



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Conditional Use HEARING DATE: OCTOBER 28, 2010

Date: October 21, 2010
Case No.: 2010.0311 C
Project Address: 1890 19th Avenue
Zoning: NC-1 (Neighborhood Commercial, Cluster) District
40-X Height and Bulk District
Block/Lot: 2055/043
Project Sponsor: Luke Kwan
5758 Geary Boulevard #312
San Francisco, CA 94118
Staff Contact: Adrian C. Putra – (415) 575-9079
adrian.putra@sfgov.org
Recommendation: **Approval with Conditions**

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

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415.558.6378

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415.558.6377

PROJECT DESCRIPTION

The Project Sponsor seeks a Conditional Use Authorization pursuant to Planning Code Sections 186.1 and 303 to allow for the expansion of a legal nonconforming automotive gas and service station (d.b.a. B & W Chevron) at 1890 19th Avenue. The project involves tenant improvements to convert an existing 1,107 square-foot automotive service station and accessory retail convenience store into a stand-alone accessory convenience store with approximately 574 square-feet of occupied floor area. A new automotive service station containing approximately 1,116 square-feet would be constructed directly north of the convenience store where there is currently a 210 square-foot storage structure that would be demolished. No additional gas pumps will be added to the site. The expanded convenience store will continue to offer prepackaged snacks, and drinks, but no alcohol. The total use size of the automotive gas and service station will increase to from approximately 1,317 gross square-feet of floor area to approximately 2,223 gross square-feet of floor area.

SITE DESCRIPTION AND PRESENT USE

The subject property is located at 1890 19th Avenue, at the northeast corner of 19th Avenue and Ortega Street, and contains a legal nonconforming automotive gas and service station (d.b.a. B & W Chevron). The subject property is an approximately 10,250 square-foot lot with 100 feet of frontage along Market Street, and 102.5 feet of frontage along Ortega Street. The existing automotive gas and service station is an approximately 1,107 square-foot structure that includes an accessory convenience store that sells prepackaged snacks and drinks (but no alcohol), an approximately 210 square-foot storage structure (proposed for demolition), and eight gas pumps.

SURROUNDING PROPERTIES & NEIGHBORHOOD

The subject property is in an NC-1 Zoning District that runs along one block of Ortega Street between 18th and 19th Avenues. Uses found within this NC-1 Zoning District include two retail stores, and a vacant commercial building at the southeast corner of 19th Ave and Ortega Street that was previously occupied by the U.S. Postal Service. With exception to uses found within this NC-1 District the surrounding properties are located within the RH-1 (Residential House, One-Family) or RH-2 (Residential House, Two-Family) Districts and are developed with residences.

ENVIRONMENTAL REVIEW STATUS

On April 9, 2010 the Project was determined to be exempt from the California Environmental Quality Act ("CEQA") as a Class 1 Categorical Exemption under CEQA as described in the determination contained in the Planning Department files for this Project.

HEARING NOTIFICATION REQUIREMENTS

TYPE	REQUIRED PERIOD	REQUIRED NOTICE DATE	ACTUAL NOTICE DATE	ACTUAL PERIOD
Classified News Ad	20 days	October 8, 2010	October 8, 2010	20 days
Posted Notice	20 days	October 8, 2010	October 8, 2010	20 days
Mailed Notice	20 days	October 8, 2010	October 8, 2010	20 days

PUBLIC COMMENT

- The Department is not aware of any opposition to this project.

ISSUES AND OTHER CONSIDERATIONS

- The automotive gas and service station is an established business that has existing at the project site as far back as 1969, prior to when the current NC-1 zoning controls came into effect.
- The existing nonconforming operation hours for both the gas station and the convenience store are 24-hours a day, seven days a week and it will remain the same after renovation. The gas station and convenience store hours were in effect prior to the establishment of the current NC-1 Zoning controls.
- The existing automobile service garage has hours of operation of 8:00 AM to 5:00 PM, seven days a week, and it will remain the same after renovation.

REQUIRED COMMISSION ACTION

Pursuant to Planning Code Section 186.1 and 303, Conditional Use authorization is required to allow for the expansion of a nonconforming automotive gas and service station (d.b.a. B & W Chevron) in an NC-1 (Neighborhood Commercial, Cluster) District, and 40-X Height and Bulk District.

BASIS FOR RECOMMENDATION

The Department believes this project is necessary and/or desirable under Section 303 of the Planning Code for the following reasons:

- The project will allow for the improvement and continued operation of an existing automotive gas and service station.
- The project will not result in an increase of non-conforming automotive gas and service stations in the immediate area.
- The Project will not displace an existing commercial tenant or prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood.

RECOMMENDATION: Approval with Conditions
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Exhibit 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 type="checkbox"/> Public Correspondence |
| <input checked="" type="checkbox"/> Sanborn Map | <input type="checkbox"/> Coverage Maps |
| <input checked="" type="checkbox"/> Aerial Photo | <input type="checkbox"/> RF Report and DPH Evaluation |
| <input type="checkbox"/> Context Photos | <input type="checkbox"/> Notice of Community Outreach Meeting |
| <input checked="" type="checkbox"/> Site Photos | |

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

ACP
Planner's Initials

ACP



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, OCTOBER 28, 2010

Date: October 21, 2010
Case No.: 2010.0311 C
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ADOPTING FINDINGS RELATING TO THE APPROVAL OF A CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 186.1, AND 303 TO ALLOW THE EXPANSION OF A NONCONFORMING AUTOMOTIVE GAS AND SERVICE STATION (D.B.A. B & W CHEVRON). PROPOSAL WILL CONVERT AN EXISTING AUTOMOTIVE SERVICE STATION WITH ACCESSORY CONVENIENCE STORE INTO A STAND-ALONE ACCESSORY CONVENIENCE STORE, CONSTRUCT A NEW AUTOMOTIVE SERVICE STATION STRUCTURE, AND WILL NOT CHANGE THE EXISTING SERVICE BAYS ON THE SUBJECT PROPERTY IN A NC-1 (NEIGHBORHOOD COMMERCIAL, CLUSTER) DISTRICT, AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On April 29, 2010, Luke Kwan (Project Sponsor) filed an application with the Department for Conditional Use Authorization under Planning Code Sections 186.1 and 303 of the Planning Code to allow the for the expansion of a nonconforming automotive gas and service station (d.b.a. B&W Chevron) within a NC-1 (Neighborhood Commercial, Cluster) District, and a 40-X Height and Bulk District.

On October 28, 2010, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2010.0311C.

On April 9, 2010 the Project was determined to be exempt from the California Environmental Quality Act ("CEQA") as a Class 1 Categorical Exemption under CEQA as described in the determination contained in the Planning Department files for this Project.

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. 2010.0311C, 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 subject property is located at 1890 19th Avenue, at the northeast corner of 19th Avenue and Ortega Street, and contains a legal nonconforming automotive gas and service station (d.b.a. B & W Chevron). The subject property is an approximately 10,250 square-foot lot with 100 feet of frontage along Market Street, and 102.5 feet of frontage along Ortega Street. The existing automotive gas and service station is an approximately 1,107 square-foot structure that includes an accessory convenience store that sells prepackaged snacks and drinks (but no alcohol), an approximately 210 square-foot storage structure (proposed for demolition), and eight gas pumps.
3. **Surrounding Properties and Neighborhood.** The subject property is in an NC-1 Zoning District that runs along one block of Ortega Street between 18th and 19th Avenues. Uses found within this NC-1 Zoning District include two retail stores, and a vacant commercial building at the southeast corner of 19th Ave and Ortega Street that was previously occupied by the U.S. Postal Service. With exception to uses found within this NC-1 District the surrounding properties are located within the RH-1 (Residential House, One-Family) or RH-2 (Residential House, Two-Family) Districts and are developed with residences.
4. **Project Description.** The Project Sponsor seeks a Conditional Use Authorization pursuant to Planning Code Sections 186.1 and 303 to allow for the expansion of a legal nonconforming automotive gas and service station (d.b.a. B & W Chevron) at 1890 19th Avenue. The project involves tenant improvements to convert an existing 1,107 square-foot automotive service station and accessory retail convenience store into a stand-alone accessory convenience store with approximately 574 square-feet of occupied floor area. A new automotive service station

containing approximately 1,116 square-feet would be constructed directly north of the convenience store where there is currently a 210 square-foot storage structure that would be demolished. No additional gas pumps will be added to the site. The expanded convenience store will continue to offer prepackaged snacks, and drinks, but no alcohol. The total use size of the automotive gas and service station will increase to from approximately 1,317 gross square-feet of floor area to approximately 2,223 gross square-feet of floor area.

5. **Public Comment.** The Department is not aware of any opposition to this project.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Use.** A new automotive gas and service station is not permitted in the NC-1 District, thereby making the existing automotive gas and service station a non-conforming use per Section 186.1 According to Planning Code Section 186.1(b)(1), "A nonconforming use may not be significantly altered; enlarged or intensified, except upon approval of a conditional use application pursuant to the provisions of Article 3 of this Code, provided that the use not have or result in a greater height, bulk or floor area ratio, less required rear yard or open space, or less required off-street parking space or loading space than permissible under the limitations set forth in this Code for the district or districts in which such use is located."

The Project is to expand an existing non-conforming automotive gas and service station which requires Conditional Use authorization. The use size of the existing automotive gas and service station will be increase from approximately 1,317 gross square-feet of floor area to approximately 2,223 gross square-feet of floor area.

- B. **Hours of Operation.** Per Planning Code Section 710.27, in the NC-1 Districts hours of operation from 6:00 AM. to 11:00 PM. is principally permitted, and hours of operation from 2:00 AM. to 6:00 AM. is conditionally permitted.

According to the Project Sponsor the existing nonconforming operation hours for both the gas station and the convenience store are 24-hours a day, seven days a week and it will remain the same after renovation. The existing automobile service garage has hours of operation of 8:00 AM to 5:00 PM, seven days a week, and it will remain the same after renovation.

- C. **Use Size.** Planning Code Section 710.21 permits a use size of 3,000 square feet and above in the NC-1 District with Conditional Use Authorization.

The project will increase the use size of the automotive gas and service station to from approximately 1,317 gross square-feet of floor area to approximately 2,223 gross square-feet of floor area. The increased use size remains below the 3,000 square foot threshold established for uses sizes in the NC-1 District.

- D. **Parking.** Section 151 of the Planning Code requires off-street parking for services spaces for every 1,000 square-feet of occupied floor area, where the occupied floor area exceeds 5,000 square-feet.

The project will increase the occupied floor area of the existing automotive gas and service station to approximately 2,223 square-feet, and thus does not require any off-street parking.

- 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.

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

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

The project is necessary and desirable because it will allow for the improvement and continued operation of an existing automotive gas and service station. Additionally, the project will not result in an increase of non-conforming automotive gas and service stations in the immediate area.

- 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.

- 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 adversely impact public transit or the existing supply of on-street parking in the neighborhood. The Project Site is well-served by public transportation, and off-street parking and loading are not required for the Project.

- 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;

The project will include installing ornamental fencing that is 4 foot high. Additionally, a 5 foot deep landscaping strip along the perimeter of the lot that is adjacent to the public right-of-way and not facing an existing curb cut. 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 to expand and update the facilities of an established business that has exist as far back as 1969, prior to when the current NC-1 zoning controls came into effect. Further, the project would not result in a net increase in the number of automotive gas and service stations in this NC-1 District or in the immediate area.

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

NEIGHBORHOOD COMMERCE

Objectives and Policies

OBJECTIVE 6: MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.1:

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

The project will not displace an existing commercial tenant or prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood.

Policy 6.2:

Promote economically vital neighborhood commercial districts which foster small business enterprises and entrepreneurship and which are responsive to economic and technological innovation in the marketplace and society.

The project is desirable because it will allow the continued operation of an existing business that is locally-owned. The project would not result in a net increase in the number of automotive gas and service stations in the immediate area.

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.

- 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 will not adversely impact public transit or the existing supply of on-street parking in the neighborhood. The Project is within close access to public transit as it is served by the MUNI 28- line.

- 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.

Approval of this Project will not adversely affect any industrial or service sector jobs.

- 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 existing structure was built in 1964 and 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. 2010.0311C** 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 94102.

I hereby certify that the Planning Commission **ADOPTED** the foregoing Motion on October 28, 2010.

Linda Avery
Commission Secretary

AYES:

NAYES:

ABSENT:

ADOPTED: October 28, 2010

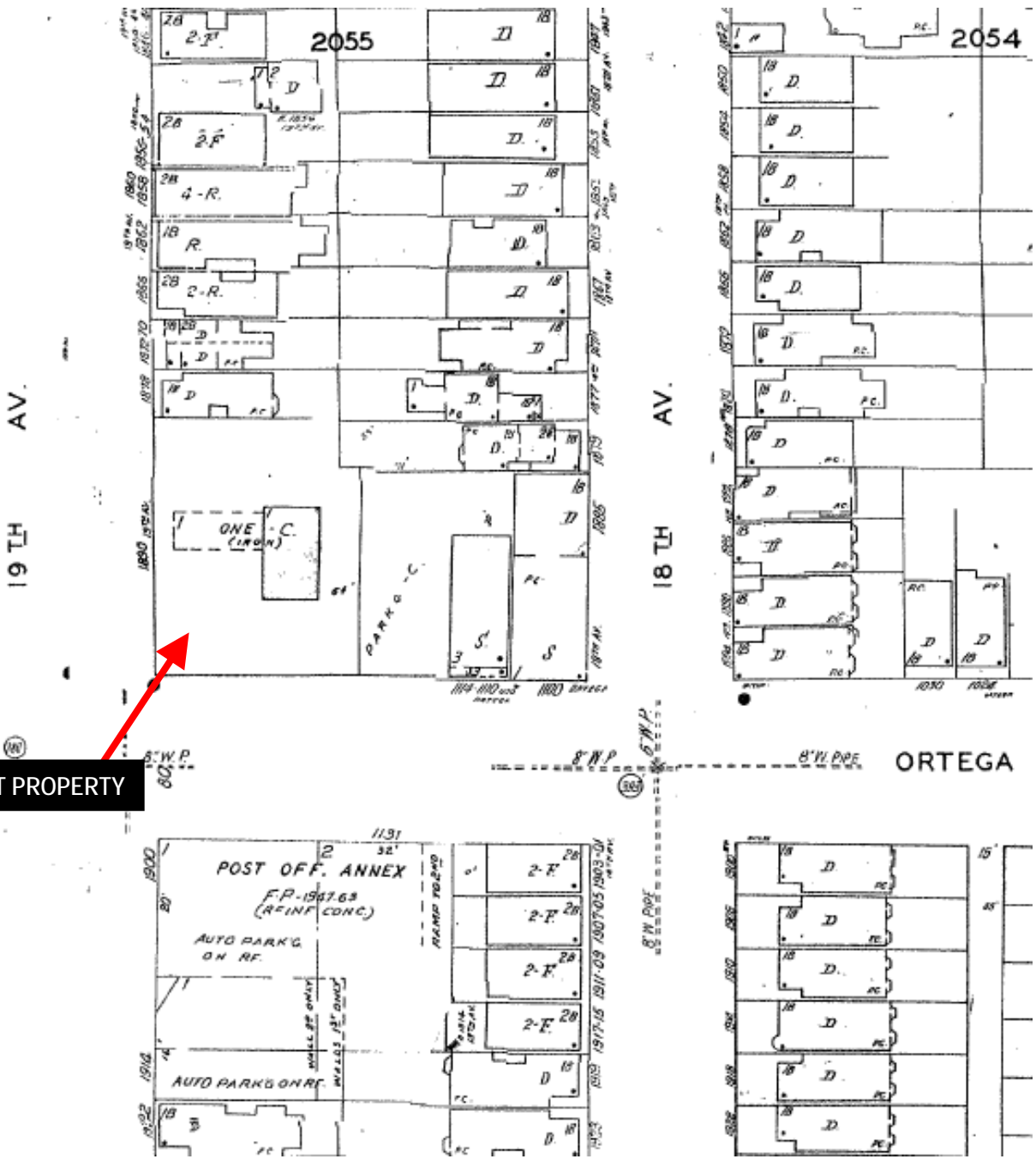
Exhibit A

Conditions of Approval

1. This authorization is for a Conditional Use under Planning Code Sections 186.1, and 303 to allow the expansion of a legal nonconforming automotive gas and service station in an NC-1 (Neighborhood Commercial, Cluster) District, and a 40-X Height and Bulk District, in general conformance with plans filed with the Application as received on April 29, 2010 and stamped "EXHIBIT B" included in the docket for **Case No. 2010.0311C**, reviewed and approved by the Commission on **October 28, 2010**.
2. Prior to the issuance of the Building Permit for the Project the Zoning Administrator shall approve and order the recordation of a Notice of Special Restrictions with the Office of the Recorder of the City and County of San Francisco for the premises (Assessor's 2055, Lot 043), which notice shall state that construction has been authorized by and is subject to the conditions of this Motion. From time to time after the recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied.
3. Community Liaison. Within 10 days of the effective date of this authorization, the Project Sponsor shall appoint a community liaison officer to resolve issues of concern to neighbors and residents relating to the construction and operation of the facilities. Upon appointment, the Project Sponsor shall report in writing the name, address and telephone number of this officer to the Zoning Administrator. The Community Liaison Officer 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.
4. Violation of the conditions contained in this Motion or of any other provisions of the Planning Code may be subject to abatement procedures and fines of no less than \$250 a day in accordance with Planning Code Section 176.
5. Should monitoring of the Conditions of Approval contained in Exhibit A of this Motion be required, the Project Sponsor or successors shall pay fees as established in Planning Code Section 351(e)(1).
6. Signs and exterior lighting for the business shall be reviewed and approved by the Planning Department before they are installed.
7. The property owner shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean condition. Such maintenance shall include, at a minimum, daily litter pickup and disposal, and washing or steam cleaning of the main entrance and abutting sidewalks at least once each week.

8. An enclosed garbage area shall be provided within the establishment. All garbage containers shall be kept within the building until pick-up by the disposal company.
9. The exterior of the business must be kept clean, graffiti-free and well-maintained, including regular sweeping and washing of the curb outside of the storefront. Project sponsor agrees to paint out and/or remove graffiti within 48 hours.
10. The authorization and right vested by virtue of this action shall be deemed void and canceled, if within 3 years of this Motion a site permit or building permit for the Project has not been secured by Project Sponsor. This authorization may be extended at the discretion of the Zoning Administrator only if the failure to issue a permit by the Department of Building Inspection is delayed by a city, state, or federal agency or by appeal of the issuance of such permit.

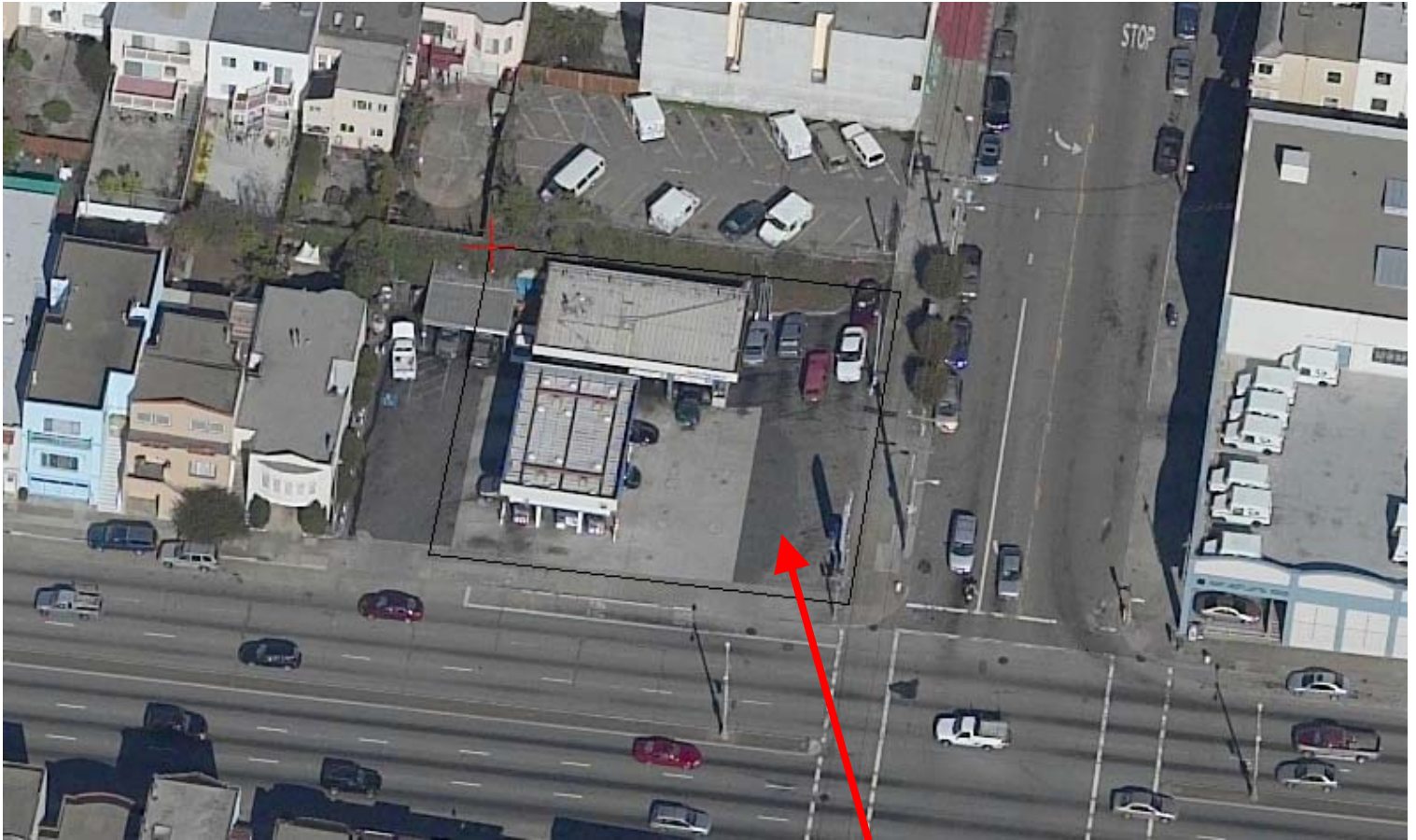
Sanborn Map



SUBJECT PROPERTY

Conditional Use Request Hearing
 Case Number 2010.0311C
 Expansion of Nonconforming Use
 1890 19th Avenue

Aerial Photo view looking East



SUBJECT PROPERTY

Conditional Use Request Hearing
Case Number 2010.0311C
Expansion of Nonconforming Use
1890 19th Avenue

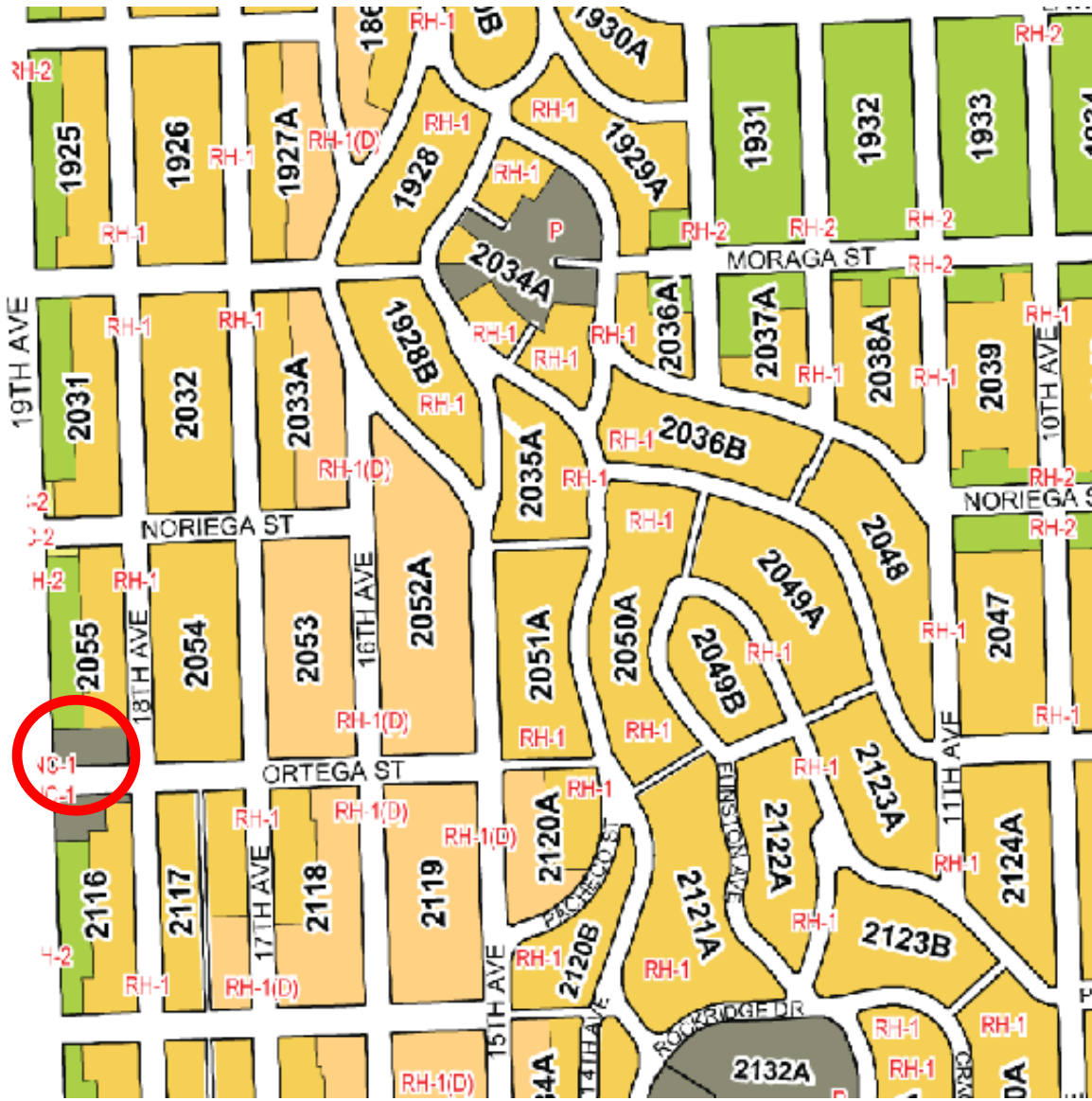
Aerial Photo view looking North



SUBJECT PROPERTY

Conditional Use Request Hearing
Case Number 2010.0311C
Expansion of Nonconforming Use
1890 19th Avenue

Zoning Map



Conditional Use Request Hearing
Case Number 2010.0311C
Expansion of Nonconforming Use
1890 19th Avenue

Site Photo



Conditional Use Request Hearing
Case Number 2010.0311C
Expansion of Nonconforming Use
1890 19th Avenue

