



# City of Sunnyvale

## Agenda Item-No Attachments (PDF)

File #: 16-0777, Version: 1

### REPORT TO THE ZONING ADMINISTRATOR

**File #:** 2015-7570

**Location:** 295 Lawrence Expressway (APN: 205-37-002)

**Applicant / Owner:** Santa Clara Super Auto (applicant) / Kenneth S Ngai Trustee & Et Al (owner)

**Proposed Project:**

**USE PERMIT** to allow sale of beer and wine at an existing gas station (Chevron)

**Reason for Permit:** A Use Permit is required for the sale of beer and wine at a permitted automobile service station.

**Project Planner:** Aastha Vashist, (408) 730-7458, avashist@sunnyvale.ca.gov

**Issues:** Compatibility of use

**Recommendation:** Approve with conditions

### PROJECT DESCRIPTION

The proposed project is a Use Permit (UP) to allow sale of beer and wine at an existing gas station (Chevron). A Use Permit is required for sale of beer and wine at a permitted automobile service station in the Industrial and Service zoning district (M-S), per Sunnyvale Municipal Code (SMC) Section 19.22.030.

See Attachment 1 for a map of the vicinity and mailing area for notices, and Attachment 2 for the Project Data Table.

Previous Planning Projects related to Subject Application: A <i>Miscellaneous Planning Permit (2015-7813)</i> was approved on January 20, 2016 to allow the expansion of the existing convenience store and the conversion of the 798 square feet existing service bay to a convenience store for a total area of 1,172 square feet.	<b>Yes</b>
Neighborhood Preservation Complaint	<b>No active complaints</b>
Deviations from Standard Zoning Requirements	<b>No</b>

### Background

The subject site has been occupied by a gas station and convenience store (Chevron gas station and Chevron ExtraMile store). The existing convenience store was recently approved for expansion through a staff-level planning permit (2015-7813). The property is located within a neighborhood that

contains retail, office, recreational and industrial uses.

### Use Description

The property owner proposes to offer the sale of beer and wine within the existing convenience store on the service station site. The type of license that is also being requested through the California Department of Alcohol and Beverage Control is defined as “off sale” of beer and wine. The “off sale” license authorizes the sale of beer and wine for consumption off the premises of where it is being sold, as opposed to “on sale,” where the consumption could occur either on site or off site. No physical changes are proposed to the interior or exterior of the building.

### Hours of Operation

The existing convenience store hours of operation (5:00 a.m. to 11:00 p.m. seven days a week) will be maintained.

### Department of Public Safety Review

Staff consulted with the Sunnyvale Department of Public Safety (DPS) regarding this proposal. DPS expressed no concerns about the off-site sale of beer and wine at this location, and does not believe the addition of alcohol sales will be detrimental to surrounding persons or properties, nor will it be detrimental to the public health, safety, or welfare. However, the DPS has recommended implementation of a silent or audible alarm system to increase security at this location. If an alarm system is installed, a comprehensive security alarm system should be provided, that includes, digital security cameras with instant viewing capabilities are recommended, covering the store entrance and exit, parking lot areas and store interior.

To ensure negative impacts do not result, Sunnyvale Municipal Code section 19.98.020 requires that off-site sales of beer and wine at an automobile service station must comply with the following requirements:

- (1) No beer or wine shall be displayed within five feet of the cash register or front door unless it is in a permanently-fixed cooler;
- (2) No advertisement of alcoholic beverages shall be displayed at motor fuel islands; and
- (3) Employees on duty between the hours of ten p.m. and two a.m. who sell beer or wine shall be at least twenty-one years old

The applicant is in agreement with these conditions, which are contained in staff’s recommended Conditions of Approval in Attachment 3.

### **FINDINGS**

In order to approve the Use Permit the following findings must be made:

1. *The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale. **Finding Met***

The proposed addition of beer and wine sales allows for an expansion of the business at the

site and enables an additional retail service to the nearby community. The proposed use is not anticipated to have a negative impact on surrounding properties or uses.

*For Automobile Service Stations: Off-site sales of beer and wine may be allowed provided three findings can be made:*

- a. The service station may not be located within 500 feet of another use with off-site alcohol sales;*
- b. The service station may not result in a concentration of more than four businesses with off-site sales of alcohol within a 1000-foot radius; and*
- c. The service station may not be located within 500 feet of a public park or public school.*

Staff is able to make this finding as there are no businesses with off-site alcohol sales within 500 feet of the property. There are restaurants which offer on-site sale of alcohol within this radius. There is also not a concentration of more than four businesses within 1,000 feet radius that have off-site sales of alcohol. No public parks or schools are within 500 feet of the property.

2. *The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair the orderly development of, or the existing uses being made of, adjacent properties. **Finding Met***

As conditioned, measures would be taken to protect against sale of beer and wine to, or theft of beer and wine by, persons under the age of 21. The proposed sales would not result in an over-concentration of alcohol sales in the area. The site will maintain security measures that include adequate lighting, clear visibility into and out of the store, and security cameras to discourage loitering, on-site consumption of alcoholic beverages, and other unpermitted activities. As a result, the proposed use would not result in negative impacts on surrounding properties or uses.

*For Automobile Service Stations: If any of the above three findings in Finding #1 are not met, the permit can only be granted if three additional findings are also met:*

- a. The project will not adversely affect persons residing or working in surrounding areas;*
- b. The project will not adversely affect surrounding property values; and*
- c. The project will not be detrimental to public health, safety, and welfare.*

This Finding is not applicable as each of the three criteria was made in Finding #1. The project is expected to have minimal impacts on surrounding properties.

## Public Contact:

### Notice of Public Hearing

- Published in the *Sun* newspaper
- Posted on the site

- 10 notices mailed to property owners within 300 feet of the project site

### **Staff Report**

- Posted on the City's website
- Provided at the Reference Section of the City's Public Library

### **Agenda**

- Posted on the City's official notice bulletin board
- Posted on the City's website

**Public Contact:** Staff has not received any correspondence or phone calls from neighbors at the time of writing of this report.

**Environmental Determination:** A Class 1 Categorical Exemption relieves this project from the California Environmental Quality Act (CEQA) provisions. Class 1 Categorical Exemptions include operation of existing private structures involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination (CEQA Section 15301).

### **ALTERNATIVES**

1. Approve the Use Permit with recommended Conditions in Attachment 3.
2. Approve the Use Permit with modifications.
3. Deny the Use Permit.

### **RECOMMENDATION**

Alternative 1. Approve the Use Permit with recommended Conditions in Attachment 3.

Prepared by: Aastha Vashist, Assistant Planner

Approved by: Ryan Kuchenig, Senior Planner

### **ATTACHMENTS**

- 1) Vicinity and Noticing Maps
- 2) Project Data Table
- 3) Standard Requirements and Recommended Conditions of Approval
- 4) Site and Architectural Plans
- 5) Project Description from the Applicant