

117

RESOLUTION NO. 26077

RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA ROSA DENYING AN APPEAL AND UPHOLDING THE PLANNING COMMISSION'S DENIAL OF A CONDITIONAL USE PERMIT FOR BEER AND WINE SALES AT CHEVRON LOCATED AT 136 COLLEGE AVENUE; ASSESSOR'S PARCEL NUMBER 010-122-022, FILE NUMBER CUP03-251

WHEREAS, on June 17, 2004, the Planning Commission held a notice public hearing on the Conditional Use Permit and denied the request finding that the use would not be consistent with the General Plan or be compatible with the surrounding neighborhood due to the history of alcohol problems in the area, the concentration of alcohol sales establishments in the area, and this site's unique relationship to the neighborhood, whereby the market abuts a dead-end street; and

WHEREAS, on June 30, 2004, the applicant, Ajaib Bhadare, filed an appeal contending that the use has been found to serve the public convenience and necessity and that conditions of the permit would prevent potential adverse effects associated with the proposal; and

WHEREAS, the Council held a noticed public hearing on the appeal, at which time it received written and oral reports of staff and testimony and other evidence presented by all those who wished to be heard on the matter.

NOW, THEREFORE, BE IT RESOLVED that after consideration of the reports, documents, testimony, and other materials presented, the Council of the City of Santa Rosa denies the appeal based on the following:

1. The proposed use would not be consistent with General Plan Policy LUL-E, which is to "Promote livable neighborhoods";
2. 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;
3. 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;
4. Alcohol is currently available for sale at various locations near the project site as outlined in the diagram presented at the meeting;
5. The proposed use is not appropriate at this time due to a lack of compatibility with the surrounding neighborhood, the lack of harmonious integrations with the neighborhood and the potential for a nuisance; and

6. The proposed use is not appropriate at this time because it will not serve the public health, safety and welfare.

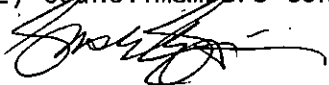
IN COUNCIL DULY PASSED this 21st day of September, 2004.

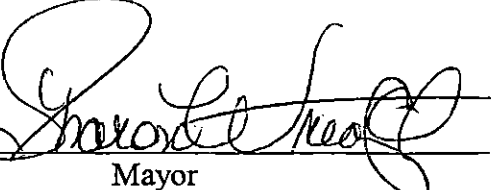
AYES: (4) Councilmembers Bender, Blanchard, Martini, Rabinowitsh

NOES: (1) Mayor Wright

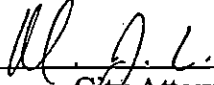
ABSENT: (0)

ABSTAIN: (2) Councilmembers Condron, Evans

ATTEST: 
City Clerk

APPROVED: 
Mayor

APPROVED AS TO FORM:


City Attorney

Banta

RESOLUTION NO. 10557

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ROSA DENYING A
CONDITIONAL USE PERMIT MODIFICATION FOR CHEVRON CONVENIENCE MARKET BEER AND
WINE SALES; ASSESSOR'S PARCEL NUMBER(S) 010-122-022; FILE NUMBER CUP03-251

WHEREAS, the Planning Commission of the City of Santa Rosa received an application for pursuant to the provisions of Chapter 20 of the Santa Rosa City Code from Ajaib Bhadare for a Conditional Use Permit modification to allow beer and wine sales at Chevron Convenience Market located at 136 College Avenue in the C-2 District; and

WHEREAS, the Planning Commission at its meeting held at City Hall in the City of Santa Rosa on June 17, 2004 heard and considered evidence regarding the proposed conditional use permit modification and made findings in connection therewith; and

WHEREAS, said Planning Commission, after due consideration, investigation and study made by itself and in its behalf, and after due consideration of all evidence and reports offered at said meeting, does find and determine the following:

- A. The proposed use would not be consistent with General Plan Policy LUL-E, which is to "Promote livable neighborhoods";
- B. 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;
- C. 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;
- D. Alcohol is currently available for sale at various locations near the project site as outlined in the diagram presented at the meeting.
- E. The proposed use is not appropriate at this time due to a lack of compatibility with the surrounding neighborhood, the lack of harmonious integrations with the neighborhood and the potential for a nuisance
- F. The proposed use is not appropriate at this time because it will not serve the public health, safety and welfare.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of Santa Rosa does hereby deny a Conditional Use Permit modification to allow beer and wine sales at Chevron Convenience Market located at 136 College Avenue.

REGULARLY PASSED AND ADOPTED by the Planning Commission of the City of Santa Rosa on this 8th day of July, 2004, by the following vote:

Ayes: (4) (Bartley, Cisco, Swinth, Thomas)
Noes: (1) (Pierce)
Abstentions: (0)
Absent (2) (Picchi, Walsh)

APPROVED: _____


CHAIRMAN

ATTEST: _____


EXECUTIVE SECRETARY

FILE COPY

CITY OF SANTA ROSA
DEPARTMENT OF COMMUNITY DEVELOPMENT
STAFF REPORT FOR PLANNING COMMISSION
JUNE 17, 2004

PROJECT TITLE

Chevron Convenience Market
Beer and Wine Sales

APPLICANT

Ajaib Bhadare

ADDRESS/LOCATION

136 College Avenue

PROPERTY OWNER

Ajaib Bhadare

ASSESSOR'S PARCEL NUMBER

010-122-022

FILE NUMBER

CUP03-251

PROJECT SITE ZONING

C-2 (General Commercial)

GENERAL PLAN DESIGNATION

Retail and Business Service

APPLICATION DATE

November 25, 2003

APPLICATION COMPLETION DATE

April 15, 2004

PROJECT PLANNER

Blake Hillegas

RECOMMENDATION

Approval

PROPOSAL

Conditional Use Permit to add beer and wine sales to existing Chevron convenience market.

SUMMARY

The Planning Commission has Conditional Use Permit authority over this use, however, Section 23958.4 (b)(2) of the Business and Professions Code, gives the Police Department the authority to determine whether this alcohol sales establishment would serve the public convenience and necessity. 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.

In March 2004, the applicant filed an appeal of this determination to the City Council. On April 15, 2004, the Police Chief withdrew his objection and determined that the public convenience and necessity would be served 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.

ITEM NO. 11

The City Police Department, in conjunction with the State Department of Alcohol Beverage Control have agreed to step up enforcement efforts with the purpose of reducing alcohol related activities in the area.

While there is the potential that the sale of alcohol at this location could result in compatibility issues in the neighborhood, there is no evidence that problems would occur. Therefore the Department of Community Development recommends that the use be conditionally approved.

ANALYSIS1. Project Description

The project consists of the sale of beer and wine at the existing convenience market. Proposed hours of operation are from 8:00 a.m. to 10:00 p.m. The applicant has agreed to not sell fortified wines or malt liquors and limit the sale of beer to six pack or larger containers. Recommended conditions would further restrict the use.

2. General Plan

Retail and Business Service

The General Plan land use designation for the site is Retail and Business Service. The General Plan calls for neighborhood serving retail uses, such as markets in neighborhoods. Neighborhood serving commercial uses should not create unacceptable traffic or nuisances for residences due to the hours and nature of their operation.

3. Zoning

North: C-3, Heavy Commercial
South: R-3, Multiple Family Residential
East: Highway 101
West: C-3, Heavy Commercial

4. Parking

The proposed modification to use would not change the parking requirement. The existing parking (12 spaces) is sufficient for the use and complies with parking regulations.

5. Environmental Review

The project qualifies for a Class I exemption, in that environmental impacts associated with the modification to use would be negligible.

6. Comments/Actions by Other Review Boards/Agencies

None.

7. Neighborhood Comments

Letters have been received from the St. Rose and West End Neighborhood Associations. Both associations would prefer not too have another alcohol sales establishment in and or near their neighborhoods, however, should the use be approved, they have asked that it be strictly regulated. Proposed conditions of approval address neighborhood association comments, except that the sales of alcohol is recommended to be restricted to 8:00 a.m. to 10:00 p.m. rather than 10:00 a.m. to 10:00 p.m.. The recommended hours of sales are consistent with other current restrictions placed on the renewal of other alcohol sales establishments in the area.

Two additional letters have been received from property owners living on Ripley Street who are opposed to the proposal due to concerns with loitering and littering. Recommended conditions of the permit also would require litter clean-up and the posting of "no loitering" signs.

8. Public Improvements/On-Site Improvements

None required

9. Issues

Compatibility of Use with the neighborhood.

No complaints have been received with regard to the existing Chevron convenience market.

Authority over the proposed Conditional Use Permit rests with the Planning Commission, though, Section 23958.4 (b)(2) of the Business and Professions Code, gives the Police Department authority to determine whether alcohol sales establishments would serve the public convenience and necessity. Public Convenience and Necessity Determinations are made in part based on crime statistics and the concentration of alcohol sales establishments in a given area.

The Police Department approved the Public Convenience and Necessity Determination for this use on April 14, 2004. Their approval was based not only on crime statistics but on the applicant's willingness to abide by strict conditions such as limitations on hours of alcohol sales, the type of beverage that may be sold, and the package size of those containers (see attached determination). The Police Department, along with Alcohol Beverage Control have agreed to step up enforcement efforts with the purpose of reducing alcohol related activities in the area.

The Department of Community Development has not found evidence that alcohol sales at this location would adversely impact the neighborhood and recommends that use be

conditionally approved. Recommended conditions are intended to minimize the potential for nuisances to occur.

RECOMMENDATION

The Department of Community Development recommends that the Planning Commission, by resolution, adopt a Conditional Use Permit.

Attachments:

- Location Map
- Area Context Map
- Site Plan
- Floor Plan
- Public Convenience and Necessity Determination
- Neighborhood Correspondence.
- Planning Commission Minutes

CITY OF SANTA ROSA
DEPARTMENT OF COMMUNITY DEVELOPMENT
STAFF REPORT FOR PLANNING COMMISSION
JULY 8, 2004

PROJECT TITLE

Chevron Convenience Market
Beer and Wine Sales

APPLICANT

Ajaib Bhadare

ADDRESS/LOCATION

136 College Avenue

PROPERTY OWNER

Ajaib Bhadare

ASSESSOR'S PARCEL NUMBER

010-122-022

FILE NUMBER

CUP03-251

PROJECT SITE ZONING

C-2 (General Commercial)

GENERAL PLAN DESIGNATION

Retail and Business Service

APPLICATION DATE

November 25, 2003

APPLICATION COMPLETION DATE

April 15, 2004

PROJECT PLANNER

Blake Hillegas

RECOMMENDATION

Denial

PROPOSAL

Conditional Use Permit to add beer and wine sales to existing Chevron convenience market.

SUMMARY

At its June 17 2004 meeting, the Planning Commission conducted a public hearing for this application and 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. The Commission scheduled final action on its July 8, 2004 consent calendar.

Comments from the June 17, 2004, Planning Commission Meeting

7:52:54 PM	11	ex parte AT visited & discussed w/applicant; PC visited site, surrounding neighborhood, cr for rest...
7:57:15 PM	11	CJR presented
8:05:14 PM	11	Bill Gillis of Lanahan & Reilly (the applicant's representative) summarized the ABC process to obtain a liquor license and reviewed the current use and improvements made by the applicants. He indicated agreement with staff's report and recommendation. Applicant's run a store at 50 West College Avenue and another in Healdsburg.
8:09:22 PM	11	pho
8:09:40 PM	11	Greg Parker of ?? he did not say. He opposes due to its proximity to nearby homeless services. Several other facilities within about a 3rd of a mile also sell alcohol.
8:13:14 PM	11	Carol Dean of 332 Decker Street opposed; displayed a map depicting 10 facilities that sell alcohol within a mile of the site. If the cup is modified, be clear about the size of servings allowed to be sold, and modify to require cleanup and graffiti removal. She noted that the public notice sign placement was not visible from College Avenue.
8:17:40 PM	11	Robert Cox of 944 Ripley opposes due to loitering and littering issues when alcohol is sold. Require no loitering or littering around the area and in offsite areas also.
8:19:31 PM	11	Sofia ? of 944 Ripley asked for a litter plan off the site. She believes that alcohol contributes to crime; would like to see litter plan and follow-up for enforcement.
8:21:15 PM	11	phc
8:21:17 PM	11	Mr. Gillis pointed out conditions addressing speakers' concerns
8:23:48 PM	11	Commissioner Cisco reviewed the previous approval of the Conditional Use Permit as well as the Commission's careful consideration and ultimate exclusion of alcohol sales. She opposes because the neighborhood has a lot of dead areas.
8:27:15 PM	11	Commissioner Swinth agrees; cannot make finding e
8:28:19 PM	11	Commissioner Pierce asked if the present owner is the same as who applied for previous CUP and if not, was the CUP disclosed. Concerned that surrounding facilities have alcohol sales and PC denies the opportunity to this owner
8:33:19 PM	11	Commissioner Bartley noted that the nature of CUP is to condition uses to each unique site. Agrees w/Commissioner Cisco as to uniqueness of site. opposes
8:35:25 PM	11	Commissioner Walsh concurs with Commissioner Bartley.
8:36:14 PM	11	Commissioner Picchi generally concurs with those opposed. GP directs to preserve and enhance neighborhoods
8:40:04 PM	11	Chairman Thomas noted that the proposed restrictions would address many of the concerns and would not cater to those who abuse alcohol. He wondered whether if the surrounding sites that sell alcohol had the same restrictions would there be as much as a problem. He is not certain that restricting this site would address the larger problem. He believes that all alcohol sales in the downtown area of Santa Rosa should be so restricted. Commissioner SWinth suggested reviewing existing Cups for alcohol sales to make them more restrictive. Chairman
8:48:46 PM	11	motion to deny rs/pc due to dead spaces, re GP, neighborhood is not enhanced reso back on 7/8 passed 6-1-0, pierce voting no.
8:51:28 PM	11	Commissioner Picchi noted that alcohol sales creates a public burden of litter pickup, enforcement of not loitering and the burden should be acknowledged and dealt with.
8:52:52 PM	11	Mr. Regalia discussed how to review existing alcohol cups. Chairman Thomas noted that the police calls could be researched anddiscussion re study session with Police Chief, many of the stores don't have conditional use permits because they are existing non-conforming. The police can report to ABC re nuisance
8:57:59 PM	11	Discussion re graphics & crime reports for items asking for alcohol sales.
8:58:28 PM	11	recess