

Planning Commission Staff Report

October 27, 2010
Item 6.b.

SUBJECT: PCUP-276

APPLICANT: Tina Ardeshiri/Simeon Properties

PROPERTY OWNER: Hank Company

PROPOSAL: Application for a Conditional Use Permit to operate a 24-hour convenience store (7-Eleven).

GENERAL PLAN: Retail, Highway, and Service Commercial; Business and Professional Offices

ZONING: C-C (Central Commercial) District

LOCATION: 3506 Old Santa Rita Road, Suite B

EXHIBITS:

- A. Draft Conditions of Approval
- B. Narrative, Site Plan, and Floor Plan dated "Received July 15, 2010"
- C. Public Comments
- D. Police Service Calls
- E. Location Map
- F. Noticing Map

BACKGROUND

Ms. Ardeshiri, on behalf of 7-Eleven, requests the consideration of a conditional use permit to operate a 7-Eleven convenience market within an existing tenant space, previously occupied by Real Bicycles, located at 3506 Old Santa Rita Road in the Santa Rita Junction Shopping Center, referred to hereafter as Santa Rita Junction. Food markets, including supermarkets, convenience markets and specialty stores, are conditionally allowed uses in the Central Commercial (C-C) District, the zoning district covering Santa Rita Junction.

In addition to securing approval from the Planning Commission for a conditional use permit, convenience markets that offer the sale of beer, wine, and distilled spirits, such as the subject application, also require a license from the State's Department of Alcoholic Beverage Control (ABC). Staff notes that ABC will not issue a license to a

business until the business provides a copy of the zoning approval for the location and use from the governing jurisdiction (i.e., city or county). ABC can, however, send notices to businesses and/or residents that are within 300 feet of a property location informing adjacent properties of the request for a license to sell alcohol prior to receiving proof of approval from the governing jurisdiction.

Accordingly, ABC sent notification cards to businesses and residents within 300 feet of 7-Eleven's proposed location. As a result of ABC's noticing, Glen Haendel, an adjacent resident, contacted the City to inquire whether 7-Eleven was approved at the subject location. Mr. Haendel expressed his concerns to staff regarding a 7-Eleven at the proposed location. Please refer to Exhibit C for Mr. Haendel's e-mail, dated "Tuesday, August 31, 2010", regarding his concerns. Staff notes that further discussion of his concerns are outlined in the "Public Notice" section of this report.

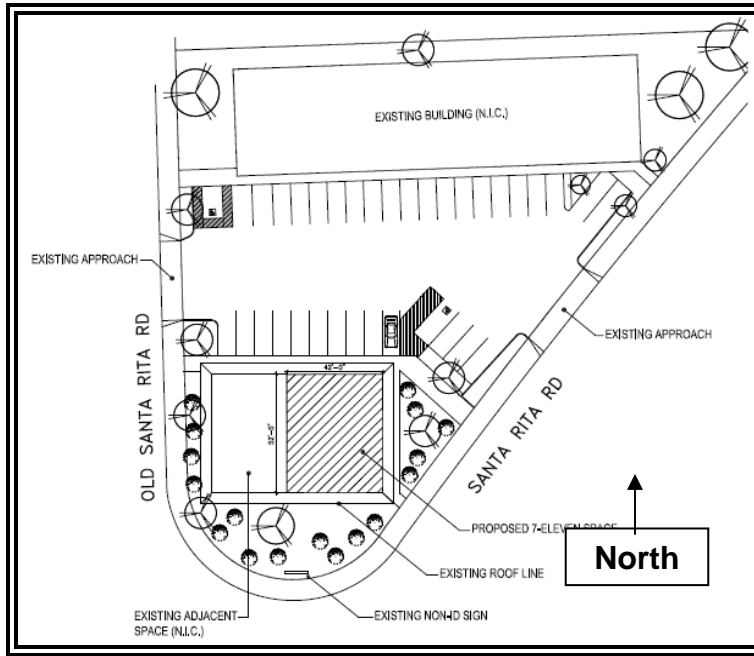
SITE DESCRIPTION

Santa Rita Junction is located on the corner of Old Santa Rita Road and Santa Rita Road. The subject site is adjacent to residential properties to the east and south, Valley Care Medical Center to the west and Hendrick Automotive car storage lot to the north. Access to and from the project site is from Old Santa Rita Road and Santa Rita Road. The driveway on Santa Rita Road provides only right-in and right-out access. Santa Rita Junction has two multi-tenant buildings with the subject building situated at the southern corner of the shopping center.

Aerial View



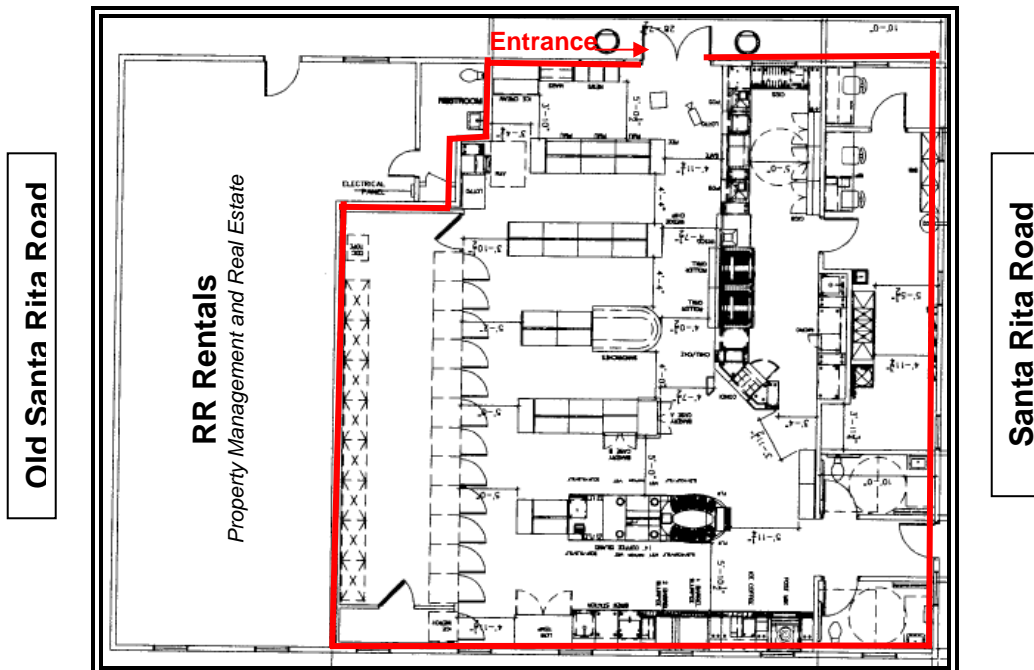
Santa Rita Junction



PROJECT DESCRIPTION

7-Eleven is a convenience market chain specializing in an assortment of individual grocery store and general merchandise items with the recent addition of fresh foods, such as fruits, vegetables, and fresh sandwiches. If approved, the proposed location would be the third 7-Eleven store in Pleasanton. 7-Eleven, like its other locations within Pleasanton, will be open seven days a week 24-hours a day. The store layout is similar to other convenience markets, providing merchandise stocked shelves, cooler and frozen product areas, and a fresh food "island."

Floor Plan



If approved, 7-Eleven is also proposing signage which is processed under a separate entitlement and at staff level. The Planning Commission will be notified of staff's action on this additional entitlement on a future Zoning Administrator Action Report.

ANALYSIS

Conditional uses are 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.

Land Use

One of the primary concerns in reviewing a conditional use permit application for convenience stores is its potential effect on surrounding uses. 7-Eleven would be located in a shopping center that contains various commercial and personal service uses (e.g., flower shop, eastern medicine facility, and an insurance company).

The nearest residential properties are the San Marco townhomes on Pickens Lane, approximately 149-feet southeast of the proposed tenant space. The applicant's tenant space would be separated from Pickens Lane by Santa Rita Road, landscaped areas, and a soundwall. All merchandise would be displayed inside the store and all sales would be conducted inside the store; thus, no outdoor sales activities would be generated as a result of the convenience store operations.

As discussed below, there are potential adverse impacts which could occur as a result of locating a convenience market with 24-hour operation adjacent to residential uses. On the other hand, the market will provide a quick and convenient way for the surrounding neighbors to pick up a few grocery items since larger supermarkets are not nearby. If operated similarly to the other existing convenience stores and supermarkets in the City, staff does not believe that the proposed market will create adverse impacts on the surrounding residences or shopping center tenants. Furthermore, staff believes that conditions of approval can be incorporated with the project which would ensure that the surrounding uses are not impacted due to noise, litter, or other objectionable influences. If necessary, the application could be brought back to the Planning Commission for additional conditions to mitigate and/or prevent any nuisances that were identified. Therefore, from a land use perspective, staff finds the use to be acceptable, as conditioned.

Proximity of the Tenant Space to San Marco Development



Hours of Operation

The proposed market would operate 24-hours a day, seven days a week. Staff conducted a survey of the hours of operation of the existing supermarkets and convenience markets in the City. Staff found a mixture of 24-hour and non-24-hour markets: Safeway, 7-Eleven's two existing locations, and the gas stations within Pleasanton that have ancillary convenience markets (such as the Shell and Chevron service stations) operate 24-hours a day, while Lucky's, Raley's, Smart & Final, Trader Joe's, and Gene's Fine Foods do not. Most of the existing markets are located in close proximity to residences. Staff has not received any recent complaints from the adjacent neighbors of these markets.

Locating a convenience market with 24-hour business operation in close proximity to residences could create potential impacts to those residents. However, given the fact that other 24-hour markets, including two 7-Eleven's, have been in operation in the City without causing any apparent problems to their neighbors, the fact that the proposed use is separated from adjacent residences by a thoroughfare, the fact that customer activity declines significantly in the late night/early morning hours, and the fact that any future nuisances could be mitigated through additional conditions (including a reduction to the hours of operation), staff feels that the proposed hours of operation would be acceptable for the convenience market.

Noise

Considering the type of business and separation of the proposed use from the adjacent residences by a thoroughfare, staff believes that it is unlikely that noise generated directly from within the establishment would impact the nearby residences or tenants. However, the residences could be disturbed if inconsiderate customers were speeding, honking horns, "burning rubber," etc. as they drove to and from the proposed

establishment, especially during the late night/early morning hours. Residential noise impacts could also be generated if patrons were loitering, fighting, slamming car doors, etc. in the parking area. Based on staff's experience with the existing 7-Eleven stores, the patrons have not created these types of noise problems. However, in the event that the clientele create these kinds of problems, staff has conditioned the project so that if there are any future complaints regarding noise levels due to shouting, fighting, vehicles, etc., the project can be reviewed again to add mitigating conditions of approval (Please refer to condition number 12 of Exhibit A). Such conditions could include modifying the hours of operation, hiring of security guards to patrol the parking lot, etc.

An additional component that is noted in 7-Eleven's proposed narrative is the use of external music to deter patrons from loitering. The Police Department is familiar with this method and has found it beneficial and supports the use of outdoor music. The applicant, however, has since indicated that outdoor music is no longer proposed. Given the benefit of deterring loitering and the Police Departments support of music, staff has added a condition of approval (No. 8 in Exhibit A) that requires the use of outdoor muzak ("elevator" music).

7-Eleven will receive fresh food, wholesaler, and vendor deliveries from three separate trucks throughout the week. Off-loading, depending on the delivery, takes 5-15 minutes and the drivers do not leave the trucks idling to help reduce noise and air pollution. The applicant has agreed to condition number 6 of Exhibit A that requires deliveries to occur between 6:00 a.m. and 10:00 p.m. Staff does not anticipate the delivery trucks having an effect on the other Santa Rita Junction tenants or surrounding properties as the applicant has stated that deliveries will likely occur before 8:00 a.m. and after 7:00 p.m., when adjacent businesses are closed. Deliveries for the two existing 7-Eleven locations are typically conducted between 10:00 p.m. and 5:00 a.m., one of which is located in a shopping center adjacent to residential properties. Staff is not aware of any concerns or parking conflicts associated with the other two stores. However, if problems do arise, staff has included the standard condition of approval which allows the City to bring the use permit back to the Planning Commission for additional conditions to mitigate any problems that were identified.

Traffic

Based on data from the Institute of Transportation Engineers, 65% of the vehicles going to 7-Eleven will be on Santa Rita Road already and stopping at the store on their way to their main destination. It is estimated that during the weekday AM peak between 7:00 a.m. to 9:00 a.m. there will be 12 extra vehicles and during the weekday PM peak between 4:00 p.m. to 6:00 p.m. there will be 10 extra vehicles per hour on the road going to the 7-Eleven as their primary destination. As such, the City's Traffic Engineer determined that the extra vehicles per hour will not have a significant impact on traffic.

Parking

There are approximately 32 shared parking spaces within Santa Rita Junction to serve the 11,488 square-feet of commercial area. The overall parking ratio for the center is

one parking space for every 359 square feet of floor area. Applying this parking ratio to the applicant's 2,601-square-foot tenant space, 7 parking spaces would theoretically be allocated to the market.

Per the Pleasanton Municipal Code, convenience markets require one parking space for each 150 square feet of gross floor area. With a tenant space of approximately 2,601 square feet, 17 parking spaces would be required. Staff conducted site visits to the property at various times and found that there was a sufficient amount of parking during those times. Furthermore, it is unlikely that 7-Eleven will have 17 patrons at once and, therefore, parking will unlikely become an issue.

Parking at Santa Rita Junction was designed to support a variety of retail and personal service uses. The center provided adequate parking for a deli with ancillary beer and wine sales and a bar in the 1980's; both of which had similar if not greater parking demand. With different tenants in Santa Rita Junction and personal service uses over the years, parking at Santa Rita Junction has adequately supported the commercial uses in the center. Staff anticipates the same for the proposed 7-Eleven and is of the opinion that parking will not be an issue.

For comparison, staff conducted site visits to the 7-Eleven located on Hopyard Road. Staff found it appropriate to use this location as a comparison because the Hopyard Road site is exclusive to 7-Eleven and has more site constraints than the proposed location. Specifically, the Hopyard Road 7-Eleven is the only building located on a single parcel with four parking stalls and one handicap stall to serve patrons. Furthermore, vehicular ingress/egress to the site is by right-in and right-out access going southbound on Hopyard Road. However, additional access to the site is located at the southeast intersection of Dorman Road and West Las Positas Boulevard, just before the Department of Motor Vehicles parking lot.

Staff conducted site visits to the Hopyard Road 7-Eleven during peak times (morning, mid-day, and evening) and found that, on average, two of the four parking stalls were occupied during those times. Furthermore, the patrons were in 7-Eleven less than four minutes and, the majority of the time, patrons appeared to have purchased items typically favored during those hours of the day, such as coffee and/or drink and snack items. There were instances when the parking stalls were full with 7-Eleven patrons during the evening, however, the staggering of arrival times prevented a need to wait for parking and patrons did not need to utilize the adjacent parking lot that supports the office building just south of the 7-Eleven. Given that the Hopyard Road 7-Eleven has fewer parking spaces than the proposed site and parking was not impacted, staff is of the opinion that parking will unlikely be an issue at the proposed site. Furthermore, unlike the other two 7-Eleven locations, on-street parking is available on Old Santa Rita Road.

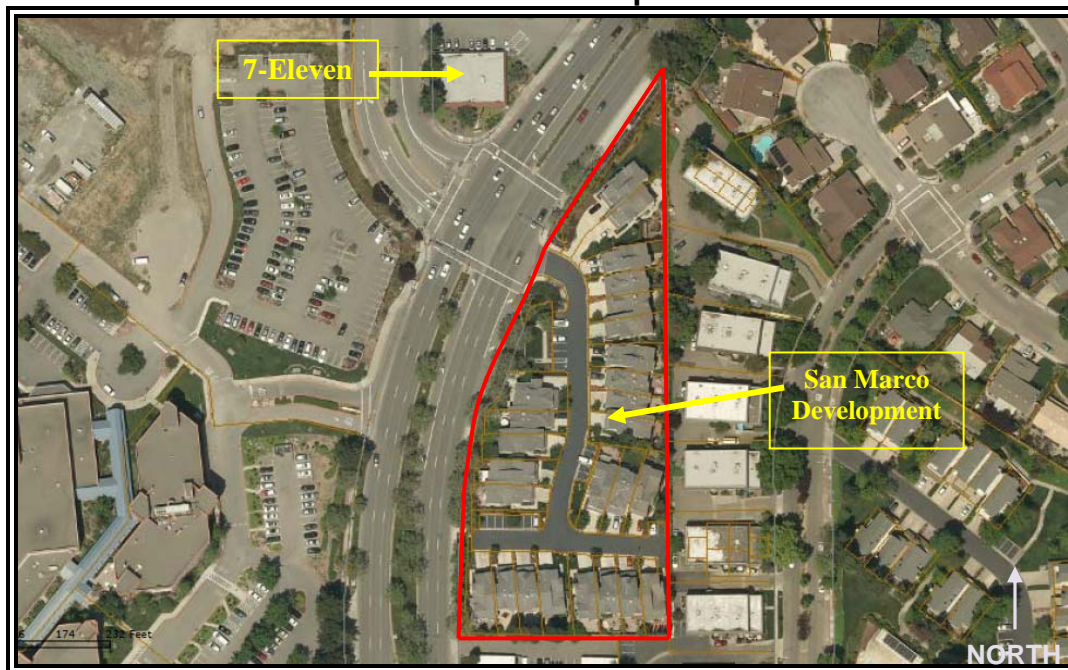
PUBLIC NOTICE

Notices regarding the proposed conditional use permit application and related public hearing were mailed to property owners and tenants within 1,000 feet of the subject

property. Staff has provided the location and noticing maps as Exhibit E and Exhibit F for the Commissions reference.

At the writing of this report, staff received an additional e-mail from Mr. Haendel, representing the San Marco Homeowners' Association at Pickens Lane and Newman Place, indicating concerns with noise, loitering and "unwanted activity," traffic, use of the facility by released persons from Santa Rita Jail, and loss of property value. Please refer to the attached e-mail (Exhibit C) for complete details of Mr. Haendel's comments. Staff notes that the applicant contacted Mr. Haendel prior to the Planning Commission hearing. Mr. Haendel shared his concerns with the applicant; however, Mr. Haendel declined to have a meeting with the applicant as he felt a meeting would not address his concerns. Staff also received e-mails from seven other San Marco residents stating similar concerns as Mr. Haendel. Please see the attached e-mails (Exhibit C) for complete details of the San Marco residents' comments and the image on the following page for the location of the San Marco development.

San Marco Development



Based on staff's past experience with convenience markets in Pleasanton, including the two existing 7-Eleven stores, they have not caused problems on surrounding uses (a discussion of the police calls for service is included below). Staff does not believe that the proposed use would create impacts to the surrounding properties as long as the applicant complies with the recommended conditions of approval. If necessary, the application could be brought back to the Planning Commission for additional conditions to mitigate and/or prevent any nuisances that were identified.

Pleasanton Police Department – Service Calls

The table on the following page shows total police calls for service, including officer initiated activity, between January 2007 and September 2010 at each of the two 7-Eleven locations. 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. In evaluating the calls for service contained in these reported incidents, the vast majorities are minor in nature and many are officer initiated. Based on the limited number of calls for service, the impact of these 7-Eleven stores upon the neighborhood and police calls for service is minimal.

A detailed list of all calls for service at both 7-Eleven stores between 2007 and September 2010 can be found in Exhibit D.

POLICE SERVICE CALLS

Year	7-Eleven @ Valley Ave	7-Eleven @ Hopyard Rd.
2007	19	30
2008	13	37
2009	21	58
2010	21	45

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 ordinance and the purpose of the district in which the site is located.**

The zoning ordinance endeavors to foster a harmonious, convenient, and workable relationship among land uses, while protecting land uses from inharmonious influences and harmful intrusions. Additionally, commercial districts offer commodities and services necessary for residents by providing opportunities for retail stores, offices, service establishments, amusement establishments, and wholesale businesses to be conveniently located and mutually beneficial to each other.

The site of the proposed convenience market is zoned C-C (Central Commercial) District which permits a variety of uses, such as retail, personal service, and restaurant uses. Operating a convenience market in this shopping center would be consistent with the purposes of the C-C zoning district by offering

commodities and services to residents of the surrounding residential neighborhood and other Pleasanton residents and employees working in nearby businesses. The proposed conditions of approval would give the City the appropriate controls to ensure that the use does not have any negative impacts on the surrounding businesses and properties. The conditional use permit for the convenience market, as proposed, would be consistent with the objectives of the zoning district, and therefore staff recommends that the Planning Commission make this finding.

B. That the proposed location of the conditional uses and the conditions under which they 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.

The proposed use will be operated entirely indoors, and its operation should not interfere with adjacent uses. The streets leading to the site are designed per City standards and are signalized to provide safe access into and out of the site. The City's Traffic Engineer concluded that the additional trips this use would generate would not be significant. Conditions have been included that would limit the hours of deliveries and garbage disposal, which would reduce possible adverse impacts on the adjacent residences and tenants. The existing tenant space is located approximately 149-feet from residential properties, and the existing ingress/egress to and from the shopping center would continue to provide easy access for shopping center patrons. With the proposed conditions of approval, staff recommends that the Planning Commission find that the proposed use would not detrimentally impact the surrounding properties.

C. That the proposed conditional uses will comply with each of the applicable provisions of the zoning ordinances.

The proposed use, as conditioned, would comply with applicable provisions of the zoning ordinance regarding type of use allowed in the C-C district, parking, circulation, and other requirements. Granting a conditional use permit to the applicant would be consistent with the City's ability to regulate zoning as listed in the Municipal Code. Therefore, staff recommends that the Planning Commission also make this finding.

ENVIRONMENTAL ASSESSMENT

This project is categorically exempt from environmental review pursuant to California Environmental Quality Act Guidelines, Section 15301, Existing Facilities, Class 1 which allows the operation of a uses, permitted or conditionally permitted, within an existing building. Therefore, no environmental document accompanies this report.

CONCLUSION

As conditioned, staff believes that the potential for impacts on adjacent residents and tenants is minimal. Furthermore, convenience markets and grocery stores have been operating within other areas of the City without any major adverse impacts on their neighbors. However, should problems or nuisances occur, the project has been conditioned to allow the Director of Community Development to refer the use permit back to the Planning Commission. The Commission would be able to modify or add conditions of approval to mitigate any nuisances or even revoke the conditional use permit, if necessary.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission approve PCUP-276 by taking the following actions:

1. Make the required conditional use findings as described in the staff report; and
2. Approve PCUP-276 subject to the conditions listed in Exhibit A.

Staff Planner: Natalie Amos, Associate Planner, (925) 931-5613, namos@ci.pleasanton.ca.us