

File No. 100915

Committee Item No. 4

Board Item No. 9

**COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST**

Committee: **City Operations & Neighborhood
Services Committee**

Date 9/13/10

Board of Supervisors Meeting

Date 9/21/10

LIQUOR LICENSE HEARING

Cmte Board

- | | | |
|-------------------------------------|-------------------------------------|----------------------------|
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Applicant's Letter |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Police Department Report |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Planning Department Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Clerk's Correspondence |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Other |

- _____
- _____
- _____
- _____
- _____
- _____

Completed by Gail Johnson

Date 9/9/10

Completed by [Signature]

Date 9/10/10

01 10 2

1 [Liquor License Transfer, 1530 Haight Street]

2

3 **Resolution determining that the premise to premise transfer of a Type 20 off-sale**
4 **beer and wine liquor license from 2 Harrison Street to 1530 Haight Street (District**
5 **5), to Bobby Vardakastanis for Haight Street Market, Inc., dba Haight Street**
6 **Market, will serve the public convenience or necessity of the people of the City**
7 **and County of San Francisco, in accordance with Section 23958.4 of the**
8 **California Business and Professions Code, with conditions.**

9

10 WHEREAS, Bobby Vardakastanis is seeking the transfer of a Type 20 off-sale
11 beer and wine liquor license from 2 Harrison Street to 1530 Haight Street for Haight
12 Street Market, Inc., dba Haight Street Market; and,

13 WHEREAS, The Planning Department has verified that the area is properly
14 zoned and recommends approval; and,

15 WHEREAS, The Police Department recommends that the liquor license
16 application be approved with conditions; now, therefore, be it

17 **RESOLVED, That in accordance with Section 23958.4 of the California Business**
18 **and Professions Code, the Board of Supervisors of the City and County of San**
19 **Francisco hereby determines for the foregoing reasons that the transfer of a Type 20**
20 **off-sale beer and wine liquor license to Bobby Vardakastanis for Haight Street Market,**
21 **Inc., dba Haight Street Market, will serve the public convenience or necessity of the**
22 **people of the City and County of San Francisco.**

23 Conditions: (1) Sales and service of alcoholic beverages shall be permitted
24 between the hours of 9:00 a.m. and 9:00 p.m. daily. (2) No more than 10% of the
25 square footage of the premises will be used for the display of alcoholic beverages. (3)

1 No noise shall be audible beyond the area under control of the license. (4) Loitering
2 (loitering is defined as "to stand idly about; linger aimlessly without lawful business") is
3 prohibited on any sidewalks or property adjacent to the licensed premises under the
4 control of the licensee. (5) There shall be no cups, glasses, or similar receptacles
5 commonly used for the drinking of beverages, sold, furnished, or given away at the
6 petitioner's premises in quantities of less than twenty-four (24) in their original multi-
7 container package. (6) All ice shall be sold at or above prevailing prices in the area
8 and in quantities of not less than three (3) pounds per sale and shall not be given away
9 free. (7) No person under the age of 21 shall sell or deliver alcoholic beverages. (8)
10 No wine shall be sold with an alcoholic content of great than 15% by volume except for
11 "Dinner Wines" which have been aged two years or more and maintained in corded
12 bottles. (9) Wine shall not be sold in bottles or containers smaller than 750 ml. (10)
13 No malt beverage shall be sold with an alcoholic content great than 5.7% by volume.
14 (11) The sale of beer or malt beverages in quantities of 16 oz., 22 oz., 32 oz., 40 oz., or
15 similar size containers is prohibited. (12) No beer or malt beverages shall be sold in
16 quantities of less than manufacturer pre-packaged six (6) packs per sale with the
17 exception of wine-coolers, beer coolers which must be sold in manufacturer pre-
18 packaged multi-unit quantities of four (4) or more.

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Haight Street Market

File # 100915

Friday, July 2, 2010

BY 

2010 JUL -2 PM 3:13

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

Clerk of the Board
San Francisco Board of Supervisors
1 Dr Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Subject: ABC Beer and Wine License "PCN" Request

Clerk of the Board:

Please grant that Haight Street Market's application is for the public convenience or necessity:

We believe the "public convenience or necessity" would be well served by the approval of our application for an ABC beer and wine license. The approval would provide a more dynamic marketplace, bring quality of choice, and restore fairness of opportunity to merchants. License approval will support the policies of the General Plan Objective 6, Policy 6; thus, it would allow us to innovate and encourage competition with an additional product department, continue our ongoing efforts to upgrade, improve service to our customers, and in turn, better serve the needs of the neighborhood.

We applied for an ABC Type 20 (beer & wine) license in a "person to person" and "premises to premises" transfer. We have agreed to purchase the license number 360565 from GB ACQUISITION INC, who owns and operates Gordon Biersch Brewery Restaurant at 2 Harrison Street, San Francisco. We have applied to transfer this license to our grocery store, Haight Street Market, Inc., located at 1530 Haight Street, between Ashbury and Clayton Streets.

Our shop, founded by my father, has been operating in the neighborhood for 30 years, since 1981, and has been at the present location since 1989. We are open for business from 7:00 am to 9:00 pm.

In your decision, please consider that even though our census tract is at the threshold of *undue concentration*, as determined by the ABC, four markets in our neighborhood have ceased selling alcoholic beverages or have closed outright.

We would like to point out that Ashbury Market, two blocks to the south in the adjacent census tract #171, no longer sells alcoholic beverages. Cole Foods, three blocks further away is now defunct, as is Cala Market, which is in our census tract #166. To the north of us, in census tract #165 which abuts the north side of the Panhandle is another shuttered market located at Cole and Hayes. As you can see, the density of alcoholic beverages licensees is less than it appears.

Haight Street Market

Comment and Re-Cap on our efforts to date:

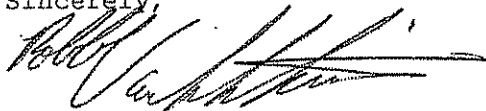
We have received Planning Department, and SFPD Park Station approval with the caveats. We would like the board to know that we also have the support of two neighborhood organizations, HANC and HAIA, plus numerous loyal customers. We sent letters describing our plan to apply to the ABC, to schools and churches within 600 feet of our shop; none have replied or remarked on our project.

Our riding motive to obtain our license is to serve our customers. We have had many requests to add a wine department to our grocery store. This new product line would improve our livelihood.

We want to have the opportunity to compete on the same level as our competitors. Our customers complain that they must hike, bike, bus, or drive to Lucky's, Safeway, or Trader Joe's, outside of the neighborhood to find the wines they desire.

We want a chance to engage in marketplace, just like our competitors.

Sincerely,



Bobby Vardakastanis, Manager




San Francisco Police Department
ABC Liaison Unit

Alcoholic Beverage License

To: The San Francisco Board of Supervisors' Committee on City Operations
& Neighborhood Services

Supervisor Carmen Chu
Supervisor John Avalos
Supervisor Bevan Duffy

From: Inspector Dave Falzon 
Officer in Charge
ABC Liaison Unit (ALU) 553-9369

Date: September 10, 2010

Subject: P.C.N. Investigation Regarding:

Mr. Bobby Varkakastanis
Haight Street Market
1530 Haight Street
255-0643

Mr. Bobby Varkakastanis on behalf of Haight Street Market has filed an application with the California Department of Alcoholic Beverage Control seeking a Type 20 (off-sale beer & wine) license for 1530 Haight Street (located between Ashbury Street and Clayton Street).

Proposed Hours of Operation:

Sunday - Saturday 9:00 a.m. to 9:00 p.m.

Digest:

This premises currently operates as a neighborhood grocery store. If approved, this premises will be allowed to sell off-sale beer and wine.

Letters of Protest:

No Record

Letters of Support:

No record

Police Calls for Service:

From June 12, 2009 to June 15, 2010

N/A

Police Reports:

From June 12, 2009 to June 15, 2010

28

San Francisco Plot Information:

This premise is located in Plot 652

139 Police Reports were recorded for this plot in 2009

This plot is 82 Police Report(s) under the citywide average (plus 20%) of 221 Police Reports.

State Census Tract Information:

This premise is located in Census Tract 0166

Population for this tract is: 5045

On-sale license authorized by census tract: 16

Active on-sale licenses: 28 with 0 pending

Off-sale licenses authorized by census tract: 6

Active off-sale licenses: 8 with 1 pending

Departmental Recommendation:

Points of consideration:

APPROVAL w/conditions recommendation by the ABC Liaison Unit

Applicant premise is **not** located in a "high crime" area.

Applicant premise is located in an "undue concentration" area.

No Record letters of protest.

No Record letters of support

This business has operated as a grocery store at this location since 1981.

Applicant supports proposed Conditions.

Recommendation: **APPROVAL w/conditions**

Proposed Conditions:

Sales and service of alcoholic beverages shall be permitted between the hours of 9:00 a.m. and 9:00 p.m. daily.

No more than 10% of the square footage of the premises will be used for the display of alcoholic beverages.

No noise shall be audible beyond the area under control of the license.

Loitering (loitering is defined as "to stand idly about; linger aimlessly without lawful business") is prohibited on any sidewalks or property adjacent to the licensed premises under the control of the licensee.

There shall be no cups, glasses, or similar receptacles commonly used for the drinking of beverages, sold, furnished, or given away at the petitioner's premises in quantities of less than twenty-four (24) in their original multi-container package.

All ice shall be sold at or above prevailing prices in the area and in quantities of not less than three (3) pounds per sale and shall not be given away free.

No person under the age of 21 shall sell or deliver alcoholic beverages.

No wine shall be sold with an alcoholic content of great than 15% by volume except for "Dinner Wines" which have been aged two years or more and maintained in corded bottles.

Wine shall not be sold in bottles or containers smaller than 750 ml.

No malt beverage shall be sold with an alcoholic content great than 5.7% by volume.

The sales of beer or malt beverages in quantities of 16 oz., 22 oz., 32 oz., 40 oz., or similar size containers is prohibited.

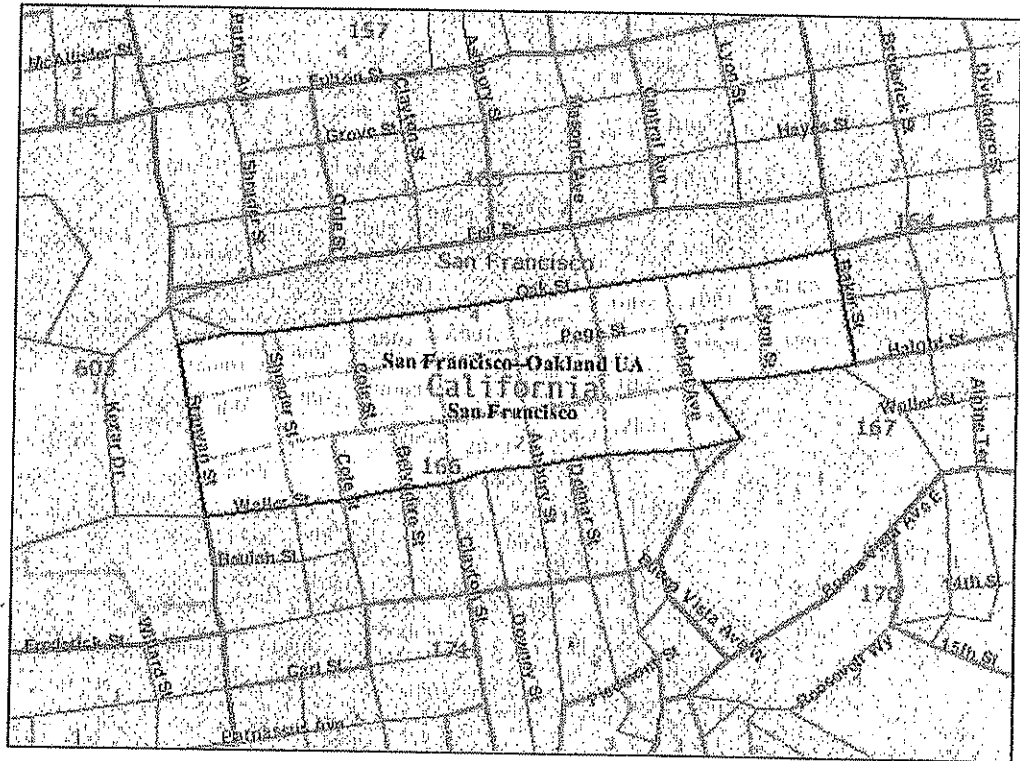
No beer or malt beverages shall be sold in quantities of less than manufacturer pre-packaged six (6) packs per sale with the exception of wine-coolers, beer coolers which must be sold in manufacturer pre-packaged multi-unit quantities of four (4) or more.

end.

DK

Census Tract 166, San Francisco County, California

- Boundaries**
- State
 - '00 County
 - '00 Census Tract
 - '00 Block Group
 - '00 Block
 - '00 Place
 - '00 Urban Area
 - '00 Urban Area
- Features**
- Major Road
 - Street
 - Stream/Waterbody
 - Stream/Waterbody



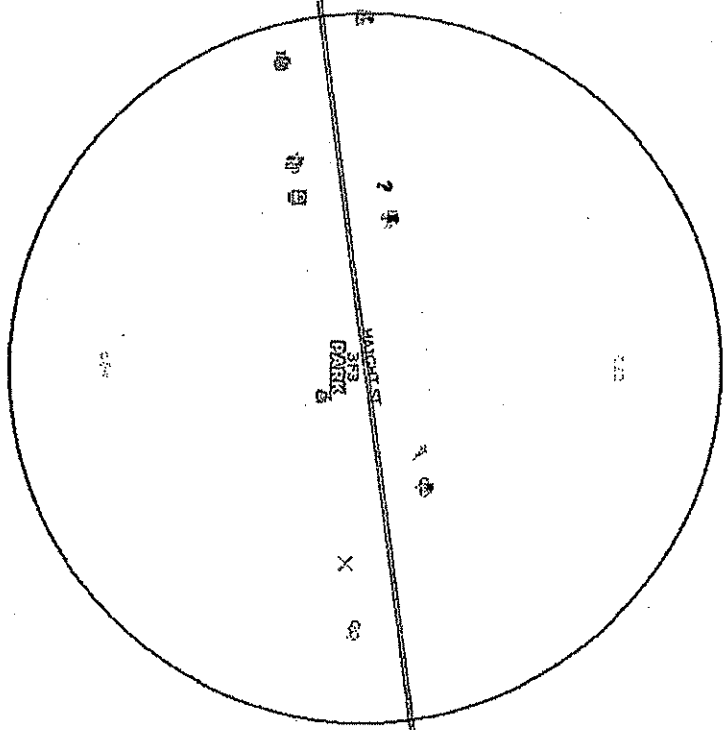
1.1 mile across

Close

1530 Haight St

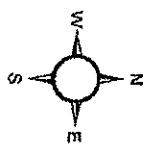
100 feet

06-15-2009 to 06-14-2010



Legend

- Incidents
- Assault
- Larceny/Theft
- Fraud
- Vandalism
- Drug/Narcotic
- Disorderly Conduct
- Liquor Laws
- Trespassing
- Non-Criminal
- Suspicious Occurrence
- Warrants
- Other Offenses
- Violent Crime Zones
- Freeways
- Ramp
- Other
- Major Streets
- Streets
- Lakes/Ponds
- Police Plots
- Police Sectors
- Police Districts
- Bayview



Contents of this map are Copyright 2003, San Francisco Police Department, and may not be reproduced without prior written permission.
WARNING: This map does not meet national map accuracy standards and cannot be used for engineering purposes.



Detail Report for Incidents. ()

#	Inc. #	Date	Time	Type	Location	Dist	Plot	Ofc	Unit	Clearance
1	090746076	20090722	1415	SUSPICIOUS OCCURRENCE	1540 HAIGHT ST	F	652	1437	5G	UNFOUNDED
2	090907121	20090903	1333	ENROUTE TO OUTSIDE JURISDICTION	1543 HAIGHT ST	F	664	2320	5G	ARREST, BOOKED
3	090975576	20090921	1358	TRESPASSING	1541 HAIGHT ST	F	664	1419	5G	ARREST, BOOKED
4	091029352	20091005	1745	PETTY THEFT SHOPLIFTING	1543 HAIGHT ST	F	664	0131	5D	JUVENILE CITED
5	091029352	20091005	1745	MALICIOUS MISCHIEF	1543 HAIGHT ST	F	664	0131	5D	JUVENILE CITED
6	091107588	20091027	1406	MAINTAINING A PUBLIC NUISANCE AFTER NOTIFICATION	1538 HAIGHT ST	F	652	1437	5G	ARREST, BOOKED
7	091107588	20091027	1406	RESISTING ARREST	1538 HAIGHT ST	F	652	1437	5G	ARREST, BOOKED
8	091107588	20091027	1406	VIOLATION OF MUNICIPAL POLICE CODE	1538 HAIGHT ST	F	652	1437	5G	ARREST, BOOKED
9	091109976	20091028	0722	OBSTRUCTIONS ON STREETS/SIDEWALKS	1522 HAIGHT ST	F	652	1715	5G	ARREST, BOOKED
10	091109976	20091028	0722	ENROUTE TO OUTSIDE JURISDICTION	1522 HAIGHT ST	F	652	1715	5G	ARREST, BOOKED
11	091130222	20091102	1457	POSSESSION OF MARIJUANA FOR SALES	1524 HAIGHT ST	F	652	1419	5N	ARREST, BOOKED
12	091130222	20091102	1457	POSSESSION OF HEROIN	1524 HAIGHT ST	F	652	1419	5N	ARREST, BOOKED
13	091130222	20091102	1457	NOTIFY ADMINISTRATOR OF NEW CODES	1524 HAIGHT ST	F	652	1419	5N	ARREST, BOOKED
14	100031577	20100110	1321	POSSESSION OF MARIJUANA	1541 HAIGHT ST	F	664	2346	5G	NONE
15	100031577	20100110	1321	FALSE ID TO PEACE OFFICER	1541 HAIGHT ST	F	664	2346	5G	NONE
16	100031577	20100110	1321	WARRANT ARREST	1541 HAIGHT ST	F	664	2346	5G	NONE
17	100090448	20100127	2206	FALSE ID TO PEACE OFFICER	1541 HAIGHT ST	F	664	2346	5G	ARREST, BOOKED
18	100090448	20100127	2206	CONSUMING ALCOHOL IN PUBLIC VIEW	1541 HAIGHT ST	F	664	2346	5G	ARREST, BOOKED
19	100160790	20100217	1635	POSSESSION OF COCAINE	1515 HAIGHT ST	F	664	2346	5N	JUVENILE BOOKED
20	100160790	20100217	1635	POSSESSION OF METH-AMPHETAMINE FOR SALE	1515 HAIGHT ST	F	664	2346	5N	JUVENILE BOOKED
21	100160790	20100217	1635	ENROUTE TO OUTSIDE JURISDICTION	1515 HAIGHT ST	F	664	2346	5N	JUVENILE BOOKED
22	100188065	20100225	1759	PETTY THEFT WITH PRIOR	1550 HAIGHT ST	F	652	4025	3F	ARREST, BOOKED
23	100188065	20100225	1759	FAILURE TO REGISTER AS SEX OFFENDER	1550 HAIGHT ST	F	652	4025	3F	ARREST, BOOKED

24	100188065	20100225	1759	POSSESSION OF MARIJUANA	1550 HAIGHT ST	F	652	4025	3F	ARREST, BOOKED
25	100240295	20100313	1500	ENROUTE TO DEPARTMENT OF CORRECTIONS	1549 HAIGHT ST	F	664	1419	5G	ARREST, BOOKED
26	100379098	20100424	1430	BATTERY	1549 HAIGHT ST	F	652	4684	5G	NONE
27	100508128	20100517	1100	GRAND THEFT FROM A BUILDING	1529 HAIGHT ST	F	664	4680	3F	NONE
28	100549053	20100614	1109	AIDED CASE, MENTAL DISTURBED	1519 HAIGHT ST	F	664	4145	6K	PSYCHOPATHIC CASE

LIQUOR LICENSE REVIEW

TO: Planning Department **File: 100915**
AnMarie Rodgers/CTYPLN/SFGOV
Georgia Powell/CTYPLN/SFGOV@SFGOV
Janice Shambra
Fax No: 558-6409

BLOCK/LOT :1231/011
ZONING: HAIGHT ST NCD
QUAD: NW
MB# 1000735

TO: Inspector Dave Falzon
Ken Stocker
Police Department
Fax No: 970-3088

DATE: July 14, 2010

This item is scheduled to be heard at a meeting on August 9, 2010. **PLEASE E-MAIL YOUR RESPONSE BY: July 30, 2010** Victor Young, Clerk of City Operations and Neighborhood Services Committee.
Fax No: 554-7714 / victor.young@sfgov.org

Applicant Name: Bobby Varkakastanis
and Business Name: Haight Street Market Inc. dba Haight Street Market

Applicant Address: 1530 Haight Street

and Phone No. 415-255-0643

PLANNING COMMENTS: Approval Denial

ABC license type 20 is permitted in conjunction with an existing retail sales and service use (grocery store) per Conditional Use authorization under Case No. 2010.0033C (Motion No. 18090) and subject to Section 790.55(a), (b), and (c). Attached

Sharon Young, (415)558-6346

7/21/10

POLICE COMMENTS: Approval Denial

Haight Street Market

File # 100915

Friday, July 2, 2010

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2010 JUL -2 PM 3:13

BY 

Clerk of the Board
San Francisco Board of Supervisors
1 Dr Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Subject: ABC Beer and Wine License, "PCN" Request

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1530 Haight Street, San Francisco, CA 94117
Tel. (415) 255-0643

1

Haight Street Market

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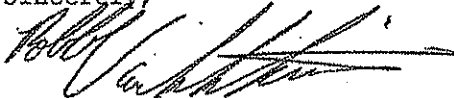
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We want a chance to engage in marketplace, just like our competitors.

Sincerely,



Bobby Vardakastanis, Manager

SEC. 790.51. INSTITUTIONS, OTHER SMALL.

A public or private, nonprofit or profit-making use which provides services to the community and limited to the following:

(a) **Child Care.** A use which provides less than 24-hour care for 12 or fewer children by licensed personnel and which meets the requirements of the State of California and other authorities.

(b) **Residential Care.** A medical use which provides lodging, board and care 24 hours or more to six or fewer persons in need of specialized aid by personnel licensed by the State of California and which provides no outpatient services, including but not limited to, a board and care home, rest home, or home for the treatment of the addictive, contagious, or other diseases or physiological disorders. (Added by Ord. 445-87, App. 11/12/87)

SEC. 790.54. LIGHT MANUFACTURING, WHOLESALE SALES.

A commercial use, including light manufacturing or wholesale sales, as defined in Subsections (a) and (b) below.

(a) **Light Manufacturing.** A nonretail use which provides for the fabrication or production of goods, by hand or machinery, for distribution to retailers or wholesalers for resale off the premises, primarily involving the assembly, packaging, repairing, or processing of previously prepared materials, when conducted in an enclosed building having no openings other than fixed windows or exits required by law located within 50 feet of any R District. Light manufacturing uses include production and custom activities, usually involving individual or special design, or handiwork, such as the following fabrication or production activities defined by the Standard Industrial Classification Code Manual as light manufacturing uses:

- (1) Food processing, not including mechanized assembly line production of canned or bottled goods;
- (2) Apparel and other garment products;
- (3) Furniture and fixtures;

(4) Printing and publishing of books or newspapers;

(5) Leather products;

(6) Pottery;

(7) Glass blowing;

(8) Measuring, analyzing, and controlling instruments; photographic, medical and optical goods; watches and clocks.

It shall not involve the chemical processing of materials or the use of any machine that has more than five horsepower capacity, nor shall the mechanical equipment required for the use, together with related floor space used primarily by the operators of such equipment, in aggregate occupy more than $\frac{1}{4}$ of the total gross floor area of the use.

It shall be distinct and separate from a trade shop, as defined in Section 790.124 of this Code. It shall not include other general or heavy manufacturing uses, not described in this Subsection (a).

(b) **Wholesale Sales.** A nonretail use which exclusively provides goods or commodities for resale or business use, including accessory storage. It shall not include a nonaccessory storage warehouse. (Added by Ord. 69-87, App. 3/13/87)

SEC. 790.55. LIQUOR STORE.

A retail use which sells beer, wine, or distilled spirits to a customer in an open or closed container for consumption off the premises and which needs a State of California Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) or type 21 (off-sale general) This classification shall not include retail uses that (1) are both (a) classified as a general grocery store use as set forth in Section 790.102(a), a specialty grocery store use as set forth in Section 790.102(b), or a self-service specialty food use as set forth in Section 790.93, and (b) have a gross floor area devoted to alcoholic beverages that is within the accessory use limits set forth in Section 703.2(b)(1)(C)(vi); or (2) have both a) a use size as defined in Section 790.130 of this Code of greater than 10,000 gross square feet and (b) a gross floor area devoted to alcoholic beverages that is within accessory use limits as set forth in

Section 204.2 or 703.2(b)(1)(c) of this Code, depending on the zoning district in which the use is located. For purposes of Planning Code Sections 249.5, 781.8, 781.9, 782, 783, and 784, the retail uses explicitly exempted from this definition as set forth above shall only apply to general grocery and specialty grocery stores that exceed 5,000s/f in size, shall not:

(a) sell any malt beverage with an alcohol content greater than 5.7% by volume; any wine with an alcohol content of greater than 15% by volume, except for "dinner wines" that have been aged two years or more and maintained in a corked bottle; or any distilled spirits in container sizes smaller than 600 ml;

(b) devote more than 15% of the gross square footage of the establishment to the display and sale of alcoholic beverages; and

(c) sell single servings of beer in container sizes 24 oz. or smaller. (Added by Ord. 260-00, File No. 001424, App. 11/17/2000; Ord. 260-07, File No. 070617, App. 11/14/2007; Ord. 264-07, File No. 071532, App. 11/14/2007; Ord. 245-08, File No. 080696)

SEC. 790.56. LOT SIZE (PER DEVELOPMENT).

The permitted gross lot area for new construction or expansion of existing development. "Lot" is defined in Section 102.14. (Added by Ord. 69-87, App. 3/13/87; amended by Ord. 115-90, App. 4/6/90)

SEC. 790.58. MARQUEE.

A permanent roofed structure attached to and supported entirely by a building; including any object or decoration attached to or part of said marquee; no part of which shall be used for occupancy or storage; with the purpose of providing protection from sun and rain or embellishment of the facade; as further regulated in Sections 414 and 4506 of the Building Code. (Added by Ord. 69-87, App. 3/13/87)

SEC. 790.60. MESSAGE ESTABLISHMENT.

A retail use as defined in Section 1900 of the Health Code, except a use that is a sole propri-

etorship, as defined in California Business and Professions Code Section 4612(b)(1), and where the sole proprietor is certified pursuant to the California Business and Professions Code Section 4600 et seq., or one that employs or uses only persons certified by the state's Massage Therapy Organization, pursuant to the California Business and Professions Code Section 4600 et seq., provided that the massage establishment has first obtained a permit from the Department of Public Health pursuant to Section 1908 of the San Francisco Health Code, and provided that:

(a) The massage use is accessory to a principal use, if the massage use is accessed by the principal use and: (1) the principal use is a dwelling unit and the massage use conforms to the requirements of Section 204.1, for accessory uses for dwelling units in R or NC districts; or (2) the principal use is a tourist hotel as defined in Section 790.46 of this Code, that contains 100 or more rooms, a large institution as defined in Section 790.50 of this Code, or a hospital or medical center, as defined in Section 790.44 of this Code, or

(b) the only massage service provided is chair massage, such service is visible to the public, and customers are fully-clothed at all times.

(c) If the massage use does not meet the requirements of (a) or (b), above, then the massage use shall obtain a conditional use permit from the Planning Commission, pursuant to Section 303 of this Code. When considering an application for a conditional use permit pursuant to this subsection, the Planning Commission shall consider, in addition to the criteria listed in Section 303(c), the following criteria:

(1) Whether the applicant has obtained, and maintains in good standing, a permit for a Massage Establishment from the Department of Public Health pursuant to Section 1908 of the San Francisco Health Code;

(2) Whether the use's facade is transparent and open to the public. Permanent transparency and openness are preferable. Elements that lend openness and transparency to a facade include: i) active street frontage of at least 25' in length



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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

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Planning Commission Motion No. 18090

Date: May 20, 2010
Case No.: 2010.0033CV
Project Address: 1530-1538 HAIGHT STREET (dba Haight Street Market)
Zoning: Haight Street Neighborhood Commercial District
 Haight Alcohol Restricted Use Subdistrict
 40-X Height and Bulk District
Block/Lot: 1231/011 and 012
Project Sponsor: Gus and Georgia Vardakastanis
 c/o Dimitri and Bobby Vardakastanis
 Haight Street Market
 1530 Haight Street
 San Francisco, CA 94117
Staff Contact: Glenn Cabrerros – (415) 558-6169
glenn.cabreros@sfgov.org

ADOPTING FINDINGS RELATING TO CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 303, 719.21 and 719.40 TO EXPAND AN EXISTING RETAIL SALES AND SERVICE USE (dba HAIGHT STREET MARKET) EXCEEDING 2,499 SQUARE FEET OF FLOOR AREA WITHIN THE HAIGHT STREET NEIGHBORHOOD COMMERCIAL DISTRICT, HAIGHT ALCOHOL RESTRICTED USE SUBDISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On January 19, 2010, Gus Vardakastanis (hereinafter "Project Sponsor") filed an application with the San Francisco Planning Department (hereinafter "Department") for Conditional Use Authorization under Sections 303, 719.21 and 719.40 of the Planning Code to allow expansion of an existing retail sales and service use (dba Haight Street Market) exceeding 2,499 square feet of floor area within the Haight Street Neighborhood Commercial District and a 40-X Height and Bulk District.

On May 20, 2010, the Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2010.0033C.

The Project was determined by the Department to be Categorically Exempt from the California Environmental Quality Act ("CEQA") as a Class 1(e)(2) and a Class 3(c) exemption under CEQA Guidelines, respectively additions to an existing structure less than 10,000 square feet in area and conversion of a small commercial structure less than 10,000 square feet in area. 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.

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2010.0033C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The project is located on the north side of Haight Street between Ashbury and Clayton Streets, Lots 011 and 012 in Assessor's Block 1231. The property is located within the Haight Street Neighborhood Commercial District (NCD), Haight Alcohol Restricted Use Subdistrict and the 40-X Height and Bulk District. The subject properties contain one, one-story commercial building on each lot. 1530 Haight Street is occupied by a grocery store (dba "Haight Street Market"). 1538 Haight Street is occupied by a full-service restaurant (dba "Massawa Restaurant").
3. **Surrounding Properties and Neighborhood.** The block-face is characterized by a continuous row of commercial uses at the ground floor within a varied mix of one-story commercial buildings and three-story mixed-use buildings. The existing development pattern and building massing along the block-face is random: about half the block-face is comprised of one-story commercial buildings, and the other half of the block-face is made up of three-story, mixed-use buildings. A pattern of full lot coverage is typical for the one-story commercial buildings on the block-face. The opposite block-face is also characterized by a continuous row of ground-floor, commercial uses. The opposite block-face is comprised of almost all one-story commercial buildings with one two-story building roughly occurring mid-block, a three-story corner building at Ashbury Street and a two-story corner building at Clayton Street.

The Haight Street NCD is located northwest of the City's geographical center within the Haight-Ashbury Neighborhood. The Haight Street NCD is a shopping area that provides convenience good and services to local residents, as well as comparison shopping goods and services to a larger market area. This commercial district is frequented by users of Golden Gate Park and by

residents for its eating, drinking and entertainment establishments. Numerous housing units establish the district's mixed residential-commercial character.

4. **Project Description.** The project sponsor proposes to expand the existing grocery store (Haight Street Market) at 1530 Haight Street into the existing, adjacent commercial space (currently housing Massawa Restaurant) at 1538 Haight Street. The project includes a rear horizontal addition to the existing one-story commercial building at 1538 Haight Street. The existing grocery store area is approximately 3,440 square feet (sf) of gross floor area. The expansion into 1538 Haight Street, with proposed rear addition, would result in gross floor area of approximately 8,020 sf. The occupied floor area (which equals gross floor area minus storage, restroom, mechanical equipment and processing and packaging areas) is approximately 4,884 sf.
5. **Public Comment.** The Department has received opposition to the project from approximately eight individuals. The Department has received comments supporting the project from over 150 individuals. Neighborhood groups that are in support of the project include the Haight Ashbury Neighborhood Council and the Haight Ashbury Improvement Association. A letter of personal endorsement for the project from Supervisor Ross Mirkarimi, District 5, was submitted to the Commission on May 20, 2010.
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. **Retail Sales and Service Use.** Planning Code Section 719.40 allows as-of-right Retail Sales and Service Uses at the ground floor and with Conditional Use authorization, such use at the second floor. Section 790.93 defines a grocery store as a Retail Sales and Service Use.

The proposed project would comply with Section 719.40. This finding recognizes a proposed, partial second floor/mezzanine level (approx 1,150 sf) to be constructed as part of the one-story rear addition to house additional storage, refrigeration and mechanical equipment. Grocery products for sale to the general public would include items such as: fresh fruit and vegetables, dried goods, dairy products and various bottled, canned and box specialty food items.

- B. **Use Size.** Planning Code Section 719.21 requires conditional use authorization for non-residential uses greater than 2,499 square feet.

Conditional Use authorization is requested as the project would result in gross floor area of approximately 8,020 sf. The occupied floor area, which is comparable to the actual retail sales area open and visible to the general public, is approximately 4,884 sf.

- C. **Hours of Operation.** Planning Code Section 719.27 states that commercial hours of operation from 6:00 a.m. to 2 p.m. are allowed as-of-right.

The project would be open to the general public within the commercial hours of operation that are allowed as-of-right by the Haight Street NCD controls. The project sponsor wishes to retain the existing hours of operation at the existing grocery store for the project. The current hours of operation

of the grocery store are 7AM to 9 PM. As needed and in the future, the project sponsor may extend their business hours to 10 PM.

- D. **Parking.** Planning Code Section 151 of the Planning Code requires off-street parking for every 500 square-feet of occupied floor area, where the occupied floor area exceeds 5,000 square-feet.

The proposed occupied floor area is approximately 4,884 sf. No parking for the project is required.

- E. **Signage.** Currently, the project does not propose a sign. Any proposed signage will be subject to the review and approval of the Planning Department pursuant to Article 6 of the Planning Code.

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

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

The proposed use would utilize an existing ground floor commercial space. The proposed expanded use is a neighborhood grocery store that has provided goods to the neighborhood for over 29 years. The project sponsor has recognized that over time commercial business and the neighborhood must change, and the project is necessary and desirable for their business to evolve and to continue serving the Haight-Ashbury neighborhood. The proposed rear addition, requiring a rear yard variance, would be compatible with the surrounding development, as both adjacent buildings are currently developed with commercial buildings deep into each lot (almost to full lot coverage).

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

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

From the front façade, the size and shape of the existing buildings would remain unchanged by the project. Future revisions to the front façade, including signage, would be subject to Planning Department review. With regard to the rear addition, the height and depth of the addition would be comparable to the height and depth of the adjacent one-story commercial buildings and to the other one-story commercial buildings on the block-face.

- ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

The project would not adversely affect existing traffic and parking. The project would primarily serve walk-in trade, in particular nearby residents of the Haight-Ashbury neighborhood, which would cause minimal interference with nearby streets and properties. On-street loading, typically in early morning hours, is proposed to continue as currently practiced with the existing grocery store. On-street loading, during off-peak hours, is customary with most businesses within the Haight Street NCD, since the existing development pattern does not accommodate off-street loading areas.

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

The proposed use is not typically associated with offensive emissions. The entire project, including sales area, preparation areas and trash areas, occur within a completely enclosed structure.

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

The proposal does not require or propose any additional improvements such as landscaping, screening, parking loading areas, etc. Such treatments are not required by the Code, and the project is proposed to occupy an existing commercial space.

- 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.

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

RESIDENCE ELEMENT: NEIGHBORHOOD ENVIRONMENT

Objectives and Policies

OBJECTIVE 12: PROVIDE A QUALITY LIVING ENVIRONMENT

Policy 12.2: Allow appropriate neighborhood-serving commercial activities in residential areas.

The proposed development will retain and expand a desirable retail establishment to the neighborhood while accommodating the evolving business and neighborhood needs. The Haight Street Market has served the Haight-Ashbury Neighborhood for over 29 years. The market has been in existence at the current location for 12 years. The previous/original market location was also on Haight Street.

COMMERCE AND INDUSTRY ELEMENT:

Objectives and Policies

OBJECTIVE 2:

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

Policy 2.1:

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

Policy 2.3:

Maintain a favorable social and cultural climate in the city in order to enhance its attractiveness as a firm location.

The project would retain the existing use while allowing the reasonable development of a grocery store that has been family-owned and operated for over 29 years. The grocery store use is favorable to the character of the Haight Street NCD, as the market provides diversity to the type of retail businesses found along the commercial corridor. A family-operated, neighborhood-serving grocery store on Haight Street enhances the attractiveness of the NCD to residents and tourists. In addition to the Haight Street NCD being a tourist destination, the presence of the grocery store is evidence that the NCD continues to provide services to local residents of the Haight-Ashbury neighborhood.

OBJECTIVE 6:

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

Policy 6.1:

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

Policy 6.2:

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

The project would retain and expand an existing grocery store which contributes to the diversity of commercial uses along the Haight Street NCD. The grocery store provides an alternative to shoppers who prefer to shop at small, independent businesses. Additionally, a local business owner is sponsoring the proposal and seeks expansion of the grocery store to meet their business needs and the needs of the neighborhood.

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

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

The proposal would retain and enhance the Haight Street Market for both the project sponsor and the local residents.

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

Existing housing and neighborhood character are conserved as the project does not affect existing housing. No housing exists at the project site.

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

No housing is removed for this Project.

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

The size and use type proposed should not significantly increase commuter traffic. The grocery store use is primarily neighborhood serving.

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

The Project will not displace any industrial or service establishment. The project sponsor is working with the existing restaurant use to help with relocation of the restaurant use.

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

The Project occurs within the existing building envelope and does not propose structural or seismic alterations. This proposal will not impact the property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

The existing buildings associated with the project are not historic landmarks.

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

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

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

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2010.0033C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans filed with the Application as received on January 19, 2010 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 No. 18040. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

I hereby certify that the Planning Commission **ADOPTED** the foregoing Motion on May 20, 2010.

Linda D. Avery
Commission Secretary

AYES: Commissioner Miguel, Olague, Antonini, Borden, Lee, Moore, Sugaya

NAYS: (none)

ABSENT: (none)

ADOPTED: May 20, 2010

Exhibit A

Conditions of Approval

1. This authorization is for a Conditional Use Authorization under Planning Code Sections 303, 719.21 and 719.40 to expand an existing retail sales and service use exceeding 2,499 square feet of floor area within the Haight Street Neighborhood Commercial District and a 40-X Height and Bulk District, in general conformance with plans filed with the Application as received on January 19, 2010 and stamped "EXHIBIT B" included in the docket for Case No. 2010.0033C, reviewed and approved by the Commission on May 20, 2010.
2. Prior to the issuance of the Building Permit for the Project the Zoning Administrator shall approve and order the recordation of a notice in the Official Records of the Recorder of the City and County of San Francisco for the premises (Assessor's Block 1231, Lots 011 and 012), which notice shall state that the change of use and proposed alterations has been authorized by and is subject to the conditions of this Motion.
3. Violation of the conditions contained in this Motion or of any other provisions of the Planning Code may be subject to abatement procedures and fines up to \$250 a day in accordance with Planning Code Section 176.
4. Should monitoring of the Conditions of Approval contained in Exhibit A of this Motion be required, the Project Sponsor or successors shall pay fees as established in Planning Code Section 351(e)(1).
5. The property owner shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at a minimum, daily litter pickup and disposal, and intermittent washing or steam cleaning of the main entrance and abutting sidewalks.
6. Signs and exterior lighting for the business shall be reviewed and approved by the Planning Department before they are installed.
7. The Project Sponsor shall maintain an attractive storefront in keeping with the neighborhood character.
8. The Project shall appoint a Community Liaison Officer to address issues of concern to neighbors related to the operation of this Project. The Project Sponsor shall report the name and telephone number of this Officer to the Zoning Administrator and the neighborhood for reference. The Applicant will keep the above parties apprised should a different staff liaison be designated.
9. The project sponsor shall maintain appropriate odor control equipment to prevent any significant noxious or offensive kitchen odors from escaping the premises.

10. There shall be no noise audible outside the establishment during the daytime or nighttime hours that violates the San Francisco Noise Ordinance.
11. Refuse containers shall be provided both inside the establishment for use by patrons. An enclosed garbage area shall be provided within the establishment. All garbage containers shall be kept within the building until pick-up by the disposal company.
12. The authorization and right vested by virtue of this action shall be deemed void and canceled if, within 3 years of the date of this Motion, a site permit or building permit for the Project has not been secured by Project Sponsor. This authorization may be extended at the discretion of the Zoning Administrator only if the failure to issue a permit by the Department of Building Inspection is delayed by a city, state, or federal agency or by appeal of the issuance of such permit.

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