



# 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. **18899** HEARING DATE: JUNE 6, 2013

*Date:* May 23, 2013  
*Case No.:* **2008.0538CE**  
*Project Address:* **1490 OCEAN AVENUE**  
*Zoning:* Ocean Avenue NCT (Neighborhood Commercial Transit District)  
 45-X Height and Bulk District  
*Block/Lot:* 3197/010  
*Project Sponsor:* Gina El Sineitti  
 St. Anthony Real Estate, LLC  
 1255 Buckingham Way  
 Hillsborough, CA 94030  
*Staff Contact:* Michael Smith – (415) 558-6322  
[michael.e.smith@sfgov.org](mailto:michael.e.smith@sfgov.org)

**ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 737.11 AND 303 OF THE PLANNING CODE TO DEMOLISH AN EXISTING GASOLINE SERVICE STATION AND CONSTRUCT A FOUR-STORY, 45 FOOT TALL MIXED USE BUILDING WITH 15 DWELLING UNITS, 15 OFF-STREET PARKING SPACES, AND APPROXIMATELY 4,356 SQUARE FEET OF GROUND FLOOR COMMERCIAL SPACE ON A PROPERTY LOCATED WITHIN THE OCEAN AVENUE NEIGHBORHOOD COMMERCIAL TRANSIT DISTRICT AND A 45-X HEIGHT AND BULK DISTRICT, AND THE BALBOA PARK STATION PLAN AREA, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

### **PREAMBLE**

On May 15, 2008, David Silverman of Reuben & Junius, LLP, filed an application with the Planning Department (hereinafter “Department”) on behalf of Gina El Sinetti and St. Anthony Real Estate, LLC (hereinafter “Project Sponsor”) for Conditional Use Authorization under Planning Code Sections 737.11 and 303 to allow the demolition of an existing gasoline service station on the property and construction of a four-story, 45 foot tall mixed use building with 15 dwelling units, 15 off-street parking spaces, and 4,356 square feet of ground floor commercial space for a property located within the Ocean Avenue

Neighborhood Commercial Transit District and a 45-X Height and Bulk District and the Balboa Park Station Plan Area.

On December 14, 2011, the Draft Initial Study/Mitigated Negative Declaration (IS/MND) for the Project was prepared and published for public review; and

The Draft IS/MND was available for public comment until January 3, 2012]; and

On June 6, 2013, the Planning Department/Planning Commission reviewed and considered the Final Mitigated Negative Declaration (FMND) and found that the contents of said report and the procedures through which the FMND was prepared, publicized, and reviewed complied with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) (CEQA), Title 14 California Code of Regulations Sections 15000 et seq. (the "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"): and

The Planning Department/Planning Commission found the FMND was adequate, accurate and objective, reflected the independent analysis and judgment of the Department of City Planning and the Planning Commission, [and that the summary of comments and responses contained no significant revisions to the Draft IS/MND,] and approved the FMND for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31.

The Planning Department, Jonas P. Ionin, is the acting custodian of records, located in the File for Case No. 2008.0538CE, at 1650 Mission Street, Fourth Floor, San Francisco, California.

Planning Department staff prepared a Mitigation Monitoring and Reporting program (MMRP), which material was made available to the public and this Commission for this Commission's review, consideration and action. These mitigation measures reduce all potential significant impacts to less than significant levels, and are set forth in their entirety in the MMRP attached to the draft Motion as Exhibit C.

**MOVED**, that the Commission hereby adopts the FMND and the MMRP and authorizes the Conditional Use requested in Application No. 2008.0538CE, 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 (Lot 010 in Assessor's Block 3197) is located on the northeast corner of Ocean and Miramar Avenues, with approximately 117-feet of frontage on Ocean Avenue and approximately 70-feet of frontage on Miramar Avenue. The irregularly-shaped property measures 10,200-square feet in area and was developed in 1966 with an

approximately 1,600 sf, one-story service station, gasoline pumps and associated canopy, three underground gasoline storage tanks, and six accessory parking spaces. Ingress and egress to the gas station is from large curb cuts along Ocean and Miramar Avenues. The parcel is located with the Balboa Park Plan Area.

- 3. Surrounding Properties and Neighborhood.** The subject property is located within the Ocean Avenue (NCT) Neighborhood Commercial Transit District, which extends along Ocean Avenue from Phelan to Manor Avenues. Ocean Avenue is a multi-purpose transit-oriented small-scale commercial district that is modeled on the NCT-2 District. Ocean Avenue was developed as a streetcar-oriented commercial district in the 1920s and continues to serve this function, with the K-line streetcar on Ocean Avenue. Numerous other bus lines serve the area, especially the eastern end, where the Phelan Loop serves as a major bus terminus. The eastern end of the district is anchored by the main City College campus at Phelan and direct linkages to the Balboa Park BART/MUNI rail station a couple blocks to the east. The Ocean Avenue NCT District is mixed use, transitioning from a predominantly one- and two-story retail district to include neighborhood-serving commercial uses on lower floors and housing above.

The subject property is located within the heart of the Ocean Avenue NCT at the main entrance to the Westwood Park residential neighborhood which is located north of the property. Westwood Park is a mostly intact collection of over 600 homes built in the 1920s and the 1930s in Bungalow Style. Miramar Avenue is an 80' wide residential boulevard with a gracious landscaped median that runs through the neighborhood. Within the right-of-way, adjacent to the northwest corner of the subject property is a historic entry pylon for the Westwood Park subdivision.

The adjacent property to the north of the subject property is a two-story, single-family house that is located within the Westwood Park subdivision. The adjacent property to the east is a two-story commercial building. There is a six-foot easement running between these properties.

- 4. Project Description.** The Project Sponsor proposes to demolish an existing gas station and construct a new 45-foot-tall, four-story, approximately 26,380-gross-square-foot (including parking), mixed-use building containing 15 dwelling units, 15 off-street parking spaces, and approximately 4,356-square-feet of retail space at the ground floor. The parking garage would be located at grade level and accessed from Miramar Avenue. The project would include nine three-bedroom units and six two-bedroom units, and eight bicycle parking spaces. Private usable open space would be located within the rear yard at the podium level and common usable open space would be located within a 1,730 square-foot roof deck.

In order for the project to proceed, the Commission must grant conditional use authorization pursuant to Planning Code Sections 737.11, to develop a lot exceeding 9,999 square feet; and 303.

- 5. Public Comment.** The project sponsor submitted a petition signed by 69 people, mostly residents within the immediate neighborhood, in support of the project. The Westwood Park Homeowner's Association contacted the Department with concern regarding retention of the Westwood Park identification pillar adjacent to the property. To address this concern, the project

sponsor agreed to add a condition that requires the pillar to remain in its current location for the life of the project. No other public comment has been received.

**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. Open Space.** Planning Code Section 135 requires 100 square feet of private usable open space or 133 square feet of common open space for each dwelling unit.

*The project includes 15 dwelling units and is required to provide a total of 1,500 square feet of private open space, 1,995 square feet of common open space, or some equivalent combination of private and common open space. The project proposes 2,541 square-feet of private usable open space within the rear yard at the podium level and 1,730 square-feet of common usable open space for 13 dwellings located within a roof deck.*

**B. Streetscape Improvements.** Planning Code Section 138.1 requires streetscape and pedestrian improvements for new developments. One street tree is required for every 20 lineal feet of street frontage. The Section also requires additional streetscape and pedestrian elements for large projects.

*The project has 117-feet of frontage on Ocean Avenue and approximately 70-feet of frontage on Miramar Avenue. The project would have a total of nine street trees to meet this requirement.*

**C. Lot Size per Development.** Planning Code Section 737.11 permits development of lots larger than 9,999 square-feet within the District with conditional use authorization.

In addition to the criteria of Section 303(c) of this Code, the City Planning Commission shall consider the extent to which the following criteria are met:

- (1) The mass and facade of the proposed structure are compatible with the existing scale of the district.
- (2) The facade of the proposed structure is compatible with design features of adjacent facades that contribute to the positive visual quality of the district.

*The Project Sponsor is seeking conditional use authorization to develop an existing 10,200 square-foot lot that is developed with an automobile service station. The project site is much larger than the average lot within the District but it is located on a prominent corner site where a larger development is more appropriate to add emphasis and frame the intersection. The façade of the project will contribute to the positive visual quality of the district, which does not possess a prevailing architectural style. The elevations are articulated with bay windows. The building will have a tall base that is finished in a different material giving and heavy trim at the top floor giving it a well-defined base, middle, and top. The building's vertical proportions in the form of storefronts and bay windows, helps to further break up the building mass. Two towers at the corner of the building help to define the rounded corner and further add verticality to the building. Overall, the building responds well to its varied context.*

- D. **Floor Area Ratio.** Section 733.20 of the Planning Code restricts non-residential uses to 2.5 to 1.

*25,500 square-feet of non-residential uses are permitted pursuant to this Section of the Code. The project would provide approximately 4,356 square-feet of commercial uses, well within the limit prescribed by the Code.*

- E. **Rear Yard.** Section 134 of the Planning Code requires a 25% rear yard.

*The project would provide a 25% rear yard opposite the Ocean Avenue frontage. The yard helps to provide separation between the proposed building and the single-family dwelling to the north, thus providing a height transition to the two-story, residential neighborhood to the north.*

- F. **Exposure.** Planning Code Section 140 requires that each dwelling unit shall face a public street, a Code-compliant rear yard, or another defined open space.

*All dwellings either face the public right-of-way or the Code complying rear yard.*

- G. **Ground Floor Ceiling Height.** Pursuant to Section 145.1 of the Planning Code, ground floor non-residential uses shall have a minimum floor-to-floor height of 14 feet, as measured from grade.

*The ground floor ceiling height would be a minimum of 14-feet in height, measured from grade.*

- H. **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, to provide visual interest to pedestrians when the gates are closed, and to permit light to pass through mostly unobstructed.

*The project would provide active uses along both street frontages including retail space and a residential lobby. No less than 60 percent of the street frontage at the ground level would be fenestrated with transparent windows to allow visibility to the inside of the building. The parking garage is wrapped by commercial uses at the ground floor.*

- I. **Permitted Off-Street Parking, Residential.** Sections 151 and 737.94 of the Planning Code requires no off-street parking but principally permits up to one space for every dwelling. Off-street parking above this amount is not permitted.

*The project includes 15 dwelling units and 15 off-street parking spaces for a ratio of one space for every dwelling, which is principally permitted in the District.*

- J. **Permitted Off-Street Parking, Commercial.** Sections 151 and 737.22 of the Planning Code requires no off-street parking for retail and restaurant uses that are less than 5,000 square-feet of occupied floor area.

*The project includes a total of 4,356 square-feet of commercial space at the ground floor. totaling 6,286-square-feet, which includes a 2,364 square-foot restaurant use. No off-street commercial parking is required because none of the proposed retail spaces total more than 5,000 square-feet.*

- K. **Car Share.** Section 166 of the Planning Code requires no car share spaces are required for 0 - 24 parking spaces and 0 – 49 dwellings.

*There is no car share requirement for this project.*

- L. **Off-Street Freight Loading (Commercial).** Sections 152 and 737.23 of the Planning Code requires off-street loading be provided in the Ocean Avenue NCT for retail uses exceeding 10,000 square feet in area.

*The project contains a total of 4,356 square feet of retail space, therefore, the project is not required to provide off-street loading and provides none.*

- M. **Off-Street Freight Loading (Residential).** Sections 152 of the Planning Code requires off-street loading be provided in the Ocean Avenue NCT for residential uses exceeding 100,000 square feet in area.

*The project contains less than 100,000 square feet of residential space, therefore, the project is not required to provide off-street loading and provides none.*

- N. **Bicycle Parking.** For projects up to 50 dwelling units, section 155.5 of the Planning Code requires, one Class 1 space for every 2 dwelling units.

*The project has 15 dwellings and therefore requires 8 Class 1 bicycle parking spaces. The project would provide 8 Class 1 bicycle parking spaces within the parking garage.*

- O. **Residential Density.** Section 737.91 of the Planning Code places no limit on residential density within the District.

*The Project Site is approximately 10,200 square-feet in area and provides 15 dwelling units for a ratio of one dwelling unit for each 680 square feet of lot area.*

- P. **Dwelling Unit Mix.** Section 207.6 of the Planning Code requires that a minimum of 40% of the dwelling units within a Neighborhood Commercial Transit district shall contain at least two bedrooms.

*All of the proposed dwellings would have two or more bedrooms.*

- Q. **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 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 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 May 5, 2008.*

- R. **Balboa Park Community Improvements Fund.** Per Section 422 of the Code, the project requires payment per gross new square foot of residential and commercial development for the Balboa Park Community Improvements Fund.
- S. **Shadow.** Section 295 of the Code prohibits any structure that exceeds 40 feet in height from casting any shade or shadow upon any property under the jurisdiction of, or designated for acquisition by, the Recreation and Parks Commission, with certain exceptions identified in the Sunlight Ordinance.

*A shadow fan was developed based on the drawings submitted with the application to determine the shadow impact of the project on properties protected by the Sunlight Ordinance. The fan indicates that there is no shadow impact from the subject property on any property protected by the Ordinance.*

- T. **First Source Hiring.** The Project is subject to the requirements of the First Source Hiring Program as they apply to permits for residential development (Section 83.4(m) of the Administrative Code), and the Project Sponsor shall comply with the requirements of this Program as to all construction work and on-going employment required for the Project. Prior to the issuance of any building permit to construct or a First Addendum to the Site Permit, the Project Sponsor shall have a First Source Hiring Construction and Employment Program

approved by the First Source Hiring Administrator, and evidenced in writing. In the event that both the Director of Planning and the First Source Hiring Administrator agree, the approval of the Employment Program may be delayed as needed.

*The Project Sponsor has executed a First Source Hiring Declaration of Compliance with Administrative Code Chapter 83.*

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

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

*The project would replace an unsightly gas station with a contemporary mixed-use building with 15 dwellings, the design of which is compatible with the neighborhood character. The intensity of the development is necessary and desirable for a transit corridor.*

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

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

*The Project will demolish an underutilized gas station and replace it with 15 units of additional housing within an established neighborhood that is well served by public transit.*

*The proposed project will also provide ground floor retail space helping to fill a gap in the district's commercial frontage. These retail spaces will be accessible by walking and transit. In combination, the proposed residential and retail uses, at the densities and scale contemplated, will enhance the existing mixed-use character of the neighborhood.*

*The 45 foot building height at Ocean Avenue steps down at the rear to the single-family neighborhood north of the site. Furthermore, the design of the building responds to the traditional bungalow architecture of the neighborhood north of the site. While the building is relatively large, its size is appropriate for its corner location. Furthermore, the use of bay windows, the corner tower element, and rhythm of ground floor storefronts give the building articulation and verticality breaking up the horizontal massing. Also, the rear elevation will be treated architecturally.*

- 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;



*With two lot frontages, the project site is well suited for residential mixed-use development, allowing vehicular circulation to take place on Miramar Avenue strengthening the commercial street wall and pedestrian environment on Ocean Avenue. All the parking would be located at the interior of the site and served by an entrance on Miramar Avenue that is within close proximity of another driveway on the adjacent property to the north. The project is well served by transit with K-Ingleside metro line operating on Ocean Avenue.*

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

*The project would consist of high quality residential units and neighborhood serving commercial space. The uses would not generate any noxious or offensive emissions, noise, glare, dust, or odors.*

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

*Open space is located at the rear where it helps transition the building to lower scaled development to the north. Other open space is located on the roof and within a few small balconies that help add eyes on the street when in use. Additional street trees that include integrated benches would be planted as part of the project.*

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

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

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

*The proposed project is consistent with the stated purpose of Ocean Avenue Neighborhood Commercial Transit District in that the project includes residential units on the upper floors, space for neighborhood-serving commercial uses on the ground floor, which would provide compatible convenience service for the immediately surrounding neighborhoods during daytime hours.*

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

## **NEIGHBORHOOD COMMERCE**

### **Objectives and Policies**

#### **OBJECTIVE 1:**

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

**Policy 1.1:**

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

**Policy 1.2:**

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

**Policy 1.3:**

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

*The proposed development would provide desirable goods and services to the neighborhood and would provide resident employment opportunities to those in the community. The project would replace a marginal, nonconforming, and unattractive gas station use with essential housing and neighborhood serving commercial uses. The project would not result in any undesirable consequences. Further, the Project Site is located within a neighborhood commercial district and is thus consistent with activities in the commercial land use plan.*

**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 project would strengthen the neighborhood commercial district by replacing a gas station with new commercial spaces for neighborhood-serving commercial uses and much needed housing. The project would fill in a large gap in the commercial frontage along Ocean Avenue.*

**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.

**Policy 1.10**

Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.

*The Project creates 15 new family-sized dwelling units within a transit corridor affording its occupants the choice to use public transportation for a majority of trips. The Project site is also within close proximity of regional transit.*

**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.

*All of the proposed dwellings would have two or more bedrooms making them ideal for families with children.*

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

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

*The proposal would enhance the district by providing new commercial space on the ground floor of a modern building, filling a large gap in the commercial street frontage. The new business occupying the space would provide future opportunities for resident employment in and ownership of a new business.*

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

*The Project Site is located within the Ocean Avenue Neighborhood Commercial Transit District, a mixed-use area consisting of residential and commercial uses. The proposed residential units and new commercial space will complement and enhance the district by providing new housing and business opportunities in the neighborhood. Existing housing in the area would not be affected by the project.*

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

*No housing is removed for this project.*

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

*All the parking would be located interior to the site and accessed from an entrance on Miramar Avenue, thus eliminating transit and pedestrian conflict on Ocean Avenue, a major transit corridor. The project is also well served by transit.*

- 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 would not displace any service or industrial establishment. The project would not affect industrial or service sector uses or related employment opportunities. Ownership of industrial or service sector businesses would not be affected by this project.*

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

*The project is designed and would be constructed to conform to the structural and seismic safety requirements of the City Building Code.*

- G. That landmarks and historic buildings be preserved.

*The neighborhood was surveyed as part of the Balboa Park Station Plan Area rezoning effort and it was determined to be located in a potential Historic District. Through environmental review, the project was determined not to cause a significant adverse impact to the potential historic resource.*

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

*The project would have no negative impact on existing parks and open spaces.*

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

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

## DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **ADOPTS** the Final Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program and **APPROVES Conditional Use Application No. 2008.0538CE** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated **May 17, 2013**, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

The Planning Commission has reviewed and considered the IS/MND and the record as a whole and finds that there is no substantial evidence that the Project will have a significant effect on the environment with the adoption of the mitigation measures contained in the MMRP to avoid potentially significant environmental effects associated with the Project, and hereby adopts the FMND.

The Planning Commission hereby adopts and approves Conditional Use Authorizations for the project as described above and adopts the MND and the MMRP attached hereto as Exhibit C and incorporated herein as part of this Resolution/Motion by this reference thereto. All required mitigation measures identified in the IS/MND and contained in the MMRP are included as conditions of approval.

**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. 18899. 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 June 6, 2013.

Jonas P. Ionin  
Acting Commission Secretary

AYES: Commissioners Hillis, Sugaya, Fong, Antonini, Borden, Moore, and Wu

NAYES: None

ABSENT: None

ADOPTED: June 6, 2013

## EXHIBIT A

### AUTHORIZATION

This authorization is for a conditional use to allow the demolition of the existing automobile gasoline and service station and construction of a four-story, 45-foot-tall, 26,380-gross-square-foot (including parking), mixed-use building containing 15 rental dwelling units, 15 off-street parking spaces, and 4,356 square-feet of retail space at the ground floor, located at 1490 Ocean Avenue Lot 010 in Assessor's Block 3197 pursuant to Planning Code Section(s) 737.11 and 303, within the Ocean Avenue Neighborhood Commercial Transit District and a 45-X Height and Bulk District; in general conformance with plans, dated May 17, 2013, and stamped "EXHIBIT B" included in the docket for Case No. 2008.0538CE and subject to conditions of approval reviewed and approved by the Commission on June 6, 2013 under Motion No. 18899. 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 June 6, 2013 under Motion No. 18899.

### PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 18899 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 and Expiration.** The authorization and right vested by virtue of this action is valid for three years from the effective date of the Motion. A building permit from the Department of Building Inspection to construct the project and/or commence the approved use must be issued as this Conditional Use authorization is only an approval of the proposed project and conveys no independent right to construct the project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained within three (3) years of the date of the Motion approving the project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. The Commission may also consider revoking the approvals if a permit for the project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved.

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

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

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

3. **Mitigation Measures.** Mitigation measures described in the MMRP attached as Exhibit C are necessary to avoid potential significant effects of the proposed project and have been agreed to by the project sponsor. Their implementation is a condition of project approval.

*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

4. **Final Materials.** The Project Sponsor shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, and detailing 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 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org).*

5. **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 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org).*

6. **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).*

7. **Lighting Plan.** The Project Sponsor shall submit an exterior lighting plan to the Planning Department prior to Planning Department approval of the building / site 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).*

8. **Transformer Vault.** The location of individual project PG&E Transformer Vault installations has significant effects to San Francisco streetscapes when improperly located. However, they may not have any impact if they are installed in preferred locations. Therefore, the Planning Department recommends the following preference schedule in locating new transformer vaults, in order of most to least desirable:

- a. On-site, in a basement area accessed via a garage or other access point without use of separate doors on a ground floor façade facing a public right-of-way;
- b. On-site, in a driveway, underground;
- c. On-site, above ground, screened from view, other than a ground floor façade facing a public right-of-way;
- d. Public right-of-way, underground, under sidewalks with a minimum width of 12 feet, avoiding effects on streetscape elements, such as street trees; and based on Better Streets Plan guidelines;
- e. Public right-of-way, underground; and based on Better Streets Plan guidelines;
- f. Public right-of-way, above ground, screened from view; and based on Better Streets Plan guidelines;
- g. On-site, in a ground floor façade (the least desirable location).
- i. Unless otherwise specified by the Planning Department, Department of Public Work's Bureau of Street Use and Mapping (DPW BSM) should use this preference schedule for all new transformer vault installation requests.

*For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>.*

## **PARKING AND TRAFFIC**

9. **Off-Street Parking for All Units.** All off-street parking spaces shall be made available to project residents only as a separate "add-on" option for purchase or rent and shall not be bundled with



any project dwelling unit for the life of the dwelling units. The required parking spaces may be made available to residents within a quarter mile of the project. All affordable dwelling units pursuant to Planning Code Section 415 shall have equal access to use of the parking as the market rate units, with parking spaces priced commensurate with the affordability of the dwelling unit. Each unit within the project shall have the first right of refusal to rent or purchase a parking space until the number of residential parking spaces are no longer available. No conditions may be placed on the purchase or rental of dwelling units, nor may homeowner's rules be established, which prevent or preclude the separation of parking spaces from dwelling units.

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

10. **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)*

## AFFORDABLE UNITS

11. **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%).

*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 at 415-701-5500, [www.sf-moh.org](http://www.sf-moh.org).*

12. **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 ("MOH") at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing'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 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 MOH prior to the issuance of the first construction document, with an option for the Project Sponsor to defer a portion of the payment prior to issuance of the first certificate of occupancy upon agreeing to pay a deferral surcharge that would be deposited into the Citywide Inclusionary Affordable Housing Fund in accordance with Section 107A.13.3 of the San Francisco Building Code.
- 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 MOH 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.

## PROVISIONS

13. **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)*
14. **Transit Impact Development Fee.** Pursuant to Planning Code Section 411 (formerly Chapter 38 of the Administrative Code), the Project Sponsor shall pay the Transit Impact Development Fee (TIDF) as required by and based on drawings submitted with the Building Permit Application. Prior to the issuance of a temporary certificate of occupancy, the Project Sponsor shall provide the Planning Director with certification that the fee has been paid.  
*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*
15. **Balboa Park Community Improvements Fund.** The Project Sponsor shall satisfy the requirements of Planning Code Section 422 either through a payment to the Fund or through the provision of in-lieu improvement, as specified within this Section.

16. **Westwood Park Identification Pillar.** The project sponsor will retain the adjacent Westwood Park identification pillar at the Miramar entrance to the subdivision in its current location for the life of the project.

## MONITORING

17. **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)*

18. **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

19. **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/>*
20. **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>*
21. **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](http://www.sf-planning.org)*

22. **Storefront Windows.** The Project Sponsor shall maintain attractive storefronts providing visibility of the commercial interior through the storefront windows. The Project Sponsor shall require that the tenants maintain storefronts that maximize the visibility of the interior through the storefront windows.
23. **Service Corridor.** The project sponsor will continue to work with Planning Department staff to create an appropriately designed service corridor that is accessible by all future tenants and accessed from the existing easement located along the east side of the building.
24. **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)*