



# SAN FRANCISCO PLANNING DEPARTMENT

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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. 19040

HEARING DATE: DECEMBER 12, 2013

*Date:* December 5, 2013  
*Case No.:* **2013.1284C**  
*Project Address:* **1040 HYDE STREET**  
*Zoning:* Polk Street NCD (Neighborhood Commercial District)  
65-A Height and Bulk District  
*Block/Lot:* 0251/046  
*Project Sponsor:* Timothy Lee  
1875 35<sup>th</sup> Avenue  
San Francisco, CA 94122  
*Staff Contact:* Kanishka Burns – (415) 575-9112  
[kanishka.burns@sfgov.org](mailto:kanishka.burns@sfgov.org)  
*Recommendation:* **Approval with Conditions**

**ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303, 723.41, and 790.22 OF THE PLANNING CODE TO ALLOW A BAR (DBA LIQUID GOLD) WITHIN THE POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT AND A 65-A HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On September 11, 2013, Timothy Lee (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Section(s) 723.41 and 790.22 to allow a bar use within the Polk Street NCD (Neighborhood Commercial District) and a 65-A Height and Bulk District.

On December 12, 2013, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing of a regularly scheduled meeting on Conditional Use Application No. 2013.1284C.

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. 2013.1284C, 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 east side of Hyde Street between California Street and Pine Street, Assessor's Block 0251, Lot 046. It is located within the Polk Street Neighborhood Commercial District (NCD) Zoning District and the 65-A Height and Bulk District.

The Project Site is occupied by a two- and three-story mixed use building, with three first story commercial spaces (including the subject space) and four dwelling units above. First story uses consist of two personal services (d.b.a Perfection Nails and Salon Flux) and the subject tenant space, a currently vacant, 1,346 square foot former retail space. The subject tenant space was previously occupied by a book store (d.b.a ReJoyce Books) and has been vacant for approximately 18 months.

3. **Surrounding Properties and Neighborhood.** The area surrounding the project site is mixed-use in character. A variety of commercial establishments are located within ground floor storefronts in the Polk Street NCD, including restaurants, bars, apparel stores, convenience stores, and other types of retailers. Buildings in the vicinity typically range from one to five stories in height. Upper floors of buildings are generally occupied by offices or residential units. Larger scale retail uses, tourist hotels and residential uses are situated along the Van Ness Corridor, outside of the Polk Street NCD to the west.

The property immediately adjacent to the south is a pet store with four dwelling units above. The adjacent building to the north is a costume store at the ground level with one dwelling unit above. The rear adjacent properties are multi-unit residential uses. The project site faces onto a large parking lot with retailers CVS and Trader Joes.

4. **Project Description.** The project sponsor proposes to establish a Bar (d.b.a Liquid Gold) in a vacant, approximately 1,346 square foot, commercial space. The commercial space was previously occupied by ReJoyce Books and has been vacant for over a year. The proposal includes interior alterations to install the bar and retail fixtures. The proposal requires a change of use and Section

312-neighborhood notification was conducted in conjunction with the Conditional Use authorization process.

According to the Project Sponsor, the business will be operate as a public beer and wine tasting room and retail store specializing in local craft beer and small-batch wines. The sponsor intends to host tastings, meet the brewer/winemaker events and a beer and wine club with an emphasis on San Francisco brewers and winemakers. Light food pairings will also be available. The proposed hours of operation are 2:00 PM to 12:00 AM, Sunday through Thursday and 2:00 PM to 1:00 AM on Friday and Saturday. The bar will employ two to four persons. Positions may include bar manager, bartender and beer/wine buyer. The Project Sponsor intends to hire local residents where possible. The subject site is well served by public transit so that employees and customers should not adversely affect the traffic flow.

5. **Public Comment.** To date, the Department has received multiple communications from one member of the public in opposition to the project. Their concerns include an over-concentration of bars in the Lower Nob Hill neighborhood and alcohol related criminal activity in the area.
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 723.41 states that a Conditional Use Authorization is required for a Bar on the first story, as defined by Planning Code Section 790.22.

*The Subject Property is located within the Polk Street NCD and pursuant to Planning Code Section 723.41, Bars are permitted on the first story with a Conditional Use authorization. The Project Sponsor is requesting Conditional Use authorization in order to allow a Bar at the first story of a tenant space, which is currently authorized as a Retail use. A Bar is defined as a retail use which provides on-site alcoholic beverage sales for drinking on the premises, including bars serving beer, wine and/or liquor to the customer where no person under 21 years of age is admitted (with Alcoholic Beverage Control [ABC] license types 42, 48 or 61). Bar uses are required to operate under conditions specified in Section 703.5 of the Planning Code and are captured in conditions of approval numbers seven through ten.*

*The proposed Bar intends to serve beer and wine for consumption on site as well as sell bottles of beer and wine for consumption on and off the premises with an ABC license type 42. A type 42 license authorizes the sale of beer and wine for consumption on or off the premises where sold. No distilled spirits are permitted on the premises and minors are not allowed to enter and remain. Food service is not required. Although "Liquid Gold" proposes to sell alcohol for consumption off the premises, it is not considered a Liquor Store, as defined in Planning Code Section 790.55. A Liquor Store is defined as "A retail use which sells beer, wine, or distilled spirits to a customer in an open or closed container for consumption off the premises and which needs a State of California Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) or type 21 (off-sale general).*

*As Liquid Gold will only obtain a type 42 license, it would not be considered a liquor store. Additionally, the layout and proposed operation of the business is aligned with a Bar use and not a Liquor Store use. Condition 14 of Exhibit A requires the Project Sponsor to maintain a bar layout, with area devoted to the display and sale of alcohol to be consumed off site limited to one third of the floor area. Condition 14 further restricts the Bar Conditional Use authorization to an ABC license type 42 only.*

- B. Use Size.** Planning Code Section 723.21 establishes size limits on nonresidential uses for the Polk Street 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 1,346 gross square feet (gsf), the Project is within the principally permitted use size.*

- C. Hours of Operation.** Planning Code Section 723.27 states that hours of operation from 6:00 AM to 2:00 AM are principally permitted in the Polk Street 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 2:00 PM to 12:00 AM, Sunday through Thursday and 2:00 PM to 1:00 AM on Friday and Saturday. The Project will operate within the principally permitted hours of operation. The Project site, while located in the Polk Street NCD, is also at the intersection of the RM-3 (Residential, Mixed, Medium-Density) and RC-4 (Residential, Commercial, High-Density) Zoning Districts. The RM-3 Zoning District limits hours of operation of all commercial uses to 10:00 PM. The RC-4 Zoning District permits commercial uses to operate with no limit to the hours of operation. Due to the Projects location at the intersection of three zoning districts and proximity to residential uses, the Project sponsor has agreed to reduced hours of operation captured in Condition 15 of Exhibit A.*

- 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 1,346 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 13 linear feet of frontage along Hyde Street at the ground floor, with a frontage area of 167 square feet. This entire space will be occupied by the active use of "Liquid Gold", which is a Bar use that complies with Section 145.1(c)(3). Approximately 11 feet of the 13 foot Hyde Street frontage is dedicated to a transparent glazed window and a transparent glazed entry door. The window, door and transom provide approximately 55 percent transparency. The storefront conditions are existing and 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.

*This bar will compliment and support the mix of goods and services currently available in the district. The Project will contribute to the economic vitality of the neighborhood by activating a storefront that has been vacant for over 18 months. The proposed use will allow a local resident to establish a new business that intends to sell local products, further improving economic opportunities for San*

*Francisco and Bay Area residents and businesses. The Project frontage on Hyde Street is 13 feet 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. The character of the Project vicinity will be improved by activating a vacant commercial space within a Neighborhood Commercial District.*

- 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 1,346 square-foot restaurant. The Project is intended to be a walk-in facility for pedestrian traffic and is well-served by public transportation throughout the Nob Hill neighborhood. There are eight MUNI lines including the California and Hyde Cable Car with stops within 0.25 miles of the Project Site. Off-street parking and loading is not required for the Project.*

- 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, dust or odor. There will be no kitchen and food will not be cooked on site. The proposed use is subject to the standard conditions of approval for bars as outlined in Exhibit A. Conditions seven, nine and ten specifically obligates the project sponsor to mitigate noise and odor generated by the bar use.*

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

*The Project Site is completely built-out at the commercial ground level, therefore, no landscaping will need to be provided. The Department shall review all lighting and signs proposed for the new business in accordance with Article 6 of the Planning Code and Condition 13 in Exhibit A.*

- 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 the 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 Polk Street NCD functions as a neighborhood-serving marketplace, providing convenience and specialty goods and services to residents in the Polk Gulch, Nob Hill, Russian Hill and Pacific Heights areas. The NCD is further described in Section 723.1, which states that commercial uses are generally located on the ground floor of buildings, "Commercial uses also include offices, as well as movie theaters, restaurants and bars which keep the district active into the evening." The NCD controls are designed to limit new eating, drinking and other entertainment uses due to concerns about parking congestion, noise and other nuisances as well as displacement of local-serving convenience goods and services.*

*The proposed Bar use would occupy a storefront that is currently vacant and will activate the streetscape during afternoon and nighttime hours through the unique business model of providing specialty beer and wine retail and service. The Project area is well served by transit and the Bar use does not permit other entertainment. Noise and other nuisances are addressed by Conditions seven, eight, nine, ten and 12 in Exhibit A. The Project will not displace opportunities for local-serving convenience goods and services.*

- 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 Polk Street Neighborhood Commercial District including the immediate area of the Subject Site. With the proposed Bar use, approximately 15% 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 Retail to Bar will result in a net increase of 1.2% commercial frontage dedicated to eating and drinking uses within the immediate area. With the proposed bar use the eating and drinking use concentration within the immediate area will remain below 25% and activate a storefront that has been vacant for over 18 months.*

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 allow a new desirable neighborhood-serving use to operate, thereby contributing to the commercial activity for the subject block and neighborhood and enhancing the diverse economic base of the City. No existing commercial or industrial activity will be displaced by allowing the Project to operate.*

#### **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 only incrementally increase (0.1 percent) 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 percent of the total occupied commercial frontage. Proposals for eating and drinking establishments which would increase the proportion of total occupied commercial frontage above 20 percent 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 percent 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 percent of the total occupied commercial frontage." Planning staff has performed a site survey of the Polk Street Neighborhood Commercial District which contains the proposed use. With the proposed bar use, approximately 26 percent of the frontage of the Polk Street Neighborhood Commercial District is attributed to eating and drinking establishments. The proposed change of use from vacant Retail to Bar will result in a 0.1 percent net increase of eating and drinking uses within the Polk Street Neighborhood Commercial District, from 25.8 to 25.9 percent. Furthermore, Policy 6.1 also states that clustering of eating and drinking establishments may be appropriate, in this case due to the availability and abundance in public transportation options, allowing the subject area to be easily accessible.*

**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 Polk Street NCD. The Project Site consists of three commercial uses at the first floor and four dwelling units at the second and third floors.*

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 and will activate a storefront that is currently vacant. The business would be locally owned and would create up to 4 employment opportunities.*

- 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 mixed-use neighborhood character and will have reduced hours of operation to ensure minimal impact to the neighborhood. Uses within the Polk Street NCD and 300 feet of the subject property (defined as the immediate area) include personal services, a grocery store, drug store, pet store, clothing store, restaurant and bars. The mix of commercial and residential uses along a cable car line will continue to preserve the cultural and economic diversity of the neighborhood.*

- 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 Project would not adversely impact public transit or place a burden on the existing supply of parking in the neighborhood. The site is well served by transit. There are eight MUNI lines including the California and Hyde Cable Car with stops within 0.25 miles of the Project Site (1, 2, 3, 19, 27, 60, 61 and 76).*

- 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.

*Although there would be some interior tenant improvements to the subject commercial space, the Project does not involve any construction activities that would compromise the structural integrity of the existing building. 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. 2013.1284C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated November 11, 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. 19040. 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 12, 2013.

Jonas P. Ionin  
Commission Secretary

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

NAYS:

ABSENT: Fong

ADOPTED: December 12, 2013

## **EXHIBIT A**

### **AUTHORIZATION**

This authorization is for a conditional use to allow a bar use (d.b.a. Liquid Gold) located at 1040 Hyde Street, Lot 046 in Assessor's Block 0251 pursuant to Planning Code Section(s) 303, 723.41 and 790.22 within the Polk Street Neighborhood Commercial District and a 65-A Height and Bulk District; in general conformance with plans, dated November 11, 2013, and stamped "EXHIBIT B" included in the docket for Case No. 2013.1284C and subject to conditions of approval reviewed and approved by the Commission on December 12, 2013 under Motion No 19040. 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 12, 2013 under Motion No 19040.

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

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 19040 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. **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](http://www.sf-planning.org).*

3. **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).*

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

## **MONITORING – AFTER ENTITLEMENT**

5. **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).*

6. **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**

7. **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>*

8. **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>*

9. **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)*

10. **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)*

11. **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)*

12. **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)*

13. **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)*

14. **Use.** This authorization limits the Alcoholic Beverage Control license to Type 42 (On Sale Beer and Wine – Public Premises) only. In order to further ensure a beer and wine bar operation only, refrigeration units and shelving offering retail beer and wine for consumption off the premises may not occupy more than one third of the gross floor area and must remain located in the rear half of the bar. No dedicated Point of Sale shall be provided for the exclusive purchase of beer and wine for consumption off the premises.

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

15. **Hours of Operation.** The subject establishment is limited to the following hours of operation: Sunday through Thursday from 2:00 p.m. to midnight and Friday through Saturday 2:00 p.m. to 1:00 a.m.

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