

CITY OF SANTA ROSA
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
STAFF REPORT FOR PLANNING COMMISSION
OCTOBER 26, 2023 (CONTINUED FROM AUGUST 24, 2023)

PROJECT TITLE

7-Eleven, Sale of Beer and Wine for
Offsite Consumption

ADDRESS/LOCATION

136 College Avenue

ASSESSOR'S PARCEL NUMBER

010-122-040

APPLICATION DATES

August 24, 2022

REQUESTED ENTITLEMENTS

Conditional Use Permit (CUP)

PROJECT SITE ZONING

NMU (Neighborhood Mixed Use)

PROJECT PLANNER

Susie Murray

APPLICANT

Silver Houang, 7-Eleven

PROPERTY OWNER

Gary Brown, G&L Entities

FILE NUMBERS

PRJ22-021 (CUP22-052 & PCN22-002)

APPLICATION COMPLETION DATES

August 24, 2022

FURTHER ACTIONS REQUIRED

None

GENERAL PLAN DESIGNATION

Neighborhood Mixed Use

RECOMMENDATION

Approval

Agenda Item #9.1

For the Planning Commission Meeting of October 26, 2023

CITY OF SANTA ROSA
PLANNING COMMISSION

TO: CHAIR WEEKS AND MEMBERS OF THE PLANNING COMMISSION
FROM: SUSIE MURRAY, SUPERVISING PLANNER
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
SUBJECT: 7-ELEVEN, SALE OF BEER AND WINE FOR OFFSITE
CONSUMPTION

AGENDA ACTION: RESOLUTION

RECOMMENDATION

It is recommended by the Planning and Economic Development Department that the Planning Commission, by resolution, approve a Conditional Use Permit to allow the sale of beer and wine for offsite consumption at the existing 7-Eleven convenience store located at 136 College Avenue, Assessor's Parcel No 010-122-040.

PROJECT DESCRIPTION

The project proposes to allow the sale of beer and wine for off-site consumption at 7-Eleven, an existing convenience store with fueling service. Pursuant to the State of California Alcoholic Beverage Control (ABC), sales of beer and wine would only be permitted from 6:00 a.m. to 2:00 a.m.



Figure 1 - Photo looking southeast from College Avenue

BACKGROUND

1. Surrounding General Plan Land Uses; Zoning; and Current Uses

North: Retail and Business Services; CG (General Commercial); currently developed with College Avenue and a commercial structure that appears to be vacant.

South: Medium Density Residential (8-18 units per acre); R-3-18 (Multifamily Residential); currently developed with multifamily residential structures and uses.

East: Medium Density Residential; R-3-18; currently developed with Highway 101 and commercial uses.

West: Retail and Business Services; Neighborhood Mixed Use; currently developed with residential and commercial uses and structures.

2. Existing Land Use – Project Site

The site is currently developed with a 7-Eleven convenience store including fueling service.

3. Previous Application History

Part of the ABC's process to issue permits for alcoholic beverage sales is to request the applicable jurisdiction to advise whether the use would serve Public Convenience or Necessity. This request has been misinterpreted over the years as Public Convenience and Necessity.

On July 11, 2002, the Planning Commission (Commission) approved resolution numbers 10145-10147, adopting a Mitigated Negative Declaration (MND), approving a CUP, and recommending to Council to approve a Rezoning to bring the subject property into the C-2 (commercial) zoning district. The approved project would allow the expansion of the Chevron Service Station (previous business operator), including the addition of two more fueling stations and a mini-mart with two residential units above the store (a mixed-use project).

On August 13, 2002, the Council approved Resolution No. 25354, also adopting the MND and introduced an ordinance to reclassify the property at 136 College Avenue to the C-2 zoning district. On August 20, 2002, the Council approved Ordinance 3572 to rezone the property into the C-2 zoning district.

In February 2004, the Police Chief determined that the Public Convenience and Necessity would not be served by issuance of an off-sale license at this location.

Police Department files applicable to the project have been purged pursuant to the retention policy.

In March 2004, the applicant filed an appeal of this determination to the Council. On April 15, 2004, the Police Chief withdrew his objection and determined that the public convenience or necessity would be served. This decision was based on the applicant's agreement to abide by restrictive conditions such as limitations on hours of alcohol sales, the type of beverage that may be sold, and the package size of those containers. (Note that it has since been determined that limiting the package size of containers is not within the City's authority to regulate container size; this is within the jurisdiction of the ABC.)

On June 17, 2004, the Commission conducted a public hearing and considered a CUP for the sale of beer and wine for offsite consumption, at which point it determined that, due to the relationship of the development to the neighborhood, where the back of the convenience store is oriented to a dead-end street, the sale of alcohol at this location would be detrimental to the health, safety and welfare of the community. At its meeting of July 8, 2004, the Commission, adopted Resolution No. 10557 denying the request making the following findings:

- The proposed use would not be consistent with General Plan Policy LUL-E, which is to "Promote livable neighborhoods."
- The rear of the convenience market is adjacent to a dead-end street, which creates a unique problem with regard to alcohol use and potential loitering.
- There is a significant transient population in the area with a history of problems as described by those who spoke at the Planning Commission meeting.
- Alcohol is currently available for sale at various locations near the project site as outlined in the diagram presented at the meeting.
- The proposed use is not appropriate at the time due to lack of compatibility with the surrounding neighborhood, the lack of harmonious integrations with the neighborhood, and the potential for a nuisance.
- The proposed use is not appropriate at this time because it will not serve the public health, safety, and welfare.

The Commission's decision was appealed.

On September 21, 2004, the Council denied the Appeal upholding the Commission's decision to deny the CUP citing the same findings.

On September 9, 2009, the Director of Community Development (now Planning and Economic Development) denied a request for Public Convenience and Necessity. That decision was appealed to the Council.

On October 20, 2009, the Council directed staff to prepare a resolution granting the Public Convenience and Necessity for the sale of beer and wine for offsite consumption at 136 College Avenue, thus allowing the applicant to apply for a CUP.

On November 3, 2009, the Council, by Resolution No. 27507, approved a Public Convenience and Necessity. No additional permit requests were submitted at that time.

On October 13, 2020, the City Council adopted the Downtown Station Area Specific Plan (DSASP).

On December 1, 2020, the Council approved changes to the General Plan Land Use Diagram and the Zoning Code, to implement the DSASP, at which point the General Plan land use designation and zoning for the subject site was changed to Neighborhood Mixed Use and NMU, respectively. The DSASP promotes a wide range of uses meeting the everyday needs of residents within walking distance.

4. Project History

On August 29, 2022, project applications were submitted to the Planning and Economic Development Department (PED), including a Public Convenience or Necessity (PCN) and a Conditional Use Permit for the sale of beer and wine for offsite consumption.

On December 14, 2022, the Deputy Director of Planning approved a PCN for 7-Eleven.

On January 13, 2023, a Notice of Application was mailed to property owners and occupants for properties within 600 feet of the site.

On March 28, 2023, a Neighborhood Meeting was held. No neighbors/members of the public attended.

On August 24, 2023, the Planning Commission held a public hearing, following which a motion was made to adopt the draft resolution approving the Conditional Use Permit to allow the sale of beer and wine for offsite consumption at the existing 7-Eleven convenience store. The Commission voted 3-3, with one Commissioner absent. As a result of the tie vote, which does not constitute a

formal action on the item, the Commission continued the item to a date certain of October 26, 2023 when the full seven-member Commission would be present.

ANALYSIS

1. General Plan

The [General Plan](#) is a comprehensive, long-term plan that guides development within the City and the Urban Growth Boundary. The Santa Rosa General Plan addresses issues related to physical development, growth management, transportation services, public facilities, community design, energy efficiency, greenhouse gas reduction strategies, and conservation of resources in the Planning Area.

The project site is in an area designated as Neighborhood Mixed Use on the General Plan Land Use Diagram. Areas with this land use designation are intended for multifamily residential development, mixed-use buildings, and a broad mix of uses that primarily serve local residents, including professional office, retail, entertainment, service, and other neighborhood-scale supporting uses.

Relevant General Plan goals and policies are shown in the table below:

Land Use and Livability	
LUL-E Promote livable neighborhoods by requiring compliance with green building programs to ensure that new construction meets high standards of energy efficiency and sustainable material use. Ensure that everyday shopping, park and recreation facilities, and schools are within easy walking distance of most residents.	Allowing the sale of beer and wine will provide a complete and convenient one-stop shopping experience for residents within walking distance and all those traveling by car, bike or foot.
LUL-I Maintain vibrant, convenient, and attractive commercial centers. LUL-CC-1 Expand local-serving retail and personal services uses to accommodate daily needs of station area users, visitors, employees, and residents within easy walking distance of residential areas and the SMART station.	The addition of wine and beer sales will provide a convenient location within walking distance of nearby neighborhoods and a convenient stop right off the highway where commuters heading home can meet their everyday shopping need and fuel their vehicles without an extra stop.
LUL-II-2 Support development of small-	

scale neighborhood nodes that provide a range of neighborhood-serving retail, public amenities, and services to residents within walking distance of their homes.	
Economic Vitality	
EV-A-5 Maintain diversity in the types of jobs available in Santa Rosa to lessen the impact of economic cycles.	The addition of beer and wine for offsite consumption requires additional training for store employees, allowing 7-Eleven staff to acquire additional skill set for career advancement and providing diversity in employment opportunities.

7-Eleven is a chain of convenience stores, some of which include the added convenience of fueling stations. The chain has been selling food and drink, including alcoholic beverages, since the repeal of Prohibition in 1933. While the store is not intended to provide a source for the “weekly grocery shopping,” this model does provide a convenient one-stop-shop for those needing to pick up a few sundries, a bottle of wine or six pack of beer, and fuel their vehicles.

2. Downtown Station Area Specific Plan

The Downtown Station Area Specific Plan (DSASP) focuses on creating an energetic regional commercial and cultural center putting a wide range of uses within a safe, vibrant, walkable environment. The DSASP shares many goals in common with the General Plan, as shown above. The subject site is located at the northern edge of the DSASP area, where there are several options to purchase beer and wine for offsite consumption. The City does not regulate concentration of this use; that is within the purview of the ABC. The Police Department has commented that allowing the sale of beer and wine for offsite consumption is not anticipated to have an impact on the unhoused in the area. The project site is in a convenient location within walking distance of nearby residential uses, as well as a convenient one-stop-shop for drivers who also need to fuel their vehicles.

3. Zoning

The [Zoning Code](#) implements the goals and policies of the General Plan by classifying and regulating the use of land and structure development within the City. The following Zoning Code sections are applicable to the project:

[Section 20-42.034](#), provides direction for alcohol beverage sales. The project

has been conditioned in compliance with this section, including site-visitor management; trash, litter and graffiti; staff training, surveillance and security; limitations on displays; signs; and compliance with other agency requirements.

The following criteria has been considered in staff's review:

- Whether the use serves public convenience or necessity.

Response: As discussed previously in this report, a PCN was approved on December 14, 2022.

- The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.

Response: The project plans were referred to the Police Department and no concerns were raised. A listing of crimes that may have related to alcohol use is attached to this report.

- The number of alcohol licenses per capita in the reporting district and in adjacent reporting districts as compared to the county-wide average.

Response: The information below was taken from the ABC website, and was provided by the applicant:

Census Tract No.	Census Tract Population	Authorized # of Off-Sale	Active # of Off-Sale
1530.02 (Subject Site)	6,578	10	11 active and 1 surrendered
1530.01	7,397	11	5 active and 1 surrendered
1530.03	5,834	9	3 active
1530.06	7,343	11	4 active
1519	2,921	4	1 active
1520	2,168	3	7 active
1521	2,804	4	3 active
TOTAL	35,045	52	34 active and 2 surrendered

- The numbers of alcohol-related calls for service, crimes or arrests in the reporting district and in adjacent reporting districts.

Response: The Police Department has provided some crime statistics, attached, and has indicated no concern with the proposed sale of alcohol for off-site consumption.

- The proximity of the alcoholic beverage outlet to residential districts, day care center, park and recreation facilities, places of religious assembly, and schools.

Response: The Zoning Code does not include any requirement for distance between businesses that sell alcohol and the uses listed above. The information below is provided for informational purposes.

- The property is adjacent to residential uses. According to the City's Geographic Information System (GIS):
- The closest park is Finley Community Park, over a mile away;
- The closest schools are Kids Street Charter, approximately 1,600 feet away, and Santa Rosa Charter School for the Arts, approximately 2,900 feet away;
- The closest place of religious assembly is Saint Rose Catholic Church, approximately 1,300 feet away; and
- According to the Department of Social Services webpage, the closest licensed child care facility, A Special Place, is at 1128 Edwards Avenue, approximately 3,500 feet away from the subject site. Many child-care facilities are allowed by right and the use is not tracked in the City's GIS.
- Whether the site plan and floor plan incorporated design features to assist in reducing alcohol related problems. These features may include, but are not limited to, openness 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.

Response: 7-Eleven is an experienced operator and purveyor of alcoholic beverages. The applicant has provided information documented that the site has an extensive surveillance system with cameras that cover almost every part of the premises inside and out. 7-Eleven has already installed the maximum lighting and illumination allowed by the City around the building as well as under the gas canopy and surrounding the parking lot.

There are no furnishings outside or inside the store for people to use to congregate and 7-Eleven has stated that they follow the best practices of CPTED (Crime Prevention Through Environmental Design) as needed for its premises.

Additionally, this location has instituted a practice of having one of its staff members walk around the store exterior and area around the premises to ensure there is no objectionable activity and to pick up trash or debris. While generally unnecessary, out of an abundance of caution, store employees are trained specifically how to professionally and cordially ask persons that are loitering to move along (which the applicant states happens very infrequently due to their no-tolerance policy).

Pursuant to [Zoning Code Section 20-52.050](#), the Planning Commission must make the following six findings prior to approval of a Conditional Use Permit:

- 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;
- The proposed use is consistent with the General Plan and any applicable specific plan;
- The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity;
- The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints;
- 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
- The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).

As shown on the draft resolution included with this report, staff analysis has confirmed that these findings can be met.

4. Summary of Public Comments

Two public comments have been received, one via e-mail and one via phone. The e-mail came from a resident of the St. Rose Preservation District who

provided Google maps of homeless facility locations and expressed opposition to the requested Conditional Use Permit. The person who called in voiced support for the project, stating that 7-Eleven has been a good neighbor.

5. Public Improvements

No public improvements are required. No conditions of approval have been added by the Building Division, Police Department, Fire Department, or Engineering Development Services.

FISCAL IMPACT

Approval of the Project will not impact the General Fund.

ENVIRONMENTAL IMPACT

The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA):

Pursuant to CEQA Guidelines Section 15301, the project is categorically exempt because it involves a negligible expansion to an existing convenience store (General Retail) and will not result in any significant impacts.

Pursuant to CEQA Guidelines Section 15183, the project is consistent with the City's General Plan and the Downtown Station Area Specific Plan, for which Environmental Impact Reports were certified by Council, The General Plan EIR was certified in 2009 (SCH 2008092114, and the Downtown Station Area Specific Plan EIR was certified in 2020 (SCH 2006072104).

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).

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

On August 24, 2023, the Planning Commission held a public hearing on the requested Conditional Use Permit. One person, who lives near the site, spoke in favor of the project. Following the public hearing the Commission discussed the proposed project. Concerns were raised by some Commissioners regarding potential negative impacts of alcohol sales at the subject 7-Eleven due to existing homeless issues and crime in the area, and some Commissioners questioned whether the required finding related to public health and safety could be made. Conversely, other Commissioners identified the fact that the area has been designated for a mix of uses, that the applicant has demonstrated a willingness to run a modern convenience store that would be appropriate for the area, and that the sale of alcohol at this site, along with other goods, would not create or exacerbate a nuisance. A motion was made to adopt the resolution

approving the Conditional Use Permit. The Commission voted with three members in favor and three against the motion, with one Commissioner absent. Tie votes do not constitute a formal action on the motion. A second motion was made and passed unanimously to continue the item to a date certain of October 26, 2023 when the full seven-member Commission would be present.

PUBLIC NOTIFICATION

The project was noticed as a public hearing per the requirements of Chapter 20-66 of the City Code. A Public Hearing Notice (notice) was provided by posting two onsite signs, publishing a notice in the Press Democrat, mailing a notice to owners and occupants of properties within 600 feet of the site, providing an electronic notice to parties that had expressed interest in projects taking place in this geographic area of Santa Rosa, posting notices on the bulletin board at City Hall and on the City's 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.

ISSUES

No issues were raised as part of staff's review and there are no unresolved issues.

ATTACHMENTS

- Attachment 1: Disclosure Form
- Attachment 2: Location & Neighborhood Context Map
- Attachment 3: Project Narrative, provided by applicant, date stamped received on August 24, 2022
- Attachment 4: Site & Floor Plans, prepared by CMS, date stamped received on August 24, 2022
- Attachment 5: PCN Approval Letter, dated December 14, 2022
- Attachment 6: Police Correspondence and Activity Reports
- Attachment 7: Prior Resolutions, Staff Reports and Public Comments, including Council Resolution 26077, dated September 21, 2004; Planning Commission Resolution 10557, dated July 8, 2004; associated staff reports and public comments
- Attachment 8: Council Resolution 27507, dated November 3, 2009
- Attachment 9: Zoning Code Section 20.42.034, Alcoholic Beverage Sales
- Attachment 10: Public Correspondence

- Resolution 1: Conditional Use Permit

CONTACT

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