[Adopting Findings Related to the Conditional Use Appeal on Property Located at 1268 Grant Street]

Motion adopting findings related to the appeal of a decision of the Planning Commission, Motion No. 18160, approving Conditional Use Application 2010.0438C on property located at 1268 Grant Street.

WHEREAS, The Planning Commission issued a decision by Motion No. 18160 dated August 5, 2010, approving Conditional Use Application No. 2010.0438C under Planning Code sections 303 and 790.38, to allow an Other Entertainment use, in an existing restaurant and bar (dba King of Thai Noodle House) located at 1268 Grant Avenue, within the north Beach Neighborhood Commercial District (NCD), the 40-X Height and Bulk District, and the North Beach Special Use District (SUD), in Assessor's Block No. 0145, Lot No. 032; and

WHEREAS, said determination was timely appealed to the Board of Supervisors on September 7, 2010, by Vedica Puri, on behalf of the Telegraph Hill Dwellers, and subscribed by Supervisors Chiu, Avalos, Campos, Mar and Maxwell; and

WHEREAS, on by letter dated September 28, 2010, the Planning Department advised the Board that, "[i]t has come to the attention of the Planning Department that the project sponsor has violated previous Conditional Use Authorization(s) and Notice of Special Restrictions imposed on the property. As such, the Department is requesting that the Board of Supervisors disapprove this Conditional Use Authorization and allow the Planning Commission to re-hear this case so they can review all of the outstanding issues regarding this property."; and

WHEREAS, On October 5, 2010, the Board conducted a duly noticed public hearing on the appeal from the Planning Commission's approval referred to in the first paragraph of this motion. During the hearing testimony and evidence was submitted demonstrating that as of
2005, the property at 1268 Grant Avenue was subject to a Notice of Special Restriction (NSR) such that the NSR demonstrated floor plans that delineated the areas dedicated to white-cloth table service, bar areas and office/management areas. The evidence demonstrated that in 2008 the property changed ownership and the uses in the building remained a full-service restaurant and associated bar use on the first and second floors. In 2010 the project sponsor applied for Conditional Use Authorization to install an "Other Entertainment" use at the ground floor restaurant and bar. At an August 5, 2010, public hearing the Planning Commission granted a Conditional Use Authorization pursuant to Section 722.48 for an "Other Entertainment" use consisting of the installation of a karaoke machine on the ground floor in the bar at the subject property. When the appeal of the Conditional Use was filed with the Board of Supervisors, the Planning Department, on September 28, 2010 conducted a site visit and determined that the current owners had intensified the bar use on the second floor without benefit of a Conditional Use Authorization. The testimony demonstrated that the property was advertised as a "sports bar", had signage indicating it was a "sports bar", and that the second floor was utilized as a full service customer-serving bar for patrons. During the hearing, the Planning Department advised the Board that it believed the Planning Commission should have all of the necessary information in front of them when deciding whether to grant a Conditional Use Authorization for an Other Entertainment use at 1268 Grant Avenue and requested the Board disapprove the Conditional Use Authorization granted on August 5, 2010, and request that the Planning Commission re-hear the item with all of the new information; and

WHEREAS, Following the conclusion of the public hearing on October 5, and based on all the evidence in the record, including public and staff testimony, the Board disapproved the decision of the Planning Commission (Planning Commission Motion No. 18160 dated August 5, 2010) thereby rejecting the Conditional Use Authorization No. 2010.0438C, finding that the Conditional Use Authorization had been issued in error because the Planning Commission...
had not been fully informed of the current, and unauthorized, site use and use history; now therefore be it

MOVED, That the Board of Supervisors hereby adopts these findings in support of its decision of October 5, 2010, to reject the Conditional Use Authorization No. 2010.0438C for 1268 Grant Street.
Motion adopting findings related to the appeal of a decision of the Planning Commission, Motion No. 18160, approving Conditional Use Application 2010.0438C on property located at 1288 Grant Street.

November 16, 2010 Board of Supervisors - APPROVED
Ayes: 10 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Duffy, Mar, Maxwell and Mirkarimi
Absent: 1 - Elsbernd

I hereby certify that the foregoing Motion was APPROVED on 11/16/2010 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board