

1 [Findings - 2312 Market Street]  
2 ADOPTING FINDINGS RELATED TO THE APPEAL OF THE PLANNING COMMISSION'S  
3 DENIAL OF CONDITIONAL USE APPLICATION NO. 99.362C, TO ALLOW AN EXISTING  
4 SMALL SERVICE RESTAURANT (ZACKY'S FALAFEL AND SHAWARMA) TO SERVE  
5 CUISINE OTHER THAN ARABIC, PURSUANT TO PLANNING CODE SECTION 303(E), AT  
6 2312 MARKET STREET, WITHIN THE UPPER MARKET NEIGHBORHOOD COMMERCIAL  
7 DISTRICT; LOT 1 IN ASSESSOR'S BLOCK 3562.

8

9 MOVED, That the Board of Supervisors makes the following Findings:

10 1. The appellants and applicants, Samih Arikat and Sami Khoury, through their  
11 attorney, Catherine G. Boskoff, filed a timely appeal on September 8, 1999, protesting the  
12 denial of a conditional use authorization (Conditional Use Application No. 99.362C,  
13 disapproved by Planning Commission Motion No. 14867 on August 12, 1999), which would  
14 have modified a previously-approved Conditional Use Authorization (Case No. 97.366C,  
15 Motion No. 14434) to allow the existing small service restaurant (Zacky's Falafel) to serve  
16 cuisine other than Arabic within the Upper Market Neighborhood Commercial District,  
17 pursuant to Planning Code Section 303(e) on property located at 2312 Market Street; Lot 1 in  
18 Assessor's Block 3562.

19 2. The public hearing before the Board of Supervisors on said appeal was scheduled  
20 for October 4, 1999. On that date, the Board conducted a duly noticed hearing on the appeal  
21 from the disapproval of the requested conditional use authorization.

22 3. In reviewing the appeal of the disapproval of the requested conditional use  
23 authorization, this Board reviewed and considered the written record before the Board and all  
24 of the public comments made in support of and opposed to the appeal.

25 FURTHER MOVED, That the Board of Supervisors of the City and County of

1 San Francisco, except as noted below, hereby adopts as its own, and incorporates by  
2 reference as though fully set forth, the findings made by the Planning Commission in its  
3 Motion No. 14867, dated August 12, 1999; and, be it

4 FURTHER MOVED, That the Board of Supervisors finds that certain findings of the  
5 Planning Commission in its Motion No. 14867, dated August 12, 1999, were erroneous.  
6 Specifically, the Board finds that:

7 1. The project complies with the criteria of Section 303 of the Planning Code in that:

8 a. The project is desirable for the community. The project will promote the  
9 Objectives and Policies of the General Plan in that a neighborhood-serving establishment  
10 would be enhanced, and it will better utilize an existing restaurant, which has remained limited  
11 to serving Arabic cuisine, by diversifying future food service uses. The project will provide a  
12 source of jobs for neighborhood residents at all skill levels. The project will serve primarily the  
13 immediate community, due to the size of the facility.

14 2. The project will be compatible and in keeping with the character of the  
15 neighborhood.

16 3. The project will not be a detriment to the health, safety, convenience or general  
17 welfare of persons residing or working in the vicinity, or injurious to property, improvements or  
18 potential development in the vicinity in that:

19 a. The size and shape of the use will not significantly change, and there will not  
20 be an increase in the number of people using the existing restaurant space.

21 b. The accessibility and traffic patterns for the area will not be affected.

22 c. The approval of the project will not create noxious or offensive emissions,  
23 such as noise, glare, dust or odor.

24 4. The project is consistent with Objective 6, and Policy 1 of the Neighborhood  
25 Commerce section of the Commerce and Industry Element of the General Plan, in that it will

1 not encourage an over concentration of restaurants with generic cuisine.

2 5. The project is consistent with the eight priority planning policies of City Planning  
3 Code Section 101.1, in that the project will provide new services and employment  
4 opportunities for neighborhood residents, the project will not impact traffic and will not create a  
5 higher demand for parking spaces, the project will not displace and alter elements of the City's  
6 service sectors in the vicinity, will contribute to the stability of the neighborhood, and will not  
7 constitute a negative use of an existing building.

8 6. The approval of the Conditional Use authorization will promote the health, safety  
9 and welfare of the City.

10 FURTHER MOVED, That the Board of Supervisors, in order to ensure that the  
11 proposed project does not result in an expansion of the use of the facility, or result in an  
12 intensification of the use of the facility, imposed an additional condition on the granting of the  
13 requested conditional use authorization, and that additional condition is:

14 "Installation of any additional cooking facilities other than those shown on Exhibit B [of  
15 Planning Department documents] or additional seating shall require the approval by the  
16 Planning Commission of a new Conditional Use Authorization."

17 FURTHER MOVED, That the Board of Supervisors, after carefully balancing the  
18 competing public and private interests, disapproves and reverses the decision of the Planning  
19 Commission by its Motion 14867, dated August 12, 1999, and approves the granting of a  
20 Conditional Use authorization to allow the modification of a previously-approved Conditional  
21 Use (Case No. 97.366C, Motion No. 14434) to allow the existing small service restaurant  
22 (Zackey's Falafel and Shawarma) to serve cuisine other than Arabic within the Upper Market  
23 Neighborhood Commercial District, pursuant to Planning Code Section 303(e), on property  
24 located at 2312 Market Street (Lot 1 in Assessor's Block 3562), subject to the additional  
25 condition that: "Installation of any additional cooking facilities other than those shown on

1 Exhibit B [of Planning Department documents] or additional seating shall require the approval  
2 by the Planning Commission of a new Conditional Use Authorization.”

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



# City and County of San Francisco

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

## Tails Motion

**File Number:** 991906

**Date Passed:** October 12, 1999

Motion adopting findings related to the appeal of the Planning Commission's denial of Conditional Use Application No. 99.362C, to allow an existing small service restaurant (Zacky's Falafel and Shawarma) to serve cuisine other than Arabic, pursuant to Planning Code Section 303(E), at 2312 Market Street, within the Upper Neighborhood Commercial District; Lot 1 in Assessor's Block 3562.

---

October 6, 1999 Board of Supervisors — REFERRED: Board of Supervisors

October 12, 1999 Board of Supervisors — APPROVED

Ayes: 8 - Ammiano, Becerril, Bierman, Brown, Kaufman, Leno, Newsom, Teng

Absent: 3 - Katz, Yaki, Yee

File No. 991906

I hereby certify that the foregoing Motion  
was APPROVED on October 12, 1999 by the  
Board of Supervisors of the City and County  
of San Francisco.

A handwritten signature in cursive script, appearing to read "Gloria L. Young", is written over a solid horizontal line.

Gloria L. Young  
Clerk of the Board