



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use HEARING DATE: MAY 10, 2012

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

Reception:
415.558.6378

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Planning
Information:
415.558.6377

Date: May 3, 2012
Case No.: 2011.1090 C
Project Address: 3995 ALEMANY BOULEVARD
Zoning: NC-S (Neighborhood Commercial, Shopping Center) District
40-X Height and Bulk District
Block/Lot: 7126A/012
Project Sponsor: Tony Fong
2618 26th Avenue
San Francisco, CA 94116
Staff Contact: Adrian C. Putra – (415) 575-9079
adrian.putra@sfgov.org
Recommendation: **Approval with Conditions**

PROJECT DESCRIPTION

The project sponsor proposes to legalize a large, fast-food restaurant (d.b.a. Oceanview Supermarket Hot Pot Buffet) located within an existing retail grocery store (d.b.a. Oceanview Supermarket) containing approximately 38,000 square-feet. The existing establishment contains approximately 2,950 square-feet consisting of two separate dining areas sectioned off from supermarket with partitions. The Oceanview Supermarket Hot Pot Buffet operates as an Asian style hot pot restaurant which involves patrons selecting a variety of raw thinly sliced meat, vegetables, dumplings, and seafood from a self-serve refrigerated area and cooking their own food in a simmering metal pot of stock at the center of the dining table. Food is cooked and eaten using reusable plates and utensils and restaurant patrons pay for their meals before being seated.

SITE DESCRIPTION AND PRESENT USE

The project site at 3995 Alemany Boulevard is located within the Oceanview Village, south side of Alemany Boulevard between Worchester and St. Charles Avenues in a NC-S (Neighborhood, Commercial, Shopping Center) District, and a 40-X Height and Bulk District. The Oceanview Village contains approximately 257,000 square-feet and is developed with a shopping center containing approximately 90,000 square feet of commercial retail space and 320 retail parking spaces. The Ocean Village is also developed with four-story residential apartments above the ground floor retail commercial.

The Oceanview Village shopping center is anchored by a supermarket (d.b.a. Oceanview Supermarket) containing approximately 38,000 square-feet. Other businesses found within the Ocean Village shopping

center include a large, fast-food restaurant (d.b.a. Extreme Pizza), a small, self-service restaurant (d.b.a. Subways), a retail sales and service use (d.b.a. Walgreens), a personal service use (d.b.a. Bally's Total Fitness), two financial services (d.b.a. Chase Bank and Sterling Bank), and a dental office. Additionally, there are and two vacant storefronts.

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The project site is located within an NC-S (Neighborhood Commercial, Shopping Center) District that is intended to serve small shopping centers or supermarket sites which provide retail goods and services for primarily car-oriented shoppers. They commonly contain at least one anchor store or supermarket, and some districts also have small medical office buildings. The range of services offered at their retail outlets usually is intended to serve the immediate and nearby neighborhoods. These districts encompass some of the most recent (post-1945) retail development in San Francisco's neighborhoods and serve as an alternative to the linear shopping street. The neighborhood surrounding the Oceanview Village is characterized by mostly two-story, single-family dwellings. Directly south of the Oceanview Village is the John F. Foram Freeway.

ENVIRONMENTAL REVIEW

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

HEARING NOTIFICATION

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	April 20, 2012	April 20, 2012	20 days
Posted Notice	20 days	April 20, 2012	April 20, 2012	20 days
Mailed Notice	20 days	April 20, 2012	April 20, 2012	20 days

The proposal requires a Section 312-neighborhood notification, which was conducted in conjunction with the conditional use authorization process.

PUBLIC COMMENT

To date, the Department is not aware of any public opposition regarding the project.

ISSUES AND OTHER CONSIDERATIONS

- The Oceanview Village shopping center contains one other large, fast-food restaurant (d.b.a. Extreme Pizza) and two vacant storefronts.
- The project sponsor applied for this Conditional Use application to legalize the proposed large fast-food restaurant in response to a complaint filed with the Department of Building Inspection (DBI) for the conversion of a produce area into a restaurant without the benefit of a permit.

- The large-fast food restaurant occupies less than 5,000 square-feet of floor area within the existing grocery store and thus does not require off-street parking. Additionally, the Oceanview Village shopping center provides a total of 320 retail parking spaces, 54 parking spaces in excess of the Planning Code requirement of 266 retail parking spaces for the approximately 90,000 square feet of retail and personal service uses in the center.
- The General Plan states that there is a concern with the potential over-concentration of food-service establishments, and the Commerce and Industry Element of the General Plan contains the Guidelines for Specific Uses. For eating and drinking establishments, the Guidelines state, "the balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage. The proposed large, fast-food restaurant will be located completely within an existing retail grocery store and not occupy any commercial frontage within the Oceanview Village. As, a result, the project will not affect the balance of commercial frontage occupied by eating and drinking establishments in this NC-S District.

REQUIRED COMMISSION ACTION

In order for the project to proceed, the Commission must grant Conditional Use Authorization to allow a large fast-food restaurant within an NC-S (Neighborhood Commercial, Shopping Center) Zoning District, pursuant to Planning Code Section 303 and 713.43.

BASIS FOR RECOMMENDATION

- The project meets all applicable requirements of the Planning Code.
- The project is necessary and desirable because it is neighborhood serving and will improve upon the goods and services offered by an existing anchor supermarket for the shopping center.
- The project will contribute to the economic vitality of the neighborhood and also provide entry-level job opportunities for neighborhood residents.

RECOMMENDATION: Approval with Conditions
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Attachment Checklist

- | | |
|---|---|
| <input checked="" type="checkbox"/> Executive Summary | <input checked="" type="checkbox"/> Project sponsor submittal |
| <input checked="" type="checkbox"/> Draft Motion | Drawings: <u>Existing Conditions</u> |
| <input type="checkbox"/> Environmental Determination | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Zoning District Map | Drawings: <u>Proposed Project</u> |
| <input type="checkbox"/> Height & Bulk Map | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Parcel Map | |
| <input checked="" type="checkbox"/> Sanborn Map | |
| <input checked="" type="checkbox"/> Aerial Photo | |
| <input type="checkbox"/> Context Photos | |
| <input checked="" type="checkbox"/> Site Photos | |

Exhibits above marked with an "X" are included in this packet

ACP

Planner's Initials



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- | | |
|--|--|
| <input type="checkbox"/> Inclusionary Housing (Sec. 315) | <input type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 313) | <input type="checkbox"/> Child Care Requirement (Sec. 314) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 139) | <input type="checkbox"/> Other |

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Draft Planning Commission Motion HEARING DATE, MAY 10, 2012

Date: May 3, 2012
Case No.: **2011.1090 C**
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ADOPTING FINDINGS RELATING TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 713.43 AND 303, TO LEGALIZE A LARGE, FAST-FOOD RESTAURANT (D.B.A. OCEANVIEW SUPERMARKET HOT POT BUFFET) LOCATED WITHIN AN EXISTING RETAIL GROCERY STORE IN THE NC-S (NEIGHBORHOOD COMMERCIAL, SHOPPING CENTER) DISTRICT, AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On September 22, 2011, Tony Fong (Project Sponsor) filed an application with the Department for Conditional Use Authorization under Planning Code Sections 713.43 and 303 of the Planning Code to legalize a large, fast-food restaurant (d.b.a. Oceanview Supermarket Hot Pot Buffet) located within an existing retail grocery store in the NC-S (Neighborhood Commercial, Shopping Center) District, and a 40-X Height and Bulk District.

On May 10, 2012, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2011.1090C.

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 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 applicant, Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2011.1090C, 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 site at 3995 Alemany Boulevard is located within the Oceanview Village, south side of Alemany Boulevard between Worchester and St. Charles Avenues in a NC-S (Neighborhood, Commercial, Shopping Center) District, and a 40-X Height and Bulk District. On October 21, 1999, the Planning Commission affirmed issuance of a Final Negative Declaration for the Oceanview Village project under Case No. 99.194E, analyzing the project's accessibility, traffic patterns, parking and loading and finding that there would be no significant environmental impacts caused by construction and operation of the renovated shopping center. The Oceanview Village contains approximately 257,000 square-feet and is developed with a shopping center containing approximately 90,000 square feet of commercial retail space and 320 retail parking spaces. The Ocean Village is also developed with four-story residential apartments above the ground floor retail commercial.

The Oceanview Village shopping center is anchored by a retail grocery supermarket (d.b.a. Oceanview Supermarket) containing approximately 38,000 square-feet. Other businesses found within the Ocean Village shopping center include a large, fast-food restaurant (d.b.a. Extreme Pizza), a small, self-service restaurant (d.b.a. Subways), a retail sales and service use (d.b.a. Walgreens), a personal service use (d.b.a. Bally's Total Fitness), two financial services (d.b.a. Chase Bank and Sterling Bank), a dental office. Additionally, there are and two vacant storefronts.

3. **Surrounding Properties and Neighborhood.** The project site is located within an NC-S (Neighborhood Commercial, Shopping Center) District that are intended to serve as small shopping centers or supermarket sites which provide retail goods and services for primarily car-oriented shoppers. They commonly contain at least one anchor store or supermarket, and some districts also have small medical office buildings. The range of services offered at their retail outlets usually is intended to serve the immediate and nearby neighborhoods. These districts encompass some of the most recent (post-1945) retail development in San Francisco's neighborhoods and serve as an alternative to the linear shopping street.

Shopping centers and supermarket sites contain mostly one-story buildings which are removed from the street edge and set in a parking lot. Outdoor pedestrian activity consists primarily of trips between the parking lot and the stores on-site. Ground and second stories are devoted to retail sales and some personal services and offices.

The NC-S standards and use provisions allow for medium-size commercial uses in low-scale buildings. Rear yards are not required for new development. Most neighborhood-serving retail businesses are permitted at the first and second stories, but limitations apply to fast-food restaurants and take-out food uses. Some auto uses are permitted at the first story. Limited storage and administrative service activities are permitted with some restrictions. The neighborhood surrounding the Oceanview Village is characterized by mostly two-story, single-family dwellings. Directly south of the Oceanview Village is the John F. Foram Freeway.

4. **Project Description.** The project sponsor proposes to legalize a large, fast-food restaurant (d.b.a. Oceanview Supermarket Hot Pot Buffet) located within an existing retail grocery store (d.b.a. Oceanview Supermarket) containing approximately 38,000 square-feet. The existing establishment contains approximately 2,950 square-feet consisting of two separate dining areas sectioned off from supermarket with partitions. The Oceanview Supermarket Hot Pot Buffet operates as an Asian style hot pot restaurant which involves patrons selecting a variety of raw thinly sliced meat, vegetables, dumplings, and seafood from a self-serve refrigerated area and cooking their own food in a simmering metal pot of stock at the center of the dining table. Food is cooked and eaten using reusable plates and utensils and restaurant patrons pay for their meals before being seated.
5. **Public Comment.** To date, the Department is not aware of any public opposition regarding the project.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
 - A. **Large, Fast-food Restaurant.** Planning Code Section 713.43 states that a large, fast-food restaurant, as defined in Sections 790.90 of the Planning Code, is permitted as conditional uses on the first and second story.

The project sponsor seeks Conditional Use Authorization to allow a large, fast-food restaurant at the first floor, which is located within an NC-S District.

- B. **Hours of Operation.** Planning Code Section 713.27 states that in the NC-S District maintaining hours of operation from 6:00 PM. to 2:00 AM. is permitted by right, and that hours of operation from 2:00 AM. to 6:00 AM. is conditionally permitted.

The hours of operation of the proposed large, fast-food restaurant are from 11:00 AM to 3:00 PM and 4:30 PM to 9:00 PM, seven days a week.

- C. **Use Size.** Planning Code Section 713.21 states that a use size of up to 5,999 square feet is permitted by right.

The use size of approximately 2,950 gross square-feet of floor area is below the 5,999 square foot threshold established for uses sizes in the NC-S District.

- D. **Parking.** Section 151 of the Planning Code requires off-street parking for restaurants for every 200 square-feet of occupied floor area, where the occupied floor area exceeds 5,000 square-feet.

The proposed large-fast food restaurant occupies approximately 2,950 gross square-feet of floor area within an existing retail grocery store and thus does not require off-street parking. Additionally, the Oceanview Village shopping center provides a total of 320 retail parking spaces, 54 parking spaces in excess of the Planning Code requirement of 266 retail parking spaces for the approximately 90,000 square feet of retail and personal service uses in the center.

- E. **Signage.** Any proposed signage will be subject to the review and approval of the Planning Department.

Any proposed signage shall be subject to the review of the Planning Department and required to meet all provisions set forth in Article 6 of the Planning Code pending the approval of this application.

- F. **Large, Fast-food Restaurant.** Section 790.90 of the Code defines a large, fast-food restaurant as a retail eating or drinking use which provides ready-to-eat food to a high volume of customers at a high turnover rate for consumption on or off the premises, which may or may not provide seating. Such use exhibits the following characteristics:

- (1) A gross floor area of 1,000 square feet or more;
- (2) A limited menu of ready-to-eat food prepared in advance of customer orders, or food which is able to be quickly prepared for consumption on or off the premises;
- (3) Food served in disposable wrappers or containers;
- (4) Food is ordered and served at customer service counter;
- (5) Food is paid for prior to consumption;
- (6) Public food service area, including queuing areas and service counters without fixed seats, which counters are designed specifically for the sale and distribution of food and beverages;
- (7) Food available upon a short waiting time.

It does not include retail grocery stores with accessory take-out food activity, as described in Section 703.2(b)(1)(C) of this Code, self-service specialty food use, as described in Section 790.93 of this Code, or retail uses which sell prepackaged or bulk ready-to-eat foods with no-site food preparation area, such as confectionery or produce stores. When a fast-food

restaurant operates within and in conjunction with another retail use, such as a retail grocery store, the area of the fast-food restaurant use shall be measured to include the area devoted to food preparation and service, seating and separate public food service counters, excluding fish, poultry and meat counters.

It may provide off-site beer, wine, and/or liquor sales for consumption off the premises (with ABC licenses 20 or 21) or on-site beer and/or wine sales for drinking on the premises (with ABC licenses 40, 41 or 60). If it serves liquor for drinking on the premises (with ABC licenses 47 or 48), or does not admit minors (with ABC licenses 42 or 61), then it shall also be considered a bar, as defined in Section 790.22 of this Code.

It shall be conducted in accordance with the following conditions:

- (1) All debris boxes shall be kept in enclosed structures.
- (2) The operator shall be responsible for cleaning the sidewalk within a one-block radius daily to maintain the sidewalk free of paper or other litter during its business hours, in accordance with Article 1, Section 34 of the San Francisco Police Code.
- (3) Noise and odors shall be contained within the premises so as not to be a nuisance to nearby residents or neighbors.

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

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

The project is necessary and desirable because it is neighborhood serving and will improve upon the goods and services offered by an existing anchor supermarket for the shopping center. The Project will contribute to the economic vitality of the neighborhood and also provide entry-level job opportunities for neighborhood residents.

- 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 size and shape of the project site is compatible with the pattern of development in the area, and the project does not involve any alterations to the exterior of the subject building. The project will not affect the building envelope.

- 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 will not affect public transit or overburden the existing supply of parking in the neighborhood. Additionally, the shopping center is well served with off-street parking with 320 retail parking spaces.

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

The project will not produce noxious or offensive emissions related to noise, glare and dust.

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

There are no proposed changes to existing conditions as they relate to landscaping, screening, open spaces, parking and loading areas, service areas and lighting. Any proposed signage shall be subject to the review of the Planning Department and required to meet all provisions set forth in Article 6 of the Planning Code pending the approval of this application

- 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 project is consistent with the stated purpose of the NC-S District in that the intended use is located at the ground floor, will provide a compatible convenience service for the immediately surrounding neighborhoods, and operates with hours of operation that are permitted by right within the district.

- 8. **General Plan Compliance.** The Project is consistent with the Objectives and Policies of the General Plan in that:

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 project will provide desirable goods and services to the neighborhood and will provide resident employment opportunities to those in the community. The conditions of approval will ensure that the use meets minimum, reasonable performance standards. The project is also located within a Neighborhood Commercial District and is thus consistent with activities in the commercial land use plan.

OBJECTIVE 2:

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

Policy 2.1:

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

The project will enhance the goods and services offered by an existing commercial activity in addition to enhancing the diverse economic base of the City.

OBJECTIVE 3:

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

Policy 3.1:

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

Approving the project will create entry-level employment opportunities for local unskilled and semi-skilled workers.

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.

No commercial tenant would be displaced and the project would not prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood.

EATING AND DRINKING ESTABLISHMENTS

The following guidelines, in addition to others in this objective for neighborhood commercial districts, should be employed in the development of overall district zoning controls as well as in the review of individual permit applications, which require case-by-case review and Planning Commission approval. Pertinent guidelines may be applied as conditions of approval for individual permit applications. In general, uses should be encouraged which meet the guidelines; conversely, uses should be discouraged which do not.

Eating and drinking establishments include bars, sit-down restaurants, fast-food restaurants, self-service restaurants, and take-out food. Associated uses – which can serve similar functions and create similar land use impacts – include ice cream stores, bakeries and cookie stores. Guidelines for eating and drinking establishments are needed to achieve the following purposes:

- Regulate the distribution and proliferation of eating and drinking establishments, especially in districts experiencing increased commercial activity;
- Control nuisances associated with their proliferation;
- Preserve storefronts for other types of local-serving businesses; and
- Maintain a balanced mix of commercial goods and services.
- The regulation of eating and drinking establishments should consider the following:
 - Balance of retail sales and services;
 - Current inventory and composition of eating and drinking establishments;
 - Total occupied commercial linear frontage, relative to the total district frontage;
 - Uses on surrounding properties;
 - Available parking facilities, both existing and proposed;
 - Existing traffic and parking congestion; and
 - Potential impacts on the surrounding community.

In districts where the proliferation of eating and drinking establishments could generate problems, the following guidelines should be employed in the consideration of new establishments, relocations, changes from one kind of eating and drinking establishment to another (e.g. from self-service restaurant to full-service restaurant), expansion or intensification of existing establishments:

- The establishment should not add to an over-concentration of eating and drinking establishments in a single district. The balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage. Proposals for eating and drinking establishments which would increase the proportion of total occupied commercial frontage above 20% should be reviewed to ensure that they would not reduce the variety of neighborhood-serving uses; nor create substantial noise, traffic, parking problems, or other nuisances in the district or surrounding neighborhood. Those establishments that would do the above should not be permitted. Except in districts with an established pattern of service to a broad market, such as North Beach, such establishments should not occupy more than 25% of the total commercially occupied frontage in a district. To minimize the problems they can create, eating and drinking uses should generally be at least 100 feet apart from each other, unless there are factors making clustering of uses appropriate. For example, a configuration of clustered eating and drinking uses where off-street parking is shared might be more appropriate than an even distribution of such establishments.
- New, expanding or relocating eating and drinking uses should not impose significant adverse impacts on traffic and transit volumes and circulation and parking congestion. If such impacts are anticipated, especially on transit-preferential streets, the proposed use, expansion or relocation should be redesigned to mitigate such impacts, or it should be prohibited.
- Eating and drinking uses should be adequately soundproofed or insulated for noise and operated so as to reasonably protect adjoining and surrounding upper-story residences from disturbances. Fixed source equipment

The General Plan states that there is a concern with the potential over-concentration of food-service establishments, and the Commerce and Industry Element of the General Plan contains the Guidelines for Specific Uses. For eating and drinking establishments, the Guidelines state, "the balance of commercial uses may be threatened when eating and drinking establishments occupy more than 20% of the total occupied commercial frontage. The proposed large, fast-food restaurant will be located completely within an existing retail grocery store and not occupy any commercial frontage within the Oceanview Village. As a result, the project will not affect the balance of commercial frontage occupied by eating and drinking establishments in this NC-S District.

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

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

No retail uses will be displaced as a result of this authorization. Additionally, this authorization will allow for the creation of new job opportunities by allowing a large, fast-food restaurant within an existing retail grocery store.

- 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 will not adversely affect existing housing and is consistent with the surrounding neighborhood character.

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

No housing will be removed for this Project.

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

The project would not adversely impact public transit or place a burden on the existing supply of parking in the neighborhood. The project site is well-served by off-street parking.

- 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 adversely affect any industrial or service sector jobs rather it will create new service sector employment opportunities for local residents.

- 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 conform to the structural and seismic safety requirements of the San Francisco Building Code where applicable. Therefore, the project will not impact the existing structure's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

The project does not involve façade alterations. Additionally, the existing structure is not an architecturally rated building, nor is it included on any architectural survey. Therefore, no historic buildings will be adversely affected by the proposed change of use.

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

This project will not affect any parks or open space because there is no change to the existing building footprint.

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

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

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2011.1090C** subject to the following conditions attached hereto as "EXHIBIT A" 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. XXXXX. 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, 94012.

I hereby certify that the Planning Commission **ADOPTED** the foregoing Motion on May 10, 2012.

Linda Avery
Commission Secretary

AYES:

NAYES:

ABSENT:

ADOPTED:

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to legalize a large, fast-food restaurant (d.b.a. Oceanview Supermarket Hot Pot Buffet) located at 3995 Alemany Boulevard, Block 7126A, and Lot 012 pursuant to Planning Code Sections 303 and 713.43 within an NC-S (Neighborhood Commercial, Shopping Center) District and a 40-X Height and Bulk District; in general conformance with plans, dated September 22, 2011, and stamped "EXHIBIT B" included in the docket for Case No. 2011.1090C and subject to conditions of approval reviewed and approved by the Commission on May 10, 2012 under Motion No XXXXXX. 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 May 10, 2012 under Motion No XXXXXX.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

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

SEVERABILITY

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

CHANGES AND MODIFICATIONS

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

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

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

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

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

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

DESIGN – COMPLIANCE AT PLAN STAGE

3. **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

MONITORING - AFTER ENTITLEMENT

4. **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

5. **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*

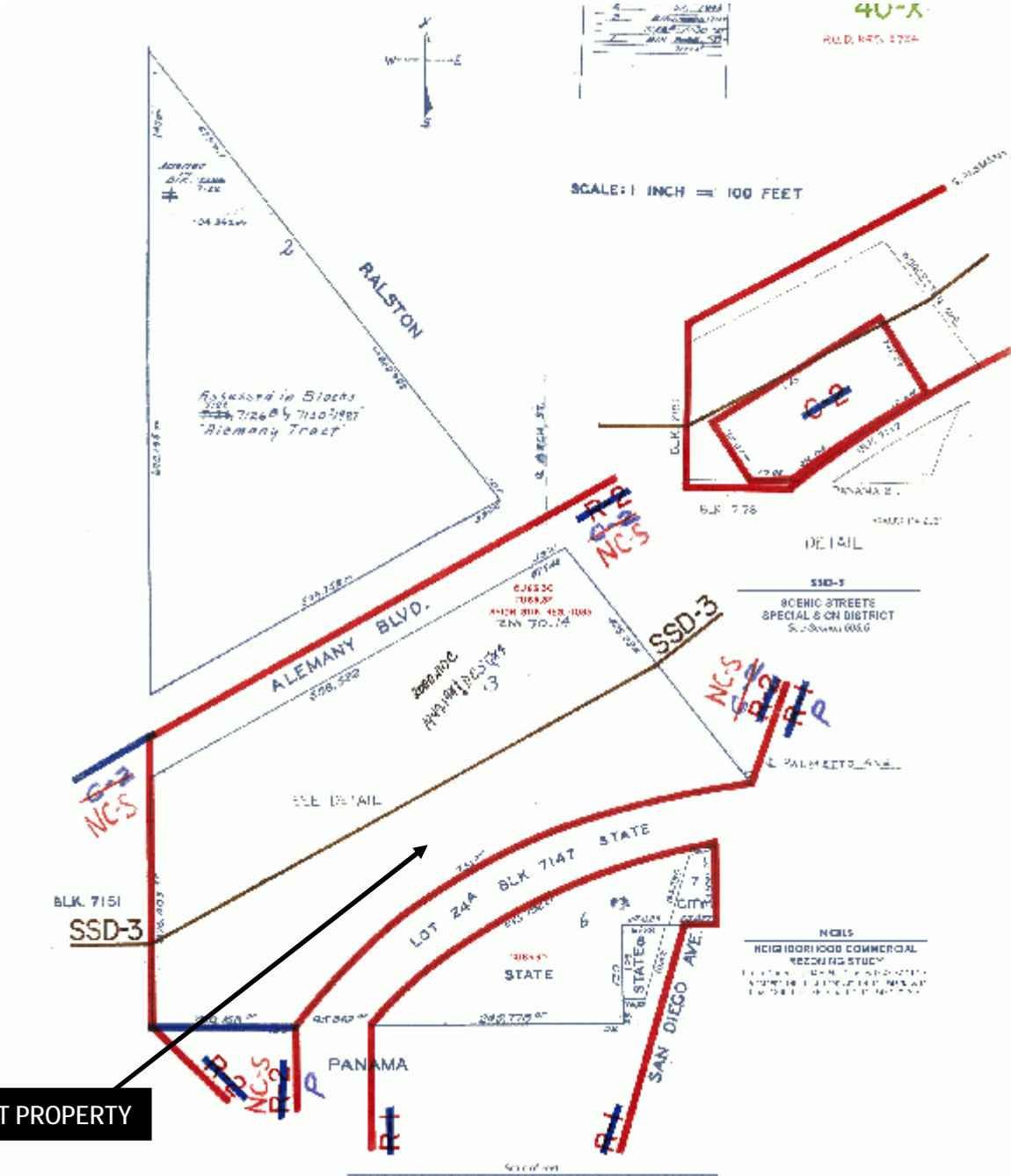
OPERATION

6. **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>*
7. **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.
- 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*
- For information about compliance with the construction noise, contact the Department of Building Inspection, 415-558-6570, 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*
8. **Odor Control.** While it is inevitable that some low level of odor may be detectable to nearby residents and passersby, appropriate odor control equipment shall be installed in conformance with the approved plans and maintained to prevent any significant noxious or offensive odors from escaping the premises.
- For information about compliance with odor or other chemical air pollutants standards, contact the Bay Area Air Quality Management District, (BAAQMD), 1-800-334-ODOR (6367), www.baaqmd.gov and Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org*
9. **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.

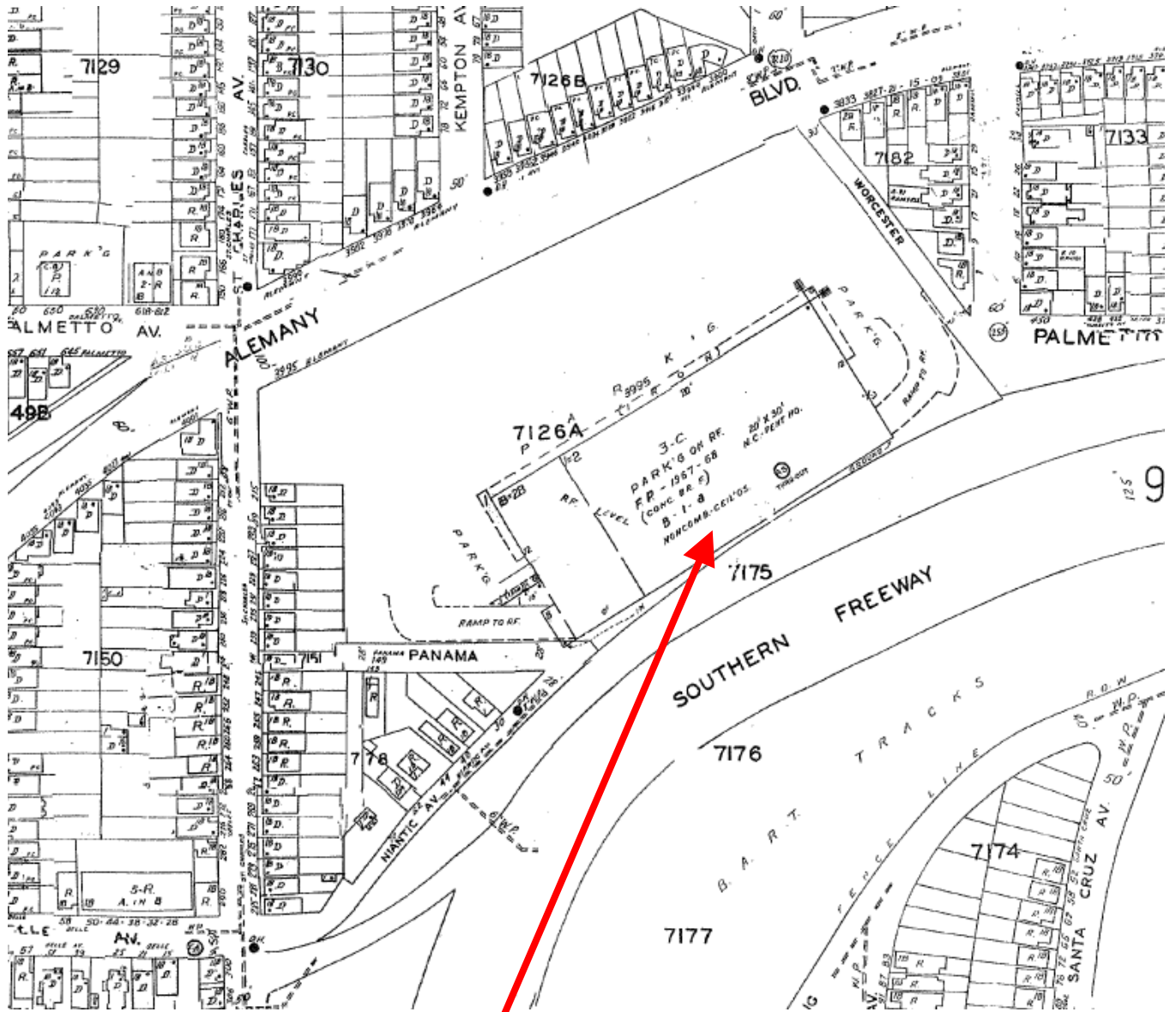
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Parcel Map



Conditional Use Request Hearing
Case Number 2011.1090 C
Large Fast-food Restaurant
3995 Alemany Boulevard

Sanborn Map

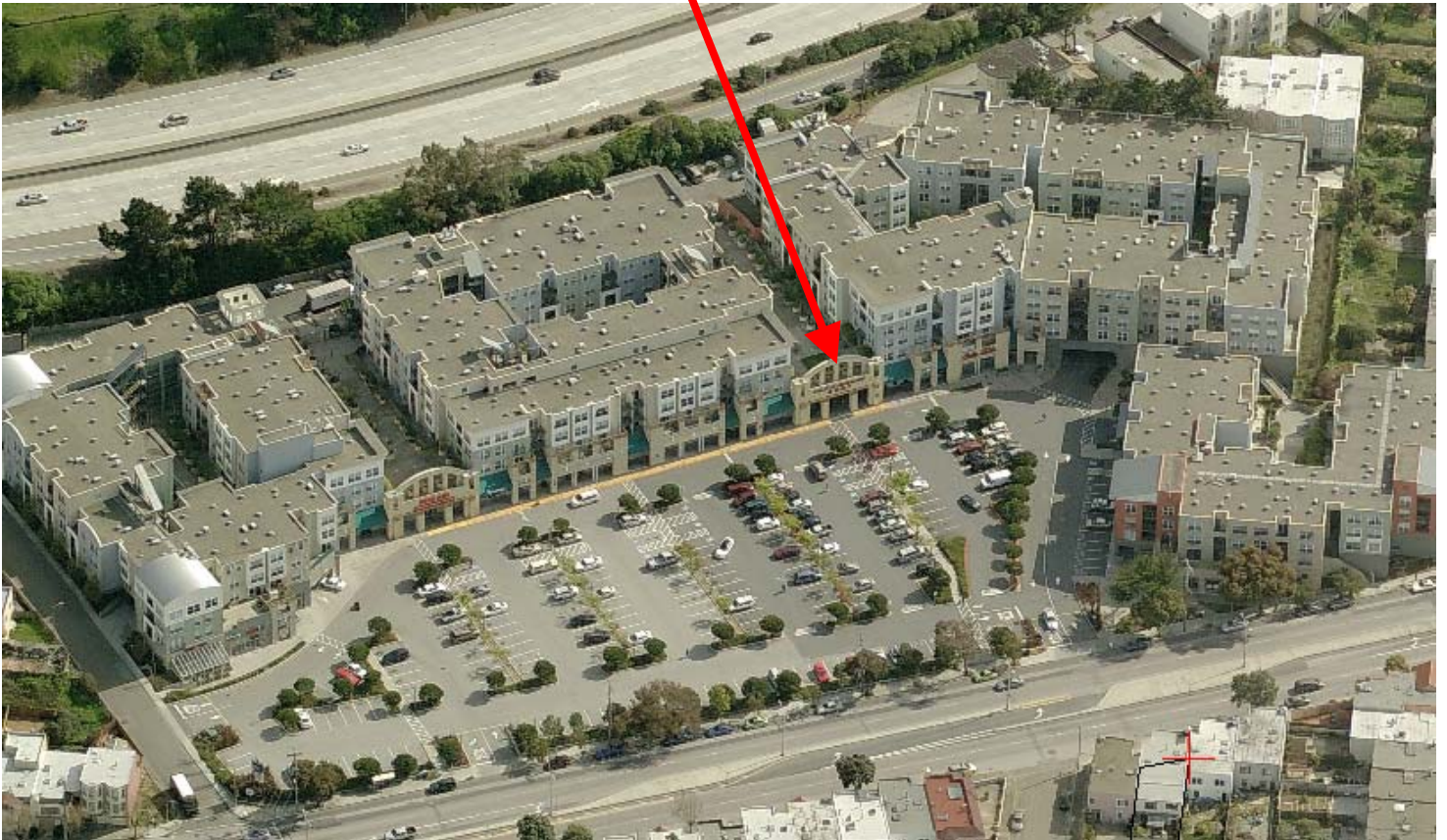


SUBJECT PROPERTY

Conditional Use Request Hearing
Case Number 2011.1090 C
Large Fast-food Restaurant
3995 Alemany Boulevard

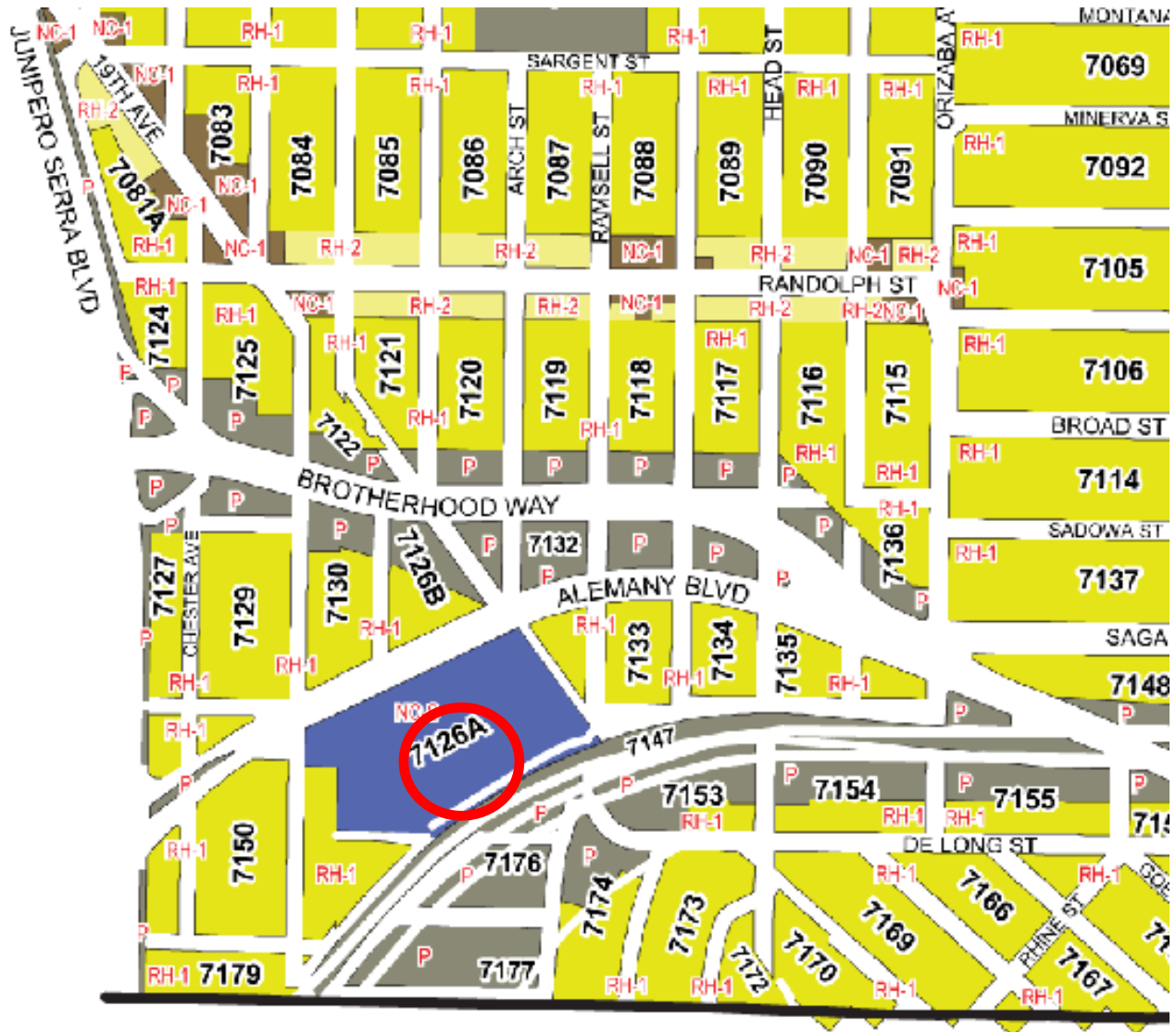
Aerial Photo view looking South

SUBJECT PROPERTY



Conditional Use Request Hearing
Case Number 2011.1090 C
Large Fast-food Restaurant
3995 Alemany Boulevard

Zoning Map



Conditional Use Request Hearing
Case Number 2011.1090 C
Large Fast-food Restaurant
3995 Alemany Boulevard

Site Photo - Subject Property

View of Oceanview Shopping Center looking from Alemany Boulevard



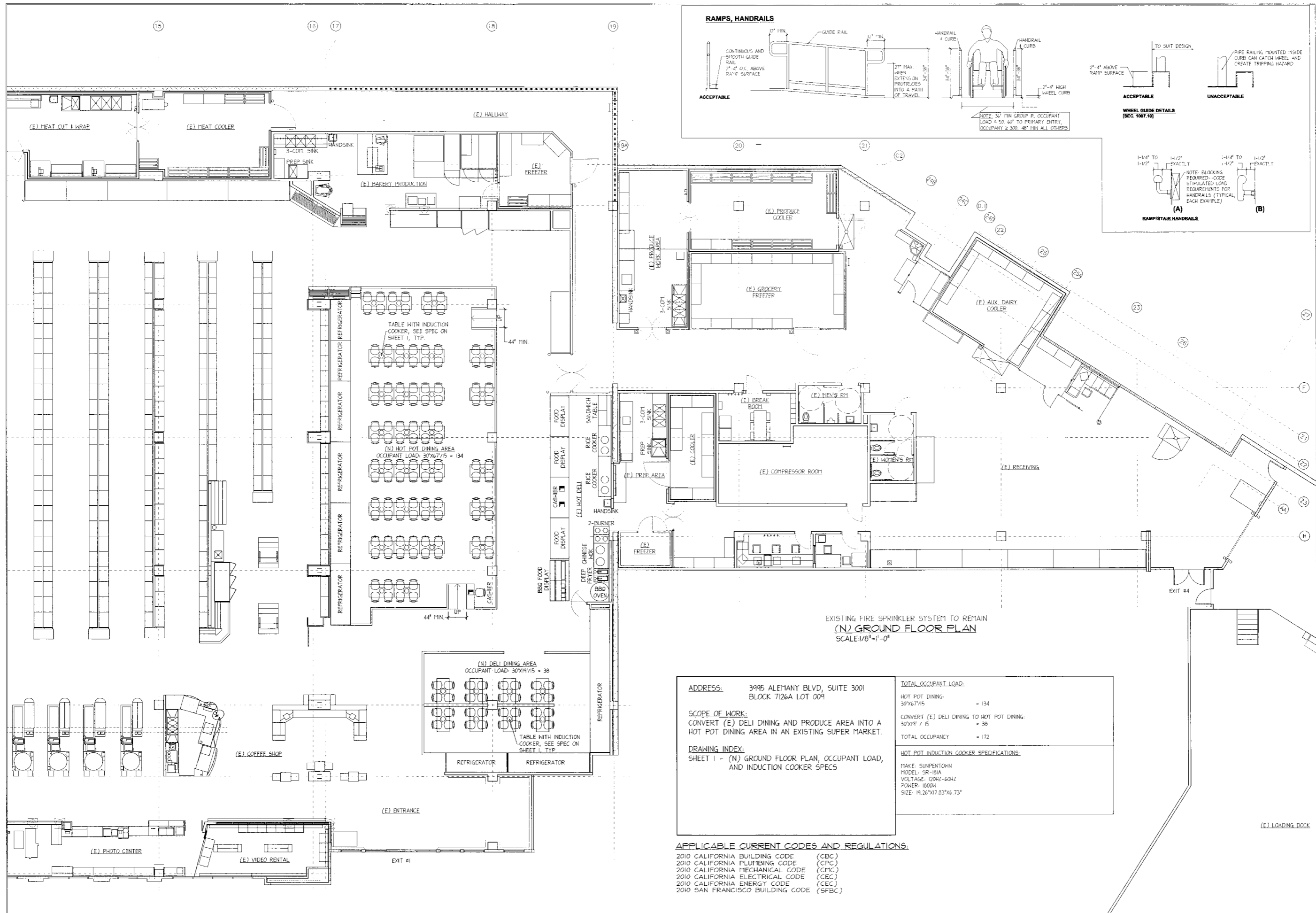
Conditional Use Request Hearing
Case Number 2011.1090 C
Large Fast-food Restaurant
3995 Alemany Boulevard

Site Photo - Subject Property

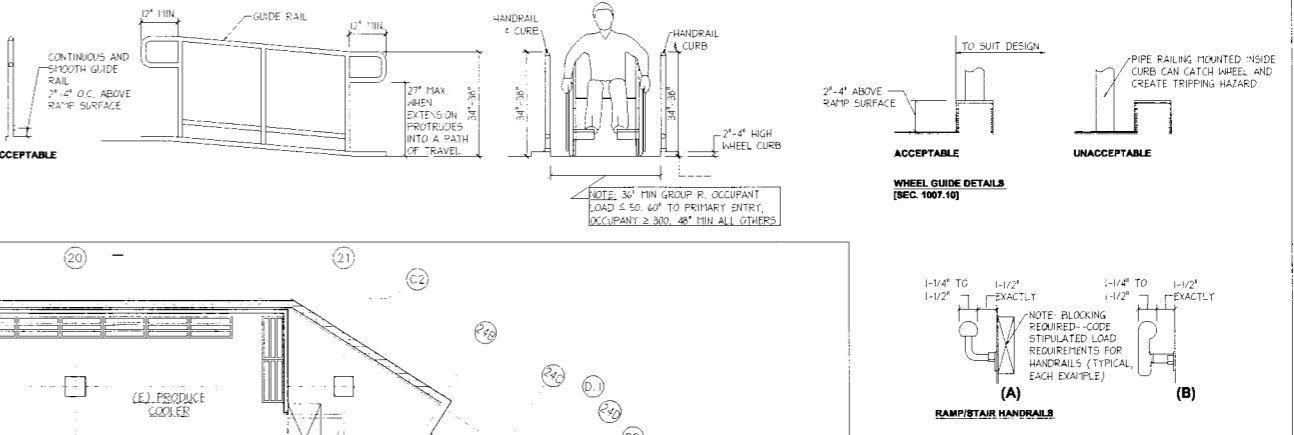
Interior View of “Oceanview Supermarket Hot Pot Buffet”



Conditional Use Request Hearing
Case Number 2011.1090 C
Large Fast-food Restaurant
3995 Alemany Boulevard



RAMPS, HANDRAILS

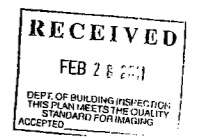
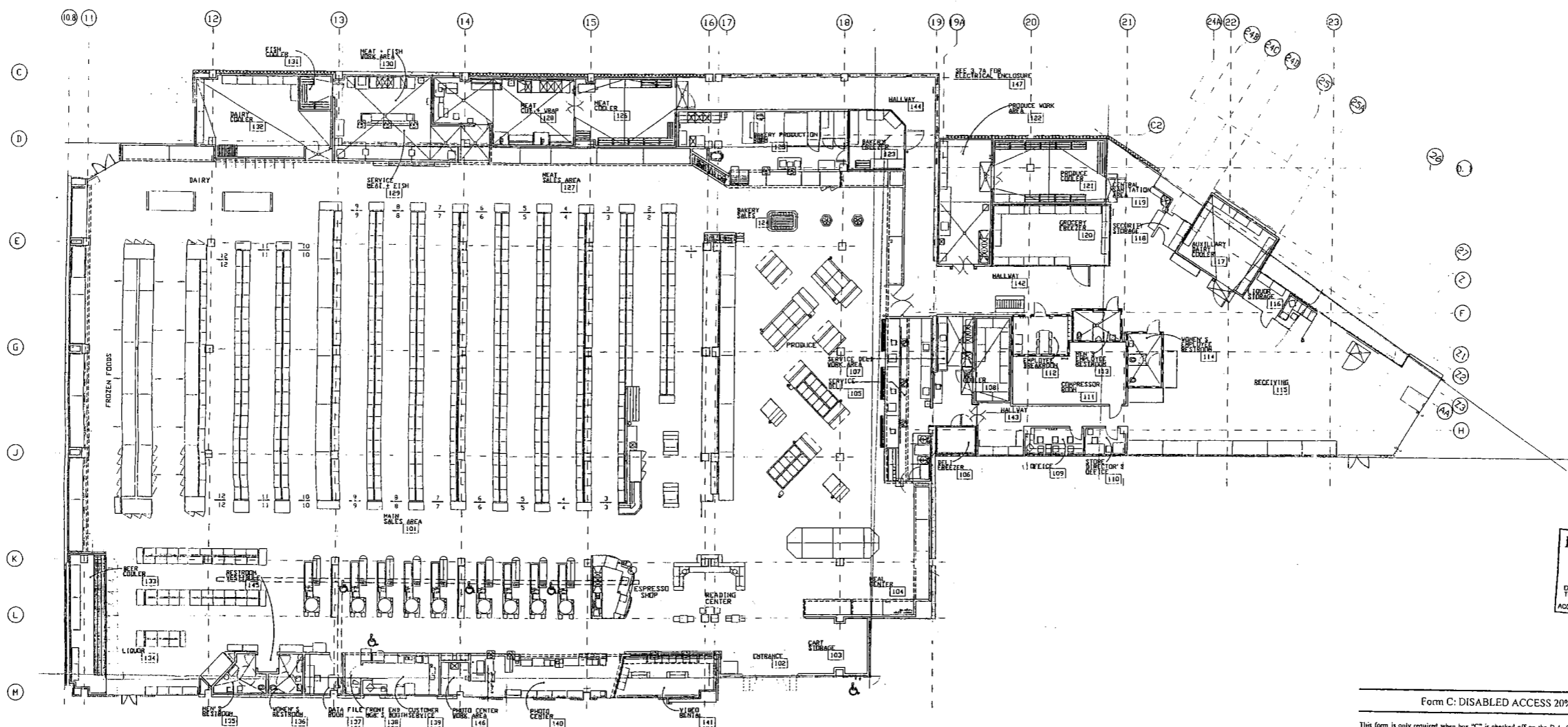


EXISTING FIRE SPRINKLER SYSTEM TO REMAIN
 (N) GROUND FLOOR PLAN
 SCALE 1/8" = 1'-0"

ADDRESS: 3995 ALEMANY BLVD, SUITE 3001 BLOCK 7126A LOT 009		TOTAL OCCUPANT LOAD:	
SCOPE OF WORK: CONVERT (E) DELI DINING AND PRODUCE AREA INTO A HOT POT DINING AREA IN AN EXISTING SUPER MARKET.		HOT POT DINING: 30'x67'/15 = 134	CONVERT (E) DELI DINING TO HOT POT DINING: 30'x19' / 15 = 36
DRAWING INDEX: SHEET 1 - (N) GROUND FLOOR PLAN, OCCUPANT LOAD, AND INDUCTION COOKER SPECS		TOTAL OCCUPANCY = 172	HOT POT INDUCTION COOKER SPECIFICATIONS:
		MAKE: SUNPENTOWN MODEL: SR-151A VOLTAGE: 120HZ-60HZ POWER: 1800W SIZE: 19.26"x17.83"x6.73"	

- APPLICABLE CURRENT CODES AND REGULATIONS:**
- 2010 CALIFORNIA BUILDING CODE (CBC)
 - 2010 CALIFORNIA PLUMBING CODE (CPC)
 - 2010 CALIFORNIA MECHANICAL CODE (CMC)
 - 2010 CALIFORNIA ELECTRICAL CODE (CEC)
 - 2010 CALIFORNIA ENERGY CODE (CEC)
 - 2010 SAN FRANCISCO BUILDING CODE (SFBCC)

REVISIONS	BY
PREPARED BY:	OWNER:
TOP FLANGE DESIGNS TONY K. FONG, P.E. 2618 26th Avenue San Francisco, CA 94116 TEL: 415-810-4583	LIAN JI XU TEL: 650-934-2138
LOCATION:	SHEET TITLE:
OCEANVIEW SUPERMARKET 3995 ALEMANY BLVD. SAN FRANCISCO, CA 94132 BLOCK 7126A LOT 012	(N) GROUND FLOOR PLAN, OCCUPANT LOAD AND INDUCTION COOKER SPECS
Date:	FEB. 2011
Scale:	AS SHOWN
Drawn:	LOK
Job:	
Sheet:	1
Of 4	Sheets



EXISTING GROUND FLOOR PLAN
1/16" = 1'-0"

D.A. CHECKLIST (p. 1 of 2): The address of the project is 3995 ALEMANY BLVD

- For ALL tenant improvement projects in commercial use spaces, this checklist is required to be reproduced on the plan set and stored.
- The proposed use of the project is SUPERMARKET WITH RESTAURANT (Retail, Office, Restaurant, etc.)
 - Describe the area of remodel, including which floor: GROUND FLOOR
 - The construction cost of this project excluding disabled access upgrades is \$ 15,000, which is (check one) more than / less than the Accessibility Threshold amount of \$128,410.86 based on the 2009 ENR Construction Cost Index* (The cost index & threshold are updated annually).
 - Is this a City project and/or does it receive public funding? Check one: Yes / No. Note: If Yes, then see Step 3 on the Instructions page for additional forms required.
- Conditions below must be fully documented by accompanying drawings
5. Read A through G below carefully and check the most applicable box (one box only):
- A: All existing conditions serving the area of remodel fully comply with access requirements. No further upgrades are required.
- B: All existing conditions serving the area of remodel that do not fully comply with access requirements will be fully upgraded with this project.
- C: Proposed project (check one) is less than the threshold / is over the threshold & falls under CBC 1134B.2.1 Ex. 2: Partial upgrades, including Enhanced Facilitation will be provided up to 20% of the project value as itemized on Form C. Priority of upgrades are to be considered in the order listed on p. 2 of the D.A. Checklist. Fill out (hardship request form(s)) for non-complying items, including for Equivalent Facilitation items. Checking box C means there are still non-complying items serving the area of remodel.
- D: Access features will either fully comply or be provided with Code defined Equivalent Facilitation. Submit an Unreasonable Hardship Request (UHR) for the Equivalent Facilitation items.
- E: Hardship appeal to be filed with Access Appeals Commission (AAC). Note: Plan check of items not under AAC consideration will continue while resolution of AAC decision is sought.
- F: Consisting only of Barrier Removal, Notice of Accessibility Violation (NOAV) Compliance or Exempted Work. Fill out Form F.
- G: Minor revision to previously approved permit drawings only. (Note: This shall NOT be used for new or additional work) Provide previous approved permit application here: _____ Description of revision: _____

D.A. CHECKLIST (p. 2 of 2): Check off applicable boxes and specify where on the drawings the details are shown.

Note: Upgrades below are listed in priority based on CBC 1134B.2.1 Ex. 1

	Existing Fully Complying	Upgrade to Full Compliance	Partial Upgrade / Facilitation / Hardship	Equivalent Facilitation / Hardship	None existing & not req'd by Code	Access Appeals Commission	Barrier Removal / NOV	Location of details: include detail no. & drawing sheet (fill out space (S) and (S) detail). Also classification comments can be written here.
1. One accessible entrance serving the area of remodel. Note: This should be a primary entrance. Aged upgrade may be required if it is not.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2. An accessible route to the area of remodel:								
2a. path of travel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2b. ramps	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2c. elevator	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
2d. stairs (if no elevator)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
2f. other:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3. At least one accessible restroom for each sex serving the area of remodel.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4. Accessible public pay phone.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
5. Accessible drinking fountains (if-dw).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
6. Signage.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
7. Visual Alarm.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
8. Parking:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
path from parking area	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Shower	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Others:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

If details are provided from a set of City approval reference drawings, provide the permit application number here: 2007-04-03-7897

Form C: DISABLED ACCESS 20% RULE

This form is only required when box "C" is checked off on the D.A. Checklist and is for providing an itemized list of the estimated costs for the expenditures used for disabled access upgrades for this project. Reproduce this form along with the D.A. Checklist and the Unreasonable Hardship Request form(s) on the plans.

Based on CBC 1134B.2.1, Exception 1, only projects with a construction cost less than the valuation threshold (current ENR Construction Cost Index Amount) are eligible for the 20% rule, where the project must provide disabled access upgrades up to 20% of the cost of construction in the required priority as listed on p. 2 of the D.A. Checklist. In general, projects valued over the threshold are not eligible for the 20% rule (see CBC 1134.2.1 Exception 2 for a possible exception).

CBC 1134B.2.1 Exception 2 (abbreviated): In addition projects involving buildings & facilities previously approved & built without elevators, access above & below the ground floor are subject to the 20% disproportionality provisions described in Exception 1, even if the value of the project exceeds the valuation threshold in Exception 1. Refer to the Code for the types of buildings & facilities that qualify for this 20% disproportionality provisions when project valuation is over the threshold.

	Contractor's Estimated Cost	DBI Revised Cost
A) Cost of Construction: (Excluding accessibility upgrade)	\$ <u>15,000</u>	\$
B) 20% of A):	\$ <u>3,000</u>	\$
List the Upgrade Expenditures and their respective construction cost below:		
1. <u>H.C. RAMPS</u>	\$ <u>2,500</u>	\$
2. <u>SIGNAGE</u>	\$ <u>500</u>	\$
3.	\$	\$
4.	\$	\$
5.	\$	\$
6.	\$	\$
7.	\$	\$
8.	\$	\$
9.	\$	\$
Total Upgrade Expenditures (Most approximately equal to Line B)	\$ <u>3,000</u>	\$

TENANT IMPROVEMENT FOR:
SUPERSTAR MART
 3995 ALEMANY BLVD, SUITE 3001, SAN FRANCISCO, CA
 TEL.: (415) 860-3381

TOP FLANGE DESIGNS
 TONY K. FONG, P.E.
 2515 26th Avenue
 San Francisco, CA 94116
 TEL. 415-810-4583

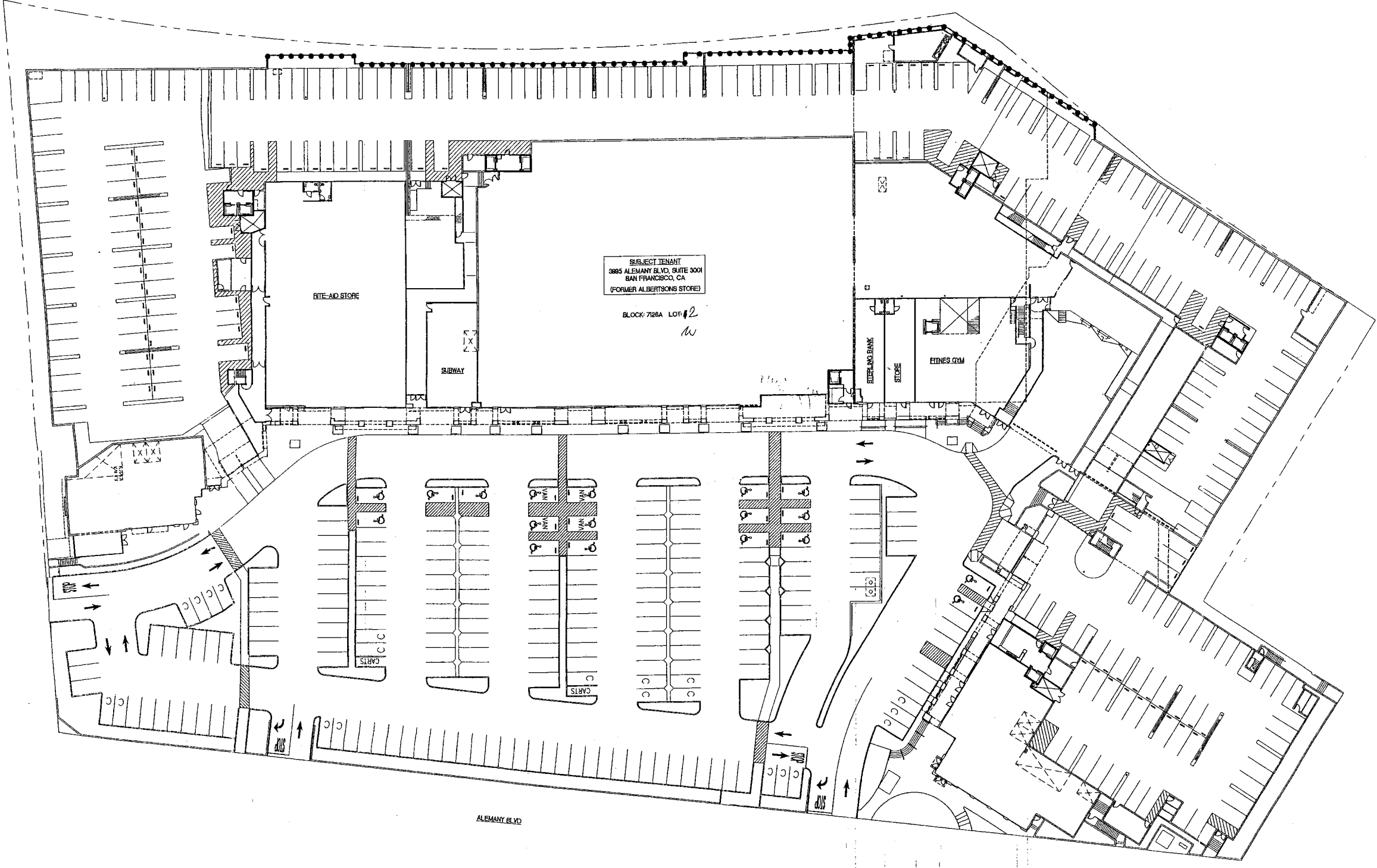
PLAN

REVISIONS:

SCALE:
 1/16" = 1'-0"

DATE:
 4-2-2007

SHEET NO.
A2
 OF 3 SHEETS



PLOT PLAN

RECEIVED
FEB 2 2011
DEPT. OF BUILDING INSPECTION
THIS PLAN MEETS THE QUALITY
STANDARD FOR IMAGING
ACCEPTED

RECEIVED
FEB 2 8 2011
DEPT. OF BUILDING INSPECTION
THIS PLAN MEETS THE QUALITY
STANDARD FOR IMAGING
ACCEPTED

Handwritten signature and date
12/31/12

TENANT IMPROVEMENT FOR:
SUPERSTAR MART
3885 ALEMANY BLVD, SUITE 3001, SAN FRANCISCO, CA
TEL: (415) 850-3381

PREPARED BY:
TOP FLANGE DESIGNS
TONT K. FONG, P.E.
2618 26th Avenue
San Francisco, CA 94116
TEL: 415-812-4585

PLOT PLAN

REVISIONS:

SCALE:
1/32" = 1'-0"

DATE:
4-2-2007

SHEET NO.

A3

OF 3 SHEETS