

Planning Commission Staff Report

December 12, 2012
Item 6.b.

SUBJECT: P12-0556, P12-0557, and P12-1790

APPLICANT: IronHorse Development / Terry Grayson

PROPERTY OWNER: Delong Liu

PURPOSE: Applications for: 1) Conditional Use Permit and Design Review approvals to demolish the existing 76 Conoco Phillips service station sales and restroom building, modify the location of fuel dispensers, construct an approximately 2,250-square-foot, 24-hour 7-Eleven convenience market, and install related improvements; and 2) a Variance from the Municipal Code to locate parking spaces within setback areas.

GENERAL PLAN: Retail/Highway/Service Commercial/Business and Professional Offices

ZONING: Service Commercial (C-S), Downtown Core Area Overlay District

DOWNTOWN SPECIFIC PLAN LAND USE DESIGNATION: Downtown Commercial

LOCATION: 4191 First Street

EXHIBITS:

- A: Public Comments
- B: Project Plans, Narrative, Photo Simulations, & 7-Eleven Community Outreach Program Information
- C: Arborist Report, dated April 4, 2012
- D: Police Service Calls
- E: Location Map and Noticing Map

BACKGROUND

Mr. Terry Grayson of IronHorse Development, on behalf of the property owner Delong Liu, has submitted a proposal to construct an approximately 2,250-square-foot 7-Eleven convenience market, modify the location of fuel dispensers for a total of six dispensers, construct a trash enclosure, and related site improvements at the existing 76 Conoco

Phillips service station at 4191 First Street. The existing sales/restroom building and two existing fuel dispensers would be demolished.

The subject property is zoned Service-Commercial (C-S) and a service station with a convenience market excluding the sale of alcoholic beverages is conditionally permitted in the C-S zoning district. The Pleasanton Municipal Code (P.M.C.) limits convenience markets to 2,500 square feet.

SITE DESCRIPTION

The subject site is approximately 22,359-square-foot in size and is northwest of the intersection of Ray and First Streets. Figure 1 shows a vicinity map; the subject property is identified with a red outline.



FIGURE 1: Vicinity Map

The site is bounded by office uses to the north, residential uses across First Street to the east, Pleasant Plaza to the south, and residential and office uses across the Alameda County Transportation Corridor (A.C.T.C.) to the west.

The existing 76 Conoco Phillips service station has a total of six fuel dispensers (three on either side of a sales/restroom building). Figure 2 shows photographs of the subject site and the uses directly to the west and north. Access to the site is presently provided by four driveways, three from First Street and another from Ray Street. The site is generally flat.

Eleven trees (8 California sycamores, 1 Mexican fan palm, 2 purple-leaf plums) are located on the property. A sidewalk currently exists along the property’s street frontages.



FIGURE 2: Bird's Eye Aerial and Photographs

PROJECT DESCRIPTION

The project proposal consists of the following components:

- ◆ Demolition of the existing approximately 264-square-foot sales and restroom kiosk building located in the center of the service station;
- ◆ Demolition of two fuel dispensers currently located outside the canopy;
- ◆ Addition of two fuel dispensers underneath the canopy in the location of the existing sales and restroom building;
- ◆ Removal of existing underground fuel storage tanks and placement of underground fuel storage tanks in another location;
- ◆ Construction of an approximately 2,250-square-foot 7-Eleven convenience market with 24-hour operation;
- ◆ Removal of the three driveways from First Street and one driveway from Ray Street and the construction of a single driveway from Ray Street and First Streets;
- ◆ Construction of a trash enclosure, additional landscaping, and other site improvements;
- ◆ Removal of a storage shed located near the northwestern corner of the property;
- ◆ Removal of 4 of the 11 trees on the property;
- ◆ Addition of brick veneer to the columns of the existing canopy to match the brick veneer proposed on the convenience building;
- ◆ Installation of a total of 16 surface parking spaces, 1 of which is located in the setback area along First Street, and 4 of which are located within the front setback area along Ray Street (requiring a Variance). Seven of the 16 spaces are parallel parking spaces located along the western property line;
- ◆ Construction of a decorative trellis over the ground-mounted mechanical equipment.

Figure 3 shows the site plan. On the site plan, the red dashed line represents the 10-foot setback line, the blue rectangles represent standard parking stalls, and the purple rectangles represent compact parking stalls. The proposed convenience market and trash enclosure is shown with an orange and yellow outline, respectively. The existing canopy over the fuel dispensers is shown as an orange dotted line. A total of 2 driveways, one each from First and Ray Streets are also noted.

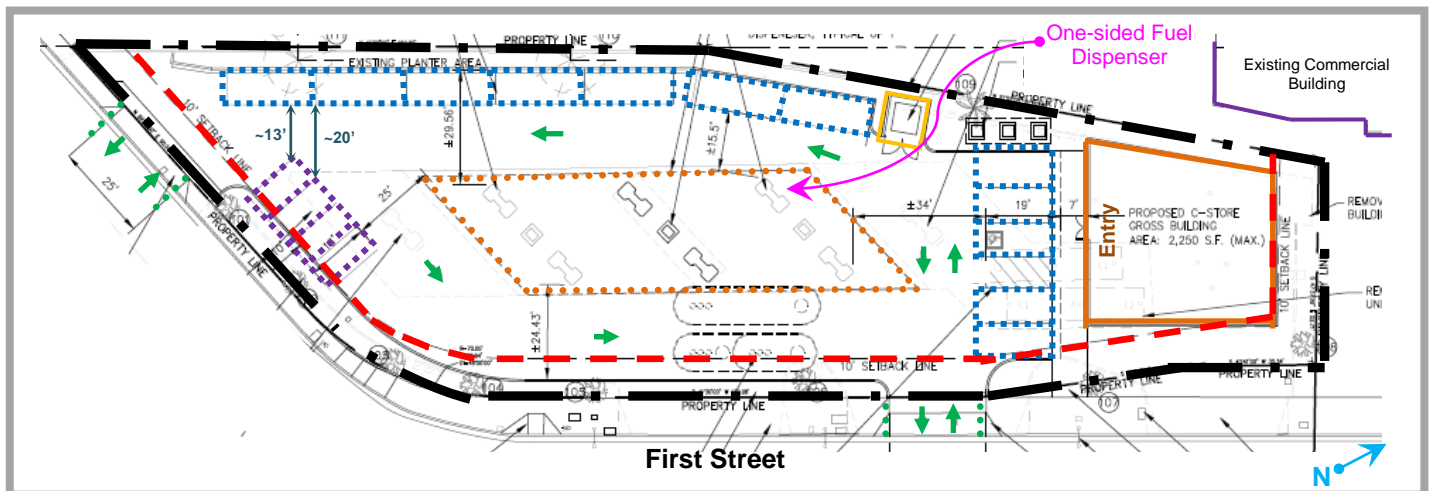


FIGURE 3: Site Plan

As shown in Figure 4, the floor plan of the convenience market includes a sales area, merchandise display, coolers, a back area for storage, and restrooms.

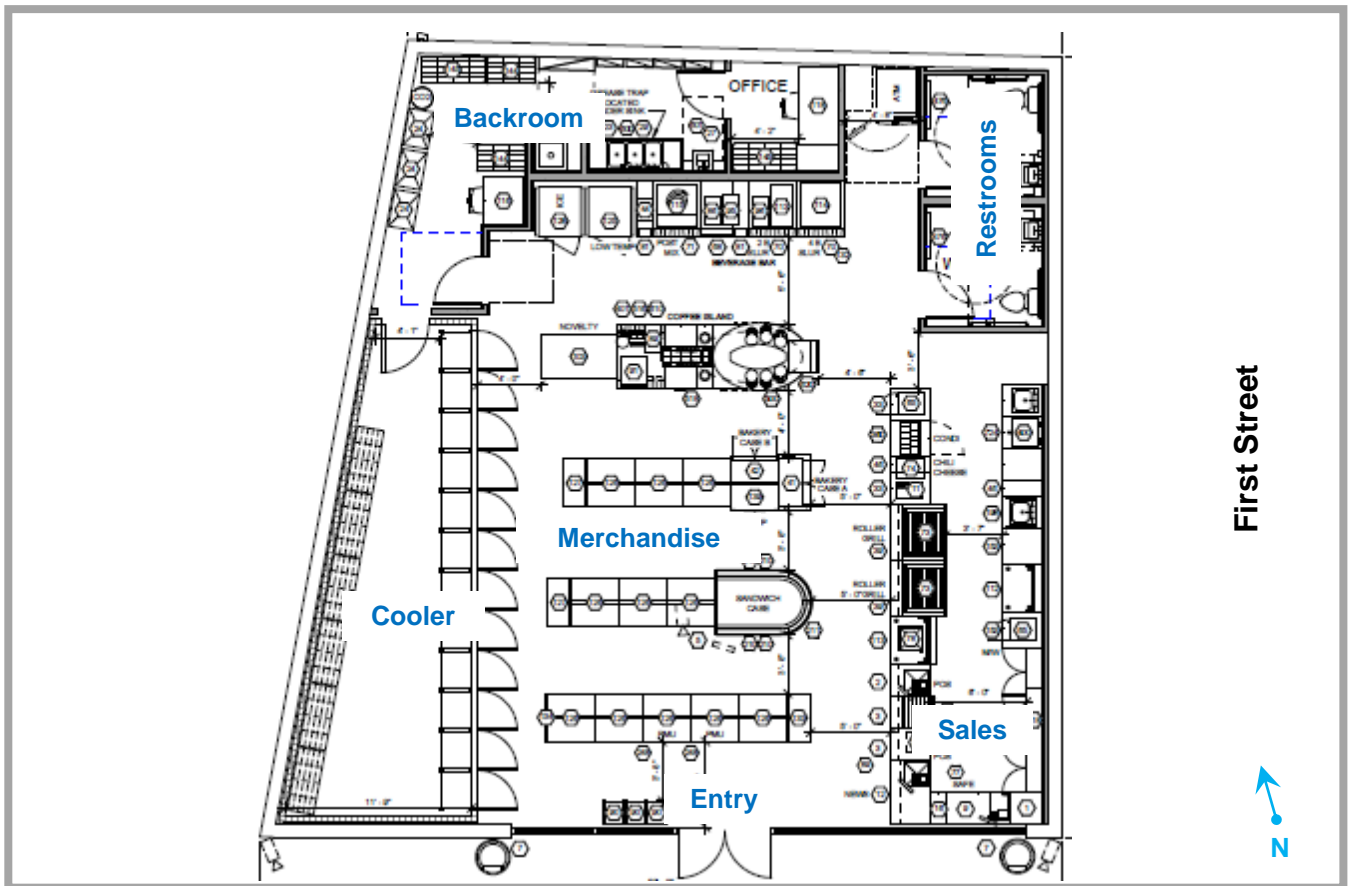


FIGURE 4: Floor Plan

Figure 5 shows elevation drawings for the proposed convenience market. The single-story building would be situated in the northern area of the site (10-feet from the property line along First Street, 5-feet from the western property line, and 10-feet from the northern property line) and would be approximately 22-feet-3-inches in height at its peak. The roof of the building would be hipped and gabled. The elevations show a portion of a gable on the front (southern) façade extending beyond the proposed awning. Figure 6 shows a three-dimensional digital perspective drawing with this portion of the roof modified such that it is pushed back to be similar to the other gables. This view and others, in addition to colored elevations, are part of Exhibit B (however please note that only “View 1” has been revised to show the modification to the roof).

The convenience market’s exterior finishes include faux grained Hardieplank® lap siding, brick veneer wainscoting, and corbels. Three sides of the building (with the exception of the front) will have wall-mounted metal trellises. The areas along the perimeter of the site would be landscaped. Pervious pavement is proposed for the five parking spaces and walkway in front of the building entrance. The canopy over the service station would remain unchanged, except that brick veneer would be added to the existing columns to match the wainscoting on the convenience market. Please note that the elevations



Existing



Proposed

Conoco Phillips

Looking North from 1st Street

FIGURE 6: Digital Perspective Drawing Looking North from First Street (with modification to roof on south facade)

Both the service station and convenience market will be operated on a 24-hour basis and, although not indicated in the narrative, the applicant has stated that no alcohol sales are proposed as required by the P.M.C. No employees are dedicated to the service station and one full-time and one part-time employee are proposed to staff the convenience market. Deliveries for the convenience market would take place between 6:00 a.m. and 10:00 p.m. every three days and fuel deliveries for the service station would take place at 6:00 a.m. at a frequency of twice a week. The unloading process for convenience store merchandise typically takes approximately 1 to 2 hours. As proposed, the trucks are not left idling while merchandise is unloaded due to safety and environmental reasons. No music is proposed outside the building.

ANALYSIS

Conditional uses are those uses which, by their nature require special consideration so that they may be located properly with respect to the objectives of the Municipal Code and with respect to their effects on surrounding properties. In order to achieve these purposes, the Planning Commission is empowered to approve, conditionally approve, or deny applications for use permits. The following sections serve to evaluate the proposed project with respect to land use, development standards, and other considerations such as parking, operations, and architectural design.

Staff recommends denial of this request for a Conditional Use Permit, Design Review and a Variance necessary to modify the existing service station and construct the convenience market. Staff recognizes that the applicant has worked over several months to revise the proposal and gain City support. However, City staff continues to have reservations about the proposal, including:

- ◆ The compatibility of a 24-hour use and the resultant potential for increased noise, traffic and other disturbances on a site that is located across the street and/or near to existing residences;
- ◆ The consistency of the project with the desired character of Downtown;
- ◆ The site layout that includes a one-way circulation system and parking spaces that require a variance to the P.M.C.; and
- ◆ The overall intensity of the use relative to the site's size and shape.

More details on the reasons staff is recommending denial of the project are provided on the following pages of this staff report.

Land Use

General Plan Consistency

The subject parcel is designated *Retail/Highway/Service Commercial/Business and Professional Offices* by the Land Use map in the General Plan. This land use designation allows for commercial uses. Commercial uses adjacent to residential uses (in this case, residential development is located on the other side of First Street and the other side of the A.C.T.C.) would be subject to the following:

- Program 15.4: Require non-residential projects to provide a landscape buffer between new non-residential development and areas designated for residential use.

Although the service station and convenience store are set back at least 10 feet from the property line and the setback area is landscaped, staff believes this may not be a sufficient buffer between the proposed use and the adjacent residential area, given that the use proposed is a 24-hour convenience store. Additionally, the area in the A.C.T.C. is not landscaped and thus does not meet the objectives of this General Plan program.

Downtown Specific Plan and Downtown Design Guidelines

The Downtown Specific Plan is intended to serve as the primary regulatory guide for development within the Downtown and contains several objectives, policies, and programs related to preserving the unique character of the Downtown. The Downtown Design Guidelines are intended to provide guidance for remodeling and new construction of buildings within the Downtown area to ensure that they are of high quality and complement the existing built environment.

Downtown Specific Plan

- ♦ Downtown Specific Plan: Land Use Objective #1, page 25 – *Retain the small-town scale and physical character of the Downtown through the implementation of appropriate land use and development standards.*

Although the proposed convenience market is single-story and proposed to be constructed of materials commonly found in the Downtown such as horizontal siding and brick veneer, the intensity of development is likely to generate a level of activity incompatible with the small-town character of the Downtown.

Downtown Design Guidelines

- ♦ Transition Areas, West side of First Street, page 28
 - *Buildings should generally have a 3-foot to 5-foot landscaped area between the sidewalk and the façade wall;*
 - *Locate parking behind the building and screen from view;*
 - *New buildings should have residential style roof forms with projecting eaves or trellises, and should use residential materials such as wood siding, shingles, and stucco;*
 - *Avoid long expanses of wall; articulate with projecting or recessed architectural elements, window rhythms, banding, architectural accents, or changes in material, especially at pedestrian level;*
 - *Maintain existing trees. Replace diseased or dying trees;*
 - *Exterior lighting should be shielded, and fixtures should be compatible with residential surroundings.*

Although the convenience market will have a landscaped area meeting the above requirements, and an appropriately designed roof, the building lacks windows on the street side, and does not include architectural detail or accents at the pedestrian level, and does not screen parking from view.

C-S (Service Commercial) Zoning

One of the stated purposes of the C-S District (PMC 18.44.050.B) is:

- ♦ *To provide sites for businesses that typically are not found in shopping centers, that usually have relatively large sites providing off-street parking, and that attract little or no pedestrian traffic.*

Although the existing gas station use would be consistent with this purpose of the district, the proposal for a 2,250 square foot convenience market is likely to generate pedestrian traffic and therefore would be inconsistent with this purpose.

24-Hour Operation

There are potential adverse impacts which could occur as a result of locating a convenience market with 24-hour operation adjacent to residential uses. The subject site is located on a corner property and is adjacent to other residential and commercial uses. Locating a convenience market with 24-hour business operation in close proximity to residences could create potential impacts to those residents in terms of noise, traffic, and parking. Staff feels that the 24-hour operation is not appropriate for the subject site.

Site Plan

The site plan for the proposed project is provided on Sheet A-1 of the project plans, attached to this report as Exhibit B (another sheet labeled as A-1 is a circulation diagram that shows how both large vehicles and fueling trucks will fit and maneuver the vehicle on the site). The location of the proposed convenience market would be near the northern area of the site, approximately 10-feet from the property line along First Street, 5-feet from the western property line, and 10-feet from the northern property line. The overall number of driveways to the site would be reduced from 4 to 2 since First Street would have only 1 driveway instead of 3, which is an overall improvement to the site circulation. Of the 11 existing trees on the property, 4 would be removed (2 heritage-sized California sycamores and 2 non-heritage sized Purple Leaf Plum trees). Additional landscaping consisting of shrubs and groundcover would be planted in planter areas and Sand Cherry trees will be planted in the existing planter located along the western property line.

The parking requirement for the convenience market is based on its size. As proposed, the convenience market would be 2,250-square-feet in size and at a parking demand of 1 space for each 150 square feet of floor area, would require 15 parking spaces. The service station requires 1 parking space plus an additional parking space for the number of employees on the maximum shift. The applicant has indicated that no employees will be dedicated to the service station, thus resulting in a parking requirement of 16 spaces on the property. Given the location of the existing 76 Conoco Phillips service station, the proposed convenience market, and the site configuration, the parking spaces on the site would be located within setback areas along Ray and First Streets and parallel parking spaces would be located along the western property line. In order to allow for more space on the site for parking, ingress, egress, and circulation, staff has asked the applicant to reduce the size of the convenience market since this directly results in fewer required parking spaces. The applicant has indicated that the 7-Eleven franchise will not support a smaller convenience market than 2,250-square-feet, particularly since no alcohol sales will take place at the subject location.

As mentioned previously in this report, the location of parking spaces is important for acceptable site circulation. Overall, staff finds that the site plan is not acceptable, particularly given the required number of parking spaces based on the size of the convenience market and the proposed site circulation. Additional discussion regarding this topic is in the “Traffic, Parking, and Circulation” section of this report.

Demolition

The proposed project scope would entail the removal of the sales/restroom kiosk building, two fuel dispensers that are currently outside of the canopy, and a storage shed located near the northwestern corner of the property.

Development Standards

The following sections describe the proposed floor-area-ratio, building height, and setbacks for the proposed project and how the proposal compares to the standards outlined in the C-S district of the P.M.C.

Floor-Area-Ratio

The proposed building is approximately 2,250-square-feet. The site is approximately 22,359-square feet, resulting in a proposed floor-area-ratio (F.A.R.) of 10%, which would be within the 100% maximum permitted in the C-S district.

Building Height

The peak of the roof is 22-feet 3-inches, which would be within the 40-foot maximum permitted in the C-S district.

Setbacks

Table 1 shows the required setbacks in the C-S district and the proposed setbacks for the proposed convenience market. The proposed project meets the minimum setback requirements of the C-S district.

TABLE 1: Setback Chart

	SETBACK REQUIREMENT IN C-S DISTRICT PER P.M.C.	PROPOSED CONVENIENCE MARKET
Front (South)	10-feet	Approximately 191-feet
Rear (North)	10-feet	10-feet
Left Side (West)	None	5-feet
Right Side (East)	10-feet	10-feet

Landscaping, Tree Removal, and Tree Mitigation

An arborist report prepared by HortScience and dated March 29, 2012 (attached to this staff report as Exhibit C) identifies a total of 11 trees on the subject property, including 8 California sycamores, 1 Mexican fan palm, and 2 purple leaf plums. The existing trees to remain include 6 of the 8 California sycamore trees and a Mexican fan palm located along the western property line near the proposed mechanical equipment. The plans note that 1 California sycamore tree and 2 purple leaf plum trees would be removed. The arborist report also recommends removal of a second California sycamore (#107) due to

construction impacts. Sheet L-1 provides a plan for the proposed landscaping on the site, and shows 15-gallon Sand Cherry (deciduous) shrubs trained to grow into multi-trunk trees in the planter area along the western property line. Shrubs and groundcover in these planter areas include Blue Fescue, Red Leaf Japanese Barberry, Lily-of-the-Nile, Red Fountain Grass, Dwarf Coyote Brush, and rock mulch.



FIGURE 7: Planter area along western property line

The planter areas on the site, particularly along the western property line as shown in Figure 7, would benefit from additional landscaping. The Sand Cherry trees proposed along this planter would add to the landscaping, but are deciduous and would not provide year-round screening. Taller-growing evergreen shrubs should also be used.

The arborist report indicates that the California sycamore tree to be removed (identified as tree number 106) is valued at \$3,400, the other California sycamore tree to be removed (identified as tree number 107) is valued at \$3,550 and the two purple leaf plum trees (identified as tree numbers 110 and 111), are valued at \$50, and \$200, respectively.

Fencing

The site is not currently fenced and the site plan does not indicate any new fencing. As shown in Figure 7, fence posts currently exist along the western property line. However, the three-dimensional renderings of the proposed convenience market show a new picket-style fence in this area.

Design and Architecture

Architecture, Colors and Materials

Colors and materials for the project are depicted on color renderings provided by the applicant (please refer to Figure 5 and Sheets A-2 and A-3 of the project plans) and samples of the colors and materials will be available at the Planning Commission hearing.

The exterior of the proposed building would consist of mainly earth-tone colors. The color of the siding would be James Hardie “#JH40-10 – Cobblestone,” the cornice and corner trim boards would be Sherwin Williams “Stone White,” the awning over the building

entrance would be “Sand” and the roof would be Certainteed Presidential Shake “Country Grey.” Pervious pavers in the color “Waterwheel” (a light gray color) would be proposed for the area consisting of the five parking spaces and walkway directly in front of the convenience market entrance.

Lighting

Exterior building lighting is shown on the elevation drawings and consists of two wall sconces on the front (southern) façade and two goose-neck style lights for a future 7-Eleven sign. No other new lighting is shown for the site (there are existing pole-mounted, bollard-style, and under canopy lights).

Parking, Traffic, and Circulation

As mentioned previously, the total number of parking spaces proposed on the site is 16, inclusive of 1 ADA-compliant space near the entry of the convenience market. The applicant has indicated that no employees will be dedicated to the service station. One full-time and one-part time employee is proposed to staff the convenience market.

P.M.C. section 18.88.030(C) requires service stations to have one parking space and an additional parking space for each employee on the maximum shift. Convenience markets are required to have one parking space for each 150 square feet of gross floor area. Based on “zero” employees for the service station and a convenience market proposed at 2,250-square-feet, a total of 16 parking spaces are required (1 for the service station and 15 for the convenience market). A total of 16 parking spaces are proposed and thus the proposal would meet the minimum parking spaces required by the P.M.C.

However, staff, including the City Traffic Engineer, has concerns regarding the compact parking space closest to the driveway from Ray Street. This space in its current location blocks incoming traffic since the total aisle dimension is only 13-feet between the parking spaces, and two-way travel requires a minimum of 20-feet. The applicant is willing to move this space to the other end of the parking spaces, which would result in a distance of approximately 20-feet between the end of the western-most compact space and the parallel parking space along the western property line. However, moving this parking space would require a Variance to locate it in the setback area. A Variance would also be required since all four compact spaces have a 2-foot overhang into the front yard setback area along Ray Street, and the eastern-most standard space in front of the convenience market encroaches into the setback area along First Street. As discussed in this staff report, findings for the Variance cannot be made.

Even if this space were to be moved, staff believes the parking spaces adjacent to Ray Street would be underutilized due to the fact that they are on the other side of the site from the convenience market. Additionally, staff believes the parallel parking spaces located along the western property line would underutilized since they are difficult to maneuver into and out of. Thus, many people will likely park in the area along First Street instead of these designated parking stalls. Additionally, vehicles pulling into or leaving the spaces in front of the convenience market will conflict with the vehicular traffic coming in and leaving the driveway off of First Street.

In order to improve the on-site circulation, the applicant is willing to make the fuel dispenser that is furthest northwest one-sided (labeled as “one-sided fuel dispenser” in Figure 3) so that a vehicle parked in the parallel parking space closest to the trash enclosure can maneuver out of the space. Modifying this fuel pump allows the drive-aisle adjacent to this space to be 15-feet-6-inches wide to allow one-way traffic to travel between the areas in front of the convenience market and the driveway leading to Ray Street. However, a customer may still park his/her vehicle at the one-sided fuel pump if all of the spaces directly in front of the convenience market are taken, resulting in this drive aisle being partially or completely blocked. Furthermore, even with markings on the pavement, drivers may not comply with the one-way circulation system, creating the potential for additional circulation conflicts.

The proposed site plan would meet the minimum number of required parking spaces, but results in poor circulation and locating parking spaces within setback areas and far from the use they serve. For these reasons, staff does not support the parking and circulation.

Noise

The subject site is located adjacent to and across the street from other commercial and office uses. Residential uses are located across First Street to the east and across the A.C.T.C. to the west. Residential noise impacts could be generated if patrons were loitering, fighting, slamming car doors, etc. in the parking area. Additional noise impacts could be attributed to customers shouting, fighting, vehicles, etc. Further, noise from deliveries could impact adjacent residences as well, since delivery trucks may have beeping noises when backing up. Staff finds that the proposed use, particularly if operated on a 24-hour basis will result in negative noise impacts to surrounding residents.

Enhanced Vapor Recovery and Soil Vapor Extraction Systems

The photograph in Figure 8 shows the existing state-required Enhanced Vapor Recovery (E.V.R.) canister, tank, and vent lines (behind a black chain-link fence).



FIGURE 8: Photograph of Existing E.V.R. System

A soil vapor extraction system for a fuel leak is planned to be located on the site in the future near the northwestern corner of the site. The property owner and the Conoco Phillips Company are working with the Alameda County Health Care Services Agency and San Francisco Bay Regional Water Quality Control Board to continue to investigate and determine the best course of action to remediate the soil on the site and the A.C.T.C. property. The soil vapor extraction system would be subject to staff-level Design Review and would be located adjacent to the proposed trash enclosure and E.V.R. system along the western property line. Placement of the soil vapor extraction system may reduce the amount of landscaping in this area. No information is available at this time regarding whether or not the existing E.V.R. system would remain or be relocated with the installation of the soil vapor extraction system.

Grading and Drainage

A preliminary grading plan is provided as part of the plan set on Sheet C-1. The plan indicates that the site is relatively flat, ranging from approximately 371.24 feet at the back of sidewalk on Ray Street to approximately 370.71 at the back of sidewalk on First Street. The proposed project would not substantially change the existing topography.

Another sheet (not numbered or labeled with a letter) shows the impervious areas (existing and proposed). This plan also indicates that pervious surfacing would be used in the parking areas and walkway directly in front of the convenience market. Since the aggregate of the “removed and replaced” and “new” impervious surfacing is totaled as 4,764-square-feet on project application materials, the subject project is not a regulated project as per the current Municipal Regional Stormwater NPDES Permit, but would still have to comply with certain design measures, such as directing runoff onto vegetated areas.

Signage

A 7-Eleven sign is shown on the south elevation for general reference, but is not part of the subject application. The site has two existing service station price signs and at this time the plans do not indicate any modifications to these signs.

PUBLIC NOTICE

Notices regarding the proposed applications and related public hearing were mailed to the surrounding property owners and tenants within a 1,000-foot radius of the project site. A map showing the noticing area is attached to this report. The public notice was also published in *The Valley Times*.

Staff has received a substantial number of emails, phone calls, in-person visits, and letters from members of the public that are concerned about and in opposition to the project. The full text of the written correspondence is attached to this staff report as Exhibit A. Most of the emails and all of the people who provided verbal comments indicated concerns regarding the convenience market’s proposed 24-hour operation, potential traffic impacts, potential crime, the fact that there are other stores that offer groceries or other goods in close vicinity to the subject site (such as Meadowlark Dairy and Cole’s Market), that the convenience market will not add value to the neighborhood or the Downtown, and the

proposed development is not appropriate for the downtown area. One email from a small business owner and nearby resident indicates that he “opposes the neighbors’ opposition” to the project, and that the proposed business should be treated equally and judged against the legal requirements by which it is obligated.

In response to the comments from concerned members of the public, the applicant has indicated that many community members have a negative image of 7-Eleven based its previous image. The applicant also indicates that the new 7-Eleven image is “safe, clean and community friendly,” and has provided a portion of 7-Eleven’s Community Outreach Program. This document is a part of Exhibit B to this staff report. The applicant has also indicated that he has obtained many signatures in support of the proposed project.

Many of the people who commented had concerns regarding crime at 7-Eleven convenience markets. Table 2 summarizes the total police calls for service, including officer initiated activity, between January 2007 and November 2012 at each of the two existing 7-Eleven locations in Pleasanton. This data has been compiled using the store address as the reporting location and does not include vehicle traffic stops. Staff notes that without evaluating every call for service, it is not possible to determine if the call for service was a product of the business activity, or coincidentally occurred at the business. A detailed list of all calls for service at both 7-Eleven stores between January of 2007 through November 2012 can be found in Exhibit D. As noted in Table 2, the annual police service calls between this time span range between 9 and 21 for the 7-Eleven located at 4307 Valley Avenue and 30 to 83 at the 7-Eleven located at 3670 Hopyard Road.

TABLE 2: Police Service Calls at Existing 7-Eleven Locations in Pleasanton

Year	7-Eleven at 4307 Valley Avenue	7-Eleven at 3670 Hopyard Road
2007	19	30
2008	13	37
2009	21	58
2010	21	45
2011	9	83
2012	12	43

Table 3 provides this information for January of 2011 through November of 2012 regarding the subject site (4191 First Street), Cole’s Market located across Ray Street at 4277 First Street, and the Shell service station located at 4212 First Street (please note that the data

for Cole’s Market is specific to the market itself, not the entire Pleasant Plaza shopping center).

TABLE 3: Police Service Calls to Subject Site and Others in Vicinity

Year	Subject Site 76 Service Station 4191 First Street	Cole’s Market 4277 First Street	Shell Service Station 4212 First Street
2011	4	33	5
2012	6	22	6

As noted in Table 3, the subject site has had 4 service calls in 2011 (consisting of 1 robbery, 1 grand theft, 1 incident, and 1 pedestrian stop) and 6 service calls in 2012 (consisting of 1 grand theft, 2 incidents, 2 pedestrian stops, and 1 suspicious vehicle). A detailed list of calls of this information is included as part of Exhibit D.

CONDITIONAL USE PERMIT FINDINGS

The Planning Commission must make the following findings prior to granting the use permit:

- A. That the proposed location of the conditional use is in accordance with the objectives of the zoning ordinances and the purpose of the district in which the site is located.**

The objectives of the Zoning Ordinance include fostering a harmonious, convenient, workable relationship among land uses, protecting land uses from inharmonious influences and harmful intrusions, promoting a safe, effective traffic circulation system, and ensuring that public and private lands ultimately are used for the purposes which are most appropriate and beneficial to the City as a whole. The subject site is zoned C-S. One of the purposes of Commercial Districts is to provide appropriately located areas for retail stores, offering commodities and services required by residents of the city and its surrounding market area. A purpose specific to the C-S District is to provide appropriately located areas for commercial uses having features that are incompatible with the purposes of the other commercial districts.

The goods and services offered by the proposed use are currently available from businesses within the immediate area. Although no nearby businesses are open 24 hours, two other 7-Eleven stores in Pleasanton and the Safeway grocery store at Valley Avenue and Santa Rita are open 24-hours. Additionally, as previously noted, the generation of pedestrian traffic by the use is not consistent with the purpose of the C-S District. The proposed use is inharmonious with adjacent residential land uses and the on-site circulation is not safe and effective. Staff does not believe this finding can be made.

- B. That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity.**

Although a service station and convenience market is allowed as a Conditional Use in the C-S district, this finding requires the Planning Commission to consider the specific location of the use. Significantly increasing activity on this site and creating the potential for noise and other disturbance during the night-time hours would be detrimental to the public health, safety and welfare of the nearby community. Staff does not believe this finding can be made.

- C. That the proposed conditional use will comply with each of the applicable provisions of the Municipal Code which apply to Conditional Uses.**

The proposal would require a variance from the Pleasanton Municipal Code in order to locate several parking spaces within the setback area. As noted below, staff believes that the size, shape, topography, location or surroundings do not merit a variance from the strict application of the development regulations related to setbacks and therefore, the project would be deficient by 5 parking spaces. The project would not therefore comply with all the applicable provisions of the Municipal Code if the Variance was not granted. Staff does not believe this finding can be made.

VARIANCE FINDINGS

The Planning Commission must make the following findings prior to granting the Variance:

- A. That because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the provisions of this chapter deprives such property of privileges enjoyed by other properties in the vicinity and under identical zoning classification;**

The property is zoned C-S and is improved with a small sales and restroom building and service station with 6 fuel dispensers. The site exceeds the 10,000-square foot minimum lot size and meets the minimum lot width of 80-feet and lot depth of 100-feet for properties in the C-S district, has a flat topography and is not in an unusual location or have unusual surroundings. The intensification of the convenience market use on the same site as the service station is driving the need for the parking setback variances. Staff does not believe this finding can be made.

B. That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitation on other properties classified in the same zoning district;

The granting of a variance would constitute a special privilege since the property is not unique and other properties in the same zoning district are not permitted to place parking spaces within setback areas, and thus granting such a variance would constitute a special privilege. Additionally, the project is not consistent with the desired character of the downtown as outlined in the Downtown Specific Plan and the Downtown Design Guidelines. Staff does not believe this finding can be made.

C. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

The granting of the variance would not be in keeping with requirements of the Pleasanton Municipal Code. The site circulation does not allow for adequate aisle widths and back-up space for vehicular traffic and also does not allow parking to be located outside setback areas. Staff does not believe this finding can be made.

ENVIRONMENTAL ASSESSMENT

This project is categorically exempt from environmental review pursuant to California Environmental Quality Act Guidelines, Sections 15301, Existing Facilities, Class 1, and 15303, New Construction, Class 3. Therefore, no environmental document accompanies this report.

CONCLUSION

As discussed in this report, staff has concerns regarding this proposal and recommends the denial of the subject Conditional Use Permit, Design Review, and Variance applications. The 24-hour operation of the convenience market would impact adjoining land uses, including residential uses, negatively by increased noise and traffic. The project is not consistent with the character of the Downtown, and the parking is not compliant with setback requirements, and the site circulation is not acceptable.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission deny Cases P12-0556, P12-0557, and P12-1790.

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