

Quick Pick Market Zoning Clearance Appeal

Planning Commission

November 30, 2017

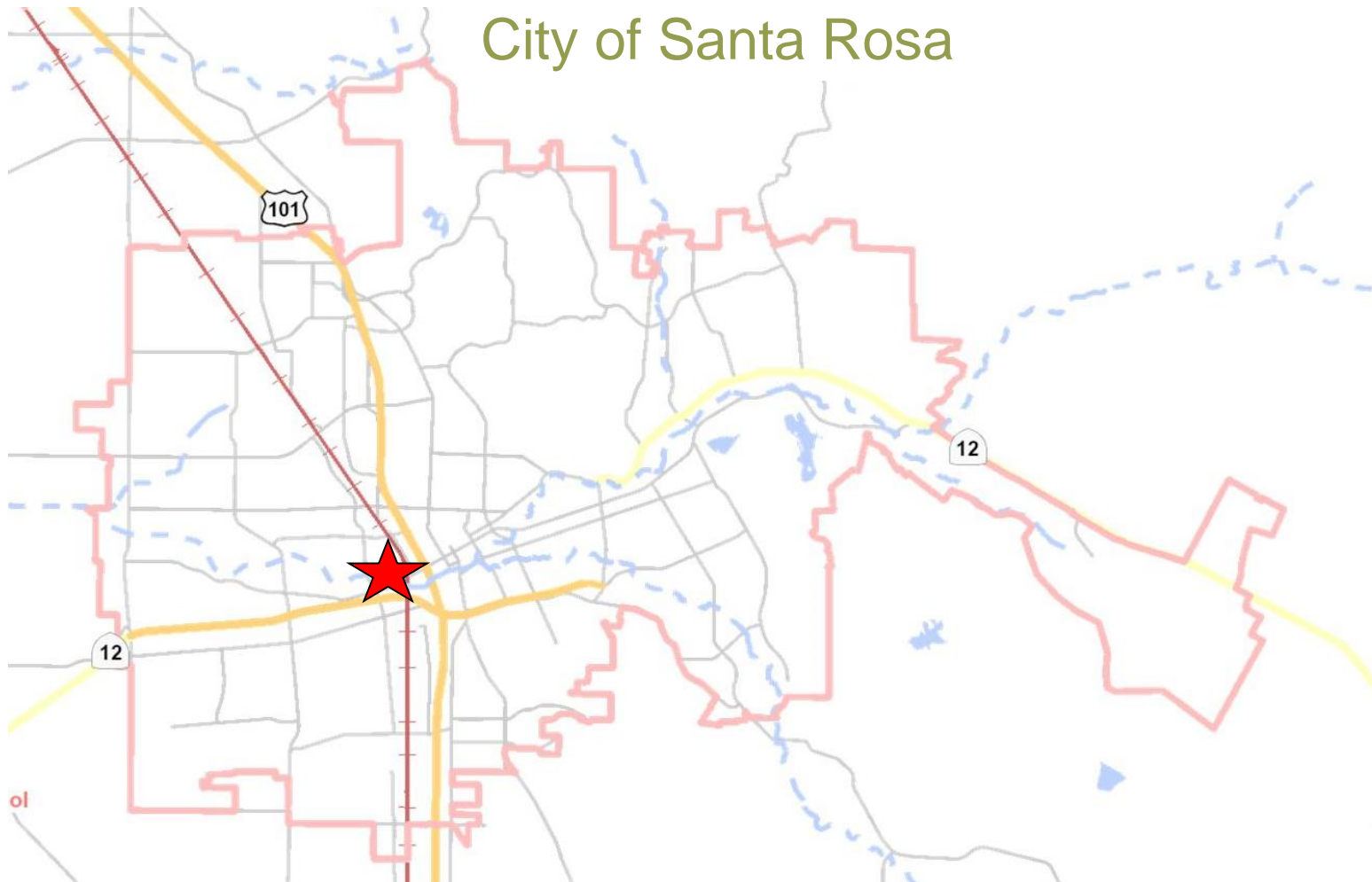
Andrew Trippel
City Planner – Development Services
Planning and Economic Development

Appeal of a Zoning Clearance authorizing the continuation of a convenience store (a Legal Nonconforming Use) with limited hours of operation from 8:00 AM to 8:00 PM daily:

- Change of Business Ownership;
- Proposed hours of operation 5:30 AM – 11:00 PM;
- Substantial evidence supports hours 8:00 AM – 8:00 PM;
- Vested right is to the existing/historic hours of operation.

Project Location

201 W. 7th St.



Project Location

201 W. 7th St.



General Plan and Specific Plan



Legend

General Plan Land Use

-  Country Residential
-  Very Low Density Residential
-  Low Density/Open Space
-  Low Density Residential
-  Medium Low Density Residential
-  Medium Density Residential
-  Medium High Density Residential
-  Mobile Homes
-  Retail & Business Services
-  Retail/Medium Residential Mixed Use
-  Retail/High Residential Mixed Use
-  Office/High Residential Mixed Use
-  Office/Med Residential
-  PubInst/Med Residential
-  Lt Ind/Med Residential Mixed Use
-  Office
-  Transit Village Mixed Use
-  Business Park
-  Transit Village Medium
-  Light Industry
-  General Industry
-  Public/Institutional
-  Parks and Recreation
-  Open Space
-  Agriculture

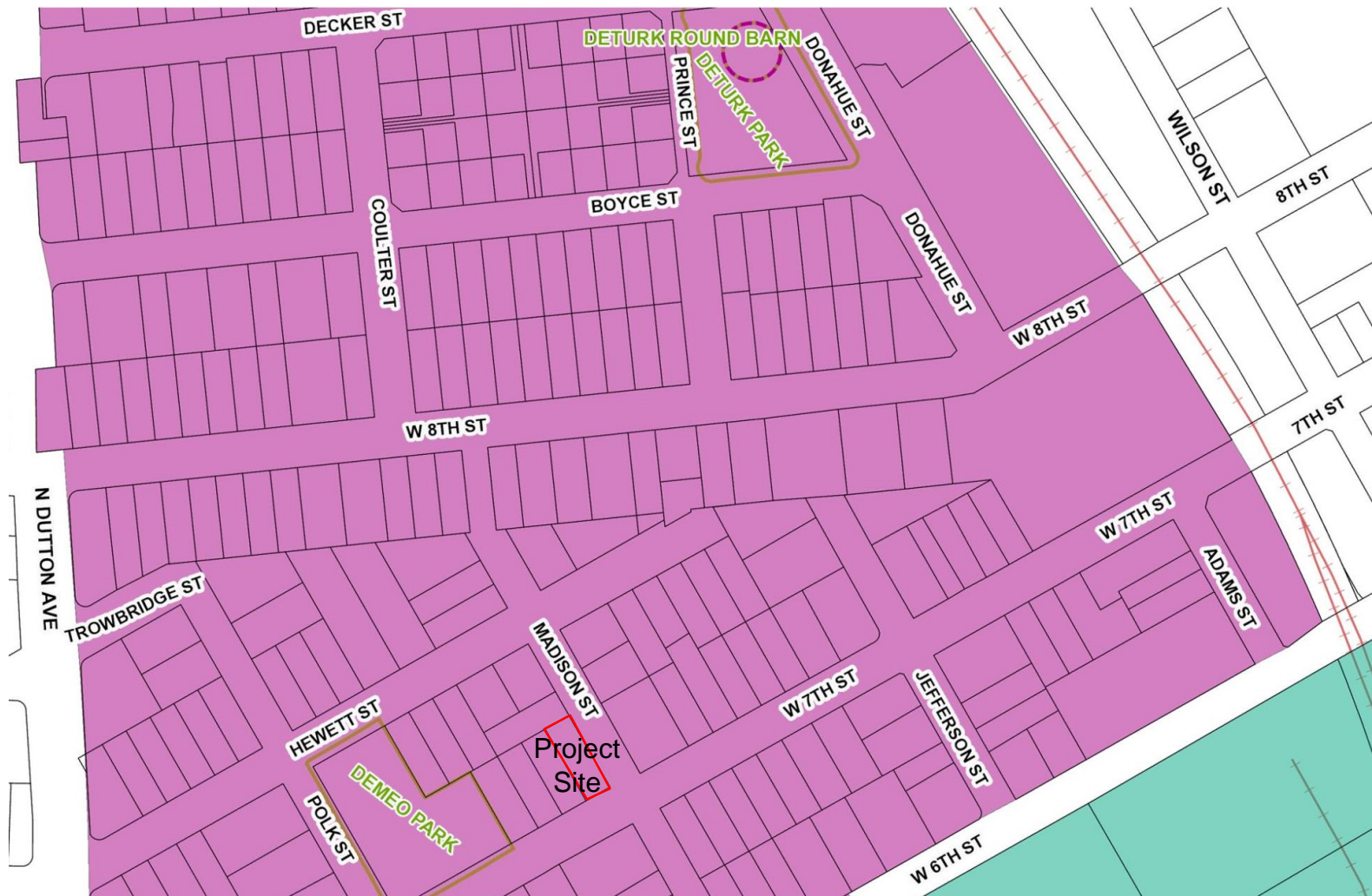
Priority Development Areas

-  Downtown Station Area
-  Mendocino/Santa Rosa Avenue Cor
-  North Station
-  Roseland
-  Sebastopol Road Corridor



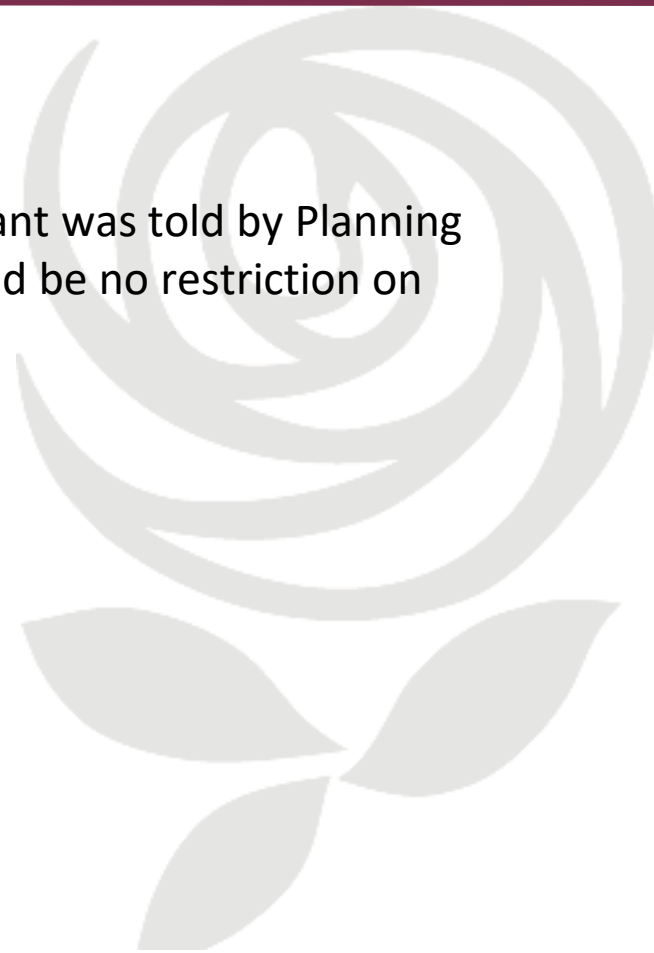
R-1-6-H (Low Density Residential): Intended to be maintained as residential neighborhoods comprised of detached and attached single-family houses, clustered residential hillside projects, and small multi-family projects.


Preservation District



- **January 18, 2017** – Zoning Clearance request submitted
- **January 20, 2017** – Staff requested additional information
- **February 1, 2017** – Determined that a Legal Nonconforming Use has a vested right to those hours of operation that have previously been defined and implemented by the use.
- **February 1, 2017** – Appellant notified of decision and provided with options (1) provide additional evidence, or (2) seek Minor Conditional Use Permit.
- **March 13, 2017** – Zoning Clearance issued
- **June 26, 2017** – Appellant filed Appeal Application

- Appeal of Zoning Clearance ZC17-0056
 - Prior to purchasing the property, the appellant was told by Planning and Economic Development that there would be no restriction on operating hours.
- Appellant seeks reversal of decision.



 **City of Santa Rosa**
Community Development

WORKSHEET
ZONING CLEARANCE
Please Type or Print

File No. _____ Zone _____

Related Files _____

Department Use Only _____

www.srcity.org

PLEASE RETURN COMPLETED FORM IN PERSON TO:
DEPARTMENT OF COMMUNITY DEVELOPMENT, 100 SANTA ROSA AVENUE, ROOM 3, SANTA ROSA

LOCATION OF BUSINESS (ADDRESS) 201 WEST 7th STREET SANTA ROSA CA 95401

NAME OF PROPOSED BUSINESS QUICK PICK MARKET

TENANT/OWNER NAME RAJINDER SINGH PHONE (707) 524-8956 FAX 707/575-9999

TENANT/OWNER ADDRESS 276 ANTELOPE LN SANTA ROSA CA 95407 EMAIL ADDRESS QUICK PICK MARKET

PROJECT/BUSINESS DESCRIPTION - Describe in detail your proposed business - attach separate sheet if necessary CUPA HOC W/CH

QUICK PICK MARKET, sell beer, wine, cigarette, WHO
TOBBACO, CANDY, MILK, BREAD, COFFEE ETC.
276 W. 8th HOURS? [5AM TO 11:30 PM] 7 DAYS
A WEEK

Gross Sq Ft of proposed use: 3790 SQ

☐ RESIDENTIAL ☐ OFFICE ☒ COMMERCIAL ☐ INDUSTRIAL ☐ OTHER (Please describe)

☐ EXISTING BUILDING/REOCCUPANCY ☐ NEW CONSTRUCTION

LIST EXISTING TENANTS: LA CHATITA MARKET

APPLICANT'S SIGNATURE  RECEIVED BY _____ DATE 1/18/17

ZONING CLEARANCE 7/16/2013



Source: 1/17/2017 via email

----- Forwarded message -----

From: **Claudia** <claudia@chatita.com>

Date: Fri, Jan 20, 2017 at 2:38 PM

Subject: Regarding La Chatita hours

To: Bob Oshetsky <boboshetsky@gmail.com>

Hello here I send you our hours of operation for La Chatita Market in Santa Rosa

Summer hours: 6:00am- 11:00pm

Winter hours 6:00am- 11:00pm

At the moment we are closing earlier

8pm, Reason being I have a shortage on staff and we are closing escrow next week. If you have any questions or concerns feel free to contact me thank you

Claudia Mares

Ceo

La Chatita Market

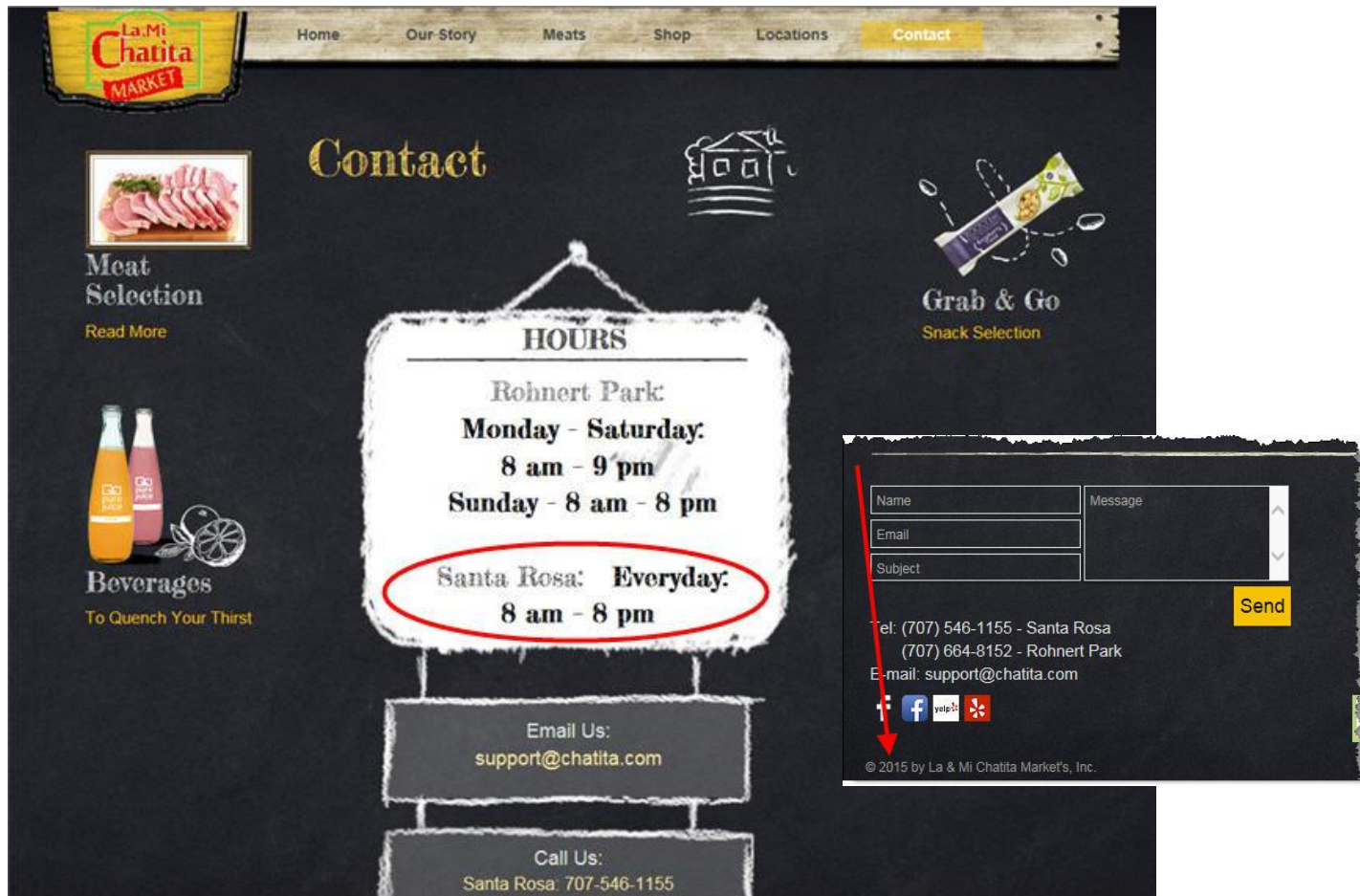
201 w 7th St

Santa Rosa

[707 318 6084](tel:7073186084)

Source: 1/20/2017 via email





The screenshot shows the 'Contact' page of the La Mi Chatita Market website. The page has a dark background with a chalkboard theme. At the top, there is a navigation bar with links: Home, Our Story, Meats, Shop, Locations, and Contact (highlighted in yellow). The main content area features several sections:

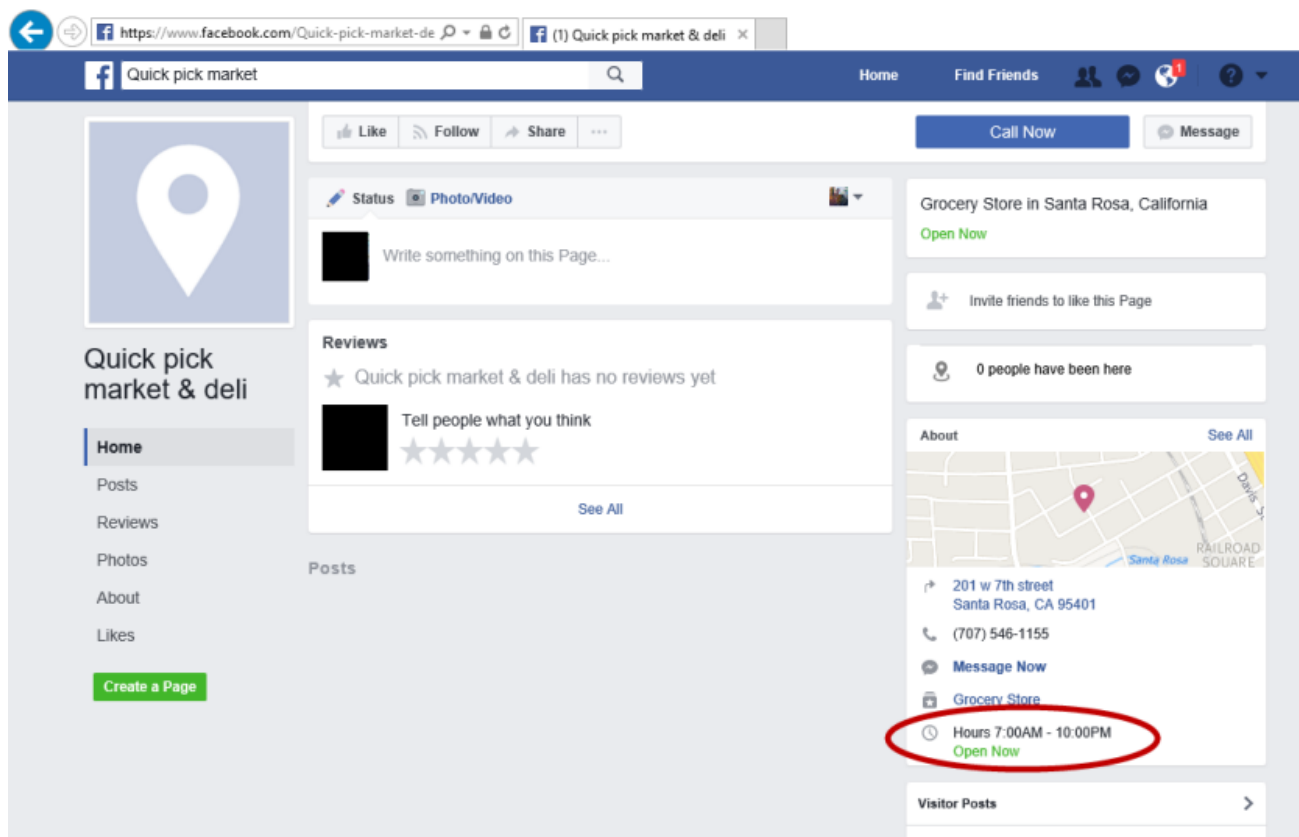
- Meat Selection:** Includes an image of meat and a 'Read More' link.
- Beverages:** Includes an image of two bottles and the text 'To Quench Your Thirst'.
- Grab & Go:** Includes an image of a snack bag and the text 'Snack Selection'.
- HOURS:** A central chalkboard-style sign with the following text:
 - HOURS**
 - Rohnert Park:**
 - Monday - Saturday:**
 - 8 am - 9 pm**
 - Sunday - 8 am - 8 pm**
 - Santa Rosa: Everyday:**
 - 8 am - 8 pm**

Below the hours sign, there are two boxes:

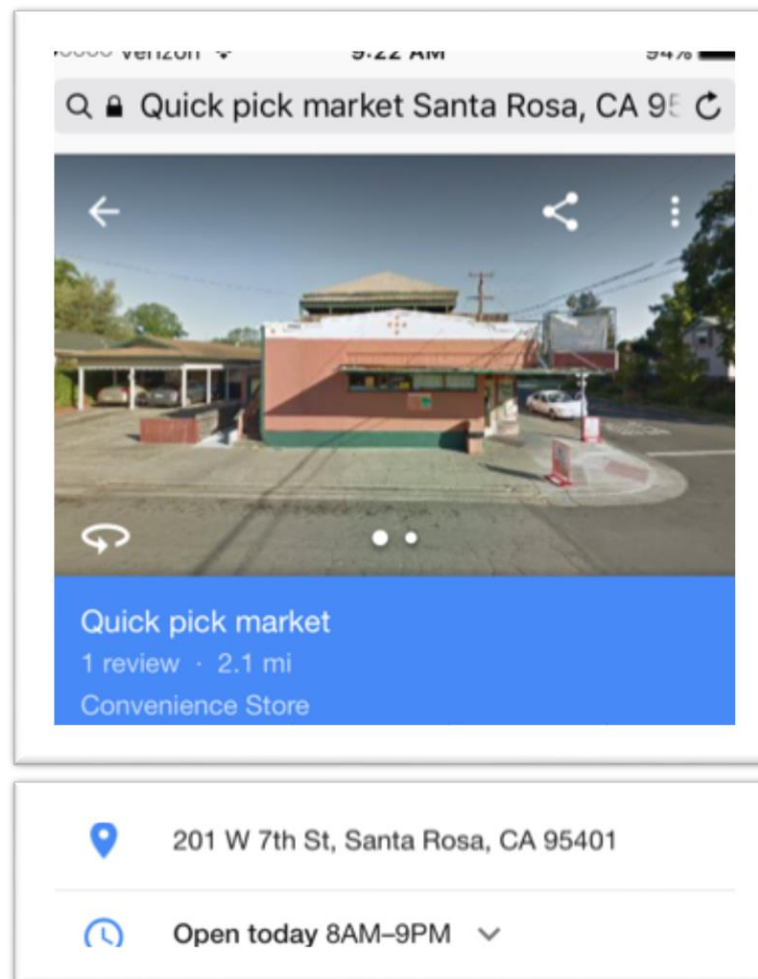
- Email Us:** support@chatita.com
- Call Us:** Santa Rosa: 707-546-1155

On the right side, there is a contact form with fields for Name, Email, Subject, and a large Message area. A red arrow points to the 'Name' field. Below the form is a 'Send' button. At the bottom right, there is contact information: Tel: (707) 546-1155 - Santa Rosa, (707) 664-8152 - Rohnert Park; E-mail: support@chatita.com. Social media icons for Facebook, Twitter, and YouTube are also present. The footer text reads: © 2015 by La & Mi Chatita Market's, Inc.

Source: 1/30/2017 via email






Source: 2/26/2017 via email




Source: 2/27/2017 via email



Thu 4/20/2017 10:31 AM

 Bob Oshetsky <boboshetsky@gmail.com>
Re: Regarding La Chatita hours

To  Trippel, Andrew;  Rajinder singh

Retention Policy 2 years old - Inbox (2 years) Expires 4/20/2019

 Follow up. Completed on Thursday, May 04, 2017.
You forwarded this message on 4/20/2017 1:05 PM.

 Receipts La Chatita M... 1 MB  Receipts La Chatita M... 963 KB

Hi Andrew,

My understanding is the previous owner was open until 9pm during spring summer and fall, and closed at 8pm during the shorter days of winter. This had been her pattern since she owner the store years ago.

So the current owner's position is that they should not need to request a new zoning clearance, but that the clearance issued needs to be corrected to reflect the history of the hours that should be grandfathered in to a new owner. I'm not sure what kind of proof we can provide, but I have attached cash register receipts from the store indicating them being open after 8pm. What else would you need?

My impression is that there are one or perhaps two very vocal neighbors who are trying the change the store hours for the new owner, but this is unfair and the new owner should be allowed to at least maintain the same hours as have been in place for years at this location. These same people I believe also protested the transfer of the ABC beer and wine license, and that protest was denied by ABC for having no grounds or evidence to support the protest. I think we now have a similar situation with the store hours, and hope the City will recognize this and amend the clearance to expand the hours to match the historical use.

thanks,

Source: 4/20/2017 via email

PLEASE TAKE A MINUTE TO SHARE YOUR OPINION ON YOUR COMMUNITY MARKET

We would like your opinion and memory regarding the store hours of West End Market, 201 W 7th. There are a couple of neighbors who do not like our store, and are trying to both close us down and restrict our hours. They first tried to block the transfer of the Beer and Wine license during the store purchase. Now they are telling the City the store in all it's long history was only ever open until 8pm year round. We the store owners would like to be open from 6am -11 pm and then in Winter be open 6am-10pm daily to better serve the needs of our customers. Please take a minute to state your opinion below.

_____ Name and signature	Time you remember this	Hours that you
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better serve the needs of our customers. Please take a minute to state your opinion below.	Time you remember this	Hours that you
	store being open in the past	store to be open

<u>Dionicio Martinez</u>	_____	<u>10:00 PM</u>
<u>[Signature]</u>	_____	_____
<u>RASINDER SINGH</u>	<u>9:15</u>	<u>11:00 PM</u>
<u>Rasinder Singh</u>	_____	_____

Evidence

Name and signature would LIKE the	Time you remember this store being open in the past	Hours that you store to be open
Pablo Garcia Lopez	9:05 pm	11: pm
[Signature]		
BASUDEV SARKOTA	9:15 pm	11: pm
[Signature]		
Mathew Alp		11: Pm
Keith Melendez	9:15	24 HRS

Name and signature LIKE the	Hours you remember this store being open in the past	Hours that you would store to be open
[Signature]		
Ty Comer Tyler	9:00p	24 HRS

Name and signature would LIKE the	Time you remember this store being open in the past	Hours tha store to be op
Steven Trabers	8:00 8:00	8:00
Ray	9:15	11:00
Calvin		11:00
Diego	9:00pm	2:00 AM
ADDAMAS	9:30	4:00
Arvinda Kennedy	8:30	11:00
Singh Lal		

Source: 5/22/2017 via email

Name and signature would LIKE the	Time you remember this store being open in the past	store to be open
<u>Saverio P. Saverio</u>	_____	<u>11:00 Pm</u>
<u>Luis A. Luis</u>	_____	<u>11:00 pm</u>
<u>Cristhian Mora</u>	_____	<u>11:00 pm</u>
<u>Marilou</u>	_____	<u>11:00 pm</u>
<u>Edgar Nunez</u>	_____	<u>11:00 pm</u>
<u>Jonas Caballero</u>	_____	<u>11:00 pm.</u>
<u>Salvador</u>	<u>9:00</u>	<u>11:00 pm</u>
Name and signature LIKE the	Hours you remember this store being open in the past	Hours that you would store to be open
<u>Ramiro Lopez</u>	_____	<u>11:00 pm</u>
<u>Ed Delgado</u>	<u>8am to 9pm.</u>	<u>11:00 pm</u>

Source: 5/22/2017 via email

May 22, 2017

Neighborhood Survey and letter of support from Franco America Bakery/Mezzaluna Inc., emailed by Bob Oshetsky.

Letter of Support – 14 employees of Franco American Bakery support hours of operation 6:00 AM – 11:00 PM.

Neighborhood Survey – survey asked participants “Time you remember this store being open in the past” and “Hours that you store to be open”. 49 participants responded to one or both questions.

Time that you remember this store being open in the past – 12 participants responded to this question (24.4%) with 11 seeming to indicate what time the store had closed in the past. One respondent seemed to not answer the questions correctly and this response was not calculated. **Responses for time the store closed ranged from 8:30 PM to 9:30 PM with Mode times of 9:00 PM and 9:15 PM (4 responses each).**

- Vested Right(s) of Legal Nonconforming Use

§ 20-61.020 “A nonconforming use of a structure may only be...increased in intensity through the approval of a Minor Conditional Use Permit”

“The review authority shall make the following finding, in addition to those identified in Section 20-52.050 (G): The enlargement, expansion, extension, or increase would not increase the degree or the detrimental effects of the nonconformity.”

Environmental Review

California Environmental Quality Act (CEQA)

- California Environmental Quality Act (CEQA) exemption:

Section 15301 - the project involves the operation and permitting of an existing structure and use.

Public Comments

- Email communications and photographic evidence used in making determination
- Appellant's customer survey indicates historic hours of operation ranged from 8:30-9:30 PM
- Additional Public Comments received during Public Notice period

It is recommended by Planning and Economic Development Department that the Planning Commission deny the Appeal of a Zoning Clearance authorizing the continuation of a convenience store (a Legal Nonconforming Use) with limited hours of operation from 8:00 AM to 8:00 PM daily for Quick Pick Market located at 201 W. 7th Street, File No. ZC17-0056.

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(707) 543-3223

