



# SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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- Jobs Housing Linkage Program (Sec. 413)
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## Planning Commission Motion No. 18716

HEARING DATE: OCTOBER 4, 2012

*Date:* September 27, 2012  
*Case No.:* 2012.0145C  
*Project Address:* 1725 – 1727 HAIGHT STREET  
*Zoning:* Haight Street Neighborhood Commercial District  
 Haight Street Alcohol Restricted Use Subdistrict (RUSD)  
 40-X Height and Bulk District  
*Block/Lot:* 1248/023  
*Project Sponsor:* Rebecca Ivans-Amato  
 Amato Architecture  
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ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 186.1, 228.4, 719.21, 719.48, and 303, OF THE PLANNING CODE TO ALLOW A CHANGE OF USE FOR THE RED VIC MOVIE HOUSE, EXPANSION OF A RESTAURANT/BAR (DBA THE ALEMBIC BAR) INTO A PORTION OF THE FORMER MOVIE HOUSE AREA, CREATION AN EVENT SPACE ALLOWING “OTHER ENTERTAINMENT” IN THE FORMER MOVIE HOUSE AREA, AND RETAIL/INCUBATOR SPACE WITHIN THE HAIGHT STREET NEIGHBORHOOD COMMERCIAL DISTRICT, THE HAIGHT STREET ALCOHOL RESTRICTED USE SUBDISTRICT (RUSD) AND 40-X HEIGHT AND BULK DISTRICT.

### PREAMBLE

On April 3, 2012, Rebecca Ivans-Amato (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Section(s) 186.1, 228.4, 719.21, 719.48, and 303 to allow a change of use for the Red Vic Movie House, expansion of a restaurant/bar (dba The Alembic Bar) into a portion of the former movie house, creation of an event space allowing “other entertainment” within the former movie house area and

retail/incubator space within the Haight Street Neighborhood Commercial District, the Haight Street Alcohol Restricted Use Subdistrict (RUSD) and the 40-X Height and Bulk District.

On October 4, 2012, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2012.0145C.

The Project is exempt from the California Environmental Quality Act (“CEQA”) as a Class 1 categorical exemption per Case 2012.0145E.

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. 2012.0145C, 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 south side of Haight Street between Shrader and Cole Streets, Block 1248, Lot 023. The subject property is developed with a one-story commercial building of approximately 5,000 square feet containing the Alembic Bar (a “Bona Fide Eating Place”) and the former Red Vic Movie House. The building covers approximately 75% of the subject lot with a street frontage of approximately 60 linear feet. Currently, the Red Vic Movie House is approximately 3,000 square feet and the Alembic Bar is approximately 1,200 square feet. The restaurant Escape from New York Pizza is located immediately west of the subject space, is part of the subject building, but it is not proposed to be altered.
3. **Surrounding Properties and Neighborhood.** The project site is located towards the west end of the Haight-Ashbury neighborhood close to Sanyan Street and Golden Gate Park. Surrounding properties are generally developed with mixed use buildings containing commercial ground-floor uses and up to three stories of residential uses above. A mixture of food, apparel, banking, and liquor establishments are located within the subject block of Haight Street. Buildings located behind the subject property facing Cole, Shrader and Waller Streets generally contain residential uses.
4. **Project Description.** The applicant proposes to change the use of the Red Vic Movie House from a movie theatre to three different and interrelated uses: an expansion of the Alembic Bar next to

its existing location within the building to approximately 1,800 square feet; an event space at the building's rear of approximately 900 square feet containing 49 seats; and a retail/incubator space and "market hall" of approximately 1,500 square feet. The proposed event space and market hall would accommodate gatherings and activities classified as "Other Entertainment" per Planning Code Section 719.48, and would be located at the rear of the building. The Alembic Bar would be managing and providing food and beverage service for the majority of gatherings held in the event space. The front of the market hall area would be divided into a number of small retail/incubator "kiosks" that would be operated independently and provide specialized goods to walk-in customers during business and event hours.

The proposed multi-use event space would accommodate a broad range of activities including (but not limited to): movie screenings, live entertainment (music, comedy, theatre), private parties in conjunction with the Alembic Bar, community meetings and outreach, non-profit and community fundraisers and benefits, off-site business/ organizational staff meetings and retreats, classes, art shows and children's events.

Proposed architectural changes to the building would divide the existing long and blank street façade into two new distinct commercial storefronts. Improvements include a larger frontage for the Alembic Bar with a new doorway and additional windows. The market hall entrance would introduce a double-door entrance and new storefront window systems. Bulkheads, fascias and new materials would be added to the building façade. The architectural and material changes would greatly increase the building's sidewalk transparency and improve the pedestrian experience.

It is anticipated that liquor would be served in the event space during public and private events by the Alembic Bar under a Type 47 ABC license. Per Planning Code Section 205.3, liquor may be served as a temporary use in this area for no more than 24 hours per event once a month for up to 12 events per year.

Planning Code Section 303(c)(5)(A) requires that "Other Entertainment" uses adhere to the following restrictions:

- (ii) Operate only between the hours of 6 am and 2 am;
- (iii) No electronic amplification between midnight and 6 am;
- (iv) 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 shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance.

The Alembic Bar hours will remain the same, 12 pm to 2 am every day. The kiosk/incubator hours will follow typical retail hours, except for when the event space is in use. The Other Entertainment hours will generally occur in the evenings and nighttime until 2 am with electronic amplification ending at midnight. The Red Vic Movie House operated on the premises between 1990 and July, 2011. The theatre closed as it was no longer economically viable.

The proposed independent uses are locally owned, which has been encouraged throughout San Francisco. The proposed use is not a Formula Retail use. The proposal requires a change of use and Section 312-neighborhood notification was conducted in conjunction with the Conditional Use Authorization process. The proposed use is a neighborhood-serving use.

5. **Public Comment.** As of September 27, 2012, the Department has received 10 letters of support from neighbors and neighborhood organizations including the Haight Ashbury Improvement Association and Captain Greg Corrales, Commanding Officer, Park Police District, San Francisco Police Department.
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. **Use Size.** Planning Code Section 121.2(a)(1-3) states that a Conditional Use Authorization is required for a use size over 2,500 square feet in the Haight Street Neighborhood Commercial District.

*The existing use size for the Alembic Bar is approximately 1,200 square feet and the use size of the Red Vic Movie House is approximately 3,000 square feet for an overall area of approximately 4,700 square feet. These two uses have coexisted in the subject building for a number of years without conflict. The building's footprint and volume would not be enlarged as a result of the project.*

*As a result of the Alembic Bar's expansion and proposed flexible use of the event space and market hall, it is conceivable that at certain limited times during a calendar year, the entire building would be used to accommodate one event. In these instances, the use size would exceed the maximum permitted for the zoning district as stated above.*

*The proposal complies with Planning Code Section 121.2(a)(1-3) as follows:*

- (1) The proposed use size is different from the existing use size only in that it will introduce the multi-use space where Other Entertainment and events can be held. At the time of this entitlement, there does not appear to be a similar neighborhood-serving use in the area that could be affected by the subject proposal. The proposed use would be no larger than the two existing uses combined.*
- (2) The proposed use will complement the neighborhood by introducing a use that is not currently provided. In addition, the proposed use could increase the number of people on the street and thus increase retail opportunities for surrounding commercial establishments. The size of the existing and proposed uses is virtually the same.*
- (3) The existing building is inconsistent with the architectural character and scale of neighborhood development as it is generally one long façade with little detail, no windows and one material (stucco). As a result of proposed changes, the building will be divided into two discrete elements at the street and introduce new openings, details and materials that are consistent with the architectural character and scale of development in the district.*

- B. **Movie Theatre Change of Use.** Planning Code Sections 221(d) and 703.2(b)(B)(ii) states that a Conditional Use Authorization is required for conversion of a movie theatre to a different use. Planning Code Section 303(k) provides specific findings for such conversions.

*The Red Vic Movie House operated on the premises from 1990 to 2011. The subject proposal is to convert the movie theatre area (approximately 3,000 square feet) into an event space of approximately 875 square feet and holding approximately 49 seats, a retail/incubator and “market hall” space of approximately 1,500 square feet, and an expansion of the Alembic Bar to approximately 1,800.*

- (A) Preservation of a movie theatre use is no longer economically viable and cannot effect a reasonable economic return to the property owner;

- (i) For purposes of defining “reasonable economic return,” the Planning Commission shall be guided by the criteria for “fair return on investment” as set forth in Section 228.4(a).

*The property owner has provided evidence that operating a single-screen movie theatre has not been economically viable for a number of years and that updating the theatre for digital movies was financially infeasible. The evidence has been verified by a Certified Public Accountant.*

- (B) The change of use or demolition of the movie theatre use will not undermine the economic diversity and vitality of the surrounding Neighborhood Commercial District.

*The Red Vic Movie House closed in July 2011 without undermining the Haight Neighborhood Commercial District which is large and offers a broad variety of commercial uses that diversify its focused economy. Expansion of the Alembic Bar and creation of a multi-use event space and retail/incubator space will improve the economic diversity and vitality of the surrounding Neighborhood Commercial District as it will activate a defunct street frontage.*

- (C) The resulting project will preserve the architectural integrity of important historic features of the movie theatre use affected.

*Per Case No. 2012.00145E, the proposal is consistent with the California Environmental Quality Act for the preservation of historic properties. The proposal will improve the architectural integrity of the building by segmenting the façade, adding openings and adding new materials that will make the building consistent with the neighborhood character.*

- C. **Other Entertainment.** Planning Code Section 719.48 permits other entertainment in the Haight Street NCD with Conditional Use Authorization. Planning Code Section 790.38 defines “other entertainment” as: “A retail use, other than adult entertainment, as defined in Section 790.36 of this Code, which provides live entertainment, including dramatic and musical performances, and/or provides amplified taped music for dancing on the premises, including but not limited to Places of Entertainment and Limited Live Performance Locales, as defined in Section 1060 of the Police Code, and which is adequately soundproofed or insulated so as to confine incidental noise to the premises.”

*The Project will expand an existing nonconforming restaurant use, introduce a new entertainment use and retail/incubator space that are necessary and desirable for the neighborhood in that they will*

*augment, and replace, a well-used neighborhood-serving use, the Red Vic Movie House. The Haight Street NCD controls are designed to protect the existing building scale and promote new mixed-use development which is consistent with the existing neighborhood character. The proposed uses will contribute to the district's activity and character, providing a quality restaurant and entertainment activities in a unique and appropriate atmosphere. The proposal would require internal and façade changes to the existing building, and does not require a building expansion.*

*The other entertainment would include a number of live and performing arts activities. The live music would be restricted to the event space which is to be acoustically treated and the sound equipment must be inspected and permitted by the Entertainment Commission prior to operation. Potential entertainment uses include (but are not limited to) movie screenings, live entertainment (music, comedy, theatre), private parties in conjunction with the Alembic Bar, community meetings and outreach, non-profit and community fundraisers and benefits, off-site business/ organizational staff meetings and retreats, classes, art shows and children's events.*

- D. Expansion of Noncomplying Use:** Planning Code Section 186.1 requires Conditional Use authorization to expand an existing nonconforming use.

*Currently, the Alembic Bar is considered a "Bona Fide Eating Place" and holds a Type 47 ABC license; as such, it is considered to be a nonconforming use in the Haight Street Neighborhood Commercial District. The Alembic Bar obtained this license prior to the restriction in the number of licensed restaurants in the District.*

- E. Rear Yard Requirement in the Haight Street Neighborhood Commercial District.** Planning Code Section 134 states that the minimum rear yard depth shall be equal to 25 percent of the total depth of a lot in which it is situated, but in no case less than 15 feet.

*The proposal does not include any structural expansion.*

- F. Parking.** Section 151 of the Planning Code requires off-street parking for every 200 square-feet of occupied floor area, where the occupied floor area exceeds 5,000 square-feet.

*The Subject Property contains approximately 4,800 square-feet of occupied floor area and thus does not require any off-street parking.*

- G. Street Frontage in Neighborhood Commercial Districts.** Section 145.1 of the Planning Code requires that within NC Districts space for active uses shall be provided within the first 25 feet of building depth on the ground floor and 15 feet on floors above from any facade facing a street at least 30 feet in width. In addition, the floors of street-fronting interior spaces housing non-residential active uses and lobbies shall be as close as possible to the level of the adjacent sidewalk at the principal entrance to these spaces. Frontages with active uses that must be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level and allow visibility to the inside of the building. The use of dark or mirrored glass shall not count towards the required transparent area. Any

decorative railings or grillwork, other than wire mesh, which is placed in front of or behind ground floor windows, shall be at least 75 percent open to perpendicular view. Rolling or sliding security gates shall consist of open grillwork rather than solid material, so as to provide visual interest to pedestrians when the gates are closed, and to permit light to pass through mostly unobstructed. Gates, when both open and folded or rolled as well as the gate mechanism, shall be recessed within, or laid flush with, the building facade.

*The subject commercial space has approximately 75 feet of frontage on Haight Street with approximately 60 feet devoted to either the Alembic Bar or market hall. The retail/incubator kiosks (active uses) will be visible from the street through new windows to be constructed in the front building wall. The windows are to be clear and unobstructed so the activity inside the building is visible from the sidewalk and street.*

H. **Signage.** Currently, there is not a proposed sign program on file with the Planning Department. Any proposed signage will be subject to the review and approval of the Planning Department.

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 size of the proposed project is consistent with the previous two uses that occupied the building. Expansion of the subject building is not proposed. The previous movie house use had approximately 80 seats (including couches) where the proposed event space will accommodate approximately 49 seats, retail/incubator kiosks and internal circulation. Currently, there is no other multi-use venue in the neighborhood that can provide flexible space for a broad range of public and private events.*

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;

*The proposal only involves interior and façade alterations to the existing building. Acoustic soundproofing has been incorporated into the proposal to reduce potential noise conflicts.*

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 parking or loading for a use under 5,000 square feet. The proposed use is designed to meet the needs of the immediate neighborhood and should not generate significant amounts of vehicular trips from the immediate neighborhood or citywide. The site is served by MUNI lines 33, 43 and 71.*

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

*The proposed use is subject to the standard conditions of approval for restaurants as outlined in Exhibit A. Conditions 7, 13, 15, and 20 specifically obligate the project sponsor to mitigate odor and noise generated by the restaurant use. The proposal includes acoustical soundproofing to address the entertainment use.*

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

*The proposed restaurant and event space does not involve elements that would require treatments for the items listed above. The Planning Department shall review all lighting and signs proposed for the new business in accordance with Conditions 17 and 21 of Exhibit A.*

- 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.;
- ii. Amplification will not occur between midnight and 6:00 a.m.
- 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.
- iv. The San Francisco Entertainment Commission and/or Police Department will regulate noise, verifying that the decibel levels specified in the San Francisco Noise Control Ordinance are not exceeded. Further, the Project Sponsor has indicated that sound abatement measures have been taken through the application of sheetrock to the interior walls at the recommendation of an acoustical engineer.

- D. 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.*

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

*The proposed project is consistent with the stated purpose of the Haight Street Neighborhood Commercial District in that the intended mixed-use nature of the proposal is located at the ground floor, and will provide a new flexible space for various types of patrons. The proposal is to expand an existing nonconforming use (Alembic Bar), which has proven to be an anchor for the neighborhood. The proposed other entertainment and event space use will bring a number of new and creative uses to the neighborhood which will be protected by conditions of approval to address potential nuisance issues.*

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

## NEIGHBORHOOD COMMERCE

### 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 restaurant expansion, "Other Entertainment" venue and retail/incubator space will provide desirable services to the neighborhood and will provide resident employment opportunities to those in the community. The expanded scope of the existing business to include other entertainment will not result in undesirable consequences. Further, the Project Site is located within a Neighborhood Commercial District and is thus consistent with activities in the commercial land use plan.*

#### **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 Project will retain an existing commercial activity and create a new commercial activity that will enhance the diverse economic base of the City.*

**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 and the project would not prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood.*

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

**Eating and Drinking Establishments**

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

- Regulate the distribution and proliferation of eating and drinking establishments, especially in districts experiencing increased commercial activity;
- Control nuisances associated with their proliferation;
- Preserve storefronts for other types of local-serving businesses; and
- Maintain a balanced mix of commercial goods and services.
- The regulation of eating and drinking establishments should consider the following:
  - Balance of retail sales and services;
  - Current inventory and composition of eating and drinking establishments;
  - Total occupied commercial linear frontage, relative to the total district frontage;
  - Uses on surrounding properties;
  - Available parking facilities, both existing and proposed;
  - Existing traffic and parking congestion; and
  - Potential impacts on the surrounding community.

*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 determined that within 300 feet of the proposed expanded restaurant use (per 2012 restaurant legislation), approximately 20% of the frontage of the Haight Street Neighborhood Commercial District is attributed to eating and drinking establishments. While the project would bring the area up to the threshold, it is worth noting that the proposal increases the frontage of food-service establishments by approximately 12 linear feet.*

**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.

*An independent entrepreneur is sponsoring the proposal. The proposed use is a neighborhood serving use. This is not a Formula Retail use.*

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 increasing the area of an existing Bona Fide Eating Place by approximately 450 square feet. The business is locally owned and will create employment opportunities for the community. The proposed alterations are within the existing building footprint. The area to be used for the restaurant expansion and other entertainment uses has been unoccupied and unused for over a year.*

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

*The existing residential units in the surrounding neighborhood would not be adversely affected. The proposal includes expanding a nonconforming restaurant and introducing other entertainment to the neighborhood. In addition, any entertainment use must be approved by the Entertainment Commission, who also regulates noise which may be of concern to the neighbors.*

- 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 is on Haight Street and is well served by public transit. It is presumable that the employees would commute by transit thereby mitigating possible effects on street parking. Haight Street has three MUNI bus lines (33, 43 and 71).*

- 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 or service sector uses or related employment opportunities. Ownership of industrial or service sector businesses will not be affected by this project.*

- 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.

*Per Case No. 2012.0145E, 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 impact on existing parks and open spaces. The project does not have an affect on open spaces.*

10. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.

11. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

**DECISION**

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2012.0145C** subject to the following conditions attached hereto as “EXHIBIT A” in general conformance with plans on file, dated September 26, 2012, 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. 18716. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.**

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on October 4, 2012.

Linda D. Avery  
Commission Secretary

AYES: Commissioners Antonini, Borden, Fong, Hillis, Moore, Sugaya, and Wu

NAYS: None

ABSENT: None

ADOPTED: October 4, 2012

## **EXHIBIT A**

### **AUTHORIZATION**

This authorization is for a conditional use to allow the expansion of a noncomplying Bona Fide Eating Place (d.b.a. Alembic Bar), a change of use from a movie theatre (Red Vic Movie House), and establishment of a venue for other entertainment in the former movie theatre located at 1725-1727 Haight Street, Block 1248, and Lot 023 pursuant to Planning Code Section(s) 186.1, 228.4, 719.21, 719.48, and 303 within the Haight Street Neighborhood Commercial District and a **40-X** Height and Bulk District; in general conformance with plans, dated **September 26, 2012**, and stamped "EXHIBIT B" included in the docket for Case No. **2012.0145C** and subject to conditions of approval reviewed and approved by the Commission on **October 4, 2012** under Motion No **18716**. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

### **RECORDATION OF CONDITIONS OF APPROVAL**

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on **October 4, 2012** under Motion No **18716**.

### **PRINTING OF CONDITIONS OF APPROVAL ON PLANS**

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **18716** 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 and Expiration.** The authorization and right vested by virtue of this action is valid for three years from the effective date of the Motion. A building permit from the Department of Building Inspection to construct the project and/or commence the approved use must be issued as this Conditional Use authorization is only an approval of the proposed project and conveys no independent right to construct the project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained within three (3) years of the date of the Motion approving the Project. 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. The Commission may also consider revoking the approvals if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org).*

2. **Extension.** This authorization may be extended at the discretion of the Zoning Administrator only where failure to issue a permit by the Department of Building Inspection to perform said tenant improvements is caused by a delay by a local, State or Federal agency or by any appeal of the issuance of such permit(s).

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org).*

## DESIGN

3. **Final Materials.** Final materials, windows, glazing, color, texture, and detailing shall be subject to Department staff review and approval.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org).*

4. **Garbage, composting and recycling storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the architectural addenda. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org).*

5. **Window Transparency.** All Haight Street façade windows are to be clear and unobstructed so the activity inside the building is visible from the sidewalk and street. The glass shall not be treated with any material that would increase the opacity or reflectiveness of the glazing.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

6. **Rooftop Mechanical Equipment.** Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the building permit application. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

7. **Noise.** Plans submitted with the building permit application for the approved project shall incorporate acoustical insulation and other sound proofing measures to control noise.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

## **MONITORING**

8. **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](http://www.sf-planning.org)*

9. **Monitoring.** The Project requires monitoring of the conditions of approval in this Motion. The Project Sponsor or the subsequent responsible parties for the Project shall pay fees as established under Planning Code Section 351(e) (1) and work with the Planning Department for information about compliance.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

10. **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](http://www.sf-planning.org)*

## OPERATION

11. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards. *For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org/>*
12. **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](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. *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](http://www.sfdph.org)*  
*For information about compliance with the construction noise, contact the Department of Building Inspection, 415-558-6570, [www.sfdbi.org](http://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](http://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](http://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](http://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. Potential other entertainment uses include (but are not limited to) movie screenings, live entertainment (music, comedy, theatre), private parties in conjunction with the Alembic Bar, community meetings and outreach, non-profit and community fundraisers and benefits, off-site business/ organizational staff meetings and retreats, classes, art shows and children's events.

*For information about compliance, contact the Entertainment Commission, at 415 554-6678, [www.sfgov.org/entertainment](http://www.sfgov.org/entertainment)*

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

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

18. **Hours of Operation.** The subject establishments must adhere to the hours of operation per Planning Code Sections 719.27 and Section 303(c)(5)(A).

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

19. **Temporary Liquor Service:** Per Planning Code Section 205.3, liquor may be served in the event space/market hall, outside of Alembic Bar-related events, as a temporary use for no more than 24 hours per event once a month for up to 12 events per year.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

20. **Odor Control.** While it is inevitable that some low level of odor may be detectable to nearby residents and passersby, appropriate odor control equipment shall be installed in conformance with the approved plans and maintained to prevent any significant noxious or offensive odors from escaping the premises.

*For information about compliance with odor or other chemical air pollutants standards, contact the Bay Area Air Quality Management District, (BAAQMD), 1-800-334-ODOR (6367), [www.baaqmd.gov](http://www.baaqmd.gov) and Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

21. **Signage.** All signage shall comply with Article 6 of the Planning Code. A separate sign permit is required and must be reviewed and approved by the Planning Department.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*