square feet of restaurant/bar commercial space is not considered a significant enlargement of an existing nonconforming use. Under Planning Code Section 186.1(b) Planning Code Interpretation (12/88, 5/98), enlargements are not significant for an expansion up to 25 percent of the floor area, but not exceeding 500 square feet, whichever is less.

- E. **Eating and Drinking Uses.** Planning Code Section 202.2 outlines the location and operating conditions for eating and drinking uses. 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.

As stated in the Conditions of Approval #7, the restaurant and bar use will be required to comply with the conditions outlined in Section 202.2, as it relates to keeping the main entrance and surrounding streets and sidewalks clear of trash and debris; ensuring that the space is properly insulated to prevent noise in excess of the noise levels specified in the San Francisco Noise Control Ordinance; installation of proper odor control equipment to prevent any noxious of offensive odors from escaping the premises; and the proper storage and disposal of garbage, recycling and composting.

F. **Hours of Operation.** Section 719 of the Planning Code allows hours of operation from 6 a.m. until 2 a.m. as of right and requires Conditional Use authorization to operate between the hours of 2 a.m. and 6 a.m. within the Haight Street Neighborhood Commercial Zoning District.

According to the project sponsors, the hours of operation of the restaurant are between 11 a.m. to 10 p.m. Monday through Saturday and 9 a.m. to 10 p.m. Sunday. Hours of operation of the bar are 11 a.m. to 2 a.m. Monday through Saturday and 9 a.m. to 2 a.m. Sunday, which are within the permitted hours of operation within the Haight Street Neighborhood Commercial Zoning District under Planning Code Section 719.

G. **Off-Street Parking.** Section 151 of the Planning Code requires off-street parking for eating and drinking uses at a maximum of 1.5 parking spaces for each 200 square feet of Occupied Floor Area, where the Occupied Floor Area exceeds 5,000 square feet.

The subject ground floor commercial space, with approximately 3,650 square feet in floor area, does not require any off-street parking spaces.

H. **Off-Street Freight Loading.** Section 152 does not require loading spaces if gross floor area is less than 10,000 square feet.

The subject commercial tenant space on the ground (1^{st}) *floor with approximately* 3,650 *square feet of floor area does not exceed* 10,000 *square feet and will not require any loading spaces.*

I. Street Frontage in Neighborhood Commercial Districts. Section 145.1 of the Planning Code requires that within NC Districts space for active uses shall be provided within the first 25 feet of building depth on the ground floor and 15 feet on floors above from any facade facing a street at least 30 feet in width. In addition, the floors of street-fronting interior spaces housing non-residential active uses and lobbies shall be as close as possible to the level of the adjacent sidewalk at the principal entrance to these spaces. Frontages with active uses that must be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level and allow visibility to the inside of the building. The use of dark or mirrored glass shall not count towards the required transparent area. Any decorative railings or grillwork, other than wire mesh, which is placed in front of or behind ground floor windows, shall be at least 75 percent open to perpendicular view. Rolling or sliding security gates shall consist of open grillwork rather than solid material, so as to provide visual interest to pedestrians when the gates are closed, and to permit light to pass through mostly unobstructed. Gates, when both open and folded or rolled as well as the gate mechanism, shall be recessed within, or laid flush with, the building facade.

Approximately 65% of the street frontage (18 feet) at the ground level on Divisadero Street is fenestrated with transparent windows and doorways allowing for visibility to the inside of the buildings. The project does not propose any decorative railings or grillwork in front of or behind existing windows.

J. **Signage**. Any proposed signage will be subject to the review and approval of the Planning Department and must comply with Article 6 of the Planning Code.

The existing business signage will be required to have a separate sign permit and comply with the requirements of the Planning Code guidelines.

- 7. **Conditional Use Findings.** Planning Code Section 303 establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:
 - A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The size and shape of the site and the arrangement of the structures on the site are adequate for the proposed project. There will be no physical expansion of the existing building with the proposed project. The proposal may be desirable by allowing the existing business to remain on the project site. According to the project sponsors, a restaurant and bar use has operated at the subject tenant space for over 40 years and has contributed to the economic vitality of the neighborhood.

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:
 - (1) Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

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

(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;

Existing traffic patterns will not be significantly affected by the proposed project. Public transit (Muni Lines 7, 33, 37, 43) is located within walking distance of the project site; a bus stop is located at the corner of Haight and Clayton Streets on the subject block. There is on-street parking in front of the subject property and in the surrounding neighborhood.

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

No noxious or offensive emissions such as glare, dust, or odor are expected to be produced by the proposed project and will be subject to the Conditions of Approval #7.

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

There will be no addition of off-street parking spaces, loading facilities, open space or service areas. All project signage and projections will be consistent with the controls of the Planning Code. The existing building has exterior lighting directed onto the project site and immediately surrounding sidewalk area.

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

The proposed project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below.

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

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

8. Additional Conditional Use Criteria for Eating and Drinking Uses. Planning Code Section 303(o) establishes additional criteria for a Conditional Use Authorizations for a restaurant and bar use. Section 303(o) requires the Planning Commission to consider, in addition to the criteria set forth in Code Section 303(c), the existing concentration of eating and drinking uses in the area. Such concentration should not exceed 25% of the total commercial frontage as measured in linear feet within the immediate area of the subject site. For the purposes of Code Section 303(o), the immediate area shall be defined as all properties located within 300 feet of the subject property and also located within the same zoning district.

There are 6 eating and drinking establishment out of approximately 46 commercial businesses located within 300 feet of the Project Site. This comprises approximately 13% of the businesses. The existing total commercial frontage dedicated to eating and drinking establishments located within 300 feet of the Project Site is approximately 17% (195 feet of 1147 feet) of the total commercial frontage as measured in linear feet. The proposed project will not increase the existing concentration of eating and drinking uses in the area since the proposed project is an existing restaurant and bar use on the project site and legalizing the use size merger of the two commercial spaces will nominally affect the concentration of eating and drinking uses in the area.

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

COMMERCE AND INDUSTRY ELEMENT

GENERAL/CITYWIDE

OBJECTIVE 1:

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

Policy 1:

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

The proposed project would continue to be compatible with and complementary to the types of uses characterizing this portion of the Haight Street NCD, which include a mixture of food establishments, personal services, and small retail establishments.

Policy 3:

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

Approval of the proposed project would be consistent with the mixed commercial-residential character of this portion of the Haight Street NCD along Haight Street. The proposed project would not adversely affect any affordable housing resources in the neighborhood.

NEIGHBORHOOD COMMERCE

Objectives and Policies

OBJECTIVE 6:

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

Policy 1:

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

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

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

Policy 2:

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

An independent entrepreneur is sponsoring the proposal. The proposed use is a neighborhood-serving use. The eating and drinking establishment is not considered a Formula Retail Use.

The following guidelines, in addition to others in this objective for neighborhood commercial districts, should be employed in the development of overall district zoning controls as well as in the review of individual permit applications, which require case-by-case review and City Planning Commission

approval. Pertinent guidelines may be applied as conditions of approval of individual permit applications. In general, uses should be encouraged which meet the guidelines; conversely, uses should be discouraged which do not.

Eating and Drinking Establishments

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

- Regulate the distribution and proliferation of eating and drinking establishments, especially in districts experiencing increased commercial activity;
- Control nuisances associated with their proliferation;
- Preserve storefronts for other types of local-serving businesses; and
- Maintain a balanced mix of commercial goods and services.

The regulation of eating and drinking establishments should consider the following: Balance of retail sales and services;

- Current inventory and composition of eating and drinking establishments;
- Total occupied commercial linear frontage, relative to the total district frontage;
- Uses on surrounding properties;
- Available parking facilities, both existing and proposed;
- Existing traffic and parking congestion; and
- Potential impacts on the surrounding community.

The Commerce and Industry Element of the General Plan contains Guidelines for Specific Uses. For eating and drinking establishments, the Guidelines state, "the balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20 percent of the total occupied commercial frontage." The current proposal will not result in a net change in of the total occupied commercial frontage within the Haight Street Neighborhood Commercial Zoning District.

Policy 3:

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

The proposed project will help maintain the existing commercial-residential character in the neighborhood by occupying a ground floor commercial space in the neighborhood with a restaurant and bar use.

Policy 4:

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

The proposed project will be accessible to all residents in this portion of the Haight Street Neighborhood Commercial Zoning District.

Policy 8:

Preserve historically and/or architecturally important buildings or groups of buildings in neighborhood commercial districts.

There will be no expansion of the existing building envelope or storefront modifications proposed under the current proposal. The proposed project will involve legalizing existing facade and interior modifications which have been further reviewed by a preservation planner that are compatible with the building's architectural and aesthetic character.

Policy 9:

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

The proposed project would not adversely affect public transit or place a burden on the existing supply of parking in the neighborhood since it will help maintain an eating and drinking establishment use which existed on the project site. Many patrons would be able to walk from their residences or places of employment, and the proposed project is well served by public transportation. There is on-street parking in the surrounding neighborhood.

URBAN DESIGN ELEMENT CITY PATTERN

Objectives and Policies

OBJECTIVE 1:

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

Policy 3:

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

The project's design preserves the existing neighborhood character since the proposal does not include any additional facade and exterior envelope changes to the existing building.

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

The proposed project will be complementary to the existing commercial establishments within the immediate neighborhood and will continue providing job opportunities to the City.

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

The proposed project will preserve and enhance the cultural and economic diversity of the neighborhood by helping to maintain an existing restaurant and bar use in the area. Existing housing will not be affected by the proposed project.

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

The proposed project will not displace any affordable housing.

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

It is not anticipated that the proposed project would significantly increase the automobile traffic congestion and parking problems in the neighborhood. The proposal is a neighborhood-serving use which residents can access by walking or taking public transit.

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.

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

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

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

G. That landmarks and historic buildings be preserved.

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

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

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

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

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Authorization Application No. 2019-017867CUA** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated February 25, 2020, and stamped "EXHIBIT B", 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 June 18, 2020.

Jonas P. Ionin Commission Secretary

AYES:

NAYS:

ABSENT:

ADOPTED:

SAN FRANCISCO PLANNING DEPARTMENT

EXHIBIT A

AUTHORIZATION

This authorization is for conditional use to legalize the merger of two ground floor commercial spaces with a use size of over 2,500 square feet of an existing restaurant and bar use d.b.a. Michael Collins Irish Bar & Restaurant, modify the conditions of approval from prior Conditional Use authorizations under Motion No. 11663 (Case No. 89.135C) and Motion No. 11899 (Case No. 89.135CC), and to legalize facade and interior modifications at 1566 - 1568 Haight Street in Assessor's Block 1231, Lot 017 pursuant to Planning Code Sections 719, 303, and 178(e)(2) within the Haight Street Neighborhood Commercial Zoning District, Haight Street Alcohol Restricted Use Subdistrict, Fringe Financial Service Restricted Use District, and a 40-X Height and Bulk District in general conformance with plans, dated February 25, 2020, and stamped "EXHIBIT B" included in the docket for Case No. 2019-017867CUA and subject to conditions of approval reviewed and approved by the Commission on June 18, 2020 under Motion No. XXXXX. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

The proposal will legalize the merger of two ground floor commercial spaces of an existing restaurant and bar use d.b.a. Michael Collins Irish Bar & Restaurant with approximately 3,650 square feet of floor area. There will be no expansion of the existing building envelope or storefront modifications proposed under the current proposal. The proposal will abate Planning Enforcement Case No. 10211_ENF. In 2008-2009, the pre-existing separate ground floor commercial spaces (with approximately 380 square feet of vacant retail space and 3270 square feet of restaurant/bar) had been merged from previous restaurant ownership under separate permit to repair exterior and interior fire damage to the building and to construct a new fire safety egress corridor in the location where the vacant retail space was to meet building and fire code requirements.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on **June 18, 2020** under Motion No. XXXXX.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

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

 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 threeyear period. *For information about compliance, contact Code Enforcement, Planning Department at* 415-575-6863, *www.sf-*

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

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, <u>www.sf-planning.org</u>

- 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, <u>www.sf-planning.org</u>
- 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, <u>www.sf-planning.org</u>
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, <u>www.sf-planning.org</u>

 Signage. Any signs on the property shall be made to comply with the requirements of Article 6 of the Planning Code for signage. For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, <u>www.sf-planning.org</u>

OPERATION

- 7. **Eating and Drinking Uses**. As defined in Planning Code Section 202.2, Eating and Drinking Uses, as defined in Section <u>102</u>, 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 <u>34</u> 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, <u>http://sfdpw.org</u>.

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, <u>www.sfdph.org</u>.

For information about compliance with construction noise requirements, contact the Department of Building Inspection at 415-558-6570, <u>www.sfdbi.org</u>.

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

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), <u>www.baaqmd.gov</u> and Code Enforcement, Planning Department at 415-575-6863, <u>www.sf-planning.org</u>

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, <u>http://sfdpw.org</u>.

- 8. Sidewalk Maintenance. The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards. *For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works,* 415-695-2017, <u>http://sfdpw.org</u>
- 9. **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, <u>www.sf-planning.org</u>

10. **Hours of Operation.** Section 719 of the Planning Code allows hours of operation of the restaurant and bar use between the hours of 6 a.m. until 2 a.m. as of right and requires Conditional Use authorization to operate between the hours of 2 a.m. and 6 a.m. within the Haight Street Neighborhood Commercial Zoning District.

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

MONITORING - AFTER ENTITLEMENT

11. **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*-

<u>planning.org</u>

12. **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, <u>www.sf-planning.org</u>

13. **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, <u>www.sf-planning.org</u>

14. **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 and all registered neighborhood groups for the area with written notice of the name, business address, and telephone number of the community liaison. 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, <u>www.sf-planning.org</u>

Exhibit B - Plans



RUCTION: 5 :UPANCY: 1 JSE: RESTAURANT/STORAGE RESTAURANT/STORAGE ISS: A-2/S	Prepared By Brandon Wray	ked	Date	Job Class
ICY LOAD: 126 IUNT: EXISTING=65 PROPOSED=82 AREA:	FRUST), CA	Approved	Title
STAURANT, 380 SQ.FT. RETAIL 3650 SQ.FT. RESTAURANT/BAR DING HEIGHT: 18 FT. USED: 2007UBC TT: 200810234956 TT (INSPECTION): 200909307969 AN UNDER SEPARATE PERMIT UNDER SEPARATE PERMIT L UNDER SEPARATE PERMITS	SCHUMACHER -	. COLLINS IRISH BAR SAN FRANCISCO, CA	ATTN: SAN FRANCISCO PLANNING DEPARTMENT	CONDITIONAL USE AUTHORIZATION
S THE MERGER OF TWO COMMERCIAL 80 SF RETAIL AND 3270 SF IT/BAR) THAT WAS PERFORMED TO TE A NEW FIRE SAFETY CORRIDOR CONDITIONS OF APPROVAL FOR CONDITIONS OF APPROVAL FOR COUS CUA UNDER CASE NO. (MOTION NO. 11899 AND 11663)	MAYBELLE M.	MICHAEL 1566–1568 HAIGHT STREET	ATTN: SAN FRANCISCO	CONDITIONAL US
EXISTING FACADE AND INTERIOR IONS				
Oak St Oak St Page St Page St Page St				
St Clayfor	Approved			
er St Waller St Waller St Ucovrey St Ucovrey St	REVISIONS Description			
	Sheet A-00 SITE Shee	1 PLAN	of 8	



Table Fight Line Table Fight Line Big Table Fight Line Approved MAYBELLE Approved MAYBELLE	PROPERTY LINE		Prepared By Brandon Wrav	Date 2/25/2020	Checked	d Date	Job Class
A,1)	27.50 PRIDERTY LINE			MICHAFL COLLINS IRISH BAR	HAIGHT STREET SAN FRANCISCO, CA	FRANCISCO PLANNING DEPARTMENT	
4 4					1566-156	ATTN: SAN	CON
	4		REVISIONS	Description Approved			



	Prepared By Brandon Wray Date 2/25/2020 CheckedDateJob Class
27.50 PROPERTY LINE	
4)	MAYBELLE M. SCHUMACHER TRUST MICHAEL COLLINS IRISH BAR 1566-1568 Haight Street ATTN: SAN FRANCISCO PLANNING DEPARTMENT ATTN: SAN FRANCISCO PLANNING DEPARTMENT Title
A.0	MA) 1566-15 ATTN: SAN COI
4	Approved
-	REVISIONS Description
	Sheet No. A-003 BASEMENT Sheet 3 of 8



	Prepared By Brai Date 2/2 Checked	Job Class
26' 14'-10"	ER TR BAR Francisco, TMENT	CONDITIONAL USE AUTHORIZATION
	Sheet No. A-004	





Prebared BV Wrav	Date 2/25/2020 Checked	d Date Job Class
	MAYBELLE M. JUNUMUREN IRUJI MICHAEL COLLINS IRISH BAR 1566-1568 haight street san francisco, ca	ATTN: SAN FRANCISCO PLANNING DEPARTMENT Approved CONDITIONAL USE AUTHORIZATION
A- B/	Page 4 Approved Approved Approved 9 Teaching 10 Teachi	SEC of 8





	Prepared By Brandon Wray	Date 2/25/2020	Checked	d Date	Job Class
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	She A- EL	eet 008 EVAT	B FIONS	S of 8	3

Exhibit C – Environmental Determination



SAN FRANCISCO **PLANNING DEPARTMENT**

CEQA Categorical Exemption Determination

PROPERTY INFORMATION/PROJECT DESCRIPTION

Project Address		Block/Lot(s)	
1566 - 1568 HAIGHT ST		1231017	
Case No.		Permit No.	
2019-017867PRJ		200810234956	
Addition/ Demolition (requires HRE for Alteration Category B Building)		New Construction	
Project description for Planning Department approval.			

Conditional Use Authorization per Planning Code Sections 303 and 719 to permit Commercial Use over 2,500 of a non-conforming full-service bar and restaurant. The project involves legalizing the merger of a vacant retail commercial space into an existing bar and restaurant. .Legalize facade and interior tenant improvements. Modify conditions of approval of prior conditional use authorizations.

STEP 1: EXEMPTION CLASS

 project has been determined to be categorically exempt under the California Environmental Quality CEQA).
Class 1 - Existing Facilities. Interior and exterior alterations; additions under 10,000 sq. ft.
Class 3 - New Construction. Up to three new single-family residences or six dwelling units in one building; commercial/office structures; utility extensions; change of use under 10,000 sq. ft. if principally permitted or with a CU.
 Class 32 - In-Fill Development. New Construction of seven or more units or additions greater than 10,000 sq. ft. and meets the conditions described below: (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. (b) The proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses. (c) The project site has no value as habitat for endangered rare or threatened species. (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. (e) The site can be adequately served by all required utilities and public services. FOR ENVIRONMENTAL PLANNING USE ONLY
Class

STEP 2: CEQA IMPACTS TO BE COMPLETED BY PROJECT PLANNER

	Air Quality: Would the project add new sensitive receptors (specifically, schools, day care facilities, hospitals, residential dwellings, and senior-care facilities within an Air Pollution Exposure Zone? Does the project have the potential to emit substantial pollutant concentrations (e.g., backup diesel generators, heavy industry, diesel trucks, etc.)? (<i>refer to EP_ArcMap > CEQA Catex Determination Layers > Air Pollution Exposure Zone</i>)
	 Hazardous Materials: If the project site is located on the Maher map or is suspected of containing hazardous materials (based on a previous use such as gas station, auto repair, dry cleaners, or heavy manufacturing, or a site with underground storage tanks): Would the project involve 50 cubic yards or more of soil disturbance - or a change of use from industrial to residential? Note that a categorical exemption shall not be issued for a project located on the Cortese List if the applicant presents documentation of enrollment in the San Francisco Department of Public Health (DPH) Maher program, a DPH waiver from the Maher program, or other documentation from Environmental Planning staff that hazardous material effects would be less than significant (refer to EP_ArcMap > Maher layer).
	Transportation: Does the project involve a child care facility or school with 30 or more students, or a location 1,500 sq. ft. or greater? Does the project have the potential to adversely affect transit, pedestrian and/or bicycle safety (hazards) or the adequacy of nearby transit, pedestrian and/or bicycle facilities?
	Archeological Resources: Would the project result in soil disturbance/modification greater than two (2) feet below grade in an archeological sensitive area or eight (8) feet in a non-archeological sensitive area? If yes, archeo review is required (<i>refer to EP_ArcMap > CEQA Catex Determination Layers > Archeological Sensitive Area</i>)
	Subdivision/Lot Line Adjustment: Does the project site involve a subdivision or lot line adjustment on a lot with a slope average of 20% or more? (<i>refer to EP_ArcMap > CEQA Catex Determination Layers > Topography</i>). If yes, Environmental Planning must issue the exemption.
	Slope = or > 25%: Does the project involve any of the following: (1) square footage expansion greater than 500 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (<i>refer to EP_ArcMap > CEQA Catex Determination Layers > Topography</i>) If box is checked, a geotechnical report is required and Environmental Planning must issue the exemption.
	Seismic: Landslide Zone: Does the project involve any of the following: (1) square footage expansion greater than 500 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report is required and Environmental Planning must issue the exemption.
	Seismic: Liquefaction Zone: Does the project involve any of the following: (1) square footage expansion greater than 500 sq. ft. outside of the existing building footprint, (2) excavation of 50 cubic yards or more of soil, (3) new construction? (refer to EP_ArcMap > CEQA Catex Determination Layers > Seismic Hazard Zones) If box is checked, a geotechnical report will likely be required and Environmental Planning must issue the exemption.
Com	ments and Planner Signature (optional):

STEP 3: PROPERTY STATUS - HISTORIC RESOURCE

10 5	TO BE COMILETED BT TROJECTT EARNER				
PROP	PROPERTY IS ONE OF THE FOLLOWING: (refer to Property Information Map)				
	Category A: Known Historical Resource. GO TO STEP 5.				
	Category B: Potential Historical Resource (over 45 years of age). GO TO STEP 4.				
	Category C: Not a Historical Resource or Not Age Eligible (under 45 years of age). GO TO STEP 6.				

STEP 4: PROPOSED WORK CHECKLIST

TO BE COMPLETED BY PROJECT PLANNER

Check	Check all that apply to the project.		
	1. Change of use and new construction. Tenant improvements not included.		
	2. Regular maintenance or repair to correct or repair deterioration, decay, or damage to building.		
	3. Window replacement that meets the Department's Window Replacement Standards. Does not include storefront window alterations.		
	4. Garage work. A new opening that meets the <i>Guidelines for Adding Garages and Curb Cuts</i> , and/or replacement of a garage door in an existing opening that meets the Residential Design Guidelines.		
	5. Deck, terrace construction, or fences not visible from any immediately adjacent public right-of-way.		
	 Mechanical equipment installation that is not visible from any immediately adjacent public right-of-way. 		
	7. Dormer installation that meets the requirements for exemption from public notification under <i>Zoning Administrator Bulletin No. 3: Dormer Windows</i> .		
	8. Addition(s) that are not visible from any immediately adjacent public right-of-way for 150 feet in each direction; does not extend vertically beyond the floor level of the top story of the structure or is only a single story in height; does not have a footprint that is more than 50% larger than that of the original building; and does not cause the removal of architectural significant roofing features.		
Note:	Project Planner must check box below before proceeding.		
	Project is not listed. GO TO STEP 5.		
	Project does not conform to the scopes of work. GO TO STEP 5.		
	Project involves four or more work descriptions. GO TO STEP 5.		
	Project involves less than four work descriptions. GO TO STEP 6.		

STEP 5: CEQA IMPACTS - ADVANCED HISTORICAL REVIEW

TO BE COMPLETED BY PROJECT PLANNER

Chec	k all that apply to the project.
	1. Project involves a known historical resource (CEQA Category A) as determined by Step 3 and conforms entirely to proposed work checklist in Step 4.
	2. Interior alterations to publicly accessible spaces.
	3. Window replacement of original/historic windows that are not "in-kind" but are consistent with existing historic character.
	4. Façade/storefront alterations that do not remove, alter, or obscure character-defining features.
	5. Raising the building in a manner that does not remove, alter, or obscure character-defining features.
	6. Restoration based upon documented evidence of a building's historic condition, such as historic photographs, plans, physical evidence, or similar buildings.

	7. Addition(s), including mechanical equipment that are minimally visible from a public right-of-way and meet the Secretary of the Interior's Standards for Rehabilitation.	
	8. Other work consistent with the Secretary of the Interior Standards for the Treatment of Historic Properties (specify or add comments):	
	9. Other work that would not materially impair a historic district (specify or add comments):	
	(Requires approval by Senior Preservation Planner/Preservation Coordinator)	
	10. Reclassification of property status . (Requires approval by Senior Preservation Planner/Preservation	
	Reclassify to Category A Reclassify to Category C	
	a. Per HRER or PTR dated (attach HRER or PTR)	
	b. Other <i>(specify)</i> :	
	Note: If ANY box in STEP 5 above is checked, a Preservation Planner MUST sign below.	
	Project can proceed with categorical exemption review . The project has been reviewed by the Preservation Planner and can proceed with categorical exemption review. GO TO STEP 6.	
Comm	ents (<i>optional</i>):	
Preser	vation Planner Signature: Shannon Ferguson	
STEP 6: CATEGORICAL EXEMPTION DETERMINATION		
	E COMPLETED BY PROJECT PLANNER	

Planning Commission Hearing	Charan Vauna
	Sharon Young
	05/19/2020

STEP 7: MODIFICATION OF A CEQA EXEMPT PROJECT

TO BE COMPLETED BY PROJECT PLANNER

In accordance with Chapter 31 of the San Francisco Administrative Code, when a California Environmental Quality Act (CEQA) exempt project changes after the Approval Action and requires a subsequent approval, the Environmental Review Officer (or his or her designee) must determine whether the proposed change constitutes a substantial modification of that project. This checklist shall be used to determine whether the proposed changes to the approved project would constitute a "substantial modification" and, therefore, be subject to additional environmental review pursuant to CEQA.

MODIFIED PROJECT DESCRIPTION

Modified Project Description:

DETERMINATION IF PROJECT CONSTITUTES SUBSTANTIAL MODIFICATION

Compared to the approved project, would the modified project:		
	Result in expansion of the building envelope, as defined in the Planning Code;	
	Result in the change of use that would require public notice under Planning Code Sections 311 or 312;	
	Result in demolition as defined under Planning Code Section 317 or 19005(f)?	
	Is any information being presented that was not known and could not have been known at the time of the original determination, that shows the originally approved project may no longer qualify for the exemption?	
If at least one of the above boxes is checked, further environmental review is required.		

DETERMINATION OF NO SUBSTANTIAL MODIFICATION

The proposed modification would not result in any of the above changes.				
If this box is checked, the proposed modifications are categorically exempt under CEQA, in accordance with prior project approval and no additional environmental review is required. This determination shall be posted on the Planning Department website and office and mailed to the applicant, City approving entities, and anyone requesting written notice. In accordance with Chapter 31, Sec 31.08j of the San Francisco Administrative Code, an appeal of this determination can be filed within 10 days of posting of this determination.				
Planner Name:		Date:		

Exhibit D - Land Use Data



SAN FRANCISCO PLANNING DEPARTMENT

Land Use Information

PROJECT ADDRESS: 1566 -1568 HAIGHT STREET RECORD NO.: 2019-017867CUA

	EXISTING	PROPOSED	NET NEW
	GROSS SQUARE FOOTAGE	(GSF)	
Lot Area	±3,781	±3,781	No Change
Residential			
Commercial/Retail (subject commercial space)	Approx. ±3,650	Approx. ±3,650	No Change
Office			
Industrial/PDR Production, Distribution, & Repair			
Parking			
Usable Open Space			
Public Open Space			
Other ()			
TOTAL GSF	±3,650	±3,650	No Change
	EXISTING	NET NEW	TOTALS
	PROJECT FEATURES (Units or A	Amounts)	
Dwelling Units - Market Rate			
Dwelling Units - Affordable			
Hotel Rooms			
Parking Spaces			
Loading Spaces			
Car Share Spaces			
Bicycle Spaces			
Number of Buildings	1	1	No Change
Number of Stories	1	1	No Change
Height of Building(s)	Approx. 18 feet	Approx. 18 feet	No Change
Other ()			

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

Reception: 415.558.6378

Fax: 415.558.6409

Planning Information: **415.558.6377**

Exhibit E - Maps and Context Photos

Zoning Map





Parcel Map



ASHBURY



Sanborn Map*



*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.



300- FOOT MILE RADIUS





Aerial Photo



SUBJECT PROPERTY



Project Sponsor Site Photos



SUBJECT PROPERTY

Project Sponsor Interior Site Photos





Project Sponsor Interior Site Photos





Site Photo

PORTION OF SUBJECT BLOCK ON HAIGHT STREET



Site Photo

PORTION OF OPPOSITE BLOCK ON HAIGHT STREET





Exhibit F - Project Sponsor Submittal

6/5/2020

San Francisco Planning Commission 1650 Mission St, Suite 400 San Francisco, CA 94103

Project Address:	1566 - 1568 Haight Street
Assessor's Block/Lot:	1231/017
Property Owner:	Maybelle M Schumacher Trust
Zoning District:	Haight Street Neighborhood Commercial District/40-X
Building Permit Number:	200810234956, 200905087985
Planning Record Number:	2019-017867CUA

RE: Project Sponsor Brief

Dear Honorable Planning Commissioners,

Background Explanation:

This building was built by my great grandfather in 1908 and has been a source of pride for our family for generations. My father has been the caretaker for many years but now due to his failing health we have had to step in to assist. It is our family's intent to continue to maintain the building and its historical contribution to the community.

The building has operated as a restaurant/ bar for over 50 years. First as the Pall Mall Grill, then Martin Mack's, then HQ Bar and Restaurant and now currently as Michael Collin's Irish Bar & Restaurant. On September 5, 2008 a fire occurred which caused considerable damage to the building. The SFFD had considerable issues in overcoming the fire due to the small size of the crawlspace underneath the building. In order to prevent this issue in the future and to improve life safety, it was decided that the best course of action was to excavate and install an accessible basement as well as fire corridor. This solution was founded upon guidance from Brian Ballard in SF Fire Planning, along with the engineer and architect at the time.

Rebuilding was overseen by the current tenant at the time, Brian Molony. Appropriate building permits were secured. During the rebuilding process in order to be in compliance with the current building and fire codes, the basement had to be expanded, fire sprinklers installed, and an additional fire and emergency exit corridor created. This was a requirement by the SF Fire Department as a condition of the building permit approval. In order to accommodate the new fire safety exit, the safest solution involved merging the adjacent vacant retail space of approx. 380 sf with the existing bar and restaurant space. In addition, the women's handicapped restroom had to be relocated to the back of the building. The corridor serves as both the basement access and the secondary safety ingress and egress for the building. The resulting structure is now one of the safest, structurally and seismically sound buildings in the area. These modifications were completed at considerable expense and with proper permits. It is worth noting that the small

retail space had been vacant since 1985 and was not contributing to the overall business health of the neighborhood.

This issue was originally addressed and tentatively approved through Conditional Use Case No. 2010.0385C with the previous tenant who oversaw the rebuild. Unfortunately, due to personal issues, his partnership with the business ended just prior to completing the CUA. After paying the original CUA application fee of \$3735.10, the outstanding requirements for approval as noted in May 2011 incorporated a fine of \$7800 of which \$5350 had been paid prior to the departure of the previous tenant. Due to the lapse in time though, the CUA was closed. Our family has now paid current all outstanding fees and penalties as of Dec 2019.

Project Description:

The present authorized use is as an existing full service restaurant and bar with an area of 3270 sq feet and a seating capacity for up to 66 persons. After the rebuilding project and the merger of the two spaces, the resulting area is approximately 3650 sq feet with a seating capacity for up to 81. We seek to get approval for the legalization of the rebuilding modifications and the merger of the two spaces as well as for the increased seating capacity up to 81 people. Current occupancy count is 126. While there is currently no entertainment, our tenant would like to offer live entertainment consisting of up to two performers up to 11pm if possible. Per motion 11899 and the 1999 Letter of Determination as noted by Scott Sanchez, the approved hours of operation are limited between 8:00 a.m. to 10:00 p.m. for the Restaurant and 8:00 a.m. to 2:00 a.m. for the Bar. We would like to maintain those approved hours. We also seek to eliminate the requirement to provide for valet parking which is not feasible in this location with the limited street parking nor is it necessary as there is a bus stop at the corner and there are other modes of transportation available to patrons like Uber, Lyft, and taxi service.

In conclusion, great measures were taken to improve the safety of the structure. The rebuilding was completed thoughtfully and at great expense to ensure the structural integrity of the building and to promote the safest environment for our patrons and the surrounding community. While the building is of historical importance, the current long-term tenancy is a welcomed fixture in the neighborhood as well. It is supported by the local merchants in the area as indicated by the letters of support provided herewith. The restaurant/bar promotes foot traffic which in turn increases the potential customer base for the surrounding businesses. The bar currently employs approx. 10 employees. If allowed to increase the seating capacity and add for some live entertainment, the business has the potential for growth and in turn the need for additional employment for the area. The project meets all relevant conditional use criteria. For these reasons, we respectfully request that you approve our project.

Best regards,

Tricia Wray tricia@triciawray.com 408-218-3055 Brandon Wray bdonwray@gmail.com 408-806-0453

Enclosure: Community Letters of Support

San Francisco Planning Commission 1650 Mission St., Suite 400 San Francisco, CA 94103

Honorable Planning Commissioners,

I have been a merchant in the Haight- Ashbury neighborhood community for the past 3 years. The Michael Collins restaurant/bar has been an iconic fixture in the neighborhood. It draws in customers for all the businesses along the street. The improvements that were made after the fire appear to have enhanced the safety of the building and the community as a whole.

Mr. Richard Schumacher has been our landlord for the past 3 years. He has been a responsible building owner and proactive landlord who cares for our community. We are in support of the proposal to merge the two retail spaces.

Respectfully,

Wayne Tran, Owner The One Up Salon 1576 Haight Street, San Francisco, CA 94117 415-819-9210



June 3, 2020

San Francisco Planning Commission 1650 Mission St., Suite 400 San Francisco, CA 94103

Honorable Planning Commissioners,

I have been a merchant in the Haight-Ashbury neighborhood community since 2007. The Michael Collins restaurant/bar has been an iconic fixture in the neighborhood. It draws in customers for all the businesses along the street. The improvements that were made after the fire have enhanced the safety of not only the building but the community as a whole.

Mr. Richard Schumacher has been our landlord for the past 13 years. He has been a responsible building owner and proactive landlord who cares for our community. We are in support of the proposal to merge the two retail spaces

Sincerely yours,

Lee Chan

Haight Street Sunglasses

415-531-0055 **PHONE**



Letter of Support for Planning Commission

1 message

JenJen Fritz <jenjen@warriorwithindesigns.com> To: Tricia Wray <tricia@triciawray.com>, Sunny Powers <sunny@loveonhaightsf.com> Thu, Jun 4, 2020 at 7:48 PM

San Francisco Planning Commission 1650 Mission St., Suite 400 San Francisco, CA 94103

Dear Honorable Planning Commissioners,

I have been a merchant in the Haight- Ashbury neighborhood community for the past 7 years. The Michael Collins restaurant/bar has been an iconic fixture in the neighborhood. It draws in customers for all the businesses along the street. The improvements that were made after the fire have enhanced the safety of not only the building but the community as a whole.

Mr. Richard Schumacher has been our landlord for the past 4 years. He has been a respectful and responsible building owner and proactive landlord who cares for our his tenants and his community. We are in support of the proposal to merge the two retail spaces. We think it will be a good thing for the community.

Respectfully, Name: Jennifer Patten & Sunshine Powers Business Name: Little Wing & Love on Haight Address: 1572 Haight Street, San Francisco, CA 94117 Phone number: 415-722-0752

Jen Patten Owner + Creator Warrior Within Designs One Planet, One People

"Listen from within your heart knows the way"



Fwd: Michael Collins Bar

1 message

colum crowley <columhq@gmail.com> To: Tricia Wray <tricia@triciawray.com> Thu, Jun 4, 2020 at 10:18 PM

------ Forwarded message ------From: **colum crowley** <columhq@gmail.com> Date: Thu, Jun 4, 2020 at 10:18 PM Subject: Re: Michael Collins Bar To: Joe Goldmark <joeg5@comcast.net>

On Wed, Jun 3, 2020 at 1:41 PM Joe Goldmark <joeg5@comcast.net> wrote: Honorable Planning Commissioners,

I have been a merchant in the Haight- Ashbury neighborhood community for the past 34 years. The Michael Collins restaurant/bar has been an iconic fixture in the neighborhood. It draws in customers for all the businesses along the street. The improvements that were made after the fire have enhanced the safety of not only the building but the community as a whole.

We are in support of the proposal to merge the two retail spaces.

Respectfully, Joe Goldmark Amoeba Music 1855 Haight St. 415-831-1200

Joe Goldmark Amoeba S.F. (415) 831-1200 VinylBeat.com



(no subject)

1 message

colum crowley <columhq@gmail.com> To: Tricia Wray <tricia@triciawray.com> Thu, Jun 4, 2020 at 11:51 PM

San Francisco Planning Commission 1650 Mission St., Suite 400 San Francisco, CA 94103

Honorable Planning Commissioners,

I have been leasing 1568 haight off the Schumachers for the last couple of years . It draws in customers for all the businesses along the street. The improvements that were made after the fire have enhanced the safety of not only the building but the community as a whole. I can tell you that the work that was done from the steel to the fire sprinklers make it one of the safest building in San Francisco

Mr. Richard Schumacher has been our landlord for the past XX years. He has been a responsible building owner and proactive landlord who cares for our community. We are in support of the proposal to merge the two retail spaces.

Respectfully, Name Colum Crowley Business Name Michael Colllins Irish Bar Address 1568 haight st Phone number 415 5963559



Fwd: SF Mercantile in support of The Michael Collins Restaurant/Bar

1 message

colum crowley <columhq@gmail.com> To: Tricia Wray <tricia@triciawray.com> Thu, Jun 4, 2020 at 10:18 PM

------ Forwarded message ------From: **remmons** <remmons@sfmercantile.com> Date: Wed, Jun 3, 2020 at 1:59 PM Subject: SF Mercantile in support of The Michael Collins Restaurant/Bar To: columhq@gmail.com <columhq@gmail.com>

Honorable Planning Commissioners,

I have been a merchant in the Haight- Ashbury neighborhood community for the past 3 years. The Michael Collins restaurant/bar has been an iconic fixture in the neighborhood. It draws in customers for all the businesses along the street. The improvements that were made after the fire have enhanced the safety of not only the building but the community as a whole. We are in support of the proposal to merge the two retail spaces.

Respectfully, Robert Emmons, owner San Francisco Mercantile 1698 Haight Street, SF, CA 94117 415.606.9097 Steven C. and Sharron G. Wilson 989 Oak Street San Francisco CA 94117 415 863-4878 415 971-8675 (cell) stevencwilson1572@yahoo.com

June 5, 2020

Planning Commission

To whom it may concern:

My wife and I are San Francisco residents. My wife is a native San Franciscan. I have lived here, in San Francisco, since 1971

We are former tenants of Richard and Nancy Schumacher, since 1972 through October, 2016. We were tenants at 1572 Haight Street, which is immediately adjacent to the business at 1568 and 1566 Haight Street.

For health and safety reasons, we totally support the merging of 1566 Haight, making it a part of 1568 Haight Street, as an additional fire exit. That is certainly the most sensible use for that small space.

I am familiar with the interiors of both 1568 and 1566 Haight Steet, having done business with the Bar/Restaurant at 1568 many times over the last 45 years. The interior area of 1566 Haight is so narrow to do anything else with that space other than an additional safety exit, would be absurd.

I have known the property owners for these past 45 years, and have complete confidence that they have reached the decision to make this change, with the most careful consideration.

Sincerely,

Steven C. Wilson and Sharron G. Wilson

Henron A. Wilson