

Presentation to the Planning Commission of the  
City of Santa Rosa

August 11, 2022



# Appeal of the Elm Tree Station Waiver of Parcel Map

# Appeal

- Waiver of Parcel Map: Allows the subdivision of the parcel into two lots through the filing of a Certificate of Compliance rather than the filing of a Subdivision Map.



# Elm Tree Station

- Subdivision of 0.98 acres into two lots
- Parcel 1: “Commercial Parcel” (0.73)
  - Solar powered gasoline fueling and electric vehicle charging station
  - Neighborhood Market w/outdoor seating (No alcohol sales)
  - One-bedroom Apartment
  - Two bicycle/pedestrian connection points to the Joe Rodota Trail
- Parcel 2: “Park Parcel” (0.25 acres)
  - “Snack Stand”
  - Park Amenities
    - Patio/Trellis Area
    - Benches
    - Picnic Area

# Directive by the Department of Planning and Economic Development

**From:** Rose, William <[WRose@srcity.org](mailto:WRose@srcity.org)>  
**Sent:** Thursday, May 31, 2018 3:09 PM  
**To:** Randy Figueiredo <[randy@tfarch.com](mailto:randy@tfarch.com)>  
**Cc:** Geoff Coleman <[gcoleman@bkf.com](mailto:gcoleman@bkf.com)>; Jean Kapolchok ([jkapolchok@sbcglobal.net](mailto:jkapolchok@sbcglobal.net)) <[jkapolchok@sbcglobal.net](mailto:jkapolchok@sbcglobal.net)>; Welsh, Ann <[AWelsh@srcity.org](mailto:AWelsh@srcity.org)>; Streeter, Patrick <[pstreeter@srcity.org](mailto:pstreeter@srcity.org)>; Ponce, Laura <[LPonce@srcity.org](mailto:LPonce@srcity.org)>; Osburn, Gabe <[GOsburn@srcity.org](mailto:GOsburn@srcity.org)>

**Subject:** RE: Elm Tree Station - Entitlement extension

Randy,

Since we have not issued any refunds at this point, I think the following scenario will allow you to proceed with the original extension requests for the Use Permit and Design Review entitlements, in addition to proceeding with the Waiver of Parcel Map:

- Rescind your requests to withdraw the Use Permit (EXT18-0013) and Design Review (EXT18-014) extension applications; and,
- Request to withdraw the subsequent Use Permit (CUP18-040) and Design Review (DR18-029) applications; and,
- Confirm your request to withdraw the Tentative Map (EXT18-0015) extension application

As a result, we will then process the original Use Permit and Design Review extensions, along with the Waiver of Parcel Map.

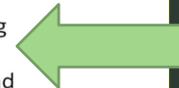
If you agree, please submit the above requests in writing (email will suffice) to Ann Welsh and copy me.

Let me know if you have any questions.

Best regards,

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Bill Rose, AICP | Supervising Planner  
Planning & Economic Development



## Findings of the Subdivision Committee

- Certificate of Compliance and subsequent Parcel Map Waiver Conditions of Approval (the Project) was reviewed by the City's Project Engineer and Deputy Director of Engineering – Development Services.
- The Project is consistent with the Santa Rosa General Plan.
- The site is physically suitable for the proposed Project.
- The shape, size and topographical characteristics of the parcels easily lend themselves to the mixed uses.

## Findings of the Subdivision Committee

- The site is physically suitable for the intensity of the uses.
- The Project will cause no adverse environmental effects.
- Adequate sewer and water services are available.
- The Project will not conflict with any existing easements.
- The Project will not violate any requirements of the Regional Water Quality Control Board.
- The Project complies with CEQA.



# Project Status

- Certificate of Compliance: Approved, pending denial of the appeal. The majority of the conditions have been met.
- Use Permit and Design Review: Filed; deemed complete; currently in process.
- Wetland Mitigations: Completed and paid for.
- Pending Text Amendments to Prohibit New Gas Stations: This project is one of two projects that were granted an exemption from the amendments, allowing the Project to move forward with the Use Permit.



## Request

- Deny the Appeal: Permit the filing of a certificate of compliance, which will allow the continued processing of the Use Permit and Design Review applications.

Thank you.





**CONGAS**

*Coalition Opposing New Gas Stations*

# **874 N. Wright Road, Santa Rosa**

Coalition Opposing New Gas Stations (CONGAS)

August 11, 2022

Santa Rosa Planning Commission

# The Requested Action

Overturn, or reverse the Planning Commission Subdivision Subcommittee Dec. 12, 2019 deny of the Parcel Map Waiver and Certificate of Compliance (**uphold the appeal**).

(Appeal Filed December 16, 2019)



**CON GAS**

*Coalition Opposing New Gas Stations*

# The Location



# The Grounds of the Appeal

The Subcommittee did not take into account significant material and policy changes that have occurred since this project was last before a decision-making body.

# Obsolete Mitigated Negative Declaration



**CONGAS**  
*Coalition Opposing New Gas Stations*

# December 12, 2019



# No Reason/justification for waiver cited

- No decision-making criteria cited
- Public concerns were not, and never have been fully addressed.

# Environmental Justice/Housing

## **Need for a parcel map**

**Gas stations are by  
definition toxic sites**



# Technical Errors – and their significance

## 2019 Staff report errors:

- First paragraph where it states: *“The Elm Tree Station (Project) involves a Waiver of Parcel Map and subsequent Certificate of Compliance to subdivide an approximately 1.12-acre parcel into two parcels sized .73 and 0.25 acres located at 375 Calistoga Road.”*
- Staff report “findings” based on non-existent March 2019 MND



**CONGAS**

*Coalition Opposing New Gas Stations*

# Subdivision Map Act

The Parcel Map Waiver and Certificate of Compliance did not meet the requirements of the Subdivision Map Act.

# Documentation of public noticing

- At the December 12, 2019, a member of the public requested that documentation of statutorily required public noticing of the previous hearings and decision-making meetings regarding the 874 N. Wright Road proposal be shared with concerned public.
- Staff did not produce that documentation.









# Planning Commission Decision-making Authority

**19-10.020 Powers and duties.** The Subdivision Committee shall have the **power to approve, with or without conditions, or disapprove tentative parcel maps.** In addition, the Subdivision Committee shall have such other powers, duties, and responsibilities as are set forth in the zoning code or as may be assigned or delegated to it, from time to time, by the Planning Commission or City Council.

(Ord. 3396 § 1, 1998; Ord. 2622 § 1, 1987)

# Compounding Problems

- No need – ten gas stations already operating within a 5-mile radius
- Greenfield
- Leaking Underground Storage Tank liability
- Climate Crisis – Santa Rosa Emergency Resolution, State Decarbonization Policy
- Fire risk

# Compliance Elements

The conditions for approval for the Parcel Map Waiver were not met at the time the Subdivision Subcommittee granted the approval.

# The Requested Action

Uphold the appeal. Reverse the Subdivision Subcommittee approval of the Parcel Map Waiver and Certificate of Compliance

# Thank you!

Woody Hastings

[woodyhastings@gmail.com](mailto:woodyhastings@gmail.com)

707-238-2298

[www.con-gas.org](http://www.con-gas.org)

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**Subject:** FW: [EXTERNAL] Elm Tree Station Project

-----Original Message-----

From: Terri Moon [REDACTED]  
Sent: Tuesday, August 9, 2022 7:18 PM  
To: \_PLANCOM - Planning Commission <planningcommission@srcity.org>  
Cc: Wixon, Mike <mwixon@srcity.org>  
Subject: [EXTERNAL] Elm Tree Station Project

Santa Rosa Planning Commission Members:

I am writing in support of the Appeal of the December 12, 2019 approval by the Subdivision Committee of the Certificate of Compliance and Parcel Map Waiver for the Elm Tree Station Project. File No. CC18-004.

I oppose this project and urge every Commission member to support the appeal.

At the December 12, 2019 meeting, a request was made for records of legally required public noticing be provided to the public regarding the previous hearings. Planning staff was unable to provide this information and has still not provided this information that I'm aware of.

The Subdivision Map Act has required parcel maps for developments like this since 1967. Additionally, Subsection 66411.1 of this Act states that "Requirements for the construction of offsite and onsite improvements shall be noticed by a statement on the parcel map..."

What is the justification for a parcel map waiver in this case? No justification has been provided to my knowledge and my understanding is that parcel map waivers are only allowed under specific circumstances that relate to large parcel divisions, which this is not.

Play by the rules and keep the agreements we have made as a community!

Sincerely,  
Terri Moon

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Terri Moon, MS  
Magnetize Clients With Authentic, Heart-Based Self Expression  
["Unless we as social change agents come from a certain spirituality, we are likely to create more harm than good." — Marshall B. Rosenberg](https://nam11.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.terrimoon.com%2F&data=05%7C01%7CEcleary%40srcity.org%7Ca2f0886d2f724cc2d3e608da7a768470%7C0d511985462e4402a0b038e1dadf689e%7C1%7C0%7C637956946728997925%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Ikh1haWwiLCJXVCi6Mn0%3D%7C7000%7C%7C%7C&sd=PNiGT47tEFTPxx5coEFNb338zzQx4lwLM%2B2aC7l2djl%3D&reserved=0, 707-709-8574 (home/office), 707-591-1872 (cell/text)</a></p></div><div data-bbox=)

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FW: [EXTERNAL] Public comment for 8/11 hearing | re: Elm Tree Station Appeal - Project File  
CC18-004

-----Original Message-----

From: Debbie Ramirez [REDACTED]  
Sent: Wednesday, August 10, 2022 11:22 AM  
To: \_PLANCOM - Planning Commission <planningcommission@srcity.org>  
Cc: Wixon, Mike <mwixon@srcity.org>  
Subject: [EXTERNAL] Public comment for 8/11 hearing | re: Elm Tree Station Appeal - Project File CC18-004

Dear Commissioners,

I am writing to support the appeal of 12/19/19 Certificate of Compliance and Parcel Map Waiver for the Elm Tree Station Project.

I oppose this project and urge the commission to support the appeal.

The mitigated negative declaration that the approval was based upon is extremely out of date by nearly a decade. A lot has changed in that time and the environmental concerns around a project like this are too important to base on such outdated data.

Further, there is no need for a gas station in this location. There are more than ten stations already located within a five mile radius.

In this era of climate crisis and widespread efforts of most, if not all, area municipalities to ban new gas stations, this project moving forward makes no sense.

Thank you for your consideration.

Debbie Ramirez

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**Subject:** FW: [EXTERNAL] Elm Tree Station Project File No. CC18-004

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**From:** Barbara Moulton <bcm19@sonic.net>

**Sent:** Wednesday, August 10, 2022 3:23 PM

**To:** \_PLANCOM - Planning Commission <planningcommission@srcity.org>

**Subject:** [EXTERNAL] Elm Tree Station Project File No. CC18-004

Dear Commissioners:

I am writing in support of the Appeal of the December 12, 2019 approval by the Subdivision Committee of the Certificate of Compliance and Parcel Map Waiver for the Elm Tree Station Project. File No. CC18-004 located at 874 N. Wright Rd., Santa Rosa, CA.

We don't need more gas stations in Santa Rosa, and there are more than ten existion gas stations within five miles of this project.

Additionally,

- At the December 2019 meeting, the Subcommittee did not take into account significant material changes that had occurred since this project was last before a decision-making body. In particular, the Mitigated Negative Declaration in this case, from 2013 and on which the approval decision was made, is out of date;
- A request was made at that meeting that records of legally required public noticing of the previous hearings in this case be provided to the public. Planning staff was unable to provide that at the meeting and as far as I know it still has not been provided;
- Subsection 66411.1 of the Subdivision Map Act states that "Requirements for the construction of offsite and onsite improvements shall be noticed by a statement on the parcel map..."

What is the justification for a parcel map waiver in this case?" None was provided at the 2019 hearing;

- Parcel map waivers are only allowed under specific circumstances that relate to large parcel divisions. This is not a large parcel division;
- The Subdivision Map Act is clear that parcel maps have been required for developments like this since 1967.

Thank you for your consideration.

Sincerely,

Barbara Moulton  
684 Benicia Dr #52  
Santa Rosa, CA 95409

[bcm19@sonic.net](mailto:bcm19@sonic.net)  
707-321-0064

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**From:** [REDACTED]  
**Sent:** Wednesday, August 10, 2022 3:20 PM  
**To:** PLANCOM - Planning Commission; Wixon, Mike  
**Cc:** Woody Hastings  
**Subject:** [EXTERNAL] Re: File No. CC18-004 Appeal of Subdivision Committee Approval of a Certificate of Compliance and Parcel Map Waiver for 874 N Wright Rd, Santa Rosa/Elm Tree Station

Dear Planning Commissioners

I would like to add an addendum to the letter below submitted this morning.

1. It seems clear that the Parcel Map Waiver and Certificate of Compliance are considered essential to circumvent zoning requirements that would otherwise not allow a gas station to be built next door to an area zoned for multi-family housing. This is the nub of the decision before you.
2. In addition to policy changes relating to the climate crisis, something else has changed between the 2013 approval of the CUP, MND and Final Design Review and the December 2019 meeting of the Subdivision Committee, and again between then and now. New studies show that living in close proximity to gas stations is even more harmful to human health, and especially to children, than had previously been understood.

Here are just three examples of articles highlighting the findings:

- Gas stations vent far more toxic fumes than previously thought, Environmental Health, Oct. 4, 2018
- Is it safe to live near a gas station? Scientists point to numerous health hazards, April 20, 2020 Quote: "We found evidence that much more benzene is released by gas stations than previously thought. In addition, even during a relatively short study period, we saw a number of instances in which people could be exposed to the chemical at locations beyond the setback distance of 300 feet" (Columbia University, 2018).
- Small spills at gas stations could cause significant public health risks over time, John Hopkins University, Oct. 7, 2014, <https://hub.jhu.edu/2014/10/07/gas-station-spills/>

3. *On November 14, 2019, the Certificate of Compliance and Parcel Map Waiver Application (CC18-004) was deemed complete. (Staff Report). This finding was presumably based at least partially on the Oct. 24, 2013 approval of the CUP and the March 20, 2014 Design Review.*

*Since the Appeal was filed on Dec. 16, 2019, "City staff and the applicant have been working to determine the best path forward for the project following a determination that the previous CUP and DR had expired. Now new CUP and DR applications have been submitted...On December 17, 2021, applications for a Conditional Use Permit (CUP21-100) and Design Review (DR21-069) were filed for Elm Tree Station (PRJ21-033).*

On what grounds did the 2013 CUP and 2014 Design Review approvals "expire"? Why are new ones required now? What are the significant differences, if any, between the old and the new?

I urge you again to uphold the appeal and deny the parcel map waiver and certificate of compliance. It would be highly irresponsible to approve these now, to exploit a planning loophole to facilitate a development which would turn a greenfield into a toxic site, next door to an area zoned for multi-family housing - just when it is clear that we should be

moving away from fossil fuels to cleaner, more sustainable methods of transportation with the infrastructure to support better bicycling and pedestrian facilities, public transportation and EV charging facilities in appropriate locations. There are also questions about the details of this planning process that have not been adequately explained and should be made more transparent.

Thank you!

Jenny Blaker

On 8/10/2022 10:06 AM, jennyb wrote:

With apologies for lateness owing to internet issues!

To: Santa Rosa Planning Commission

August 10, 2022

**Project. File No. CC18-004: Appeal of Subdivision Committee Approval of a Certificate of Compliance and Parcel Map Waiver for - 874 N Wright Rd, Santa Rosa**

Dear Planning Commission members:

First, I see that an undated letter written by me was included in the public comment for this meeting, but I believe that letter may originally have been submitted in December 2019. This letter supercedes that one!

I am writing now to urge you to support the December 12, 2019 appeal and deny the Parcel Map Waiver and Certificate of Compliance (CC18-004) for Elm Tree Station/874 North Wright Road.

*The grounds for appeal imply significant changes have occurred without stating what significant changes did, in fact, occur when last before a decision-making body -- between the dates of March 20, 2014 (Final Design Review approval by the Design Review Board) and December 14, 2019 (date of Subdivision Committee approval of CC18-004)...City staff is not aware of any significant changes that have occurred on the project site, or in the vicinity of the project site, nor is staff aware of any policy changes that have occurred since the March 20, 2014, Design Review Board action. (Staff report).*

A lot changed between the 2013 approval of the Conditional Use Permit, MND, and Final Design Review and the December 2019 meeting of the Subdivision committee, and again between then and now. We are much more aware now of the urgency of the climate crisis and the need to end our dependency on fossil fuels. The danger and threat of fires has added to our consciousness of this crisis.

- In January 2020 the City of Santa Rosa passed a resolution “endorsing the declaration of a climate emergency and immediate emergency mobilization to restore a safe climate”, calling for “a just transition away from fossil fuels” and committing to a goal of carbon neutrality by 2030.
- Governor Newsom’s September 2020 Executive order prohibits the sale of gasoline powered vehicles from 2035.
- In September 2021 the Regional Climate Protection Authority unanimously passed a resolution agreeing to support the cities and the County in writing their own ordinances to prohibit the permitting and construction of new gas stations.
- The cities of Petaluma, Sebastopol, Rohnert Park and Cotati have passed resolutions prohibiting the development of new gasoline stations within their own jurisdictions and a similar resolution is currently working its way through the City of Santa Rosa. While it doesn’t apply directly to gas station applications already in process, this is another indication that this issue is being taken seriously all over the County.

Permitting new gas stations only prolongs out-of-date infrastructure to support unsustainable lifestyles.

A gas station at this location is completely unnecessary. There are already several (10-14) gas stations within a couple of miles in every direction.

What is the purpose of the parcel map waiver? It appears that it is to facilitate the development of a gas station close to an area zoned for multi-family residences.

*The Parcel Map Waiver and Certificate of Compliance would facilitate the proposed development and operation of the Elm Tree Station Project, if the CUP for the use is subsequently approved by the Planning Commission... The subject site adjoins a vacant property to the east that is zoned R-3-18 (multifamily residential). As such, pursuant to the above noted Zoning Code section, the proposed service station would not be allowed on the subject site without approval of this subdivision. To address the location issue, the applicant received approval of a Certificate of Compliance and Parcel Map Waiver that would subdivide the property into two parcels -- proposed Parcel 2 would separate Parcel 1, where the service station is proposed, from the residential land to the east. The result would be that the parcel containing the service station would not adjoin the residentially zoning land, thereby conforming to the aforementioned Zoning Code section. The size and shape of each parcel also contributes to Zoning Code standards which call for a separation of service stations from residential uses. (Staff Report).*

Resolution no. 11655 dated 24<sup>th</sup> October 2013 which approved the Conditional Use Permit – a precursor to the Parcel Map Waiver and Certificate of Compliance - states (E.) that “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....in the vicinity...”

However, I believe that building a gas station would be injurious for a number of reasons including impacts to air and water quality. Leaks and spills are inevitable:

*Gasoline leaks happen at gas stations every day. As people fill up their gas tanks, gasoline drips from the nozzle onto the ground and vapors leak from the open gas tank into the air. Gasoline leaks can also happen in pipelines or in underground storage tanks where they can't be seen – see <https://www.eia.gov/energyexplained/gasoline/gasoline-and-the-environment.php>*

This is an undeveloped site with wetlands and oak trees, within the area of critical habitat for the endangered California tiger salamander. Draining the ponds and paving over large parts of the area with impervious surfaces used by vehicles will only have negative consequences on water quality on site and downstream.

The proximity to the Joe Rodota trail is also a concern. A gas station at this location would detract from and not enhance the experience of users of the trail. All-night gas stations also tend to be magnets for crime. Stores associated with gas stations almost always stock junk foods such as sugary drinks and snacks, rather than providing groceries for local residents.

The electric charging stations, bike racks etc. are a gesture in the right direction, but do not outweigh the negative impact of a new gas station. This is not a practical location for EV charging stations. EV charging stations need to be installed in places where people already spend time anyway: at home, work, shopping centers, movie theatres, etc.

Again, I urge you to support the appeal and deny the parcel map waiver.

Sincerely

Jenny Blaker

Co-coordinator, Coalition Opposing New Gas Stations

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**Subject:** FW: [EXTERNAL] Project. File No. CC18-004: Appeal of Subdivision Committee Approval of a Certificate of Compliance and Parcel Map Waiver for - 874 N Wright Rd, Santa Rosa

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**From:** Debora Hammond [REDACTED]

**Sent:** Wednesday, August 10, 2022 3:15 PM

**To:** \_PLANCOM - Planning Commission <planningcommission@srcity.org>

**Cc:** Wixon, Mike <mwixon@srcity.org>

**Subject:** [EXTERNAL] Project. File No. CC18-004: Appeal of Subdivision Committee Approval of a Certificate of Compliance and Parcel Map Waiver for - 874 N Wright Rd, Santa Rosa

Dear Commissioners:

I am writing in support of the Appeal of the December 12, 2019 approval by the Subdivision Committee of the Certificate of Compliance and Parcel Map Waiver for the Elm Tree Station Project. File No. CC18-004 located at 874 N. Wright Rd., Santa Rosa, CA.

Given the growing concern with the impact of fossil fuels, it makes no sense to continue to invest in fossil fuel infrastructure. Several cities in Sonoma County have passed bans against any new gas stations, and in that spirit it would make sense for Santa Rosa to follow this example. Sonoma County has been a leader in taking steps to address the challenges of climate change and this is one more way that we can have an impact.

There is clearly no need for additional gas stations in this area, since there are more than ten already operating within five miles. The Planning Commission has the authority to deny the Parcel Map Waiver and Certificate of Compliance, and I urge you to do so.

Thank you for considering my concerns.

Sincerely,

Debora Hammond  
Professor Emerita  
Sonoma State University