



# SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 414)
- 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. 19649

HEARING DATE: MAY 12, 2016

Case No.: 2014-002414CUAVAR  
 Project Address: 3701 Noriega Street  
 Zoning: NC-1 (Neighborhood Commercial, Cluster)  
 40-X Height and Bulk District  
 Block/Lot: 2081/001  
 Project Sponsor: CJ Higley  
 Farella, Braun + Martell LLP  
 Russ Building, 235 Montgomery Street, 17<sup>th</sup> Floor  
 San Francisco, CA, 94104  
 Staff Contact: Elizabeth Jonckheer – (415) 575-8728  
 elizabeth.gordon-jonckheer@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 121.1, 121.2, 202.5, AND 303 OF THE PLANNING CODE TO ALLOW THE DEMOLITION OF AN AUTOMOTIVE SERVICE STATION AND THE CONSTRUCTION OF A FOUR-STORY, 45-FOOT TALL, 46,164 GROSS SQUARE FOOT MIXED USE BUILDING WITH 12 DWELLING UNITS, 2 LEVELS OF BELOW GRADE OFF-STREET PARKING, A 9,694 SQUARE FOOT RETAIL SPACE INCLUDING GROUND FLOOR GROCERY AND BASEMENT STORAGE, 7,026 SQUARE FEET OF COMMON OPEN SPACE, 42 PARKING AND 22 BICYCLE PARKING SPACES WITHIN AN NC-1 (NEIGHBORHOOD COMMERCIAL, CLUSTER) ZONING DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.

### PREAMBLE

On September 8, 2015, CJ Higley of Farella Braun + Martel LLP (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Sections 121.1 (per Code Section 710.11 to develop a lot exceeding 5,000 square feet), 121.2 (per Code Section 710.21 for a non-residential use greater than 3,000 square feet), 202.5 (for conversion of an automotive service station), and 303 of the Planning Code to allow the demolition of an automotive service station and the construction of a four-story, 45-foot tall, 46,164 gross square foot mixed use building with 12 dwelling units, 2 levels of below grade off-street parking, a 9,694 square foot retail space including ground floor grocery and basement storage, 7,026 square feet of common open space, 42 parking and 22 bicycle parking spaces within an NC-1 (Neighborhood Commercial, Cluster) zoning district and a 40-x height and bulk district.

On May 12, 2016, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2014-002414CUA.

This Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 32 categorical exemption and General Rule Exclusion, Section 15061(b)(3).

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 approves the Conditional Use requested in Application No. 2014-002414CUA, 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 project site is located on the southwest corner of Noriega and 44th Avenue; Lot 001 in Assessor's Block 2081 and is approximately 9,360 square feet. The property is located within an NC-1 (Neighborhood Commercial, Cluster) Zoning District and a 40-X Height and Bulk District, and is improved with an automotive service station with fueling stations, convenience store and auto repair shop (d.b.a. 76). The subject property encompasses approximately 120 feet of frontage along Noriega Street and 78 feet on 44th Avenue.
3. **Surrounding Properties and Neighborhood.** The project site is located along Noriega Street in the Outer Sunset Neighborhood and within a NC-1 (Neighborhood Commercial; Cluster) Zoning District. The NC-1 District spans Noriega Street from 44th Avenue to midblock between 46th and 47th Avenues. To the south and east of the project site are residential buildings, mostly two-story, single-family dwellings. Immediately to the north, occupying the entire corner lot opposite the project site is the Noriega Child Development Center. To the west are additional residential structures interspersed with mixed-use buildings with ground floor businesses such as the adjacent Woodshop Studio, the Sunset Veterinary Hospital, Beach Wash Laundromat, Sunset Dental office and Papa Maks restaurant. The Project Sponsor owns and operates the Noriega Produce Market, approximately one block west of the subject site. The surrounding residential properties on 44th and 45th Avenues are zoned RH-1 (Residential, House, One-Family). The Noriega Child Development Center is zoned P (Public). The subject property is within .25 miles of stops for the following MUNI transit lines: the #7-Haight-Noriega bus line (stop at 44th and Noriega Street) and the #18-46th Avenue bus line (stop at Noriega Street and 46th Avenue). The site is also within .5 miles of the #29- Sunset bus line (stop at Noriega Street and Sunset Boulevard).

The NC-1 District is characterized by its location in residential neighborhoods, often in outlying areas of the City. The commercial intensity of these districts varies. Many of these districts have the lowest intensity of commercial development in the City, generally consisting of small clusters with three or more commercial establishments, commonly grouped around a corner; and in some cases short linear commercial strips with low-scale, interspersed mixed-use (residential-commercial) development. Building controls for the NC-1 District promote low-intensity development which is compatible with the existing scale and character of these neighborhood areas. Commercial development is limited to one story. Rear yard requirements at all levels preserve existing backyard space.

NC-1 commercial use provisions encourage the full range of neighborhood-serving convenience retail sales and services at the first story provided that the use size generally is limited to 3,000 square feet. However, commercial uses and features which could impact residential livability are prohibited, such as auto uses, financial services, general advertising signs, drive-up facilities, hotels, and late-night activity; eating and drinking establishments are restricted, depending upon the intensity of such uses in nearby commercial districts. Housing development in new buildings is encouraged above the ground story in most districts. Existing residential units are protected by prohibitions of conversions above the ground story and limitations on demolitions.

4. **Project Description.** The proposal is the demolition of an existing automotive service station and construction of a four-story, 45-foot tall, 46,164 square foot mixed use building with 12 dwelling units, 2 levels of below grade off-street parking and a 9,694 square foot retail space including ground floor grocery and basement storage. The new building will contain 7,026 square feet of common open space, 42 parking spaces (18 residential and 24 commercial spaces (including one (1) carshare space) utilizing stackers) and 22 bicycle parking spaces (16 residential and 6 commercial). The Project requires Conditional Use Authorization pursuant to Planning Code Sections 303 and 710.11 (to develop a lot exceeding 5,000 square feet), 710.21 (for a non-residential use greater than 3,000 square feet), and 202.5 (for conversion of an automotive service station), in the NC-1 (Neighborhood Commercial, Cluster) Zoning District and 40-X Height and Bulk District. NC-1 parcels along Noriega Streets west of 19th Avenue with an active commercial use on the ground floor are allotted an additional 5 feet in height. The Project is also seeking a Rear Yard Modification per Planning Code Section 134.
5. **Public Comment.** As of May 2, 2016, the Planning Department has received three general inquiry phone calls regarding the project, as well as 20 emailed letters in support of the project and 5 emailed letters in opposition to the project. In general, the opposition letters note: (1) the original posting location was difficult to see and that there was confusion regarding the scope of the project, (2) overall opposition to the rear yard modification, (3) concern that a four-story building is out of character for the neighborhood and that the new building would shadow the Noriega Child Development Center, (4) that the proposed number of parking spaces is excessive, (5) concern over the displacement of the automotive service station tenant and employees, and (6) issues regarding storm water drainage and management of drainage for the proposed structure.

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. **Automotive Service Stations in NC-1 Districts.** Planning Code Section 202.5 requires Conditional Use Authorization to convert an automotive service station to another use.

*The proposal will result in the conversion of an automotive service station to a residential use and commercial use and is seeking Conditional Use Authorization from the Planning Commission. The required criteria for consideration by the Planning Commission per Planning Code Section 202.5 are outlined below.*

- B. **Permitted Uses in the NC-1 Zoning District.** Planning Code Section 710.90 states that residential uses are permitted as of right within the NC-1 Zoning District.

*The Project would construct a new mixed-use building within the NC-1 Zoning District; including residential units compliant with Planning Code Section 710.90.*

- C. **Dwelling unit Density.** Planning Code Section 710.91 principally permits one dwelling unit per 800 square feet of lot area in the NC-1 Zoning District.

*The subject property is approximately 9,360 square feet, thus a maximum of 11.7 dwelling units are permitted. Per Code Section 207.4, in Neighborhood Commercial Districts, any remaining fraction of ½ or more of the minimum amount of lot area per dwelling unit shall be adjusted upward to the next higher whole number of dwelling units. The Project is proposing 12 dwelling units.*

- D. **Development of Large Lots.** Planning Code Section 121.1 requires Conditional Use Authorization for new construction on lots greater than 5,000 square feet within an NC-1 Zoning District per Planning Code Section 710.11.

*The subject property is approximately 9,360 square feet and located within an NC-1 Zoning District. The proposal is seeking Conditional Use Authorization to construct a new mixed-use building. The required criteria per Planning Code Section 121.1, for consideration by the Planning Commission, are outlined below.*

- E. **Use Size, Non-residential.** Planning Code Section 121.2 requires non-residential uses to be limited to a maximum of 3,000 square feet in size within the NC-1 Zoning District per Planning Code section 710.21. Modifications to this requirement may be granted through the Conditional Use Authorization process.

*The proposal is seeking Conditional Use Authorization for a 9,694 square foot retail space including a grocery at the ground floor and basement storage. The required criteria per Planning Code Section 121.2, for consideration by the Planning Commission, are outlined below.*

- F. **Rear Yard.** Planning Code Section 134 requires a rear yard at grade level and at each succeeding level or story of the building equal to 25 percent of the total lot depth, but in no case less than 15 feet.

*The Subject Property is a corner lot with a width of 120 feet and a depth of 78 feet, thereby requiring a rear yard 19.5 feet deep and 2,340 square feet in area. The Project does not provide a rear yard at grade level due to the inclusion of a ground floor commercial space. The Project includes an open courtyard at the first residential level (above the grocery store) of approximately 2489 square feet that will provide for a comparable amount of usable open space as is required, and a 4,939 square foot common roof terrace. Together, these usable spaces exceed the amount of open space and rear yard that would typically be required. The proposed project site is a corner lot, with the majority of the proposed building mass located along the two street frontages. As such, the Project will not significantly impede light, air or views to the adjacent properties. Additionally, the proposed project will not have any material effect on the mid-block open space formed by the rear yards of the adjacent properties. The two adjacent properties on Noriega Street cover the entire lots on which they are located, thus they provide no rear yards and do not contribute to a pattern of mid-block open space. The mid-block open space for the subject block is formed by the buildings and lots south of Noriega Street. This pattern will remain unaltered with the addition of the Project. The Project is seeking a modification of the rear yard requirements from the Zoning Administrator (Case No. 2014-002414VAR).*

- G. **Open Space.** Planning Code Section 135 requires a minimum of 100 square feet of Usable Open Space per unit if such space is private, and each square foot of private open space may be substituted with 1.33 square foot of common open space. Planning Code Section 135(g)(1) states that any space credited as common usable open space shall be at least 15 feet in every horizontal dimension and shall have a minimum area of 300 square feet. The obstructions listed in Planning Code Section 136 for usable open space are permitted in the open space.

*The minimum amount of usable open space required for the Project total of 12 new units, if provided as common open space, is 1,596 square feet. As part of the Project, two units are proposed with private terraces of 115 square feet each for Units 201 and 301. The Project provides 2,431 square feet of common open space at a first floor terrace and 4,939 square feet of common open space as a roof terrace. The provision of a total of 230 square feet of private open space and 7,370 square feet of common usable satisfies the open space requirements of Planning Code Section 135.*

- H. **Dwelling Unit Exposure.** Planning Code Section 140 requires that at least one room with a minimum floor area of 120 square feet face directly onto a public street or alley at least 20 feet in width, a side yard at least 25 feet in width, an unobstructed open area at least 25 in every horizontal dimension, or a Code complying rear yard.

*Ten of the 12 units proposed face onto either Noriega Street or 44th Avenue, and 2 units face the open space, satisfying the dwelling unit exposure requirements of Planning Code Section 140.*

- I. **Permitted Obstructions.** Bay windows and balconies are limited to a projection of three feet over streets and alleys (and further limited to two feet where the sidewalk width is nine feet or less). Additionally, Planning Code Section 136(c)(2)(D) limits the maximum length of each bay window or balcony to 15 feet at the property line/front setback/rear yard/open space and 9 feet at a line parallel to and at a distance of 3 feet from the property line/front setback/rear yard/open space. In order to comply with this Code Section, square bay windows projecting

1 foot shall be no greater than 13 feet in length, projecting 2 feet shall be no greater than 11 feet in length, and projecting 3 feet shall be no greater than 9 feet in length.

*The project proposes bay windows/balconies of between 8-11 feet not projecting more than 2 feet over the property line where the sidewalk width is 9.9 feet (Noriega Street) and 12 feet (44th Avenue).*

- J. **Streetscape and Pedestrian Improvements.** Planning Code Section 138.1 establishes requirements for the improvement of the public right-of-way associated with development projects, such that the public right-of-way may be safe, accessible, convenient and attractive to pedestrian use and travel by all modes of transportation consistent with the San Francisco General Plan. Improvements include but not limited to street trees, sidewalk landscaping, street lighting, site furnishings, utilities, driveways, and curb lines, and the relation of such elements to proposed new construction and site work on the subject property.

*The Project Sponsor will work with Planning Department staff, in consultation with other City agencies, to refine the design and programming of the Streetscape Plan so that the plan meets the standards of the Better Streets Plan and all applicable City standards.*

- K. **Floor Area Ratio.** Per Planning Code Section 102.11, Floor Area Ratio (FAR) is defined as the ratio of gross floor area of all the buildings on the lot to the area of the lot. Per Planning Code Sections 124 and 710.20, the FAR in the NC-1 Zoning District for non-residential uses is 1.8 to 1, or 1.8 times the lot area.

*The subject parcel would allow up to 16,909 square feet on site for non-residential uses (lot area of 9,360 square feet x 1.8 = 16,848 square feet) per Code. The proposed retail and retail storage space proposed as part of the Project is 9,694 square feet. The Project is under the FAR threshold for this property.*

- L. **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 must be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level to 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.

- i. **Active Uses.** Excluding space allowed for parking access, building egress, and access to mechanical systems, space for active uses – an active use is any principal, conditional or accessory use excluding the storage of goods or vehicles, that requires transparent windows as defined in Section 145.1(b)(2), shall be provided within the first 25 feet of building depth on the ground floor and 15 feet on floors above from any façade facing a street of at least 30 feet in width.

*The proposed Project provides transparent storefronts along Noriega Street and 44th Avenue.*

- ii. **Street-Facing Ground Level Spaces.** Floors of street-fronting interior spaces shall be as close as possible to the level of the adjacent sidewalk at the principal entrance to these spaces and shall open directly onto the street, rather than solely into the lobbies or interior spaces of the buildings.

*The Project proposes two street level entrances to the grocery store at the corner of Noriega Street and 44th Avenue and a residential entrance at sidewalk along Noriega Street west of the storefront entrance.*

- iii. **Transparency and Fenestration.** Frontages with active uses that are not residential must be fenestrated with transparent windows and doorways for no less than 60% 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.

*The Project provides transparent windows (minimal concrete bulkhead along Noriega Street in order to transition with grade) and doorways along all street level frontages to the grocery store.*

#### M. Off-Street Parking.

- i. **Off-Street Parking, Residential.** Per Planning Code Section 151(b), one off-street parking space per dwelling unit is required. Planning Code Section 151(c) further sets a maximum of accessory parking at 150 percent of the required number of spaces where three or more spaces are required by this section.

*A minimum of 12 off-street parking spaces and a maximum of 18 off-street parking spaces are principally permitted. The Project proposes 18 dedicated residential off-street parking spaces on the Lower Basement level of the building. These spaces include nine stackers and one accessible parking space.*

- ii. **Off-Street Parking, Commercial.** Per Planning Code Section 151, retail uses such as grocery stores require one off-street parking space for each 500 square feet of occupied floor area up to 20,000 where the occupied floor area exceeds 5,000 square feet.

*The occupied floor area of the ground floor grocery store retail space is 7,570 square feet, requiring 15.14 commercial parking spaces (requirement: 7,570 square feet/500). Accessory commercial parking (150 percent of the required number of spaces) is capped at 23 off-street spaces. The Project proposes 24 parking spaces -- 12 spaces at the Lower Basement level (1 accessible parking space and 6 stackers) and 12 spaces at the Upper Basement level (including 1 car share space – see description below -- not counted toward accessory parking). Per Planning Code Section 152, the Project does not require off-street freight loading spaces.*

**N. Bicycle Parking.**

- i. **Bicycle Parking, Residential.** Planning Code Section 155.2 requires the construction of a new building to provide one Class 1 bicycle space parking per dwelling unit that is easily accessible to residents and not otherwise used for automobile parking or other purposes.

*The Project proposes 16 Class 1 spaces at the Lower Basement level of the building adjacent to the residential elevator.*

- ii. **Bicycle Parking, Commercial.** For Retail Sales uses, including grocery stores, Planning Code Section 155.2 requires one Class 1 space for every 7,500 square feet of occupied commercial floor area, but at minimum two spaces. One Class 2 space is required for every 2,500 sq. ft. of occupied floor area.

*The Project proposes two Class 1 retail bicycle parking spaces (7,570 square feet of occupied floor area) within the retail area on the ground floor of the building. Four Class 2 retail bicycle parking spaces ( $7,570 \text{ square feet} / 2,500 = 3.03$ ) are proposed outside of the building at street level along Noriega Street.*

- O. **Car Share Parking.** Per Planning Code Section 166, in addition to any permitted or required parking that may apply to the project, the property owner may elect to provide additional car-share parking spaces in the maximum amount specified in Table 166A of the Code; provided, however, that the optional car-share parking spaces authorized are not permitted for a project that receives a Conditional Use authorization to increase parking. The maximum number of optional car share spaces for buildings with 10-24 residential units is two (2). For non-residential uses between 5,000-9,000 square feet the maximum number of optional car-share spaces is also two (2).

*The Project proposes to include one (1) carshare space. Car share spaces are not counted against the maximum number of parking spaces allowed by the Code as a principal use, an accessory use, or a conditional use*

- P. **Unbundled Parking.** Planning Code Section 167 requires that all off-street parking spaces accessory to residential uses in new structures of 10 dwelling units or more be leased or sold separately from the rental or purchase fees for dwelling units for the life of the dwelling units.



*The Project is providing off-street parking that is accessory to 12 dwelling units. These spaces will be unbundled and sold and/or leased separately from the dwelling units; therefore, the Project meets this requirement.*

- Q. **Height.** Per Planning Code Section 263.2(b)(2)(F), to encourage generous ground floor ceiling heights for commercial and other active uses, up to a 5-foot bonus is permitted on NC-1 parcels along Noriega Street west of 19th Avenue when the ground floor commercial space exceeds 10 feet. Per Planning Code Section 263.20, one additional foot of height, up to a total of five feet, shall be permitted above the designated height limit for each additional foot of ground floor clear ceiling height in excess of 10 feet from sidewalk grade.

*As the proposed height of the ground floor commercial space is approximately 15 feet, the 5-foot bonus is permissible, taking advantage of the Special Height Exception. The proposed height of the building is 45 feet tall. Planning Code Section 260(b)(A)(B) exempts stair penthouses and mechanical equipment from the height limit so long as this feature does not exceed 16 feet and is limited to the footprint of the elevator shaft. The proposed stair and elevator penthouses do not exceed these thresholds.*

- R. **Signage.** Any proposed signage for the commercial space will be subject to the review and approval of the Planning Department, according to the requirements provided in Article 6 of the Planning Code.

*Currently, there is not a proposed sign program on file with the Planning Department. The proposed business does not have a name as of this writing. The Project Sponsor shall apply for the appropriate sign permits, and shall follow the requirements of Article 6 of the Planning Code.*

- S. **Inclusionary Affordable Housing Program.** Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 415.3, the current percentage requirements apply to projects that consist of ten or more units, where the first application (EE or BPA) was applied for on or after July 18, 2006. Pursuant to Planning Code Section 415.5, the Project must pay the Affordable Housing Fee ("Fee"). This Fee is made payable to the Department of Building Inspection ("DBI") for use by the Mayor's Office of Housing and Community Development for the purpose of increasing affordable housing citywide.

*The Project Sponsor has submitted a 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to satisfy the requirements of the Inclusionary Affordable Housing Program through payment of the Fee, in an amount to be established by the Mayor's Office of Housing and Community Development at a rate equivalent to an off-site requirement of 20%. The project sponsor has not selected an alternative to payment of the Fee. The EE application was submitted on January 30, 2015.*

- T. **Residential Child Care Impact Fee.** Pursuant to Section 414, a Residential Child Care Impact in-lieu fee shall be assessed for all residential development projects. The proposed project is subject to the Residential Child Care Impact Fee for 10 Units and above. The net addition of gross floor area subject to the fee shall be determined based on drawings submitted with the Building Permit Application.

*The Project is subject to the Residential Child Care Impact Fee which shall be paid prior to the issuance of the building permit.*

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use authorization. On balance, the Project complies with the criteria of Section 303, in that:

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

*The proposed project is located on Noriega Street, the primary commercial corridor in the immediate neighborhood. The existing land use pattern on Noriega Street includes a variety of building heights and sizes, ranging from one- to four-stories. The proposed project is in keeping with the intended character of the NC-1 District, where housing over a commercial ground floor is encouraged. The Project is necessary and desirable in that 12 dwelling units will be added to the City's housing stock. In addition, the proposed project locates housing on an underdeveloped lot along the established commercial corridor of Noriega Street, intended for higher residential densities, and is therefore compatible with the neighborhood and community. The proposed uses (residential and retail grocery) are of a scale and intensity consistent with the Planning Code and are appropriate, desirable and compatible with the existing neighborhood commercial district's character.*

*The Project Sponsor currently operates Noriega Produce Market, located approximately one block west of the proposed project site. The proposed new retail space will allow the Project Sponsor to expand its grocery offerings and improve its already successful neighborhood grocery store. The scale of the proposed retail will allow the Project Sponsor to operate more efficiently, while maintaining a neighborhood-serving scale. Nearby residents will be able to satisfy more of their grocery needs locally, without having to leave the neighborhood, and without having to drive to a supermarket.*

- B. The use or feature as proposed will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property, improvements, or potential development in the vicinity, with respect to aspects including, but not limited to the following:
- i. The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures.

*The project site is a larger corner lot, which is common in the neighborhood, consistent with the block face, and compatible with the dense mixed residential neighborhood character. The proposed building is designed to take advantage of this prominent corner location. The height and bulk of the Project proposes a building scale that is compatible with the scale and width of Noriega Street and other existing developments along 44<sup>th</sup> Avenue. The proposed retail entrance will be located at the corner of Noriega Street and 44<sup>th</sup> Avenue, conveying a strong sense of place. Similarly, the*

*proposed grocery store will include high ceilings (approximately 15 feet floor-to-floor), consistent with a retail environment. The residential units above are of a scale that is consistent with applicable land use controls, and compatible with the surrounding neighborhood. The articulated facades proposed for the building will provide visual relief to break up the building's mass. The Project will provide an incremental addition of needed housing units in an established mixed-use neighborhood. The proposed grocery use will provide a valuable neighborhood amenity.*

- 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 and of proposed alternatives to off-street parking, including provisions of car-share parking spaces, as defined in Section 166 of this Code.

*The proposed project is not anticipated to generate traffic at levels that would be detrimental to the health, safety, convenience or general welfare of the community. The proposed project will include 18 parking spaces for the residential units and parking for 24 retail customers. In addition, the Project will provide 22 bicycle parking spaces. Many of the customers of the proposed neighborhood-serving grocery are expected to arrive by foot, bicycle and public transit as the Project Site is located within an urban context, where convenience goods and services are available within walking distance.*

*The Project will not affect public transit or overburden the existing supply of parking in the neighborhood. The subject property is within .25 miles of stops for the following MUNI transit lines: the #7-Haight-Noriega bus line (stop at 44th and Noriega Street) and the #18-46th Avenue bus line (stop at Noriega Street and 46th Avenue). The site is also within .5 miles of the #29-Sunset bus line (stop at Noriega Street and Sunset Boulevard).*

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

*The proposed uses are dwelling units, which do not typically emit noxious or offensive emissions such as noise, glare, dust or odor. Since this will be a predominantly residential project with a medium scale retail local grocery, the Project will not generate unusual noise, odor, dust and glare as a result of its operations. The buildings will comply with Title 24 standards for noise insulation. The Project Sponsor will fully comply with San Francisco's Noise Ordinance, which prohibits excessive noise levels from construction activity and limits permitted working hours. The materials for the façades of the buildings will not result in glare. The Project would generate additional night lighting, but not in amounts unusual for an urbanized area. Design of exterior lighting will ensure that off-site glare and lighting spillover are minimized.*

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

*The Project will provide private usable open space on balconies for two of the units which are 115 square feet each, for a total of 230 square feet of private usable open space. In addition, the Project proposes to provide common usable open space at the first residential level (2,087 square feet), as*

*well as on a common roof terrace (4,939 square feet). Together, these amenities total 7,026 square feet of open space, far in excess of Planning Code requirements. The Project will provide street trees, as required by the Planning Code. The project proposes to provide below-grade parking to improve the urban design and minimize the above grade space devoted to automobile storage. The Project Sponsor will incorporate lighting and signage in compliance with City requirements and respect the surrounding mixed-use residential neighborhood. Tree planting will be coordinated with the Department of Public Works.*

- C. That such use or feature 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, other than Section 134, and is consistent with the Objectives and Policies of the General Plan as detailed below. The Project Sponsor is seeking a modification from the rear yard (Section 134) requirements of the Planning Code, which will be heard separately by the Zoning Administrator.*

- D. 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 this NC-1 District.*

8. **Development of Large Lots.** Planning Code Section 121.1 requires a Conditional Use Authorization for new developments on lots larger than 5,000 square feet in a NC-1 (Neighborhood Commercial, Cluster) Zoning District. Planning Code Section 121.1 sets forth additional criteria which the Commission shall consider in addition to those of Section 303 when reviewing an application for development of a large lot.

- A. The mass and façade of the proposed structure are compatible with the existing scale of the district.

*The proposed project's mass and façade are in keeping with the existing and intended scale and character of the neighborhood. The proposed project is located on Noriega Street, the primary commercial corridor in the immediate neighborhood. Noriega Street currently hosts a range of buildings sizes, from one- to four-story buildings. The height and bulk of the building comply with the Planning Code requirements for the applicable zoning district, and are appropriate for the site's neighborhood commercial character.*

- B. The façade of the proposed structure is compatible with design features of adjacent facades that contribute to the positive visual quality of the district.

*The proposed project's architectural treatments, façade design and building materials include visual components that complement the neighborhood. The façade of the proposed project is broken into discrete vertical bays that respect the scale of the smaller lots adjacent to the Project site. The ground floor retail storefronts and awnings are similar to many other buildings along*

*Noriega Street. The upper floors incorporate bay windows, some with balconies. Materials include anodized metal windows, metal paneling, cementitious or cement plaster panels and a street level stone base at windows or entries with landscaping. The Project's two street frontages offer a unified façade treatment, yet also correspond directly to their respective block faces. The corner location of the site allows the Project and its proposed grocery store to "anchor" the corner and create a strong sense of place along the neighborhood's primary commercial corridor.*

*The Urban Design Team (UDAT) reviewed the Project and supported the site design, open space, and massing, including the open space location at the first level of residential use. UDAT also supported the design of the commercial street frontage with the suggestion that the interior programming be organized to support positive sidewalk activity.*

9. **Non-Residential Use Size Greater than 3,000 square feet.** Planning Code Section 121.2 requires Conditional Use Authorization for a non-residential uses greater than 3,000 square feet in a NC-1 (Neighborhood Commercial, Cluster) Zoning District. Planning Code Section 121.2 sets forth additional criteria which the Commission shall consider in addition to those of Section 303 when reviewing an application for development of a non-residential use greater than 3,000 square feet.

- A. The intensity of activity in the district is not such that allowing the larger use will be likely to foreclose the location of other needed neighborhood-serving uses in the area.

*The size of the proposed grocery will not prohibit or deter the location of other needed neighborhood-serving uses along Noriega Street. The new grocery will not adversely affect the numerous existing businesses that line Noriega Street. In fact, the addition of the proposed grocery store is anticipated to increase foot traffic in the vicinity of the Project site, thereby increasing the viability of other nearby neighborhood commercial uses.*

- B. The proposed use will serve the neighborhood, in whole or in significant part, and the nature of the use requires a larger size in order to function.

*The proposed grocery store will be a valuable amenity for the neighborhood, providing close access to fresh fruits and vegetables, meats, dairy and sundries. The Project Sponsor currently operates Noriega Produce Market, located approximately one block north of the proposed project site. The proposed new retail space will allow the Project Sponsor to expand its grocery offerings and improve its already successful neighborhood-serving grocery store. The scale of the proposed retail will allow the Project Sponsor to operate more efficiently, while maintaining a neighborhood-serving scale. Nearby residents will be able to satisfy more of their grocery needs locally and support a locally-owned business without having to leave the neighborhood.*

- C. The building in which the use is to be located is designed in discrete elements which respect the scale of development in the district.

*The façade of the proposed project is broken into discrete vertical bays that respect the scale of the smaller lots adjacent to the project site. The corner location of the site allows the Project and its*

*proposed grocery store to "anchor" the corner and create a strong sense of place along the neighborhood's primary commercial corridor.*

10. **Conversion of Automotive Service Stations.** Planning Code Section 202.5 establishes the criteria the Commission shall consider when authorizing the conversion of an automotive service station to another use. The Commission shall approve the conversion if it determines from the facts presented that the reduction in availability of automotive goods and services resulting from the service station conversion would not be unduly detrimental to the public. On balance, the Project complies with said criteria:

B. The benefits to the public of the service station conversion would outweigh any reduction in automotive goods and services availability because the proposed new use is more necessary or desirable for the neighborhood or community than continued service station use.

i. If the proposed use is a Residential use, the total number of units to be provided and the number of those units that are affordable units.

*The Project will contribute to the City's housing supply by providing 12 dwelling units, which will have either two or three bedrooms. The Project will also contribute to the City's affordable housing supply by complying with the City's Inclusionary Affordable Housing Program through the payment of an in-lieu fee.*

ii. If the proposed new use is a commercial use, the types of goods and services to be offered and the availability of comparable products and services in the vicinity.

*The Project includes 7,570 square feet of occupied ground floor commercial/retail space. The new, neighborhood-serving grocery store will offer produce, dry goods and sundries, prepared foods, meats, coffee, and dairy products. The Project Sponsor owns and operates Noriega Produce Market, located approximately one block from the project site. The larger footprint proposed by the Project will give the owners the opportunity to expand their product offerings to the neighboring residents they have been serving for 30 years. The nearest full service market other than Noriega Produce is the Safeway located at 2350 Noriega Street.*

iii. The importance of the street on which the service station fronts to walking, cycling, and public transit, and the impact of automobile access and egress to the service station and of the proposed new uses and structures on the safety and comfort of pedestrians, cyclists, and transit riders.

*Noriega Street is the primary commercial corridor for the surrounding neighborhood. As such, it is a high priority pedestrian and transit street. The existing auto service station at this location is detrimental to the pedestrian environment — there are currently two wide curb cuts on Noriega Street, and another wide curb cut on 44<sup>th</sup> Avenue. These curb-*

*cuts, which comprise much of the street frontages on the project site, conflict with pedestrian access and create hazards for cyclists due to the volume and speed of vehicles entering and exiting the existing automobile service station. The proposed project will improve the pedestrian environment on Noriega Street. In addition, the proposed grocery use is ideally located in an area served by public transit as noted above.*

- iv. The relative environmental dangers posed by the current and proposed uses, including but not limited to the quality and character of waste generated, noxious or offensive emissions, fire and explosion hazards and noise, and whether the service station conversion would facilitate the cleanup of existing contamination at the property.

*The Project will consist of high quality residential units, and ground floor retail/commercial space. These uses will not generate any noxious or offensive emissions, noise, glare, dust or odors. The proposed use will replace the prior automotive service station use that generated significantly higher levels of offensive emissions, noise, and/or odors. The existing service station use involves storage of numerous hazardous materials on the project site, including gasoline and other auto fluids, industrial solvents and used motor oil. These hazardous materials are inherently dangerous and present an explosion risk. Based on soil evaluations, the Project Sponsor does not believe there are significant levels of soil contamination on the site. Nevertheless, discontinuing the automobile service use will eliminate the ongoing risk of contamination. The proposed mixed use development will not involve the use of any hazardous materials.*

- v. The relative employment opportunities offered by the service station and the proposed new use.

*The existing automobile service station employs 3-5 full time employees (including the owner of the station). The proposed grocery store will employ 40-50 full time & 20-25 part time employees. The proposed project includes 12 dwellings units that will house patrons for the grocery store and other local commercial activities and help sustain and build existing businesses. Additionally, the Project will provide short-term employment for construction workers and other allied trades and professions opportunities during the construction of the project. The proposed project will be an employment benefit for the neighborhood.*

- vi. The relative amount of taxes or other revenues to be received by the City or other governmental bodies from service station use and the proposed new use.

*The proposed residential units in the Project will create new property tax revenue for the City, as well as additional transfer tax revenue. In addition, the proposed grocery store is anticipated to generate additional gross receipts taxes, as well as payroll taxes for the significant number of employees.*

- vii. The compatibility of the existing service station and of the proposed new use or structure with the General Plan and area plan urban design policies and the street frontage standards of this Code.

*The street frontages at the project site currently contain three unusually wide curb cuts. These curb cuts present hazards to cyclists and pedestrians, and create an unwelcoming pedestrian environment and poor urban design along the Noriega commercial corridor. The proposed project will encourage pedestrian access, will reduce the amount of street frontage dedicated to curb cuts, and will provide an active use (grocery store) at the street level, consistent with the street frontage standards of Planning Code Section 145.1. and the General Plan.*

- viii. Whether the service station use and the proposed use are permitted principal uses, conditional uses or nonconforming uses.

*The proposed residential and grocery uses are principally permitted. However, the Project requires conditional use authorization because: (i) the lot size exceeds 5,000 square feet, (ii) the proposed grocery store exceeds 3,000 square feet, and (iii) because the Project proposes to convert an existing automobile service station. Neither auto repair stations nor gas station are currently permitted under the project site's NC-1 zoning. The existing auto service station, therefore, is a non-conforming use.*

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

## HOUSING ELEMENT

### Objectives and Policies

#### OBJECTIVE 1:

IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

#### Policy 1.1:

Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

*The Project will provide a unit mix of 66.7% two-bedroom, and 33.3% three-bedroom. Additionally, the Project Sponsor has indicated that they will pay the Affordable Housing Fee which will be calculated based on the cost of providing 20 percent of the units (2.4) off-site. Projects of this scale are appropriately sized to contribute through payment of the Affordable Housing Fee which is then used to fund a broad range of affordable housing projects within the City.*

#### Policy 1.8:



Promote mixed use development, and include housing, particularly permanently affordable housing, in new commercial, institutional or other single use development projects.

*The Project site is in a neighborhood with a dense, mixed, neighborhood character within a NC-1 District where housing over a commercial ground floor is encouraged. The project will provide 12 dwelling units to the City's housing stock, and the proposed grocery use will provide a valuable neighborhood amenity.*

**OBJECTIVE 4:**

FOSTER A HOUSING STOCK THAT MEETS THE NEEDS OF ALL RESIDENTS ACROSS LIFECYCLES.

**Policy 4.1:**

Develop new housing, and encourage the remodeling of existing housing, for families with children.

*This Project will create two-bedroom units and three-bedroom family-sized units with miscellaneous amenities on site, such as an exercise room, multi-media lounge and common terraces.*

**Policy 4.6:**

Encourage an equitable distribution of growth according to infrastructure and site capacity.

*The Project is located in a mixed-use corridor well-served by transit and small-scale neighborhood-serving retail.*

**OBJECTIVE 11:**

SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

**Policy 11.1:**

Promote the construction and rehabilitation of well-designed housing that emphasizes beauty, flexibility, and innovative design, and respects existing neighborhood character.

**Policy 11.2:**

Ensure implementation of accepted design standards in project approvals.

*This new construction project will conform to the scale and character of the district, respecting the neighborhood character in design and use.*

**Policy 11.3:**

Ensure growth is accommodated without substantially and adversely impacting existing residential character.

**Policy 11.4:**

Continue to utilize zoning districts which conform to a generalized residential land use and density plan and the General Plan.

*The Project conforms to the zoning and height districts for the NC-1 District. The proposed height of the building is 45 feet tall. Up to a 5-foot bonus is permitted on NC-1 parcels along Noriega Street west of 19th Avenue when the ground floor commercial space exceeds 10 feet.*

**Policy 11.6:**

Foster a sense of community through architectural design, using features that promote community interaction.

*The Project's residential entry is defined with a transition between the public and private realms. The majority of the street frontage is dedicated to commercial use, with requirements for active use, and designed with transparent storefront system.*

**OBJECTIVE 12:**

BALANCE HOUSING GROWTH WITH ADEQUATE INFRASTRUCTURE THAT SERVES THE CITY'S GROWING POPULATION

**Policy 12.1:**

Encourage new housing that relies on transit use and environmentally sustainable patterns of movement.

*The proposed project is in an area well served by public transportation, including MUNI's #7-Haight-Noriega bus line (stop at 44th and Noriega Street), #18-46th Avenue bus line (stop at Noriega Street and 46th Avenue). The site is also within .5 miles of the #29- Sunset bus line (stop at Noriega Street and Sunset Boulevard).*

**TRANSPORTATION ELEMENT**

**Objectives and Policies**

**OBJECTIVE 24:**

IMPROVE THE AMBIENCE OF THE PEDESTRIAN ENVIRONMENT.

**Policy 24.2:**

Maintain and expand the planting of street trees and the infrastructure to support them.

**Policy 24.4:**

Preserve pedestrian-oriented building frontages.

*The Project will install new street trees along Noriega Street and 44<sup>th</sup> Avenue. In addition, frontages are designed with active spaces oriented at the pedestrian level.*

**OBJECTIVE 28:**

PROVIDE SECURE AND CONVENIENT PARKING FACILITIES FOR BICYCLES.

**Policy 28.1:**

Provide secure bicycle parking in new governmental, commercial, and residential developments.

**Policy 28.3:**

Provide parking facilities which are safe, secure, and convenient.

*The Project includes 16 Class 1 residential bicycle parking spaces, two Class 1 retail bicycle parking spaces within the retail area on the ground floor of the building, and four Class 2 retail bicycle parking outside of the building at street level along Noriega Street.*

## **COMMERCE AND INDUSTRY ELEMENT**

### **Objectives and Policies**

**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 subject property is located on a corner lot within the NC-1 Zoning District, directly across from a Noriega Child Development Center. The General Plan states that auto-oriented facilities at such locations are inappropriate, especially when located within 500 feet of areas where large numbers of children are present. Therefore, although the proposal results in the loss of an automobile-service use, the Project brings the site into greater conformity with the intent of the Neighborhood Commerce element.*

## **URBAN DESIGN ELEMENT**

### **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 1.7:**

Recognize the natural boundaries of districts, and promote connections between districts.

*The Project is adjacent to residential buildings -- mostly two-story, single-family dwellings, the Noriega Child Development Center and mixed-use buildings with ground floor businesses with varied design aesthetics. The Project transitions from one area to another, and serves as a bridge between the buildings and highlighting similar characteristics.*

**OBJECTIVE 3:**

MODERATION OF MAJOR NEW DEVELOPMENT TO COMPLEMENT THE CITY PATTERN, THE RESOURCES TO BE CONSERVED, AND THE NEIGHBORHOOD ENVIRONMENT.

**Policy 3.3:**

Promote effort to achieve high quality design for building to be constructed at prominent locations.

*As an "anchor" corner property, the Project provides articulated street façades, which respond to the form, scale and material palette of surrounding buildings, while also providing a new contemporary architectural vocabulary.*

**RECREATION AND OPEN SPACE ELEMENT**

**Objectives and Policies**

**OBJECTIVE 4:**

PROVIDE OPPORTUNITIES FOR RECREATION AND THE ENJOYMENT OF OPEN SPACE IN EVERY SAN FRANCISCO NEIGHBORHOOD.

**Policy 4.5:**

Require private usable outdoor open space in new residential development.

*The Project will create private and common open space areas in a new residential development through private terraces, and common decks at the first floor and roof. The Project will also not cast shadows over any open spaces under the jurisdiction of the Recreation and Park Department.*

12. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the Project does comply with said policies in that:

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

*The Project would enhance the neighborhood serving retail character of the neighborhood creating a new neighborhood serving grocery. The new grocery store would be locally-owned and operated and would create new employment opportunities in the neighborhood.*

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

*No housing exists on the project site. The Project will provide up to 12 new dwelling units, thus resulting in a significant increase in the neighborhood housing stock. The Project is simple in design, and relates to the scale and form of the surrounding neighborhood by providing relationships to the other buildings. For these reasons, the proposed project would protect and preserve the cultural and economic diversity of the neighborhood.*

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

*The Project will not displace any affordable housing because there is currently no housing on the site. The Project will comply with the City's Inclusionary Housing Program by paying the in-lieu fee, therefore increasing the available funding dedicated to construction of affordable housing units in the City.*

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

*The subject property is well-served by transit, including MUNI's #7-Haight-Noriega bus line (stop at 44th and Noriega Street), #18-46th Avenue bus line (stop at Noriega Street and 46th Avenue). The site is also within .5 miles of the #29- Sunset bus line (stop at Noriega Street and Sunset Boulevard). The proposal includes new off-street parking within the two-level garage that satisfies parking requirements for private residential automobiles and transitory retail customers who may drive to the site.*

- 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 does replace an automotive service station; however, the automotive service use is less compatible with the zoning district than the proposed mixed use commercial and residential use. City resident employment not be negatively impacted.*

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

*The Project will be designed and constructed to conform to the structural and seismic safety requirements of the Building Code. This proposal will not impact the property's ability to withstand an earthquake.*

- G. That landmarks and historic buildings be preserved.

*There are no landmarks or historic buildings on the project site.*

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

*The Project will not affect the City's parks or open space or their access to sunlight and vistas.*

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.

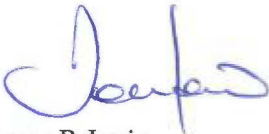
## DECISION

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 Authorization No. 2014-002414CUA** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated April 12, 2016, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

**Protest of Fee or Exaction:** You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives **NOTICE** that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission **ADOPTED** the foregoing Motion on May 12, 2016.



Jonas P. Ionin  
Commission Secretary

AYES: Moore, Richards, Antonini, Hillis, Johnson, Wu

NAYS: None

ABSENT: Fong

ADOPTED: May 12, 2016

## **EXHIBIT A**

### **AUTHORIZATION**

This authorization is for a Conditional Use Authorization pursuant to sections 121.1, 121.2, 202.5, and 303 of the Planning Code to allow the demolition of an automotive service station and the construction of a four-story, 45-foot tall, 46164 gross square foot mixed use building with 12 dwelling units, 2 levels of below grade off-street parking, a 9,694 square foot retail space including ground floor retail and basement storage, 7,026 square feet of common open space, 42 parking and 22 bicycle parking spaces within an NC-1 (Neighborhood Commercial, Cluster) Zoning District and a 40-X Height and Bulk District; in general conformance with plans, dated April 12, 2016, and stamped "EXHIBIT B" included in the docket for Case No. 2014-002414CUA and subject to conditions of approval reviewed and approved by the Commission on May 12, 2016 under Motion No. 19649. 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 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 May 12, 2016 under Motion No. 19649.

### **PRINTING OF CONDITIONS OF APPROVAL ON PLANS**

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 19649 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 Office Development 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 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](http://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](http://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](http://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](http://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](http://www.sf-planning.org)*

6. **Additional Project Authorization.** The Project Sponsor must obtain a Rear Yard Modification from the Zoning Administrator from Planning Code Section Section 134 (required rear yard) and satisfy all the condition thereof. The conditions set forth below are additional conditions required in connection with the Project. If these conditions overlap with any other requirement imposed on the Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## DESIGN – COMPLIANCE AT PLAN STAGE

7. **Final Materials.** The Project Sponsor shall continue to work with the Planning Department on the building design. Final materials, glazing, color, texture, landscaping, and details shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.

*For information about compliance, contact the Case Planner, Planning Department at 415-575-8728, [www.sf-planning.org](http://www.sf-planning.org)*

8. **Garbage, Composting and Recycling Storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the architectural addenda. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

*For information about compliance, contact the Case Planner, Planning Department at 415-575-8728, [www.sf-planning.org](http://www.sf-planning.org)*

9. **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](http://www.sf-planning.org)*

10. **Streetscape Plan.** Pursuant to Planning Code Section 138.1, the Project Sponsor shall continue to work with Planning Department staff, in consultation with other City agencies, to refine the design and programming of the Streetscape Plan so that the plan generally meets the standards of the Better Streets Plan and all applicable City standards. The Project Sponsor shall complete final design of all required street improvements, including procurement of relevant City permits, prior to issuance of first architectural addenda, and shall complete construction of all required street improvements prior to issuance of first temporary certificate of occupancy.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org).*

11. **Noise.** Plans submitted with the building permit application for the approved project shall incorporate acoustical insulation and other sound proofing measures to control noise.  
*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org).*
12. **Signage.** The Project Sponsor shall submit a sign permit in compliance with Article 6 of the Planning Code for the Project which shall be subject to review and approval by Planning Department staff. All exterior signage shall be designed to complement, not compete with, the architectural character and architectural features of the building.  
*For information about compliance, contact the Case Planner, Planning Department at 415-415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*
13. **Street Trees.** Pursuant to Planning Code Section 138.1 (formerly 143), the Project Sponsor shall submit a site plan to the Planning Department prior to Planning approval of the building permit application indicating that street trees, at a ratio of one street tree of an approved species for every 20 feet of street frontage along public or private streets bounding the Project, with any remaining fraction of 10 feet or more of frontage requiring an extra tree, shall be provided. The street trees shall be evenly spaced along the street frontage except where proposed driveways or other street obstructions do not permit. The exact location, size and species of tree shall be as approved by the Department of Public Works (DPW). In any case in which DPW cannot grant approval for installation of a tree in the public right-of-way, on the basis of inadequate sidewalk width, interference with utilities or other reasons regarding the public welfare, and where installation of such tree on the lot itself is also impractical, the requirements of this Section 428 may be modified or waived by the Zoning Administrator to the extent necessary.  
*For information about compliance, contact the Case Planner, Planning Department at 415-415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*
14. **Odor Control Unit.** In order to ensure any significant noxious or offensive odors are prevented from escaping the premises once the project is operational, the building permit application to implement the project shall include air cleaning or odor control equipment details and manufacturer specifications on the plans. Odor control ducting shall not be applied to the primary façade of the building.  
*For information about compliance, contact the Case Planner, Planning Department at 415-415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

## PARKING AND TRAFFIC

15. **Bicycle Parking, Commercial.** Pursuant to Planning Code Sections 155.1 and 155.4., the Project shall provide no fewer than **one** Class 1 and **one** Class 2 bicycle parking spaces.  
*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*
16. **Bicycle Parking, Residential.** The Project shall provide no fewer than **12** Class 1 bicycle parking spaces as required by Planning Code Sections 155.1 and 155.5.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

17. **Car Share.** One car share space shall be made available, at no cost, to a certified car share organization for the purposes of providing car share services for its service subscribers.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

18. **Unbundled Parking.** Pursuant to Planning Code Section 167, off-street parking spaces accessory to residential uses in new structures of 10 dwelling units or more shall be leased or sold separately from the rental or purchase fees for dwelling units for the life of the dwelling units. The Project is providing off-street parking that is accessory to 12 dwelling units. These spaces will be unbundled and sold and/or leased separately from the dwelling units.

19. **Managing Traffic During Construction.** The Project Sponsor and construction contractor(s) shall coordinate with the Traffic Engineering and Transit Divisions of the San Francisco Municipal Transportation Agency (SFMTA), the Police Department, the Fire Department, the Planning Department, and other construction contractor(s) for any concurrent nearby Projects to manage traffic congestion and pedestrian circulation effects during construction of the Project.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## PROVISIONS

20. **First Source Hiring.** The Project shall adhere to the requirements of the First Source Hiring Construction and End-Use Employment Program approved by the First Source Hiring Administrator, pursuant to Section 83.4(m) of the Administrative Code. The Project Sponsor shall comply with the requirements of this Program regarding construction work and on-going employment required for the Project.

*For information about compliance, contact the First Source Hiring Manager at 415-581-2335, [www.onestopSF.org](http://www.onestopSF.org).*

21. **Anti-Discriminatory Housing.** The Project shall adhere to the requirements of the Anti-Discriminatory Housing policy, pursuant to Administrative Code Section 1.61.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

22. **Childcare Requirements for Office and Hotel Development Projects.** Pursuant to Section 414, the Project Sponsor shall pay the in-lieu fee as required for residential development projects of 10 units or more. The net addition of gross floor area subject to the fee shall be determined based on drawings submitted with the Building Permit Application.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

## AFFORDABLE UNITS

23. **Requirement.** Pursuant to Planning Code 415.5, the Project Sponsor must pay an Affordable Housing Fee at a rate equivalent to the applicable percentage of the number of units in an off-site project needed to satisfy the Inclusionary Affordable Housing Program Requirement for the principal project. The applicable percentage for this project is twenty percent (20%). The Project Sponsor shall pay the applicable Affordable Housing Fee at the time such Fee is required to be paid.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing and Community Development at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*

24. **Other Conditions.** The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 415 et seq. of the Planning Code and the terms of the City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"). The Procedures Manual, as amended from time to time, is incorporated herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 415. Terms used in these conditions of approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the Mayor's Office of Housing and Community Development ("MOHCD") at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing and Community Development's websites, including on the internet at: <http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>. As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale or rent.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org) or the Mayor's Office of Housing and Community Development at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*

- a. The Project Sponsor must pay the Fee in full sum to the Development Fee Collection Unit at the DBI for use by MOHCD prior to the issuance of the first construction document.
- b. Prior to the issuance of the first construction permit by the DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that records a copy of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to MOHCD or its successor.
- c. If project applicant fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Sections 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all other remedies at law.

## MONITORING AFTER ENTITLEMENT

25. **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](http://www.sf-planning.org)*
26. **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](http://www.sf-planning.org)*

## OPERATION

27. **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>*
28. **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>*
29. **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](http://www.baaqmd.gov) and Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*
30. **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](http://www.sf-planning.org)*

