



# SAN FRANCISCO PLANNING DEPARTMENT

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*Subject to: (Select only if applicable)*

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|--|--|
| <input type="checkbox"/> Affordable Housing (Sec. 415)           | <input type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 413) | <input type="checkbox"/> Child Care Requirement (Sec. 414) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 412)            | <input type="checkbox"/> Other                             |

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## Planning Commission Motion No. 18912

HEARING DATE: JUNE 20, 2013

*Date:* June 13, 2013  
*Case No.:* **2011.0099CV**  
*Project Address:* **1759 LINCOLN WAY**  
*Zoning:* RM-2 (Residential – Mixed, Moderate Density) District  
40-X Height and Bulk District  
*Block/Lot:* 1732/043  
*Project Sponsor:* Patrick Whelan  
Tecta Associates  
2747 19<sup>th</sup> Street  
San Francisco, CA 94110  
*Staff Contact:* Doug Vu – (415) 575-9120  
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**ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 187.2 AND 303 OF THE PLANNING CODE, TO ALLOW THE DEMOLITION OF AN AUTOMOTIVE SERVICE STATION BUILDING AND CONSTRUCTION OF A NEW CONVENIENCE STORE AND MECHANICAL CAR WASH (D.B.A. SHELL GAS) WITHIN AN RM-2 (RESIDENTIAL-MIXED, MEDIUM DENSITY) DISTRICT AND A 40-X HEIGHT AND BULK DISTRICT.**

### PREAMBLE

On February 3, 2011, Patrick Whelan on behalf of Au Energy, L.L.C. (hereinafter “Project Sponsor”) filed an application (hereinafter “Application”) with the Planning Department (hereinafter “Department”) for Conditional Use authorization pursuant to Planning Code Section 303, on the property located at 1759 Lincoln Way, Assessor’s Lot 043 in Block 1732 (hereinafter “Property”), to allow the demolition of an automotive service station building and construction of a new convenience store and mechanical car wash (d.b.a. Shell Gas) within a Residential-Mixed, Medium Density District (hereinafter “RM-2 District”) and a 40-X Height and Bulk District.

On April 12, 2012, Supervisor Olague introduced a proposed Ordinance under Board of Supervisors (hereinafter “Board”) File Number 12-0353 to amend the San Francisco Planning Code by adding Section

187.2 to permit existing automotive service stations and automotive gas stations located on 19<sup>th</sup> Avenue to provide mechanical car washes on the same site; and make environmental findings and findings of consistency with the General Plan.

On June 28, 2012, the San Francisco Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing and recommended that the Board of Supervisors approve the proposed Ordinance.

On September 25, 2012, the Board of Supervisors finally passed Planning Code Section 187.2.

On June 20, 2013, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Case No. 2011.0099CV.

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 and Class 3 categorical exemption under CEQA.

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 Sponsor, Department staff, and other interested parties.

**MOVED**, that the Commission hereby disapproves the Conditional Use requested in Application No. 2011.0099CV based on the following findings:

## **FINDINGS**

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The Property is located at the southeast corner of 19th Avenue and Lincoln Way in a Residential – Mixed, Moderate Density (RM-2) Zoning District and a 40-X Height and Bulk District. The 19,246 sq. ft. irregular shaped lot is developed with a 2,334 sq. ft. one-story building that contains four service bays and a convenience store, eight gasoline pumps under a canopy, and six off-street parking spaces. The property has 132.5 feet of frontage along Lincoln Way and 150 feet of frontage along 19th Avenue. The Shell Gas station was constructed in 1970 and is a legal nonconforming use pursuant to Planning Code (PC) Section 187.1.
3. **Surrounding Properties and Neighborhood.** The Project is located within an RM-2 District, which generally contains a mixture of dwelling types, but has a significant number of apartment buildings that broaden the range of unit sizes and the variety of structures. Building widths and scales remain moderate, and considerable outdoor space is still available. Structures rarely exceed 40 feet in height, but the overall density of units is greater and the mixture of building types and unit sizes is more pronounced than in RM-1 districts. The unit density permitted

requires careful design of new structures in order to provide adequate amenities for residents. Where nonresidential uses are present, they tend to offer services for wider areas than residents in the immediate neighborhood.

The Project is located at the southeast corner of Lincoln Way and 19<sup>th</sup> Avenue, which are major arterials that serve as cross-town thoroughfares whose primary function is to link districts within the city and to distribute traffic from and to the freeways. These are routes of citywide significance, and of varying capacity depending on the travel demand for the specific direction and adjacent land uses.

Land uses located within the immediate vicinity of the Project include predominantly three- and four-story multi-family dwellings, a religious institution (a.k.a. The Church in San Francisco), a clothing store (d.b.a. Orange Caterpillar) and an eating & drinking establishment (d.b.a. Chug Pub) along the south side of Lincoln Way. Golden Gate Park is located on the north side of Lincoln Way. Located one block south of the Property are both the Inner Sunset and Irving Street Neighborhood Commercial Districts (NCDs), which function as shopping areas that provide convenience goods and services to Inner and Outer Sunset residents, as well as comparison shopping goods and services to a larger market area. These NCDs are also frequented by users of Golden Gate Park on weekends and by City residents for their eating, drinking, and entertainment places. Numerous housing units establish the district's mixed residential-commercial character. In particular, the Irving Street NCD has a high concentration of restaurants that attract customers from throughout the City and the region.

4. **Project Description.** The Project Sponsor seeks a Conditional Use Authorization, pursuant to Planning Code Sections 157, 187.2 and 303, to demolish the existing 2,334 square foot building that contains four automotive service bays and small convenience store with six parking spaces, and construct a new 2,369 square foot convenience store that will not sell alcohol and a 1,327 square foot mechanical car wash with three or four accessory parking spaces at an existing automotive service station (d.b.a. Shell Gas). No work is proposed for the eight existing gasoline service bays and underground storage tanks, but the canopy above which they are located will be replaced in its current location to provide updated signage. The proposed hours of operation for the car wash will be from 7:00 a.m. to 9:00 p.m., daily.
5. **Public Comment.** The Department has received four letters in opposition to the Project from the public and the Outer Sunset Merchant and Professional Organization (OSMPA) and Mid Sunset Neighborhood Association (MSNA), citing traffic-related concerns and the effects the proposed convenience store will have on local merchants.
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. **Landscaping and Permeable Surfaces.** Planning Code Section 132 requires at least 50% of the required front setback be permeable so as to increase stormwater infiltration and at least 20% of the front setback devoted to plant material using climate appropriate species. The

permeable surface may be inclusive of the area counted towards the landscaping requirement.

*The required front setback for the Property is 15'-6" along the 132'-6" Lincoln Way frontage, and the minimum required permeable area is 1,027 sq. ft., including 411 sq. ft. of landscaping. Since the front setback is already paved with asphalt to provide access and egress for the service station and circulation for automobiles using the gasoline service bays, the Project will landscaping on other portions of the Property that includes six new ornamental pear trees, flowering annuals, jasmine groundcover, and climbing vines along the perimeter of the Property, which will exceed the minimum area requirement.*

- B. **Rear Yard.** Planning Code Section 134 requires a rear yard equal to 45% of the total depth of the lot that can be reduced with a permitted obstruction if such obstruction complies with PC Section 136, including structures that extend no more than 12 feet into the required rear yard; and do not occupy any space within the rear 25% of the total depth of the lot, or within the rear 15 feet of the depth of the lot, whichever is greater.

*The forward edge of the required rear yard for the Property is 67'-6" for the portion of the lot that is 150' in depth, and 45' for the portion of the lot that is 100' in depth. The proposed off-street parking encroaches 47' into the required rear yard, and a portion of the car wash and utility room that will house the trash, storage and machine room encroaches approximately 45' into the required rear yard, both of which require a variance from Section 134 of the Planning Code. As such, the Sponsor has applied for a Variance to construct the building within the required rear yard.*

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

*The Property has 132'-6" of frontage along Lincoln Way and 150' of frontage along 19<sup>th</sup> Avenue, and the Project is required to provide fifteen street trees along the street or publicly accessible rights-of-way. Since there are three existing trees along 19<sup>th</sup> Avenue, the Project requires a total of twelve new street trees. The Department of Public Works Bureau of Urban Forestry has confirmed that none of these required trees can be planted along the rights-of-way due to the location of underground utilities, bus shelters and other improvements. Therefore, the Sponsor will be required to pay in-lieu fees for the twelve required trees so they may be planted elsewhere in the City.*

- D. **Parking.** Planning Code Section 151 requires one off-street parking space for every 500 square-feet of occupied floor area, where the occupied floor area exceeds 5,000 square-feet.

*The Project includes a new building with 2,369 sq. ft. of occupied floor area and therefore does not require any off-street parking, although three to four parking spaces will be provided.*

- E. **Parking Screening and Greening.** Planning Code Sections 142 and 156 require the screening of parking lots that are less than 25 linear feet to an adjacent public right-of-way. Any such parking lots shall be screened from view, except at driveways necessary for ingress and

egress, by a solid fence, a solid wall, or a compact evergreen hedge, not less than four feet in height.

*The Project will provide the necessary screening in the form of a solid fence, wall or compact evergreen hedge for all parking areas that are less than 25 feet from either 19<sup>th</sup> Avenue or Lincoln Way.*

- F. **Signage.** Planning Code Section 606 identifies the business signs that are permitted for an automobile service station located in a residential district. Any replacement or newly proposed signage will be subject to the review and approval of the Planning Department.

*The Property has existing signage on the canopy above the gasoline service bays and a freestanding sign at the northwest corner of the property. Any new or replacements signs will be subject to the review of the Planning Department for consistency with Planning Code Section 606.*

- F. **Service and Gasoline Stations as Nonconforming Uses.** Planning Code Section 187.1 states that an automotive service station located in an R district, and having legal nonconforming use status on January 1, 1980 shall be regarded as a legal nonconforming use so long as the station continues to sell and dispense gasoline and other motor fuels and lubricating fluids directly into motor vehicles.

*The Project does not propose to remove any of the eight existing gasoline service bays or underground fuels tanks and will remain a nonconforming gasoline service station.*

7. **Planning Code Section 187.2** states that a mechanical car wash is permitted as a conditional use on the same premises as an automotive service station or gasoline station that is located on Nineteenth Avenue from Lincoln Way to Junipero Serra Boulevard, and continuing south along Junipero Serra Boulevard to the southern boundary of the City and County of San Francisco provided:

- A. A vehicle storage and standing area is provided on the premises outside the washing facilities of sufficient size to accommodate at least one-quarter of the hourly capacity in vehicles of the facility.

*The Fehr & Peers traffic study for this Project observed a similar car wash operation on a Saturday, which represents the busiest period, and showed an average of 17 vehicles using the car wash per hour. Using 20 vehicles per hour as a standard, the Project would need to accommodate 5 vehicles on site in a vehicle storage and standing area. The site plan identifies that at least 7 vehicles can be accommodated in the reserved queuing line for the car wash.*

- B. Noise from the facility complies with Article 29 of the San Francisco Police Code and in no event shall noise from mechanical equipment exceed 65 dBA, as defined in Article 29, from 7:00 am to 10:00 pm, or 60 dBA from 10:00 pm to 7:00 am, when measured at any location on adjoining residential property.

*Multiple key design elements have been incorporated in to the Project's design in order to help control generated noise levels being dispersed into the surrounding community. These design features include: 1) Hours of operation restricted to between 7:00 a.m. and 9:00 p.m.; 2) Locating the car wash dryers deeper inside the car wash tunnel to direct noise away from adjacent residential uses; 3) Acoustically absorptive treatments to the interior of the car wash tunnel; 4) reduction in the height of the car wash exit opening; 5) Acoustical curtains on the outer 1-foot of the car wash exit to acoustically limit the width of the car wash opening; 6) "Green Walls" to acoustically break up hard reflective surfaces at key locations at the Property; 7) Noise protection wall and canopy extending from the exit of the car wash tunnel; and 8) noise protection walls along the southeast boundary of the Property.*

*Therefore, the Project will comply with Article 29 of the San Francisco Police Code and in no event will noise from the mechanical equipment of the car wash exceed 65dBA, as defined in Article 29, from 7:00 a.m. to 10:00 p.m., or 60 dBA from 10:00 p.m. to 7:00 a.m., when measured at any location on adjoining residential property as stated in the Shell Gas Station & Car Wash Noise Study Report, dated April 19, 2013 and prepared by Extant Acoustical Consulting on behalf of the Project Sponsor.*

C. Automobile washing and drying occurs entirely within an enclosed building.

*The Project includes the construction of an approximately 1,327 square foot automated mechanical car wash and utility room in which washing and drying will occur entirely within the enclosed building.*

D. Water use and reclamation meets criteria established by the Zoning Administrator in consultation with staff from the San Francisco Public Utilities Commission.

*The Project will utilize a "RYKO Environmental II-A" cyclone separator that is used to remove suspended sediment from a three-chamber underground storage and settling tank used for water reclamation at mechanical car washes. In this system, initial water (containing road grime, TPH, grit, surfactants, etc.) passes to the first chamber of the settling tank, where oil/water separation takes place, along with sludge and floc formation. Effluent from the first chamber passes through a set of baffles to a second chamber, and then decanted to a third chamber; additional settling occurs in each chamber. Finally, effluent from the third chamber is pumped through the cyclone separator to be reused in the mechanical car wash.*

*A letter dated March 26, 2013 from the San Francisco Public Utilities Commission states that the design criteria of 80% water reuse for the "RYKO Environmental II-A" cyclone separator is acceptable, and meets water use and reclamation criteria established by the Zoning Administrator.*

E. A traffic study demonstrates that the operation will not cause a new significant impact on traffic on adjacent streets.

*According to a Trip Generation and Traffic Queuing Study for the Shell Station at 1759 Lincoln Way, dated November 7, 2011 and prepared by Fehr & Peers on behalf of the Project Sponsor, the number of new trips that will be generated by replacing the existing service bays with a mechanical car wash at the Property would be minimal and would not affect adjacent roadway operations. Based on review of*

*trip generation studies from around the country, evidence suggests that car washes typically function as ancillary uses to gas stations and thus have minimal effect on the overall trip generation of stations.*

*The Project is not expected to generate queues that will extend beyond seven vehicles in length. This was the maximum queue observed at a larger and busier comparable gas station car wash located at 3550 Mission Street. The queue storage available at the Property is greater than that at the comparable site and will adequately accommodate the maximum queues on site.*

*Although unexpected, should car wash demand increase such that recurring queues do extend onto 19<sup>th</sup> Avenue and the public rights-of-way, the Project Sponsor and/or Property Owner will be required to employ abatement methods to reduce the queuing and prevent spillover into the surrounding streets through a condition of approval for the Project. Such abatement methods include, but are not limited to, redesigning the facility to improve vehicle circulation and/or on-site queue capacity, employment of service attendants to direct traffic, installation of "Car Wash/Facility Full" signs with active management by attendants, and/or demand management strategies such as time-of-day car wash or gasoline discounts or surcharges.*

- F. The facility is located on a lot equal to or greater than 12,000 square feet.

*The Project is located on a lot that is 19,246 square feet in area.*

8. **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 the new convenience store will be approximately the same size as the service station building that will be demolished, and will be convenient for customers to purchase retail goods at the time they are refueling their vehicles. The new convenience store will not sell alcohol, thereby avoiding related potential nuisances and further proliferation of alcohol sales in the local area.*

*The mechanical car wash is a new use that is desirable and compatible because there are no similar car wash facilities in the area that serve residents of the Inner and Outer Sunset neighborhoods. The nearest mechanical car wash facilities are located at 444 Divisadero Street (Divisadero Touchless Carwash) and 3035 Geary Boulevard (Shell Gas), which are located 2.9 and 3.1 miles away from the Project, respectively.*

*The Project will allow the Property Owners to earn a fair rate of return on their investment, and will allow the existing gasoline service station to remain that provides an essential service to the public. If the Property Owners cannot earn a fair rate of return on their investment, the potential conversion of the service station to a non-service station use will result in the curtailment of essential services,*

*including automobile refueling and emergency services, and is contrary to the public health, safety, peace and general welfare.*

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

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

*The existing service station is a legal nonconforming use and the height and bulk of the new convenience store building will be similar in size and location to the demolished service station building. The new 1,327 sq. ft. mechanical car wash and utility room building will be located behind the convenience store, is compatible with the eight gasoline service bays, will utilize the four existing driveways for access and egress and will not impede circulation on the 19,246 sq. ft. Property.*

- 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;

*Traffic conditions will remain substantially unaltered because the number of new trips that will be generated by replacing the existing service station building with a convenience store and a mechanical car wash at the Property will be minimal and will not affect adjacent roadway operations. Based on a review of trip generation studies from around the country by traffic consultants Fehr & Peers, evidence suggests that car washes typically function as ancillary uses to gas stations and thus have minimal effect on the overall trip generation of stations.*

*The Project will provide two off-street parking spaces (including one accessible space) that will be adequate to accommodate customers that are not already temporarily parked at the gasoline service bays while refueling or using the mechanical car wash.*

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

*The Property is currently used as an automotive service station. Although the gasoline service use will be unchanged and maintained, the new car wash use will not introduce any new noxious or offensive emissions such as glare, dust or odor. In particular, the new car wash will incorporate multiple key design elements in order to help control generated noise levels being dispersed into the surrounding community and will strictly comply with Article 29 of the San Francisco Police Code and Planning Code Section 187.2. In no event will noise from the mechanical equipment of the car wash exceed 65dBA from 7:00 a.m. to 10:00 p.m., or 60 dBA from 10:00 p.m. to 7:00 a.m., when measured at any location on adjoining residential property.*



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

*The Project will provide landscaping that includes six new ornamental pear trees, flowering annuals, jasmine groundcover, and climbing vines along the perimeter of the Property. Existing lighting will be maintained and any new or replacement signage will be reviewed by the Planning Department to ensure compliance with Planning Code Section 606.*

- 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.*

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

## **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 1.2:**

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

#### **Policy 1.3:**

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

*The proposed Project will provide substantial net benefits with negligible undesirable consequences to the residents of the Inner and Outer Sunset neighborhoods because gasoline service stations provide an essential service to the public and there are no mechanical car wash facilities in the western portion of the City south of Golden Gate Park. Traffic conditions will remain substantially unaltered because the number of new trips that will be generated by the Project will be minimal and not affect adjacent roadway operations, and noise generated by the Project will not exceed levels determined to be appropriate by the Police Code and Planning Code.*

**OBJECTIVE 2:**

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

**Policy 2.1:**

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

*Approval of the Project will allow the Property Owners to earn a fair rate of return on their investment and enable the retention and continued operation of the existing gasoline service station, which provides an essential service to the public. If not approved, the potential conversion of the service station to a non-service station use will result in the curtailment of essential services, including automobile refueling and emergency services, and is contrary to the public health, safety, peace and general welfare.*

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

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

*The Project will preserve the existing gasoline service station, which provides an essential service to the public, and the new mechanical car wash is a desirable neighborhood-serving use. If the Project cannot be constructed, the potential conversion of the service station to a non-service station use will result in the curtailment of essential services, including automobile refueling and emergency services.*

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

*The immediate vicinity is characterized predominantly by three- and four-story residential buildings, along with a religious institution and a few commercial spaces at the ground floor along Lincoln Way. The new convenience store and mechanical car wash will be located approximately in the same location as the demolished service station building, and no existing housing will be removed. The Project will preserve the existing neighborhood character by strictly complying with Article 29 of the San Francisco Police Code and Planning Code Section 187.2, and in no event will noise from the mechanical equipment of the car wash exceed permitted levels. In addition, traffic conditions will remain substantially unaltered because the number of new trips that will be generated by the mechanical car wash will be minimal and will not affect adjacent roadway operations. Furthermore, the new convenience store will not sell alcohol, thereby avoiding related potential nuisances and further proliferation of alcohol sales in the local area. The Project will preserve the economic diversity of the Inner and Outer Sunset neighborhoods by providing a new car wash use that currently does not exist in the area.*

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

*No housing would be removed for this Project.*

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

*The Project will have no demand on neighborhood parking, and will not impede MUNI transit nor overburden the City's streets because the number of new trips that will be generated by replacing the existing service station building with a convenience store and a mechanical car wash at the Property will be minimal and will not affect adjacent roadway operations. Furthermore, the location of the structures and the amount of space available for queuing and circulation within the Property will not result in a negative impact to commuter traffic.*

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

*The Project will not displace any industrial and service sector uses.*

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

*The Project will be designed and constructed to comply with all required seismic and life safety codes in order to achieve the possible preparedness to protect against injury and loss of life in the event of an earthquake.*

- G. That landmarks and historic buildings be preserved.

*The service station building that is proposed for demolition is not a landmark or historic building.*

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

*The Project will replace the existing service station building with a convenience store and mechanical car wash within the 19,246 sq. ft. lot and will have no negative impact on existing parks and open spaces.*

11. 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.
12. 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. 2011.0099CV** as submitted on February 3, 2011.

**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. 18912. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on June 20, 2013.

Jonas P. Ionin  
Acting Commission Secretary

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

NAYES: None

ABSENT: None

ADOPTED: June 20, 2013

## **EXHIBIT A**

### **AUTHORIZATION**

This authorization is for a Conditional Use, pursuant to Planning Code Sections 187.2 and 303, in order to modify the Conditions of Approval contained in Motion No. 18163 (Case No. 2010.0422CV) to allow the demolition of an automotive service station building and construction of a new convenience store and mechanical car wash (d.b.a. Shell Gas), for the use located at 1759 Lincoln Way (Block 1732, Lot 043) within an RM-2 Residential – Mixed, Moderate Density Zoning District and a 40-X Height and Bulk District, subject to Conditions of Approval reviewed and approved by the Commission on June 20, 2013 under Motion No. **18912**. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

### **RECORDATION OF CONDITIONS OF APPROVAL**

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the Conditions of Approval contained herein and reviewed and approved by the Planning Commission on June 20, 2013 under Motion No. **18912**.

### **PRINTING OF CONDITIONS OF APPROVAL ON PLANS**

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **18912** shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

### **SEVERABILITY**

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

### **CHANGES AND MODIFICATIONS**

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

## Conditions of Approval, Compliance, Monitoring, and Reporting PERFORMANCE

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

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

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

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

## DESIGN

3. **Signage.** Any signs on the property shall be made to comply with the requirements of Article 6 of the Planning Code applying to nonconforming uses.
4. **Parking.** The Project shall provide between three and four off-street parking spaces, and such spaces shall be sited so as to not impede the circulation of vehicles that are queuing for the mechanical car wash.

## MONITORING

5. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

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

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

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

## OPERATION

7. **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>*

8. **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>*

9. **Noise Control.** The premises shall be adequately soundproofed or insulated for noise and operated so that incidental noise shall not be audible beyond the premises or in other sections of the building and fixed-source equipment noise shall not exceed the decibel levels specified in the San Francisco Noise Control Ordinance and Planning Code Section 187.2.

*For information about compliance with the fixed mechanical objects such as rooftop air conditioning, restaurant ventilation systems, and motors and compressors with acceptable noise levels, contact the Environmental Health Section, Department of Public Health at (415) 252-3800, [www.sfdph.org](http://www.sfdph.org)*

*For information about compliance with the construction noise, contact the Department of Building Inspection, 415-558-6570, [www.sfdbi.org](http://www.sfdbi.org)*

*For information about compliance with the amplified sound including music and television contact the Police Department at 415-553-0123, [www.sf-police.org](http://www.sf-police.org)*

10. **Community Liaison.** Prior to the implementation of 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 community liaison officer will be Sunny Goyal, who can be contacted at (650) 799-2949, or via email at [sunny@vintnersdist.com](mailto:sunny@vintnersdist.com). Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

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

11. **Hours of Operation.** The hours of operation for the mechanical car wash shall be 7:00 a.m. to 9:00 p.m., daily.

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

12. **Automobile Queuing.** It shall be the responsibility of the Owner/Operator of the automotive service station and carwash to ensure that recurring vehicle queues do not occur on the public right-of-way. A vehicle queue is defined as one or more vehicles (destined to the service station or car wash) blocking any portion of any public street, alley or sidewalk for a consecutive period of three minutes or longer, or for more than five percent (5%) of any 60-minute period, on a daily or weekly basis. Recurring queues could be caused by customer demand for gasoline or carwash service exceeding the capacity of the facility, vehicle conflicts with high volumes of pedestrians on the sidewalk, or a combination of these or other factors.

If a recurring queue occurs, the owner/operator of the service station and carwash shall employ abatement methods as needed to abate the queue. Appropriate abatement methods will vary depending on the characteristics and causes of the recurring queue, as well as the operation of the service station and carwash.

Suggested abatement methods include but are not limited to the following: redesign of facility to improve vehicle circulation and/or on-site queue capacity; employment of service attendants to direct traffic; installation of "CARWASH/FACILITY FULL" signs with active management by attendants; and/or demand management strategies such as time-of-day carwash or gasoline discounts or surcharges.

If the Planning Director, or his or her designee, suspects that a recurring queue is present, the Department shall notify the Property Owner in writing. The Owner/Operator shall hire a transportation consultant from the Planning Department's list of qualified transportation consultants to evaluate the conditions at the site for no less than seven days. The consultant shall submit a report to the Department for review. The Department shall determine whether or not a recurring queue does exist, and shall notify the Owner/Operator of the determination in writing.

If the Department determines that a recurring queue does exist, upon notification, the Owner/Operator shall have 90 days from the date of the written determination to abate the queue. If after 90 days the Department determines that a recurring queue is still present, the service station and/or carwash shall be considered in violation of this Condition of Approval, and the Department may assess penalties and pursue enforcement actions per the Planning Code sections 176 and 176.1.