



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
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- 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. 18510 HEARING DATE: DECEMBER 15, 2011

Date: December 8, 2011
Case No.: **2011.1046C**
Project Address: **1401 CALIFORNIA STREET**
Zoning: Polk Street Neighborhood Commercial District
 65-A Height and Bulk District
Block/Lot: 0250/001 and 020
Project Sponsor: Don Bragg
 The Prado Group
 150 Post Street
 San Francisco, CA 94108
Staff Contact: Rick Crawford – (415) 558-6358
rick.crawford@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303, 703.4, (FORMULA RETAIL) AND 723.21 (NON-RESIDENTIAL USE SIZE GREATER THAN 1,999 SQUARE FEET), OF THE PLANNING CODE TO MODIFY THE EXISTING GROCERY STORE FOR A NEW GROCERY STORE (D.B.A. TRADER JOE’S) AND A NEW PHARMACY STORE (D.B.A. CVS PHARMACY), WITHIN THE POLK STREET NEIGHBORHOOD COMMERCIAL DISTRICT AND 65-A HEIGHT AND BULK DISTRICT.

PREAMBLE

On September 8, 2011 Don Bragg of Prado Group (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Sections 303, 703.4 (Formula Retail), and 723.21 (Non-residential Use Size greater than 1,999 square feet) to modify the existing grocery store for a new grocery store (d.b.a. Trader Joe’s) and a new pharmacy store (d.b.a. CVS Pharmacy), within the Polk Street Neighborhood Commercial District and 65-A Height and Bulk District.

On December 15, 2011, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2011.1046C.

The Department determined that the project is not subject to the California Environmental Quality Act ("CEQA") as a nonphysical activity that would not result in a direct or reasonably foreseeable indirect physical change in the environment per CEQA Guidelines Section 15060(c)(2).

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2011.1046C, 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 is located at the southwest corner of California and Hyde Streets, Block 0250, Lots 001, and 020, within the Polk Street Neighborhood Commercial District and the 65-A Height and Bulk District. The property is rectangular with 137.5 feet of frontage on Hyde Street and 117 feet of frontage on California Street. The property is occupied by a 30,087 square foot grocery store (d.b.a. Cala Foods, a formula retail use) on the top level of a two-story parking garage. The parking garage contains 79 parking spaces, 21 spaces on top, 58 spaces and an area for off-street loading on the bottom level. The garage has two-way access to both California and Hyde Streets and a ramp provides vehicle access between the two parking levels. The existing Cala Foods store is open 24-hours a day, seven days a week. The Cala Foods store is closing and vacating the property in 2012. The property was developed in 1961 and the retail building is considered a historic resource because of the building's design.
3. **Surrounding Properties and Neighborhood.** The project site is located at the intersection of California and Hyde Streets at the eastern extremity of the Polk Street NCD. The surrounding neighborhood is primarily comprised of small to medium sized apartment buildings. Some of the buildings at the intersection of California and Hyde Streets, and toward the west on California Street, feature ground floor commercial. With the exception of the properties to the west along California Street and directly across Hyde Street, which are in the Polk Street NCD, the surrounding properties are located within the RM-3 (Residential Mixed, Medium Density) and RC-4 (Residential Commercial Combined, High Density) Districts.
4. **Project Description.** The applicant proposes to modify the existing grocery store for a new grocery store (d.b.a. Trader Joe's) and a new pharmacy store (d.b.a. CVS Pharmacy). The project would divide the existing 30,087 square-foot retail space into a 14,578 square-foot grocery store (Trader Joe's, a formula retail use), a 10,956 square-foot pharmacy store (CVS, a formula retail

use), and provide 4,553 square feet of common area. The project would reconfigure the parking arrangement to provide up to 86 parking spaces and replace the existing vehicle ramp between the parking levels with a pedestrian elevator.

Trader Joe's would provide a general grocery store use, which would include the sale of groceries, including specialty foods, meat, produce, bakery items, health and beauty aids, beverages, fresh cut flowers and plants, prepared foods and alcoholic beverages to be consumed off site.

The CVS pharmacy store would provide a retail drug store and pharmacy use which would include the sale of pharmaceutical products requiring the services of a registered pharmacist, vitamins and health supplements, health and beauty aids, greeting cards, party goods, photo supplies, processing and printing, candy and food items and alcoholic beverages for off-premise consumption. The CVS store would be open 24-hours a day, seven days a week, the same hours as the existing Cala Foods store.

5. **Public Comment.** The Department has received public comment on this Project from 16 people in support and one person in opposition to the project.
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. **Use Size Limits.** Planning Code Section 121.2 states that Conditional Use Authorization is required for uses within this District that exceed 2,999 square feet. The proposed use sizes are approximately 14,578 square feet and 10,956 square feet in area. In addition to the criteria set forth in Section 303(c) as set forth, the project is consistent with the following criteria set forth in Section 121.2.
 - i. The intensity of activity in the district is not such that allowing the larger use will be likely to foreclose the location of other needed neighborhood-serving uses in the area.

The existing building is a noncomplying structure due to its floor area, and the project would only alter the building interior in order to demise the space for two tenants and strengthen the buildings structural elements. Trader Joe's has a smaller store footprint than the existing Cala Foods store. To accommodate this difference the Project Sponsor would divide the existing 30,087 square foot building to accommodate two discrete uses. Trader Joe's would occupy the majority of the space with 14,578 square feet and a CVS pharmacy store would occupy the remaining 10,956 square feet of retail space. The two uses would share 4,553 square feet of common area that includes a shared loading dock. The project would not increase the intensity of activity on the site or within the district, nor would it foreclose the location of other neighborhood serving uses in the area. The project would maintain the existing building footprint and retail floor area. The co-tenants are complimentary and together would provide local residents with a similar variety of grocery and everyday needs items currently sold by the existing Cala Foods store.

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

The proposed Trader Joe's and CVS pharmacy store would serve residents of Polk Gulch, Nob Hill, Russian Hill and the Tenderloin, similar to how the existing Cala Foods currently serves these surrounding neighborhoods. Due to the area's significant residential density, the immediate neighborhood and residents within a one-half mile radius would be severely affected if another grocery store did not replace the existing Cala Foods when the store closes in 2012 as scheduled. The loss of a grocery store would force residents out of the neighborhood to fulfill their grocery needs. The resulting increase in traffic flows and loss of local foot traffic in the area would be detrimental to surrounding businesses. By including the CVS pharmacy store in the project, shoppers would be able to accomplish one-stop shopping by purchasing groceries at Trader Joe's and their health care and pharmaceutical needs at CVS.

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

The existing building is a legal nonconforming use in excess of the size limitations of Planning Code Section 121.2. The proposed project would not increase the degree of nonconformity or otherwise modify the building's height of building footprint. The building was designed for one tenant occupying the entire 30,087 square-foot retail space. The project would divide the large space into two discrete elements of 14,578 square-feet (Trader Joe's grocery store), and 10,956 square-feet (CVS pharmacy store), and provide 4,553 square feet of common area. With this division, the uses in the building would be in closer compliance with the use limits of Section 121.2 and the building could not be restored to the current configuration of one large tenant occupying 30,087 square feet.

- B. **Formula Retail.** Planning Code Section 703.3 states that a Conditional Use Authorization is required for Retail Uses within this District. The proposed use, CVS is a national chain establishment with more than eleven stores. Section 303(i) requires that, with respect to an application for Conditional Use authorization for formula retail use, the Planning Commission shall consider the following criteria:

- i. The existing concentrations of formula retail uses within the Neighborhood Commercial District.

In addition to the existing Cala Foods store on the Project Site, the Polk Street NCD includes approximately 16 other formula retail uses. The Polk Street NCD extends approximately 0.9 miles along Polk Street and includes a four-block stretch along Larkin Street and one block on Hyde Street. With seventeen formula retail uses, this large Neighborhood Commercial District has a fairly low concentration of such uses relative to other NCDs in the City. The project would replace one existing formula retail use with two new formula retail uses, adding one more such use to the District.

- ii. The availability of other similar retail uses within the Neighborhood Commercial District.

Trader Joe's would replace the largest general grocery store in the District. Currently there are three general grocery stores within one half mile of the Project Site, Cala Foods (1401 California Street), Whole Foods (1765 California Street) and Big Apple Discount Center (1650 Polk Street). With over 52,000 residents living within that radius, the neighborhood would be at a significant loss if the Cala Foods store were not replaced with another general grocery store. The project would maintain one of the three general, grocery stores in the area.

The Polk Street NCD currently features three Walgreens pharmacy stores. The proposed CVS pharmacy store would add more competition to the surrounding marketplace and reduce Walgreens' current monopoly in the neighborhood. The CVS store would provide 24-hour pharmacy service that would benefit the residents and patients from St. Francis Hospital that do not currently enjoy this type of service from any existing pharmacy.

- iii. The compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the Neighborhood Commercial District.

The Project Sponsor is not proposing to alter the exterior of the building and therefore the project is compatible with the existing character of the neighborhood. The project would improve the visual quality of the property by repainting the building, restriping the parking lot, and upgrading and increasing the landscaping on the property.

- iv. The existing retail vacancy rates within the Neighborhood Commercial District.

The project would replace an existing formula retail grocery store with a new formula retail grocery store and a formula retail pharmacy store within the same space occupied by the existing formula retail use. The project would prevent a major retail vacancy in the district due to the pending departure of Cala Foods. The introduction of two new anchor type stores, Trader Joe's and CVS, to the district can be expected to increase business and leasing activity among the neighborhood's retail spaces.

- v. The existing mix of Citywide-serving retail uses and neighborhood-serving retail uses within the Neighborhood Commercial District.

The District is comprised primarily of small neighborhood serving retail uses including beauty shops, laundromats, dry cleaners, restaurants, flower shops, bars, jewelry stores, medical and dental offices, hardware stores, liquor stores, fitness centers, bookstores, drug stores, specialty retail stores and a post office, in addition to the existing Cala Foods grocery store. The project would not change this mix of uses but would replace an existing formula retail grocery store with a new grocery store and add more competition to Walgreens' current monopoly on the neighborhood's pharmacies with the addition of the CVS pharmacy store.

- C. **Parking.** Section 151.1 requires one off-street parking space for each 500 square feet of occupied floor area up to 20,000 where the occupied floor area exceeds 5,000 square feet, plus one for each 250 square feet of occupied floor area in excess of 20,000.

The project includes 30,087 square feet of occupied floor area and is required to provide a minimum of 80 off-street parking spaces. The project would provide 86 off-street parking spaces for its customers, 23 in the upper level and the remaining 63 in the lower level, for an increase of approximately 7 spaces. Project employees would not be allowed to park on the premises. The area is well served by public transportation, and the new tenants would promote local hiring and provide alternative transportation amenities such as secured indoor bicycle parking to discourage employees from driving to work.

The estimated maximum inbound queue at either vehicular entrance would be less than one vehicle. Nonetheless, to prevent queues on the public right-of way from occurring, the project would be required to implement a no queue condition of approval, which includes monitoring for queues and implementing abatement measures, if necessary, to eliminate recurrent queuing.

- D. **Loading.** Planning Section 152 of the Planning Code requires one off-street loading space for a retail store up to 60,000 square feet in area.

The project would continue to provide one off-street freight loading space at the loading dock with direct access to California Street. In addition, there are six metered commercial/service spaces on the south side of California Street adjacent to the site, as well as five more on Hyde Street, one adjacent to the site, two across the street, and the remaining two on the west side, immediately to the south of the project.

The existing off-street loading dock would remain in its current configuration while the rear of the loading dock area would be modified, including a new service elevator, to provide loading dock access for both tenants. The dock is about 64 feet long from the roll up door to the loading area, and approximately 24 feet wide from column to column. The clearance heights are approximately 15.5 feet at the sidewalk and 13.5 at the rear.

Current deliveries to Cala Foods are approximately 18 trucks per weekday, plus 3 on weekends. About one fourth (four to five) of the daily trucks are tractor-trailer combinations (about 60 feet long), half (nine) are single-unit body (about 30 to 40 feet long) and the rest (four to five) are small vans and pickups, up to 20 feet long. Per current operations at Cala Foods, general receiving hours are from 7 AM to 11 AM although trucks have been observed to arrive outside this time period; Cala Foods has implemented a truck delivery curfew between 10 PM and 5 AM.

In order for a tractor-trailer truck to back into the loading area, drivers approach the site from eastbound California Street, positioning the truck within the first (center) eastbound travel lane prior to backing into the loading dock (a tractor-trailer typically has a turning radius of about 50 feet). During the time (less than one minute) it takes for such a truck to maneuver into the loading dock, traffic on California Street, potentially including cable cars, are briefly blocked. The loading dock manager assists truckers to maneuver into the loading dock and to control bicycle, pedestrian and

vehicular traffic on California Street. Single-unit body trucks are able to back into the loading dock from the curb lane.

A condition of approval limiting hours for loading activities and requiring a loading dock manager on site is recommended to ensure that loading operations do not disrupt the neighborhood or block traffic for an inordinate amount of time.

- E. **Bicycle Parking.** Planning Code Section 155.4 requires three Class I bicycle parking spaces in a retail building with an area between 25,000 square feet and 50,000 square feet. The Section only requires this parking for new construction or renovations costing over \$1,000,000. The estimated cost of construction of the project is \$3,465,000 and three bicycle parking spaces are required.

The project would provide 15 Class II publicly accessible bicycle spaces on bike racks in the upper level of the garage, to the east of the new elevator near the pedestrian entrance. The project would also provide a minimum of three Class I bicycle spaces inside the building for use by its employees. The Project Sponsor would be utilizing bike-parking criteria designed in conjunction with the San Francisco Bicycle Coalition.

- F. **Screening and Greening of Parking and Vehicle Use Areas.** Section 142 of the Planning Code requires that off-street parking and "vehicle use areas" adjacent to the public right-of-way shall be screened. Screening is required for existing developments when; the floor area of the building on the property is expanded by 20%, the number of existing parking spaces is increased by 20% or more than 4 spaces, or the removal of more than 200 square feet of paving.

The project features a two-story parking garage with open parking on the second level off Hyde Street. The project would reconfigure the parking to provide an additional seven spaces and replace the existing pedestrian ramp to the lower parking level with an elevator. The project would also upgrade the screening and greening of the parking structure.

The Hyde Street frontage would be enhanced with decorative fencing with vines and low shrubbery in planters. A small open plaza would be created on the Project Site at the corner of Hyde and California Streets. The plaza would include an overhead metal trellis to shade bench seating. Planters with low shrubs and vines would be added to the plaza. The California Street frontage would be treated in two different ways. The edge of the top level of the parking garage would be treated with fencing and plants in the same manner as the Hyde Street frontage. This area would also feature a headlight height panel to screen headlights for the upper-level residential uses across California Street. Finally, the lower level of the parking garage along California Street would feature plantings of vines and other climbing plants on metal trellises attached to the existing blank walls to soften the look of the garage.

- G. **Signage.** The Project Sponsor has submitted a sign program for the project. The proposed signage complies with the limitations of the Planning Code and individual signs are subject to the review and approval of the Planning Department.

- H. **Hours of Operation.** Planning Code Section 723.27 principally permits hours of operation from 6 a.m. to 2 a.m., as defined by Planning Code Section 790.48.

The Trader Joes store proposes hours of operation from 8:00 a.m. to 10:00 p.m. The CVS pharmacy store proposes to operate 24-hours a day, seven days a week. The Cala Foods store existing on the property currently operates 24-hours a day and seven days a week. The definition of "Hours of Operation" in Planning Code Section 790.48 includes an exception for pharmacy stores permitting 24-hour operations provided that the following conditions are met during any period between 11:00 p.m. and 6:00 a.m. in which the pharmacy is open for business:

- i. A pharmacist licensed by the State of California in accordance with the California Business and Professions Code is on duty on the premises;

The CVS pharmacy store would have a pharmacist licensed by the State of California in accordance with the California Business and Professions Code on duty on the premises 24-hours a day, seven days a week.

- ii. The pharmacy provides prescription drugs for retail sale;

The CVS pharmacy store would provide prescription drugs for retail sale 24-hours a day, seven days a week.

- iii. The pharmacy provides adequate lighting and security for the safety of customers, residents and the adjoining property, including adequate lighting and security for any parking facilities provided. Such lighting and security may not negatively affect neighborhood character.

The CVS pharmacy store would use the same lighting and security arrangements as the Cala Foods store currently in operation on the property. Cala Foods has operated 24-hours a day and seven days a week for many years without a negative affect on the neighborhood. The continuation of this practice by CVS would have a similar affect.

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 proposed project is both necessary and desirable because it would continue to provide a grocery store use for Nob Hill, Russian Hill, Polk Gulch, and Tenderloin residents upon closure of the existing Cala Foods grocery store when the lease expires on December 31, 2011. Cala Foods is owned and operated by Kroger's and they no longer have any operating grocery stores in Northern California,

with the exception of this store. This is the last of their planned closures and they do not plan to open any new stores in the area at this time. The site has been used as a grocery store since the building was constructed in 1961 and this project would continue the grocery use.

The existing grocery store is closing and would leave the surrounding residents with few grocery store options. Currently the existing grocery stores within one-half a mile of the project are Whole Foods (1765 California Street) and Big Apple Discount Center (1650 Polk Street). The existing grocery store did not include a pharmacy department and had a limited health product section. The addition of a full service pharmacy to the site as a co-tenant with the grocery store would help to serve the neighborhood's needs and convenience.

There are over 52,500 residents' living within one half of a mile radius of the project, and these neighborhood residents would experience a significant loss and hardship if the existing grocery store was not replaced by another grocery store and convenience oriented shopping. In addition, the project site is one block from St. Francis Memorial Hospital that has a significant daytime population that would benefit from the proposed project. Many hospital employees and visitors utilize the existing grocery store due to its close proximity. The proposed pharmacy at the site anticipates a significant portion of its customer base coming from activity at St. Francis Memorial Hospital.

The project would provide an anchor for the other retail uses along California Street. Grocery stores and pharmacies are a vital asset to local communities and neighborhoods. Numerous planning policy organizations have cited the ability of grocery stores to serve as a retail anchor to commercial districts, attracting more customers to surrounding neighborhood serving businesses such as drycleaners, video stores, and restaurants. Further, grocery stores generate new jobs. In San Francisco, at least five grocery stores have closed their doors in recent years, leaving local residents with fewer nearby grocery shopping options

The City of San Francisco has adopted policies that show the necessity of maintaining grocery store uses in the City. For instance, a change in use or demolition of a general grocery store use that exceeds 5,000 gross square feet requires conditional use authorization under the Planning Code. The Office of Economic and Workforce Development has specifically targeted and encouraged grocery stores to open in San Francisco through various economic incentive programs, such as Enterprise Zone (EZ) Tax Credits, EZ Payroll Tax Credits, EZ Loan Programs, and Expedited Planning Review for grocery stores that exceed 15,000 SF.

The existing Cala Foods grocery store operates 24-hours per day. The Project Sponsor is proposing the same hours for the CVS pharmacy store in order to continue to provide the availability and convenience of basic items, beauty products, and household goods at any time of the day to residents of the surrounding neighborhood who have benefitted from Cala Foods' 24-hours of operation. Nearby St. Francis Memorial Hospital serves patients 24-hours a day and the addition of a 24-hour pharmacy would be a significant benefit to those who need prescriptions filled when leaving the hospital at later hours. No other pharmacies in the nearby vicinity operate 24-hours a day so a CVS pharmacy store operating 24-hours a day would be especially desirable at this location.

- 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 existing legal, non-conforming building is used as a general grocery store. The proposed project is a general grocery store and retail pharmacy store. As the building would continue to be occupied by a grocery store and would only be altered or modified on the interior to accommodate a full service pharmacy and bring the building to code compliance, the vast majority of the building's exterior, the proposed site, its shape and form, as well as the size, shape and arrangement of the structure would remain the same as in its existing condition. The addition of the proposed elevator would improve accessibility from the retail level to the parking garage. As previously stated, most buildings along California Street and Hyde Street are three stories in height. The existing building on the project site is primarily one story, above a parking garage, and thus in conformity with existing height and bulk requirements. The project does not include exterior alterations that would affect the size, shape, or arrangement of the structure on the lots.

- 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 project area is well served by MUNI and is within short walking distance of several transit lines. The cable car on California Street and the MUNI 27 Bryant bus line on Hyde Street run directly in front of the property; the MUNI 1 California bus line runs one and two blocks from the property on Sacramento Street and Clay Street, depending on direction traveled; and the MUNI 19 Polk bus line runs two blocks from the property on Polk Street. In addition, the project would retain the existing parking levels, which were sufficient for the previous grocery store use. California Street and Hyde Street also provide additional metered on-street public parking. A large portion of Cala Foods' customers reside in the neighborhood and therefore could walk or bike to the store and have little impact on vehicle traffic and parking.

The project would replace an existing formula retail grocery store with a smaller formula retail grocery store and formula retail pharmacy store. As such, it is anticipated that this similar retail use would generate the same amount of traffic as the existing grocery store. The project would likely result in similar traffic patterns to those that presently exist, and the project would have no significant impact on the neighborhood parking capacity or traffic.

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

The proposed use, by the nature of the business, should not produce noxious or offensive emissions such as noise, glare, dust, and odor. Furthermore, this project includes no change of use, and the existing formula retail grocery store does not have a history of producing any of these noxious emissions.

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

The project design does not propose any changes but would only improve the existing landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signage, and add an elevator for easier access to the retail level from the lower parking level.

- 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.

Trader Joe's is expected to maintain operating hours between 8:00 a.m. and 10:00 p.m. and the CVS pharmacy store would be open 24-hours a day. It is anticipated that the predominance of shoppers would live or work in the surrounding neighborhood areas of Nob Hill, Russian Hill, Polk Gulch, and the Tenderloin. It is also anticipated that CVS would receive a significant portion of its customer base from patients and workers at St. Francis Memorial Hospital, which is located one block from the project.

The scale of the proposed project is in relation to other buildings in the neighborhood commercial district, as it would not alter or modify the existing building. The proposed grocery store would not be a troublesome commercial use, and would not cause problems with traffic, congestion, noise, or late-night activity. The existing Cala Foods is open 24-hours a day. The proposed Trader Joe's would be open 14-hours a day and CVS would operate up to 24-hours a day. As previously stated, the project area is well served by the cable car, MUNI, and is within short walking distance of several transit lines. The project would retain the existing off-street parking spaces, which were sufficient for the previous formula retail grocery store. The project would provide fifteen Class II (bicycle racks) publicly accessible bicycle spaces in the upper level of the garage, to the east of the new elevator near the pedestrian entrances. The project sponsor would be utilizing bike-parking criteria designed in conjunction with the San Francisco Bicycle Coalition. Neither Trader Joe's nor CVS would operate an on-site eating or drinking establishment, as those terms are defined by the Planning Code, nor would Trader Joe's or CVS offer ground floor entertainment or financial service uses. For all of these reasons, the proposed Trader Joe's and CVS would be in conformity with the purpose of the Polk Street Neighborhood Commercial District.

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

TRANSPORTATION

Objectives and Policies

OBJECTIVE 2:

USE THE TRANSPORTATION SYSTEM AS A MEANS FOR GUIDING DEVELOPMENT AND IMPROVING THE ENVIRONMENT.

Policy 2.2:

Reduce pollution, noise and energy consumption.

The project preserves a critical neighborhood serving use in the intersection of the Nob Hill, Tenderloin, and Polk Gulch neighborhoods, allowing residents to walk, bicycle or take public transit to their local grocery store.

The cable car on California Street and the MUNI 27 Bryant bus line on Hyde Street run directly in front of the property; the MUNI 1 California bus line runs one and two blocks from the property on Sacramento Street and Clay Street, depending on direction traveled; and the MUNI 19 Polk bus line runs two blocks from the property on Polk Street. The high density of the neighborhood with residential buildings and the easy access by public transportation encourages residents, employees, and customers to utilize public transit.

Objective 35:

MEET SHORT-TERM PARKING NEEDS IN NEIGHBORHOOD SHOPPING DISTRICTS CONSISTENT WITH PRESERVATION OF A DESIRABLE ENVIRONMENT FOR PEDESTRIANS AND RESIDENTS.

The project supports this objective by effectively maintaining the property's existing parking levels. While the proposed grocery store's location encourages use of public transportation, large grocery store trips can result in heavy loads not readily carried by customers. The parking spaces would provide ready access to convenient parking for such customers, while also maintaining a pedestrian-friendly environment as presently exists.

URBAN DESIGN

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.6:

Make centers of activity more prominent through design of street features and by other means.

Policy 1.8:

Increase the visibility of major destination areas and other points for orientation.

The upper parking level would be enhanced to create a more pedestrian friendly zone connecting Hyde Street and the entrance to the retail stores. Additionally, the combined elevator-stair access from California Street would to allow walking shoppers' convenient access to the store from California Street.

OBJECTIVE 3:

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

Policy 3.1

Promote harmony in the visual relationships and transitions between new and older buildings.

Policy 3.2

Avoid extreme contrasts in color, shape and other characteristics, which will cause new buildings to stand out in excess of their public importance.

Policy 3.5

Relate the height of buildings to important attributes of the city pattern and to the height and character of existing development.

The project is not altering the existing building façade and only is planning to add an exterior elevator and wrap around stair to enhance access from the lower level parking to the retail entrance on the upper level. The sponsor is not proposing significant modifications or alterations to the building's façade other than incorporating Trader Joe's and CVS trademark designs onto the building and pylon signage and other aesthetic enhancements appropriate to the building. The project's height would not be altered. By maintaining the existing structure, the proposed grocery store and drug store and pharmacy would maintain the existing city pattern, as well as height and character, of the existing neighborhood.

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.

The project would support this Policy by creating jobs at Trader Joe's and CVS and by increasing foot traffic in this neighborhood commercial district. The project would retain an existing neighborhood-serving grocery store, as the existing large grocery store has terminated their lease with the property owner and would be vacating the building December 2011.

OBJECTIVE 3:

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

Policy 3.1:

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

The project proposes to replace an existing formula retail grocery store use with a new formula retail grocery store use and a new formula retail pharmacy store, thus retaining the existing level of commercial activity in that location.

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 proposes to replace an existing formula retail grocery store use with a new formula retail grocery store use and a new formula retail pharmacy store, thus retaining the existing level of commercial activity in that location. The project would promote diversity within the District by including a pharmacy store to compete with Walgreens that currently has a monopoly in the pharmacy business in the District.

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 project is located within the Polk Street NCD. The project would replace the existing neighborhood serving general grocery store with a new neighborhood serving general grocery store and a pharmacy store that would occupy the same floor area as the existing use.

- 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 would have no effect on housing, as the project proposes a grocery store and pharmacy store to replace an existing grocery store. No housing units exist on the property.

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

The project would have no effect on affordable housing. The project proposes a grocery store and pharmacy store to replace an existing grocery store.

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

The project would replace an existing grocery store with a grocery store and a pharmacy store. As there is no change in use, the new tenants are not expected to generate increased traffic. The project is well served by public transit with the California Street cable car line, the 27 Bryant bus line, the 1 California bus line and the 19 Polk bus line all operating adjacent to the Project Site on California and Hyde Streets, or one to two blocks away on Sacramento, Clay and Polk Streets. The Department is recommending conditions of approval relating to queuing and loading operations that would minimize any affect on local 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 would not displace any service or industry establishment and includes no general office uses. The project would contribute to a diverse economic base by replacing an existing general grocery store with a new general grocery store and a pharmacy store. The project would retain approximately the same number of unskilled and semi-skilled jobs for residents as presently employed by the existing grocery store. The pharmacy would add more skilled workers to the project by hiring of pharmacist and pharmacy technicians.

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

The project would include the renovation of the existing building shell and accessibility improvements including emergency exiting. The building would receive voluntary improvements to enhance the building's structural integrity including life safety upgrade by the tenants. All of the improvements to the building are intended to enhance the functionality, durability, and aesthetics of the existing building.

- G. That landmarks and historic buildings be preserved.

The existing building is a historic resource. No permanent alterations to the building façade are proposed and the project would have no effect on the historic character of the building.

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

The project does not propose any modifications or additions to the existing building, is not located in the vicinity of any parks or public open space and therefore, would have no affect on access to sunlight or vistas.

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 **APPROVES Conditional Use Application No. 2011.1046C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated October 21, 2011, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 18510. 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 December 15, 2011.

Linda D. Avery
Commission Secretary

AYES: Commissioners Antonini, Bordon, Fong, Miguel, Olague

NAYS: Commissioners Moore, Sugaya

ABSENT: none

ADOPTED: December 15, 2011

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow a grocery store (d.b.a. Trader Joe's) and a pharmacy store (d.b.a. CVS) located at 1401 California Street, Lots 001 and 020 in Assessor's Block 0250 pursuant to Planning Code Sections 303, 703.4 and 723.21 within the Polk Street Neighborhood Commercial District and a 65-A Height and Bulk District; in general conformance with plans, dated October 21, 2011, and stamped "EXHIBIT B" included in the docket for Case No. 2011.1046 and subject to conditions of approval reviewed and approved by the Commission on December 15, 2011 under Motion No 18510. 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 December 15, 2011 under Motion No 18510.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 18510 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.

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

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

DESIGN

3. **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.

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.

5. **Signage.** The Project Sponsor shall develop a signage program for the Project, which shall be subject to review and approval by Planning Department staff before submitting any building permits for construction of the Project. All subsequent sign permits shall conform to the approved signage program. Once approved by the Department, the signage program/plan

information shall be submitted and approved as part of the site permit for the Project. All exterior signage shall be designed to compliment, not compete with, the existing architectural character and architectural features of the building.

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

6. **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

7. **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

8. **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 specie of plant materials shall be as approved by the Department of Public Works.

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

PARKING AND TRAFFIC

9. **Bicycle Parking.** Pursuant to Planning Code Sections 155.1 and 155.4., the Project shall provide no fewer than three Class 1 and fifteen Class 2 bicycle parking spaces.

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

PROVISIONS

10. **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

MONITORING

- 11. 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

- 12. 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

- 13. 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/>

- 14. 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>

- 14. No Queue Condition.** It shall be the responsibility of the owner/operator of any off-street parking facility primarily serving a non-residential use, as determined by the Planning Director, with more than 20 parking spaces (excluding loading and car-share spaces) to ensure that recurring vehicle queues do not occur on the public right-of-way. A vehicle queue is defined as one or more vehicles blocking any portion of any public street, alley, or sidewalk for a consecutive period of three minutes or longer on a daily or weekly basis.

If a recurring queue occurs, the owner/operator of the parking facility shall employ abatement methods as needed to abate the queue. Suggested abatement methods include but are not limited

to the following: redesign of facility layout to improve vehicle circulation and/or on-site queue capacity; employment of parking attendants; installation of LOT FULL signs with active management by parking attendants; use of valet parking or other space-efficient parking techniques; use of off-site parking facilities or shared parking with nearby uses; use of parking occupancy sensors and signage directing drivers to available spaces; travel demand management strategies such as additional bicycle parking, customer shuttles or delivery services; and/or parking demand management strategies such as parking time limits, paid parking or validated parking.

If the Planning Director, or his or her designee, suspects that a recurring queue is present, the Department shall notify the property owner in writing. Upon request, the owner/operator shall hire a qualified transportation consultant to evaluate the conditions at the site for no less than seven days. The consultant shall prepare a monitoring report to be submitted to the Department for review. If the Department determines that a recurring queue does exist, the facility owner/operator shall have 90 days from the date of the written determination to abate the queue.

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

16. **Loading.** For large trucks, which require the temporary blockage of California Street travel lanes and sidewalk, loading dock delivery hours shall be limited to 5 a.m. to 7 a.m.; 9 a.m. to 4 p.m., and 7 p.m. to 10 p.m.; in order to retain existing truck delivery curfew hours (10 p.m. to 5 a.m.) and avoid a.m. and p.m. peak traffic periods (7 to 9 a.m. and 4 to 6 p.m., respectively). A loading dock manager shall assist trucks to maneuver into the loading dock and to control bicycle, pedestrian and vehicular traffic on California Street.

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

17. **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

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