



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

☐ Affordable Housing (Sec. 415)

☐ Jobs Housing Linkage Program (Sec. 413)

☐ Downtown Park Fee (Sec. 412)

☐ First Source Hiring (Admin. Code)

☐ Child Care Requirement (Sec. 414)

☐ Other

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Planning Commission Motion No. 19706

HEARING DATE: JULY 28, 2016

Case No.: 2016-004115CUA
Project Address: 644 BROADWAY
Zoning: CCB (Chinatown Community Business) District
65-N Height and Bulk District
Block/Lot: 0146/006
Project Sponsor: Richard Warren
92 Fresno Ave.
Berkeley, CA 94707
Staff Contact: Andrew Perry – (415) 575-9017
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ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303, 803.2(b)(1)(B)(iii), AND 810.41 OF THE PLANNING CODE TO AUTHORIZE A CHANGE IN USE FROM A MOVIE THEATER TO AN OTHER ENTERTAINMENT USE (D.B.A. BOXCAR THEATRE), AND TO ESTABLISH A BAR USE FOR THE SALE OF ALCOHOL DURING PERFORMANCES, AT THE BASEMENT LEVEL OF AN EXISTING FOUR-STORY OVER BASEMENT BUILDING, WITHIN THE CCB (CHINATOWN COMMUNITY BUSINESS) DISTRICT AND A 65-N HEIGHT AND BULK DISTRICT.

PREAMBLE

On March 30, 2016, Richard Warren (hereinafter "Project Sponsor") on behalf of Boxcar Theatre, Inc. filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Sections 303, 803.2(b)(1)(B)(iii), and 810.41 to authorize a change in use from a Movie Theater to an Other Entertainment use (d.b.a. Boxcar Theatre), and to establish a Bar use for the sale of alcohol during performances, at the basement level of an existing four-story over basement building, within the CCB (Chinatown Community Business) District and a 65-N Height and Bulk District.

On July 28, 2016, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2016-004115CUA.

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

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

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2016-004115CUA, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

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

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The project is located on the northern side of Broadway, between Grant Ave. and Stockton St., Block 0146, Lot 006. The property is developed with a four-story over basement structure, constructed circa 1985, with full lot coverage at approximately 9,453 square feet of lot area and 68.75 feet of frontage along Broadway. Prior to the construction of the current building, the Subject Property contained a film theater operating under various monikers (Palace, Verdi, and World) and from 1954 until its demolition in the 80s, primarily screened Chinese-language films. After construction of the current building, a Movie Theater use continued to occupy the space at the basement level until approximately 1998, when the basement space was vacated, and remained vacant until present day.

The upper floors of the subject building were previously occupied by a large dim sum restaurant (d.b.a. Gold Mountain Restaurant), which vacated the space at the end of 2011. Now, a new Restaurant (d.b.a. China Live) is in the process of completing their tenant improvements and is set to open later this year. The new Restaurant will combine a typical restaurant experience with that of a market, cooking demonstrations, and a retail space at the adjacent 660 Broadway, and will occupy the first, second, and a portion of the third floor in the subject building. The third floor will also be occupied by a sound recording studio, while the fourth floor will be shared by a variety of film producers, including space for the San Francisco Film Society.

3. **Surrounding Properties and Neighborhood.** The property is located within the CCB (Chinatown Community Business) District along Broadway, which extends from the eastern portal of the Broadway Tunnel to Columbus Avenue, near the confluence of the Chinatown and North Beach neighborhoods, with the edges of the Russian Hill, Nob Hill, and Financial District neighborhoods also with walking distance. This stretch of the CCB District serves as a transitional edge to the heart of Chinatown, as well as the North Beach and Broadway Neighborhood Commercial Districts. The subject block is characterized by a diversity of building types, ranging from one- to four-stories, and by a variety of daily-needs serving uses, particularly general and specialty grocers and limited restaurants, with primarily residential above including a number of Residential Hotels. Directly opposite the property is a 75-room motel.

4. **Project Description.** The project sponsor requests a Conditional Use Authorization pursuant to Planning Code Sections 303, 803.2(b)(1)(B)(iii), and 810.41 to authorize a change in use from a Movie Theater to an Other Entertainment use (d.b.a. Boxcar Theatre), and to establish a Bar use for the sale of alcohol during performances. Separate authorization as a Bar is required, as the sale of alcohol may not otherwise be permitted as an accessory use pursuant to Planning Code Section 803.2(b)(1)(C)(ii). The project is located at the basement level of an existing four-story over basement building, and the subject property is located within the CCB (Chinatown Community Business) District and the 65-N Height and Bulk District.

The Boxcar Theatre company was founded in San Francisco in 2005, with a facility in both the Tenderloin and SoMa neighborhoods. In 2014, the company launched a production known as *The Speakeasy*, which ran for 75 sold-out performances and garnered widespread praise. Staged in 1923, the production is highly interactive, where patrons are encouraged to move about the venue to interact with a variety of actors – playing bartenders, servers, cabaret performers, and more – ordering period-appropriate cocktails and exploring the recreated nightclub atmosphere. The company was displaced from its location in the Tenderloin in June 2014, bringing *The Speakeasy* production to an abrupt halt. Intending to make 644 Broadway its new home, the renovated theater space includes two bar areas and seeks to serve alcohol during performances; however, the establishment would not operate as a traditional bar outside of theater performances.

5. **Public Comment/Community Outreach.** To date, the Department has received two letters of support from the Upper Broadway Community Benefit District, and from the North Beach Business Association.

The Department has also received one communication in opposition to one aspect of the proposed project – specifically, the usage of Kenneth Rexroth Place as an access point to the rear of the property for entrance to the theater, and as a space where patrons may temporarily exit the theater for smoking purposes. As a concerned resident of the alley, this person noted that Kenneth Rexroth Place provides the only access point for three residential buildings in the alley, and worries about the impacts of large numbers of patrons entering and exiting through this small alley, and the impacts of permitted smoking in a narrow space. The commenter wanted to be clear that they are not in opposition to the project entirely, but are requesting that the theater only use the main Broadway façade for purposes of entry and exit, and as a space for smokers to access during performances; the rear alley should only be used for trash removal purposes.

The Project Sponsor notes that they held a meeting at the offices of the Department of Public Works during March 2015 with the residents of Kenneth Rexroth Place to clarify use of the alley for all parties. As it is a public street, DPW noted that the businesses of 644 Broadway may use the alley for employee and customer entrance into and exit from the building, as well as for deliveries. However, there would be noise restrictions after 10 p.m. and that smoking would be prohibited. Boxcar Theatre developed their security plan around this information, and plans to have a security staff member stationed at the Rexroth exit to prevent unauthorized smoking during performances. The comment received in opposition was from a new owner that was not present at the March 2015 meeting. Upon receipt of the comment, the Project Sponsor

coordinated a meeting with the concerned resident, and two others that were unable to make the original meeting, to discuss their security and operation plan.

The Project Sponsor has conducted outreach to several community groups in the area including the former and current District 3 Supervisor office, the Chinatown Community Development Corporation, the Telegraph Hill Dwellers, the Upper Broadway Community Benefit District, and the North Beach Business Association. The last two groups have submitted letters in support of the project. Additionally, as part of *The Speakeasy* production, some patrons may be led into the theater space through Kenneth Rexroth Place, an alley to the north of the property that leads to the subject property's rear property line; as such, outreach was conducted to residents living adjacent to the alley to discuss the planned use of the space and any resident concerns.

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. **Change in Use or Demolition of Movie Theater Uses.** Planning Code Section 803.2(b)(1)(B)(iii) states that a Conditional Use Authorization is required for any change in use or demolition of a Movie Theater use, and that a change in use shall not be authorized if the new use or uses are otherwise prohibited.

The Project Sponsor is requesting Conditional Use Authorization to authorize a change in use from a Movie Theater, which has not been in operation for more than a decade, to a live performance Other Entertainment theater use. Other Entertainment is principally permitted in the CCB District.

- B. **Bar Use.** Planning Code Section 810.41 states that a Conditional Use Authorization is required for a Bar use, as defined by Planning Code Section 790.22, at or below the 1st story within the CCB District.

The Project Sponsor is requesting Conditional Use Authorization to establish a Bar use in conjunction with an Other Entertainment theater use. Although the Bar will be accessory and subordinate to the theater use, Planning Code Section 803.2(b)(1)(C)(ii) would not permit an accessory use that involves the sale of alcohol; therefore, the Project Sponsor must also establish the Bar as a principal use, which requires Conditional Use Authorization in this District.

- C. **Use Size.** Planning Code Sections 121.4 and 810.20 state that a Conditional Use Authorization is required for uses with 5,000 square feet or more of area.

Although the proposed combined Other Entertainment and Bar uses have a gross square footage of 9,420 square feet, the proposed project does not expand the basement level or use size of the former theater. As there is no abandonment of use size under the Planning Code, the existing use size is permitted to continue.

- D. **Off-Street Parking.** Planning Code Section 151.1 does not require any off-street accessory parking for any use within a Mixed Use District such as the CCB.

The existing building does not contain any off-street parking, nor is any parking proposed as part of the project.

- E. **Off-Street Loading.** Planning Code Section 152 requires off-street loading spaces for Other Entertainment and Bar uses, where the gross floor area of the use exceeds 100,000 square feet.

With a gross floor area less than 10,000 square feet, the project does not require any off-street loading spaces.

- F. **Bicycle Parking.** Planning Code Section 155.2 requires bicycle parking where a change of occupancy or increase in intensity of use would increase the number of total required bicycle parking spaces (inclusive of Class 1 and 2 spaces in aggregate) by 15 percent.

The project would not trigger any required bicycle parking. However, the Project Sponsor and Property Owner have been in communication with the Department of Public Works and intend to install Class 2 bicycle racks along the sidewalk upon completion of the Broadway Chinatown Streetscape Improvement Project, scheduled to finish around June 2017.

- G. **Baby Diaper-Changing Accommodations.** Planning Code Section 168 requires installation of baby diaper-changing accommodations at each floor level containing restrooms accessible to the public for new and substantially renovated public-serving establishments. For purposes of this Code Section, "substantially renovated" shall mean any construction or renovation project that has an estimated cost of at least \$50,000, and a "public-serving establishment" shall include a Retail Sales or Retail Entertainment and Recreation use that is 5,000 square feet or more in size.

The project includes the rehabilitation of a former basement theater with an estimated cost of at least \$50,000, and the theater and bar use is considered a Retail Sales or Retail Entertainment and Recreation use; therefore baby diaper-changing accommodations are required. The proposed plans include at least one such accommodation at each floor level of the building containing publicly-accessible restrooms.

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

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

The proposed Other Entertainment live performance theater and Bar uses are necessary and desirable for, and compatible with the surrounding neighborhood and community. The current building on the property was built in 1985, with the basement level designed as a single-screen movie theater for an occupancy of approximately 400 people. The movie theater ceased operations in 1998, and the basement has not been utilized since. The proposed theater project will renovate the basement space, tailoring it to the specific needs of the Boxcar Theatre company, but will not increase the overall use size from the

previous movie theater, nor propose any expansion to the existing building. The proposed project would actually reduce the venue's capacity, down to 250 patrons and 75 employees.

Other Entertainment uses are principally permitted within the Chinatown Community Business District, and the proposed project would help to revitalize a large space in an existing building that is already undergoing additional renovations. The live performance theater use diversifies the types of economic activity present in the District, and its location between the Chinatown and North Beach neighborhoods is well-suited to encourage alternative means of transportation, while providing convenient access for many residents of the City as well as tourists.

Although different than a movie theater, the proposed use respects the past uses at the site by continuing a tradition of arts and entertainment activity in the space, and by maintaining the down-sloping floor of the previous theater. Authorization as a bar will allow Boxcar Theatre to serve alcohol during performances, an integral component of their production called The Speakeasy; however, to ensure the Bar remains accessory to the primary use of the space as a theater, a Condition of Approval will require the Project Sponsor to seek a new Conditional Use authorization as a Bar, if an Other Entertainment use ceases to operate in the space.

- 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 changes proposed to the existing building envelope as part of the subject project and so will have no effect on the existing character of the surrounding neighborhood. Due to the "secretive" nature of the Boxcar Theatre's flagship production (The Speakeasy) there will only be minimal signage and presence along the front façade.

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

The Planning Code does not require any off-street parking or loading for an approximately 9,420 square-foot Other Entertainment theater and Bar use within the Chinatown Community Business District. The project site is well-served by public transit and with a capacity of 250 patrons and 75 employees, the use should not generate an abundance of vehicle trips. For those that do travel to the site by private automobile, there are numerous public parking lots and garages within 1 quarter-mile of the project site.

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

The proposed theater at the basement level, will be adequately soundproofed such that no noise would be audible beyond the basement space. There are no residential uses present within the

subject building. The Boxcar Theatre anticipates using Kenneth Rexroth Place, an alley that extends for approximately half a block from Columbus Ave./Vallejo St. to the rear property line of 644 Broadway, as an entry into the basement theater space. The Project Sponsor conducted outreach about the proposed use to the residents that live in the units above the alley, and would have a theater employee guide patrons down the alley and into the venue in a quiet and orderly manner. The project would not create other noxious or offensive emissions.

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

The proposed project does not require any treatments in the way of landscaping, screening, open spaces, parking and loading areas, or service areas. Any additional lighting and signs proposed for the project in the future will be reviewed by the Department for compliance.

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

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

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

The proposed project is consistent with the stated purposes of the Chinatown Community Business District in that the intended Other Entertainment use is a principally permitted use within the District; the accessory Bar use would remain subordinate through a Condition that would require the Project Sponsor to seek a new Conditional Use Authorization as a primary bar use, if Other Entertainment ceases to operate in the space. The subject property's proximity to the North Beach and Broadway NCDs is complimentary to the uses found in those districts, and by activating an existing, underutilized basement space in the subject building, will also help to increase pedestrian and economic activity within the subject District, and help further a connection with Chinatown.

- E. That the use or feature satisfies the criteria specific to a change in use or demolition of a Movie Theater use found in Planning Code Section 303(j), in that:

- i. Preservation of a Movie Theater use is no longer economically viable and cannot effect a reasonable economic return to the property owner. For purposes of defining "reasonable economic return," the Planning Commission shall be guided by the criteria for Fair Return on Investment set forth in Section 102;

The previous Movie Theater use was no longer economically viable, as evidenced by its closure in 1998. Upon purchasing the property in 2013, the new owner (Cypress Properties Group) contacted several movie theater operators and film festival producers about leasing the theater, but all reported that it was not economically viable. The property owner also invited community nonprofit groups, including the Center for Asian American Media, to propose projects that would preserve the Movie Theater use, but no proposals were received.

- ii. The change in use or demolition of the Movie Theater use will not undermine the economic diversity and vitality of the surrounding District;

The change in use from Movie Theater to an Other Entertainment live performance theater will actually serve to enhance the economic diversity and vitality of the surrounding District as it reactivates a basement-level space with a use that is not common in the surrounding area. Reactivation of the space will bring additional pedestrian traffic to the neighborhood, benefitting other businesses in the vicinity. The theater company intending to occupy the space is a local group that has achieved broad recognition for their work.

- iii. The resulting project will preserve the architectural integrity of important historic features of the Movie Theater use affected.

The subject building, constructed in 1985, is not eligible as an historic resource; however, the proposed live performance theater use preserves the history of film and entertainment uses at the project site, and the project proposes to maintain the down-sloping floor of the previous Movie Theater.

- F. That the use or feature satisfies the criteria specific to Conditional Use authorization applications for Eating and Drinking Uses found in Planning Code Section 303(o), in that the Planning Commission shall consider the existing concentration of eating and drinking uses in the area, and that such concentration should not exceed 25 percent of the total commercial frontage as measured in linear feet within the immediate area of the subject site, where the immediate area shall be defined as all properties located within 300' of the subject property and also located within the same zoning district.

The proposed project would be subject to the criteria of Planning Code Section 303(o) as it seeks Conditional Use Authorization as a bar; however, it is important to recognize that the proposed bar uses would remain accessory and subordinate to the Other Entertainment use, and that the subject project is located at the basement level of the building, and therefore not have any commercial frontage. A recent survey conducted by Department staff estimated that approximately 27% of the commercial frontage in the immediate area, as defined under Code, is devoted to Eating and Drinking uses, and the project would have no impact on this percentage. This percentage also already includes the subject building, where the ground floor was previously occupied by a Restaurant (d.b.a. Gold Mountain Restaurant) and will be occupied by a new venture (d.b.a. China Live) in the coming months.

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

COMMERCE AND INDUSTRY

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 proposed development will provide a desirable use and service to the neighborhood and larger city, with substantial net benefits by revitalizing an existing basement-level space that has not been used for more than a decade. Utilization of the existing space minimizes undesirable consequences to the neighborhood, and this project diversifies the economic activities of the surrounding Districts and fosters increased growth to other nearby businesses.

OBJECTIVE 2:

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

Policy 2.1:

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

Policy 2.3:

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

The project will allow a locally-formed theater company to have a permanent home in the City. Arts activities generally, the increase in diversity of uses in this area as a result of a new Other Entertainment use at this location, and the proposed location situated between several iconic neighborhoods all serve to enhance the social and cultural climate of the City and the neighborhoods in the vicinity of the project.

OBJECTIVE 6:

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

Policy 6.1:

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

Policy 6.3:

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

Policy 6.9:

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

No commercial tenant would be displaced as the project would occupy the basement-level space of a former Movie Theater that has not been in operation since 1998. Revitalization of this space for a live performance theater use is contextually appropriate with the history of uses on the Property, and is well-located, recognizing the activity of the nearby North Beach and Broadway NCDs and the Chinatown area. The project would not expand the subject building envelope and would not remove any housing. The Planning Code does not require any off-street parking be provided as part of the project. The surrounding area is well-served by public transit and there are numerous publicly-available parking lots and garages in the vicinity, such that the project will only have a minimal effect on traffic and parking in the area.

ARTS

Objectives and Policies

OBJECTIVE 1:

INCREASE THE CONTRIBUTION OF THE ARTS TO THE ECONOMY OF SAN FRANCISCO.

Policy 1.1:

Encourage and promote opportunities for the arts and artists to contribute to the economic development of San Francisco.

Policy 1.2:

Continue to support and increase the promotion of the arts and arts activities through the City for the benefit of visitors, tourists, and residents.

The project would allow a locally-formed theater company that has received a broad level of acclaim to have a permanent home in the city, thereby promoting the continued economic contribution of the arts to the overall City economy. The location of the theater is conveniently located for numerous residents from Chinatown, North Beach, Russian Hill and Nob Hill, and residents from other neighborhoods benefit from the many transit lines in the vicinity of the project site. The site is also fairly easily accessed by workers coming from the Financial District, and tourists in the downtown area.

OBJECTIVE 6:

SUPPORT THE CONTINUED DEVELOPMENT AND PRESERVATION OF ARTISTS' AND ARTS ORGANIZATIONS' SPACES.

Policy 6.3:

Preserve existing performing spaces in San Francisco.

Policy 1.2:

Assist artists and arts organizations in attaining ownership or long-term control of arts spaces.

The project preserves a space historically used for arts and entertainment purposes, while renovating the space in order to provide a long-term home for a local theater company that had to close their production earlier than anticipated at the previous venue due to losing a lease.

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

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

The proposal would enhance the district by revitalizing an existing basement theater space and by providing a use not commonly found in the surrounding neighborhoods and Districts. The business itself would employ around 75 people, and additionally will foster increased pedestrian traffic in the area that will serve to benefit other businesses nearby. Lastly, the subject Boxcar Theatre company has a strong emphasis on assisting the development of other emerging theater companies through programming and by offering affordable rehearsal and performance space.

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

The proposal will conserve and protect neighborhood character and cultural diversity by occupying an existing space of a former Movie Theater, without any expansion of the existing building. The proposed use adds cultural and economic diversity to the District through a use not commonly found in the vicinity, and no housing is removed as part of the project.

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

No housing is removed for this project.

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

The site on Broadway between Stockton and Grant is well-served by transit, with thirteen different MUNI bus lines running in proximity to the property site. While it is expected that many employees and patrons will commute by transit, bicycle or walk, there are also several public parking lots and garages within a quarter-mile such that the project would only minimally affect MUNI transit service, traffic congestion 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 project will not displace any service or industry establishment. The project will not affect industrial uses and it will enhance service-related opportunities by providing jobs for 75 employees.

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

The project is designed and will be constructed to conform to the structural and seismic safety requirements of the City Building Code. This proposal will not impact the property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

A landmark or historic building does not occupy the project site.

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

The project will have no negative effect on existing parks and open spaces.

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

DECISION

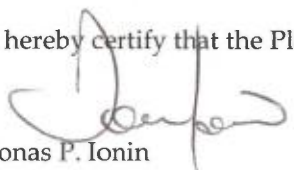
That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2016-004115CUA** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated April 26, 2016, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 19706. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

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

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

I hereby certify that the Planning Commission **ADOPTED** the foregoing Motion on July 28, 2016.


Jonas P. Ionin
Commission Secretary

AYES: Antonini, Fong, Johnson, Moore, Richards, Wu

NAYS: None

ABSENT: Hillis

ADOPTED: July 28, 2016

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to authorize a change in use from a Movie Theater to an Other Entertainment use (d.b.a. Boxcar Theatre), and to establish a Bar use for the sale of alcohol during performances located at 644 Broadway, Block 0146, and Lot 006, pursuant to Planning Code Section(s) 303, 803.2(b)(1)(B)(iii), and 810.41 within the Chinatown Community Business (CCB) District and a 65-N Height and Bulk District; in general conformance with plans, dated April 26, 2016, and stamped "EXHIBIT B" included in the docket for Case No. 2016-004115CUA and subject to conditions of approval reviewed and approved by the Commission on July 28, 2016 under Motion No 19706. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the Project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on July 28, 2016 under Motion No 19706.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 19706 shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting PERFORMANCE

1. **Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.

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

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

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

3. **Diligent pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.

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

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

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

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

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

6. **Maintaining Bar Use Accessory to Other Entertainment.** The subject approval establishes a Bar Use as an accessory use to the principally permitted live performance theater Other Entertainment Use. Should the subject establishment cease to operate as a live performance theater Other Entertainment Use, the Project Sponsor must seek a new Conditional Use Authorization to continue the Bar Use as either a primary or accessory use.

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

MONITORING - AFTER ENTITLEMENT

7. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

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

8. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

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

9. **Written Performance Update.** A written performance update shall be provided to the Planning Commission six months following the approval of the Conditional Use Authorization. The update memo should include any recorded complaints with the San Francisco Police Department and any other general feedback from neighbors regarding operation of the live performance theater Other Entertainment and Bar use and adherence to the Conditions of Approval. The Commission may request a full hearing at their discretion.

For information about compliance, contact the Case Planner, Planning Department at 415-575-9017, www.sf-planning.org.

OPERATION

10. **Access Through Kenneth Rexroth Alley.** The live performance theater may use Kenneth Rexroth Place, which abuts the property at the rear, for patron entry into the theater up until 8:30 p.m. The Project Sponsor shall ensure that theater staff and security is located at both the gate on the northern end of Kenneth Rexroth Place (at Vallejo St.) and at the rear property line, in order to guide patrons into the venue in a quiet and orderly manner. Additionally, theater security staff shall be located at the rear exit during all performances to ensure that patrons do not exit through Kenneth Rexroth Place at the rear, or use the space for smoking. Staff shall direct all patrons to exit through Broadway. This condition shall not prohibit use of the rear exit or Kenneth Rexroth Place for egress in the event of an emergency.

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

11. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

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

12. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards. The Project Sponsor shall also be responsible for maintaining the cleanliness of Kenneth Rexroth Place at the rear of the property.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>

13. **Noise Control.** The premises shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance. The Project Sponsor shall continue to work with neighboring residents, and seek to minimize the amount of noise from the closure of the gates at the north end of Kenneth Rexroth Pl. and at the rear property line.

For information about compliance with the fixed mechanical objects such as rooftop air conditioning, restaurant ventilation systems, and motors and compressors with acceptable noise levels, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, www.sfdph.org

For information about compliance with the construction noise, contact the Department of Building Inspection, 415-558-6570, www.sfdbi.org

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

14. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

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

15. **Notices Posted at Bars and Entertainment Venues.** Notices urging patrons to leave the establishment and neighborhood in a quiet, peaceful, and orderly fashion and to not litter or

block driveways in the neighborhood, shall be well-lit and prominently displayed at all entrances to and exits from the establishment.

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

16. **Other Entertainment.** The Other Entertainment shall be performed within the enclosed building only. The building shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance. Bass and vibrations shall also be contained within the enclosed structure. The Project Sponsor shall obtain all necessary approvals from the Entertainment Commission prior to operation. The authorized entertainment use shall also comply with all of the conditions imposed by the Entertainment Commission.

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