

SANTA ROSA CITY COUNCIL

TO: MAYOR AND CITY COUNCIL  
FROM: GABE OSBURN, DIRECTOR  
PLANNING AND ECONOMIC DEVELOPMENT  
SUBJECT: APPEAL OF PLANNING COMMISSION DENIAL OF THE ELM  
TREE STATION PROJECT

AGENDA ACTION: RESOLUTION

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RECOMMENDATION

It is recommended by the Planning and Economic Development Department that the Council consider the recommendations of the Planning Commission and City Staff and either 1) by two resolutions, accept the Appeal and adopt an Addendum to the Elm Tree Station Initial Study/Mitigated Negative Declaration and approve the Conditional Use Permit for the Elm Tree Station Project; or 2) by one resolution, deny the Appeal and uphold the Planning Commission's denial of the Conditional Use Permit for the Elm Tree Station Project.

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EXECUTIVE SUMMARY

On December 17, 2021, Conditional Use Permit and Design Review applications for the Elm Tree Station project (Project) were submitted. The Project includes the construction of a gas station with six gas pumps and four electric charging stations, and a 3,448-square-foot general retail space with an 806-square-foot, one-bedroom apartment above located at 874 N Wright Road. The Project also includes the construction of an additional 432-square-foot general retail use and park-like amenities, including patio/trellis area, benches and picnic area, and a bike path that would traverse the eastern and southern boundaries of the project site from the Joe Rodota Trail to North Wright Road. On September 13, 2022, the City Council adopted Ordinance No. ORD-2022-10, which amended the Zoning Code to prohibit new gas station land uses. The ordinance included an exemption for any existing applications deemed complete for processing on or before the effective date of the ordinance. Because the Project was deemed complete on December 17, 2021 it is exempt from the ordinance prohibiting new gas stations. While City staff had recommended approval of the Conditional Use Permit, on April 10, 2025, the Planning Commission unanimously denied the application. On April 21, 2025, pursuant to City Code Chapter 15-24, the applicant appealed the decision of the Planning Commission. City staff's position on the findings for granting approval have not changed; as such, the action before the Council includes two options: 1) accept the Appeal and approve the Conditional Use Permit, or 2) Deny the Appeal and uphold the Planning Commission's denial.

### BACKGROUND

Please see the Planning Commission staff report (Attachment 24) for a complete project history.

### PRIOR CITY COUNCIL REVIEW

Please see the Planning Commission staff report (Attachment 24) for a complete project history, including prior City Council review.

### ANALYSIS

As documented in the attached draft resolution for consideration by the Council and Planning Commission resolution number PC-RES-2025-007, the Commission was unable to make the following required findings:

1. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the City Code;
2. The proposed use is consistent with the General Plan and any applicable specific plan;
3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity;
5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located; and
6. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).

Staff has prepared a draft resolution reflecting the Planning Commission's recommendation for denial of the project (Attachment 28, Planning Commission adopted resolution of denial); however, Staff's analysis remains unchanged from that included in the Staff Report and draft resolution prepared for the Planning Commission (Attachments 26 and 27) and has prepared a second draft resolution that reflects Staff's recommendation of approval based on this analysis. The appeal form, received April 21, 2025, is included as Attachment 25 of this item packet.

### Grounds for Appeal

1. The appellant disagrees with the Planning Commission's finding that the project is inconsistent with the applicable provisions of the Santa Rosa Zoning Code,

specifically related to the characterization of the on-site retail space as a convenience store and the proximity of a new gas station to single- or multi-family residential development.

The definition of grocery store is as follows: *A retail or wholesale store that primarily sells food, including canned and frozen foods, fresh fruits and vegetables, and fresh (raw) and prepared meats, fish, and poultry. Small stores are defined as less than 20,000 square feet in size.*

The definition of convenience store is as follows: *A type of general retail store which carries a range of merchandise oriented to convenience and/or travelers' shopping needs.*

Based on the applicant's description of the market, it falls within the definition of small grocery store, rather than convenience store. As a result, the proposed market is an allowed use in the Planned Development (PD) 435 zoning district.

The project includes a one-bedroom apartment which would be located above the market on the same site as the proposed gas station. While Zoning Code Section 20-42.150 – Service Stations does not allow service stations to adjoin a residential use, it does provide an exception when a residential use is in a commercial zone. The PD 435 zoning district largely allows for commercial uses and is therefore considered a commercial zone.

**Staff Response:** The Planning Commission was unable to make the finding that the project is consistent with applicable provisions of the Santa Rosa Zoning Code. As reflected in Attachment 28, the Commission found the proposed fresh food market component to be defined as a convenience store, which is expressly prohibited by PD 435. The Commission also did not find the project's one bedroom apartment unit to be consistent with the provision of Zoning Code Section 20-42.150 – Service Stations, that requires that gas stations not adjoin an existing residential district use, except when the single-family or two-family residential use is in a commercial zone. Staff believes the Council could reach an alternative conclusion, as set forth in the draft resolution of approval prepared for the Planning Commission (Attachment 27) and presented to the Council for consideration.

2. The appellant disagrees with the Planning Commission's finding that the project is inconsistent with the General Plan, including but not limited to goals and policies related to enhanced urban design along major city entries and scenic roadways. The appellant asserts that the distance from the City's entry on Highway 12 to the project site (about 440 feet south of the intersection of Fulton Road and Highway 12), the 18-foot height of the gas station canopy, and the Design Review Board's previous approval of the project as the basis for the project's consistency with the goals and policies of the General Plan related to enhanced urban design along major city entries and scenic roadways. Additionally, the appellant cited N. Wright Road's lack of scenic road designation

and that the intersection of Fulton Road and Highway 12 is scheduled to undergo construction.

**Staff Response:** As reflected in Attachment 28, the Planning Commission found the project to be inconsistent with the General Plan goals and policies, including but not limited to goals and policies related to enhanced urban design along major city entries and scenic roadways. The Commission found that the designation of the intersection of Highway 12 and Fulton Road as a major entryway to the City required special consideration pursuant to the General Plan and that the project failed to make such consideration related to urban design and aesthetics. Staff believes the Council could reach an alternative conclusion, as set forth in the resolution of approval prepared for the Planning Commission (Attachment 27) and presented to the Council for consideration.

3. The appellant disagrees with the Planning Commission's finding that the design of the project would not be compatible with cyclist and pedestrian use of the Joe Rodota Trail due to its automotive-oriented use. The appellant notes that the project would add two connections to the Joe Rodota Trail, include a fresh food market, and construct a small, privately maintained outdoor amenity area available for public use. These components of the project would serve as amenities for users of the Joe Rodota Trail, who can safely navigate through the project site, purchase fresh food from the market, and/or rest at the on-site outdoor amenity.

**Staff Response:** The Planning Commission found the project's design, location, size, and operating characteristics would not be compatible with the existing and future land uses in the vicinity. The Commission cited the gas station's automotive-oriented use as a conflict with the project's location in proximity to the Joe Rodota Trail due to safety concerns related to the ingress and egress of cars during business operation and the cyclists and pedestrians using the Joe Rodota Trail. Staff believes the Council could reach an alternative conclusion, as set forth in the resolution of approval prepared for the Planning Commission (Attachment 27) and presented to the Council for consideration.

4. The appellant disagrees with the Planning Commission's finding that the project would constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or be materially injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located. The appellant refers to the air quality health risk assessment and greenhouse gas analysis that were prepared for the project, which found potential impacts would be well below adopted thresholds of significance. The appellant also cites the traffic and Vehicle Miles Traveled (VMT) analysis that concludes 70% of projected traffic would be passerby traffic.

The appellant cites the Phase 1 Environmental Assessment and Final Stormwater Low Impact Development report prepared for the project that found no evidence of existing soil or groundwater contamination. The appellant describes how the project's Mitigation Monitoring and Reporting Program

(MMRP) would require review and approval of the Phase 1 Environmental Assessment by the City of Santa Rosa Fire Department and Regional Water Quality Control Board.

The appellant asserts that the project as a mixed-use development that would serve fresh food to the existing and future residential development in the area, in addition to increase pedestrian connections to the Joe Rodota Trail.

Finally, the appellant asserts that the project must be considered on its own merits and cannot be denied on the basis that it consists of a gas station due to its exemption from the Gas Station Ban (ORD-2022-010).

**Staff Response:** As reflected in Attachment 28, the Planning Commission found that the project would constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or material injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located. The Commission cited the project's contribution to increased greenhouse gas emissions and air pollution, which would counteract the City's Climate Action Plan, and the Climate Emergency Resolution No. 2020-002 aimed at improving air quality and reducing reliance on fossil fuels.

The Commission also cited the risks posed by underground storage tanks and their role in creating new Brownfield sites. Additionally, the Commission found that the auto-centric nature of gas stations is inconsistent with the City's goals for pedestrian-oriented, mixed-use development and would encourage vehicle dependency rather than promoting alternative transportation options such as biking, walking, and public transit.

Finally, the Commission cited support documentation and specific findings the Council made when adopting the Gas Station Ban (ORD-2022-010), specifically related to environmental contamination and public health impacts.

Staff believes the Council could reach an alternative conclusion, as set forth in the resolution of approval prepared for the Planning Commission (Attachment 27) and presented to the Council for consideration.

5. The appellant disagrees with the Planning Commission's finding that the project cannot be found to be in compliance with the California Environmental Quality Act (CEQA). The appellant cites the technical studies that were prepared conclude that impacts would not exceed any thresholds of significance. Most of these studies were updated from the project's original application submitted in 2011 to account for any changes in the environmental or regulatory setting that would affect the conclusions of the Mitigated Negative Declaration adopted in 2013. Based on this information, the appellant asserts that the Addendum to the Mitigated Negative Declaration for project was prepared in compliance with CEQA.

**Staff Response:** As reflected in Attachment 28, the Planning Commission was unable to find the project to be in compliance with CEQA because the Addendum did not adequately analyze new information of substantial importance showing that significant effects would be more severe than analyzed in the Mitigated Negative Declaration previously prepared for the project, including, but not limited to the following: traffic; water quality; greenhouse gas emissions; and air quality. The Commission cited the statements of fact made by the Council and other jurisdictions in writing an ordinance to ban new gas stations, specifically related to the common contaminants associated with gas station uses that are a threat to public health. Additionally, the Commission cited findings and statements of fact made by these agencies that the storage of hazardous substances in above- and underground tanks are sources of contamination and pose a danger to public safety and the health of the environment.

Staff believes the Council could reach an alternative conclusion, as set forth in the resolution of approval prepared for the Planning Commission (Attachment 27) and presented to the Council for consideration.

#### Summary of Public Comments

Staff has received many public comments via email about the proposed Project. Please see the Planning Commission staff report (Attachment 24) for a comprehensive summary of public comments received and Staff's response.

#### FISCAL IMPACT

Decision on the appeal will not have an effect on the General Fund.

#### ENVIRONMENTAL IMPACT

Please see the Planning Commission staff report (Attachment 24) for a summary of the environmental impact analysis performed for this project.

#### BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

On April 10, 2025, the Planning Commission unanimously denied the Project. The findings for this decision are presented in the draft resolution of denial for consideration by the Council, in addition to PC-RES-2025-007 (Attachment 28). Staff's analysis of the required findings for approval of the Project remains unchanged and can be found in the draft resolution of approval for consideration by the Council.

#### PUBLIC NOTIFICATION

The Appeal was noticed as a public hearing for the August 19, 2025, City Council meeting per the requirements of Chapter 20-66 of the City Code. Notification of the public hearing was provided by posting an on-site sign, publishing notice in a newspaper of general circulation, mailed notice to surrounding property owners and occupants, electronic notice to parties that had expressed interest in projects taking

place in this geographic area of Santa Rosa, and bulletin board postings at City Hall and on the City website.

Pursuant to Government Code Section 65091, where necessary, the City has incorporated notice procedures to the blind, aged, and disabled communities. These procedures include audio amplifier/assistive listening device support at public meetings, closed captioning, and optical character recognition conversion of electronic notices.

### LEVINE ACT

This project is subject to the Levine Act (Gov. Code Section 84308) which prohibits city officials from participating in certain decisions regarding licenses, permits, and other entitlements for use if the official has received a campaign contribution of more than \$500 from a party, participant, or agent of a party or participant in the previous 12 months. The Levine Act is intended to prevent financial influence on decisions that affect specific, identifiable persons or participants. Please see the attached Disclosure Form for information on individuals interested in the proposed land use action and any monetary contributions to city officials. For more information see the FPPC website:

[www.fppc.ca.gov/learn/pay-to-play-limits-and-prohibitions.html](http://www.fppc.ca.gov/learn/pay-to-play-limits-and-prohibitions.html)

### ATTACHMENTS

- Attachment 1 – Disclosure Form
- Attachment 2 – Location Map
- Attachment 3 – Project Description
- Attachment 4 – Plans
- Attachment 5 – Traffic Impact Study, 07/26/13
- Attachment 6 – Addendum to Traffic Impact Study, 12/16/23
- Attachment 7 – Trip Generation and Trip Length, 03/07/24
- Attachment 8 – Water Quality Control Board Section 401 Certification, 8/27/19
- Attachment 9 – Health Risk Assessment 2/27/23
- Attachment 10 – Greenhouse Gas Emissions Memo, 03/06/24
- Attachment 11 – Communication from BAAQMD regarding AQ and GHG Emissions Thresholds, 04/13/23
- Attachment 12 – Biological Resources Analysis, 11/06/12
- Attachment 13 – Environmental Noise Study, 05/16/13
- Attachment 14 – Arborist Report, 09/29/19
- Attachment 15 – Climate Action Plan Appendix E Checklist
- Attachment 16 – Army Corps Verification, 01/26/22
- Attachment 17 – City Council Gas Station Ban Ordinance, ORD-2022-010
- Attachment 18 – Planning Commission Resolution PC-2022-020
- Attachment 19 – Initial Study/Mitigated Negative Declaration (IS/MND) and Mitigation Monitoring and Reporting Program (MMRP), 08/26/13
- Attachment 20 – Stormwater LID, December 2018
- Attachment 21 – Public Correspondence – 6-18-25
- Attachment 22 – Prior Gas Station Zoning Code Regulations
- Attachment 23 – PD 0435

## ELM TREE STATION APPEAL

Page 8 of 8

- Attachment 24 – Planning Commission Staff Report
- Attachment 25 – Appeal Form
- Attachment 26 – Draft Planning Commission Resolution of Approval 1 – Addendum and MMRP
- Attachment 27 – Draft Planning Commission Resolution of Approval 2 – CUP with Exhibit A
- Attachment 28 – Adopted Resolution of Denial – PC-RES-2025-007
- Attachment 29 - Correspondence
- Draft Resolution of Approval 1 – Addendum and MMRP with Exhibit A
- Draft Resolution of Approval 2 – Conditional Use Permit with Exhibit A
- Draft Resolution of Denial – Conditional Use Permit

### PRESENTER

Conor McKay, Senior Planner