



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Inclusionary Housing (Sec. 315)
- Jobs Housing Linkage Program (Sec. 313)
- Downtown Park Fee (Sec. 139)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 314)
- Other

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Planning Commission Motion 18680

HEARING DATE: AUGUST 2, 2012

Date: July 26, 2012
Case No.: **2004.0976ECV**
Project Address: **376 CASTRO STREET**
Zoning: Upper-Market Street Neighborhood Commercial District
 65-B Height and Bulk District
Block/Lot: 2623/006
Project Sponsor: David Silverman
 Reuben & Junius
 One Bush Street Suite 600
 San Francisco, CA 94104
Staff Contact: Rick Crawford – (415) 558-6358
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ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303, 228, 721.21 OF THE PLANNING CODE TO DEMOLISH AN EXISTING GASOLINE SERVICE STATION ON THE PROPERTY AND CONSTRUCT A SIX-STORY, 65 FOOT TALL MIXED USE BUILDING WITH 24 DWELLING UNITS AND 3,000 SQUARE FEET OF GROUND FLOOR COMMERCIAL SPACE WITHIN THE UPPER MARKET STREET NEIGHBORHOOD COMMERCIAL DISTRICT AND A 65-B HEIGHT AND BULK DISTRICT AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On November 10, 2005 David Silverman (hereinafter "Project Sponsor") filed an application with the Planning Department (hereinafter "Department") for Conditional Use Authorization under Planning Code Sections 228, and 721.21 to allow the demolition of an existing gasoline service station on the property and construction of a six-story, 65 foot tall mixed use building with 24 dwelling units and 3,000 square feet of ground floor commercial space within the Upper Market Street Neighborhood Commercial District and a 65-B Height and Bulk District.

On March 12, 2012, the Project Sponsor filed an application for a Variance for a rear yard modification pursuant to Planning Code Section 134(e) to allow the rear yard requirement to be met by an open space in the northwest, rear corner of the site at the first level of the building containing residential units.

On August 2, 2012, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2004.0976ECV.

On November 9, 2011 Draft Initial Study/Mitigated Negative Declaration (IS/MND) for the project was prepared and published for public review; and

The Draft IS/MND was available for public comment until December 2, 2011; and

On December 2, 2011, an appeal of the Mitigated Negative Declaration was filed with the Department.

On July 13, 2012, the Appeal of the Mitigated Negative Declaration was withdrawn.

On July 16, 2012, the Planning Department reviewed and considered the Final Mitigated Negative Declaration (FMND) and found that the contents of said report and the procedures through which the FMND was prepared, publicized, and reviewed complied with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) (CEQA), 14 California Code of Regulations Sections 15000 et seq. (the "CEQA Guidelines") and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"); and

The Planning Department found the FMND was adequate, accurate and objective, reflected the independent analysis and judgment of the Department of City Planning and the Planning Commission, and approved the FMND for the project in compliance with CEQA, the CEQA Guidelines, and Chapter 31.

The Planning Department, Linda Avery, is the custodian of records, located in the File for Case No. 2004.0976E, at 1650 Mission Street, Fourth Floor, San Francisco, California.

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

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. 2004.0976ECV, 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 on the west side of Castro Street at the northwest corner of Castro Street and Market Street. The property is 9,748-square feet in area and is occupied by an approximately 1,100-square-foot, single-story automotive gas and service station, constructed in 1963. The current development on the property includes one enclosed retail/service building with two automotive service bays, two gasoline pump islands with canopies and three underground storage tanks. Ingress and egress to the gas station is from curb cuts along both Market and Castro Streets. The parcel was included in the fall 2007 Upper Market Community Design Plan as a potential site to be redeveloped with a mixed-use building.
3. **Surrounding Properties and Neighborhood.** The project site is located at the intersection of Castro and Market Streets in the Corona Heights/Castro neighborhood. The land-use pattern in the area is a mix of two- to four-story multi-unit residential buildings, some with ground floor commercial businesses mixed with transportation facilities, professional offices, and some remaining automotive facilities. The parcels immediately adjacent to the site include a three-story, six-unit residential building to the north, a four-story, 34-unit residential building to the northwest, and a three-story mixed-use building with ground floor retail to the west. Other uses on the subject block include two- to three-story residential and some mixed-use buildings with ground floor commercial uses including a dry cleaning business and a professional office.

Development across Market and Castro Streets includes a one story retail building (Pottery Barn) across Castro, another automobile service and gas station (Chevron) across Market Street to the southeast, two- to four-story mixed-use buildings on the corner of Castro and 17th Streets, and a one story retail building (Diesel) across Market to the south. The surrounding properties are located within the Upper Market Street Neighborhood Commercial District, RM-1 (Residential, Mixed Low Density) District, RH-3 (Residential House Three-Family) and RH-2 (Residential House, Two-Family) Districts. Surrounding parcels are also within the 65-B height and bulk district, with areas transitioning to 50-X and 40-X districts in residential areas.

4. **Project Description.** The Project Sponsor proposes to demolish the existing automobile gasoline station and construct a six-story, 65-foot-tall 43,070 square-foot mixed-use building. The new building will include 24 residential units, three of which will be affordable, 3,000 square feet of ground-floor commercial space, and a 14-space underground parking garage, including 12 bicycle parking spaces, with ingress and egress from Castro Street. The residential portion of the project would be 27,000 square feet in area, and includes 18 units two-bedroom, and 6 one-bedroom units.
5. **Public Comment.** The Department has received one call objecting to the demolition of the gas station because of lack of alternatives in the area. The Department has received one letter from

the Castro/Upper Market CBD, the Eureka Valley Neighborhood Association, Castro Area Planning & Action, and the Duboce Triangle Neighborhood Association supporting the new mixed-use building.

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. **Rear Yard Modification.** Planning Code Section 134 requires a rear yard equal to 25% of the depth of the lot measured at grade level and all stories above. Planning Code Section 134(e) permits this requirement to be modified or waived by the Zoning Administrator, provided the project meets the following criteria:

- i. Residential uses are included in the new or expanding development and a comparable amount of usable open space is provided elsewhere on the lot or within the development where it is more accessible to the residents of the development.

The project includes 24 new dwelling units and provides an open area exceeding 25% of the lot area in the northwest, rear corner of the property at the first level of the building containing dwelling units. This plaza is 2,780 square feet in area and provides open space for the dwelling units. The project would provide an additional 2,600 square feet of open space on a roof deck.

- ii. The proposed new or expanding structure will not significantly impede the access of light and air to and views from adjacent properties.

The original topography of the Project Site sloped steeply up-hill toward the rear of the lot. The slope was removed with the construction of the gas station and retaining walls more than 30 feet tall were constructed at the rear and westerly property lines. The open space proposed for the project is at the first residential level of the building, in the northwest, rear corner of the property adjacent to the rear yards of the adjacent properties. The grade differential and the location of the open space combine to ensure that access of light, air, to and views from the adjacent properties are not be impeded.

- iii. The proposed new or expanding structure will not adversely affect the interior block open space formed by the rear yards of adjacent properties.

The open space proposed for the project is at the first residential level of the building, in the northwest, rear corner of the property adjacent to the rear yards of the adjacent properties. The buildings on the lots adjacent to the Project Site cover most of the lot to the rear property lines such that there is little interior block open space and the open space that does exist does not form a distinct or consistent pattern. The project would provide an open area exceeding 25% of the lot area in the northwest, rear corner of the property.

- B. **Open Space.** Planning Code Section 135 requires 60 square feet of private usable open space or 90 square feet of common open space for each dwelling unit.

The project includes 24 dwelling units and is required to provide a total of 1,440 square feet of private open space, 2,160 square feet of common open space, or some equivalent combination of private and common open space. The project proposes 4,900 square feet of common usable open space in a courtyard and on a roof deck. In addition, the project provides private open space for three units.

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

The project has 92 feet of frontage on Castro Street and 71 feet of frontage on Market Street and is required to plant five street trees along Castro Street and three street trees along market Street. The size of the project does not require additional streetscape and pedestrian elements; however, the Project Sponsor has proposed additional improvements at the request of neighborhood groups active in the area. The project would include the following pedestrian streetscape improvements in addition to street trees:

- *An irrigated landscaped area with trees and planters or perhaps raised planters to create a seating area;*
- *Public seating for reading or just sitting out, either integrated with raised planters as noted above, or separate seating as appropriate to the site plan;*
- *Public art appropriate to the neighborhood and site, perhaps integrated with a water feature; and,*
- *An artistic "Way Finder" that will provide neighborhood specific and citywide directional signage. Specific items listed should include GLBT History Museum, Harvey Milk Camera Shop, Golden Gate Bridge, Golden Gate Park, Haight, Mission Dolores, Union Square, Ferry Building, Twin Peaks, etc.*

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

The project provides a large courtyard in the northwest corner of the site. The dimensions of the courtyard exceed the requirements of Section 140 at all levels of the building containing dwelling units such that all units facing the court comply with the exposure requirement. Units that do not face the courtyard have exposure on Market Street or Castro Street.

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

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

The project would provide active uses along both street frontages including retail space, a neighborhood, community meeting space and a residential lobby. No less than 60 percent of the street frontage at the ground level would be fenestrated with transparent windows to allow visibility to the inside of the building. The parking garage would be setback at least 25 feet from Castro Street.

- F. **Parking.** Section 151.1 of the Planning Code permits up to one parking stall for each two dwelling units. The Section also allows up to one space per 1,500 square feet of occupied floor area for retail uses.

The project includes 24 dwelling units and 3,000 square feet of occupied floor area for retail use and provides 14 off-street parking spaces.

- G. **Loading.** Section 152 of the Planning Code requires off-street loading be provided in the Upper Market NCD for retail uses exceeding 10,000 square feet in area and residential uses exceeding 100,000 square feet in area.

The project contains 3,000 square feet of retail space and 27,000 square feet of residential use. The project is not required to provide off-street loading and provides none.

- H. **Bicycle Parking.** Section 155.5 of the Planning Code requires one bicycle parking space for every two dwelling units in residential buildings with up to 50 dwelling units.

The project includes 24 dwelling units and provides 12 bicycle parking spaces in the parking garage.

- I. **Residential Density.** Section 207.4 of the Planning Code permits a residential density at a ratio of one dwelling units for each 400 square feet of lot area.

The Project Site is 9,748 square-feet in area and provides 24 dwelling units for a ratio of one dwelling unit for each 406 square feet of lot area.

- J. **Dwelling Unit Mix.** Section 207.6 of the Planning Code requires that a minimum of 40% of the dwelling units within a Neighborhood Commercial Transit district shall contain at least two bedrooms. This requirement does not apply to the Upper Market Street NCD.

Eighteen of the 24 units proposed for the project would contain at least two bedrooms representing 75% of the total units in the project.

K. **Service Station Conversion.** Planning Code Section 228 requires that no owner of a property that is used as a service station can change the use of the property to a different type of use without first receiving conditional use approval from the Planning Commission or a conversion determination from the Zoning Administrator. The project proposes to eliminate and demolish the existing service station at the Project Site and replace it with a new mixed-use building. Section 228.3 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 types of services offered by the gasoline service station sought to be converted and the hours and days during which such goods and services are available.

The existing gasoline service station on the property sells gas 24 hours each day for seven days per week. The facility provides smog check services from 10:00 a. m. to 5:00 p.m. seven days per week.

- ii. The volume of gasoline and other motor fuel sold and the number of vehicles serviced at such gasoline service station during each of the 24 months preceding the filing of the conditional use authorization application.

The facility sold an average of 1,220,000 gallons of gasoline per month over the 24 months prior to submitting the application for conditional use authorization.

- iii. Whether the volume of gasoline and other motor fuel sold and the number of vehicles serviced each month has increased or decreased during the 24-month period immediately preceding the conditional use authorization.

The volume of gasoline and other motor fuels sold and the number of vehicles served monthly decreased over the 24 months preceding the filing of the application.

- iv. The accessibility of comparable automotive goods and services offered by other gasoline service stations and repair garages which serve the same geographic area and population segments (e.g., neighborhood residents, in-town or out-of-town commuters, tourists) as the service station sought to be converted.

The accessibility of goods and services offered by other gasoline service stations in the same geographic area is very good. There are at least ten gasoline stations within one mile of the Project Site and additional twelve stations within two miles of the site. A 24-hour Chevron station is located across the street from the Project Site and a Shell station is located two blocks east of the Project Site on Market Street.

- v. If the proposed new use is a residential use, the total number of units to be provided and the number of those units that are affordable units.

The project would make a significant contribution to the City's housing supply by providing up to 24 residential dwelling units. The project would contribute three affordable onsite units to increase the City's supply of affordable housing.

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

The project includes approximately 3,000 square feet of commercial space. The types of goods and services to be offered by the commercial space would be determined later.

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

There are no known environmental dangers posed by the proposed mixed-use project.

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

The existing gasoline service station employs three people. The proposed new use would provide employment opportunities in its 3,000 square feet of commercial space, most likely more than three people.

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

The amount of taxes or other revenues to be received by the City from the gasoline service station is approximately \$20,000 per year for property tax and \$24,000 for sales tax and \$1,900 per year for licenses. The City and County of San Francisco would receive substantially more property tax revenue from the project that includes 24 residential units, as well as sales tax revenue from retail sales in the commercial space.

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

The existing gasoline station is a non-conforming use pursuant to Planning Code Sections 180 and 721.57. The proposed residential and retail uses are principally permitted pursuant to Planning Code Sections 721.90 and 740.40.

14. **Inclusionary Affordable Housing Program.** Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 415.3, these requirements apply to projects that consist of ten or more units, where the first application (EE or BPA) was applied for before July 18, 2006. Pursuant to Planning Code Section 415.5 and 415.6, the Project is meeting the Inclusionary Affordable

Housing Program requirement through the On-site Affordable Housing Alternative by providing 12% of the proposed dwelling units as affordable.

The Project Sponsor has demonstrated that it is eligible for the On-Site Affordable Housing Alternative under Planning Code Section 415.5 and 415.6, and has submitted 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to satisfy the requirements of the Inclusionary Affordable Housing Program by providing the affordable housing on-site instead of through payment of the Affordable Housing Fee. In order for the Project Sponsor to be eligible for the On-Site Affordable Housing Alternative, the Project Sponsor must submit an 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to the Planning Department stating that any affordable units designated as on-site units shall be sold as ownership units and will remain as ownership units for the life of the project. The Project Sponsor submitted such Affidavit on April 26, 2012. The EE application was submitted on September 28, 2004. Three units (two two-bedroom, and one one-bedroom) of the 24 units provided will be affordable units. If the Project becomes ineligible to meet its Inclusionary Affordable Housing Program obligation through the On-site Affordable Housing Alternative, it must pay the Affordable Housing Fee with interest, if applicable.

- M. Development Impact Fees.** Sections 416 and 421 of the Planning Code require payment of impact fees for affordable housing and community improvements for all development projects. The fees are based on the number of dwelling units and floor area of the project. In the spring of 2011 the Board of Supervisors adopted Ordinance No. 25-11 (Board File No. 10-1464) to add the "Market and Octavia Plan" controls to the Planning Code. An uncodified portion of the Ordinance (titled "Section 4"), states that, projects in the affected area that had filed a first Application with the Department prior to October 28, 2010 and received Planning entitlements before October 28, 1012 are exempt from payment of the development impact fees relating to the Market and Octavia Plan.

The Department received the first application for the project on September 28, 2004 and Conditional Use authorization and Variance requests are scheduled to be heard on August 2, 1012. The project is exempt from the Development Impact fees in Planning Code Sections 416 and 421.

- N. Use Size Limits.** Planning Code Section 721.21 states that a Conditional Use Authorization is required for nonresidential uses within this District that exceed a floor area of 2,999 square feet. The proposed use size is approximately 3,000 square feet. In addition to the criteria set forth in Section 303(c), Planning Code Section 121.2 requires that, with respect to an application for Conditional Use authorization for nonresidential use size, the Planning Commission shall consider the following criteria:

- 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 area is an active neighborhood commercial district that contains adequate small-scale uses. The project would not foreclose the location of other needed commercial uses in the area.

- 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 Project Sponsor does not have a tenant for the commercial space. The project also includes a 450 square foot community room for use by neighborhood organizations and other similar groups. The ultimate tenant in the space would be neighborhood serving.

- 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 commercial space is located on the ground floor of the Market Street frontage and respects the scale of development in the area. The design of the building has been developed in consultation with neighborhood groups and the Planning Department and is very respectful of the scale of the neighborhood.

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

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

The project would develop an underutilized in-fill property surrounded by concrete walls with 24 new housing units, including three on-site affordable units, 3,000 square feet of new commercial space and a new community meeting room to serve the needs of area community groups. The project would replace an unsightly gas station with a contemporary mixed-use building, the design of which is compatible with the neighborhood character.

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

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

The project site is well suited for residential mixed-use development. The location of the property at the intersection of Castro Street and Market Street is appropriate for the use as it is well served by transit and community services of the Castro neighborhood.

- 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 provides two parking spaces for the 3,000 square foot commercial space and 12 spaces for the 24 dwelling units. All the parking would be underground and served by a driveway to Castro Street. The project is well served by transit. The 24 and 35 bus lines operate on Castro Street, the 37 bus and F streetcar lines operate on Market Street and the Project Site is adjacent to the MUNI subway station at Castro and Market Streets.

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

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

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

The project would include attractively landscaped common and private open space on site. The project would include required street trees along the Castro Street and Market Street frontages. The Project Sponsor would provide a community meeting room and significant landscaping streetscape improvements as part of an agreement with neighborhood groups in the area to withdraw an appeal of the environmental document for the project.

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

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

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

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

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

NEIGHBORHOOD COMMERCE

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.1:

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

Policy 1.2:

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

Policy 1.3:

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

The proposed development would provide desirable goods and services to the neighborhood and would provide resident employment opportunities to those in the community. The project would replace a marginal, nonconforming, and unattractive gas station use with essential housing, a neighborhood serving commercial use, and a 450 square foot community meeting space. The project would not result in any undesirable consequences. Further, the Project Site is located within a neighborhood commercial district and is thus consistent with activities in the commercial land use plan.

OBJECTIVE 6:

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.1:

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

The project would strengthen the neighborhood commercial district by replacing a gas station with new commercial space for neighborhood-serving commercial uses and much needed housing. The project replaces a marginal use on an underutilized parcel.

HOUSING ELEMENT

Objectives and Policies

OBJECTIVE 1:

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

Policy 1.1

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

Policy 1.4

Ensure community based planning processes are used to generate changes to land use controls.

Policy 1.10

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

The project creates 24 new dwelling units, three of which would be affordable units on-site. The project resulted from a community planning process that began in 2007 with a series of community workshops. The Project Site was one of several properties investigated during the process and the design of the project was the result of a collaborative effort between the community, the Department and elected officials. The project is well served by transit. The 24 and 35 bus lines operate on Castro Street, the 37 bus and F streetcar lines operate on Market Street and the Project Site is adjacent to the MUNI subway station at Castro and Market Streets. The project would provide bicycle parking for residents.

OBJECTIVE 4:

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

Policy 4.1

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

The eighteen proposed two bedroom units are sized to provide housing for families with children.

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

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

The proposal would enhance the district by providing 3,000 square feet of new commercial space on the ground floor of a modern building. The new business occupying the space would provide future opportunities for resident employment in and ownership of a new business.

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

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

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

No housing is removed for this project.

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

The project provides two parking spaces for the 3,000 square foot commercial space and 12 spaces for the 24 dwelling units. All the parking would be underground and served by a drive to Castro Street. The project is well served by transit. The 24 and 35 bus lines operate on Castro Street, the 37 bus and F streetcar lines operate on Market Street, and the Project Site is adjacent to the MUNI subway station at Castro and Market Streets.

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

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

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

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

- G. That landmarks and historic buildings be preserved.

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

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

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

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

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

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **ADOPTS** the Final Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program and **APPROVES Conditional Use Application No. 2004.0976ECV** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated April 18, 2007, 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. 18680. 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 August 2, 2012.

Linda D. Avery
Commission Secretary

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

NAYS: None

ABSENT: Bordon

ADOPTED: August 2, 2012

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow the demolition of the existing automobile gasoline and service station and construction of a six-story, 65-foot-tall 43,070 square-foot mixed-use building with 24 residential units, 3,000 square feet of ground-floor commercial space and a 14-space underground parking garage located at 376 Castro Street Lot 006 in Assessor's Block 2623 pursuant to Planning Code Section(s) 303, 228, and 721.21 within the Upper Market Neighborhood Commercial District and a 65-B Height and Bulk District; in general conformance with plans, dated February 1, 2012, and stamped "EXHIBIT B" included in the docket for Case No. 2004.0976ECV and subject to conditions of approval reviewed and approved by the Commission on August 2, 2012 under Motion No. 18680. 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 August 2, 2012 under Motion No. 18680.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 18680 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.

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

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

DESIGN – COMPLIANCE AT PLAN STAGE

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

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

5. **Final Plans.** The Planning Department shall present the final approved plans for the project to the Planning Commission at a future meeting as an informational item.

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

6. **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.

7. **Rooftop Mechanical Equipment.** Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the building permit application. Rooftop mechanical equipment, if any is proposed as part of the project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.

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

8. **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.

9. **Streetscape Plan.** Pursuant to Planning Code Section 138.1, the Project Sponsor shall continue to work with Planning Department staff, in consultation with other City agencies, to refine the design and programming of the Streetscape Plan. The Project Sponsor shall complete final design of all street improvements, including procurement of relevant City permits, prior to issuance of first architectural addenda, and shall complete construction of all required street improvements prior to issuance of first temporary certificate of occupancy. The street scape plans shall include, but shall not be limited to, the following elements:

- a. An irrigated landscaped area with trees and planters or perhaps raised planters to create a seating area;
- b. Public seating for reading or just sitting out, either integrated with raised planters as noted above, or separate seating as appropriate to the site plan;
- c. Public art appropriate to the neighborhood and site, perhaps integrated with a water feature; and,
- d. An artistic "Way Finder" that will provide neighborhood specific and citywide directional signage. Specific items listed should include GLBT History Museum, Harvey Milk Camera Shop, Golden Gate Bridge, Golden Gate Park, Haight, Mission Dolores, Union Square, Ferry Building, Twin Peaks, etc.

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

10. **Transformer Vault.** The location of individual project PG&E Transformer Vault installations has significant effects to San Francisco streetscapes when improperly located. However, they may not have any impact if they are installed in preferred locations. Therefore, the Planning Department recommends the following preference schedule in locating new transformer vaults, in order of most to least desirable:
- a. On-site, in a basement area accessed via a garage or other access point without use of separate doors on a ground floor façade facing a public right-of-way;
 - b. On-site, in a driveway, underground;
 - c. On-site, above ground, screened from view, other than a ground floor façade facing a public right-of-way;
 - d. Public right-of-way, underground, under sidewalks with a minimum width of 12 feet, avoiding effects on streetscape elements, such as street trees; and based on Better Streets Plan guidelines;
 - e. Public right-of-way, underground; and based on Better Streets Plan guidelines;
 - f. Public right-of-way, above ground, screened from view; and based on Better Streets Plan guidelines;
 - g. On-site, in a ground floor façade (the least desirable location).
 - i. Unless otherwise specified by the Planning Department, Department of Public Work's Bureau of Street Use and Mapping (DPW BSM) should use this preference schedule for all new transformer vault installation requests.

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

PARKING AND TRAFFIC

11. **Parking for Affordable Units.** All off-street parking spaces shall be made available to project residents only as a separate "add-on" option for purchase or rent and shall not be bundled with any project dwelling unit for the life of the dwelling units. The required parking spaces may be made available to residents within a quarter mile of the project. All affordable dwelling units pursuant to Planning Code Section 415 shall have equal access to use of the parking as the market rate units, with parking spaces priced commensurate with the affordability of the dwelling unit. Each unit within the project shall have the first right of refusal to rent or purchase a parking space until the number of residential parking spaces are no longer available. No conditions may be placed on the purchase or rental of dwelling units, nor may homeowner's rules be established, which prevent or preclude the separation of parking spaces from dwelling units.

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

12. **Bicycle Parking.** The project shall provide no fewer than 12 Class 1 bicycle parking spaces as required by Planning Code Sections 155.1 and 155.5.

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

PROVISIONS

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

For information about compliance, contact the First Source Hiring Manager at 415-581-2335, www.onestopSF.org

14. **Transit Impact Development Fee.** Pursuant to Planning Code Section 411 (formerly Chapter 38 of the Administrative Code), the Project Sponsor shall pay the Transit Impact Development Fee (TIDF) as required by and based on drawings submitted with the Building Permit Application. Prior to the issuance of a temporary certificate of occupancy, the Project Sponsor shall provide the Planning Director with certification that the fee has been paid.

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

15. **Affordable Units**

- a. **Number of Required Units.** Pursuant to Planning Code Section 415.6, the Project is required to provide 12% of the proposed dwelling units as affordable to qualifying households. The Project contains 24 units; therefore, three affordable units are required. The Project Sponsor will fulfill this requirement by providing the three affordable units on-site. If the number of market-rate units change, the number of required affordable units shall be modified accordingly with written approval from Planning Department staff in consultation with the Mayor's Office of Housing ("MOH").

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

- b. **Unit Mix.** The Project contains six one-bedroom and 18 two-bedroom unit. The affordable unit mix is one one-bedroom and two two-bedroom units. If the market-rate unit mix changes, the affordable unit mix will be modified accordingly with written approval from Planning Department staff in consultation with MOH.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

- c. **Unit Location.** The affordable units shall be designated on a reduced set of plans recorded as a Notice of Special Restrictions on the property prior to the issuance of the first construction permit.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

- d. **Phasing.** If any building permit is issued for partial phasing of the Project, the Project Sponsor shall have designated not less than twelve percent (12%) of the each phase's total number of dwelling units as on-site affordable units

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

- e. **Duration.** Under Planning Code Section 415.8, all units constructed pursuant to Section 415.6, must remain affordable to qualifying households for the life of the project.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

- f. **Other Conditions.** The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 415 et seq. of the Planning Code and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"). The Procedures Manual, as amended from time to time, is incorporated herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 415. Terms used in these conditions of approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the MOH at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing's websites, including on the internet at:

<http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>.

As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

- i. The affordable unit(s) shall be designated on the building plans prior to the issuance of the first construction permit by the Department of Building Inspection ("DBI"). The affordable unit(s) shall (1) reflect the unit size mix in number of bedrooms of the market rate units, (2) be constructed, completed, ready for occupancy and marketed no later than the market rate units, and (3) be evenly distributed throughout the building; and (4) be of comparable overall quality, construction and exterior appearance as the market rate units in the principal project. The interior features in affordable units should be the same as those of the market units in the principal project, but need not be the same make, model or type of such item as long they are of good and new quality and are consistent with then-current standards for new housing. Other specific standards for on-site units are outlined in the Procedures Manual.
- ii. If the units in the building are offered for sale, the affordable unit(s) shall be sold to first time home buyer households, as defined in the Procedures Manual, whose gross annual income adjusted for household size does not exceed an average of ninety (90) percent of Area Median Income under the income table called "Maximum Income by Household Size" derived from the Unadjusted Area Median Income for HUD Metro Fair Market Rent Area that contains San Francisco. The initial sales price of such units shall be calculated according to the Procedures Manual. Limitations on (i) reselling; (ii) renting; (iii) recouping capital improvements; (iv) refinancing; and (v) procedures for inheritance

apply and are set forth in the Inclusionary Affordable Housing Program and the Procedures Manual.

- iii. The Project Sponsor is responsible for following the marketing, reporting, and monitoring requirements and procedures as set forth in the Procedures Manual. MOH shall be responsible for overseeing and monitoring the marketing of affordable units. The Project Sponsor must contact MOH at least six months prior to the beginning of marketing for any unit in the building.
- iv. Required parking spaces shall be made available to initial buyers or renters of affordable units according to the Procedures Manual.
- v. Prior to the issuance of the first construction permit by DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that contains these conditions of approval and a reduced set of plans that identify the affordable units satisfying the requirements of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to the MOH or its successor.
- vi. The Project Sponsor has demonstrated that it is eligible for the On-site Affordable Housing Alternative under Planning Code Section 415.6 instead of payment of the Affordable Housing Fee, and has submitted the *Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415*, to the Planning Department stating that any affordable units designated as on-site units shall be sold as ownership units and will remain as ownership units for the life of the Project.
- vii. If the Project Sponsor fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Section 415 et seq. shall constitute cause for the City to record a lien against the development project and pursue any and all available remedies at law.
- viii. If the Project becomes ineligible at any time for the On-site Affordable Housing Alternative, the Project Sponsor or its successor shall pay the Affordable Housing Fee prior to issuance of the first construction permit or may seek a fee deferral as permitted under Ordinances 0107-10 and 0108-10. If the Project becomes ineligible after issuance of its first construction permit, the Project Sponsor shall notify the Department and MOH and pay interest on the Affordable Housing Fee at a rate equal to the Development Fee Deferral Surcharge Rate in Section 107A.13.3.2 of the San Francisco Building Code and penalties if applicable.

MONITORING

16. **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*
17. **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

18. **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/>*
19. **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>*
20. **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*
21. **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