

File No. 100588

Committee Item No. _____

Board Item No. 15

COMMITTEE/BOARD OF SUPERVISORS
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Committee _____

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Board of Supervisors Meeting

Date 05/18/10

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Completed by: Joy Lamug

Date 05/13/10

Completed by: _____

Date _____

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1 [Adopting Findings Related to the Conditional Use Appeal on Property Located at 1111
2 California Street]

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4 **Motion adopting findings related to the appeal of a decision of the Planning**
5 **Commission, Motion No. 18042, approving Conditional Use Application 2008.1072C on**
6 **property located at 1111 California Street.**

7
8 WHEREAS, the Planning Commission issued a decision by Motion No. 18042 dated
9 March 4, 2010, approving Conditional Use Application No. 2008.1072C on property located at
10 1111 California Street to change the existing non-conforming entertainment use of the "Nob
11 Hill Masonic Center" to "Other Entertainment," pursuant to Planning Code Sections 182(B)(1)
12 and 723.48, and to add permanent food and beverage service for patrons of entertainment
13 and assembly events, pursuant to Planning Code Section 238(D), on a property within the
14 RM-4 (Residential Mixed, High-Density) District, the 65-A Height and Bulk District, and the
15 Nob Hill Special Use District, on property located at 1111 California Street, Lot No. 020 in
16 Assessor's Block No. 0253; and

17 WHEREAS, said determination was timely appealed to the Board of Supervisors on
18 April 5, 2010, by William Terrell, Aldo Caccamo, Chris Freeman, Enrique Landa, Elizabeth
19 Pomada, and Donna Muse);

20 WHEREAS, on May 4, 2010, the Board conducted a duly noticed public hearing on the
21 appeal from the Planning Commission's approval referred to in the first paragraph of this
22 motion. Following the conclusion of the public hearing on May 4, the Board disapproved the
23 decision of the Planning Commission (Planning Commission Motion No. 18042 dated March
24 4, 2010) and approved the issuance of requested Conditional Use Application No.
25 2008.1072C, subject to the conditions imposed by the Planning Commission in its Motion No.

1 18042, as amended by the Board on May 4, 2010, and subject to additional conditions
2 imposed by the Board of Supervisors. The amended and additional conditions imposed by the
3 Board are as follows:

4 Amending Condition No. 9: No more than 3,300 patrons shall be permitted for events
5 in the auditorium on the main floor level and mezzanine level of the Masonic Center.

6 Amending Condition No. 10: There shall be an annual maximum of 85 live
7 entertainment events held at the Masonic Center that start at 7:00 p.m. or later, of which no
8 more than 60 live entertainment events may utilize general admission attendance without
9 assigned seating for patrons in the lower (floor) level of the auditorium. There shall be an
10 annual maximum of 20 events not involving live entertainment held at the Masonic Center that
11 start at 7:00 p.m. or later.

12 Amending Condition No. 13: All events shall conclude by 11:00 p.m. on weeknights
13 (non-holiday Sunday-Thursday evenings) and 11:30 p.m. on weekends (Friday, Saturday, and
14 holiday evenings). Up to three events per year may extend until 1:00 a.m. on weekends
15 (Friday, Saturday, and holiday evenings), subject to prior consultation with and approval by
16 the San Francisco Police Department, the San Francisco Planning Department, and the
17 Entertainment Commission a minimum of 30 days prior to the date of such event.

18 Amending Condition No. 14: All patron queuing for events with general admission
19 attendance shall occur within the interior of Masonic Center property, i.e. the main lobby area
20 and Exhibition Hall.

21 Amending Condition No. 17: There shall be a fixed parking fee for events with more
22 than 1,250 ticketed attendees.

23 Amending Condition No. 20: The Project Sponsor shall minimize vehicular queuing on
24 California Street by use of the following strategies events with more than 1,250 ticketed
25 patrons:

- 1 • Increase traffic staffing inside the California Street garage entrance to increase
2 the rate of vehicular entry to the garage.
- 3 • Position security personnel (including San Francisco Police Department services
4 when warranted) outside the garage to assist with controlling and directing traffic, including
5 directing patrons to other nearby garages if and when the Masonic Center garage is full.
- 6 • Convert the center lane of the existing garage entrance ramp to a second
7 inbound lane to increase queuing room within the garage.
- 8 • Event staff shall ensure u-turns are prevented and that the cable car lane is free
9 flowing.

10 Amending Condition 24: The Project Sponsor shall use the Pine Street loading dock
11 for all loading and unloading to the commercial kitchen and for normal building operation
12 supplies.

13 24(a) The Pine Street loading area shall be upgraded to enclose end of ramp
14 and improve access to passenger elevators.

15 Amending Condition 26: The Project Sponsor shall seek a special event "no parking"
16 permit from the Police Department whenever it anticipates loading or bus operations on
17 California Street and direct trucks to park in that zone. No double-parking of trucks shall be
18 permitted. The Project Sponsor may load and unload from the California Street curb only
19 stage sets, performance equipment, and related materials associated with specific events.
20 Pursuant to the regulations of the Department of Building Inspection, a sign shall be posted on
21 the access ramp during loading and unloading operations that notifies disabled persons of the
22 duration of the loading and provides specific information about alternative means of disabled
23 access into the building, which alternative access shall be maintained at all times during
24 loading and unloading operations on California Street.

25 26(a) Performers shall use the house system for primary sound and lights.

1 Amending Condition 28: Personnel conducting loading and unloading activities on
2 California Street shall be instructed to minimize the volume of conversation and prohibit the
3 playing of amplified music outside the building during loading and unloading, particularly
4 during nighttime hours.

5 28(a) There shall be no loading or unloading on California Street before 7:00
6 a.m.

7 28(b) Scheduled event loading on California Street shall be limited to 125 days
8 per year.

9 Amending Condition No. 31: During the one and one-half hour period prior to the start
10 of events, no more than two performer buses shall park on the south side of California Street,
11 so that the remainder of the 185-foot long curbside area is available for attendee unloading
12 and loading and vehicle queuing into the garage. The Project Sponsor shall direct any
13 additional buses to park in other bus parking zone(s) the City chooses to designate near the
14 corner of California and Taylor Streets, such as on Taylor Street adjacent to Huntington Park
15 or on the north side of California Street. The Project Sponsor shall make best available efforts
16 to evaluate and demonstrate to the Zoning Administrator the physical and operational
17 feasibility of storing performer buses at nearby off-street parking facilities during events.

18 31(a) The Project Sponsor shall make commercially reasonable best efforts to
19 secure space in the closest parking garage to park the maximum number of performer buses
20 that can fit inside that garage and if space is secured from the garage owner, that number of
21 buses shall be parked inside the garage.

22 Amending Condition No. 36. Following the conclusion of the last intermission of an
23 event, a maximum of two publicly-accessible concession stands and one "VIP" concession
24 stand (not accessible by the general public) may serve alcoholic beverages. One hour prior to
25 the conclusion of an event, line markers shall be placed at the end of each of the lines. No

1 patron approaching a line for a concession stand after the placement of the line marker will be
2 served an alcoholic beverage, with the intent that alcohol service will conclude 45 minutes
3 prior to the end of an event.

4 36(a) There shall be no minimum purchase required and a maximum of two
5 drinks served per order.

6 Amending Condition 39: The Planning Department shall report to the Planning
7 Commission on the status of compliance with these conditions of approval within 6 months
8 following the re-opening of the auditorium after construction is completed, and every 6 months
9 thereafter for the first four years of post-construction operations, and once a year after the first
10 4 years upon the request of the District Supervisor or the Chief of Police. If the Zoning
11 Administrator determines, or the Planning Commission requests, a public informational
12 hearing may be held on the compliance report. A copy of the Planning Department's report to
13 the Planning Commission shall be provided to the Project Sponsor, the San Francisco Police
14 Department, and the Nob Hill Association (or successor organization).

15 Adding Condition 42: Project Sponsor shall be required to comply with all noise
16 ordinance limits in Municipal Police Code 29, or any successor ordinance.

17 Adding Condition 43: If an event has presented a pattern of safety and security
18 problems in previous concert seasons or at other venues, then the Project Sponsor shall
19 consult with the Police Department to determine whether the Project Sponsor can provide
20 adequate safety and through utilization of its security personnel, contracted private security
21 and/or on-duty or off-duty Police officers. To the extent that the Chief of Police reasonably
22 determines, based entirely on the ability to provide safety and security and not on the
23 expressive content of the event, that the Project Sponsor cannot provide adequate safety and
24 security for any proposed event or that the event's historic pattern establishes that safety and
25 security issues cannot be adequately handled at this venue regardless of the Project

1 Sponsor's security plan, the Chief of Police may order that the event shall not be held. This
2 provision does not supersede any subsequent regulations regarding place of entertainment
3 permits.

4 Adding Condition 44: Project Sponsor shall comply with Administrative Code Section
5 10-B, and if off-duty officers are hired pursuant to subsections thereof, a minimum of two
6 officers be hired for events with 1,250 or more presold tickets; if SFPD determines that more
7 than two officers are required, the project sponsor shall provide the additional officers.

8 Adding Condition 45: Project Sponsor shall encourage the use of public transit through
9 its on-line marketing sites, including links to transit providers.

10 WHEREAS, in reviewing the appeal of the approval of the requested conditional use
11 authorization, the Board of Supervisors reviewed and considered the written record before the
12 Board and all of the public comments made in support of and in opposition to the appeal;

13 NOW, THEREFORE, BE IT MOVED, that the Board of Supervisors of the City and
14 County of San Francisco hereby adopts as its own and incorporates by reference herein, as
15 though fully set forth, the findings made by the Planning Commission in its Motion No. 18042
16 dated March 4, 2010, approving Conditional Use Application No. 2008.1072C;

17 FURTHER MOVED, that the Board of Supervisors finds that the additional and
18 amended conditions imposed by the Board May 4, 2010, further support the findings made by
19 the Planning Commission in its Motion No. 18042 dated March 4, 2010, approving Conditional
20 Use Application No. 2008.1072C, as follows:

21 Planning Commission Finding 7.D. Hours of Operation, is further supported because
22 the conditions of approval have been amended to allow the Project Sponsor to seek
23 authorization from the San Francisco Police Department, the Planning Department, and the
24 Entertainment Commission for up to only three events per year that extend until 1:00AM, as
25

1 opposed to the original condition, which allowed up to five events per year that extended until
2 2:00 a.m.

3 Planning Commission Finding 8.E(i) Not to be open between 2:00 a.m. and 6:00 a.m.,
4 is further supported because the conditions of approval have been amended so that the
5 Center is not allowed to host events between 1:00 a.m. and 6:00 a.m., as opposed to the
6 original condition, which provided the Center was not allowed to host events between the
7 hours of 2:00 a.m. and 6:00 a.m.

8 Planning Commission Finding 8.E(ii) Not use electronic equipment between midnight
9 and 6:00 a.m. is further supported because the conditions of approval have been amended to
10 allow the Project Sponsor to seek authorization from the San Francisco Police Department,
11 the Planning Department, and the Entertainment Commission for up to only three events per
12 year that extend until 1:00AM, as opposed to the original condition, which allowed up to five
13 events per year that extended until 2:00 a.m.

14 FURTHER MOVED, That the Board of Supervisors took notice that Planning found the
15 Project categorically exempt from environmental review under the California Environmental
16 Quality Act (CEQA) on March 4, 2010. Specifically, the Planning Department found the
17 project exempt pursuant to section 15332 of the CEQA Guidelines. The Board considered, on
18 May 4, 2010, an appeal of said determination and affirmed the determination by Planning that
19 the Project is categorically exempt from review under CEQA. The Board finds that there have
20 been no substantial Project changes, no substantial changes in Project circumstances, and no
21 new information of substantial importance that would change the determination that the
22 Project is categorically exempt from environmental review under CEQA.

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