

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

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

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

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

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

23 WHEREAS, On October 5, 2010, the Board conducted a duly noticed public hearing on
24 the appeal from the Planning Commission's approval referred to in the first paragraph of this
25 motion. During the hearing testimony and evidence was submitted demonstrating that as of

1 2005, the property at 1268 Grant Avenue was subject to a Notice of Special Restriction (NSR)
2 such that the NSR demonstrated floor plans that delineated the areas dedicated to white-cloth
3 table service, bar areas and office/management areas. The evidence demonstrated that in
4 2008 the property changed ownership and the uses in the building remained a full-service
5 restaurant and associated bar use on the first and second floors. In 2010 the project sponsor
6 applied for Conditional Use Authorization to install an "Other Entertainment" use at the ground
7 floor restaurant and bar. At an August 5, 2010, public hearing the Planning Commission
8 granted a Conditional Use Authorization pursuant to Section 722.48 for an "Other
9 Entertainment" use consisting of the installation of a karaoke machine on the ground floor in
10 the bar at the subject property. When the appeal of the Conditional Use was filed with the
11 Board of Supervisors, the Planning Department, on September 28, 2010 conducted a site visit
12 and determined that the current owners had intensified the bar use on the second floor without
13 benefit of a Conditional Use Authorization. The testimony demonstrated that the property was
14 advertised as a "sports bar", had signage indicating it was a "sports bar", and that the second
15 floor was utilized as a full service customer-serving bar for patrons. During the hearing, the
16 Planning Department advised the Board that it believed the Planning Commission should have
17 all of the necessary information in front of them when deciding whether to grant a Conditional
18 Use Authorization for an Other Entertainment use at 1268 Grant Avenue and requested the
19 Board disapprove the Conditional Use Authorization granted on August 5, 2010, and request
20 that the Planning Commission re-hear the item with all of the new information ; and

21 WHEREAS, Following the conclusion of the public hearing on October 5, and based on
22 all the evidence in the record, including public and staff testimony, the Board disapproved the
23 decision of the Planning Commission (Planning Commission Motion No. 18160 dated August
24 5, 2010) thereby rejecting the Conditional Use Authorization No. 2010.0438C, finding that the
25 Conditional Use Authorization had been issued in error because the Planning Commission

1 had not been fully informed of the current, and unauthorized, site use and use history; now
2 therefore be it

3 MOVED, That the Board of Supervisors hereby adopts these findings in support of its
4 decision of October 5, 2010, to reject the Conditional Use Authorization No. 2010.0438C for
5 1268 Grant Street.

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