

File No. 130247

Committee Item No. 2
Board Item No. 26

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Neighborhood Services & Safety Date June 6, 2013

Board of Supervisors Meeting Date June 18, 2013

Cmte Board

- | | | |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Application |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Public Correspondence |

OTHER (Use back side if additional space is needed)

<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____
<input type="checkbox"/>	<input type="checkbox"/>	_____

Completed by: Derek Evans Date 5/31/13
Completed by: Derek Evans Date 6/11/13

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

1 [Liquor License - 2342 Market Street]

2
3 **Resolution considering that the issuance of a Type 48 on-sale general public**
4 **premises license to Art Rodriguez and Associates for Deviate SF, Inc., dba Beaux,**
5 **located at 2342-2348 Market Street (District 8), will serve the public convenience**
6 **or necessity of the City and County of San Francisco, in accordance with**
7 **California Business and Professions Code, Section 23958.4, and recommending**
8 **that the California Department of Alcoholic Beverage Control impose conditions**
9 **on the issuance of the license.**

10
11 WHEREAS, Art Rodriguez and Associates is seeking the issuance of a Type 48
12 on-sale general public premises license for Deviate SF, Inc., dba Beaux, located at
13 2342-2348 Market Street; and,

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

16 WHEREAS, The Police Department has filed zero (0) protests and one (1) letter
17 of support with the Department of Alcoholic Beverage Control under California Business
18 and Professions Code, Section 24013, and recommends that the Department of
19 Alcoholic Beverage Control issue the liquor license; and

20 WHEREAS, The conditions recommended by the Police Department are the
21 following: 1) Sales, service and consumption of alcoholic beverages shall be permitted
22 between the hours of 12:00 pm (noon) until 2:00 a.m. daily; 2) The sale of alcoholic
23 beverages for off-sale consumption is strictly prohibited; 3) The petitioner(s) shall be
24 responsible for maintaining free of litter the area adjacent to the premises over which
25 they have control; 4) Loitering (defined as "to stand idly about; linger aimlessly without

1 lawful business”) is prohibited on any sidewalks or property adjacent to the licensed
2 premises under the control of the licensee as depicted on the ABC-257; 5) Graffiti shall
3 be removed from the premises and all parking lots under the control of the licensee
4 within 72 hours of application. If the graffiti occurs on a Friday, weekend day, or on a
5 holiday, the licensee shall remove the graffiti with 72 hours following the beginning of
6 the next weekday; 6) The exterior of the premises shall be equipped with lighting of
7 sufficient power to illuminate and make easily discernible the appearance and conduct
8 of all persons on or about the premises. Additionally, the position of such lighting shall
9 not disturb the normal privacy and use of any neighboring residences; 7) No noise shall
10 be audible beyond the area under the control of the licensee as depicted on ABC-257;
11 and 8) During hours of operation, the petitioner will utilize a security camera system to
12 record all entrances, exits, and public areas outside of the premises. Petitioner shall
13 retain all security recordings for at least 30 days and provide recordings to the San
14 Francisco Police Department when requested as evidence in a criminal investigation;
15 now, therefore, be it

16 RESOLVED, That in accordance with California Business and Professions Code,
17 Section 23958.4, the Board of Supervisors of the City and County of San Francisco
18 hereby determines for the foregoing reasons that the issuance of a Type 48 on-sale
19 general public premises license to Art Rodriguez and Associates for Deviate SF, Inc.,
20 dba Beaux, located at 2342-2348 Market Street, will serve the public convenience or
21 necessity of the City and County of San Francisco; and, be it

22 FURTHER RESOLVED, That the Board of Supervisors of the City and County of
23 San Francisco hereby endorses and adopts the recommendations of the Police
24 Department listed above, and recommends that the Department of Alcoholic Beverage
25 Control issue the license.



San Francisco Police Department
ABC Liaison Unit



Alcoholic Beverage License -
Public Convenience or Necessity
Recommendation

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

Supervisor David Campos
Supervisor Eric Mar
Supervisor Norman Yee

From: Inspector Joseph Fong
ABC Liaison Unit (ALU) 553-1049

Date: May 23, 2013

Subject: P.C.N. Investigation Regarding:
DBA: Beaux
2344-48 Market Street
San Francisco, CA 94114
(626) 683-9777

Peter Impala on behalf of Deviate SF, Inc., has filed an application with the California Department of Alcoholic Beverage Control (ABC) seeking a Type 48 (On-Sale General Public Premises) license for 2344-48 Market Street (located on the west side of Market Street between 16th and 17th Street).

For the purposes of this hearing, the California Department of Alcoholic Beverage Control (ABC) seeks a determination from the Board of Supervisors as to the approval or denial of this license.

Police Calls for Service: From March 2012 to March 2013

21

Police Reports: From March 2012 to March 2013

3

Notifications

Notification date for the 500' mailer was on March 11, 2013.

The Notice to the Public was posted on March 8, 2013.

San Francisco Plot Information:

This premises is located in Plot 412.

The High Crime area is defined as 86 or more police reports in a plot.

This plot had 231 police reports recorded for 2012.

Applicant premises is located in a "High Crime" area.

State Census Tract Information:

This premises is located in Census Tract 169.00

Population for this tract is: 2,924.

On-sale license authorized by census tract: 10.

Active on-sale licenses: 23.

Off-sale licenses authorized by census tract: 2.

Active off-sale licenses: 7.

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

Letters of Protest:

No protest is recorded with the California Department of Alcoholic Beverage Control, (ABC).

Letters of Support:

1 letter of support is recorded with the California Department of Alcoholic Beverage Control, (ABC).

Departmental Recommendation:

No opposition from Mission Police Station if the applicant agrees to the recommended conditions.

ALU recommends: Approval with the below conditions.

1. Sales, service and consumption of alcoholic beverages shall be permitted between the hours of 12:00 pm (noon) until 2:00 a.m. daily.

2. The sale of alcoholic beverages for off-sale consumption is strictly prohibited.
3. The petitioner(s) shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control.
4. 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 as depicted on the ABC-257.
5. Graffiti shall be removed from the premises and all parking lots under the control of the licensee within 72 hours of application. If the graffiti occurs on a Friday, weekend day, or on a holiday, the licensee shall remove the graffiti with 72 hours following the beginning of the next weekday.
6. The exterior of the premises shall be equipped with lighting of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons on or about the premises. Additionally, the position of such lighting shall not disturb the normal privacy and use of any neighboring residences.
7. No noise shall be audible beyond the area under the control of the licensee as depicted on ABC-257.
8. During hours of operation, the petitioner will utilize a security camera system to record all entrances, exits, and public areas outside of the premises. Petitioner shall retain all security recordings for at least 30 days and provide recordings to the San Francisco Police Department when requested as evidence in a criminal investigation.

The applicant agreed to the recommended conditions.

Thank you,



**California Department of Alcoholic
Beverage Control**
License Query System Summary
as of 3/5/2013

License Information
License Number: 530587
Primary Owner: DEVIATE SF, INC.
ABC Office of Application: 24 - SAN FRANCISCO
Business Name
Doing Business As: BEAUX
Business Address
Address: 2344-48 MARKET ST Census Tract: 0169.00
City: SAN FRANCISCO County: SAN FRANCISCO
State: CA Zip Code: 94114
Licensee Information
Licensee: DEVIATE SF, INC.
<i>Company Information</i>
Officer: EICHER, TIMOTHY ALLEN (CHIEF EXECUTIVE OFFICER)
Officer: COTTERMAN, ROBERT LEE (DIRECTOR)
Officer: EICHER, TIMOTHY ALLEN (DIRECTOR)
Officer: EUBANKS, JEFFREY SCOTT (DIRECTOR)
Officer: GILJUM, ROBERT HENRY (DIRECTOR)
Officer: EICHER, TIMOTHY ALLEN (PRESIDENT)
Officer: COTTERMAN, ROBERT LEE (SECRETARY/ASST SEC)
Officer: EUBANKS, JEFFREY SCOTT (TREASURER)
Officer: GILJUM, ROBERT HENRY (VICE PRESIDENT)
Stock Holder: COTTERMAN, ROBERT LEE
Stock Holder: EICHER TRUST DTD 9-21-04
Stock Holder: EUBANKS, JEFFREY SCOTT
Stock Holder: ROBERT GILJUM LIVING TRUST DTD 8-27-10
License Types
1) License Type: 48 - ON-SALE GENERAL PUBLIC PREMISES
License Type Status: PENDING
Status Date: 01-MAR-2013 Term: 12 Month(s)
Original Issue Date: Expiration Date:
Master: Y Duplicate: 0 Fec Code: P40
License Type was Transferred On: FROM: 47-520624
Current Disciplinary Action

<i>... No Active Disciplinary Action found ...</i>
Disciplinary History
<i>... No Disciplinary History found ...</i>
Hold Information
Hold Date: 01-MAR-2013 Type: FORM 220
Escrow
Escrow: BAY COMMERCIAL BANK, 3895 E CASTRO VALLEY BLVD STE A CASTRO VALLEY,CALIFORNIA 94552

--- End of Report ---


For a definition of codes, view our [glossary](#).

export To New!

Call No	Report No	Received Date	Received Time	Priority	Call Type	Unit ID	Disposition	Location
122263708		08/13/2012	23:28:40	I	913			2344 MARKET ST
122140036		08/01/2012	00:17:55	C	903	3D11D	HAN	2344 MARKET ST
122113077		07/29/2012	23:10:33	C	903	3D11D	HAN	2344 MARKET ST
122100033		07/28/2012	00:11:32	C	903	3D11D	HAN	2344 MARKET ST
121823758		06/30/2012	23:28:05	C	415	3D11D	HAN	2344 MARKET ST
121803591		06/28/2012	23:38:51	C	415	PS83D	HAN	2344 MARKET ST
121763323		06/24/2012	21:50:34	B	488	3D91	UTL	2344 MARKET ST
121740222		06/22/2012	01:51:48	C	415	3D11E	GOA	2344 MARKET ST
121700314		06/18/2012	04:47:48	C	416	3D11E	HAN	2344 MARKET ST
121550057	120438066	06/03/2012	00:19:53	A	418	3D16E	ND	2344 MARKET ST
121113224		04/20/2012	19:58:10	C	7A	3D11D	HAN	2344 MARKET ST
121112982		04/20/2012	18:47:47	C	7A	3D11D		2344 MARKET ST
121112777		04/20/2012	17:56:50	C	7A	3D11D	HAN	2344 MARKET ST
120832265		03/23/2012	16:35:49	I	488			2344 MARKET ST
120691053	120195539	03/09/2012	10:02:04	C	459	3D3C	REP	2344 MARKET ST

End of document

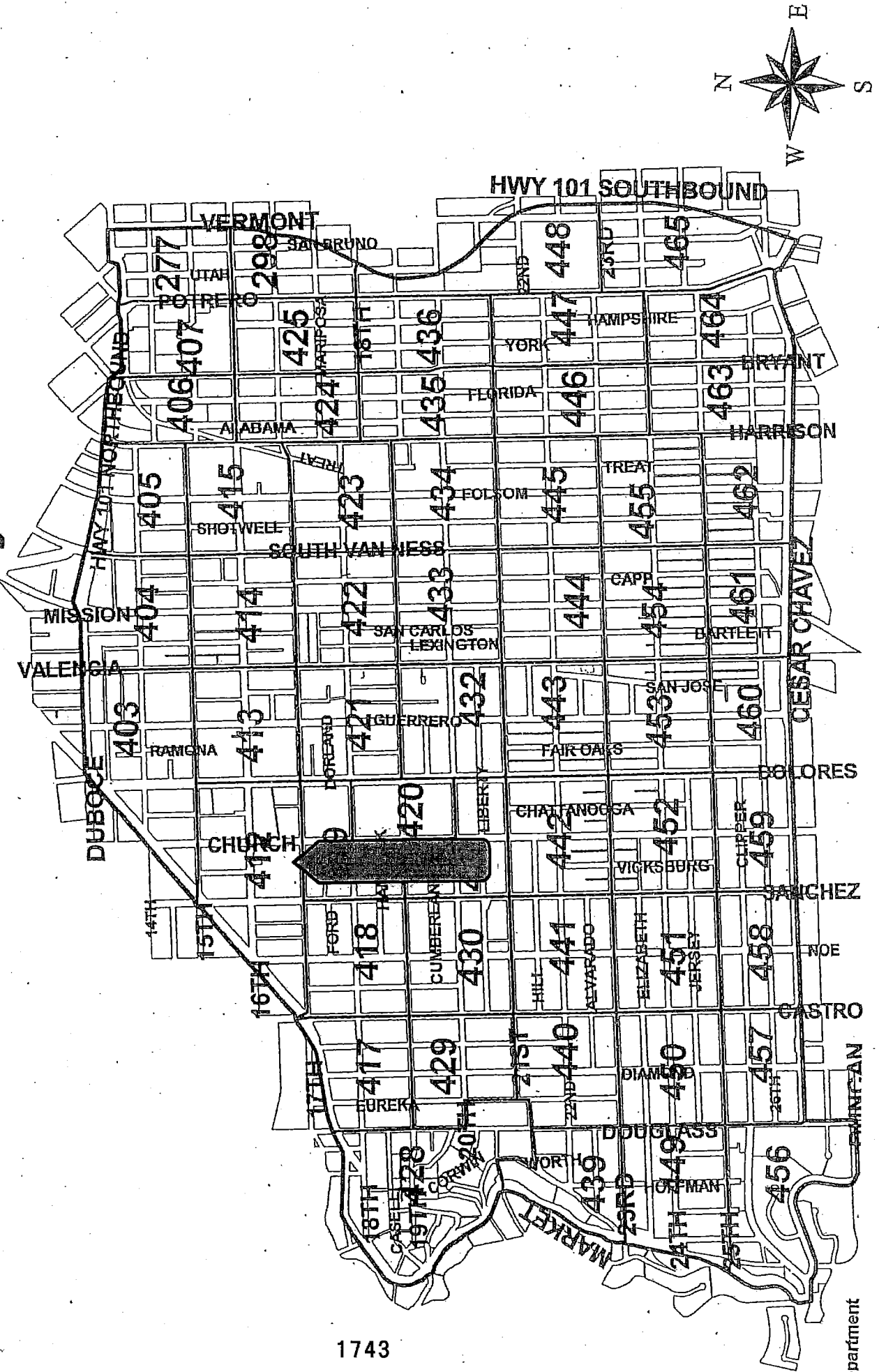
3-415
 7-11-12
 1-20-12

export To  **New!**Records **1** through **6** of **6**

Call No	Report No	Received Date	Received Time	Priority	Call Type	Unit ID	Disposition	Location
<u>130641732</u>		03/05/2013	13:32:57	C	919	3D41C	ADV	2344 MARKET ST
<u>130600568</u>	130174517	03/01/2013	07:26:43	C	917	3D12A	CIT	2344 MARKET ST
<u>130591617</u>		02/28/2013	13:25:18	C	917	3D41C	ADV	2344 MARKET ST
<u>130540656</u>		02/23/2013	07:37:23	C	917	3D1A	ADV	2344 MARKET ST
<u>130432353</u>		02/12/2013	17:03:40	B	418	3D11D	HAN	2344 MARKET ST
<u>130202832</u>		01/20/2013	21:54:00	A	240DV	3D102	GOA	2344 MARKET ST

End of document

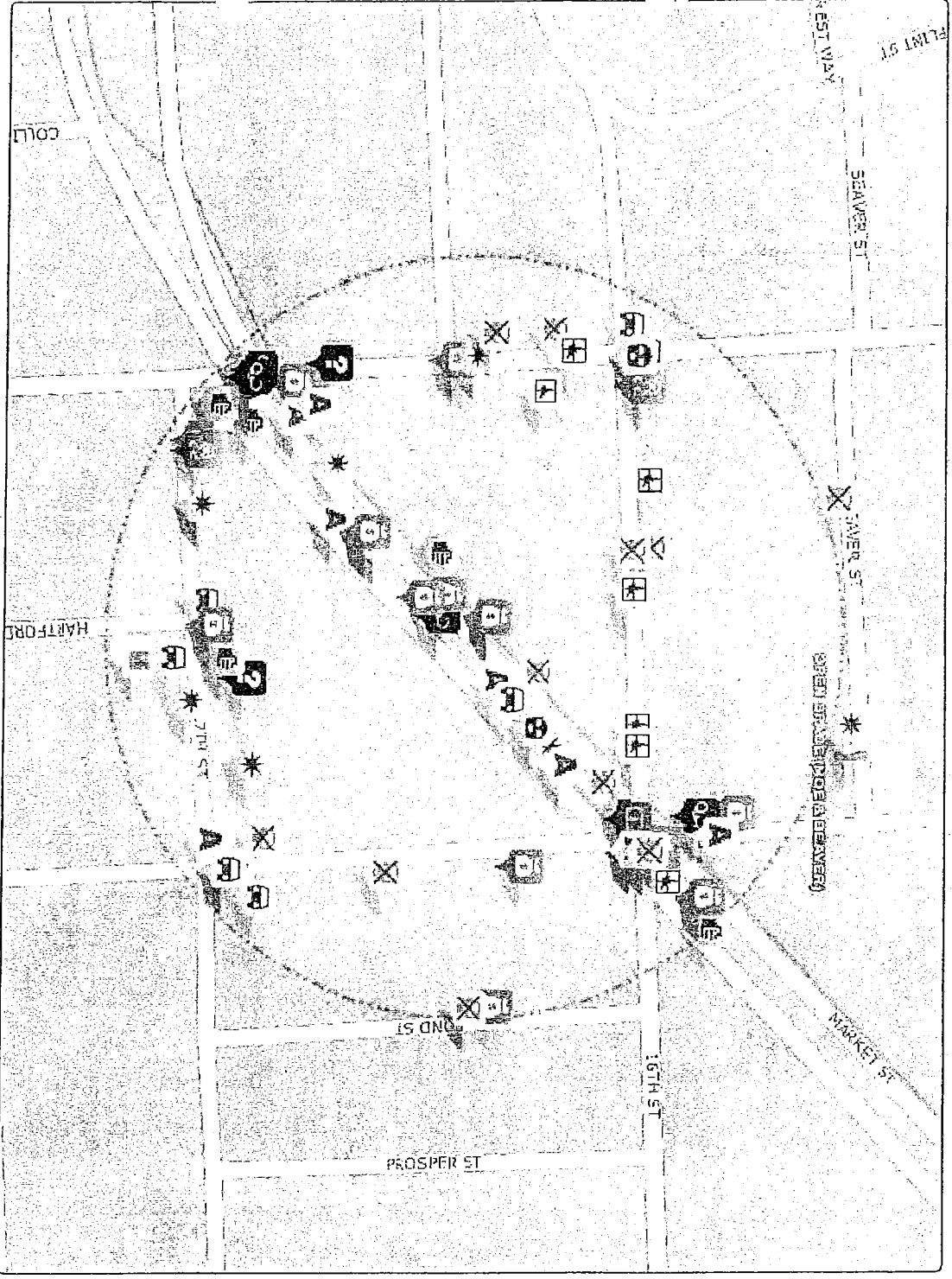
MISSION DISTRICT Reporting Plots & Major Streets



2344-48 Market St

500 Feet

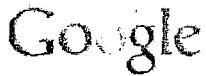
San Francisco Police Department



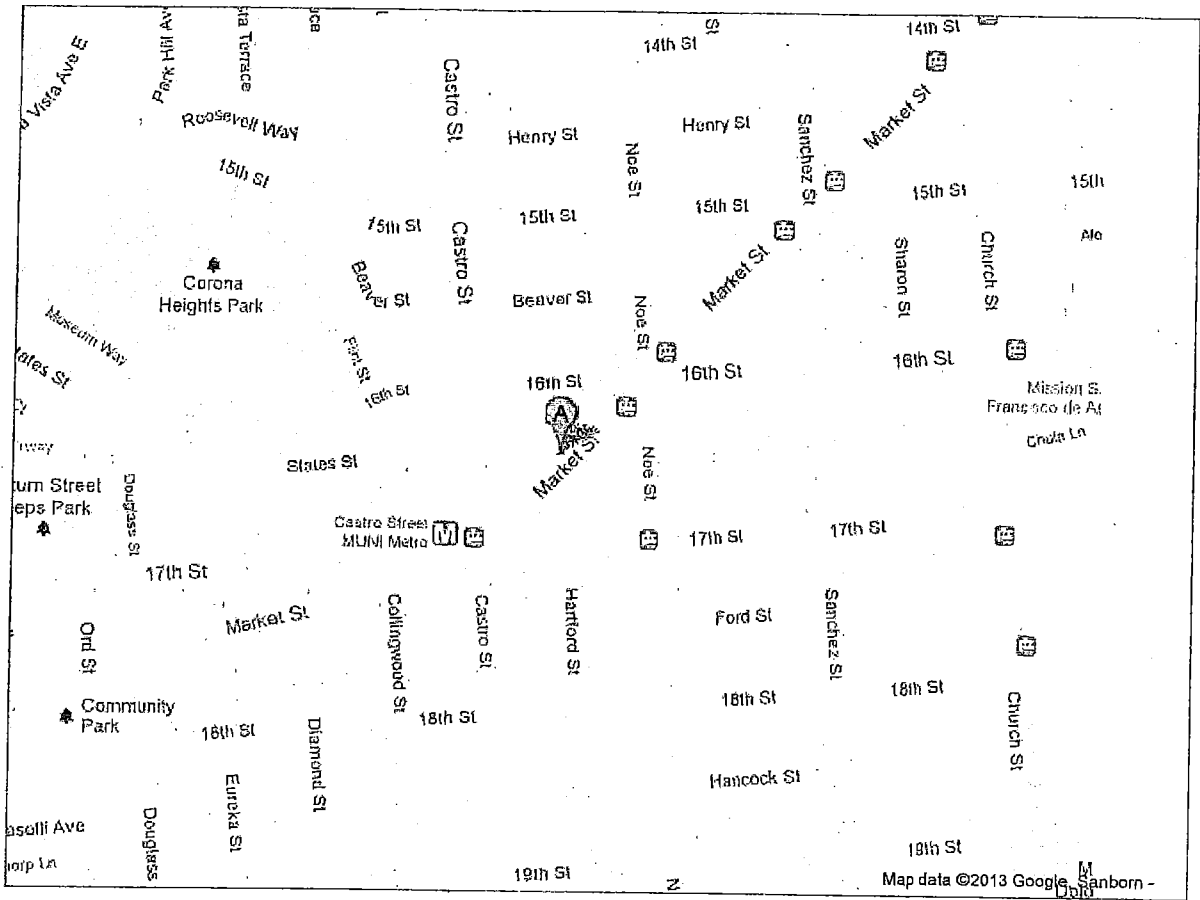
Map Legend	
[Icon]	Incidents (430)
[Icon]	Larceny/Theft (101)
[Icon]	Non-Criminal (70)
[Icon]	Assault (42)
[Icon]	Warrants (41)
[Icon]	Other Offenses (39)
[Icon]	Vandalism (31)
[Icon]	Vehicle Theft (24)
[Icon]	Warrants (16)
[Icon]	Burglary (16)
[Icon]	Suspicious Occurrence (9)
[Icon]	Robbery (9)
[Icon]	Drunkness (8)
[Icon]	Missing Person (5)
[Icon]	Fraud (4)
[Icon]	Sex Offenses, Forcible (3)
[Icon]	Drug/Narcotic (2)
[Icon]	D.U.I. (2)
[Icon]	Liquor Laws (2)
[Icon]	Secondary Codes (2)
[Icon]	Trespassing (1)
[Icon]	Arson (1)
[Icon]	Forgery/Counterfeiting (1)
[Icon]	Disorderly Conduct (1)

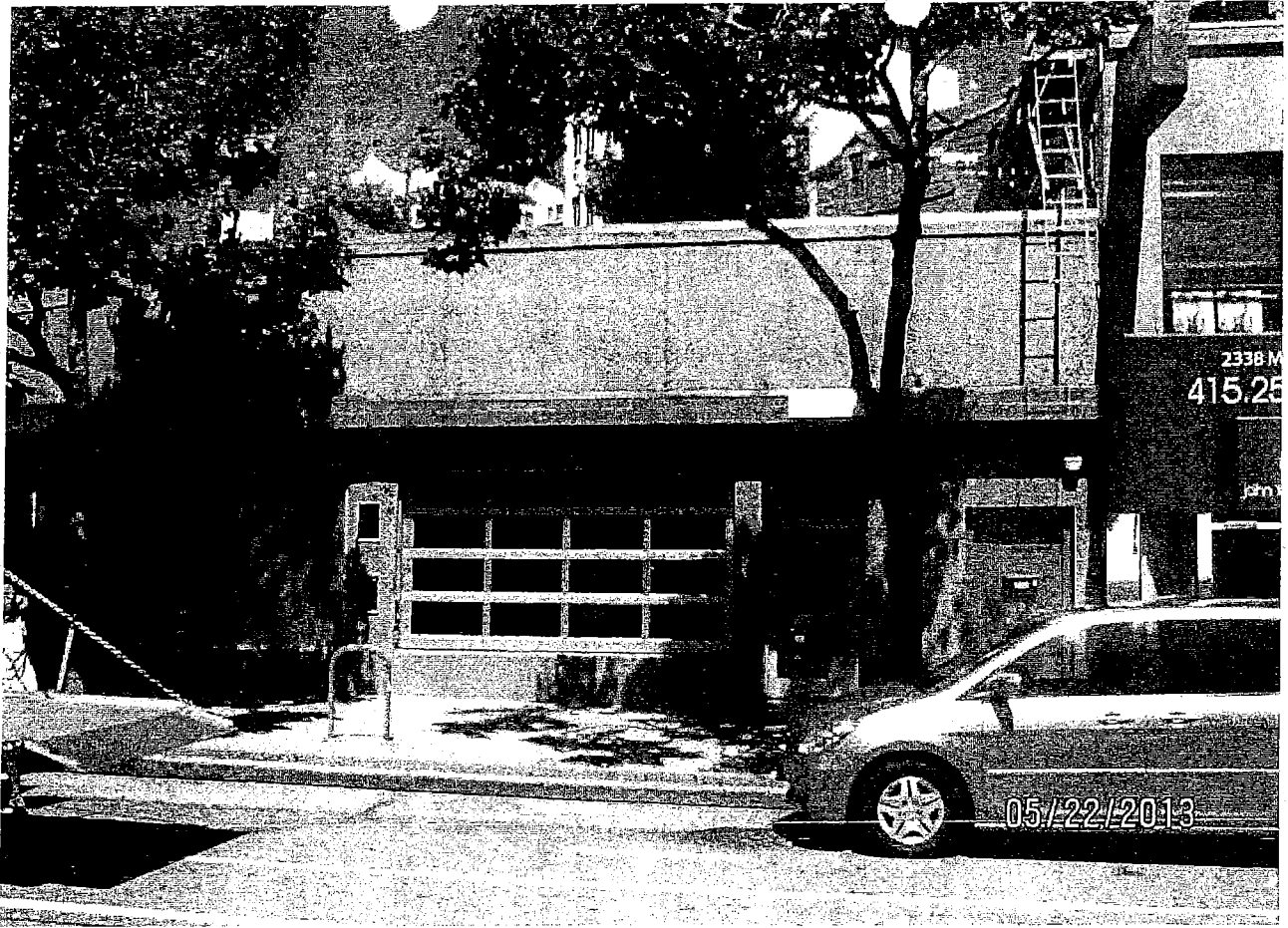
All representations on this map are distributed and transmitted "AS IS" without warranties of any kind, either expressed or implied including without limitation, warranties of title or implied warranties of merchantability or fitness for a particular purpose. In no event shall San Francisco Police Department become liable to users of these data for any loss or damages, consequential or otherwise, including but not limited to time, money, goodwill, arising from the use, operation or modification of the data. The visual presentation of data is being provided strictly as a courtesy, not as an obligation to its users.

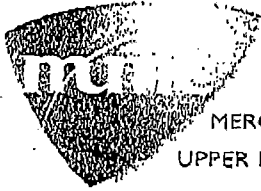
WARNING: This map does not meet the national map accuracy standards.



To see all the details that are visible on the screen, use the "Print" link next to the map.







MERCHANTS OF
UPPER MARKET & CASTRO

DW

584 Castro Street, # 333
San Francisco CA 94114-2512
415/431-2359
Email MUMC-SF@earthlink.net
www.CastroMerchants.com

Terry Asten Bennett, President
415/431-5365 Ext. 4
TerryAsten@cs.com

April 15, 2013

By Email and USPS hardcopy

San Francisco Board of Supervisors
Land Use and Economic Development Committee
attn: Derek Evans, Committee Clerk
City Hall – Room 244
1 Dr. Carleton B. Goodlett Place
San Francisco CA 94102-4689

San Francisco Entertainment Commission
attn: Jocelyn Kane, Executive Director
City Hall – Room 453
1 Dr. Carleton B. Goodlett Place
San Francisco CA 94102-4689

RECEIVED
APR 16 2013
Dept of Alcoholic Beverage Control
San Francisco

California Department of Alcoholic Beverage Control
attn: Risel Melodias re: Liquor License Transfer #530587
33 New Montgomery Street #1230
San Francisco CA 94105

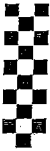
Re: Applications of *Beaux*, proposed new bar at 2344 Market Street, San Francisco

Ladies and gentlemen,

This confirms that the Members of **Merchants of Upper Market & Castro (MUMC)** have voted unanimously to **SUPPORT** the Applications before each of your jurisdictions for *Beaux*, a new bar proposed to be located at 2344 Market Street in San Francisco.

MUMC is the merchants' organization serving San Francisco's Castro-Upper Market area, generally along Upper Market Street from Octavia Blvd. to Castro Street; Castro from Market to 19th Street, and cross streets throughout that area. **MUMC** has over 250 paid Members for the current year. The property covered by this matter is within **MUMC's** primary service area.

....continued



MUMC – Merchants of Upper Market & Castro

re: *Beaux*, proposed at 2344 Market Street, San Francisco

April 15, 2013

Page 2

Please let us know if you have any questions regarding MUMC's SUPPORT for these applications before you. Please include this letter in the matter's permanent file, and assure that it is provided to all of your panel members and to any other hearing or appeals panels at the time that this matter is considered by them. Thank you for considering our comments.

Respectfully,

Terry Asten Bennett, President

cc: Tim Eicher and partners, *Beaux*
email cc: Supervisor Scott Wicner and staff
Capt. Greg Corrales, SFPD Park Station
Capt. Bob Moser, SFPD Mission Station

Mumcl,rrBoSPntCommABCreBeaux041513

RECEIVED
APR 16 2013
Dept of Alcoholic Beverage Control
San Francisco

LIQUOR LICENSE REVIEW

TO: Planning Department
AnMarie Rodgers/CTYPLN/SFGOV
Georgia Powell/CTYPLN/SFGOV@SFGOV
Fax No.: 558-6409

File: 130247

Block/Lot: 3562/007

TO: Police Department
Inspector Nelly Gordon
Inspector Joseph Fong
Fax No.: 553-1463

Zone: NCD
Quad: SW

MP # 1300362

DATE: March 25, 2013

This item is tentatively scheduled to be heard in four to six weeks.

PLEASE EMAIL YOUR RESPONSE BY: May 6, 2013, to Derek Evans, Clerk,
Neighborhood Services and Safety Committee.

Derek.Evans@sfgov.org - Fax No: 554-7714

Applicant Name: Art Rodriguez
and Business Name: Deviate SF, Inc.
(2342-2348 Market Street)

Applicant Address: 709 E Colorado Blvd, Suite 200
Pasadena, CA 91101
and Phone No. (626) 683-9777

PLANNING COMMENTS: Approval Denial

Per conditions of Case No. 2010.0970C of
Motion No. 18236, AND revised Community
Liaison Officer to be designated & updated
w/ Planning Dept. prior to operation.

POLICE COMMENTS: Approval Denial

all right
5/6/13

ART RODRIGUEZ AND ASSOCIATES

709 E. Colorado Blvd., Suite 200 • Pasadena, CA 91101 • Tel (626) 683-9777 • Fax (626) 683-9991

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

March 6, 2013

Applicant: Deviate SF, Inc.
2342-2348 Market Street
San Francisco, CA 94114

Representative: Art Rodriguez & Associates

Honorable members of the Board of Supervisors:

On behalf of our client, Deviate SF, Inc., we at Art Rodriguez and Associates request of you a finding as to the public convenience or necessity that would be served by the issuance of a Type 48 On Sale General – Public Premises license for its dance bar and lounge at 2342-2348 Market Street, in the Castro District. Given the nature of the district, and the fact that the license is to be issued to an existing bar, we consider such a finding to be wholly warranted.

The site lies within Census Tract 105, where there exist 49 alcoholic beverage licenses; this is in excess of the 9 allowed by the Department of Alcoholic Beverage Control to serve a population of 2,217. Our client proposes to operate the bar and lounge from noon to two o'clock in the morning, seven days per week, with dancing and such live entertainment as amplified music, DJ's, cabaret, and drag shows. No food will be served on the premises, and minors shall not be granted admission.

We believe a finding of public convenience or necessity is justified in this case, given the nature of the district in which the use is proposed. The Castro is an entertainment destination in San Francisco, and a dance bar and lounge with alcohol service is consistent with its character. The facility at 2348 Market Street, in fact, has operated as a bar for around seventy-five years, and was the site of the famed Missouri Mule, which opened in 1963 as the city's first gay bar. We therefore believe that the granting of the Type 48 license will not yield any adverse and out-of-character impacts upon the district.

For the aforesaid reasons, it is our hope that the Board of Supervisors will, as we do, see the proposed use as a service to the public's convenience in one of the city's premier entertainment destinations. Attached, for your reference, is a diagram of the

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2013 MAR 11 AM 10:06
All

artrodriguez@earthlink.net



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

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Motion 18236

HEARING DATE: DECEMBER 9, 2010

Date: December 2, 2010
Case No.: 2010.0970 C
Project Address: 2342-2348 MARKET STREET
Zoning: Upper Market Neighborhood Commercial District
 65-B Height and Bulk District
Block/Lot: 3562/007
Project Sponsor: Greg Bronstein
 2342-2348 Market Street
 San Francisco, CA 94114
Staff Contact: Elizabeth Watty - (415) 558-6620
Elizabeth.Watty@sfgov.org
 Kate Conner - (415) 575-6914
Kate.Conner@sfgov.org

ADOPTING FINDINGS RELATING TO THE MODIFICATION OF CONDITIONAL USE AUTHORIZATION CASE NO. 2008.0444C, MOTION NO. 17637, PURSUANT TO PLANNING CODE SECTION 303, TO ENCLOSE OR REMOVE THE EXISTING SMOKING PATIO IN ORDER TO MITIGATE COMPLAINTS REGARDING NOISE AT THE FRONT OF AN EXISTING BAR WITH OTHER ENTERTAINMENT (DBA TRIGGER) LOCATED AT 2342-2348 MARKET STREET WITHIN THE UPPER MARKET NEIGHBORHOOD COMMERCIAL DISTRICT (NCD) AND 65-B HEIGHT AND BULK DISTRICT.

PREAMBLE

On April 17, 2008, Greg Bronstein of Trigger (at the time of application, the bar was known as Jet), (hereinafter "Applicant"), made application for Conditional Use on the property at 2342-2348 Market Street, Assessor's Lot 007 in Block 3562 (hereinafter "Property"), for a use exceeding 2,999 square feet that would accommodate an expansion of the existing bar and other entertainment uses into the adjacent ground-floor commercial tenant space, including construction of an outdoor smoking patio at the front of the property, per the application and plans dated April 14, 2008 in the project file for Case No. 2008.0444C.

On June 26, 2008 the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2008.0444C and approved said Conditional Use Authorization with conditions.

On October 15, 2009, a complaint (Complaint ID 10416) was received by the Planning Department stating that there was excessive noise at Trigger, a violation of the conditions of approval (numbers 13 and 14) adopted by the Planning Commission as part of Motion 17637, Conditional Use Authorization 2008.0444C.

On November 25, 2009, Planning staff issued an Enforcement Notification. Planning staff was in communication with Jeremy Paul, who represents the business owner, who stated that he would work with Greg Bronstein, the business operator, and the sound engineer for Trigger Bar, CM Salter. Planning staff contacted the sound inspector at the Entertainment Commission, Vajra Granelli, who sent over a report he made at the end of May 2009, which stated that "the glass front of the building [along the western portion of the façade] is unable to contain the sound from inside the club, like the sound of bass." He continued in the report by stating that the outdoor smoking area at the front was acting "like a sound box" and bouncing the sound of people's conversations out onto the street. Planning staff did not receive evidence of abatement of this Enforcement Notification and continued to receive complaints about the noise from neighbors.

On February 25, 2010, Planning Enforcement staff attended a community meeting about Trigger and the numerous complaints received by both the Planning Department and the Entertainment Commission. Entertainment Commission staff relayed the findings from their previous inspections and made suggestions to Trigger's representatives who were present at the meeting to mitigate the sound including baffling along the doorway.

On March 24, 2010, Planning Enforcement staff attended a Eureka Valley Neighborhood Association meeting where the pending enforcement of Trigger was discussed. Bob Davis from the Entertainment Commission stated that Trigger would have seven days to make the necessary adjustments or else Trigger would risk suspension of their entertainment permit.

On April 17, 2010, the sound inspector for the Entertainment Commission made a site visit. Trigger continued to violate the conditions of approval. The report stated, "the sound level of bass coming from the club is better, but still audible across the street. The sound from the smoking section is very loud; from across the street you can hear people's conversations. The sound of the smoking section has not gotten any better."

On April 28, 2010, Planning Enforcement staff received a copy of a letter from the operator of Trigger, Greg Bronstein, to Bob Davis of the Entertainment Commission. Included was a plan for installing sound mitigation measures.

On May 7, 2010, a Notice of Violation and Penalty was issued by the Planning Department with penalty accrual beginning on May 24, 2010.

On May 22, 2010, the Entertainment Commission sound inspector made a site visit and stated in his report that although the sound from the club was better, Trigger continued to violate the conditions of approval.

On June 13, 2010, the Entertainment Commission sound inspector made a site visit. He stated in his report that, "the sound from the smoking section is very loud; from across the street you can hear people's conversations. The sound of the smoking section is still very high. The sound from the people standing in front of the club is very loud."

On May 24, 2010 the notice of violation and assessment of penalties became final. The operator of Trigger did not either request a hearing before the Zoning Administrator to contest the notice of violation and assessment of penalties or appeal the notice and penalties to the Board of Appeals within the 15-day deadline for appeal.

On June 28, 2010, Planning staff sent an Administrative Penalty Reminder to all interested parties stating that due to continued noncompliance, the amount of administrative penalties had reached an amount of \$8,500.00.

On July 19, 2010, Planning Enforcement staff sent a second Administrative Penalty Reminder stating that due to continued noncompliance, the amount of administrative penalties had reached an amount of \$14,000.00.

On September 5, 2010, the Entertainment Commission sound inspector made a site visit and stated the following, "the sound from the smoking section is very loud; from across the street you can hear people's conversations. The sound of the smoking section is still very high."

On October 27, 2010, Planning staff initiated a request for modification of the conditions of approval of 2008.0444C, Motion No. 17637, by filing 2010.0970C.

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1(a) categorical exemption. The Commission has reviewed and concurs with said determination.

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

MOVED, that the Commission hereby approves the modifications to the previously approved Conditional Use Authorization 2008.0444C, as requested by Planning staff in Application No. 2010.0970 C subject to the conditions contained in "EXHIBIT A", attached hereto and incorporated herein by reference thereto, based on the following findings:

FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Project Description.** The Planning Department seeks a modification to the previously approved Conditional Use Authorization (approved through Case No. 2008.0444C, Motion No. 17637), pursuant to Planning Code Section 303, to eliminate or enclose the outdoor activity area (smoking patio) located at the front of the existing bar with other entertainment (dba Trigger), in order to mitigate noise complaints that have gone unresolved. The subject property is within the Upper Market Neighborhood Commercial District and 65-B Height and Bulk District.

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

3. **Site Description and Present Use.** The subject property is located at 2342-2348 Market Street, at the north side of Market Street, between Castro and 16th Streets. The lot currently contains a one-story commercial structure – built in 1907 – that includes one commercial tenant space (occupied by a bar dba Trigger), and one dwelling unit that is located in the eastern corner of the lot. The bar contains approximately 3,240 square feet of gross floor area and approximately 45 feet of frontage. The northeastern corner of the lot contains a detached structure with one dwelling unit that is not associated with this Project. The Property is located within the Upper Market Neighborhood Commercial District and 65-B Height and Bulk District.
4. **Surrounding Properties and Neighborhood.** Land uses located within the subject block of Market Street include one-, two-, three-, and four-story buildings containing primarily commercial uses on the ground floor with residential units located above. The properties on the subject block are all located within the Upper Market Neighborhood Commercial District. Land uses located along Castro Street include a mix of commercial and residential uses, and uses along 16th Street are primarily residential in character, with mostly two-, three-, and four-story buildings that are zoned RH-3 (Residential, House, Three Units). To the east of the Subject Lot are properties containing Copy Central and a French Cleaners; and to the west is a property containing Streetlight Records at the ground floor. Across Market Street are mixed-use buildings with ground floor commercial and one-to-two stories of residential occupancy above.

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

5. **Public Comment.** As of December 1, 2010, the Planning Department has received 3 letters supporting the Department's request of the Commission to modify their previous approval to

enclose or remove the outdoor activity area (i.e. smoking patio) at the front of the property. Duboce Triangle Neighbors Association (DTNA) and Eureka Valley Neighbors Association (EVNA) also support this modification, although they would also support of a full revocation. Greg Bronstein, the business operator, submitted a letter opposing the Department's request for modification.

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. **Compliance with Conditions of Approval.** Planning Code Section 174 states that every condition, stipulation, special restriction and other limitation imposed by administrative actions pursuant to this Code, whether such actions are discretionary or ministerial, shall be complied with in the development and use of land and structures. All such conditions, stipulations, special restrictions and other limitations shall become requirements of this Code, and failure to comply with any such condition, stipulation, special restriction or other limitation shall constitute a violation of the provisions of the Planning Code.

Planning staff received complaints stating that conditions of approval from Motion No. 1763, Conditional Use Authorization 2008.0444C were being violated by Trigger. Specifically, the conditions being violated were item number 13 and 14. Condition number 13 states:

The Other Entertainment shall be performed within the enclosed building only. All entertainment shall comply with the conditions imposed by the Entertainment Commission Permit and the City's Noise Ordinance, and shall not be audible outside the enclosed building. Bass and vibrations shall also be contained within the enclosed structure.

Noise must be contained within the facility. Condition number 14 states:

The business operation shall be conducted in such a manner that noise, vibration, odors and nuisance factors shall be adequately controlled so that nearby residents are not adversely affected. The heating, ventilation and air-conditioning (HVAC) systems in the building shall be upgraded as necessary to allow implementation of the conditions of this Motion. These systems shall have noise baffling panels or walls to minimize noise emission.

Due to continued noncompliance, Planning staff initiated enforcement procedures under Planning Code Section 176.

- B. **Enforcement against Violations.** Planning Code Section 176 authorizes the Zoning Administrator to enforce against any condition of approval found to be in violation.

This request by the Department for the Commission to modify the previously approved Conditional Use Authorization was the result enforcement action that has spanned over many months. The first complaint was filed in October 2009 for violation of conditions of approval. On November 25, 2009, Planning staff issued an Enforcement Notification. After continued noncompliance, Planning Department staff issued a Notice of Violation and Penalty on May 7, 2010, with penalty accrual beginning on May 24, 2010. On May 24, 2010 the notice of violation and assessment of penalties became final. The responsible party did not either request a hearing before the Zoning Administrator to contest the notice of violation and assessment of penalties or appeal the notice and penalties to the

Board of Appeals within the 15-day deadline for appeal. On June 28, 2010, Planning staff sent an Administrative Penalty Reminder to all interested parties stating that due to continued noncompliance, the amount of administrative penalties had reached an amount of \$8,500.00. On July 19, 2010, Planning Enforcement staff sent a second Administrative Penalty Reminder stating that due to continued noncompliance, the amount of administrative penalties had reached an amount of \$14,000.00. Planning staff has diligently followed enforcement procedures outlined in Planning Code Section 176. As of the date on this writing, on December 2, 2010, due to continued noncompliance, the amount of administrative penalties had reached an amount of \$48,250.00.

- C. **Conditions of Approval.** The Conditional Use Authorization granted under Planning Code Section 303 allowed Trigger to operate at its current size and intensity with conditions that were an integral component of the project. The Commission conditioned their approval on the business operator's full continued compliance with the Entertainment Commission and Policy Department, including a working relationship with the Entertainment Commission's Sound Technician to ensure compliance with the San Francisco Sound Ordinance and to verify that all sound, bass, and vibrations be contained within the enclosed structure.

Pursuant to Planning Code Section 303 it is within the jurisdiction of the Planning Commission to modify the conditions of approval if the use operates in such a manner as to create hazardous, noxious or offensive conditions and these circumstances have not been abated through administrative action of the Director, the Zoning Administrator or other City authority. Planning staff is recommending the enclosure and elimination of the smoking patio located at the front of Trigger. Revised plans illustrating removal of the smoking patio must be submitted to the Planning Department for review and approval. Conditions number 1, 15, 16, 17 of Motion No. 17637 refer to the smoking patio. These references should be deleted and the conditions modified to reflect the new design. The outstanding conditions from Motion No. 17637 shall remain valid and are included in this motion with the revised conditions.

- D. **Use Size.** Planning Code Section 721.21 permits a use size of 3,000 square feet and above in the Upper Market NCD with Conditional Use Authorization.

Under Motion No. 17637; Case No. 2008.0444C, the Planning Commission conditionally authorized a use size of approximately 3,240 square feet, pursuant to Planning Code Sections 721.21 and 790.130.

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

Conditional Use Authorization 2008.0444C included a new outdoor activity area (smoking patio) that abuts the front property line. The intention of this space was to allow an area for patrons who smoke on the Subject Property rather than having patrons loitering on the public sidewalk. This outdoor activity area is located entirely within the Subject Property, and is accessed via a succession of two doors so to prevent noise from escaping the interior space as patrons travel to and from the smoking

patio. This smoking patio continues to be the cause of multiple complaints made to both the Planning Department and the Entertainment Commission. Although permitted by right, this patio is not appropriate for the given location and has been a nuisance to surrounding neighbors. Planning staff recommends the removal of the outdoor activity area.

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

Under Motion No. 17637; Case No. 2008.0444C, the Planning Commission conditionally authorized the expansion of the existing bar into the adjacent commercial tenant space, pursuant to Planning Code Sections 721.41 and 790.22. Planning staff recommends the continued operation of the bar use with the modification to remove the smoking patio.

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

Under Motion No. 17637; Case No. 2008.0444C, the Planning Commission conditionally authorized the expansion of the existing other entertainment into the adjacent commercial tenant space, pursuant to Planning Code Sections 721.48 and 790.38.

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

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

The Project provides uses that are both necessary and desirable for the neighborhood in that it will allow for the continued operation of a well-used existing neighborhood-serving use. With the modifications recommended by Planning staff, this use will be more compatible with the neighborhood as the removal of the smoking patio will mitigate noise concerns. There appears to be a demand for the existing use in this neighborhood the expansion authorized by Conditional Use Authorization 2008.0444C was necessary to meet the neighborhood demand and to make the necessary improvements to the facility. Only one element of the expansion, the smoking patio, has proven problematic. Enclosing the smoking patio will not enlarge the existing building envelope and Planning staff will ensure that the facade alterations will utilize high quality materials and will be compatible with the existing character of the neighborhood. The Project provides the community a choice of nighttime entertainment venues, specifically one that permits dancing.

- 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;

Planning staff recommends eliminating or enclosing the smoking patio at the front of Trigger. This modification will alleviate noise concerns and improve the health, safety and convenience of those residing in the area.

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

Traffic conditions remained substantially unaltered by this Project, and should remain so with this modification, because the proposed use is a neighborhood-serving business, frequented via foot, cab, or public transportation by many residents of the surrounding neighborhoods. This Property is well served by public transit, being on Market Street near the Castro Street MUNI Station, and along or in close proximity to the 24-Divisadero, 35-Eureka, and 37-Corbet buses, and the K-, L-, M-, T-, S-, and F-MUNI lines. Further, condition of approval number 22 limits the hours allowed for loading activities and garbage collection.

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

This commercial use has proven problematic in the past. Multiple complaints have been made by individuals, the Duboce Triangle Neighborhood Association, and the Eureka Valley Neighborhood Association to the Planning Department and the Entertainment Commission about the noise emitted from Trigger. As a result, Planning staff recommends the elimination or enclosure of the smoking patio to mitigate the noise emitted. If adopted, it is anticipated that the Project will not create any noxious or offensive emissions, such as glare, dust, or odor. The amplified entertainment will be regulated by the Entertainment Commission and Police Department so that it will meet the Noise Ordinance, and not be heard outside of the enclosed structure.

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

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

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

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

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

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

Amplification will be permitted between midnight and 2:00 a.m., seven days-a-week, based on the results of a sound test conducted by the Entertainment Commission. The Entertainment Commission will not permit noise and vibration associated with the entertainment use to be audible beyond the enclosed structure. Previously, the Planning Department received complaints regarding the amplified music; however, after multiple sound tests, the Project Sponsor was able to mitigate these concerns. The only outlying noise issue is the noise generated from patrons using the smoking patio.

- iii. Be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified on the San Francisco Noise Control Ordinance.

The San Francisco Entertainment Commission regulates noise, verifying that the decibel levels specified in the San Francisco Noises Control Ordinance are not exceeded. Enclosing or eliminating the smoking patio will remedy outstanding noise concerns.

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

The Planning Commission authorizes this Conditional Use to allow amplified entertainment between midnight and 2:00 a.m. seven (7) days-a-week. Although this does not satisfy the criteria set forth in C (2) above, the Commission relies on the Entertainment Commission and Police Department to regulate the City's Noise Ordinance. The Noise Ordinance does not permit sound to be audible beyond the enclosed structure, and modifying the design so as to enclose or eliminate the smoking patio, will help make this requirement possible. This modified design will minimize disruption to residences in and around the district.

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

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.1:

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

Policy 1.2:

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

Policy 1.3:

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

The Project provides desirable goods and services to the neighborhood and will provide resident employment opportunities to people in the community. Trigger is an independently-owned business and a popular nighttime destination for many people. The intensity of uses proposed at the Site are compatible with the other businesses along Market Street, and the conditions of approval shown in Exhibit A are imposed to mitigate noise complaints. The proposed modifications will mitigate undesirable consequences (noise) while continuing to provide residents and visitors with a popular nighttime destination. The enclosure or elimination of the smoking patio will ensure reasonable performance standards from Trigger.

OBJECTIVE 2:

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

Policy 2.1:

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

The modifications enable the retention of this existing commercial activity.

OBJECTIVE 3: PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

Policy 3.1:

Promote the attraction, retention and expansion of commercial and industrial firms which provide employment opportunities for unskilled and semi-skilled workers.

Policy 3.4:

Assist newly emerging economic activities.

Trigger is a small independently-owned and operated business that provides employment opportunities for San Francisco residents. Trigger provides employment opportunities for local residents and musicians, and will also provide employment opportunities during non-traditional business hours. This modification allows for the retention of this business.

OBJECTIVE 6: MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.1:

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

No commercial tenant would be displaced by the authorization of this Conditional Use, and the Project would not prevent the Upper Market District from achieving optimal diversity in the types of goods and services available in the neighborhood. Rather, this Conditional Use Authorization allows for the retention of an existing bar and nightclub.

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

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

The granting of this Conditional Use Authorization will not adversely affect the existing neighborhood retail uses because the existing use is a bar with other entertainment. The business is owned and operated by a San Francisco resident.

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

The immediate vicinity is characterized by predominantly commercial and mixed-use buildings of two-to-three stories in height with ground-floor retail stores along Market Street. The Planning Department is recommending that the smoking patio located at the front of Trigger be enclosed to mitigate noise concerns; however, the existing envelope will not be affected. The existing housing and neighborhood character will be preserved and protected by the elimination of the smoking patio.

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

This Project does not include any residential dwelling units. There is one dwelling unit located at the rear of the property in a detached structure, and that unit will not be affected by the Project. The

modification of the conditions of approval for an existing bar with other entertainment will not impact the City's supply of affordable housing as the Project does not contain or remove housing.

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

The Project has less than 5,000 square feet and will have a low demand on neighborhood parking. The area is well-served by public transit, with a MUNI underground station at the corner of Castro and Market Streets, and numerous bus lines along Market Street. The Project will not impede MUNI transit or overburden the City's streets or neighborhood parking.

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

The existing buildings do not contain industrial uses, and no industrial uses will be displaced as part of this Project. This modification will enable service sector employment opportunities to be retained.

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

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

- G. That landmarks and historic buildings be preserved.

The Department proposed facade alterations will not significantly impact the existing structure and the specific design remedies will be reviewed for consistency with the Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties.

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

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

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

Motion 18236
December 9, 2010

CASE NO. 2010.0970 C
2342-2348 Market Street

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. 2010.0970C subject to the following conditions attached hereto as "EXHIBIT A" which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 18236. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94103.

I hereby certify that the Planning Commission **ADOPTED** the foregoing Motion on December 9, 2010.

Linda Avery
Commission Secretary

AYES: Commissioners Miguel, Olague, Moore, Sugaya, Fong, Antonini

NAYS: None

ABSENT: Commissioner Borden

ADOPTED: December 9, 2010

Exhibit A

Conditions of Approval

The conditions of approval adopted by the Planning Commission on June 26, 2008 in Motion No. 17637 are hereby incorporated below into these conditions of approval. These conditions shall supersede the conditions outlined in Motion No. 17637.

1. Project seeks a Conditional Use Authorization, pursuant to Planning Code Sections 303, 721.21, 790.130, 721.41, 790.22, 721.48, 790.38, for a use size exceeding 2,999 square feet that will accommodate the expansion of the existing bar with other entertainment (dba Trigger) into the adjacent ground-floor commercial space. The Subject Property is within the Upper Market Neighborhood Commercial District and 65-B Height and Bulk District. Such modifications apply to the property located at 2342-2348 Market Street, in general conformance with plans filed with the Application as received on May 30, 2008, and stamped "EXHIBIT B" included in the docket for Case No. 2008.0444C, reviewed and approved by the Commission on June 26, 2008. Conditional Use Authorization 2010.0970C was approved to modify Conditional Use Authorization 2008.0444C to eliminate or enclose the smoking area to mitigate noise complaints. Plans incorporating the elimination or enclosure of the front smoking patio, which will supersede those submitted on May 30, 2008, shall be submitted to the Planning Department for review and approval within 60 days of this approval.
2. After the Conditional Use Authorization for the Project becomes final and before the issuance of any building permit, the Zoning Administrator shall approve and order the recordation of a Notice of Special Restrictions in the Official Records of the Recorder of the City and County of San Francisco against the land record of the Subject Lot. Said notice shall state that the operation of the proposal has been authorized by and is subject to the conditions of this Motion applicable to the Project. From time to time, after the recordation of such notice, at the request of the Applicant or the successor-in-interest thereto, the Zoning Administrator shall affirm in writing the extent to which the conditions of this motion have been satisfied.
3. Violation of the conditions contained in this Motion or of any other provisions of the Planning Code may be subject to abatement procedures and fines of not less than \$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. Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and are subsequently reported to the Zoning Administrator and found to be in violation of the Planning

Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter in accordance with the hearing notification and conduct procedures as set forth in Section 174, 306.3 and 306.4 of the Planning Code to consider revocation of this Conditional Use Authorization.

6. The Project Sponsor shall implement any other conditions and/or management practices – as determined by the Zoning Administrator, in consultation with the Police Department, Entertainment Commission, and other appropriate public agencies – to be necessary to ensure that management and/or patrons of the establishment maintain the quiet, safety, and cleanliness of the premises and the vicinity of the use.
7. This Authorization is valid for a period of three (3) years from the date of approval by the Planning Commission. This Authorization may be extended at the discretion of the Zoning Administrator for up to two years where the failure to implement the Project is caused by delay by any other public agency or by legal challenge.
8. The Project Sponsor shall appoint a Community Liaison Officer to address issues of concern to neighbors related to the operation of this Project. The Community Liaison Officer will be the current manager, Greg Bronstein, who can be contacted at (415) 259-1123. The Applicant will keep the Zoning Administrator updated with any changes to the contact information or if a different liaison is designated.
9. The Project Sponsor – though the Community Liaison – shall work with existing neighbors and neighborhood groups toward resolving any problems identified as being caused by the bar and the entertainment use. The Zoning Administrator shall report to the Commission any unresolved matters brought to the Department's attention regarding noncompliance with or ineffectiveness of any condition contained in this Exhibit.
10. The operator shall comply with all conditions required by the Entertainment Commission and Police Department at all times.
11. Prior to commencement of the entertainment use expansion, a final sound test shall be conducted by the Entertainment Commission's Sound Technician in order to set the maximum decibel limit allowed for the Subject Property. Any future structural or soundproofing alterations made to the building shall require a new sound check by the Entertainment Commission's Sound Technician to ensure compliance with the San Francisco Sound Ordinance and to verify that all sound, bass, and vibrations are contained within the enclosed structure. It is the responsibility of the Project Sponsor to recognize when such change to the building occurs and schedule the required sound check with the Entertainment Commission.
12. During the nine-month timeframe following completion of Trigger's entitlement process, Planning Department staff shall work with the Entertainment Commission's Sound Technician to ensure that two unannounced sound checks are successfully conducted.

13. The Other Entertainment shall be performed within the enclosed building only. All entertainment shall comply with the conditions imposed by the Entertainment Commission Permit and the City's Noise Ordinance, and shall not be audible outside the enclosed building. Bass and vibrations shall also be contained within the enclosed structure.
14. The business operation shall be conducted in such a manner that noise, vibration, odors and nuisance factors shall be adequately controlled so that nearby residents are not adversely affected. The heating, ventilation and air-conditioning (HVAC) systems in the building shall be upgraded as necessary to allow implementation of the conditions of this Motion. These systems shall have noise baffling panels or walls to minimize noise emission.
15. The building walls of the Subject Property, including doors and windows, shall be adequately soundproofed, and made of highly-rated sound-limiting material. Windows serving Trigger shall be inoperable or locked in such a manner that patrons are unable to unlock the windows at their leisure. The Project Sponsor shall ensure that the establishment provides adequate ventilation within the structure such that doors and/or windows are not left open during business hours.
16. Dancing shall be permitted only on the dance floor as indicated on the plans filed with the Application for Conditional Use Authorization and labeled as "Exhibit B".
17. On those evenings when dancing or live entertainment occurs, employees of the establishment shall be posted at all entrances and exits for the establishment to ensure that patrons waiting to enter and/or exit the establishment are encouraged not to park motorcycles on the sidewalk and to respect the quiet and cleanliness of the neighborhood as they leave the vicinity.
18. The Project Sponsor shall maintain the Subject Property and all sidewalks abutting the Subject Property in a clean, sound and attractive condition, consistent with the general appearance of the neighborhood. Such maintenance shall include at a minimum, daily litter pick-up and disposal, and washing or steam clearing of the main entrance and abutting sidewalks at least once each week.
19. The Project Sponsor shall designate employees of the establishment to walk down the north side of Market Street between Castro and 16th Streets some time between 30 minutes after closing time and 8:00 a.m. the following morning to pick-up and dispose of any trash.
20. All garbage and recycling containers shall be stored within the enclosed building or designated storage areas except during collection periods.
21. The Project Sponsor shall prohibit loading activities and garbage/recycling collection at the Subject Property during early morning hours and weekday peak commute hours. Such loading activities on Market Street shall not be permitted any day of the week from 11:00 p.m. and 9:30 a.m., and shall not be permitted during weekday evening commute hours from 4:00 p.m. to 6:30 p.m.

22. The Project Sponsor shall retain the services of private "Police Specials" officers or other legally authorized and trained professional security whose duties include ensuring that patrons behave in an orderly, peaceful and respectful manner, not only within Trigger, but also within a one-block distance from Trigger (or approximately 500-feet from the Subject Property, whichever is greater). In addition, the Project Sponsor shall have Trigger staff or hired security guards stationed at every entrance and exit (emergency exits do not require such monitoring) of Trigger. The staff and/or security stationed at these entrances and exits shall monitor patrons coming to and from Trigger within 50-feet of the business and ensure their orderly behavior. At a minimum, the private "Police Specials" and door staff shall be on duty and monitoring their respective responsibilities while Trigger is open during the hours of 10:30 p.m. to 2:00 a.m. and shall continue to patrol and monitor the area at least 30 minutes after the bar closes.
23. The Project Sponsor shall provide well lit notices that are prominently displayed at all entrances and exits of the establishment urging patrons to leave the establishment and neighborhood in a quiet, peaceful and orderly fashion and to not litter or block driveways in the neighborhood. These notices shall be made of durable material and permanently affixed to the building.
24. The Project Sponsor and Trigger management shall at all times keep a copy of these "Conditions of Approval-Exhibit A" on the premises for reference. Trigger management shall review with new employees as part of their training and orientation, and periodically (at least at twelve month intervals) review with the other Trigger employees, these conditions of approval related to operational concerns and quality of life issues, with emphasis on noise control, street cleanliness, and respectful behavior towards neighbors by Trigger patrons. Employees are to be reminded that continued successful operation of Trigger, and their respective jobs are dependant on compliance with these conditions of approval.

EW: I:\Cases\2010\2010.0970\Final Motion.doc

APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE(S)

ABC 211 (6/99)

PETER IAMPALA

(626) 683-9777

TO: Department of Alcoholic Beverage Control
33 NEW MONTGOMERY STREET
SUITE 1230
SAN FRANCISCO, CA 94105
(415) 356-6500

File Number: 530587
Receipt Number: 2158128
Geographical Code: 3800
Copies Mailed Date: March 1, 2013
Issued Date:

DISTRICT SERVING LOCATION: SAN FRANCISCO
First Owner: DEVIATE SF, INC.
Name of Business: BEAUX
Location of Business: 2344-48 MARKET ST
SAN FRANCISCO, CA 94114
County: SAN FRANCISCO
Is Premise inside city limits? Yes
Mailing Address: PO BOX 14127
(If different from SAN FRANCISCO, CA 94114
premises address)

Block/Lot: 3562/007
Zoning: NCD
Quad: SW
MBS # 1300314

Census Tract 0169.00

Type of license(s): 48

Transferor's license/name: 520624 / RM CHEVYS LLC

Dropping Partner: Yes ___ No ___

License Type	Transaction Type	Fee Type	Master	Dup	Date	Fee
48 - On-Sale General Public	ANNUAL FEE	P40	Y	0	03/01/13	\$876.00
48 - On-Sale General Public	PREMISE TO PREMISE TRANSFER	P40	Y	0	03/01/13	\$100.00
48 - On-Sale General Public	EXCHANGE FEES	P40	Y	0	03/01/13	\$100.00
48 - On-Sale General Public	PERSON-TO-PERSON TRANSFER	P40	Y	0	03/01/13	\$1,250.00
Total						\$2,326.00

Have you ever been convicted of a felony? No

Have you ever violated any provisions of the Alcoholic Beverage Control Act, or regulations of the

Department pertaining to the Act? No

Explain any "Yes" answer to the above questions on an attachment which shall be deemed part of this application.

Applicant agrees (a) that any manager employed in an on-sale licensed premises will have all the qualifications of a licensee, and (b) that he will not violate or cause or permit to be violated any of the provisions of the Alcoholic Beverage Control Act.

STATE OF CALIFORNIA County of SAN FRANCISCO

Date: March 1, 2013

Under penalty of perjury, each person whose signature appears below, certifies and says: (1) He is an applicant, or one of the applicants, or an executive officer of the applicant corporation, named in the foregoing application, duly authorized to make this application on its behalf, (2) that he has read the foregoing and knows the contents thereof and that each of the above statements therein made are true, (3) that no person other than the applicant or applicants has any direct or indirect interest in the applicant or applicant's business to be conducted under the license(s) for which this application is made, (4) that the transfer application or proposed transfer is not made to satisfy the payment of a loan or to fulfill an agreement entered into more than ninety (90) days preceding the day on which the transfer application is filed with the Department or to gain or establish a preference to or for any creditor or transferor or to defraud or injure any creditor of transferor, (5) that the transfer application may be withdrawn by either the applicant or the licensee with no resulting liability to the Department.

Effective July 1, 2012, Revenue and Taxation Code Section 7057, authorizes the State Board of Equalization and the Franchise Tax Board to share taxpayer information with Department of Alcoholic Beverage Control. The Department may suspend, revoke, and refuse to issue a license if the licensee's name appears in the 500 largest tax delinquencies list. (Business and Professions Code Section 494.5.)

Applicant Name(s)

Applicant Signature(s)

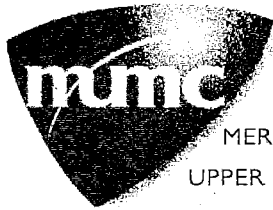
DEVIATE SF, INC.

See 211 Signature Page

Recommend approval. Type 48 license is permitted w/ a Bart (790.22) authorized & subject to conditions of case No. 2010-0970C Motion No. 18236.

1768

5/6/13



MERCHANTS OF
UPPER MARKET & CASTRO

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2013 APR 16 PM 2:56

AK

584 Castro Street, # 333
San Francisco CA 94114-2512
415/431-2359
Email MUMC-SF@earthlink.net
www.CastroMerchants.com

Terry Asten Bennett, President
415/431-5365 Ext. 4
TerryAsten@cs.com

April 15, 2013

By Email and USPS hardcopy

San Francisco Board of Supervisors
Land Use and Economic Development Committee
attn: Derek Evans, Committee Clerk
City Hall – Room 244
1 Dr. Carleton B. Goodlett Place
San Francisco CA 94102-4689

San Francisco Entertainment Commission
attn: Jocelyn Kane, Executive Director
City Hall – Room 453
1 Dr. Carleton B. Goodlett Place
San Francisco CA 94102-4689

California Department of Alcoholic Beverage Control
attn: Risel Melodias re: Liquor License Transfer #530587
33 New Montgomery Street #1230
San Francisco CA 94105

Re: Applications of *Beaux*, proposed new bar at 2344 Market Street, San Francisco

Ladies and gentlemen,

This confirms that the Members of **Merchants of Upper Market & Castro (MUMC)** have voted unanimously to **SUPPORT** the Applications before each of your jurisdictions for *Beaux*, a new bar proposed to be located at 2344 Market Street in San Francisco.

MUMC is the merchants' organization serving San Francisco's Castro-Upper Market area, generally along Upper Market Street from Octavia Blvd. to Castro Street; Castro from Market to 19th Street, and cross streets throughout that area. **MUMC** has over 250 paid Members for the current year. The property covered by this matter is within **MUMC**'s primary service area.

.....continued

MUMC – Merchants of Upper Market & Castro

re: *Beaux*, proposed at 2344 Market Street, San Francisco

April 15, 2013

Page 2

Please let us know if you have any questions regarding MUMC's SUPPORT for these applications before you. Please include this letter in the matter's permanent file, and assure that it is provided to all of your panel members and to any other hearing or appeals panels at the time that this matter is considered by them. Thank you for considering our comments.

Respectfully,



Terry Asten Bennett, President

cc: Tim Eicher and partners, *Beaux*

email cc: Supervisor Scott Wiener and staff

Capt. Greg Corrales, SFPD Park Station

Capt. Bob Moser, SFPD Mission Station

MumcLtrBoSEntCommABCReBeaux041513

Evans, Derek

From: MUMC-SF [mumc-sf@earthlink.net]
Sent: Sunday, April 14, 2013 4:21 PM
To: Evans, Derek; Kane, Jocelyn; Riselwyn.Melodias@ABC.CA.gov
Cc: Wiener, Scott; Taylor, Adam; Power, Andres; Cretan, Jeff; Corrales, Greg; Moser, Bob; TEicher@me.com
Subject: MUMC support for Beaux at 2344 Market, SF
Attachments: MumcLtrBoSEntCommABCReBeaux041513.doc

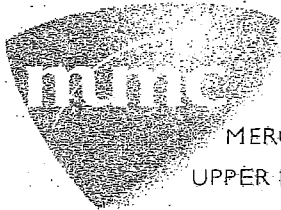
Derek Evans, S.F. Board of Supervisors, Land Use & Economic Development Committee
Jocelyn Kane, S.F. Entertainment Commission
Risel Melodias, Calif. Dept. of Alcoholic Beverage Control
cc: S.F. Sup. Scott Wiener & staff; SFPD Cpts. Greg Corrales (Park Station), Bob Moser (Mission Station);
Tim Eicher & partners for *Beaux*

Attached is a letter of support for *Beaux*, a proposed new bar at 2344 Market Street in San Francisco.

A signed hardcopy of this letter is being mailed to the primary addressees on Monday, April 15.

Please let MUMC know if you have questions about MUMC's support for *Beaux*. Thank you for your consideration.

Richard Magary, Administrator
MUMC - Merchants of Upper Market & Castro
584 Castro Street #333; San Francisco CA 94114-2512
415/431-2359
MUMC-SF@earthlink.net
www.CastroMerchants.com
4/14/2013 16:20pdt



MERCHANTS OF
UPPER MARKET & CASTRO

584 Castro Street, # 333
San Francisco CA 94114-2512
415/431-2359
Email MUMC-SF@earthlink.net
www.CastroMerchants.com

Terry Asten Bennett, President
415/431-5365 Ext. 4
TerryAsten@cs.com

April 15, 2013

By Email and USPS hardcopy

San Francisco Board of Supervisors
Land Use and Economic Development Committee
attn: Derek Evans, Committee Clerk
City Hall – Room 244
1 Dr. Carleton B. Goodlett Place
San Francisco CA 94102-4689

San Francisco Entertainment Commission
attn: Jocelyn Kane, Executive Director
City Hall – Room 453
1 Dr. Carleton B. Goodlett Place
San Francisco CA 94102-4689

California Department of Alcoholic Beverage Control
attn: Risel Melodias re: Liquor License Transfer #530587
33 New Montgomery Street #1230
San Francisco CA 94105

Re: Applications of *Beaux*, proposed new bar at 2344 Market Street, San Francisco

Ladies and gentlemen,

This confirms that the Members of **Merchants of Upper Market & Castro (MUMC)** have voted unanimously to SUPPORT the Applications before each of your jurisdictions for *Beaux*, a new bar proposed to be located at 2344 Market Street in San Francisco.

MUMC is the merchants' organization serving San Francisco's Castro-Upper Market area, generally along Upper Market Street from Octavia Blvd. to Castro Street; Castro from Market to 19th Street, and cross streets throughout that area. **MUMC** has over 250 paid Members for the current year. The property covered by this matter is within MUMC's primary service area.

....continued

MUMC – Merchants of Upper Market & Castro

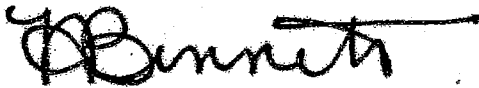
re: *Beaux*, proposed at 2344 Market Street, San Francisco

April 15, 2013

Page 2

Please let us know if you have any questions regarding MUMC's SUPPORT for these applications before you. Please include this letter in the matter's permanent file, and assure that it is provided to all of your panel members and to any other hearing or appeals panels at the time that this matter is considered by them. Thank you for considering our comments.

Respectfully,



Terry Asten Bennett, President

cc: Tim Eicher and partners, *Beaux*

email cc: Supervisor Scott Wiener and staff

Capt. Greg Corrales, SFPD Park Station

Capt. Bob Moser, SFPD Mission Station

MumcLtrBoSEntCommABCReBeaux041513



CASTRO/EUREKA VALLEY NEIGHBORHOOD ASSOCIATION

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

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

April 17, 2013

Risel Melodias
Department of Alcoholic Beverage Control
33 New Montgomery Street #1230
San Francisco CA 94105
re: Liquor License Transfer #530587

Derek Evans
Clerk of Neighborhood Services & Safety Committee
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, Ca. 94102-4689
re: Finding of Public Convenience or Necessity

Jocelyn Kane, Executive Director
San Francisco Entertainment Commission
City Hall – Room 453
1 Dr. Carleton B. Goodlett Place
San Francisco CA 94102-4689
re: Entertainment permit

Re: Applications of Beaux, proposed new bar at 2344 Market Street, San Francisco

The Castro/Eureka Valley Neighborhood Association is in full support of the transfer of the Type 48 liquor license #530857 and the issuance of a Place of Entertainment Permit for the proposed bar at 2344 Market Street, San Francisco.

Castro/EVNA is the oldest continuously running neighborhood association in San Francisco founded in 1878. We provide a public forum for the people who live, work, and play in the greater Eureka Valley area to discuss common issues and concerns, and help develop solutions to improve the neighborhood.

Notwithstanding the many problems to the neighborhood that were associated with the previous bar at this location, we have every confidence that the applicant, Tim Eicher, and his associates will be good neighbors and will operate their establishment in accordance with the Good Neighbor policies of the Entertainment Commission.

Tim operates three other bars in the neighborhood and is well known to us. His other establishments have never caused any complaints. Tim himself participates actively with the neighborhood groups to resolve problems in the interface between the residential neighborhood and the entertainment district.

Tim has kept us informed of the structural changes he will be making in the building at 2344 Market to contain sound and his other plans for making sure his patrons do not disturb the neighbors. He has described the welcoming type of low-key cozy bar he will operate during the day and during slow times at night, as well as the way in which the space will be used as a dance bar at other times.

EXECUTIVE COMMITTEE

Alan Beach-Nelson
President
Castro Street

Rob Cox
Secretary
Hartford Street

Gary Weiss
Treasurer
IXIA

DIRECTORS:

Patrick Crogan
Market Street

Tim Eicher
Q Bar

Mary Edna Harrell
Castro Street

Judith Hoyem
17th Street

Mark McHale
Hearth Real Estate

Dan Risman Jones
22nd Street

Aaron Seivertson
Hartford Street

Josh Bleacher Snyder
Hancock Street

EX OFFICIO DIRECTORS:

Steve Clark Hall
19th Street



CASTRO/EUREKA VALLEY NEIGHBORHOOD ASSOCIATION

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

We indeed welcome his plans to change the negative reputation of the bar at 2344 Market to one that the neighborhood will value and delight in. We expect that the new bar will honor and respect the fact that this address has historical significance as the site of one of the earliest gay bars in San Francisco, if not the very first one.

We look forward to Tim's continued participation as an important member of the Castro/Eureka Valley community.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Alan Beach-Nelson".

Alan Beach-Nelson
President

Judith Hoyem
Chair, Planning Committee

ART RODRIGUEZ AND ASSOCIATES

709 E. Colorado Blvd., Suite 200 • Pasadena, CA 91101 • Tel (626) 683-9777 • Fax (626) 683-9991

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

March 6, 2013

Applicant: Deviate SF, Inc.
2342-2348 Market Street
San Francisco, CA 94114

Representative: Art Rodriguez & Associates

Honorable members of the Board of Supervisors:

On behalf of our client, Deviate SF, Inc., we at Art Rodriguez and Associates request of you a finding as to the public convenience or necessity that would be served by the issuance of a Type 48 On Sale General – Public Premises license for its dance bar and lounge at 2342-2348 Market Street, in the Castro District. Given the nature of the district, and the fact that the license is to be issued to an existing bar, we consider such a finding to be wholly warranted.

The site lies within Census Tract 105, where there exist 49 alcoholic beverage licenses; this is in excess of the 9 allowed by the Department of Alcoholic Beverage Control to serve a population of 2,217. Our client proposes to operate the bar and lounge from noon to two o'clock in the morning, seven days per week, with dancing and such live entertainment as amplified music, DJ's, cabaret, and drag shows. No food will be served on the premises, and minors shall not be granted admission.

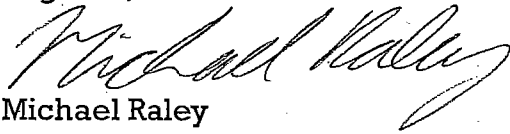
We believe a finding of public convenience or necessity is justified in this case, given the nature of the district in which the use is proposed. The Castro is an entertainment destination in San Francisco, and a dance bar and lounge with alcohol service is consistent with its character. The facility at 2348 Market Street, in fact, has operated as a bar for around seventy-five years, and was the site of the famed Missouri Mule, which opened in 1963 as the city's first gay bar. We therefore believe that the granting of the Type 48 license will not yield any adverse and out-of-character impacts upon the district.

For the aforesaid reasons, it is our hope that the Board of Supervisors will, as we do, see the proposed use as a service to the public's convenience in one of the city's premier entertainment destinations. Attached, for your reference, is a diagram of the

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2013 MAR 11 AM 10:06
AR

premises and a map, along with ABC Form 257 and Section 23958.4 B&P. Additionally, we have enclosed a copy of Planning Commission Motion # 17637, which grants a Conditional Use Authorization for the bar. We thank you for your time, and respectfully await your decision.

Regards,



Michael Raley
Land Use Consultant
Art Rodriguez and Associates

INFORMATION AND INSTRUCTIONS -

SECTION 23958.4 B&P

- Instructions This form is to be used for all applications for original issuance or premises to premises transfer of licenses.
- Part 1 is to be completed by an ABC employee, given to applicant with pre-application package, with copy retained in holding file or applicant's district file.
 - Part 2 is to be completed by the applicant, and returned to ABC.
 - Part 3 is to be completed by the local governing body or its designated subordinate officer or body, and returned to ABC.

PART 1 - TO BE COMPLETED BY ABC

1. APPLICANT'S NAME Deviante SF, Inc.			3. LICENSE TYPE 48		
2. PREMISES ADDRESS (Street number and name, city, zip code) 2344-48 Market St., San Francisco, CA 94114-1521					
4. TYPE OF BUSINESS					
<input type="checkbox"/> Full Service Restaurant	<input type="checkbox"/> Hofbrau/Cafeteria	<input type="checkbox"/> Cocktail Lounge	<input type="checkbox"/> Private Club		
<input type="checkbox"/> Deli or Specialty Restaurant	<input type="checkbox"/> Comedy Club	<input checked="" type="checkbox"/> Night Club	<input type="checkbox"/> Veterans Club		
<input type="checkbox"/> Cafe/Coffee Shop	<input type="checkbox"/> Brew Pub	<input type="checkbox"/> Tavern: Beer	<input type="checkbox"/> Fraternal Club		
<input type="checkbox"/> Bed & Breakfast:	<input type="checkbox"/> Theater	<input type="checkbox"/> Tavern: Beer & Wine	<input type="checkbox"/> Wine Tasting Room		
<input type="checkbox"/> Wine only	<input type="checkbox"/> All				
<input type="checkbox"/> Supermarket	<input type="checkbox"/> Membership Store	<input type="checkbox"/> Service Station	<input type="checkbox"/> Swap Meet/Flea Market		
<input type="checkbox"/> Liquor Store	<input type="checkbox"/> Department Store	<input type="checkbox"/> Convenience Market	<input type="checkbox"/> Drive-in Dairy		
<input type="checkbox"/> Drug/Variety Store	<input type="checkbox"/> Florist/Gift Shop	<input type="checkbox"/> Convenience Market w/Gasoline			
<input type="checkbox"/> Other - describe:					
5. COUNTY POPULATION 812,820		6. TOTAL NUMBER OF LICENSES IN COUNTY 284		7. RATIO OF LICENSES TO POPULATION IN COUNTY	
		<input checked="" type="checkbox"/> On-Sale <input type="checkbox"/> Off-Sale		<input type="checkbox"/> On-Sale <input type="checkbox"/> Off-Sale	
8. CENSUS TRACT NUMBER 105		9. NO. OF LICENSES ALLOWED IN CENSUS TRACT 9		10. NO. OF LICENSES EXISTING IN CENSUS TRACT	
		<input checked="" type="checkbox"/> On-Sale <input type="checkbox"/> Off-Sale		<input checked="" type="checkbox"/> On-Sale <input type="checkbox"/> Off-Sale	
11. IS THE ABOVE CENSUS TRACT OVERCONCENTRATED WITH LICENSES? (i.e., does the ratio of licenses to population in the census tract exceed the ratio of licenses to population for the entire county?)					
<input checked="" type="checkbox"/> Yes, the number of existing licenses exceeds the number allowed					
<input type="checkbox"/> No, the number of existing licenses is lower than the number allowed					
3X PUB					
12. DOES LAW ENFORCEMENT AGENCY MAINTAIN CRIME STATISTICS?					
<input checked="" type="checkbox"/> Yes (Go to Item #13) <input type="checkbox"/> No (Go to Item #20)					
13. CRIME REPORTING DISTRICT NUMBER 411		14. TOTAL NUMBER OF REPORTING DISTRICTS 653		15. TOTAL NUMBER OF OFFENSES IN ALL REPORTING DISTRICTS 46,883	
16. AVERAGE NO. OF OFFENSES PER DISTRICT 72		17. 120% OF AVERAGE NUMBER OF OFFENSES 86		18. TOTAL NUMBER OF OFFENSES IN REPORTING DISTRICT 39	
19. IS THE PREMISES LOCATED IN A HIGH CRIME REPORTING DISTRICT? (i.e., has a 20% greater number of reported crimes than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency)					
<input type="checkbox"/> Yes, the total number of offenses in the reporting district equals or exceeds the total number in item #17					
<input checked="" type="checkbox"/> No, the total number of offenses in the reporting district is lower than the total number in item #17					
20. CHECK THE BOX THAT APPLIES (check only one box)					
<input type="checkbox"/> a. If "No" is checked in both item #11 and item #19, Section 23958.4 B&P does not apply to this application, and no additional information will be needed on this issue. Advise the applicant to bring this completed form to ABC when filing the application.					
<input type="checkbox"/> b. If "Yes" is checked in either item #11 or item #19, and the applicant is applying for a non-retail license, a retail bona fide public eating place license, a retail license issued for a hotel, motel or other lodging establishment as defined in Section 25503.16(b) B&P, or a retail license issued in conjunction with a beer manufacturer's license, or winegrower's license, advise the applicant to complete Section 2 and bring the completed form to ABC when filing the application or as soon as possible thereafter.					
<input checked="" type="checkbox"/> c. If "Yes" is checked in either item #11 or item #19, and the applicant is applying for an off-sale beer and wine license, an off-sale general license, an on-sale beer license, an on-sale beer and wine (public premises) license, or an on-sale general (public premises) license, advise the applicant to take this form to the local governing body, or its designated subordinate officer or body to have them complete Section 3. The completed form will need to be provided to ABC in order to process the application.					

Governing Body/Designated Subordinate Name: Board of Supervisors

FOR DEPARTMENT USE ONLY

PREPARED BY (Name of Department Employee)

willie bulanadi

Google

To see all the details that are visible on the screen, use the "Print" link next to the map.



SECTION I - FOR ALL RETAIL APPLICANTS

1. APPLICANT NAME(S) **DEVIATE SF INC** 2. LICENSE TYPE(S) **48**

3. PREMISES ADDRESS (Street number and name, city, zip code) **2344 48 MARKET ST., SAN FRANCISCO, CA 94114** 4. NEAREST CROSS STREET **CASTRO ST**

5. TYPE OF BUSINESS (Choose one that best describes the planned operation)

<input type="checkbox"/> Full Service Restaurant	<input type="checkbox"/> Cafeteria/Hofbrau	<input type="checkbox"/> Cocktail Lounge	<input type="checkbox"/> Private Club
<input type="checkbox"/> Deli or Specialty Restaurant	<input type="checkbox"/> Comedy Club	<input checked="" type="checkbox"/> Night Club	<input type="checkbox"/> Veterans Club
<input type="checkbox"/> Cafe/Coffee Shop	<input type="checkbox"/> Brew Pub	<input type="checkbox"/> Tavern	<input type="checkbox"/> Fraternal Club
<input type="checkbox"/> Bed & Breakfast	<input type="checkbox"/> Theater	<input type="checkbox"/> Wine Tasting Room	

<input type="checkbox"/> Supermarket	<input type="checkbox"/> Membership Store	<input type="checkbox"/> Service Station	<input type="checkbox"/> Swap Meet/Flea Market
<input type="checkbox"/> Liquor Store	<input type="checkbox"/> Department Store	<input type="checkbox"/> Convenience Market	<input type="checkbox"/> Drive-in Dairy
<input type="checkbox"/> Variety/Drug Store	<input type="checkbox"/> Gift Shop/Florist	<input type="checkbox"/> Convenience Market w/Gasoline	
<input type="checkbox"/> Other - describe: _____			

6. PATRON CAPACITY _____ 7. SURROUNDING AREA

<input checked="" type="checkbox"/> Commercial	<input type="checkbox"/> Rural
<input type="checkbox"/> Residential	<input type="checkbox"/> Industrial
<input type="checkbox"/> Other _____	

8. PREMISES IS LOCATED IN

<input checked="" type="checkbox"/> Free Standing Building	
<input type="checkbox"/> Shopping Center (Name): _____	
<input type="checkbox"/> 10 Units or Less	<input type="checkbox"/> More than 10 Units

9. FOOD SERVICE None Minimal Full Meals

10. PARKING LOT? Yes No

11. PATIO? Yes No

12. WILL YOU HIRE A MANAGER? (Rule 57.5) Yes No

13. WILL YOU HAVE A FOOD LESSEE? (Rule 57.7) Yes No

14. MEAL TYPE

<input type="checkbox"/> Dinner House	<input type="checkbox"/> Seafood
<input type="checkbox"/> Fast Food/Deli	<input checked="" type="checkbox"/> Other: _____
<input type="checkbox"/> Pizza/Pasta	<input type="checkbox"/> NONE

15. TYPE OF FOOD

<input type="checkbox"/> American	<input type="checkbox"/> Greek	<input type="checkbox"/> Indian	<input type="checkbox"/> French
<input type="checkbox"/> Chinese	<input type="checkbox"/> Korean	<input type="checkbox"/> Italian	<input type="checkbox"/> Thai
<input type="checkbox"/> Japanese	<input checked="" type="checkbox"/> Other: NONE		

16. HOURS OF FOOD SERVICE

BREAKFAST HOURS From: _____ To: _____

LUNCH HOURS From: _____ To: _____

DINNER HOURS From: _____ To: _____

17. OPERATING HOURS

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Opening Time	12pm	12pm	12pm	12pm	12pm	12pm	12pm
Closing Time	2am	2am	2am	2am	2am	2am	2am

18. ENTERTAINMENT (One or more may apply. Please describe any entertainment with an asterick (*) below)

<input type="checkbox"/> None	<input checked="" type="checkbox"/> *Amplified Music by <i>DJ</i>	<input checked="" type="checkbox"/> Patron Dancing	<input type="checkbox"/> Card Room
<input checked="" type="checkbox"/> Recorded Music	<input type="checkbox"/> *Live Entertainment	<input type="checkbox"/> Bikini/Topless/Exotic	<input type="checkbox"/> Movies
<input type="checkbox"/> Juke Box	<input checked="" type="checkbox"/> *Floor/Stage Shows	<input type="checkbox"/> Pool/Billiard Tables	<input type="checkbox"/> "Hot Spot"/Lottery
<input type="checkbox"/> *Other	<input type="checkbox"/> Karaoke	<input type="checkbox"/> *Amateur/Pro Sports Events	<input type="checkbox"/> Video/Coin-Operated Games

*Description: *DJ's and DRAG & CABARET SHOWS*

19. PREMISES IS LOCATED ON

<input checked="" type="checkbox"/> Major Thoroughfare	<input type="checkbox"/> Secondary Street
<input type="checkbox"/> Other _____	

20. TYPE OF STRUCTURE

<input checked="" type="checkbox"/> Single Story	<input type="checkbox"/> Two-Story
<input type="checkbox"/> Multi-Story - Number of stories: _____	

21. PASS-THROUGH WINDOW? Yes No

22. FIXED BARS? Yes - how many: 01 No

23. WHAT PERCENTAGE OF YOUR TOTAL SALES WILL BE ALCOHOLIC BEVERAGES? 100%

FOR ABC USE ONLY

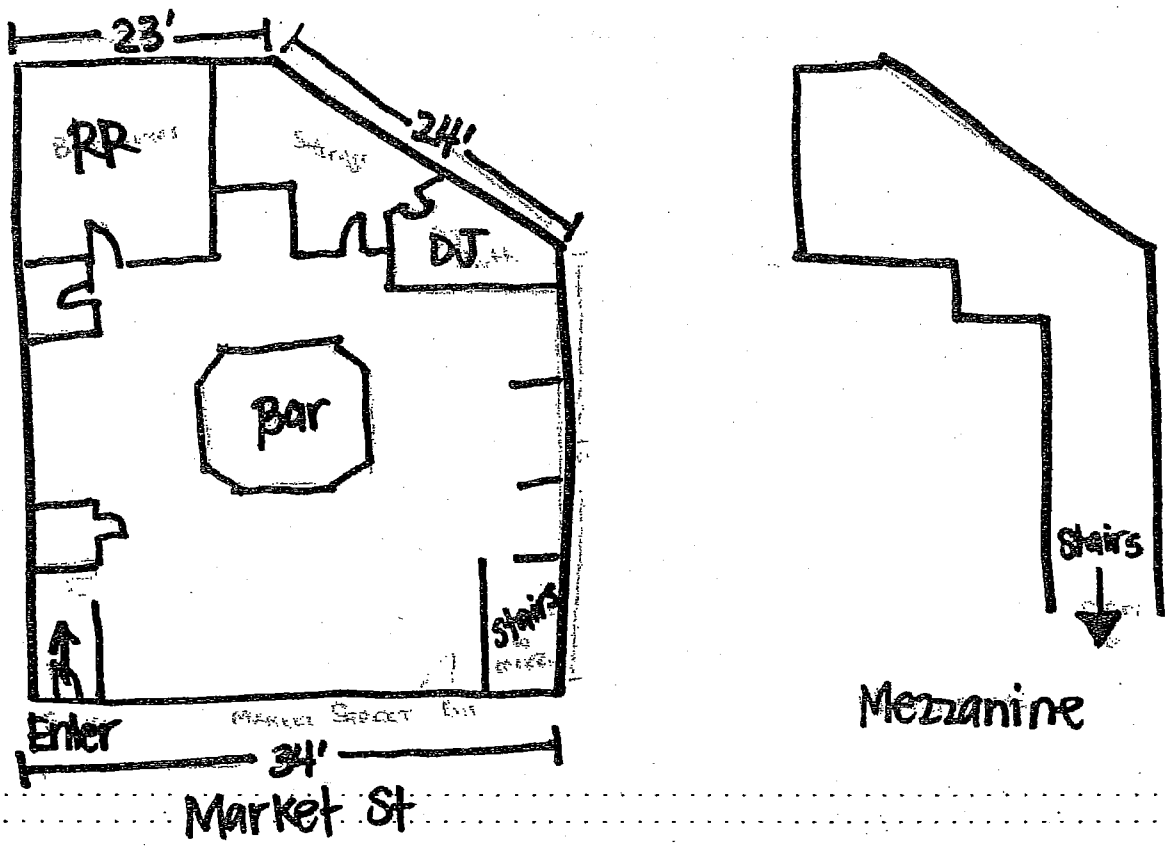
24. INFORMATION GIVEN (R-27, R-107, Sec. 25612.5, Sec. 23790.5, etc.) _____

25. DATE ENTERED INTO CABIN _____

LICENSED PREMISES DIAGRAM (RETAIL)

1. APPLICANT NAME (Last, first, middle) DEVIATE SF INC	2. LICENSE TYPE 48
3. PREMISES ADDRESS (Street number and name, city, zip code) 2344-48 MARKET ST., SAN FRANCISCO, CA 94114	4. NEAREST CROSS STREET CASTRO ST

The diagram below is a true and correct description of the entrances, exits, interior walls and exterior boundaries of the premises to be licensed, including dimensions and identification of each room (i.e., "storeroom", "office", etc.).
DIAGRAM



It is hereby declared that the above-described boundaries, entrances and planned operation as indicated on the reverse side, will not be changed without first notifying and securing prior written approval of the Department of Alcoholic Beverage Control. I declare under penalty of perjury that the foregoing is true and correct.

APPLICANT SIGNATURE (Only one signature required) <i>Reva M</i>	DATE SIGNED 2/15/12
FOR ABC USE ONLY	
CERTIFIED CORRECT (Signature)	PRINTED NAME
	INSPECTION DATE



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

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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Motion #17637 HEARING DATE: JUNE 26, 2008

Date: June 18, 2008
Case No.: 2008.0444 C
Project Address: 2342-2348 MARKET STREET
Zoning: Upper Market Neighborhood Commercial District
 65-B Height and Bulk District
Block/Lot: 3562/007
Project Sponsor: Greg Bronstein
 2342-2348 Market Street
 San Francisco, CA 94114
Staff Contact: Elizabeth Watty - (415) 558-6620
Elizabeth.Watty@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION, UNDER PLANNING CODE SECTIONS 303, 721.21, 790.130, 721.41, 790.22, 721.48, AND 790.38, FOR A USE SIZE EXCEEDING 2,999 SQUARE FEET THAT WILL ACCOMMODATE AN EXPANSION OF THE EXISTING BAR AND OTHER ENTERTAINMENT USES (DBA JET) INTO THE ADJACENT GROUND-FLOOR COMMERCIAL TENANT SPACE, LOCATED WITHIN THE UPPER MARKET NEIGHBORHOOD COMMERCIAL DISTRICT (NCD) AND 65-B HEIGHT AND BULK DISTRICT.

PREAMBLE

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

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

Motion #17637
June 18, 2008

CASE NO. 2008.0444 C
2342-234B Market Street

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

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

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

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

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

Motion #17637
June 18, 2008

CASE NO. 2008.0444 C
2342-2348 Market Street

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

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

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

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

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

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

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

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

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

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

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

Motion #17637
June 18, 2008

CASE NO. 2008.0444 C
2342-2348 Market Street

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

- iii. Be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified on the San Francisco Noise Control Ordinance.

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

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

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

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

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

OBJECTIVE 1:
MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1:

Motion #17637
June 18, 2008

CASE NO. 2008.0444 C
2342-2348 Market Street

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

OBJECTIVE 6: MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.1:

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

No commercial tenant would be displaced by the authorization of this Conditional Use, and the Project would not prevent the Upper Market District from achieving optimal diversity in the types of goods and services available in the neighborhood.

Policy 6.2:

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

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

EATING AND DRINKING ESTABLISHMENTS

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

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

- Regulate the distribution and proliferation of eating and drinking establishments, especially in districts experiencing increased commercial activity;
- Control nuisances associated with their proliferation;

Motion #17637
June 18, 2008

CASE NO. 2008.0444 C
2342-2348 Market Street

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

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

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

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

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

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

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

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

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

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

Motion #17637
June 18, 2008

CASE NO. 2008.0444 C
2342-2348 Market Street

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby APPROVES Conditional Use Application No. 2008.0444C subject to the following conditions attached hereto as "EXHIBIT A" which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 17637. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94103.

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

Linda Avery
Commission Secretary

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

NAYS: None

ABSENT: Commissioner William L. Lee

ADOPTED: June 26, 2008

Motion #17637
June 18, 2008

CASE NO. 2008.0444 C
2342-2348 Market Street

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

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

**Motion #17637
June 18, 2008**

**CASE NO. 2008.0444 C
2342-2348 Market Street**

24. The Project Sponsor shall provide well lit notices that are prominently displayed at all entrances and exits of the establishment urging patrons to leave the establishment and neighborhood in a quiet, peaceful and orderly fashion and to not litter or block driveways in the neighborhood. These notices shall be made of durable material and permanently affixed to the building.
25. The Project Sponsor and Jet management shall at all times keep a copy of these "Conditions of Approval-Exhibit A" on the premises for reference. Jet management shall review with new employees as part of their training and orientation, and periodically (at least at twelve month intervals) review with the other Jet employees, these Conditions of Approval related to operational concerns and quality of life issues, with emphasis on noise control, street cleanliness, and respectful behavior towards neighbors by Jet patrons. Employees are to be reminded that continued successful operation of Jet, and their respective jobs are dependant on compliance with these Conditions of Approval.

EW: U:\EWATTY\Documents\CUs\2342-2348 Market Street\Final Motion.doc

LIQUOR LICENSE REVIEW

TO: Planning Department
AnMarie Rodgers/CTYPLN/SFGOV
Georgia Powell/CTYPLN/SFGOV@SFGOV
Fax No.: 558-6409

File: 130247

TO: Police Department
Inspector Nelly Gordon
Inspector Joseph Fong
Fax No.: 553-1463

DATE: March 25, 2013

This item is tentatively scheduled to be heard in four to six weeks.
PLEASE EMAIL YOUR RESPONSE BY: May 6, 2013, to Derek Evans, Clerk,
Neighborhood Services and Safety Committee.

Derek.Evans@sfgov.org - Fax No: 554-7714

Applicant Name: Art Rodriguez
and Business Name: Deviate SF, Inc.
(2342-2348 Market Street)

Applicant Address: 709 E Colorado Blvd, Suite 200
Pasadena, CA 91101
and Phone No. (626) 683-9777

PLANNING COMMENTS: Approval Denial

POLICE COMMENTS: Approval Denial