



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Motion No. 18558

HEARING DATE: MARCH 15, 2012

Date: February 16, 2012
Case No.: **2011.1304C**
Project Address: **1245 South Van Ness Ave**
Zoning: NC-3 (Moderate Scale, Neighborhood Commercial) Zoning District
 District
 RH-2 (Residential House, Two-Family) Zoning District
 Mission Alcoholic Beverage Special Use District
 40-X/50-X Height and Bulk District
Block/Lot: 3641/046 & 070
Project Sponsor: Scott Whitney
 Real Estate Director
 2120 Park Place, Suite 200
 El Segundo, CA 90245
Staff Contact: Brittany Bendix – (415) 575-9114
brittany.bendix@sfgov.org

ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303 AND 703.3 OF THE PLANNING CODE TO ESTABLISH A FORMULA RETAIL GROCERY STORE (D.B.A. FRESH AND EASY) WITHIN NC-3 (MODERATE SCALE, NEIGHBORHOOD COMMERCIAL) AND RH-2 (RESIDENTIAL HOUSE, TWO-FAMILY) ZONING DISTRICTS, A 40-X/50-X HEIGHT AND BULK DISTRICT, AND THE MISSION ALCOHOLIC BEVERAGE SPECIAL USE DISTRICT.

PREAMBLE

On November 17, 2011, Lawrence Badiner, acting for Fresh & Easy Neighborhood Markets, Inc. (hereinafter "Project Sponsor"), filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Section(s) 303 and 703.3 to establish a formula retail grocery store (d.b.a. Fresh and Easy) within NC-3 (Moderate Scale, Neighborhood Commercial) and RH-2 (Residential House, Two-Family) Zoning Districts, a 40-X/50-X Height and Bulk District and the Mission Alcoholic Beverage Special Use District.

On March 15, 2012, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2011.1304C.

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

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

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2011.1304C, 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 situated on Lots 046 and 070 of Assessor's Block 3641. The project primarily occupies Lot 070, a through-lot with the main frontage of approximately 247-feet on the east side of South Van Ness Avenue. This lot is located within an NC-3 (Moderate Scale, Neighborhood Commercial) Zoning District with a split height and bulk designation of 50-X for the half of the property fronting on South Van Ness Avenue, and 40-X for the half of the property fronting on Shotwell Street. Lot 046 is a smaller, triangular lot at the southeast corner of the property, and is within an RH-2 (Residential House, Two-Family) Zoning District and a 40-X Height and Bulk District. Both lots are also within the Mission Alcoholic Beverage Special Use District. Lots 046 and 070 combine for a rear frontage of approximately 161-feet on the west side of Shotwell Street. These frontages are bounded by 23rd Street to the north and 24th Street to the south. Additionally, the depth of the site varies from approximately 122-feet at the southern end to 245-feet at the northern end. The 49,612 square-foot site is developed with a 21,452 square-foot single-story grocery store, constructed circa 1959. There is also an accessory surface parking lot that provides 65 on-site parking spaces and one off-street loading space. The previous grocery tenant, Delano's was a chain grocery with above ten outlets at its largest retail use and vacated the site in late 2010. The prior tenant from 1959 to the early 2000s was Cala/Bell Markets, had over 12 outlets, and would have been considered a Formula Retail use had the occupancy not predated the imposition of Formula Retail Controls.
3. **Surrounding Properties and Neighborhood.** The Project is situated on the eastern side of South Van Ness Avenue, between 23rd and 24th Streets, and is in the southwest corner

The broader neighborhood is characterized by varied residential zoning that includes RH-2 (Residential House, Two-Family), RH-3 (Residential House, Three-Family), RM-1 (Mixed Residential, Low Density), and RTO-M (Residential, Transit-Oriented, Mission Neighborhood) Zoning Districts. These residential areas are served by existing Limited Commercial Uses or the non-residential goods and services found in the nearby Mission NCT (Neighborhood Commercial Transit) and 24th Street – Mission NCT zoning districts. Additionally, this area is well-served by local and regional public transit. Connections to SamTrans, BART, and five Muni Bus routes are within a quarter mile of the project site.

- 4. Project Description.** The Project is seeking a Conditional Use authorization to establish a formula retail grocery store (d.b.a. Fresh & Easy Neighborhood Markets, Inc.). The Project will divide the existing grocery store of approximately 21,452 square-feet into a new 16,241 square-foot grocery store (Fresh and Easy, the formula retail use) and a 5,211 square-foot commercial retail space (tenant t.b.d.). The Project will also result in the removal of approximately 16 off-street parking spaces and will reconfigure the accessory parking lot to provide 49 off-street parking spaces, additional landscaping and bicycle parking. The changes to the parking area will also improve circulation conditions. Alterations to the façade are also proposed in an effort to upgrade the design and appearance of the existing building.

Fresh and Easy will provide a general grocery store use that will include the sale of: ready to eat prepared foods; baked goods; specialty cheese, wine, and beer; fresh meat, poultry, and seafood; and natural supplements and body care products. Fresh and Easy does not use high-fructose corn syrup, artificial flavors, colors or trans fats in their own brands. The establishment of a formula retail use in a Neighborhood Commercial Zoning District requires Neighborhood Notification per Planning Code Section 312, which was conducted in conjunction with the Conditional Use Authorization process. No other changes to the site are included in the present proposal.

- 5. Public Comment.** The Department received public comment on this Project from four people/organizations in support and one in opposition.

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. Formula Retail Use. Planning Code Section 703.3 states that a Conditional Use Authorization is required for retail uses within an NC-3 (Moderate Scale, Neighborhood Commercial) zoning district. The proposed tenant, Fresh and Easy, 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 a formula retail use, the Planning Commission shall consider the following criteria:

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

The subject property was developed in 1959 with a single story grocery store, first occupied by Cala Foods/Bell Market, a formula retail use, then later by Delano's Market, an 11-store chain, which vacated in late 2010. The subject property is the only parcel located within this particular NC-3 Zoning District; as a result, there are no other formula retail uses within the District. However, the site is one block from both the Mission Neighborhood Commercial Transit District and the 24th Street – Mission Neighborhood Commercial Transit District. Staff conducted a survey of both districts and found a total of 22 existing formula retail uses along the Mission Street corridor and two along the 24th Street corridor. In both districts the number of independently owned establishments far outnumbered formula retail uses. Furthermore, of the 24 formula retail uses identified, none are grocery stores.

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

With the exception of the Project site, there are no other retail uses within the subject Neighborhood Commercial District. The nearest general grocery stores are a Foods Co. at Folsom and 14th Streets (approximately 1.2 miles away), Rainbow Grocery at Folsom and 13th Streets (approximately 1.2 miles away) and a Safeway at Potrero Avenue and 16th Street (approximately 1.5 miles away).

The Project site has been occupied by a grocery store since the construction of the existing commercial structure in 1959. Its location is integral in serving approximately 30,000 San Franciscans living within .5-miles of the site.¹ Although smaller specialty grocery stores exist within a half-mile from the subject property, the scale of goods and services offered by such uses is inconsistent with the demand from residents within the immediate area. A grocery store at this location continues to be both necessary and desirable, especially given that surrounding zoning encourages walkable, bikeable, and transit-friendly communities.

¹ 2010 United States Census population track data.

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

Developed in 1959, the structure and use pre-date the adoption of the applicable provisions of the San Francisco Planning Code and are legally non-conforming. Although the proposal does not include any changes to diminish the volume of the building, the division of the interior space into two commercial units will bring the site into greater conformity with the Planning Code and General Plan. Changes to the façade will also assist in making the structure's design and massing more compatible with adjacent properties. The application of design elements to establish varying heights and bays along the façades will break up the dominant horizontal nature of the original structure and will result in a rhythm that is more visually consistent with the neighboring residential uses.

Additionally, the existing site conditions provide more off-street parking than is otherwise required. In a response to the neighborhood's shift in dependence on private automobiles to alternative means of transportation, the number of off-street parking spaces is reduced and the parking lot is redesigned to include more landscaping and bicycle amenities. Streetscape improvements are also included in the proposal to facilitate the walkability of South Van Ness Avenue.

- iv. Existing retail vacancy rates within the Neighborhood Commercial District.

The subject property is the only retail site within the associated NC-3 district and was vacated in 2010, when the previous retail grocery store (d.b.a. Delano's Market) closed as a result of the company's bankruptcy filings.

A survey of both the 24th Street – Mission Neighborhood Commercial Transit District and the Mission Neighborhood Commercial Transit Districts revealed 15 and 22 vacant or inactive retail spaces, respectively. These vacancies represent a sizeable portion of the available retail space in both districts. Aside from occupying a vacant retail space itself, the Project is anticipated to help reduce the existing vacancy rates by attracting more sidewalk activity to the immediate area and spurring occupancy of other vacant retail spaces. This is especially important for retail activities in the Mission NCT because most vacancies are located at the southern end of this district, in close proximity to the subject site.

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

A wide variety of goods and services are found beyond the subject site's NC-3 zoning district. As previously mentioned the site is within one block of both the 24th Street Neighborhood Commercial Transit District and the Mission Street Neighborhood Commercial Transit District. Both of these districts are characterized by their diverse

assortment of retail uses, specialty grocery stores, eating and drinking establishments, professional and personal services, automotive shops, institutional facilities and public/government services. However, absent from this assortment of activities is a general grocery store that is large enough to meet the demand of the existing and growing population.

B. The Mission Alcoholic Beverage Special Use District. Planning Code Section 249.60 prohibits new establishments where alcoholic beverages are sold, served or given away for on-site or off-site consumption such as bars and liquor stores. Pursuant to Section 790.55, a grocery store is separate and distinct from a liquor store when:

- i. The gross floor area devoted to alcoholic beverages is less than 1/3 of the total occupied floor area occupied by the principal use, as set forth in Section 703.2(b)(1)(C).
- ii. The grocery store does not sell any malt beverage with an alcohol content greater than 5.7% by volume; any wine with an alcohol content of greater than 15% by volume, except for "dinner wines" that have been aged two years or more and maintained in a corked bottle; or any distilled spirits in container sizes smaller than 600ml;
- iii. The grocery store does not devote more than 15% of the gross square footage of the establishment to the display and sale of alcoholic beverages; and,
- iv. The grocery store does not sell single servings of beer in container sizes 24 oz. or smaller.

The subject property is located within the Mission Alcoholic Beverage Special Use District. Fresh and Easy plans to renew the existing Type 21 (off-sale, general) Alcohol Beverage Control License, which is permitted as an accessory use to a grocery store that complies with the description set forth above and in Planning Code Section 790.55. The Project Sponsor will not sell spirits, but only beer and wine. The division of the existing retail space will result in a further reduction to the amount of area that was previously allowed for the sale of alcohol.

C. Use Size. Planning Code Section 121.2 principally permits non-residential uses under 5,999 square-feet and requires Conditional Use Authorization for those larger than 6,000 square-feet. Criteria for the consideration of larger uses pertain to the intensity of the use, provision of neighborhood goods and services, and overall design.

The Project does not require review under this section as the existing 21,452 square-foot use is legally non-conforming in regards to use size because it was established prior to the

adoption of the Planning Code. However, the proposal to divide this space into two separate retail units brings the site into greater compliance with the Planning Code and better resembles the smaller size of retail spaces within the broader neighborhood.

- D. Parking Screening and Greening.** Planning Code Section 142 requires all vehicle use areas that are greater than 25-feet and adjacent to the public right-of-way to provide a screening feature if a proposal includes the removal of 200 square-feet or more of an existing surface parking lot. Such screening and landscaping features are acceptable if they include ornamental fencing or a solid wall that is four-feet in height. Also required is a five-foot deep permeable surface with landscaping along the portion of the lot's perimeter adjacent to a public right-of-way. Such landscaping must be compliant with the applicable water use requirements of Administrative Code Chapter 63.

The project site has a perimeter greater than 25-feet along the adjacent public rights-of-way. Additionally, the proposal includes repaving the existing parking area, which is greater than 200 square-feet. Therefore, the Project includes screening and greening treatments to the site that comply with the requirements of Section 142. A five-foot deep permeable landscaping area buffers the edge of the parking perimeter that is adjacent to any public right-of-way, with the exception of areas devoted to ingress and egress. This is in addition to landscaping islands within the interior of the lot that have been provided voluntarily. The Project also includes decorative screen walls that are a minimum of four-feet tall along the portions of the parking lot's perimeter that are adjacent to public rights-of-way. Additional screening is provided along the side of the parking area that is adjacent to the northern residential properties that is treated with a green screen and walls dedicated for mural space.

- E. Parking.** For retail uses, Planning Code Section 151.1 requires a minimum of 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. Planning Code Section 204.5 further clarifies that parking is considered an accessory use only when the amount provided is less than 150% of the required amount.

The subject property is legally non-conforming in regards to parking. The previous tenant had an occupied floor area of approximately 15,120 square-feet and provided 65 off-street parking spaces when a minimum of 30 and a maximum of 45 would be required. The Project proposal reduces the total occupied floor area to approximately 14,779 square feet; however, this change does not alter the aforementioned minimum and maximum number of required spaces. Furthermore, the Project proposes a voluntary reduction in existing parking by 16 spaces, for a total of 49, which brings the property into closer conformity with the requirements of the Planning Code. The area gained from the eliminated spaces will be used to improve the on-site vehicle circulation, and add two cart corrals, two additional handicap/accessible spaces (for a total of four), a bicycle parking area and new landscaping.

- F. **Loading.** For retail uses larger than 10,000 square-feet and less than 60,000 square-feet, Planning Code Section 152 requires one off-street freight loading space.

The site has one existing off-street freight loading space, and one space that is not used. The proposed scope of work includes refurbishing the second loading space to create a total of two, in an effort to accommodate the needs of the second retail space and reduce the potential for any delivery queuing on Shotwell Street. The existing off-street loading dock will generally remain in its current configuration and the interior space will be divided to provide direct access to each commercial unit. The loading area will also be redesigned to include landscaping along the property lines, a trash enclosure, and a Day Service Delivery ramp. Fresh and Easy anticipates deliveries to occur approximately twice a day and will have limited pick-up/drop-off hours from 6 AM to 11 PM.

- 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.

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 is necessary and desirable because it will provide a readily accessible grocery store use for Mission District residents that was lost upon closure of Delano's Market in late 2010. Delano Markets IGA, a small, local grocery chain, filed for bankruptcy in 2010 after a failed expansion attempt and has since closed all but one market. Prior to conversion to a Delano's Market in 2006, the site was occupied by Cala Foods/Bell Market, a formula retail use. The nearest alternative general grocery store, Safeway, is approximately 1.5 miles from the subject site.

As previously mentioned the Project will reduce the size of the existing grocery store and make it more compatible with other retail spaces in the neighborhood, but, still enable Fresh and Easy to provide a reasonable scale of perishable goods at a high turnover rate that will accommodate the moderate density of the immediate area. The Project will also provide an anchor for other retail uses along South Van Ness Avenue, as well as the nearby Neighborhood Commercial districts. Grocery stores are known to serve as a retail anchor to commercial districts, attracting more customers to surrounding neighborhood-serving business such as bookstores, hardware shops, and professional services. Further, grocery stores generate new jobs and increase local property values. The proposed store will provide approximately 20 new employment opportunities.

The City of San Francisco adopted policies supportive of maintaining grocery store uses in the City. For example, a change in use or demolition of a general grocery store use that exceeds 5,000 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 square-feet.

1. In Neighborhood Commercial Districts, if the proposed use is to be located at a location in which the square footage exceeds the limitations found in Planning Section 121.2(a) or 121.2(b), the following shall be considered:

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

The Project proposes to divide the existing vacant grocery store use into two separate retail spaces. Hence, the Project will not displace any other neighborhood-servicing uses; rather, it will generate new retail opportunities through the creation of a second commercial space.

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

Approximately 30,000 San Franciscans reside within a half-mile from the subject property. Given that the proposed Fresh and Easy will be the primary general grocery option for these residents, a larger use size is appropriate to accommodate demand. Furthermore, although the proposed grocery store will occupy a smaller area than the former tenant, the scale will still be appropriate to meet the needs of the neighborhood.

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

The Project does not include any changes to the existing building footprint or volume. However, the building's façade will be redesigned in three discrete sections, thus reducing the horizontality and lack of visual depth in the existing structure. Additional windows will be provided to facilitate the interior's connection with the sidewalk activities along South Van Ness Avenue. Existing murals by local artists will be maintained.

- 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 in the area, in that:

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

The height and bulk of the existing building will remain the same, although alterations to the appearance of the built form will bring the structure into greater conformity with the overall character of the neighborhood. The establishment of distinct sections within the massing will provide a new visual depth and a rhythm that reduces the overall one-dimensionality of the existing single-story structure. Internally, the Project will divide the existing floor area into two new spaces that are more consistent with the size of existing commercial uses in the general vicinity.

- 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 subject site has been occupied by a general grocery store consistently since 1959. The continuation of this use, and at a smaller scale, will not result in any changes to existing traffic patterns. Furthermore, the Project includes changes that respond to the multi-modal demand characteristic of this neighborhood. The number of off-street parking spaces is reduced to meet the requirements of the Planning Code. New landscaping is incorporated to the new parking arrangement, as are spaces designated to accommodate car share users, adults with small children, and bicycle parking. An improved pedestrian pathway at the entrance to both retail spaces will also provide a connection between South Van Ness Avenue and Shotwell Street.

The project area is well served by Muni and is within short walking distance from several transit lines, including the 12-Folsom, 14-Mission, 48-Quintara-24th Street, 49-Van Ness-Mission, and 67-Bernal Heights. The 24th Street BART station is two blocks from the property.

- 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. The proposed use is also smaller in scale than the previous tenant and is subject to the standard conditions of approval for a Formula Retail Use as outlined in Exhibit A. Conditions 5 and 10 specifically obligate the Project Sponsor to control odor and noise generated by the grocery use.

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

The Project includes both required and voluntary landscape treatments that will increase the overall permeability of the site's surface and screen any vehicular areas. Furthermore,

of the retained parking spaces, a total of four will be reserved as handicap/accessible spaces, two for families with small children, and two for car share users. All of these reserved spaces will be located in close proximity to the store's entrance. A total of 30 bicycle parking spaces will also be provided in an area specifically dedicated to bike racks near the front of the store.

- 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 NC-3 (Moderate Scale, Neighborhood Commercial) District in that the intended commercial use is located at the ground floor, and will provide a compatible convenience service for a population that includes, and extends beyond, the immediate neighborhood.

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

MISSION AREA PLAN

Objectives and Policies

OBJECTIVE 1.1:

STRENGTHEN THE MISSION'S EXISTING MIXED USE CHARACTER, WHILE MAINTAINING THE NEIGHBORHOOD AS A PLACE TO LIVE AND WORK.

Policy 1.1.6:

Permit and encourage small and moderate size retail establishments in neighborhood commercial areas of the Mission, while allowing larger retail in the formerly industrial areas when part of a mixed-use development.

The proposal reduces an existing, legally non-conforming use size, to make it more compatible with the small and moderate sized retail establishments that are characteristic of neighboring districts. Furthermore, the proposal creates a new moderate sized retail use that will ultimately contribute to the diversity of goods available to residents.

OBJECTIVE 1.8:

MAINTAIN AND STRENGTHEN THE MISSION'S NEIGHBORHOOD COMMERCIAL AREAS.

Policy 1.8.2

Ensure that the Mission's neighborhood commercial districts continue to serve the needs of residents, including immigrant and low-income households.

Given that the nearest general grocery store is approximately 1.5 miles from the subject site, a sizeable portion of the Mission District's population has had limited access to grocery services for over a year. The proposed Project will provide a service that is necessary to ensure that residents within the surrounding community have access to a wide assortment of fresh and nutritious food. Fresh and Easy accepts Supplemental Nutrition Assistance Program (SNAP) benefits at all of their stores. The company also provides \$.98 produce packs and \$8 family-sized meals for purchase.

OBJECTIVE 3.2

PROMOTE AN URBAN FORM AND ARCHITECTURAL CHARACTER THAT SUPPORTS WALKING AND SUSTAINS A DIVERSE, ACTIVE AND SAFE PUBLIC REALM.

Policy 3.2.1

Require high quality design of street-facing building exteriors.

Policy 3.2.2

Make ground floor retail and PDR uses as tall, roomy and permeable as possible.

Policy 3.2.3

Minimize the visual impact of parking.

Policy 3.2.4

Strengthen the relationship between a building and its fronting sidewalk.

The Project includes treatments to the all the façades in an effort to enhance the architectural character of the existing building. These treatments break up the long and monotonous storefronts by implementing a varied color scheme, updating the parapets to establish a variation in heights, and using fenestration or murals to generate a rhythm in an otherwise one dimensional structure. The interior space is also designed in a manner that retains the existing raised ceiling heights for both tenants. Parking and loading areas will be treated with required landscaping along the South Van Ness Avenue and Shotwell Street frontages. Additionally, the property lines shared with residential uses will be voluntarily treated with green and artistic screening. Overall, the improvements in landscaping, as well as to the built form will enhance the existing site's relationship with pedestrian areas and will contribute to a more inviting and walkable experience.

Policy 3.2.7

Strengthen the pedestrian network by extending alleyways to adjacent streets or alleyways wherever possible, or by providing new publicly accessible mid-block rights of way.

The project will provide a dedicated pedestrian walkway through the block between South Van Ness Avenue and Shotwell Street during business hours. After hours is under consideration.

Policy 3.2.8

Recognize the distinctive Mission murals and expand the opportunities for new murals as well as other public art by providing space such as visible and publicly accessible walls in new construction adjacent to or near the murals to allow for these art traditions to thrive and continue, and by ensuring new construction does not obstruct, demolish, damage or otherwise diminish the Mission murals and other public art.

The Project supports this Policy in numerous ways. The existing mural on South Van Ness Avenue will be relocated closer to 24th Street on the South Van Ness Avenue frontage, in cooperation with Precita Eyes. The Project Sponsor will also work with Precita Eyes to manage the process of working with artists on the other opportunities for murals. The façade facing the parking lot is intended to have a mural. The wall at the north side of the parking lot will be rebuilt with a wall of panels alternating between murals and vertical green planted areas.

OBJECTIVE 3.3:

PROMOTE THE ENVIRONMENTAL SUSTAINABILITY, ECOLOGICAL FUNCTIONING AND THE OVERALL QUALITY OF THE NATURAL ENVIRONMENT IN THE PLAN AREA

Policy 3.3.3

Enhance the connection between building form and ecological sustainability by promoting use of renewable energy, energy-efficient building envelopes, passive heating and cooling, and sustainable materials.

Policy 3.3.5

Compliance with strict environmental efficiency standards for new buildings is strongly encouraged.

Although not required by the Planning Code, Fresh and Easy sites adhere to the mandatory measures of the California Green Building Code which include: designated parking for clean air vehicles, vegetation to be low/very low water consumption, irrigation systems with rain sensors to turn-off system during rainy weather, cut-off shields to prevent light pollution to adjacent properties from exterior lights, use of LED and T-8 fluorescent lighting in interior spaces, recycling bins at the entry of stores and low-VOC compliant interior finishes.

OBJECTIVE 4.7:

IMPROVE AND EXPAND INFRASTRUCTURE FOR BICYCLING AS AN IMPORTANT MODE OF TRANSPORTATION.

Policy 4.7.2

Provide secure, accessible and abundant bicycle parking, particularly at transit stations, within shopping areas and at concentrations of employment.

The proposal includes 30 bicycle parking spaces that will be located near the entrance of the commercial space, significantly in excess of the Planning Code requirement.

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.1:

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

Policy 1.3:

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

The proposed development will provide desirable goods and services to the neighborhood and will provide resident employment opportunities to those within the community. Additionally, the Project Site is an existing commercial space and is consistent with activities in the commercial land use plan.

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.

The proposed formula retail use, Fresh and Easy, is a relatively new business model that strives to deliver fresh, wholesome food at affordable prices. The proposed location will be the fourth Fresh and Easy within San Francisco and will contribute to the overall diversity of general grocery store options within the City while enhancing the company's ability to distribute fresh foods throughout. Furthermore, by establishing a new commercial activity in a vacant space, the neighborhood retains a commercial use at this site and enables the project to enhance the economic base of the City and immediate area.

OBJECTIVE 3: PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

Policy 3.1:

Promote the attraction, retention and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers.

Policy 3.2:

Promote measures designed to increase the number of San Francisco jobs held by San Francisco residents.

The proposed project will provide approximately 20 employment opportunities. The retail grocery store will employ a high percentage of unskilled and semi-skilled employees. Local hiring is a priority for Fresh and Easy and the company intends to partner with a local non-profit in the Mission District to assist with recruiting people from the immediate zip code to employ at the store, as was done for the Bayview and Richmond stores. The company has set a goal of hiring 100% of store employees from within the surrounding neighborhood (Mission, Bernal and South of Market).

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.

Policy 6.4:

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

The project proposes to replace an existing 11-store chain grocery use with a new formula retail grocery store, thus retaining the existing level of commercial activity in that location. The project is also a necessary and desirable service within the immediate area as it provides a use to residents that is not presently available.

TRANSPORTATION ELEMENT

Objectives and Policies

OBJECTIVE 1:

MEET THE NEEDS OF ALL RESIDENTS AND VISITORS FOR SAFE, CONVENIENT AND INEXPENSIVE TRAVEL WITHIN SAN FRANCISCO AND BETWEEN THE CITY AND OTHER PARTS OF THE REGION WHILE MAINTAINING THE HIGH QUALITY LIVING ENVIRONMENT OF THE BAY AREA.

Policy 1.3:

Give priority to public transit and other alternatives to the private automobile as the means of meeting San Francisco's transportation needs, particularly those of commuters.

Policy 1.6:

Ensure choices among modes of travel and accommodate each mode when and where it is most appropriate.

Policy 1.7:

Assure expanded mobility for the disadvantaged.

The proposal enables patrons to make use of a variety of transit options when visiting the site which is readily accessible by BART or Muni and provides approximately 30 bicycle parking spaces. Furthermore, activation of a general grocery store at this location also ensures immediate access to fresh food for those residents that cannot easily visit the nearest grocery store, 1.5 miles away, due to physical or economic constraints.

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.

Policy 2.4:

Organize the transportation system to reinforce community identity, improve linkages among interrelated activities and provide focus for community activities.

The proposed site is centrally located to serve both patrons and employees through various means of transportation. The site is also located near crucial transport corridors (South Van Ness Avenue, Cesar Chavez Street, and U.S. Routes 101 and 280) that connect San Francisco to the broader region and enable a formula retail grocery store, such as Fresh and Easy, to provide sufficient distribution of goods and keep food affordable.

OBJECTIVE 29:

CITY GOVERNMENT SHOULD PLAY A LEADERSHIP ROLE IN INCREASING BICYCLE USE.

Policy 29.1:

Consider the needs of bicycling and the improvement of bicycle accommodations in all city decisions.

The Project includes approximately 30 bicycle parking spaces. This component of the project will improve the Mission District's overall bicycle infrastructure and encourage ridership amongst the residents.

OBJECTIVE 35:

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

Policy 35.2:

Assure that new neighborhood shopping district parking facilities and other auto-oriented uses meet established guidelines.

The project contributes to this objective by eliminating existing parking and providing infrastructure that encourages alternative means of transportation. While the proposed grocery store's location encourages use of public transportation, large grocery store trips can result in heavy loads not easily carried by customers. The parking spaces will provide ready access to such customers, while also maintaining a pedestrian-friendly environment. The car share spaces will provide the opportunity for patrons to walk to the grocery and drive their purchases home.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 1:

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND 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 Project will occupy a vacant building and serve as an anchor for the surrounding commercial districts. A moderate increase in height, by means of an extended parapet, will also enable the building to stand out and be distinct as an important destination for residents and visitors. In addition, the use of murals compliments a prominent characteristic of the Mission District and lends itself to establishing a vibrant sense of place specific to this community.

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 relationship 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.

The design changes included in the Project's scope of work serve to make the site a more attractive and inviting location. Alterations to the façade break up the monotony of a 1950s single-story commercial structure and make it more compatible with the articulated, yet varied forms of surrounding Italianate dwellings. Contrast amongst the colors included in the design are complimentary and do not create extreme visual contrasts in tones that will detract from the details and integrity of the neighboring older structures.

OBJECTIVE 4:

IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

Policy 4.4:

Design walkways and parking facilities to minimize danger to pedestrians.

Policy 4.13:

Improve pedestrian areas by providing human scale and interest.

The Project includes treatments to the associated pedestrian pathways or sidewalks that will serve to enhance safety, as well as the site's human scale and interest. New lighting and street trees will make for a more comfortable and visible walk to and from the site. Furthermore, the continued use of murals in the site's design will contribute to the activity along pedestrian corridors as these displays tend to engage passersbys and encourage them to stop and consider the artwork.

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.

Grocery stores are a primary business draw in neighborhood commercial districts and support other retail activities by serving as a retail anchor of neighborhood commercial

districts. The project is located within an NC-3 (Moderate Scale, Neighborhood Commercial) Zoning District. The project will occupy a vacant neighborhood serving general grocery store space and also create a new retail commercial space. Fresh and Easy will employ approximately 20 new employees and work with local non-profit organizations to attract workers from within the surrounding neighborhood.

- 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 is a grocery store and the site has historically been occupied by a chain or formula retail grocery store. The proposal will have no direct effect on housing and will preserve the existing neighborhood character by occupying a vacant grocery store building. No housing units exist on the property.

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

The project will have no effect on housing, as the project proposes a grocery store at the site of a vacant grocery store.

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

The Project area is well served by Muni and BART, and will retain 49 of the existing parking spaces which were sufficient for the previous formula retail grocery store retail use. South Van Ness Avenue, 23rd and 24th Streets also provide metered and unmetered on-street parking.

Fresh and Easy will make spaces available for car share services, encouraging patrons to walk to the site and use the car share spaces to drive groceries home. The Project will also create bicycle parking spaces for both patrons and employees, reducing the vehicular traffic to the site.

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

The proposed project will not include any commercial office development and will not displace any industrial establishments. The proposal replaces one retail establishment with another. The Project will generate approximately 20 new employment opportunities.

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

The proposed project will comply with the City Codes to achieve the proper preparedness in the event of an earthquake.

G. That landmarks and historic buildings be preserved.

There are no designated landmarks or historic buildings on the Project site.

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

The proposed project will not have a negative effect on existing parks and open space.

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. 2011.1304C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated February 10, 2012, 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. 18558. 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 February 23, 2012.

Linda D. Avery
Commission Secretary

AYES: Commissioners Fong, Antonini, Borden, and Miguel

NAYES: Commissioners Sugaya, Moore, and Wu

ABSENT: None

ADOPTED: March 15, 2012

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to establish a formula retail grocery store (d.b.a. Fresh and Easy) located at 1245 South Van Ness Avenue pursuant to Planning Code Section(s) 303 and 703.3 within the NC-3 (Moderate Scale, Neighborhood Commercial) and RH-2 (Residential House, Two-Family) Zoning Districts, the Mission Alcoholic Beverage Special Use District and a 50-X/40-X Height and Bulk District and subject to conditions of approval reviewed and approved by the Commission on February 23, 2012 under Motion No. 18558. 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 February 23, 2012, under Motion No. 18558.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 18558 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.

MONITORING

3. **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.

4. **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

DESIGN

5. **Garbage, composting and recycling storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the building permit plans. 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

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. **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. **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

9. **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

OPERATION

10. **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>

11. **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>

12. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor. The community liaison will be an on-site employee.

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

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

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

14. **Woman, Infants, and Children (WIC) Supplemental Nutrition Program.** Presently there is a Moratorium on new vendor applications to the California Department of Health's Women, Infants, and Children (WIC) Supplemental Nutrition Program. If and

when the moratorium on WIC vendor applications is lifted, the Project Sponsor will apply to be part of the program.

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

- 15. Local Hiring Goal.** The Project Sponsor will continue to work with Arriba Juntos to meet the Project Sponsor's stated goal of hiring 100% of local residents and will report before the Planning Commission on the status of that goal, one year from opening.

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

- 16. Alcohol Sales.** The proposed grocery store has procured a liquor license from the California Department of Alcoholic Beverage Control. The Conditional Use approval is based on the understanding that only beer and wine will be sold at this location. Additionally, the sale of all alcohol must take place at checkout registers that are staffed, and not at the self-checkout registers.

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