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Planning Commission Motion No. 18803

HEARING DATE: FEBRUARY 7TH, 2013

Date: January 17th, 2013
Case No.: **2012.0109CV**
Project Address: **4058-4060 18th STREET**
Zoning: Castro Street Neighborhood Commercial District
40-X Height and Bulk District
Block/Lot: 3582/052
Project Sponsor: Ahmad Mohazab, TECTA Associates
2747 Nineteenth Street
San Francisco, CA 94110
Staff Contact: Tom Wang – (415) 558-6335
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ADOPTING FINDINGS RELATING TO CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 145.2, 303, 317, 715.24, 715.38, 715.44, AND 715.81 OF THE PLANNING CODE TO ALLOW A RESTAURANT (D.B.A. "CASTRO SAUSAGE GRILL") IN PLACE OF THE CURRENT GARAGE ON THE GROUND FLOOR AND THE LEGALIZATION OF A CHANGE OF OCCUPANCY OF A RESIDENTIAL USE TO A NONRESIDENTIAL USE (D.B.A "THE CASTRO COUNTRY CLUB") ON THE SECOND FLOOR WITH AN OUTDOOR ACTIVITY AREA ON THE SECOND FLOOR REAR ROOF DECK WITHIN THE CASTRO STREET NEIGHBORHOOD COMMERCIAL DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On February 2nd, 2012, Ahmad Mohazab, TECTA Associates (hereinafter "Project Sponsor") filed an application with the San Francisco Planning Department (hereinafter "Department") for Conditional Use Authorization under Sections 145.2, 303, 317, 715.24, 715.38, 715.44 and 715.81 of the Planning Code to allow a restaurant (d.b.a. "Castro Sausage Grill") to replace an existing garage on the ground floor and the legalization of a change of occupancy of a residential use to a nonresidential use on the second floor (d.b.a. "The Castro Country Club"), defined as Other Institutions, Large, pursuant to Planning Code Section 790.50(a), with an outdoor activity area on the second floor rear roof deck, at 4058-4060 18th Street

(hereinafter "Subject Property"), within the Castro Street Neighborhood Commercial District and a 40-X Height and Bulk District.

On January 24th, 2013, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2012.0109CV (hereinafter "Application"). The Commission determined to continue the hearing to February 7th, 2013.

On January 24th, 2013, the Zoning Administrator jointly conducted a duly noticed public hearing at a regularly scheduled meeting on Variance Application No. 2012.0109CV. The Zoning Administrator determined to continue the hearing to February 7th, 2013.

On February 7th, 2013, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2012.0109CV.

On February 7th, 2013, the Zoning Administrator jointly conducted a duly noticed public hearing at a regularly scheduled meeting on Variance Application No. 2012.0109CV.

On August 30th, 2012 under Case No. 2010.0109E, the Project was determined by the Department to be categorically exempt from the California Environmental Quality Act ("CEQA") as a Class 1 Categorical Exemption under CEQA as described in the determination contained in the Department files for the Project. The Commission has reviewed and concurs with said determination.

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. 2012.0109CV, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The Subject Property, at 4058-4060 18th Street, is on the north side of 18th Streets between Castro and Hartford streets, Lot 053 in Assessor's Block 3582 within the Castro Street Neighborhood Commercial District and a 40-X height and Bulk District. The Project Site measures 25 feet wide and 100 feet deep and was originally developed with a three-story over garage, two-family dwelling circa 1901.

Currently, the subject building contains a garage on the ground floor with one off-street parking space and storage areas; an institutional use, the Castro Country Club, on the second floor; and a residential unit occupying the third and fourth floors. The Project Site is within a neighborhood commercial area and is well served by public transportation within up to 300 feet of walking distance, including Muni Bus Lines 24 and 35 operating on Castro Street and Muni Bus Line 33 operating on 18th Street.

3. **Surrounding Properties and Neighborhood.** The Project Site is located in the Castro Street NCD, the heart of which is approximately one half of a block west of the Subject Property. The Castro Street NCD extends east of the Subject Property and ends on Noe Street. Seven surrounding properties along the subject block-face contain either three- or four-story buildings. Three of these buildings are developed with a garage on the ground floor and residential uses on the upper floors and the remaining four buildings are developed with commercial uses on the ground and second floors and residential uses on the remaining floors above. The surrounding residential district is the RH-3 Zoning District.

The adjacent three-story building east of the Subject Property contains commercial uses on the ground and second floors and one dwelling unit on the third floor. The adjacent four-story building west of the Subject Property contains a commercial use on the ground floor and two dwelling units occupying the second through fourth floors.

The Castro Street NCD provides convenience goods to its immediate neighborhood and comparison shopping goods and services on a specialized basis to a wider trade area. Commercial businesses, including a number of bars, restaurants and specialty clothing and gift stores, are active both in the daytime and late into the evening. The Castro Street NCD also supports several conversions from residential uses to nonresidential uses on the second floors in residential buildings.

4. **Project Description.** Within the Castro Street Neighborhood Commercial District, the Project proposes:
 - (A) The removal of the existing garage and off-street parking on the ground floor and an expansion of the ground floor toward the rear of the lot with a roof deck above, increasing the existing ground floor gross floor area of 1,330 square feet to 2,025 square feet;
 - (B) The establishment of a restaurant (d.b.a. "Castro Sausage Grill") on the expanded ground floor with a new commercial storefront to replace the existing garage door.

The Project Sponsor seeks conditional use authorization, pursuant to Planning Code Sections 303 and 715.44, to establish a restaurant, including on-site beer and wine sales, on the expanded ground floor with a gross floor area of approximately 1,985 square feet. It would also provide outdoor dining service in the front setback area on the Subject Property for the convenience of patrons. The proposed restaurant is not a Formula Retail use but rather an independent, locally owned business. It is designed to mainly serve

residents from the local neighborhood and will create between eight to ten job openings for local residents. The proposed hours of operation are: from 11 a.m. to 11 p.m. Mondays through Thursdays; from 11 a.m. to 12 o'clock midnight Fridays and Saturdays; and from 11 a.m. to 8 p.m. Sundays. Approximately 10% of the restaurant operation will be devoted to take-out dining.

The Project Sponsor presented the following introduction to the proposed restaurant: "The Castro Sausage Grill will provide a simple menu of delectable organic sausages on artisan bread. The restaurant operator will select organic meats from local producers wherever possible. The sausage casings and seasonings will all be organic and natural. Since the closing of the World Sausage Grille on Market and 14th streets, there is no place for people in the Castro to enjoy this type of food."

- (C) The legalization of a change of occupancy of a residential use to a nonresidential use (d.b.a. "the Castro Country Club"), defined as Other Institutions, Large, pursuant to Planning Code Section 790.50(a), on the second floor.
- (D) The use of the second floor rear roof deck as the Castro Country Club's proposed outdoor activity area.

The Project Sponsor seeks conditional use authorization, pursuant to Planning Code Sections 145.2, 317, 715.24, 715.38 and 715 81, to allow the legalization of a change of occupancy of a residential use to the Castro Country Club on the second floor with an outdoor activity area on the second floor rear roof deck.

Excerpt from the Castro Country Club website:

"The Castro Country Club is a clean & sober gathering place for all people and a home for the queer recovery community. We endeavor to be a space where all can seek wisdom, serenity, courage and joy. Since April 1983, the Castro Country Club has been a safe haven for LGBT people in recovery from drugs and alcohol."

Based upon the Project Sponsor's statement, the Castro Country Club offers the following programs:

Unstructured Peer Counseling

"Providing a venue for the unstructured peer counseling that is at the heart of AA and other 12-step programs is one of the primary functions of the Castro Country Club. The front steps of the 1901 Victorian that houses the Club has become a central gathering place for the sober community. People come to the Club simply to hang out with other sober people, to work the 12 steps with a sponsor or sponsors, or to talk with the on-duty volunteer about the challenges of sober living."

Job Training and Skills-Building

“Over 45 people in recovery volunteer at the Club each week, running the espresso bar and supervising Club operations with support from the Club manager. Volunteer baristas staff the coffee bar and are required to have at least six months of continuous sobriety. Barbacks, many of whom are early in sobriety, assist with cleaning and stocking. All contribute to the culture of support and fellowship for fellow addicts and alcoholics in recovery. By providing a supportive work environment, the Club helps volunteers to develop marketable job skills and the self-esteem to pursue their dreams. Frequently, the Club manager provides employment references for volunteers.”

Social Support and Fellowship

“One of the biggest challenges for people in early sobriety is simply learning how to live, work and socialize without drugs or alcohol. Meeting this challenge is one of the most important cultural contributions of the Castro Country Club, which has always been managed and operated by people in recovery. The Club fosters fellowship and community by regularly hosting variety shows, movie nights and game nights. On holidays, the Club throws potluck dinners and during the warmer months, barbeques on the back patio. Club patrons frequently organize social events and celebrations of milestones in recovery. All of these activities support and contribute to healthy interpersonal development for those in recovery.”

- (E) The proposed replacement of an existing third floor rear stairway with a spiral stairway, which is not subject to conditional use authorization but a rear yard variance.

The Project Sponsor has submitted a Variance Application No. 2010.0109CV for the replacement of an existing third floor rear stairway with a new spiral stairway, pursuant to Planning Code Sections 134 and 188. The purpose of the proposed spiral stairway would be to provide a connection between the existing residential unit on the third floor and its Planning Code required usable open space on the second floor rear roof deck. The Zoning Administrator will hold a joint hearing on the Variance Application with the conditional use hearing.

Based upon the Project Sponsor’s statement, the proposed rear spiral stairway would not be a required second means of egress for the residential unit on the third floor, pursuant to the Building Code, because a fire sprinkler system would be installed throughout the subject building.

5. **Public Comment.** The Department has received a letter and e-mails from property owners and residents in the surrounding neighborhood, who expressed opposition to the Application.

The Department has received letters and e-mails from residents in the surrounding neighborhood, who expressed support specifically for the proposed legalization of the Castro Country Club.

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. **Restaurant Use.** Planning Code Section 715.44 provides that a restaurant is permitted as a conditional use on the first story. A restaurant is defined in Planning Code Section 790.91 as: A retail eating or eating and drinking use which serves prepared, ready-to-eat cooked foods to customers for consumption on or off the premises and which has seating. It may provide on-site beer, wine, and/or liquor sales for drinking on the premises (with ABC license types 41, 47, 49, 59, or 75); however, if it does so it shall be required to operate as a Bona Fide Eating Place as defined in Planning Code Section 790.142. It is distinct and separate from a Limited-Restaurant as defined in Planning Code Section 790.90.

The Project Sponsor seeks conditional use authorization for a change of use from garage to restaurant on the first floor, which would also provide on-site beer and wine sales for drinking on the premises with an ABC type 41 license.

Based upon the Project Sponsor's statement, the Castro Country Club on the second floor is aware that the use on the ground floor would be a restaurant with on-site beer and wine sales and the Castro Country Club has no objection to the restaurant and has taken no formal position on the on-site beer and wine sales.

B. **Outdoor Activity Areas.** Planning Code Section 790.70 defines outdoor activity area as an area, not including primary circulation space or any public street, located outside of a building or in a courtyard which is provided for the use or convenience of patrons of a commercial establishment including, but not limited to, sitting, eating, drinking, dancing, and food-service.

(i) Planning Code Sections 715.24 provides that an outdoor activity area operated by a commercial use is permitted if it complies with provisions governing outdoor activity areas in NC Districts under Planning Code Section 145.2(a)(1) in that an outdoor activity area operated by a commercial use is permitted as a principal use if located outside a building and contiguous to the front property line of the lot on which the commercial use is located.

The project Sponsor seeks to include a dining area, for the use or convenience of patrons, outside of the proposed restaurant and contiguous to the front property line of the lot, would therefore, be permitted without requiring a conditional use authorization.

(ii) Planning Code Sections 715.24 provides that an outdoor activity area operated by a commercial use, which does not comply with provisions governing outdoor activity areas in NC Districts under Planning Code Section 145.2(a)(1) is permitted as a conditional use. In addition to the criteria of Planning Section 303(c), the Planning Commission shall find the following under Planning Code Section 145.2(a)(2):

- (A) The nature of the activity operated in the outdoor activity area is compatible with surrounding uses;
- (B) The operation and design of the outdoor activity area does not significantly disturb the privacy or affect the livability of adjoining or surrounding residences;
- (C) The hours of operation of the activity operated in the outdoor activity area are limited so that the activity does not disrupt the viability of surrounding uses.

The Project Sponsor Seeks to legalize the Castro Country Club on the second floor, including the use of the second floor rear roof deck as an outdoor activity area, which would be permitted as a conditional use. "Additional Findings pursuant to Planning Code Section 145.2(a)(2)" below have been incorporated as part of this Motion.

- C. **Institutional Use.** Planning Code Section 715.81 provides that Other Institutions, Large, defined by Planning Code 790.50(a), require conditional use authorization on the second story and above.

The Project Sponsor seeks conditional use authorization for the legalization of the Castro Country Club on the second floor, defined as Other Institutions, Large, pursuant to Planning Code Section 790.50(a). The Castro Country Club has been in existence since April 1983.

- D. **Use Size [Non-Residential].** Planning Code Section 715.21 provides that Use Size [Non-Residential] is permitted up to 1,999 square feet; conditional use authorization is required from 2,000 square feet up to 3,999 square feet; and 4,000 square feet and above is not permitted within the Castro Street Neighborhood Commercial District.

The Proposed restaurant, occupying most of the expanded ground floor, would contain a gross floor area of approximately 1,985 square feet, which is a permitted use size within the Castro Street Neighborhood Commercial District.

The proposed Castro Country Club on the second floor would contain a total gross floor area of approximately 1,308 square feet, which is a permitted use size within the Castro Street Neighborhood Commercial District.

- E. **Hours of Operation.** Planning Code Section 715.27 permits hours of operation, as defined by Planning Code Section 790.48, from 6 a.m. to 2 a.m. and from 2 a.m. to 6 a.m. by conditional use authorization.

The proposed restaurant's hours of operation will be: from 11 a.m. to 11 p.m. Sundays through Thursdays and from 11 a.m. to 12 o'clock midnight Fridays and Saturdays, which are within those hours principally permitted by Planning Code Section 715.27.

The Castro Country Club's existing hours of operation are: from 9 a.m. to 11 p.m. Mondays; from 7 a.m. to 11 p.m. Tuesdays; from 9 a.m. to 11 p.m. Wednesdays; from 7 a.m. to 11 p.m. Thursdays;

from 9 a.m. to 12 midnight Fridays and Saturdays; and from 9 a.m. to 10 p.m. Sundays, which are within those hours principally permitted by Planning Code Section 715.27.

- F. **Street Frontage in Neighborhood Commercial Districts.** Section 145.1 of the Planning Code provides that no more than 1/3 of the width of new or altered structures, parallel to and facing a street, shall be devoted to ingress/egress to parking.

The Project would include the removal of the existing garage and garage door on the ground floor and the construction of a new ground floor commercial storefront in association with the proposed restaurant, which would not devote any width to ingress/egress to off-street parking.

Section 145.1 of the Planning Code also provides that NC Districts containing specific uses, including Restaurants, have at least ½ (50 percent) 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 18th Street of which approximately 17 feet (68 percent) of street frontage would be devoted to either the restaurant entrance or window space. The proposed restaurant's windows will not be tinted.

- G. **Parking.** Planning Code Section 151 provides that for restaurant or bar use, one off street parking space is required for each 200 square feet of occupied floor area, where the occupied floor area exceed 5,000 square feet.

The proposed restaurant would occupy a floor area of approximately 1,985 square feet; therefore, no off-street parking is required.

Planning Code Section 715.22 provides that generally, no off-street parking will be required for commercial/institutional uses if occupied floor area is less than 5,000 square feet.

The Castro Country Club, as an institutional use, currently occupies a total gross floor area of approximately 1,308 square feet. Therefore, no off-street parking will be required for the legalization of the Castro Country Club.

- H. **Rear Yard Requirement.** Within the Castro Street Neighborhood Commercial District, Planning Code Section 134 provides that minimum rear yard depth shall be equal to 25 percent of the total depth of a lot in which it is situated, but in no case less than 15 feet. Planning Code Section 134(a)(1)(B) further provides that the required rear yards shall be

provided at the second story and at each succeeding story of the building, and at the first story if it contains a dwelling unit.

The Project would include an expansion of the existing ground floor toward the rear of the lot, leaving a rear yard depth of 5 feet and no change to the existing rear yard depth at the second through fourth floors. The expanded ground floor would be mostly occupied by the proposed restaurant and contain no residential use. Therefore, the proposed expansion of the existing ground floor would comply with the rear yard requirement under Planning Code Section 134(a)(1)(B).

The Project would also include the replacement of an existing third floor rear stairway with a new spiral stairway. Since the existing third floor rear stairway is already within the required rear yard on the subject lot, to replace it with a new stairway would be subject to a rear yard variance, pursuant to Planning Code Sections 134 and 188. The Project Sponsor has submitted a Variance Application No. 2012.0109CV. The Zoning Administrator will hold a joint hearing on the Variance Application with the conditional use hearing.

- I. **Usable Open Space for Residential Unit.** Within the Castro Street Neighborhood Commercial District, Planning Code Section 135 provides that 80 square feet of private usable open space shall be required for each dwelling unit.

The Project would provide the existing residential unit on the third floor with approximately 220 square feet of private usable open space on the second floor rear roof deck accessible via the proposed new third floor rear stairway, which would be subject to a rear yard variance.

- J. **Parking Reduction.** Planning Code Section 161 provides that a Project Sponsor may request a reduction in parking requirements provided certain findings are met, pursuant to Planning Code Section 307.

The Project Sponsor submitted an Application for Parking Reduction to remove the garage and off-street parking on the ground floor. The said Application, not subject to conditional use authorization, requires the review and approval of the Zoning Administrator. The Zoning Administrator reviewed and approved the Application because the Project met all six criteria for the reduction of parking requirements, pursuant to Planning Code Section 307(i) and was consistent with Planning Priority Policies of the General Plan. (Please read the attached Application for Parking Reduction).

- K. **Residential Conversion.** Pursuant to Planning Code Section 317, conditional use authorization is required for applications proposing to the change of occupancy, or the change of use of any residential unit to a non-residential use within the Castro Street Neighborhood Commercial District. This Code Section establishes a checklist of criteria that delineate the relevant General Plan Policies and Objectives.

Pursuant to Planning Code Section 317, the Project includes the change of occupancy of a residential unit to a nonresidential use on the second floor, which is permitted as a conditional use.

“Additional Findings, relating to a checklist of criteria, pursuant to Planning Code Section 317” below have been incorporated as part of this Motion.

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

Any application for proposed signage at the Subject Property 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.

- M. **Neighborhood Commercial Building Permit Review.** Planning Code Section 312 requires neighborhood notification for any Building Permit, proposing a change in use for lots within Neighborhood Commercial Districts.

The Project includes a change in use from a garage to a restaurant on the expanded ground floor and the legalization of converting a residential unit to an institution on the second floor within the Castro Street Neighborhood Commercial District. Section 312 Building Permit notification was conducted in conjunction with the conditional use authorization notification.

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, 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 development that is necessary and desirable, and compatible with the neighborhood for the following reasons:

- (i) The proposed restaurant in place of an existing garage and off-street parking on the ground floor.

The size and intensity of the proposed restaurant will be compatible with many other storefronts on the subject and opposite block-faces. The Project will not cause an impact on traffic or street parking in this neighborhood because it is designed to mainly serve residents from the surrounding neighborhood and patrons of other businesses on Castro or 18th Street within walking distance and is not intended to be a destination restaurant. The Project Site and the surrounding area are also well served by public transit. By offering a type of food not available elsewhere in the neighborhood, the proposed restaurant will be desirable and necessary and will complement the mix of goods and services currently available in the Castro Street NCD. It will further contribute to the economic strength and vitality of the neighborhood by developing an underutilized ground floor, currently a garage, to an active commercial storefront.

(ii) The proposed legalization of the conversion of a residential use to the Castro Country Club (Other Institutions, Large) on the second floor.

The Project at the size and intensity contemplated will be compatible with that of many other existing second floor non-residential uses, including retail sales and financial, medical, personal, business and professional services, within the Castro Street NCD. The legalization of the Castro Country Club will be desirable and necessary because it provides a clean and safe place for LGBT people in recovery from drugs and alcohol and has established a historical recognition for almost 30 years at the Project Site among the community. Although the Project is the result of the conversion of a residential unit, the previous residential unit, containing two bedrooms, was not a family-sized unit and is not presently part of the City's housing stock.

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 proposed restaurant with a new front façade to replace the current garage door on the ground floor will not only be compatible with the current scale and context of the surrounding neighborhood but will also enliven 18th Street further by introducing a pedestrian-friendly use on 18th Street. The proposed ground floor expansion will comply with the rear yard requirements in the Castro Street NCD and be compatible with the development pattern on the subject block. The proposed legalization of the Castro Country Club on the second floor would not involve any alteration to the exterior of the existing building at the Project Site.

(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;

The Planning Code does not require off-street parking or loading for the proposed restaurant or the legalization of the Castro Country Club. The Project is designed to mainly meet the needs of the residents in the immediate neighborhood and the Project Site is well served by public transit within up to 300 feet of walking distance, including Muni Bus Lines 24 and 35 operating on Castro Street and Muni Bus Line 33 operating on 18th Street, minimizing the amount of vehicular traffic from the immediate neighborhood or citywide.

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

Due diligence standard construction practices in reducing noise, glare, dust and odor will be maintained during the construction process. Utmost care will be taken during the operations to

ensure that no noxious or offensive emissions are produced, from either the proposed restaurant or the Castro Country Club.

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

Parking and loading areas are not required for the Project. The design of the proposed restaurant will include a landscaped entry area and exterior lighting to enhance security. The Department shall review all proposed signs for the Project.

(v) 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.

(vi) 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 the Castro Street Neighborhood Commercial District in that it is compatible with the current building scale, enhances a mixed-use development in character and increases continuous ground floor retail frontage along 18th street.

8. **Pursuant to Planning Code Section 145.2(a)(2)**, an outdoor activity area is permitted as a conditional use if it does not comply with Planning Code Section 145.2(a)(1), and in addition to the criteria of Planning Code Section 303, the Planning Commission shall find:

A. The nature of the activity operated in the outdoor activity area is compatible with surrounding uses.

The majority of the properties on the subject block, along 18th and Castro streets, are within the Castro Street NCD, a district that permits residential uses on all floors and a number of nonresidential uses also on all floors as either principal uses or conditional uses. The remaining number of properties, along Hartford Street and immediately north of the Subject Property, contain mainly residential uses within the RH-3 Zoning District. As an institution in the Castro Street NCD, the use of the second floor rear roof deck as the Castro Country Club's proposed outdoor activity area for meeting and reading purposes is compatible with the majority of the current mixed uses on the subject block. Additionally, the Project Sponsor indicates that the current rear yard on the subject lot has been used as an outdoor activity area by the Castro Country Club for many years without the benefit of a permit, and no apparent adverse effect on adjacent residential buildings exists.

B. The operation and design of the outdoor activity area does not significantly disturb the privacy or affect the livability of adjoining or surrounding residences.

Noise and privacy are typical and expected characteristics of an urban environment, especially in districts zoned for a mix of uses. The Project Sponsor has designed the second floor rear roof deck as the proposed outdoor activity area in a way to minimize its potential noise and privacy impact to

the adjacent residential units, located immediately north and west in that the outdoor activity area would include the establishment of a rear boundary, marked with approximately 5 feet tall, fixed planter boxes, which would be 12 feet from the north (rear) lot line, and similar planter boxes installed entirely along the west side lot line. The proposed fixed planter boxes would function as a noise and privacy buffer to the adjacent residential units. Additionally, no entertainment or loud music will be allowed at the proposed outdoor activity area.

- C. The hours of operation of the activity in the outdoor activity area are limited so that the activity does not disturb the viability of surrounding uses.

While the Castro Street NCD provides that any commercial establishment may be open for business from 6 a.m. to 2 a.m., the Project Sponsors has indicated that the proposed hours of operation of the Castro Country Club's outdoor activity area will be: from 9 a.m. to 11 p.m. Mondays; from 7 a.m. to 11 p.m. Tuesdays; from 9 a.m. to 11 p.m. Wednesdays; from 7 a.m. to 11 p.m. Thursdays; from 9 a.m. to 12 midnight Fridays and Saturdays; and from 9 a.m. to 10 p.m. Sundays, which are within those hours principally permitted by Planning Code Section 715.27.

9. Pursuant to Planning Code Section 317, the Planning Commission shall consider the following criteria when reviewing applications for Conversion of Residential Units:

- (i) Whether conversion of the unit(s) would eliminate only owner occupied housing, and if so, for how long the unit(s) proposed to be removed were owner occupied;

Based upon the Project Sponsor's statement, the Subject Property has been in the possession of the previous owner since at least 1983. The current owner purchased the Subject Property in January 2012, shortly after the previous owner's death. Whether the residential unit on the second floor was owner occupied or not when converted to the Castro Country Club in April 1983 cannot be positively concluded by the Project Sponsor, absent from the existence of the previous property owner.

- (ii) Whether conversion of the unit(s) would provide desirable new non-residential use(s) appropriate for the neighborhood and adjoining district(s);

The legalization of the Castro Country Club will be desirable and transcend the necessity to retain the pervious unit on the second floor. The Castro Country Club is a clean and safe place for LGBT people in recovery from drugs and alcohol and has established a historical recognition for almost 30 years at the Project Site among the community.

- (iii) Whether conversion of the unit(s) will bring the building closer into conformance with the prevailing character of its immediate area and in the same zoning district;

A number of mixed-use buildings along the subject and the opposite block-faces currently contain non-residential uses occupying both ground and second floors. Therefore, the Project, proposing a restaurant on the ground floor and the legalization of the Castro Country Club on the second floor will bring the Subject Building closer into conformance with the prevailing character of its immediate area and in the same zoning district.

- (iv) Whether conversion of the unit(s) will be detrimental to the City's housing stock;

The conversion of the residential unit to the Castro Country Club on the second floor almost 30 years ago will not be detrimental to the City's housing stock because the previous unit, containing two bedrooms, was not considered as family housing and is not part of the City's current housing stock.

- (v) Whether conversion of the unit(s) is necessary to eliminate design, functional, or habitability deficiencies that cannot otherwise be corrected.

The proposed legalization of the conversion of the residential unit to the Castro Country Club on the second floor is not necessarily related to correct design or functional deficiencies in the Subject Building due to the Building or Housing Code requirements.

10. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

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 which 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 Project, which will develop an under-utilized ground floor space into a commercial storefront to allow the creation of a restaurant, will provide the neighborhood with enhanced goods and service and contribute to the vitality of this mixed-use neighborhood. The Project is consistent with the activities within the Castro Street Neighborhood Commercial District and the commercial land use plan.

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.

Policy 3.2:

Promote measures designed to increase the number of San Francisco jobs held by San Francisco residents.

The proposed restaurant would provide the neighborhood with approximately eight to ten employment opportunities for 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.

The proposed restaurant would be in place of an existing ground floor garage; therefore, no current commercial tenant would be displaced. The Project would not prevent the 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.

An independent entrepreneur is sponsoring the Project. The proposed restaurant is a neighborhood-serving use and is not considered a Formula Retail Use.

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 City Planning Commission approval. Pertinent guidelines may be applied as conditions of approval of 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

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.

Currently, there is a slight over-concentration of food-service establishments in the Castro Street NCD. The Commerce and Industry Element of the General Plan contains 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 survey on the existing eating and drinking establishments within 300 feet of the Project Site. Approximately 23% of the total Neighborhood Commercial District frontage is currently devoted to eating and drinking establishments, which would be increased to approximately 25% if the proposed restaurant is approved.

Although the proposed restaurant will result in a further excess of the 20% of the total occupied commercial frontage guideline, it should be noted that the Project would only replace an existing ground floor garage, which has the potential to be developed into a ground floor commercial storefront. The proposed restaurant would not replace any existing neighborhood-serving retail use and based upon the current storefront vacancies in the area, the Project does not appear that it would preclude a neighborhood-serving retail use to be established at the Project Site. Furthermore, the proposed restaurant, which is not duplicated in the Castro Street NCD, will offer a unique type of food in this district and contribute to the vitality of the neighborhood.

URBAN DESIGN

Objectives and Policies

OBJECTIVE 1:

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

Policy 1.2:

Recognize, protect and reinforce the existing street pattern, especially as it is related to topography.

Policy 1.3:

Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

The design of the proposed restaurant's front facade would be compatible with many other commercial storefronts in the Castro Street NCD.

COMMERCE AND INDUSTRY

Objectives and Policies

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.

To replace the existing garage on the ground floor with a new commercial storefront would result in an opportunity to attract new activity to the city such as the proposed restaurant.

The proposed legalization of the Castro Country Club, which has been in existence since April 1983, would retain a clean and safe place for LGBT people in recovery from drugs and alcohol in the neighborhood with no apparent undesirable effects.

OBJECTIVE 6

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS

Policy 6.3:

Preserve and promote the mixed commercial-residential character in neighborhood commercial districts. Strike a balance between the preservation of existing affordable housing and needed expansion of commercial activity.

Within the Castro Street NCD, a significant number of properties currently contain commercial uses on the ground and second floors and residential units above the second floors. The Project would include a restaurant on the ground floor and the Castro Country Club on the second floor and maintain the existing residential unit, occupying the third and fourth floors. Therefore, the Project would preserve and be consistent with the mixed commercial-residential character in the Castro Street NCD.

11. **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.

Neither the proposed restaurant in place of an existing ground floor garage nor the legalization of the Castro Country Club on the second floor will remove or otherwise negatively impact any existing neighborhood-serving retail uses. The Project will support Policy No.1, which calls for the preservation and enhancement of the current businesses and future opportunities for resident employment.

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

The scale and use proposed by the Project is within the existing character of the Castro Street Neighborhood Commercial District. The proposed restaurant will increase the number of dining

choices in the district. The proposed legalization of the Castro Country Club will preserve an existing institutional use that has gained a historical recognition by serving the residents of the community for almost 30 years. The existing residential unit, occupying the third and fourth floors, will remain without change.

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

Although the Project involves the legalization of the conversion of a residential unit to the Castro Country Club in 1983, the previous residential unit is not part of the City's current supply of affordable housing.

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

The Project Site is well served by public transit within up to 300 feet of walking distance, including Muni Bus Lines 24 and 35 operating on Castro Street and Muni Bus Line 33 operating on 18th Street, minimizing the amount of vehicular traffic from the immediate neighborhood or citywide.

- 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.

The Project will not displace any service or industrial or service sectors as no such uses exist on the Subject Property.

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

The Project is designed and will be constructed to conform to the structural and seismic safety requirements of the City's Building Code.

- G. That landmarks and historic buildings be preserved.

The Project was determined by the Department to be categorically exempt from the California Environmental Quality Act ("CEQA") as a Class 1 Categorical Exemption under CEQA as described in the determination contained in the Department files for the Project.

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

The Project will have no negative impact on existing parks and their access to sunlight and vistas.

12. 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.

13. 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. 2012.0109CV** 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. 18803. 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 94102.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on February 7th, 2013.

Jonas Ionin
Acting Commission Secretary

AYES: Antonini; Borden; Fong; Hillis; Moore; Sugaya; Wu

NAYS: None

ABSENT: None

ADOPTED: February 7th, 2013

Exhibit A

Conditions of Approval

AUTHORIZATION

This authorization is for a Conditional Use Authorization to allow a restaurant (d.b.a. Castro Sausage Grill) to replace an existing garage on the ground floor and the legalization of a change of occupancy of a residential use to a nonresidential use on the second floor, (d.b.a. the Castro Country Club), defined as Other Institutions, Large, under Planning Code Section 790.50(a), located at 4058 - 4060 Castro Street, Assessor's Block 3582, Lot 052, pursuant to Planning Code Sections 145.2, 303, 317, 715.24, 715.38, 715.44, and 715.81, within the Castro Street Neighborhood Commercial District and a 40-X Height and Bulk District; in general conformance with plans dated **January 31st, 2013** and labeled "EXHIBIT B" included in the docket for **Case No. 2012.0109CV** and subject to conditions of approval reviewed and approved by the Commission on February 7th, 2013 under Motion No. 18803. This authorization and the conditions contained herein run with the Property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the Building Permit Application or commencement of use for the project, the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the Property. This Notice shall state that the Project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on February 7th, 2013 under Motion No. 18803.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the "Exhibit A" of this Planning Commission Motion No. 18803 shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building Permit Application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section, or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a Building Permit. The Project Sponsor shall include any subsequent responsible party.

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity and Expiration.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. A Building Permit Application from the Department of Building Inspection to construct the project and/or commence the approved use must be issued as this Conditional Use authorization is only an approval of the proposed project and conveys no independent right to construct the project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a Site or Building Permit has not been obtained within three (3) years of the date of the Motion approving the Project. Once a Site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. The Commission may also consider revoking the approvals if a permit for the project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

2. **Extension.** This authorization may be extended at the discretion of the Zoning Administrator only where failure to issue a permit by the Department of Building Inspection to perform said tenant improvements is caused by a delay by a local, State or Federal agency or by any appeal of the issuance of such permit(s).

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

DESIGN

3. **Rooftop Mechanical Equipment.** Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the Building Permit application. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

MONITORING - AFTER ENTITLEMENT

4. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

5. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the

specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

OPERATION

6. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-.5810, www.sfdpw.org

7. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works' Streets and Sidewalk Maintenance Standards.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, www.sfdpw.org

8. **Noise Control.** The premises shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance.

For information about compliance with the fixed mechanical objects such as rooftop air conditioning, restaurant ventilation systems, and motors and compressors with acceptable noise levels, contact the Environmental Health Section, Department of Public Health at 415 252-3800, www.sfdph.org

For information about compliance with the construction noise, contact the Department of Building Inspection, 415-558-6570, www.sfdbi.org

For information about compliance with the amplified sound including music and television contact the Police Department at 415-553-1012 or 415-5530123, www.sf-police.org

9. **Odor Control.** While it is inevitable that some low level of odor may be detectible to nearby residents and passersby, appropriate odor control equipment shall be installed and maintained to prevent any significant noxious or offensive odors from escaping the premises. The building permit application to implement the Project shall include air cleaning or odor control equipment details and manufacturer specifications on the plans.

For information about compliance with odor or other chemical air pollutants emission standards and air quality regulations contact the Bay Area Air Quality Management District (BAAQMD), 1-800-334-ODOR (6367), www.baaqmd.gov and Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

10. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number

of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org