

## Exhibit A

### Findings Regarding Termination of the Legal Non-Conforming Market Located at 501 N. San Mateo Drive

#### **27.72.050 TERMINATION AND REMOVAL OF NON-CONFORMING USES OF LAND.**

A non-conforming use of land herein shall be terminated within such period as specified by the Council, but not less than two years nor more than five years where the Council determines that such use is especially burdensome upon the surrounding neighborhood or the community at large and that a termination within such time will not be unduly oppressive or constitute a denial of constitutionally guaranteed rights. In considering whether a particular use is of such nature, the following factors shall be considered:

#### **(1) Whether said use causes or contributes to impairment of property values or economic stability of the surrounding area;**

There is no clear indication that the previous food market business caused negative impacts or diminished property values in the surrounding neighborhood, and letters submitted to the City from neighbors suggest the previous market was a desirable use. Moreover, research indicates that proximity to retail and services can have positive effects on neighborhood property values. As such, it has been determined that a "food market", as a general use category should not be considered to be a clearly de-stabilizing feature of a neighborhood.

The specific operations and design of the food market use can be a significant factor in determining its impact on its surrounding neighborhood. In particular, alcohol sales and late night operations typical of convenience stores have been shown to be correlated with such incidents and subsequent reductions in property value. These problems are more prevalent in areas of lower socio-economic status, while the neighborhood around 501 North San Mateo Drive appears to be of "average" socio-economic status within San Mateo County. Though it is not certain that even a 24-hour convenience store selling alcohol would diminish this neighborhood's property values, these potential impacts can be mitigated or avoided through site design and the business's operational program.

As described, the store will have surveillance cameras and digital recording systems that will monitor activity in the parking lot, front door and interior of the store. The building and the parking lot will be lit and employees will monitor the parking lot and adjoining sidewalks to ensure that they are litter free. 7-Eleven also has a variety of training and crime deterrence training programs that it plans to implement at this store.

Based on the information above, the continuation of "food market" retail uses on the site (even in the form of a 24-hour convenience store) are not expected to cause or contribute to impairment of property values or economic stability of the surrounding area.

#### **(2) Whether said use is inhibitive of the type of development in the surrounding contemplated by the general plan and this code;**

The City's General Plan indicates that this property is located in the R4 zoning district, which anticipates multifamily residential development. The surrounding parcels are already developed and occupied for residential use or seemingly viable businesses, and it is not

anticipated that any adjacent or proximate parcels would be foreseeably developable for new R4 residential uses whether the "food market" use continues or is terminated. Therefore, it is not anticipated that retaining a food market on the site would inhibit development contemplated by the General Plan.

**(3) Whether said use is otherwise detrimental to the public health, safety and general welfare;**

Based upon review of statistical data of existing markets with off-sale alcoholic beverage sales licenses, existing 7-eleven stores in San Mateo the San Mateo Police Department SMPD anticipates that the proposed use could generate 50-60 responses for service calls or as many as 160. This is wide range of potential responses and is somewhat speculative, since the proposed use is not yet in operation at the site. Based on these potential responses and the fact that actual responses could be well within the average of responses generated by other retailers in the City, staff does not feel that the use meets the high bar of "especially burdensome" required to terminate the use.

**(4) The usability of the land or the improvements for purposes permitted in the applicable zoning district;**

While conversion of commercial buildings to residential use is not unprecedented, the existing building at 501 North San Mateo Drive is not likely to be converted in this way due to its physical form and site plan and the limited market for such an unusual product type in this predominantly residential, suburban neighborhood. If the building were to be demolished, it is physically feasible and prospectively financially viable that a residential developer could build up to two dwelling units on the 6,375-square foot parcel, per the "minimum parcel area per dwelling unit," maximum floor-area-ratio, and yard setback requirements of the R4 district. The land is usable for the purposes permitted in the applicable zoning district; however, it is unlikely that the existing building would be converted to residential use.

**(5) The amount of hardship, if any, to the user of the land, which would be caused by such termination.**

If the legal non-conforming use status of the property is terminated, the current property owners are not likely to recoup their investment. The current property owners purchased the property in 2012 for \$1,009,000 presumably anticipating that the property's continued use for retail would be permitted. Improvements totaling approximately \$108,100 were completed to ready the building for leasing. With costs to the property owners totaling approximately \$1,117,100 EPS does not anticipate that the rents received over the maximum five-year period for the phasing out of the non-conforming use, plus the value of the site as a residential parcel, will yield a reasonable return on the developer's investment. It is estimated that the financial difference to the developer between continuation and termination of the legal non-conforming use to be at least \$497,000. A 15-year amortization period would be required for the property owner to recoup its investment before termination of the use. Therefore, terminating the legal non-conforming use prior to a 16 year amortization period would result in a hardship that could be unduly oppressive or constitute denial of constitutionally guaranteed rights.