



SAN FRANCISCO PLANNING DEPARTMENT

MEMO

PROJECT UPDATE MEMO (NOT FOR HEARING)

DATE: November 25, 2015
TO: Planning Commissioners
FROM: David Lindsay, Manager, Northwest Quadrant
415.558.6393 or david.lindsay@sfgov.org
RE: 2501 California Street
Planning Commission Motion No. 19383 for
Conditional Use Authorization under Case No. 2013.1407CE

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On June 4, 2015, the Planning Commission approved a Conditional Use Authorization to allow the demolition of the non-conforming Shell gas station, including the non-conforming automotive service use and convenience store, and to allow the reconstruction of the non-conforming gas station and automotive service use as well as a formula retail convenience store (d.b.a. "Loop").

As the Commission will recall, the project originally proposed to construct a 4,600 square foot Loop store and not to reconstruct the automotive service use on the site. However, at the June 4 hearing, the Commission modified the project to limit the size of the formula retail convenience store to 2,499 square feet and allow the reconstruction of the non-conforming automotive service use, knowing that legally requiring such a use on the site was not possible.

In the current proposal, submitted as a site permit application, the project sponsor is proposing to construct a 2,496 square foot Loop store, within the size limit imposed by the Commission. Although the Commission's approval motion allowed the reconstruction of the non-conforming automotive service use, the site permit plans do not include an automotive service use.

Department staff has reviewed the proposed revisions and found them to be in conformance with the Commission's approval. While we understand the Commission's desire to include the automotive service use on this site, the project sponsor is not including that use and we are unable to require him to do so.

Please let me know if you have any questions regarding this project.

cc: Supervisor Mark Farrell
Muthana Ibrahim, Project Sponsor
Jonas Ionin, Commissions Secretary
John Rahaim, Planning Director

Attachment - Planning Commission Motion No. 19383



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

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Planning Commission Motion No. 19383

HEARING DATE: JUNE 4, 2015

Date: May 28, 2015
Case No.: **2013.1407CE**
Project Address: **2501 CALIFORNIA STREET**
Zoning: Upper Fillmore Street NCD (Neighborhood Commercial District)
 40-X Height and Bulk District
Block/Lot: 0655/001, 002 and 034
Project Sponsor: Muthana Ibrahim
 2221 Olympic Boulevard, Ste 100
 Walnut Creek, CA 94595
Staff Contact: Sharon Lai – (415) 575-9087
sharon.w.lai@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 121.1, 186.1, 303, 303.1, AND 718.11 OF THE PLANNING CODE TO ALLOW THE DEMOLITION OF THE NON-CONFORMING AUTOMOTIVE GAS STATION (D.B.A. SHELL) THAT INCLUDES A NON-CONFORMING AUTOMOTIVE SERVICE USE AND A CONVENIENCE STORE, AND TO ALLOW A LOT MERGER AND THE RECONSTRUCTION OF THE NON-CONFORMING AUTOMOTIVE GAS STATION (D.B.A. SHELL), WITH A NON-CONFORMING AUTOMOTIVE SERVICE USE AND A FORMULA RETAIL CONVENIENCE STORE (D.B.A. LOOP), WITHIN THE UPPER FILLMORE STREET NEIGHBORHOOD COMMERCIAL DISTRICT AND 40-X HEIGHT AND BULK DISTRICT AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On December 10, 2013, Muthana Ibrahim (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Sections 121.1, 186.1, 303, 303.1, and 718.11 to allow the demolition of the non-conforming automotive gas station (d.b.a. Shell) that includes a non-conforming automotive service use and a retail convenience store, and to allow a lot merger and the reconstruction of the non-conforming automotive gas station (d.b.a. Shell), and a formula retail convenience store

(d.b.a. Loop) located at Assessor's Lots 001, 002, and 034 in Block 0655 (hereinafter "Property"), within the Upper Fillmore Street Neighborhood Commercial District and a 40-X Height and Bulk District.

On February 11, 2015, 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 March 4, 2015; and

On March 12, 2015, the Finalized Mitigated Negative Declaration for the Project was published.

On April 23, 2015, the Planning Commission heard and closed public comment and continued this item to May 28, 2015;

On May 28, 2015, the Planning Commission continued this item to the June 4, 2015 hearing; and

On June 4, 2015, the 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's Director of Commission Affairs, is the custodian of records. File for Case No. 2013.1407E is located at 1650 Mission Street, Fourth Floor, San Francisco, California.

Planning Department staff prepared a Mitigation Monitoring and Reporting program (MMRP), contained in "EXHIBIT C," which material was made available to the public and this Commission for this Commission's review, consideration and action.

On June 4, 2015, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2013.1407CE.

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.

As determined by the Planning Department, nothing about the proposed project as revised or its surrounding circumstances have changed in a way to require additional environmental review.

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2013.1407C, 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 Property is located at the southwest corner of California and Steiner Streets in the Upper Fillmore Street Neighborhood Commercial District (NCD) and a 40-X Height and Bulk District. The three parcels (lots 01, 02, and 034) have a combined lot area of approximately 14,180 square feet and the site is currently developed with a 2,372 square foot one-story building that contains automotive repair service bays and a convenience store, six fuel dispenser pumps under a canopy, and eight uncovered parking spaces. An independent operator, separate from the gas station operator, operates the automotive service station. The site contains approximately 103 feet of frontage along California Street and 137 feet, 6 inches of frontage along Steiner Street. The Shell Gas station was constructed circa 1932 and is a legal nonconforming use pursuant to Planning Code (PC) Section 180. There is one curb cut (31 feet, 10 inches wide) located along the California street frontage and two curb cuts (30 feet, 8 inches and 33 feet wide) located along the Steiner Street frontage.
3. **Surrounding Properties and Neighborhood.** The Project site is located within the northern bounds of the Western Addition neighborhood and borders the south side of the Pacific Heights neighborhood. The site is located one block west of the Fillmore Street corridor, and is on the western edge of the Upper Fillmore Street NCD. The Upper Fillmore Street NCD is characterized as a medium-scaled, multi-purpose commercial district that provides convenience goods to its immediate neighborhood as well as specialized goods and services to a wider area. Commercial businesses are active during both day and evening hours and include a number of bars, restaurants, specialty groceries, and specialty clothing stores.

The subject block contains parcels zoned Upper Fillmore Street NCD and RH-2 (Residential House, Two-Family). To the east across Steiner Street is a grocery store (d.b.a. Mollie Stones) and to the north across California Street is another gas station (d.b.a. Chevron). The adjacent south side parcel is a parking lot, which operates in connection with the California Pacific Medical Center office building at the southeast corner of the subject block. The adjacent parcel to the west contains a four-story mixed-use building with 17 dwelling units over ground floor commercial space.

4. **Project Description.** The Project proposes to demolish the existing gas station (including the underground storage tanks and pipes), auto repair service station and convenience store, and to develop the site with a new one-story over basement 4,608 square foot formula retail convenience store with storage space (d.b.a. Loop), a new canopy with 8 fueling pumps and underground storage tanks for the replacement gas station (d.b.a. Shell), and accessory parking spaces. The Commission modified the project to include the reconstruction of the non-conforming automotive service use and to limit the formula convenience store to 2,499 square feet. The proposed Loop convenience store proposes to feature fresh food items. Other project features include perimeter fencing and landscaping, the reduction of the California Street curb cut width from approximately 32 feet to 28 feet, the elimination of one 33 foot wide curb cut along Steiner Street, and the relocation and reduction of the remaining curb cut width along Steiner Street from approximately 30 feet, 6 inches to 28 feet. The proposed hours of operation for the convenience store and gas station will be between 6:00 a.m. to 2:00 a.m., daily.
5. **Public Comment.** As of May 18, 2015, 45 emails in opposition, one letter of support and a petition of support with 20 signatures have been forwarded to the Department. Supervisor Mark Farrell has stated opposition to the previously proposed 24 hour nature of the project under the "Save Our Fillmore Neighborhood" petition at change.org. The petition includes 380 signatures in opposition to the Project. The comments in opposition include the previously proposed 24 hour operation of the convenience store (the convenience store is currently proposed to operate between 6a.m. and 2a.m. daily), the displacement of the auto repair service station, and the increase in traffic due to addition of refueling pumps. An additional petition in opposition with 134 signatures was submitted.
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. **Vehicle Use Area Screening.** Planning Code Sections 102(V), 102(O), 142 and 156 require the screening from view of vehicle use areas that are greater than 25 linear feet along the public right-of-way, except at driveways necessary for ingress and egress, by a solid fence, a solid wall, or a compact evergreen hedge, not less than four feet in height. Any such vehicle use areas shall provide screening in accordance with the requirements of this Section and the Ornamental Fencing under Section 102.32.

The Project will provide the necessary screening. The proposed perimeter screen design includes metal fencing between concrete posts installed within a planter strip along the sidewalk. Compact evergreen hedges are proposed to be installed behind the metal fencing in the perimeter planter along California and Steiner Streets. In addition, several built-in public benches are proposed along the public right-of-way as part of the permanent perimeter-screening feature.

- B. **Lot Size.** Per Sections 121.1 and 718.11, a lot size is permitted up to 4,999 square feet and is conditionally permitted for lots 5,000 square feet and above within the Upper Fillmore Street NCD.

The Project proposes to merge the three lots currently occupied by the gas station use into one 14,180 square foot lot. The proposed lot size is above the lot size permitted and the Project is seeking a Conditional Use Authorization.

- C. **Use Size.** Per Sections 121.2 and 718.21, a non-residential use size is permitted up to 2,499 square feet and is conditionally permitted for a use size of 2,500 square feet and above within the Upper Fillmore Street NCD.

The Project proposes to construct an approximately 4,600 square foot convenience store with storage. Approximately 2,300 square feet will be dedicated towards retail sales. The proposed total use size is above the limit permitted and the Project is seeking a Conditional Use Authorization. At the June 4, 2015 public hearing, the Commission modified the project to limit the formula retail use to the as-of-right permitted use size of 2,499 square feet. Therefore, a Conditional Use authorization for use size is not required.

- D. **Rear Yard Requirement in the Upper Fillmore Street NCD.** Planning Code Section 134 states that a rear yard equal to 25 percent of the total depth shall be provided at the second story and above and at all residential levels.

The proposed single-story commercial development is not required to provide a rear yard.

- E. **Street Trees.** Planning Code Section 138.1 requires one 24-inch box size street tree for every 20 feet of frontage of the property along each street or publicly accessible rights-of-way directly fronting the property when constructing a new building.

The Property has 103 feet of frontage along California Street and 137 feet, 6 inches of frontage along Steiner Street. The Project is required to provide five street trees along California Street and seven along Steiner Street, where none currently exist. The feasibility of tree planting will require the review and approval of the Department of Public Works Bureau of Urban Forestry. The proposed Project includes one new street tree along California Street and five new street trees along Steiner Street to be planted along the rights-of-way due to the location of existing underground utilities, street signs and other improvements. Therefore, the Sponsor will be required to pay in-lieu fees for the six remaining required trees.

- F. **Street Frontage in Neighborhood Commercial Districts.** Section 145.1 of the Planning Code requires that within NC Districts space for active uses shall be provided within the first 25 feet of building depth on the ground floor and 15 feet on floors above from any facade facing a street at least 30 feet in width. In addition, the floors of street-fronting interior spaces housing non-residential active uses and lobbies shall be as close as possible to the level of the adjacent sidewalk at the principal entrance to these spaces. Frontages with active uses that must be

fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level and allow visibility to the inside of the building. The use of dark or mirrored glass shall not count towards the required transparent area. Any decorative railings or grillwork, other than wire mesh, which is placed in front of or behind ground floor windows, shall be at least 75 percent open to perpendicular view. Rolling or sliding security gates shall consist of open grillwork rather than solid material, so as to provide visual interest to pedestrians when the gates are closed, and to permit light to pass through mostly unobstructed. Gates, when both open and folded or rolled as well as the gate mechanism, shall be recessed within, or laid flush with, the building facade.

The proposed new convenience store structure has approximately 29 feet of frontage along Steiner Street with approximately 19 feet (66 percent) devoted to window space. The windows are clear and unobstructed.

- G. **Parking.** Planning Code Section 151 requires one off-street parking space for every 500 square-feet of occupied floor area, where the occupied floor area exceeds 5,000 square-feet. In NC districts, a maximum of three spaces are permitted as accessory parking, where no off-street parking spaces are required by this Section.

The Project includes a new building with less than 5,000 square feet of occupied floor area and therefore does not require any off-street parking. However, the Project is proposing to provide three permitted accessory parking spaces.

- H. **Bicycle Parking.** Planning Code Section 155.2 requires a minimum of two Class 2 spaces and one Class 2 space for every 2,500 square feet of occupied floor area.

The Project proposes to provide six new Class 2 bicycle parking along Steiner Street, above the two required by Code.

- I. **Nonconforming Uses.** Planning Code Section 186.1(c)(3)(C) a nonconforming use described in zoning category .57 (gas station), may be demolished and reconstructed as the same use or may change to another use described in zoning categories .57, .58 or .59, even though such other use is not permitted in that Neighborhood Commercial District, upon approval of a conditional use application.

The Project is seeking Conditional Use Authorization to demolish and reconstruct the existing nonconforming gas station use. The Project is proposing to remove the existing nonconforming automotive service use. However, at the June 4, 2015 public hearing, the Commission modified the project and approved the reconstruction of the automotive service use.

- J. **Conversion of Automotive Service Station.** Per Planning Code Section 202.5 the conversion of service stations to non-service station use has resulted in the curtailment of essential services, including automobile refueling and emergency

services, and is contrary to the public health, safety, peace and general welfare. A Conditional Use Authorization is required for a change of use of a property from a service station use to a different type of use.

The Automotive Gas Station and Service use are approved to be reconstructed.

- K. **Formula Retail.** Planning Code Sections 303.1 and 703.4 requires a Conditional Use Authorization for the establishment or expansion of a new formula retail use in any Neighborhood Commercial Districts.

The Loop convenience store is reported to have 12 existing locations and is therefore considered a formula retail establishment. The proposed 13th location seeks Conditional Use Authorization for the establishment of a new formula retail use.

- L. **Hours of Operation.** Planning Code Section 718.27 states that operation between 6a.m. and 2a.m. is permitted within the Upper Fillmore Street NCD.

The proposed gas station and convenience store will operate between the permitted hours of 6a.m.to 2a.m.

- M. **Signage.** Section 607.1 of the Planning Code permits business signs to be located within Neighborhood Commercial Districts with limitations based on the type of signage. Wall signs in the Upper Fillmore Street NCD are limited to two square feet per foot of street frontage occupied by the use measured along the wall to which the signs are attached, or 100 square feet for each street frontage, whichever is less. The height of any wall sign shall not exceed 24 feet, or the height of the wall to which it is attached, or the height of the lowest of any residential windowsill on the wall to which the sign is attached, whichever is lower. Such signs may be non-illuminated, indirectly, or directly illuminated.

The proposed new wall sign for the convenience store (d.b.a. Loop) complies with the size and placement as specified by Planning Code Section 607.1. The existing free-standing monument sign will be reconstructed in a similar location and will be reduced from approximately 30 feet tall to 17 feet tall. The new monument sign has been designed to integrate with the new perimeter fencing. Any proposed signage will be subject to the review and approval of the Planning Department.

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 as revised by the Commission at the June 4, 2015 hearing, is necessary and desirable in that the existing automotive service use and gasoline station will be retained, which is a necessary amenity for the City. The proposed retail store will continue to provide convenience goods for customers at the time of refueling their vehicles as well as providing a convenience to the neighborhood at large. The project sponsor has stated that the new convenience store will include fresh food products. The below-grade storage area is necessary for the operation of the proposed above ground retail component.

The neighborhood voiced a strong desire to retain the existing automotive service station that has been in operation for many years. The Commission found the retention of the service use to be necessary and desirable and modified the approval action to include the reconstruction of the service use.

The reconstruction of the service use and the increase in the number of fuel dispensing pumps will allow the project sponsor to upgrade the existing facility and to increase the utility of the site. The proposed reconstruction will allow the owners to improve their facility and will also enable the gas station and service station to continue to provide essential services to the public.

- B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:
- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

The proposed lot merger does not increase the size of the existing development site and is therefore in keeping with the existing character of the neighborhood. The height and bulk of the replacement structure will be similar in footprint and location to the service station and convenience store building proposed to be demolished. The proposed configuration of the structure will be at the property line along Steiner Street, which has been designed to promote activity along the street. The proposed curb cut reduction will also improve the pedestrian safety by reducing the points of modal conflicts. Additionally, the proposed perimeter screening and built-in public bench features will be an improvement for the pedestrian and public experience.

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

The Planning Code does not require parking or loading for the subject use, although three accessory parking spaces are permitted and proposed. The Project has undergone Environmental Review under Case No. 2013.1407E, where a Mitigated Negative

Declaration has been issued (EXHIBIT C). Condition no. 13 requires the Sponsor to continue to work with the City to evaluate pedestrian and vehicular safety.

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

The gasoline and automotive service use will continue to operate and is not expected to generate additional noxious or offensive emissions beyond the existing conditions.

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

The proposed perimeter fencing and landscaping have been designed to meet Planning Code requirements and to provide an improved pedestrian realm. The material choice and the low profile of the built-in open fencing and posts in the landscape planters will provide an appropriate buffer and transition between the public right-of-way and the gas station for the pedestrians. The project sponsor has also provided built-in public seating along both California and Steiner Streets. All proposed accessory parking is located away from the perimeter of the site and all loading activity will be conducted on-site.

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

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

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

The proposed project is consistent with the stated purpose of the Upper Fillmore Street NCD in that the intended use is located at the ground floor, will provide a compatible convenience service for the immediately surrounding neighborhoods during daytime and evening hours. The continuation of the automotive service and gas station provides a necessary amenity to the community.

- 8. **Formula Retail.** Planning Code Section 303.1 provides additional criteria for the Planning Commission to consider, in addition to the criteria set forth in Section [303](#), the criteria below and the Performance-Based Design Guidelines adopted by the Planning Commission to implement the criteria below for any Formula Retail Uses:

- a. The existing concentrations of formula retail uses within general vicinity of the proposed project.

Based on data provided by the project sponsor, there are approximately 41 existing formula retail establishments out of approximately 215 retail establishments within the

district and ¼ mile radius vicinity and district of the subject site. The existing and proposed formula retail use concentration is approximately 19 percent of all commercial uses within the vicinity. The proposed formula retail use (d.b.a. Loop) would not increase the concentration of formula retail establishments in the vicinity as it replaces an existing formula retail use (d.b.a. Shell Food Mart). Loop is a local convenience store retailer that operates in conjunction with gas stations. There are 12 existing locations, all within California.

- b. The availability of other similar uses within the district and within the vicinity.

There is one other gas station convenience store and six convenience/corner stores within the vicinity. The concentration of existing and proposed convenience stores within the ¼ mile vicinity is 4 percent. There is one other service station across the street, d.b.a. Chevron, within the area.

- c. The compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the district.

The project will occupy an existing storefront previously occupied by a formula-retail convenience store (d.b.a. Shell Food Mart) and therefore will have no effect on the architectural and aesthetic character of the district. The proposed design is more appropriate as the new structure is relocated to the property line with increased fenestration.

- d. The existing retail vacancy rates within the district.

There are currently 8 vacancies out of 215 establishments, which is 4 percent.

- e. The existing mix of Citywide-serving retail uses and daily needs serving retail uses within the vicinity.

The proposed project will not alter the mix of Citywide versus daily needs serving uses within the vicinity as the proposed demolition and reconstruction of the gas station and convenience store will occupy the same amount of street frontage. The existing daily needs serving uses concentration within the district is approximately 16 percent.

- f. Additional data and analysis set forth in the Performance-Based Design Guidelines adopted by the Planning Commission.

The project has been designed to improve the existing site conditions. Improvements to the site design include reduced curb cuts to increase pedestrian safety and access; perimeter fencing and public seating to better integrate with the urban context, reduced height of the free standing monument signage; relocation of the convenience store to more

appropriately continue the street wall and new fenestration on the structure to provide visibility and transparency of the retail use.

Of the approximate 10,399 feet of commercial frontage within the ¼ mile vicinity, approximately 1,910 linear feet is occupied by formula retail uses, which is approximately 18 percent. Other formula uses near the subject property include Chase, Rag and Bone, Wells Fargo, and La Boulange.

Additionally, based on analysis provided by the project sponsor from data collected in March 2015, 24 percent of the ground floor businesses within the subject NCD are occupied by formula retail use (36 of 151).

The use mix is varied within the subject district. The highest proportion of use within the district is retail (48 percent), and the second highest proportion of use is restaurant (17 percent). The remaining 35 percent are split between uses such as personal service, limited restaurant, vacant, and financial services.

- g. For formula retail uses of 20,000 square feet or more, except for General or Specialty Grocery stores as defined in Articles 2, 7, 8 of this Code, the contents of an economic impact study prepared pursuant to Section 303(i) of the Planning Code.

As the subject retail use is less than 20,000 square feet, an economic impact study is not required for this project.

- 9. **Planning Code Section 121.1** establishes additional criteria for the Planning Commission to consider when reviewing applications in excess of the lot size limit:

- a. The mass and facade of the proposed structure are compatible with the existing scale of the district.

The proposed retail convenience store has been relocated to the property line on Steiner Street and the width of the structure has been designed to be compatible with the other storefronts within the NCD. The proposed perimeter fencing has been designed to provide screening for the vehicular use area and is an improvement from the existing gas station design.

- b. 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 proposed convenience store includes fenestration that is compatible with the neighborhood context.

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

NEIGHBORHOOD COMMERCE

Objectives and Policies

OBJECTIVE 1:

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

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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 Project will provide substantial net benefits with negligible undesirable consequences to the residents of the Western Addition and Pacific Heights neighborhoods because gasoline service stations and retail convenience stores provide essential goods and services to the public. Traffic conditions will remain substantially unaltered because the number of new trips that will be generated by the Project will be minimal and will not affect adjacent roadway operations generated by the Project.

OBJECTIVE 2:

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

Policy 2.1:

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

Approval of the Project will allow the retention of an existing gas station, automotive service use and retail convenience store. The existing site has been developed with these uses for many years. The removal of such uses would result in the reduction of the available goods and services in the neighborhood. The reconstruction will allow the project sponsor to increase the value, efficiency

and safety of the site and enable the retention and continued operation of the existing automotive service and gas station, which provides essential services to the public.

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

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

The Project will preserve the existing automotive gasoline and service station, which provides essential services to the public and the expanded retail convenience store, is a desirable neighborhood-serving use. The proposed formula retail convenience store is replacing an existing formula retail use and will therefore not affect the concentration of formula retail establishments in the area.

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

The existing residential units in the surrounding neighborhood would not be adversely affected by the project. The new convenience store structure will remain as a single-story structure and the proposed canopy will be approximately the same height as the existing canopy and will thereby preserve the existing character of the neighborhood. The proposed convenience store will extend to the Steiner Street property line to be more in keeping with the existing street wall. In addition, the proposed perimeter screening, landscaping and public seating will be an improvement to the character of the neighborhood.

- 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.

The Project is not expected to generate additional demand on neighborhood parking, and will not impede MUNI transit nor overburden the City's streets because the number of new trips that will be generated by replacing the existing gas station, automobile service station and convenience store with a new gas station and convenience store will be minimal and will not affect adjacent roadway operations. Furthermore, the location of the structures and the amount of space available for queuing and circulation within the Property will not result in negative effects to commuter traffic.

- 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 is approved to reconstruct the existing automotive service use and gas station. The proposed formula retail convenience store is replacing an existing formula retail use and will therefore not affect the concentration of formula retail establishments in the area.

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

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

- G. That landmarks and historic buildings be preserved.

A landmark or historic building does not occupy the Project site.

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

The project will have no negative effects on existing parks and open spaces.

12. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
13. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2013.1407C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated November 20, 2014, and stamped "EXHIBIT B" and as amended per the Commission action on June 4, 2015, 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 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.

The Planning Commission further finds that since the MND was finalized, there have been no substantial project changes and no substantial changes in project circumstances that would require major revisions to the MND due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the MND.

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. 19383. 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.

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 June 4, 2015.

Jonas P. Ionin
Commission Secretary

AYES: Commissioners Fong, Wu, Hillis, Johnson, Antonini, Moore and Richards

NAYS: N/A

ABSENT: N/A

ADOPTED: June 4, 2015

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow the demolition of the non-conforming automotive gas station (d.b.a. Shell) that includes a non-conforming automotive service use and a retail convenience store, and to allow a lot merger and the reconstruction of the non-conforming automotive gas station (d.b.a. Shell), non-conforming automotive service use, and a Formula Retail convenience store (d.b.a. Loop) within the permitted use size limit of 2,499 square feet, located at 2501 California Street, Assessor's Lots 001, 002, and 034 in Block 0655, pursuant to Planning Code Sections 121.1, 186.1, 303, and 718.11 within the Upper Fillmore Street Neighborhood Commercial District and a **40-X** Height and Bulk District; in general conformance with plans, dated **November 20, 2014**, and stamped "EXHIBIT B" as amended per the Commission's action on June 4, 2015, included in the docket for Case No. **2013.1407C** and subject to conditions of approval reviewed and approved by the Commission on **June 4, 2015** under Motion No **19383**. 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 4, 2015**, under Motion No **19383**.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **19383** shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

SEVERABILITY

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

CHANGES AND MODIFICATIONS

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

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.

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

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

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

3. **Diligent pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.

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

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

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

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

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

MITIGATION MEASURES

6. 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 the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

DESIGN

7. **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

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 415-558-6378, www.sf-planning.org.

9. **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 415-558-6378, www.sf-planning.org

10. **Landscaping, Screening of Parking and Vehicular Use Areas.** Pursuant to Planning Code Section 142, the Project Sponsor shall submit a site plan to the Planning Department prior to Planning approval of the building permit application indicating the screening of

parking and vehicle use areas not within a building. The design and location of the screening and design of any fencing shall be as approved by the Planning Department. The size and species of plant materials shall be as approved by the Department of Public Works. Landscaping shall be maintained and replaced as necessary.

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

PARKING AND TRAFFIC

11. **Bicycle Parking.** Pursuant to Planning Code Sections 155.1 and 155.4., the Project shall provide no fewer than **two** Class 2 bicycle parking spaces.

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

12. **Parking Maximum.** Pursuant to Planning Code Section 151.1, the Project shall provide no more than **three** off-street parking spaces.

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

13. **Managing Traffic.** The Project Sponsor shall continue to work with the Planning Department and San Francisco Municipal Transportation Agency (SFMTA) as part of the Building Permit approval process to further evaluate traffic calming measures to minimize pedestrian and vehicular safety impacts. The Project Sponsor and construction contractor(s) shall also 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

PROVISIONS

14. **Transit Impact Development Fee.** Pursuant to Planning Code Section 411, 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

MONITORING

15. **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

16. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

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

OPERATION

17. **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/>*

18. **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