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

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Motion No. 18023 HEARING DATE, JANUARY 28, 2010

Date: January 28, 2010
Case No.: **2009.1005C**
Project Address: **2275 MARKET STREET**
Zoning: Upper Market Neighborhood Commercial Transit District (NCT)
40-50-X Height and Bulk District
Block/Lot: 3559/013
Project Sponsor: Christopher Nguyen
90 Bartlett Street, #301
San Francisco, CA 94110
Staff Contact: Michael Smith – (415) 558.6322
michael.e.smith@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 733.44 AND 303, TO ESTABLISH A SMALL, SELF-SERVICE RESTAURANT (DBA "DINOSAURS") IN THE UPPER MARKET STREET NEIGHBORHOOD COMMERCIAL TRANSIT (NCT) DISTRICT, AND A 40-50-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On October 22, 2009, Christopher Nguyen (hereinafter "Project Sponsor") filed an application (hereinafter "Application") with the Department for Conditional Use Authorization on the property at 2275 Market Street, Lot 013 in Assessor's Block 3559 (hereinafter "Property") to establish a small, self-service restaurant (dba "Dinosaurs"), in the Upper Market Street Neighborhood Commercial Transit District (NCT), and a 40-50-X Height and Bulk District, in general conformity with plans filed with the Application and labeled "Exhibit B" (hereinafter "Project").

On January 28, 2010, the San Francisco Planning Commission (Hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2009.1005C. Conditional Use Authorization is required pursuant to Planning Code Sections 303 and

733.44, to establish a small, self-service restaurant in the Upper Market Street Neighborhood Commercial Transit District (NCT) as defined in Planning Code Section 790.91.

The Conditional Use Application was determined by the San Francisco Planning Department to be exempt from environmental review pursuant to Title 14, Class 1(a) of Category 15301 (Existing Facilities) of the California Administrative Code.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2009.1005C, subject to the conditions contained in EXHIBIT A, attached hereto and incorporated herein by reference thereto, based on the following findings:

FINDINGS

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The Subject Property is located at 2275 Market Street, on the south side of the street between 16th and Sanchez Streets in the Upper Market/Eureka Valley Neighborhood. The property is a through lot with primary frontage on Market Street and secondary frontage on 16th Street. The lot is occupied by a three-story commercial building that was constructed in 1981, has 21,138 square-feet of floor area, and contains nine commercial units. The subject commercial space is Suite H, located at the rear of the building, it is currently vacant and has 25-feet of frontage on 16th Street. Businesses located at the subject property include "Books Inc." (retail store), "Sushi Time" (full-service restaurant), "The Gym SF" (personal service), "Long Overdue" (personal service), "Hairspace" (personal service), "Active Nutrition" (retail store), Castro Healing Center and Spa (personal service), "Transcendental Acupuncture" (personal service), and "Clubcard" (professional service). The subject property is approximately 7,046 square-feet in area, with approximately 55-feet of frontage along Market Street, and 56-feet of frontage along 16th Street.
3. **Surrounding Properties and Neighborhood.** 2275 Market Street is a through lot within two distinct contexts. The Market Street frontage is within a continuous stretch of retail frontage. Adjacent businesses include "Harvest Market" (retail grocery store), "Bagdad Café" (restaurant), and "Michael Bruno" (retail). The 16th frontage is distinctly different. Near the corner of 16th and Market Streets the facades of the adjacent buildings to the west are inactive rear facades for both "Harvest Market" and "Bagdad Café". The properties to the east of the site are not through lots and therefore they have a more active presence along 16th Street. Businesses at this location include residences and "Volvo Centrum", a car repair shop. The Eureka Valley branch of the San Francisco Public Library and low-density residential uses are located across the street to the south of the site. There are three restaurants at the intersection of 16th and Sanchez Streets,

located just east of the subject property. Currently, there are 44 eating establishments and 25 commercial vacancies in the Upper Market Neighborhood Commercial District.

The Subject Property is located within the Upper Market Street NCT District. The Upper Market Street NCT District controls are designed to encourage a diversified commercial environment with a wide variety of uses, including limited convenience goods to adjacent neighborhoods, as well as a shopping street for a broader trade area. A large number of offices are located on Market Street within easy transit access downtown. The width of Market Street and its use as a major arterial diminish the perception of the Upper Market Street Transit District as a single commercial district. The street appears as a collection of dispersed centers of commercial activity, concentrated at the intersections of Market Street with secondary streets.

The Upper Market Street NCT District is well served by transit and is anchored by the Market Street subway (with stations at Church and Castro Streets) and the F-Market streetcar line. All light-rail lines in the City traverse the district, including the F, J, K, L, M, and N, and additional key cross-town transit service crosses Market Street at Fillmore and Castro Streets. Additionally, Market Street is a primary bicycle corridor.

The Upper Market Street NCT District controls are designed to promote moderate-scale development which contributes to the definition of Market Street's design and character. The controls are also intended to preserve the existing mix of commercial uses and maintain the livability of the district and its surrounding residential areas. To promote mixed-use buildings, most commercial uses are permitted with some limitations above the second story. In order to maintain continuous retail frontage and preserve a balanced mix of commercial uses, ground-story neighborhood-serving uses are encouraged, and eating and drinking, entertainment, and financial service uses are limited. Ground-floor commercial space is required along Market and Church Streets.

4. **Project Description.** The Project Sponsor seeks a Conditional Use Authorization, pursuant to Planning Code Sections 303 and 733.44, for a change of use from retail to a small self-service restaurant (dba "Dinosaurs") in the ground floor tenant space known as Suite H, located at the rear of the building. The proposed restaurant will face 16th Street, contain approximately 486 gross square-feet of floor area, be independently owned and operated, and is not a formula retail establishment. The project includes minor interior and exterior tenant improvements. The existing commercial space is currently vacant but was most recently occupied by a retail establishment (dba "Stat Script, Nutrition Services").
5. **Public Comment.** To date the Department has received one correspondence in support of the project from the Duboce Triangle Neighborhood Association (DTNA).
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Small, Self-Service Restaurant.** Planning Code Section 733.44 states that a small, self-service restaurant, as defined in Sections 790.91 of the Planning Code, is permitted as conditional uses on the first story and below.

The Project Sponsor seeks Conditional Use Authorization to establish a new small, self-service restaurant (dba "Dinosaurs") at the first floor of the Subject Property, which is located within the Upper Market Street NCT District.

- B. **Hours of Operation.** Planning Code Section 733.27 states that in the Upper Market NCT maintaining hours of operation from 6:00 PM. to 2:00 AM. is permitted by right, and that hours of operation from 2:00 AM. to 6:00 AM. is conditionally permitted.

The hours of operation for the proposed restaurant have not been determined but will be within the hours of operation set forth in the District.

- C. **Use Size.** Planning Code Section 731.21 permits a use size of 3,000 square feet and above in the Upper Market Street NCT District with Conditional Use Authorization.

The Project will not increase the use size at the Subject Property. The commercial space is approximately 486 gross square-feet, far below the 3,000 square foot threshold established for uses sizes in the Upper Market Street NCT District.

- D. **Street Frontage in Neighborhood Commercial Districts.** Section 145.1 of the Planning Code requires that NC Districts containing specific uses – including full-service restaurants – have at least ½ the total width of the new or altered structure at the commercial street frontage devoted to entrances to commercially used space, windows or display space at the pedestrian eye-level. Such windows shall use clear, un-tinted glass, except for decorative or architectural accent. Any decorative railings or decorated grille work, other than wire mesh, which is placed in front or behind such windows, shall be at least 75 percent open to perpendicular view and no more than six feet in height above grade.

The project site has approximately 25-feet of lineal street frontage along 16th Street with more than 2/3 of the total width of street frontage devoted to window space. The windows are currently obstructed by protective grilles that the sponsor intends on removing as part of the tenant improvements.

- E. **Parking.** Section 151 of the Planning Code requires off-street parking for restaurants for every 200 square-feet of occupied floor area, where the occupied floor area exceeds 5,000 square-feet.

The project site contains approximately 486 square-feet of floor area and thus does not require any off-street parking.

- F. **Signage.** Any proposed signage will be subject to the review and approval of the Planning Department.

Any proposed signage shall be subject to the review of the Planning Department and required to meet all provisions set forth in Article 6 of the Planning Code pending the approval of this application.

G. **Small, Self-Service Restaurant.** Section 790.91 of the Code defines a small, self-service restaurant as a retail eating or eating and drinking use which provides ready-to-eat food for consumption on and off the premises and which may or may not provide seating. Such use exhibits the following characteristics:

- (1) Contains fewer than 50 seats and less than 1,000 square feet of gross floor area;
- (2) A limited menu of ready-to-eat food prepared in advance of customer orders, or food which is able to be quickly prepared for consumption on or off the premises;
- (3) Food served in disposable wrappers or containers;
- (4) Food is ordered and served at customer service counter;
- (5) Food is paid for prior to consumption;
- (6) Public food service area, including queuing areas and service counters without fixed seats, which counters are designed specifically for the sale and distribution of food and beverages;
- (7) Food available upon a short waiting time.

It does not include retail grocery stores with accessory take-out food activity, as described in Section 703.2(b)(1)(C) of this Code, self-service specialty food use, as described in Section 790.93 of this Code, or retail uses which sell prepackaged or bulk ready-to-eat foods with no-site food preparation area, such as confectionery or produce stores. When a fast-food restaurant operates within and in conjunction with another retail use, such as a retail grocery store, the area of the fast-food restaurant use shall be measured to include the area devoted to food preparation and service, seating and separate public food service counters, excluding fish, poultry and meat counters.

It may provide off-site beer, wine and/or liquor sales for consumption off the premises (with ABC licenses 20 or 21) or on-site beer and/or wine sales for drinking on the premises (with ABC licenses 40, 41 or 60). If it serves liquor for drinking on the premises (with ABC licenses 47 or 48) or does not admit minors (with ABC licenses 42 or 61), then it shall also be considered a bar, as defined in Section 790.22 of this Code.

It shall be conducted in accordance with the following conditions:

- (1) All debris boxes shall be kept in enclosed structures.
- (2) The operator shall be responsible for cleaning the sidewalk within a one-block radius daily to maintain the sidewalk free of paper or other litter during its business hours, in accordance with Article 1, Section 34 of the San Francisco Police Code.
- (3) Noise and odors shall be contained within the premises so as not to be a nuisance to nearby residents or neighbors.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:

- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The Project will provide a use that is necessary and desirable for the neighborhood in that it will provide a neighborhood serving use that will activate an inactive portion of the street frontage. Additionally, the use would fill a vacant storefront.

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

The project will not alter the size, shape, or arrangement of the structures on the site. The project would benefit the site by activating its 16th Street frontage including removal of the safety grilles on the windows.

- ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

Traffic conditions will remain substantially unaltered by this Project because the proposed use is a neighborhood-serving business that can be easily frequented via foot, cab, or public transportation by many residents of the surrounding neighborhoods. This Property is well served by public transit and is located within a transit district (Upper Market Street NCT). The Project does not trigger a parking requirement because the use size is well below the 5,000 square-foot threshold that triggers an off-street parking requirement.

- iii. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

The Project is subject to the standard conditions of approval for a small self-service restaurant as outlined in Exhibit A to ensure that noise and odors are contained within the premises so as not to be a nuisance to nearby businesses or residents. Condition of Approval No. 11 specifically obligates the Project Sponsor to mitigate odor and noise generated by the restaurant use.

- iv. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

There are no proposed changes to existing conditions as they relate to landscaping, screening, open spaces, service areas, and lighting. Any proposed signage shall be subject to the review of the Planning Department and required to meet all provisions set forth in Article 6 of the

Planning Code pending the approval of this application. The sponsor may seek to have a loading space added on 16th Street in front of the site.

- C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

The Project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below.

- D. That the use as proposed would provide development that is in conformity with the purpose of the applicable Neighborhood Commercial District.

The Project is consistent with the stated purpose of Upper Market NCT in that the use is located at the ground floor, provides a compatible convenience service for the immediate surrounding neighborhoods, provides entry level job opportunities, and operates with hours of operation that are permitted by right within the district.

8. **General Plan Compliance.** The Project is consistent with the Objectives and Policies of the General Plan in that:

NEIGHBORHOOD COMMERCE

Objectives and Policies

OBJECTIVE 1:

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1:

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development that has substantial undesirable consequences that cannot be mitigated.

Policy 1.2:

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

Policy 1.3:

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

The proposed development will provide desirable use to the neighborhood that is independently owned and operated and will provide resident employment opportunities to those in the community. Further, the Project is consistent with the uses in this neighborhood and with the commercial land use plan for the Upper Market NCT. The addition of a small-scale restaurant into a vacant tenant space at the street level

of the building will provide pedestrian traffic at an intensity that is suitable for the transition between the commercial activity of the Upper Market NCT and the residential district south of the site.

OBJECTIVE 2:

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1:

Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

The Project will enhance the City's economic base by utilizing a currently vacant commercial space along the Upper Market Street Neighborhood Commercial corridor, and by creating new service sector jobs within the new restaurant.

OBJECTIVE 3:

PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

Policy 3.1:

Promote the attraction, retention and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers.

Approving the Project will create entry-level employment opportunities for local unskilled and semi-skilled workers.

OBJECTIVE 6: MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.1:

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

No commercial tenant is displaced by the Authorization of this Conditional Use, and the Project will not prevent the Upper Market Street NCT District from achieving optimal diversity in the types of goods and services available in the neighborhood.

Policy 6.2:

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to the economic and technological innovation in the marketplace and society.

The Project is sponsored by an independent local entrepreneur who seeks to provide a restaurant to augment his existing businesses located within the Swedish American Hall. Café du Nord has already established itself as an asset to the Upper Market Street Neighborhood Commercial Transit District, which fosters and supports artists and small business enterprises.

EATING AND DRINKING ESTABLISHMENTS

The following guidelines, in addition to others in this objective for neighborhood commercial districts, should be employed in the development of overall district zoning controls as well as in the review of individual permit applications, which require case-by-case review and Planning Commission approval. Pertinent guidelines may be applied as conditions of approval for individual permit applications. In general, uses should be encouraged which meet the guidelines; conversely, uses should be discouraged which do not.

Eating and drinking establishments include bars, sit-down restaurants, fast-food restaurants, self-service restaurants, and take-out food. Associated uses – which can serve similar functions and create similar land use impacts – include ice cream stores, bakeries and cookie stores. Guidelines for eating and drinking establishments are needed to achieve the following purposes:

- Regulate the distribution and proliferation of eating and drinking establishments, especially in districts experiencing increased commercial activity;
- Control nuisances associated with their proliferation;
- Preserve storefronts for other types of local-serving businesses; and
- Maintain a balanced mix of commercial goods and services.

The regulation of eating and drinking establishments should consider the following:

- Balance of retail sales and services;
- Current inventory and composition of eating and drinking establishments;
- Total occupied commercial linear frontage, relative to the total district frontage;
- Uses on surrounding properties;
- Available parking facilities, both existing and proposed;
- Existing traffic and parking congestion; and
- Potential impacts on the surrounding community.

In districts where the proliferation of eating and drinking establishments could generate problems, the following guidelines should be employed in the consideration of new establishments, relocations, changes from one kind of eating and drinking establishment to another (e.g. from self-service restaurant to full-service restaurant), expansion or intensification of existing establishments:

- The establishment should not add to an over-concentration of eating and drinking establishments in a single district. The balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage. Proposals for eating and drinking establishments which would increase the

- proportion of total occupied commercial frontage above 20% should be reviewed to ensure that they would not reduce the variety of neighborhood-serving uses; nor create substantial noise, traffic, parking problems, or other nuisances in the district or surrounding neighborhood. Those establishments that would do the above should not be permitted. Except in districts with an established pattern of service to a broad market, such as North Beach, such establishments should not occupy more than 25% of the total commercially occupied frontage in a district. To minimize the problems they can create, eating and drinking uses should generally be at least 100 feet apart from each other, unless there are factors making clustering of uses appropriate. For example, a configuration of clustered eating and drinking uses where off-street parking is shared might be more appropriate than an even distribution of such establishments.
- New, expanding or relocating eating and drinking uses should not impose significant adverse impacts on traffic and transit volumes and circulation and parking congestion. If such impacts are anticipated, especially on transit-preferential streets, the proposed use, expansion or relocation should be redesigned to mitigate such impacts, or it should be prohibited.
 - Eating and drinking uses should be adequately soundproofed or insulated for noise and operated so as to reasonably protect adjoining and surrounding upper-story residences from disturbances. Fixed source equipment noise should not exceed the decibel levels specified in the Noise Control Ordinance.

The General Plan states that there is a concern with the potential over-concentration of eating and drinking establishments, and the Commerce and Industry Element of the General Plan contains the Guidelines for Specific Uses. For eating and drinking establishments, the Guidelines state, "the balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage." Planning staff has performed a site survey of the Upper Market Street NCT District, which contains the proposed use. Including the proposed small self-service restaurant, approximately 19% of the commercial frontage of the Upper Market Street NCT District is dedicated to eating and drinking establishments. The project will not prevent the Upper Market Street NCT District from achieving optimal diversity in the types of goods and services available in the neighborhood.

The restaurant is not intended to be a destination restaurant but instead be a neighborhood-serving use. The project will not adversely impact traffic patterns in the neighborhood because the proposed use is a neighborhood-serving business that can be easily frequented via foot, cab, or public transportation by many residents of the surrounding neighborhoods, furthermore, the property is well served by public transit and is located within a transit district (Upper Market Street NCT).

9. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:
 - A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

The granting of this Conditional Use Authorization will not adversely affect the existing neighborhood-serving retail uses because the existing tenant space is currently vacant – and thus not displacing any use, and the proposed small self-service restaurant will increase the foot-traffic along the 3500 block of 16th Street. Future opportunities for resident employment will be increased by establishing a restaurant where no business currently exists, and the proposed business is an independently-owned and operated local business.

- B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

The immediate vicinity is characterized by predominantly commercial and mixed-use buildings with residential uses located to the south. No changes are proposed to the existing building envelope and no existing housing will be removed, therefore, neighborhood character will be preserved. The proposed use would benefit the residential uses in the neighborhood because it is a low-intensity use that serves as a transition between the more intense commercial uses on Market Street to the north and the residential uses to the south.

- C. That the City's supply of affordable housing be preserved and enhanced,

No housing will be removed for this Project.

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

Traffic conditions will remain substantially unaltered by this Project because the proposed use is a neighborhood-serving business that can be easily frequented via foot, cab, or public transportation by many residents of the surrounding neighborhoods. This Property is well served by public transit and is located within a transit district (Upper Market Street NCT). The Project does not trigger a parking requirement because the use size is well below the 5,000 square-foot threshold that triggers an off-street parking requirement.

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

Approval of this Project will not adversely affect any industrial or service sector jobs rather it will create new service sector employment opportunities for local residents.

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The Project will be designed and constructed to conform to the structural and seismic safety requirements of the San Francisco Building Code where applicable. Therefore, the Project will not impact the existing structure's ability to withstand an earthquake.

G. That landmarks and historic buildings be preserved.

The existing structure is not a landmark or historic building. Therefore, no historic buildings will be adversely affected by the proposed change of use.

H. That our parks and open space and their access to sunlight and vistas be protected from development.

This Project will not affect any parks or open space because there is no change to the existing building footprint.

10. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.

11. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2009.1005C** subject to the following conditions attached hereto as "EXHIBIT A" which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 18023. The effective date of this Motion shall be the date of this Motion if not appealed (after the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA, 94012.

I hereby certify that the Planning Commission **ADOPTED** the foregoing Motion on January 28, 2010.

Linda Avery
Commission Secretary

AYES: Commissioners Olague, Antonini, Lee, Moore, Borden, Miguel
and Sugaya

NAYES: None

ABSENT: None

ADOPTED: January 28, 2010

Exhibit A

Conditions of Approval

1. This authorization is for a Conditional Use under Planning Code Sections 733.44, and 303 to establish a small, self-service (dba "Dinosaurs") in the Upper Market Neighborhood Commercial Transit District, and a 40-50-X Height and Bulk District, in general conformance with plans filed with the Application as received on October 22, 2009 and stamped "EXHIBIT B" included in the docket for Case No. 2009.1005C, reviewed and approved by the Commission on **January 28, 2010**.
2. Prior to the issuance of the Building Permit for the Project the Zoning Administrator shall approve and order the recordation of a Notice of Special Restrictions with the Office of the Recorder of the City and County of San Francisco for the premises (Assessor's 3559, Lot 013), which notice shall state that construction has been authorized by and is subject to the conditions of this Motion. From time to time after the recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied.
3. Violation of the conditions contained in this Motion or of any other provisions of the Planning Code may be subject to abatement procedures and fines of no less than \$200 a day in accordance with Planning Code Section 176.
4. Should monitoring of the Conditions of Approval contained in Exhibit A of this Motion be required, the Project Sponsor or successors shall pay fees as established in Planning Code Section 351(e)(1).
5. The operator shall appoint a community liaison officer to deal with issues of concern to neighbors related to operation of the Project. The name and telephone number of the community liaison shall be reported to the Zoning Administrator.
6. The operator shall be responsible for cleaning the sidewalk within a one-block radius daily to maintain the sidewalk free of paper or other litter during its business hours, in accordance with Article 1, Section 34 of the San Francisco Police Code.
7. Signs and exterior lighting for the business shall be reviewed and approved by the Planning Department before they are installed.
8. The operator shall maintain an attractive storefront providing visibility of the restaurant interior through the storefront windows. Street-facing windows shall not be blocked by displays or other obstacles in order to allow for visual connection between the street and the store interior. Highly reflective glass, tinted glass, or mirror glass shall not be applied on any area of the façade.

9. Any decorative railings or decorative grille work-including security gates-that are placed in front of or behind such windows, shall be at least 75 percent open to perpendicular view and no more than six feet in height above grade, in accordance with Planning Code Section 145.1(a).
10. The operator shall maintain appropriate odor control equipment to prevent any significant noxious or offensive kitchen odors from escaping the premises.
11. The operator shall operate the proposed restaurant such that noise is kept at reasonable levels so as not to unduly disturb neighboring businesses and residents.
12. The exterior of the business must be kept clean, graffiti-free and well-maintained, including regular sweeping and washing of the curb outside of the storefront. Project sponsor agrees to paint out and/or remove graffiti within 48 hours.
13. Refuse containers shall be provided both inside and outside the establishment for use by patrons of the restaurant.
14. An enclosed garbage area shall be provided within the establishment. All garbage containers shall be kept within the building until pick-up by the disposal company.
15. Notices shall be well-lit and prominently displayed at all entrances to and exits from the establishment urging patrons to leave the establishment and neighborhood in a quiet, peaceful, and orderly fashion and to please not litter or block driveways in the neighborhood.
16. Employees shall insure that patrons entering and exiting the establishment are urged to respect the quiet and cleanliness of the neighborhood as they walk to their parked vehicle or otherwise leave the area.
17. The authorization and right vested by virtue of this action shall be deemed void and canceled, if within 3 years of this Motion a site permit or building permit for the Project has not been secured by Project Sponsor. This authorization may be extended at the discretion of the Zoning Administrator only if the failure to issue a permit by the Department of Building Inspection is delayed by a city, state, or federal agency or by appeal of the issuance of such permit.