

RESOLUTION NO.

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ROSA  
MAKING FINDINGS AND DETERMINATIONS AND APPROVING A CONDITIONAL  
USE PERMIT FOR 7-ELEVEN, INC. LOCATED AT 43, 51, AND 55 MIDDLE RINCON  
ROAD, AND 4865 HIGHWAY 12, APNS 182-540-024 & -025- FILE NUMBER CUP19-097  
(PRJ19-032)

WHEREAS, on August 22, 2019, an application was submitted requesting the approval of a Conditional Use Permit to allow for the demolition of all on-site structures, including an existing 7-Eleven convenience/retail store, two detached single-family dwellings, and accessory structures, and the construction of a new gas station and a 4,191-square-foot convenience store with 24 hour operation and alcohol beverage sales (Project), to be located at 43, 51, and 55 Middle Rincon Road, and 4865 Highway 12, also identified as Sonoma County Assessor's Parcel Number(s) 182-540-024 & -025 (Project Site); and

WHEREAS, on September 16, 2020, the Project application was deemed complete for processing by City Staff; and

WHEREAS, on September 13, 2022, the City Council adopted Ordinance No. ORD-2022- 010 (Gas Station Prohibition Ordinance), which amended Title 20 of the Santa Rosa City Code to prohibit new gas station land uses and to prohibit the expansion of fossil fuel infrastructure for existing gas station land uses; and

WHEREAS, Section 10 of the Gas Station Ban Ordinance states, “Any application to permit a new gas station land use that has been deemed complete for processing by the effective date of this ordinance is exempt from this Ordinance and may continue to be processed and considered by the appropriate review authority.” This Project meets this criterion because it was deemed complete for processing City Staff prior to the effective date of this Ordinance; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the application at which all those wishing to be heard were allowed to speak or present written comments and other materials; and

WHEREAS, the Planning Commission has considered the application, the staff reports, oral and written, the General Plan and zoning on the subject property, the testimony, written comments, and other materials presented at the public hearing; and

NOW, THEREFORE, BE IT RESOLVED, that after consideration of the reports, documents, testimony, and other materials presented, and pursuant to City Code Section 20-52.050 (Conditional Use Permit), the Planning Commission of the City of Santa Rosa finds and determines:

- A. The proposed use is allowed within the CG – General Commercial Zoning District and complies with all other applicable provisions of this Zoning Code and the City Code, in that, although the Council effectively banned new gas stations by adopting Ordinance No. ORD-2022-010 on September 13, 2022, the Ordinance included an exemption for any

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applications to permit new gas stations if the application was deemed complete for processing by the effective date of the ordinance. The Ordinance allows any Projects that meet these criteria to continue to be processed and considered by the appropriate review authority. Since the Project was deemed complete on September 16, 2020, the Project is exempt from the Gas Station Prohibition Ordinance. At the time the application was deemed complete for processing, the Gas Station land use was allowed in the CG Zoning District with a Major Conditional Use Permit. Zoning Code Section 20-42.150 regulates Service Stations (defined as “Gas Station” and “Vehicle Services”) and specifies site requirements for Gas Station land uses including site area and dimensions, proximity to residential uses, and distance between service station sites. The Project site was reconfigured with a Lot Line Adjustment (File No. LLA20-008), recorded on February 22, 2023, resulting in a 1.17-acre Project site and the vacant, undeveloped lot to the north. The proposed gas station meets service station the Zoning Code site dimension requirements in that the Project parcel has approximately 212-feet of frontage along Highway 12, and 217-feet of frontage along Middle Rincon Road, which is an arterial street. The 1.17-acre site meets the minimum required area of 15,000 square feet for Service Stations. The Project site meets the criteria for proximity to residential uses in that a vacant/undeveloped commercial parcel separates the proposed gas station from the existing, conforming single-family residence to the north. The Project is adjacent to a nonconforming single-family residence, which is owned by the applicant, to the west that is zoned CG – General Commercial, which is allowed pursuant to Zoning Code Section 20-42.150(2). While there is an existing Chevron gas station to the east, at the northeast corner of Middle Rincon Road and Highway 12, the proposed gas station is adjacent to Highway 12. Zoning Code Section 20-42.150(3) requires a minimum of 500 feet between service station uses but provides exceptions for sites within 150 feet of Highway 101 and Highway 12 intersections. Because this site is within 150 of a Highway 12 intersection, it meets this location requirement. Alcoholic Beverage Sales is a land use allowed in the CG Zoning District with a Conditional Use Permit. The proposed alcohol beverage sale use complies with the standards and criteria in Section 20-42.034 (Alcoholic Beverage Sales) of the Zoning Code and a Conditional Use permit was submitted for the proposed off-site alcohol sales. The Project site was developed while part of the jurisdiction of Sonoma County with a 7-Eleven convenience store and has a current Type 20 ABC (State of California Alcoholic Beverage Control) license - Off-Sale Beer & Wine (Package Store), which authorizes the sale of beer and wine for consumption off the premises where sold. City Code requires a Minor Conditional Use Permit for Extended Hours between 11:00 pm and 6:00 am. The Project site was annexed on May 8, 2019, and the convenience store has historically operated 24 hours per day, 7 days a week. The applicant is requesting that the new gas station and replaced convenience store continue to operate 24 hours per day, 7 days a week and continue the sale of beer and wine; and

- B. The proposed use is consistent with the General Plan and any applicable specific plan, in that the General Plan designation of Retail & Business Services designation allows a wide variety of retail and service enterprises, offices, and restaurants. The proposed uses are consistent with General Plan Land Use and Livability Goals LUL-J, LUL-J-1, and LUL-J-2 in that the proposed Project would establish basic services that will be needed in close proximity to surrounding future neighborhoods, as well as the traveling public. The

proposal will provide an attractive commercial development that will satisfy the needs of people who live, work, or visit Santa Rosa due to its visible location adjacent to Highway 12. In addition, the attractive building design and site design will enhance the visual quality of the Highway 12 entry into the City while providing essential services to the traveling public and nearby residences. The proposed gas station and associated retail development is consistent with this designation, which is intended for retail and service enterprises; and

- C. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity, in that the new building and gas pumps will have greater visibility and relationship with Highway 12, and the Project site has been designed with appropriate parking and circulation for the proposed pumps and convenience store. The convenience store has historically operated 24 hours per day, 7 days a week without any known complaints. The existing convenience store also as a current Type 20 ABC license - Off-Sale Beer & Wine (Package Store), which authorizes the sale of beer and wine for consumption off the premises where sold. The Project would continue the sale of beer and wine. The entire service station is equipped with security cameras which serves as a preventive to unlawful behavior. The floor plan shows the walk-in cooler is on the opposite wall from the entrance. The coolers are equipped with locks to secure the merchandise during periods when alcohol sales are not allowed. Any graffiti painted or marked upon the premises is removed or painted over within 72 hours of discovery. Signs are posted on premises stating, "No open alcoholic beverage containers are allowed on these premises" and, "No loitering is allowed on or in front of these premises;" and
- D. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints, in that adequate vehicular access to the site is provided from Highway 12 and Middle Rincon Road, and a bus stop, new streetlights, upgraded sidewalks, and a crosswalk will be installed at the west leg of the intersection of Highway 12 and Middle Rincon Rd across Highway 12. The building and site will be fully accessible pursuant to Americans with Disabilities Act (ADA) standards. All necessary utilities are available at the Project site, including water, wastewater, storm drainage, gas, and electric services. No physical constraints exist on the Project site in that, the Project site is flat, and all existing structures will be demolished. A single Coast Redwood that would be subject to protection under the City's tree Ordinance is proposed to be removed due to poor health and vigor; and
- E. 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, in that the proposed construction will be compatible with the land uses along Highway 12, which include a variety of office, commercial, and residential uses. The Project is not adjacent to any legal nonconforming residences. The Santa Rosa Police Department has no comments or conditions regarding the continuation of the 24-hour operation and the sale of beer and wine for off-site consumption from this location. Additionally, the site is not located in a close approximately to any school or religious

facility, as it is approximately 600-feet away from Douglas Whited Elementary School. Additional, detailed findings for Section 20-42.034 (Alcoholic Beverage Sales) can be found further in this document. A Focused Traffic Study, prepared by W-Trans on April 6, 2021, concluded that the Project would have a less-than-significant impact on VMT. The Focused Traffic Study recommended, and the Project will be conditioned to install a crosswalk at the west leg of the intersection of Hwy 12 and Middle Rincon Rd across Hwy 12, streetlights, upgraded sidewalks, a mid-block bus stop, streetlights, and street trees, per City standard, and a crosswalk will be installed at the west leg of the intersection of Highway 12 and Middle Rincon Rd across Highway 12. In addition, the building and site will be fully accessible pursuant to Americans with Disabilities Act (ADA) and applicable building codes. The Project site plan and floor plan incorporate design features to assist in reducing alcohol related problems. These features include, but are not limited to, surveillance and control of the premises, the perimeter, and surrounding properties; reduction of opportunities for congregating and obstructing public ways and neighboring property; illumination of exterior areas; and limiting furnishings and features that encourage loitering and nuisance behavior. The Project will also be conditioned to prevent loitering, littering, and graffiti on the premises; and

- F. The proposed Project has been reviewed in compliance with the California Environmental Quality Act (CEQA). This Project is Categorically Exempt pursuant to CEQA Guidelines Section 15332. The Class 32 “Infill” Categorical Exemption, hereafter referred to as the “Class 32 Exemption,” exempts infill development within urbanized areas if it meets certain criteria. The Class consists of infill Projects that are consistent with the General Plan and zoning requirements. This Class is not intended for Projects that would result in any significant traffic, noise, air quality, or water quality impacts. It may apply to residential, commercial, industrial, and/ or mixed-use Project. A Class 32 Exemption applies to a project characterized as infill development meeting all the conditions described and supported below, as applicable to this Project:
- a. The proposed Project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. The Project site is designated Retail & Business Services in the Santa Rosa General Plan 2035. This designation allows a wide variety of retail and service enterprises, offices, and restaurants. The proposed gas station and associated retail development is consistent with this designation, which is intended for retail and service enterprises. On September 13, 2022, the City Council adopted Ordinance No. ORD-2022-10, which amended Title 20 of the Santa Rosa City Code to prohibit new gas station land uses and to prohibit expansion of fossil fuel infrastructure for existing gas station land uses. The ordinance included an exemption for any applications for new gas stations if the application was deemed complete for processing by the effective date of the ordinance. The Ordinance allows any Projects that meet these criteria to continue to be processed and considered by the appropriate review authority. On August 22, 2019, the applicant submitted a Conditional Use Permit application to allow a gas station, alcoholic beverage sales, and extended hours of operation, a Minor Design Review application for the new convenience store, and a Lot Line Adjustment to reconfigure the lots. The Lot Line Adjustment was necessary

for the proposed gas station to meet location and siting requirements, by reconfiguring a vacant lot to separate the proposed gas station from an existing single-family residence north of the Project site on Middle Rincon Road. The Planning and Economic Development staff approved the Lot Line Adjustment on April 20, 2021 (recorded on February 22, 2023). Since the Project was deemed complete on September 16, 2020, the Project is exempt from the Gas Station Prohibition Ordinance. At the time the application was deemed complete for processing, the Gas Station land use was allowed in the CG Zoning District with a Major Conditional Use Permit. The Project site is zoned CG – Commercial General, which is one of several commercial zoning designations that implement the General Plan. The Project meets the special standards required to continue Alcoholic Beverage Sales and Extended Hours of Operation, pursuant to Division 4 of the Code. At the time of permit application, the Project plans must comply with any and all applicable City Ordinances and regulations. Pursuant to City Code Section 20-52.030, the proposed Project is required to obtain design review approval, which is required prior to the issuance of a building permit for any new building or structure; and

- b. The Project is located within City of Santa Rosa jurisdiction, on a Project site of no more than five acres substantially surrounded by urban uses, including commercial developments to the east and south, a single-family residence to the north, and a legal nonconforming residence to the west; and
- c. The Project site has no value as habitat for endangered, rare, or threatened species in that the Project site is almost entirely developed with structures, asphalt parking areas, concrete driveways, walkways, and is planted with ornamental vegetation.

A Biological Resources Assessment was prepared by Helix Environmental Planning on July 21, 2020. No special-status wildlife species were observed within the Study Area during the field survey on January 10, 2020. The proposed Project would remove a single Coast Redwood tree that is subject to protection under the City's Tree Ordinance. This tree is recommended for removal due to its poor health. While the removal of trees would not be considered a significant impact under CEQA, such removal has the potential to impact nesting bird species if present at the time of removal. The Project has been conditioned to comply with all applicable Federal laws and regulations, which would include adherence to the Federal Migratory Bird Treaty Act and the State Fish and Game Code. As a result, the Project would have a less than significant impact on endangered, rare, or threatened species or their habitat and therefore, satisfies criteria (c) for a Class 32 Exemption.

- d. The Project will not result in any significant effects relating to traffic, noise, air quality, or water quality.

A Focused Traffic Study, prepared by W-Trans on April 6, 2021, concluded that the Project would have a less-than-significant impact on VMT (Vehicle Miles Traveled). Both the City and the California Governor's Office of Planning and Research (OPR) Technical Advisory Guidelines specify that local-serving retail criteria that allow

Projects below a certain size be “screened” from quantitative VMT analysis. The City has established that local-serving commercial uses under 10,000-square-feet in size qualify for this screening criteria. Because the proposed Project is less than 10,000-square-feet and would be expected to shift where people purchase gas and convenience retail needs rather than increase the amount of gas or convenience goods being sold in the region, it is reasonable to presume that total regional VMT would not increase as a result of the Project. The Project would function as local-serving retail, with most customers likely traveling from nearby areas of Santa Rosa or making an interim stop along trips they were already making, with little potential to draw longer trips from the wider region. It is, therefore, reasonable to conclude that the Project would have a less-than-significant VMT impact.

A Project Noise and Vibration Assessment, prepared by Helix Environmental Consulting on July 31, 2020, concluded that with implementation of Performance Standards, listed in Zoning Code Section 20-30.090 to address construction noise, limiting the hours of construction activity, temporary construction noise impacts would be less than significant. Long term operation of the Project would not result in machinery and equipment noise in exceedance of the City standards, measured at nearby commercial and residential property lines. Project-related traffic would not result in a perceptible increase ambient noise level along streets in the Project area. Ground-borne vibrations generated by the Project during short-term construction activities and during long-term operation would be less than significant. The Project would not expose persons working in the Project area to excessive noise. In addition, the Project is conditioned to comply with the City’s Noise Ordinance, including any noise during construction.

An Air Quality and Greenhouse Gas Emissions Assessment was prepared by Helix Environmental Consulting on April 19, 2023. The Project’s construction and operational emissions of criteria pollutants and precursors would be below Bay Area Air Quality Management District (BAAQMD) thresholds, as published in Table 2-1 Air Quality CEQA Thresholds of Significance of BAAQMD’s California Environmental Quality Act Air Quality Guidelines and would result in a less than significant impact. Emissions of Toxic Air Contaminants (TACs) from the Project short-term construction activities and long-term operation would not result in increased health risks beyond the BAAQMD thresholds and the impact would be less than significant. The project includes the following design features, as described in the project description, dated “received” on April 19, 2023, to meet the requirements of the Bay Area Air Quality Management District’s (BAAQMD’s) performance-based climate change thresholds and the City’s Climate Action Plan (CAP):

- i. The project would be all electric and would not include natural gas or natural gas plumbing.
- ii. A minimum of 8 of the project’s 20 parking spaces would be electric vehicle (EV) capable spaces, and a minimum 3 of those EV capable spaces would include electric vehicle supply equipment (EVSE) in accordance with the

2022 California Green Building Standards Code (CALGreen; Title 24 Part 11) nonresidential Tier 2 measure A5.106.5.3.2;1.

- iii. The project would comply with 2022 CALGreen Tier 1 nonresidential measures.

The Project would comply with the BAAQMD's performance standard based thresholds, and the Project's Greenhouse Gas (GHG) emissions would be less than significant. As detailed and described in the Air Quality and Greenhouse Gas Emissions Assessment, prepared by Helix Environmental Planning, Inc, dated April 19, 2023, the Project complies with all required policies contained in the City's adopted CAP and is conditioned to require compliance with BAAQMD's Basic Construction Mitigation Measures (BCMMs; BAAQMD 2017a). CAP Goal 1 – 1.1.3 was adopted to coincide with CA Energy Codes. Since the CAP adoption, the CEC has determined that it is not possible to achieve net zero on a wholesale basis and “net zero” has been removed from the CA Energy Codes. Appendix E of the Climate Action Plan states that, “To be in compliance with the CAP, all measures denoted with an asterisk are required in all new development projects unless otherwise specified. If a project cannot meet one or more of the mandatory requirements, substitutions may be made from other measures listed at the discretion of the Community Development Director.” CAP Goal 1.1 requires projects to comply with Tier 1 CALGreen requirements, as amended, for new non-residential and residential development. Tier 1 CALGreen does not include “net zero” GHG assumptions for development. In addition, current CA Green Building Code Standards apply to all projects and has been determined by the Director to be an acceptable substitution for CAP Goal 1 – 1.1.3. Therefore, strict compliance with CAP Goal 1 – 1.1.3 is not achievable and not required. The Project would be consistent with local and regional GHG emission reduction plans, including the City's Climate Action Plan (CAP) by complying with City's Appendix E: Cap New Development Checklist, and would result in a less than significant impact.

The Project is conditioned to incorporate all Low Impact Development (LID) Best Management Practices as part of the Final Storm Water LID Submittal. Tait & Associates, Inc. prepared an Initial Stormwater LID Submittal, dated September 2, 2020, which included a hydrology study. It concluded that the hydrology and water quality calculations demonstrate that the proposed site is designed to meet stormwater treatment and flow requirements. The existing commercial and residential buildings will be replaced with a new convenience store and fueling station. The site improvements include the construction of a storm drain system designed to meet the 10-year storm event, and adequately conveys the 100-year storm event. The proposed Project includes stormwater quality treatment and infiltration through the construction of a bioretention planter with underdrains. Ongoing BMP maintenance of the bioretention planter system will be assured with a covenant maintenance agreement that will be recorded with the City prior to issuance of building permits. The Project is in compliance with the National Pollutant Discharge Elimination System (NPDES)

Permit, the City of Santa Rosa 2017 Storm Water Low Impact Development Technical Design Manual and the California Stormwater Quality Association (CASQA) BMP Handbooks. The Project development area is less than 1 acre and is therefore not required to submit a Notice of Intent (NOI) and Stormwater Pollution Prevention Plan (SWPPP) to the State Water Resource Control Board (SWRCB). Compliance with the Initial Stormwater LID Submittal and implementation of these regulatory compliance measures will ensure that the proposed Project will not result in a significant impact to water quality.

- e. The Project site is located in an urban, developed area where it can be adequately served by all required utilities and public services, including electricity, water, and sewer. The site is also served by City Police and Fire for life and safety services. City staff has reviewed the plans and conditioned the Project appropriately.
- f. Section 15300.2 of the State CEQA Guidelines provides exceptions to the Class 32 Exemption depending on the nature and location of the Project. No exceptions to the exemptions apply and there is no reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances (CEQA Guidelines Section 15300.2), which is demonstrated below:

- I. Cumulative Impact. State CEQA Guidelines Section 15300.2 states that “all exemptions for these classes are inapplicable when the cumulative impact of successive Projects of the same type in the same place, over time is significant.” The Project and successive Projects of the same type in the same place will not result in cumulative impacts. There are no known related Projects in the vicinity of the Project site that will result in cumulative impacts with respect to traffic, noise, water quality and utilities and public services. Given the Council’s adoption of Ordinance No. ORD2022-010, which prohibits new gas station land uses and prohibits expansion of fossil fuel infrastructure for existing gas station land uses, there will be no successive Projects of the same type in the vicinity of this Project site.

Given the excess capacity at the studied intersections, operation of the proposed Project with any other Projects would not result in cumulative traffic impacts.

Regulatory compliance measures for noise will ensure that the proposed Project's potential to contribute to substantial cumulative noise levels from construction or stationary sources during operation would be less than significant. As a result, cumulative noise levels from traffic would be less than significant.

Cumulative air quality impacts from construction and operation of the proposed Project, based on BAAQMD guidelines, are analyzed in a manner similar to Project-specific air quality impacts. The construction-related and operational daily emissions associated with the proposed Project would not exceed the BAAQMD's published, recommended thresholds, thus the proposed Project's emissions would not be cumulatively considerable. The Project is subject to BAAQMD

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permitting requirements. All gasoline dispensing facilities are required to have a Permit to Operate from the District, in accordance with Regulation 8, Rule 7, and include Phase I (vapor recovery during transfer of gasoline between any cargo tank and any stationary tank at GDF) and Phase II (vapor recovery during motor vehicle refueling operations from any stationary tank at GDF) systems. Projects involving modifications must be authorized by BAAQMD prior to construction. This includes the replacement or installation of tanks and/or vapor recovery lines, dispenser modifications and the addition of nozzles to a facility. For approval, the Project must meet the toxic screening requirements. Based on the results of that screening, BAAQMD may impose limits on gasoline throughput for the facility. Therefore, cumulative air quality impacts would be less than significant.

The proposed Project would not result in any significant water quality impacts. Like the proposed Project, any other future Projects in the vicinity would be required to implement stormwater Best Management Practices (BMPs). Mandatory structural BMPs in accordance with the NPDES water quality program would result in a cumulative reduction of surface runoff, as the development in the vicinity of the Project site is limited to infill development and redevelopment of an existing urbanized area. to incorporate all Low Impact Development (LID) Best Management Practices as part of the Final Storm Water LID Submittal. As a result, through means of regulatory compliance by the proposed Project and for any other Projects in the vicinity, cumulative water quality impacts would be less than significant.

- II. As noted above, the proposed Project is consistent with the Santa Rosa General Plan. The Project site is served by existing utilities infrastructure, and the proposed Project is not expected to result in significant new demand for public services. Adequate capacity exists to serve the proposed Project, and it would not result in any significant cumulative impacts associated with utilities or public services.
- III. Significant Effect. There are no "unusual circumstances" creating the reasonable possibility of significant effects. There is no reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. There is no evidence that any unusual circumstances exist. The Project is consistent with the level of development contemplated in the Santa Rosa General Plan 2035. The Project site is located within an urbanized area of the City. The proposed Project constitutes infill development by redeveloping an existing commercial property. The Project site is zoned CG – General Commercial and has a General Plan land use designation of Retail & Business Services. As conditioned, the proposed Project is consistent with permitted land uses, height, and all other development regulations of the City's Zoning Code. There are no features of the proposed Project, such as to its size or location, that distinguish it from others in the exempt class. No unique or unusual circumstances exist with respect to the proposed Project that would give rise to a reasonable possibility of a significant effect upon the environment.

- IV. Scenic Highways. The Project will not result in damage to scenic resources, including, but not limited to, trees, historic buildings, rock, outcroppings, or similar resources. The proposed Project would remove a single coast redwood tree that is subject to protection under the City's Tree Ordinance. This tree is recommended for removal due to its poor health. A Cultural Resource Assessment, prepared by Helix Environmental Consulting, as well as a peer review study of Helix's conclusions completed by Dudek, ultimately concluded that due to the property's compromised historic integrity (demolition of Baldi's market and widening of Highway 12) to its period of significance (1921 to 1967) the property does not qualify for listing in the NRHP, CRHR, or as a locally significant resource. As such the property is not considered a CEQA historical resource.
- V. Hazardous Waste Sites. City staff reviewed the Department of Toxic Substances Control (DTSC) EnviroStor website for available files pertaining to the Project site and adjoining properties. There are no active cases on the Project site nor adjoining properties listed in the database. Per the Environmental Site Assessment (ESA), the Project site is not listed for cleanup, permitting, or investigation of any hazardous waste contaminations on any of the lists published pursuant to Government Code Section 65962.5.
- VI. Historical Resources. The Project will not cause a substantial adverse change in the significance of an historical resource. The Cultural Resource Assessments, prepared by Helix Environmental Consulting in May 2021, October 2021, January, 2022, June, 2022, and August, 2022, as well as a peer review study of Helix's conclusions completed by Dudek on November 18, 2022, ultimately concluded that due to the property's compromised historic integrity (demolition of Baldi's market and widening of Highway 12) to its period of significance (1921 to 1967) the property does not qualify for listing in the NRHP, CRHR, or as a locally significant resource. As such the property is not considered a CEQA historical resource.
- g. This Project is Categorically Exempt pursuant to CEQA Guidelines Section 15301(l). The Class 1 "Existing Facilities" Categorical Exemption, hereafter referred to as the "Class 1 Exemption," exempts the Demolition and removal of two single-family residences, accessory structures, and a commercial structure in an urbanized area.

BE IT FURTHER RESOLVED, that after further consideration of the reports, documents, testimony, and other materials presented, and pursuant to City Code Section 20-42.034 (Alcoholic Beverage Sales), the Planning Commission of the City of Santa Rosa finds and determines:

- A. The proposed use would respond to public convenience or necessity because the area is underserved in that there are only 4 Type 20 licenses in a census tract area (including the existing 7-Eleven convenience store on the Project site) where the California Department of

Alcoholic Beverage Control would allow a maximum of 10. An undue concentration would occur if there were more than 10 Type 20 licenses; and

- B. The Santa Rosa Police Department operates nine patrol beats in the City of Santa Rosa. The Project Site is in Beat 4 (District 3), and the beat crime rate or density has been significantly lower compared to other beats of the City during the last year; and
- C. The subject area does not have an overconcentration of Type 20 licenses according to limits established by ABC based on census data; and
- D. The Police Department has provided a list of arrests and citations that occurred between January 1, 2020 and March 15, 2023, within a 1,000-foot radius from the Project site. During this period, there were a total of 109 arrests, 11 of which were alcohol related; and
- E. The site is located on the northeast corner of the intersection of Highway 12 and Middle Rincon Road. There are no distance requirements established from residential districts, day care center, park and recreation facilities, places of religious assembly, and schools in the City's Zoning Code. The Police Department has not indicated a concern that there may be issues specifically related to the location of the schools and the location of the subject property. The closest school, Whited (Douglas) Elementary is more than 600 feet away from the Project site. The convenience store has an existing Type 20 ABC license - Off-Sale Beer & Wine (Package Store), which dates back to at least 1989, which authorizes the sale of beer and wine for consumption off the premises where sold. City staff is not aware of any - complaints related to alcohol sales at this location; and
- F. The site plan and floor plan incorporate design features to assist in reducing alcohol related problems. These design features include surveillance and control of the premises, the perimeter, and surrounding properties; reduction of opportunities for congregating and obstructing public ways and neighboring property; illumination of exterior areas with exterior lighting; and limiting furnishings and features that encourage loitering and nuisance behavior. The entire proposed service station and store will be equipped with security cameras which serve as a preventive measure regarding unlawful behavior. The proposed floor plan shows the walk-in cooler on the opposite wall from the entrance, making the theft of alcohol more challenging. The coolers are equipped with locks to secure the merchandise during periods when alcohol sales are not allowed. With consideration of 20-42.034(C), the Project will be conditioned to address any graffiti painted or marked upon the premises by requiring the operator to remove or paint over any graffiti within 72 hours of discovery. Signs are posted on premises stating, "No open alcoholic beverage containers are allowed on these premises" and, "No loitering is allowed on or in front of these premises."

BE IT FURTHER RESOLVED, that this Conditional Use Permit is subject to all applicable provisions of the Zoning Code, including Section 20-54.100 (Permit Revocation or Modification).

BE IT FURTHER RESOLVED that a Conditional Use Permit for 7-Eleven, Inc, to allow for the demolition of all on-site structures, including an existing 7-Eleven convenience store and two detached single-family dwellings, and the construction of a new gas station and a 4,191-

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square-foot convenience store with 24 hour operation and alcohol beverage sales (Project), to be located at 43, 51, and 55 Middle Rincon Road, and 4865 Highway 12, also identified as Sonoma County Assessor's Parcel Number(s) 182-540-024 & -025, is approved subject to each of the following conditions:

## **DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT**

### **GENERAL:**

1. Compliance with the latest adopted ordinances, resolutions, policies, and fees adopted by the City Council at the time of building permit review and approval. All fees must be paid prior to issuance of a building permit.
2. Compliance with all conditions included in the Engineering Development Services (EDS) Exhibit "A" dated May 2, 2023, attached hereto and incorporated herein.
3. The address shall be displayed in a prominent location on the street side of the property. The numbers shall be no less than 6-inches in height and shall be of a contrasting color to the background to which they are attached. The address shall be illuminated during hours of darkness per City "Premises Identification" requirements.
4. Off-sale beer and wine sales and 24-hour operation shall be permitted as an ancillary portion of the convenience store and gas station use.
5. Compliance with the City's Outdoor Lighting Ordinance in Zoning Code Section 20-30-080 is required.
6. No exterior signs, banners, or the like are approved with this permit. A Planning sign permit application is required for all signs.
7. Noise-generating construction shall be limited to the hours between 8:00 a.m. to 6:00 p.m., Monday through Friday, and between 9:00 a.m. to 5:00 p.m. on Saturdays. No construction activities are permitted on Sunday or holidays. Exceptions may be made for large concrete pours or other construction activities that must begin earlier in the day or extend into the evening hours. In the event that an exception is necessary, the developer shall provide a ten-day notice to all property owners and occupants of properties within 600 feet.
8. Post a publicly visible sign at the primary Project construction entrance listing the permitted construction days and hours, complaint procedures and who to notify in the event of a problem. The sign shall also include a listing of telephone numbers to be used during regular construction hours and off-hours to contact both the City and the construction contractor regarding noise complaints.
9. All construction equipment shall have appropriate sound muffling devices, which are properly maintained and used at all times such equipment is in operation.

10. Construction staging areas shall be located the maximum distance possible from the nearest residences to the Project site.
11. Portable equipment (e.g., air compressors; welders, generators) shall be located the maximum distance possible from the nearest residences to the Project site and shall electrically powered (from the grid) whenever possible.

## **ALCOHOLIC BEVERAGE SALES**

12. Customer and site visitor management.
  - A. The operator of the establishment shall take all reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours if directly related to the patrons of the subject alcoholic beverage outlet.
    - i. “Reasonable steps” shall include calling the police in a timely manner; and requesting those engaging in objectionable activities to cease those activities, unless personal safety would be threatened in making the request.
    - ii. “Nuisance” includes disturbances of peace, illegal drug activity, prostitution, public drunkenness, drinking in public, harassment of passerby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct or police detentions and arrests.
  - B. The operator shall take all reasonable steps to reduce loitering in public areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours.
13. Trash, litter, graffiti.
  - A. The operator shall clear the sidewalks adjoining the premises plus 10 feet beyond property lines along the street as well as any parking lots under the control of the operator as needed to control litter, debris and trash.
  - B. The operator shall install and maintain one permanent, non-flammable trash container on the property’s exterior.
  - C. The operator shall remove all graffiti from the premises and parking lots under the control of the operator within 72 hours of its application.
14. Staff training. Within 90 days from issuance of a certificate of occupancy or if no Building Permit is required, within 90 days of issuance of the Conditional Use Permit, all owners, managers, and employees selling alcoholic beverages shall complete a certified

training program in responsible method and skills for selling alcoholic beverages. The certified program shall meet the standards of the ABC or other certifying/licensing body which the state may designate. New owners, managers and employees shall complete the training course within 30 days of the date of ownership or employment. Records of successful completion for each owner, manager and employee shall be maintained on the premises and presented upon request by a representative of the City.

15. Staffing, surveillance, and security.

- A. Signs and displays on the premises shall not obstruct the sales counter, cash register and customer from view from the exterior.
- B. The operator shall install and maintain in working order, interior and exterior surveillance cameras and monitors. At a minimum the external cameras shall monitor the entrance to the premises and vicinity of at least 20 feet beyond the entrance to the premises. At a minimum, the interior camera shall monitor the cash register area. The tapes from these cameras shall be retained for at least 10 days from date of recording before destruction or reuse. The tapes shall be made available to the Police Department upon request.
- C. A monitored robbery alarm system shall be installed and maintained in good working condition. An alarm permit shall be obtained from the Police Department prior to operation.
- D. Restrooms shall remain locked and under the control of the cashier.
- E. The premises shall be staffed with at least one person during hours of operation who shall not be responsible for dispensing fuel or auto servicing.

16. Limitations on product sales and display.

- A. The operator shall not sell, furnish or give away empty cups, glasses or similar receptacles commonly used for the drinking of beverages in quantities of less than 24 count in their original packaging.
- B. Coolers, tubs and other storage containers holding alcoholic beverage shall be equipped with a locking mechanism which shall be in place and used to restrict access by customers during the hours when sales of alcoholic beverages are prohibited.
- C. No beer or wine shall be displayed within five feet of the cash register or front door of the premises.
- D. No video or arcade type games are permitted on the property. California State Lottery games are permitted.

17. Signs, postings.

- A. Premises identification shall comply with City Code Section 18-16.034 and Fire Department Illuminated Address Signs bulletin.
  - B. A copy of the conditions of approval for the Conditional Use Permit must be kept on the premises of the establishment and be presented to any peace officer or any authorized City official upon request.
  - C. Signs shall be posted on the inside of the premises stating that drinking on the premises or in public is prohibited by law.
18. Compliance with other requirements.
- A. The operator shall comply with all provisions of all local, state or federal laws, regulations or orders, including those of the ABC, as well as any condition imposed on any permits issued pursuant to applicable laws, regulations or orders.
  - B. The operator shall comply with all provisions of the City Code and conditions imposed by City issued permits.
  - C. Any change in ABC license type including, but not limited to, a change from a Type 20 to a Type 21 license, or a substantial physical change or character of premises as defined in Title 4 of the California Code of Regulations Section 64.2(b), shall require a new Conditional Use Permit to continue operation.

**EXPIRATION AND EXTENSION:**

- 19. This Conditional Use Permit shall be valid for a two-year period. If construction has not begun or if an approved use has not commenced within two (2) years from date of approval, this approval shall automatically expire and shall be invalid unless an application for extension is filed prior to expiration.
- 20. If implemented within the initial approval period in accordance with all conditions of approval, this Conditional Use Permit shall be valid for the duration of use.

**PLANNING DIVISION:**

21. **TREE PRESERVATION:**

- A. A qualified biologist shall conduct pre-construction surveys for nesting birds if construction occurs within the typical nesting bird season (February 1 to August 31). Pre-construction surveys shall also be completed for special-status bats. These surveys shall be conducted within 14 days prior to development or ground disturbing activities and may be combined as appropriate. If development does not commence within 14 days of the pre-construction surveys, or halts for more than 14 days, additional surveys are required prior to resuming or starting work.

- i. If the surveys show that there is no evidence of active nests or occupied special-status wildlife habitat, then a letter report(s) should be prepared to document the survey results and provided to the Project proponent and no additional measures are recommended.
- ii. If active nests or occupied special-status wildlife are found, a qualified biologist shall establish species-specific buffer zones to prohibit development activities and minimize disturbance until the biologist determines that a buffer is no longer necessary.
- iii. A qualified biologist shall conduct an environmental awareness training to all Project-related personnel prior to the initiation of work. The training shall cover all special-status wildlife species with the potential to occur within the Study Area.

SIGNING:

- B. No exterior signs, banners, or the like are approved with this permit. A planning sign permit application is required for all signs.
- C. A planning sign permit application is required for all signs.
- D. Sign permit approval shall be obtained prior to application for a building permit.
- E. Building permits for sign installations shall be separate permits from other building permits issued for construction.
- F. Building permits for sign installations shall be separate permits from other building permits issued for construction.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission finds and determines this entitlement to use would not be granted but for the applicability and validity of each and every one of the above conditions and that if any one or more of the above said conditions are invalid, this entitlement to use would not have been granted without requiring other valid conditions for achieving the purposes and intent of such approval.



REGULARLY PASSED AND ADOPTED by the Planning Commission of the City of Santa Rosa on the 11<sup>th</sup> day of May, 2023 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED:\_\_\_\_\_

KAREN WEEKS, CHAIR

ATTEST:\_\_\_\_\_

JESSICA JONES, EXECUTIVE SECRETARY

Attachment:

Engineering Development Services Exhibit “A” dated May 2, 2023