



# SAN FRANCISCO PLANNING DEPARTMENT

## Letter of Determination

May 1, 2017

Downing & Company Real Estate  
3496 22<sup>nd</sup> Street  
San Francisco, CA 94110  
[jd@downing-co.com](mailto:jd@downing-co.com)

<b>Site Address:</b>	1149 – 1153 Valencia Street
<b>Assessor's Block/Lot:</b>	3636 / 032
<b>Zoning District:</b>	Valencia Street NCT (Neighborhood Commercial Transit)
<b>Staff Contact:</b>	Michael Christensen, (415) 575-8742 or <a href="mailto:michael.christensen@sfgov.org">michael.christensen@sfgov.org</a>
<b>Record No.:</b>	2017-003813ZAD

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

Dear Mr. Downing,

This letter is in response to your request for a Letter of Determination regarding the property at 1149-1153 Valencia Street. The subject property is located within the Valencia Neighborhood Commercial Transit (NCT) Zoning District, Mission Alcoholic Beverage Special Use District (SUD), Fringe Financial Services Restricted Use District (RUD) and 55-X Height and Bulk District. The request is to determine if a Type 48 License, issued by the California Department of Alcoholic Beverage Control (ABC), may be transferred from 645-647 Valencia Street to 1149-1153 Valencia Street. The request also seeks determinations on the following: 1) which entitlements are required to execute such a transfer and to change the use of the property from Restaurant to Bar and 2) whether a legal entertainment use exists at the property and the process to establish a Place of Entertainment at the property.

Planning Code Section 249.60(b)(2)(C) regulates Bar uses within the Mission Alcoholic Beverage SUD and states that "a new or relocated Bar, as defined in Section 790.22, shall be considered pursuant to the underlying zoning, except that such authorization shall be as a Conditional Use. A new Bar shall use a liquor license transferred from another Bar from within the SUD." Thus, a bar use may be established at 1149-1153 Valencia Street if a Conditional Use Authorization is obtained and if a valid ABC License is transferred from another site within the SUD, such as 645-647 Valencia Street.

As with any change of use to Bar, the project would also require a building permit application to record the change of use and undergo neighborhood notification pursuant to Planning Code Section 312, which may be conducted in conjunction with the Conditional Use Authorization notification.

Upon review of Planning Department records, no approvals were found for entertainment uses on the subject property. Planning Department staff also consulted with staff at ABC regarding the use of the site as a nightclub and found that such activity is not legal under the existing Type 47 License on the site. As such, to legally establish an Entertainment use on the site, a Conditional Use Authorization is required per Planning Code Section 726.48. An application for Conditional Use Authorization to establish an Entertainment use on the site may be processed in conjunction with an application for Conditional Use Authorization to establish the Bar use on the site and transfer the Type 48 License to the site.

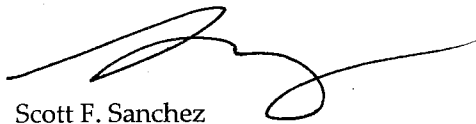
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**Please note that a Letter of Determination is a determination regarding the classification of uses and interpretation and applicability of the provisions of the Planning Code. This Letter of Determination is not a permit to commence any work or change occupancy. Permits from appropriate Departments must be secured before work is started or occupancy is changed.**

**APPEAL:** If you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals within 15 days of the date of this letter. For information regarding the appeals process, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

Sincerely,



Scott F. Sanchez  
Zoning Administrator

cc: Property Owner  
Neighborhood Groups  
Michael Christensen, Planner



RECEIVED 3496 22nd Street • San Francisco, CA • 94110  
Office Phone (415) 829-2996  
Mobile Phone (415) 385-5263  
www.downing-co.com

MAR 24 2017

CITY & COUNTY OF S.F.  
DEPT. OF CITY PLANNING  
ADMINISTRATION

March 23, 2017

Mr. Scott Sanchez  
Zoning Administrator  
City and County of San Francisco  
1650 Mission Street, Suite 400  
San Francisco, CA 94103

R# 2017-003813 ZAD  
CK # 7499 \$664. -  
R. SUCRE (SE)

RE: **REQUEST FOR LETTER OF DETERMINATION**  
**1149-1153 VALENCIA STREET, SAN FRANCISCO CA 94110, APN# 3636-032**

Dear Scott,

This letter is a request for a Letter of Determination on behalf of my clients, Erik Cantu and Matt Shapiro, co-owners of Elbo Room regarding the potential to relocate their bar and its live music stage to 1153 Valencia Street which is currently occupied by El Valenciano bar, restaurant, & nightclub. As you may be aware, the building that currently houses Elbo Room at 645-647 Valencia Street will soon be razed for a new condo development.

Preparing for the move, Erik and Matt currently have 1153 Valencia Street under Letter of Intent (LOI) and before completing the transaction they would like clarification on the following:

- 1) **Liquor License Relocation/Transfer:** Within the Mission Alcoholic Beverage Special Use District (SUD) section 249.60 of the San Francisco Planning Code can the Type 48 liquor license at Elbo Room be transferred and relocated to El Valenciano which currently has a type 47 liquor license? Elbo Room and El Valenciano are both located within the boundaries of the SUD. Furthermore, both bars are currently active and open for business. Post acquisition, Erik and Matt, intend to suspend the Type 47 liquor license at 1153 Valencia Street and transfer their Type 48 liquor license to that location. Upon completion of the liquor license transfer they also intend to remove the restaurant at 1153 Valencia Street. Is this permissible within the SUD and Valencia NCT zoning? If so, will this require a Conditional Use Authorization and/or a "Change of Use" permit? Or both?
- 2) **Entertainment Use:** Does 1153 Valencia Street have a legal non-conforming use for entertainment that may be transferrable to Erik and Matt? It's our understanding that El Valenciano has been a nightclub for roughly the last 20 years. If no permits are in place or are transferrable what authorizations and permits will Erik and Matt need from the Planning Department to obtain a "Place of Entertainment" permit? Post relocation, they want to host live music shows and events at 1153 Valencia Street.

Thank you in advance for providing clarification on these issues. Please email your Letter of Determination to [jd@downing-co.com](mailto:jd@downing-co.com) and mail a hard copy to the following address:

Downing & Company Real Estate  
3496 22<sup>nd</sup> Street  
San Francisco, CA 94110

If you have any questions concerning this matter feel free to call me directly at (415) 385-5263.

Sincerely,

John Downing, CCIM