



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Inclusionary Housing (Sec. 315)
- Jobs Housing Linkage Program (Sec. 313)
- Downtown Park Fee (Sec. 139)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 314)
- Other

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. 18969

HEARING DATE: SEPTEMBER 19, 2013

Date: September 20, 2013
Case No.: **2013.0914C**
Project Address: **4850 GEARY BOULEVARD**
Zoning: NC-3 (Moderate-Scale Neighborhood Commercial) Zoning District
 40-X Height and Bulk District
Block/Lot: 1444/023
Project Sponsor: Ahmad Ghaderi (agent)
 A & S Engineering, Inc.
 28405 Sand Canyon Rd., Suite "B"
 Canyon Country, CA 91387
 Northwest Dealerco Holdings, LLC
 Contact: David Delrahim
 30343 Canwood Street, #200
 Agoura Hills, CA 91301
Staff Contact: Sharon M. Young – (415) 558-6346
 sharon.m.young@sfgov.org
Recommendation: **Approval with Conditions**

ADOPTING FINDINGS RELATED TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION UNDER PLANNING CODE SECTIONS 703.4, 703.3, 303(c), 303(i), 229(b), 178(e)(2) TO ESTABLISH A FORMULA RETAIL USE (D.B.A. 7-ELEVEN) IN A VACANT FOOD MART SPACE LOCATED AT 4850 GEARY BOULEVARD WITHIN AN EXISTING AUTOMOBILE GAS STATION (D.B.A. PARK PRESIDIO 76) AND TO ALLOW THE RETAIL SALE OF BEER AND WINE AT AN ESTABLISHMENT THAT SELLS MOTOR VEHICLE FUEL WITHIN THE NC-3 (MODERATE-SCALE NEIGHBORHOOD COMMERCIAL) ZONING DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On July 10, 2013, Ahmad Ghaderi (hereinafter "Project Sponsor") made an application for Conditional Use authorization for the property at **4850 Geary Boulevard, Lot 023 in Assessor's Block 1444** (hereinafter "Subject Property"), to establish a Formula Retail Use (d.b.a. 7-Eleven) in a vacant approximately 1,850 square-foot food mart space located within an existing automobile gas station (d.b.a. Park Presidio 76) and to allow the retail sale of beer and wine at an establishment that sells motor vehicle fuel within the NC-3 (Moderate-Scale Neighborhood Commercial) Zoning District and a 40-X Height and Bulk District, in general conformity with plans submitted July 5, 2013, and labeled "Exhibit B" (hereinafter "Project"). The current proposal to add a Formula Retail Use and allow the retail sale of beer and wine at an establishment that sells motor vehicle fuel also requires Conditional Use

authorization to modify the conditions of a prior Conditional Use authorization under Motion No. 18196 (Case No. 2010.0414C).

On **September 19, 2013**, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on **Conditional Use Application No. 2013.0914C**.

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption.

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. 2013.0914C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the recitals 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 Project Site at 4850 Geary Boulevard is on the northeast corner of Geary Boulevard and Funston Avenue; Assessor's Block 1444; Lot 023. It is located within the NC-3 (Moderate-Scale Neighborhood Commercial) Zoning District and a 40-X Height and Bulk District. The subject lot is approximately 10,750 square-feet (107.50 feet wide by 100 feet deep) in size. An existing automobile gas station (d.b.a. Park Presidio 76) with an approximately 1,850 square-foot vacant food mart space is located on the subject lot. The automobile gas station is temporarily closed undergoing renovations filed under separate permits which allowed the conversion of the automobile service station to an automobile gas station.
3. **Surrounding Properties and Neighborhood.** The Project Site is located within the Inner Richmond Neighborhood. The majority of the surrounding development consists of two-to-four story residential over ground floor commercial buildings with a few one-story commercial buildings within this portion of the NC-3 Zoning District. Generally, the commercial establishments characterizing this portion of Geary Boulevard include a mixture of specialty stores, auto repair shops, restaurants, personal service establishments, and medical service establishments. Some of the existing commercial establishments on the subject and opposite blocks include Tani Sushi, B & B Discount, Toy Shop - The Toyota Specialist, Cosmetic and Family Dentistry, Sleep Train Mattress Center, Bay Area Diabetes Supply Center, and Pacifisia Realty Rental. On Funston and 12th Avenues running north and south of the project site, there are primarily three-story residential buildings and Park Presidio Boulevard within the RM-1 (Residential, Mixed, Low-Density) Zoning District.
4. **Project Description.** The proposal is a request for Conditional Use Authorization pursuant to Planning Code Sections 703.4, 703.3, 303(c), 303(i), 229(b), 178(e)(2) to establish a Formula Retail Use and to allow the retail sale of beer and wine at an establishment that sells motor vehicle fuel within the NC-3 (Moderate-Scale Neighborhood Commercial) Zoning District and a 40-X Height and Bulk District. The proposal is to

establish a Formula Retail Use (d.b.a. 7-Eleven) in a vacant food mart space located within an existing automobile gas station (d.b.a. Park Presidio 76). The approximately 1,850 square-foot 7-Eleven store will consist of a sales floor area (which includes a coffee bar, food service area, and walk-in cooler), cashier area, storage/utility area, office, and restrooms.

On October 14, 2010, the Planning Commission authorized Conditional Use under Motion No. 18196 (Case No. 2010.0414C) to convert the automobile service station to an automobile gas station by eliminating the lube service bays and expanding the existing food mart (affiliated with Park Presidio 76) at this location. The current proposal to add a Formula Retail Use and allow the retail sale of beer and wine at an establishment that sells motor vehicle fuel also requires Conditional Use authorization to modify the conditions of the prior Conditional Use authorization.

5. Issues and Other Considerations.

- The Formula Retail Use “7-Eleven” is a convenience store established 86 years ago in 1927, and has more than 50,900 stores in 16 countries, of which nearly 10,200 are in North America.

6. **Public Comment.** As of September 18, 2013, the Department received one phone call from a neighbor in opposition to the proposed project, indicating that he preferred that the automobile service station not have been converted to an automobile gas station, and if there was an intent for the formula retail d.b.a. 7-Eleven to occupy the expanded food mart space, it should have been requested for in the previous Conditional Use application. At the September 19th Planning Commission hearing, there was one neighbor who testified, expressing safety concerns about the operation of the food mart with the sale of beer and wine within the immediate neighborhood.
7. **Use District.** The project site is within the NC-3 (Moderate-Scale Neighborhood Commercial) Zoning District. The NC-3 District controls are intended to provide the opportunity for a wide variety of comparison and specialty goods and services to a population greater than the immediate neighborhood, additionally providing convenience goods and services to the surrounding neighborhoods. NC-3 Districts are linear districts located along heavily trafficked thoroughfares which also serve as major transit routes.

NC-3 Districts include some of the longest linear commercial streets in the City, some of which have continuous retail development for many blocks. Large-scale lots and buildings and wide streets distinguish the districts from smaller-scaled commercial streets, although the districts may include small as well as moderately scaled lots. Buildings typically range in height from two to four stories with occasional taller structures. NC-3 building standards permit moderately large commercial uses and buildings. Rear yards are protected at residential levels. Housing development in new buildings is encouraged above the second story. Existing residential units are protected by limitations on demolitions and upper-story conversions.

A diversified commercial environment is encouraged for the NC-3 Neighborhood Commercial District, and a wide variety of uses are permitted with special emphasis on neighborhood-serving businesses. Eating and drinking, entertainment, financial service and certain auto uses generally are permitted with certain limitations at the first and second stories. Other retail businesses, personal services and offices are permitted at all stories of new buildings. Limited storage and administrative service activities are permitted with some restrictions.

8. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

A. **Formula Retail Use within the NC-3 Zoning District.** Planning Code Section 703.4 allows for the establishment of formula retail uses within any Neighborhood Commercial District by Conditional Use authorization.

A Formula Retail Use is defined under Planning Code Section 703.3 as a type of retail sales activity or retail sales establishment which, along with eleven or more other retail sales establishments located in the United States, maintains two or more of the following features: a standardized array of merchandise, a standardized facade, a standardized decor and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark.

The current proposal is to allow the establishment of a Formula Retail Use (d.b.a. 7-Eleven, a convenience store) in an approximately 1,850 square foot vacant food mart space located within an existing automobile gas station (d.b.a. Park Presidio 76).

B. **Modification of Prior Conditional Use Authorization.** Planning Code Section 178(e)(2) allows a permitted conditional use to be changed to another use upon approval of a new conditional use application.

On October 14, 2010, the Planning Commission authorized Conditional Use under Motion No. 18196 (Case No. 2010.0414C) to convert the automobile service station to an automobile gas station by eliminating the lube service bays and expanding the food mart (affiliated with Park Presidio 76) at the project site. The current proposal to add a Formula Retail Use and allow the retail sale of beer and wine at an establishment that sells motor vehicle fuel also requires Conditional Use authorization to modify the conditions of the prior Conditional Use authorization.

C. **Establishments that Sell Beer or Wine with Motor Vehicle Fuel.** Planning Code Section 229(b) requires Conditional Use authorization for an establishment that proposes to sell retail beer or wine concurrently with motor vehicle fuel.

The proposed 7-Eleven store intends to sell retail beer and/or wine concurrently with motor vehicle fuel with Alcohol Beverage License Type 20 (off-sale beer and wine) and will be subject to the Condition of Approval #14. Prior to the expansion, the previous food mart with approximately 450 square feet of floor area (affiliated with Park Presidio 76), had not sold retail beer and/or wine concurrently with motor vehicle fuel.

D. **Use Size Limits.** Section 121.2 establishes size limits on non-residential use sizes in the NC-3 Zoning District. Under Planning Code Section 712.21, Conditional Use authorization is required for any non-residential use that meets or exceeds 6,000 square feet.

The proposed formula retail use, with approximately 1,850 square feet of floor area, is within the principally permitted use size limitations.

E. **Hours of Operation.** Section 712.27 of the Planning Code imposes no limits on the hours of operation.

The proposed hours of operation of the 7-Eleven store are 24 hours a day, seven days a week. The proposed hours of operation of the 7-Eleven store are the same as the existing automobile gas station.

- F. **Street Frontage in Neighborhood Commercial Districts.** Section 145.1 of the Planning Code requires that within NC Districts space for active uses shall be provided within the first 25 feet of building depth on the ground floor and 15 feet on floors above from any facade facing a street at least 30 feet in width. In addition, the floors of street-fronting interior spaces housing non-residential active uses and lobbies shall be as close as possible to the level of the adjacent sidewalk at the principal entrance to these spaces. Frontages with active uses that must be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level and allow visibility to the inside of the building. The use of dark or mirrored glass shall not count towards the required transparent area. Any decorative railings or grillwork, other than wire mesh, which is placed in front of or behind ground floor windows, shall be at least 75 percent open to perpendicular view. Rolling or sliding security gates shall consist of open grillwork rather than solid material, so as to provide visual interest to pedestrians when the gates are closed, and to permit light to pass through mostly unobstructed. Gates, when both open and folded or rolled as well as the gate mechanism, shall be recessed within, or laid flush with, the building facade.

Approximately 63% (34 feet) of the street frontage of the vacant food mart space (exclusive of the walk-in cooler horizontal extension) on Geary Boulevard and approximately 41% (11 feet) on Funston Avenue is fenestrated with transparent windows and doorways allowing for visibility to the inside of the building.

- G. **Off-Street Parking and Loading.** Section 151 of the Planning Code requires off-street parking for every 500 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet. Section 152 requires one off-street loading space for retail stores between 10,001 and 60,000 gross square feet.

The subject commercial space (food mart), with approximately 1,850 square feet in floor area, does not require any off-street or loading parking spaces.

- H. **Signage.** Any proposed signage will be subject to the review and approval of the Planning Department and must comply with Article 6 of the Planning Code.
9. **Section 303(c)** 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:

- (1) 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 proposed project is to allow the establishment of a Formula Retail Use (d.b.a. 7-Eleven) to occupy a vacant expanded food mart space which was previously intended to be affiliated with the automobile gas station Park Presidio 76. The proposed project will replace a similar but smaller convenience store use which existed on the project site. A change in signage to the vacant food mart space is proposed, with no additional storefront modifications or expansion to the existing building envelope. According to the project sponsor, the proposed project is compatible with the neighborhood

because the food mart was a previously approved operation on the project site and the main change in the current proposal and operation is only the name of the operation from simply a "food mart" to "7-Eleven" which will only require a change in sign copy. The proposed project will not simply be a food mart, but will also include the sale of gasoline products and provide a "one-stop" shop in the neighborhood. Furthermore, the project sponsor indicated that the proposal is desirable since the operator of the facility has been in management of this facility for a number of years and having a name brand food mart operation such as 7-Eleven in conjunction with a name brand gasoline supplier 76 will provide quality management, products, and operation for its customers.

- (2) 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:

- (A) Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

The size and shape of the site and the arrangement of the structures on the site are adequate for the proposed project. No additional interior or exterior tenant improvements or expansion of the existing building (food mart space) is proposed. A change in sign copy is proposed to the vacant food mart space to rebrand it to "7-Eleven".

- (B) 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 proposed use is designed to meet the needs of the immediate neighborhood and should not generate significant amounts of vehicular trips from the immediate neighborhood or elsewhere as it is anticipated that patrons of the proposed formula retail food mart will most likely arrive at the property for gasoline or would be local residents. In addition, there are off-street parking spaces on the project site and on-street parking in front of the subject property and in the surrounding neighborhood.

- (C) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

No significant noxious or offensive emissions such as noise, glare, dust, or odor are expected to be produced by the proposed project from its operation and will be subject to the Conditions of Approval #8 through #14.

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

Seven off-street parking spaces will be provided on the project site. There will be no addition of loading facilities, open space or service areas. Exterior and interior modifications to renovate the automobile gas station were filed under separate permits. All Project signage and projections will be consistent with the controls of the Planning Code.

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

The proposed 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.

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

The proposed project is consistent with the stated purpose of the NC-3 Zoning District in that the intended use is a neighborhood-serving business and also a business which would serve a wider trade area.

10. **Sections 303(i) and 703.4** require Conditional Use authorization for the establishment of a formula retail use in Neighborhood Commercial Districts. The Planning Commission shall consider the following criteria set forth in **Section 303(i)** in addition to the criteria set forth in Section 303(c):

- (1) The existing concentrations of formula retail uses within the Neighborhood Commercial District;

There are many existing formula retail uses within the NC-3 Zoning District along the Geary Boulevard commercial corridor. Based on a recent survey completed in February 2013 (conducted for the Grocery Outlet proposed on 6333 Geary Boulevard for the June 6, 2013 Planning Commission hearing under Case No. 2013.0020C), there were 33 existing commercial establishments which qualify as formula retail uses west of the project site between Park Presidio Boulevard and the Great Highway. Some of these formula retail uses within close proximity to the project site include 7-Eleven store (5100 Geary Boulevard between 15th & 16th Avenue, not located on an automobile gas station site), Jack In the Box, Peet's Coffee & Tea, Walgreens, Domino's Pizza, Ross Dress for Less, Cigarettes Cheaper, and Benjamin Moore Paints. Planning Department staff also conducted a cursory survey of the formula retail uses east of the project site along Geary Boulevard between Park Presidio Boulevard and Arguello Boulevard. There are approximately 17 commercial establishments that qualify as formula retail uses. Some of the existing formula retail uses include Wells Fargo, Office Max, Chevron, Enterprise, Toyota, Kragen Auto Parts, Burger King, Hertz Car Rental, KFC, Taco Bell, Midas, Citibank, Shell, Jack in the Box, Lamps Plus, Sherwin-Williams Paints, and Sleep Train Mattress Center.

- (2) The availability of other similar retail uses within the Neighborhood Commercial District;

There are 12 markets (some providing convenience goods and services) west of the project site along Geary Boulevard (G&G Produce, Royal Market & Bakery, Richmond Produce Market, Evergreen Market, Martell's Liquor and Grocery, Israel's Strictly Kosher Market, New World Market, Gastronom Russian Deli, Thom's Natural Foods, Liberty Market, Seakor European Delicatessen, Hollywood Market (liquor, deli, and convenience store), Grocery Outlet, and 7-Eleven (5100 Geary Boulevard). There are four other markets east of the project site along Geary Boulevard which include State Market, First Korean Market, Moderna Fine Wine & Spirits, and Farmer's Market. There are four existing automobile gas/service stations with food marts in operation between

Arguello Boulevard and 38th Avenue: an automobile gas station with a food mart d.b.a Chevron located on the corner block on Arguello Boulevard & Geary Boulevard, automobile service station with food mart d.b.a. Shell located on the corner block of 9th Avenue and Geary Boulevard, automobile service station with food mart d.b.a. Chevron located on the corner of 24th Avenue and Geary Boulevard, and Unocal 76 automobile service station with food mart located on the corner of 38th and Geary Boulevard.

- (3) The compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the Neighborhood Commercial District;

The proposed project will not involve additional modifications to the building's existing architectural and aesthetic character. There will be no expansion of the existing building envelope. Only a change in sign copy is proposed for the vacant food mart space to "7-Eleven".

- (4) The existing retail vacancy rates within the Neighborhood Commercial District;

There are few vacant commercial spaces within the Neighborhood Commercial District along the Geary Boulevard corridor. Based on the recent formula retail survey, there are currently eight vacant ground floor commercial spaces between the 5000 and 5800 block of Geary Boulevard within this portion of the NC-3 Zoning District.

- (5) The existing mix of City-serving retail uses and neighborhood-serving retail uses within the Neighborhood Commercial District;

The proposed formula retail use will complement the mix of goods and services currently available within this portion of the NC-3 Zoning District, which include a mixture of a mixture of specialty stores, auto repair shops, restaurants, personal service establishments, and medical service establishments.

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

COMMERCE AND INDUSTRY ELEMENT

GENERAL/CITYWIDE

OBJECTIVE 1:

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

Policy 1:

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

The proposed project would be compatible with and complementary to the types of uses characterizing this portion of the NC-3 Zoning District, which includes a mixture of specialty stores, auto repair shops, restaurants, personal service establishments, and medical service establishments.

OBJECTIVE 2:

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

Policy 1:

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

The proposed project would retain an existing commercial activity use (food mart) which existed on the project site.

NEIGHBORHOOD COMMERCE

Objectives and Policies

OBJECTIVE 6:

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

Policy 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 existing commercial tenant will be displaced. The proposed project will not prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood.

Policy 4:

Encourage the location of neighborhood shopping areas throughout the city so that essential retail goods and personal services are accessible to all residents.

The proposed project will be accessible to all residents in this portion of the NC-3 Zoning District.

Policy 9:

Regulate uses so that traffic impacts and parking problems are minimized.

The proposed project would not significantly affect public transit or place a burden on the existing supply of parking in the neighborhood since it will replace a similar food mart use which previously existed on the project site. Many patrons would be able to walk from their residences or places of employment or purchase their convenience goods concurrently with motor vehicle fuel. In addition, there are seven off-street parking spaces provided on the project site.

12. **Section 101.1(b)** establishes eight priority planning policies and requires the review of permits that authorize changes of use for consistency with said policies:

- (1) That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced.

The proposed project will preserve and enhance existing neighborhood-serving retail uses by occupying a vacant food mart space with a retail convenience store and providing a source of employment for neighborhood residents. The proposed food mart will consist of a sales floor area (which includes a coffee bar, food service area, and walk-in cooler), cashier area, storage/utility area, office, and restrooms. The proposed project will provide job opportunities to the City by employing approximately six full-time and eight part-time employees.

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

The proposed project will preserve and enhance the cultural and economic diversity of the neighborhood by helping to retain an existing food mart use in the area. Existing housing will not be affected by the proposed project.

- (3) That the City's supply of affordable housing be preserved and enhanced.

The proposed project will not displace any affordable housing.

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

It is not anticipated that the proposed project would significantly increase the automobile traffic congestion and parking problems in the neighborhood.

- (5) 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.

There is no commercial office development associated with the proposed project and there would be no displacement of any existing industrial or service businesses in the area.

- (6) That the City achieves the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The proposed project will comply with all applicable earthquake safety standards and built to the current standards of the California Building Code.

- (7) That landmark and historic buildings be preserved.

The proposed project will not significantly affect any landmarks or historic buildings.

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

The proposed project will not affect any city-owned park or open space.

13. 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.

14. 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. 2013.0914C** 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. 18969. 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 September 19, 2013.

Jonas P. Ionin
Acting Commission Secretary

AYES: Commissioners Antonini, Borden, Hillis, Sugaya, Wu

NAYS: Commissioners Fong, Moore

ABSENT: None

ADOPTED: September 19, 2013

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to establish a Formula Retail Use (d.b.a. 7-Eleven) in a vacant food mart space located within an existing automobile gas station (d.b.a. Park Presidio 76) and to allow the retail sale of beer and wine at an establishment that sells motor vehicle fuel located at 4850 Geary Boulevard in Assessor's Block 1444, Lot 023, pursuant to Planning Code Sections 703.4, 703.3, 303(i), 303(c), 229(b), and 178(e)(2) within the NC-3 (Moderate-Scale Neighborhood Commercial) Zoning District and a 40-X Height and Bulk District; in general conformance with plans and stamped "EXHIBIT B" included in the docket for Case No. 2013.0914C and subject to conditions of approval reviewed and approved by the Commission on September 19, 2013, under Motion No. 18969. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

The approximately 1,850 square-foot 7-Eleven store will consist of a sales floor area (which includes a coffee bar, food service area, and walk-in cooler), cashier area, storage/utility area, office, and restrooms. On October 14, 2010, the Planning Commission authorized Conditional Use under Motion No. 18196 (Case No. 2010.0414C) to convert the automobile service station to an automobile gas station by eliminating the lube service bays and expanding the existing food mart (affiliated with Park Presidio 76) at this location. The current proposal to add a Formula Retail Use and allow the retail sale of beer and wine at an establishment that sells motor vehicle fuel also requires Conditional Use authorization to modify the conditions of the prior Conditional Use authorization.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit 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 subject 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 September 19, 2013 under Motion No. 18969.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 18969 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. "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.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.

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

2. **Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.

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

3. **Diligent pursuit.** 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. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.

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

4. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

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

5. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.

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

MONITORING - AFTER ENTITLEMENT

6. **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

7. **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

8. **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, <http://sfdpw.org>
9. **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, <http://sfdpw.org>
10. **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 415-553-0123, www.sf-police.org
11. **Odor Control.** While it is inevitable that some low level of odor may be detectable to nearby residents and passersby, appropriate odor control equipment shall be installed in conformance with the approved plans and maintained to prevent any significant noxious or offensive odors from escaping the premises.
For information about compliance with odor or other chemical air pollutants standards, 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
12. **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

13. **Lighting.** All Project lighting shall be directed onto the Project site and immediately surrounding sidewalk area only, and designed and managed so as not to be a nuisance to adjacent residents. Nighttime lighting shall be the minimum necessary to ensure safety, but shall in no case be directed so as to constitute a nuisance to any surrounding property.

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

14. **Conditions for Establishments that Sell Beer or Wine Concurrent with Motor Vehicle Fuel.** The following conditions are applicable to the proposed food mart establishment at which the concurrent sale of motor vehicle fuel and beer or wine occurs:

- a. No beer or wine shall be shall be displaced within five feet of the cash register or the front door unless it is in a permanently affixed cooler;
- b. No advertisement of alcoholic beverages, including beer and wine, shall be displayed at motor fuel islands;
- c. No sale of beer or wine shall be made from a drive-in window;
- d. No display or sale of beer or wine shall be made from an ice tub;
- e. No self-illuminated advertising for beer or wine shall be located on buildings or windows;
- f. Employees on duty between the hours of 10:00 p.m. and 2:00 a.m. who sell beer or wine shall be at least 21 years of age;
- g. No alcoholic beverages, other than beer and wine, shall be sold at any time;
- h. No beer or wine shall be sold for consumption on the premises;
- i. The permittee shall comply with all State statutes, rules and regulations relating to the sale, purchase, display, possession and consumption of alcoholic beverages;
- j. The permittee shall comply with all local statutes, rules and regulations;
- k. The permittee shall not operate the establishment in a manner which presents a nuisance, as defined in California Civil Code Sections 3479 and 3480;
- l. The City may impose sanctions, including suspension or revocation of the conditional use permit, for violation of any of the terms or conditions of the conditional use permit.

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