



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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| <input type="checkbox"/> Affordable Housing (Sec. 415) | <input type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 413) | <input type="checkbox"/> Child Care Requirement (Sec. 414) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 412) | <input type="checkbox"/> Other |

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Planning Commission Motion No. 19032

HEARING DATE: DECEMBER 5, 2013

Date: November 26, 2013
Case No.: **2013.0849C**
Project Address: **343 (aka 347) CLEMENT STREET**
Zoning: Inner Clement NCD (Neighborhood Commercial District)
40-X Height and Bulk District
Block/Lot: 1436/047
Project Sponsor: Heidi Miller
Permit Expeditors and Consultants
PO Box 1267
Orinda, CA 94563
Owners: NNL Group, LLC dba Barley
Attn: Tammy Nguyen
3234 25th Street
San Francisco, CA 94110
Staff Contact: Kanishka Burns – (415) 575-9112
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ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303, 716.44, and 790.91 OF THE PLANNING CODE TO ALLOW A CHANGE OF USE FROM A LIMITED RESTAURANT TO A RESTAURANT (DBA BARLEY) WHICH WILL OPERATE AS A BONA FIDE EATING PLACE. THE PROPERTY IS LOCATED WITHIN THE INNER CLEMENT NEIGHBORHOOD COMMERCIAL DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On June 25, 2013, Heidi Miller (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Section(s) 716.44 and 790.91 to allow a change of use from a limited restaurant to a restaurant (d.b.a. Barley) within the Inner Clement NCD (Neighborhood Commercial District) and a 40-X Height and Bulk District.

On December 5, 2013, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing of a regularly scheduled meeting on Conditional Use Application No. 2013.0849C.

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

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

MOVED, that the Commission hereby authorizes the Conditional Use Authorization requested in Application No. 2013.0849C, 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 Site is located on the south side of Clement Street between Fourth and Fifth Avenues, Assessor's Block 1436, Lot 047. It is located within the Inner Clement Neighborhood Commercial District (NCD) Zoning District and the 40-X Height and Bulk District.

The Project Site is occupied by a two-story mixed use building at the corner of Clement Street and Fifth Avenue, with three first story commercial spaces (including the subject space) and four dwelling units above. First story uses consist of a Restaurant (d.b.a Troya) at the corner of Clement Street and Fifth Avenue, the subject tenant space, which is a 1,855 sq. ft. Limited Restaurant (d.b.a. Barley), and one other commercial space along Fifth Avenue consisting of a Restaurant use at 308 Fifth Avenue (d.b.a. Cajun House).

The project site was previously operating as a Self-Service/Fast Food Restaurant (d.b.a. Java Source Coffee House) from February 2005 to March 2013. Per ordinance 0047-12, commonly known as the "Restaurant Legislation", Java Source Coffee House was considered a Limited Restaurant as the business did not have an ABC license and Barley's takeover of the space in April 2013 was able to be administratively approved as a "Limited Restaurant".

3. **Surrounding Properties and Neighborhood.** The project site is located at the intersection of Clement Street and Fifth Avenue. The area surrounding the project site is mixed-use in character. A variety of commercial establishments are located within first story storefronts in the Inner Clement NCD, including restaurants, bars, personal services, convenience stores, grocery stores and other types of retailers. Buildings in the vicinity typically range from two to four stories in

height. Upper floors of buildings are generally occupied by offices or residential units. The Inner Clement NCD is bounded by residential and mixed-uses in the surrounding RM-1 (Residential, Mixed) District.

The shopping area contains a variety of small-scale convenience businesses which primarily include a mix of restaurants, specialty groceries, variety merchandise stores, and personal service establishments. Uses in the subject block along Clement Street includes: restaurants, limited restaurants, variety retailers and a financial service (d.b.a. Chase Bank).

4. **Project Description.** The Project Sponsor proposes to convert the existing Limited Restaurant into a Restaurant, which will allow on-site beer, wine and/or liquor sales for drinking on the premises (with ABC license types 41, 47, 49, 59 or 75) provided that the business operates as a Bona Fide Eating Establishment as defined in Planning Code Section 790.142. The Project does not include any interior or exterior alterations.

The proposed restaurant will occupy approximately 1,855 square feet in the ground floor commercial space. The restaurant space consists of an approximately 415 square foot semi-enclosed dining area; a 320 square foot enclosed dining area in addition to a kitchen, storage, restroom and a 575 square foot office at the rear. The proposal does not include any interior or exterior alterations as the kitchen and counters were existing.

According to the Project Sponsor, the business will operate as a bona fide restaurant that will serve full breakfast, light brunch, lunch and dinner. The method of service allows customers to order and pay at the counter and wait at tables for orders to be delivered. The proposed hours of operation are 7:00 AM to 10:00 PM daily and the proposed operation will employ six staff members. The subject site is well served by public transit so that employees and customers should not adversely affect the traffic flow. It is not anticipated that the change in use from a Limited Restaurant to a Restaurant will further affect the neighborhood traffic.

Interior alterations and upgrades to the fire suppression system were permitted through the Department of Building Inspection in May and September of 2013. Building Permit No. 2013.11.06.1279 is being concurrently reviewed by the Planning Department to authorize the change of use from Limited Restaurant to Restaurant.

The proposed use is an independent use and 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.

5. **Public Comment.** To date, the Department has received no communication regarding the project.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Use.** Planning Code Section 716.44 states that a Conditional Use Authorization is required for a Restaurant on the first story, as defined by Planning Code Section 790.91.

The Subject Property is located within the Inner Clement NCD and pursuant to Planning Code Section 716.44, Restaurants are permitted on the first story with a Conditional Use authorization. The Project Sponsor is requesting Conditional Use authorization in order to allow a Restaurant on the first story of a tenant space, which is currently authorized as a Limited Restaurant. A Restaurant may provide on-site beer, wine, and/or liquor sales for drinking on the premises (with ABC license types 41, 47, 49, 59 or 75); however, if it does so it shall be required to operate as a Bona Fide Eating Place. The Project Sponsor proposes to provide on-site beer and wine sales for drinking on the premises with an ABC license type 41 and will operate as a Bona Fide Eating Place as defined by Planning Code Section 790.142.

- B. **Use Size.** Planning Code Section 716.21 establishes size limited on nonresidential uses for the Inner Clement NCD. Nonresidential uses up to 2,499 square feet are principally permitted while uses 2,500 square feet and above require Conditional Use Authorization.

At 1,855 gross square feet (gsf), the Project is within the principally permitted use size.

- C. **Hours of Operation.** Planning Code Section 716.27 states that hours of operation from 6:00 AM to 2:00 AM are principally permitted in the Inner Clement NCD while hours of operation from 2:00 AM to 6:00 AM are conditionally permitted. Hours of operation are defined by Planning Code Section 790.48 as the permitted hours during which any commercial establishment may be open.

The Project's proposed hours of operation will be from 7:00 AM to 10:00 PM, daily. The Project will operate within the principally permitted hours of operation.

- D. **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 1,855 square-feet of occupied floor area and thus does not require any off-street parking.

- E. **Loading.** Section 152 requires off-street freight loading for uses above a certain size. Retail establishments and uses primarily engaged in the handling of goods (such as the proposed Restaurant) are not required off-street freight loading if they measure less than 10,000 square feet in gross area. Section 231(h)(3) requires that all truck loading associated with this business shall be limited in such a way as to avoid undue interference with sidewalks, or with crosswalks, bus stops, hydrants and other public features.

With a gross floor area under 10,000 square feet, the Project is not required to provide any off-street loading. All loading for this business is required to be conducted in such a way as to avoid undue interference with sidewalks, crosswalks, bus stops, hydrants and other public features.

- F. **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 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 tenant space has approximately 336 square feet of frontage along Clement Street. This entire space will be occupied by the active use of "Barley", which is a Restaurant use that complies with Section 145.1(c)(3). Approximately 22 feet of the 24 foot Clement Street frontage is dedicated to a semi-enclosed dining area that is fully visible from the street. The indoor dining area is enclosed with clear glazing setback approximately 20 feet from the frontage. The semi-enclosed dining area and the clear glazing of the enclosed dining area allow unobstructed views into the interior of the tenant space providing approximately 69% transparency. There are no changes proposed to the commercial frontage.

- G. **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 Project will occupy the storefront with a desirable neighborhood-serving use and provide entry-level job opportunities for the local community. The proposed use will not increase the size or intensity

of the existing commercial space, which was previously used as a Limited Restaurant. The Project frontage on Clement Street is 24' and no exterior changes are proposed.

- 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 size and shape of the Project Site is compatible with the patterns of development in the area, and the Project does not involve any alterations to the exterior of the subject building. The Project would not physically expand the existing building or tenant space, and therefore would not alter the existing appearance or character of the Project vicinity.

- 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 1,855 square-foot restaurant. 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 Project would not adversely affect public transit or overburden the existing supply of parking in the neighborhood, because the project site is well-served by public transit as it is within one block of six MUNI lines.

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

The project is not anticipated to produce noxious or offensive emissions related to noise, glare and dust or odor. The restaurant will be subject to the Condition of Approval No. 8 regarding odor control.

- 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 does not proposed any exterior modifications and the Department shall review all lighting and signs proposed for the new business in accordance with Article 6 of the Planning Code.

- 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. The project as a whole is consistent with objectives and policies of the General Plan as detailed below.

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

The proposed project is consistent with the stated purposes of the Inner Clement Neighborhood Commercial District. The Project Site has been used as a eating and drinking establishment since at least 2000 and would continue to be used as such, consistent with existing land use patterns and maintaining a harmony of uses that support the district's vitality.

- E. The existing concentration of eating and drinking uses shall not exceed 25% of the total commercial frontage as measured in linear feet within the immediate area of the subject site, per Planning Code Section 303(p). The immediate area shall be defined as all properties located within 300 feet of the subject property and also located within the same zoning district.

Planning staff has performed a site survey of the Inner Clement Neighborhood Commercial District including the immediate area of the Subject Site. With the proposed Restaurant use, approximately 28% of the frontage of the immediate area (within 300 foot radius) of the Subject Site is attributed to eating and drinking establishments. The proposed change of use from Limited Restaurant to Restaurant will not result in a net increase of commercial frontage dedicated to eating and drinking uses within the immediate area.

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 Project will provide desirable goods and services, as well as employment opportunities to those in the community. No existing commercial tenant will be displaced. The conditions of approval will ensure that the use meets minimum, reasonable performance standards. 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 enable the retention of an existing commercial activity as the Project Site has been occupied by an eating and drinking use since at least 2000. The Project will allow a desirable neighborhood-serving use to continue operating, thereby contributing to the commercial activity for the subject block and neighborhood and enhancing the diverse economic base of the City.

OBJECTIVE 3:

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

Policy 3.1:

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

The Project will provide additional employment opportunities for local residents as well as unskilled and semi-skilled workers.

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, as the proposed use would not increase the eating and drinking establishment concentration.

Eating and Drinking Establishments

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

In districts where the proliferation of eating and drinking establishments could generate problems, the following guidelines should be employed in the consideration of new establishments, relocations, changes from one kind of eating and drinking establishment to another (e.g. from self-service restaurant to full-service restaurant), expansion or intensification of existing establishments:

- The establishment should not add to an over-concentration of eating and drinking establishments in a single district. The balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage. Proposals for eating and drinking establishments which would increase the proportion of total occupied commercial frontage above 20% should be reviewed to ensure that they would not reduce the variety of neighborhood-serving uses; nor create substantial noise, traffic, parking problems or other nuisances in the district or surrounding

- neighborhood. Those establishments that would do the above should not be permitted. Except in districts with an established pattern of service to a broad market, such as North Beach, such establishments should not occupy more than 25% of the total commercially occupied frontage in a district. To minimize the problems they can create, eating and drinking uses should generally be at least 100 feet apart from each other, unless there are factors making clustering of uses appropriate. For example, a configuration of clustered eating and drinking uses where off-street parking is shared might be more appropriate than an even distribution of such establishments.
- New, expanding or relocating eating and drinking uses should not impose significant adverse impacts on traffic and transit volumes and circulation and parking congestion. If such impacts are anticipated, especially on transit-preferential streets, the proposed use, expansion or relocation should be redesigned to mitigate such impacts, or it should be prohibited.
 - Eating and drinking uses should be adequately soundproofed or insulated for noise and operated so as to reasonably protect adjoining and surrounding upper-story residences from disturbances from fixed source equipment.

The General Plan states that there is a concern with the potential over-concentration of food-service establishments. The Commerce and Industry Element of the General Plan contains Guidelines for Specific Uses. For eating and drinking establishments, the Guidelines state, "the balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage." Planning staff has performed a site survey of the Inner Clement Neighborhood Commercial District which contains the proposed use. With the proposed restaurant use, approximately 23% of the frontage of the Inner Clement Neighborhood Commercial District is attributed to eating and drinking establishments. The proposed change of use from Limited Restaurant to Restaurant will not result in a net increase of commercial frontage within the Inner Clement Neighborhood Commercial District. The Project Site is also well served by public transit and will be subject to the standard Conditions of Approval for eating and drinking establishments including those concerned with trash, odors and general cleanliness.

Policy 6.2:

Promote economically vital neighborhood commercial district 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. The proposed eating and drinking establishment is not considered a Formula Retail Use.

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.

The Proposed project will maintain the mixed-use nature of the Subject building and the Inner Clement NCD. The Project Site consists of three commercial uses at the first floor and four dwelling units at the second floor.

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 Project will not displace any existing retail uses within the neighborhood. The business would be locally owned and would create up to 6 employment opportunities. The proposed alterations are within the existing building footprints.

- 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 by the Project. The Project is consistent with the surrounding neighborhood character and the proposed hours of operation are within the standard principally permitted hours in the NCD.

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

No housing will be removed for this Project.

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

The site is well served by transit. The area within ¼ mile of the subject site is served by ten bus routes (Golden Gate Transit #92 and MUNI buses #1, 1AX, 1BX, 2, 38, 38BX, 38L, 44 and 33).

- 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 affect the property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

The Project does not involve any exterior alterations and is not located in a landmark or historic building.

- 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. The Project does not have an effect on open spaces as there are no exterior expansions.

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. 2013.0849C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated September 24, 2013, 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. 19032. 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 December 5, 2013.

Jonas P. Ionin
Commission Secretary

AYES: Fong, Wu, Antonini, Borden, Moore, Sugaya

NAYS: None

ABSENT: Hillis

ADOPTED: December 5, 2013

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow a change of use from limited-restaurant to restaurant (d.b.a. Barley) located at 343 (aka 347) Clement Street, Lot 047 in Assessor's Block 1436 pursuant to Planning Code Section(s) 303, 716.44 and 790.91 within the Inner Clement Street Neighborhood Commercial District and a 40-X Height and Bulk District; in general conformance with plans, dated September 24, 2013, and stamped "EXHIBIT B" included in the docket for Case No. 2013.0849C and subject to conditions of approval reviewed and approved by the Commission on December 5, 2013 under Motion No 19032. 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 December 5, 2013 under Motion No 19032.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 19032 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.

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.

MONITORING – AFTER ENTITLEMENT

3. **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.

4. **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.

OPERATION

5. **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>
6. **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/>*
7. **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
8. **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 and Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org