



City of Sunnyvale

Agenda Item-No Attachments (PDF)

File #: 21-0326, **Version:** 1

REPORT TO THE ZONING ADMINISTRATOR SUBJECT

..Title

Proposed Project:

SPECIAL DEVELOPMENT PERMIT to allow beer and wine sales at an existing gas station and car wash facility.

Location: 1097 E. Duane Avenue (APN: 205-23-002)

File #: 2020-7769

Applicant / Owner: Ray Salmasi (applicant) /Sunnyvale Car Spa Inc. (property owner)

Environmental Review: Class 1 Categorical Exemption relieves this project from the California Environmental Quality Act (CEQA) provisions.

Project Planner: Betty Avila, (408) 730-7419, bavila@sunnyvale.ca.gov

..Report

BACKGROUND

The project site is located in the M-S/ITR/R-4/PD (Industrial and Service/Industrial to Residential/High-Density Residential/Planned Development) zoning district. This area has a variety of uses surrounding the site including a private graduate school, a hotel, restaurants, industrial uses and medium-high density residential. The current establishment, Sunnyvale Car Spa, opened in 1996.

Site Access and Layout

The subject site is located at the northwest corner of the intersection at E. Duane Avenue and Lawrence Expressway, and just south of the US Route 101 exit. Surrounding land uses consist of mainly medium and high-density residential to the north and a mix of commercial and industrial uses to the south. The project site is served by a two-way driveway on E. Duane Avenue that provides vehicle access onto the site. Pedestrian access is provided by public sidewalks on each of the street frontages.

Description of Proposed Project

The applicant proposes retail sale of beer and wine in conjunction with an existing convenience store and gas service station with a car wash. The existing convenience store currently operates from 7:00 AM to 7:00 PM Monday to Sunday.

No changes to the interior space, outdoor dining area, and building exterior are proposed as part of the project. See Attachment 1 for a map of the vicinity and mailing area for notices and Attachment 2 for the Data Table of the project.

Previous Actions on the Site

Other than permanent and temporary sign permit applications and one day events, the following Planning Permits have been approved for the subject property and related to the requested permit:

- * Miscellaneous Planning Permit (2010-7462): Construct a canopy
- * Miscellaneous Planning Permit (2008-1035): Install an EVR Phase 2 at existing service station
- * Miscellaneous Planning Permit (2007-1260): Grocery sales at an existing Chevron gas station
- * Use Permit (1995-0290): Service station with car wash
- * Use Permit (1963-0038): Gas station

ABC Licensing

The sale of alcohol in the State of California is regulated by the Alcoholic Beverage Control Act (California Business and Profession Code Sections 23000-25762). The State of California Department of Alcoholic Beverage Control (ABC) regulates the type of spirits sold and ages allowed into an establishment. ABC may impose other restrictions based on the requested license and site history. There are numerous types of licenses issued by ABC. The applicant is requesting a Type 20 license (Off-sale beer and wine) which authorizes the sale of beer and wine for consumption off the premises where sold. Minors are allowed on the premises.

ABC is generally required to deny an application for a license if its issuance would result in or add to an 'undue concentration' of licenses in a particular area, unless a finding of 'public convenience or necessity' can be made. An 'undue concentration' is defined as an area where:

- (a) The project site is in a crime reporting district that has a 20% greater number of reported crimes than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the Sunnyvale Police Department.
- (b) The ratio of on-sale (on site consumption) retail licenses to population in the census tract or census division in which the project site is located exceeds the ratio of on-sale retail licenses to population in Santa Clara County (for on-sale retail licenses).
- (c) The ratio of off-sale (off site consumption) retail licenses to population in the census tract or census division in which the project site is located exceeds the ratio of off-sale retail licenses to population in Santa Clara County (for off-sale retail licenses).

According to ABC, the project site falls within in an area of undue concentration, given that the relevant area is only authorized to host two (2) off-sale permits per Census Tract. Currently, there are seven (7) off-sale permits in the Census Tract. Below are current establishments within the Census Tract 5087.04:

Store

Address

License type

Prime Now-Amazon Fresh

222 Commercial St.

Type 21 (all types of liquor)

Chevron

296 N Fair Oaks Ave.

Type 20 (beer and wine)

The Mountain Winery

1250 Oakmead Pkwy

Type 20 (beer and wine)

Costco Wholesale

150 Lawrence Station Rd.

Type 21 (all types of liquor)

Chevron

295 Lawrence Exp.

Type 20 (beer and wine)

Namaste Plaza

1202 Apollo Wy.

Type 21 (all types of liquor)

DGW Auctioneers Inc.

760 Kifer Rd.

Type 20 (beer and wine)

As such, a finding of public convenience is required to allow for the ABC license. Based on staff's analysis, the following findings can be made:

- The project is consistent with the General Plan in that it provides retail and services to residents and businesses of the city that are conveniently located, efficient, and attractive.
- The project provides a service for the adjacent residential, commercial and industrial areas. The sale of beer and wine in conjunction with a gas service station is permitted with a Special Development Permit.

Apart from the ABC licensing process, the City's Municipal Code requires that full alcohol sales in the M-S/ITR/PD zoning district obtain a Special Development Permit. In order to issue a Special Development Permit, the project must meet required findings which are provided in the Findings section of the staff report (Attachment 3). Generally, staff notes that the proposed hours of operations would not cause disruption or the quiet and peaceful enjoyment of the neighborhood and the project is located in an area where these types of uses would be encouraged.

Department of Public Safety Review

Staff consulted with the Sunnyvale Department of Public Safety (DPS) regarding this proposal. DPS does not have any issues related to security as the business has a store security and crime prevention program as well as a cash control procedures.

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 which are also included as Conditions of Approval (Recommended Condition No. AT-7 to AT-9)

- * 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;
- * No advertisement of alcoholic beverages shall be displayed at motor fuel islands; and
- * Employees on duty between the hours of 10:00 P.M. and 2:00 A.M. who sell beer or wine shall be at least twenty-one years old.

Staff also recommends the following Conditions to further minimize possible negative impacts associated with the impact of the sale of beer and wine sales (Recommended Condition of Approval No. AT-10 through 13):

- * The Permittee shall ensure all employees receive "Responsible Alcoholic Beverage Service" training as offered through programs established by the Alcoholic Beverage Control of the State of California. Evidence of such training and the training records of all employees shall be maintained on-site during business hours, and made available for inspection upon request.
- * The sale of single servings of beer or wine is prohibited. For the purpose of this Condition of Approval, a single serving shall be defined as "less than 24 fluid ounces of beer or wine."
- * The display of alcoholic beverages shall be limited to be no more than 40% of the total floor area.
- * The Permittee shall install "No loitering" signs to discourage customers from loitering and drinking of alcohol on the property.
- * The Permittee shall be responsible in pick up litter and abate graffiti twice each day.

ENVIRONMENTAL REVIEW

A Class 1 Categorical Exemption (CEQA Guidelines, Section 15301, Existing Facilities) relieves this project from the California Environmental Quality Act (CEQA) provisions. The project proposes no changes to the existing building and site.

DISCUSSION

The existing restaurant requests to allow for a Type 20 license (off-sale beer and wine) which authorizes the sale of beer and wine for consumption off site. No changes to the interior space and building exterior are requested as part of this application. Approval of a Special Development Permit is required for service station that sells beer and wine in the M-S/ITR/R-4/PD zoning district.

The site receives high traffic and surrounding land uses consist of mainly medium and high-density residential to the north and commercial and industrial uses to the south. Therefore, staff finds that the requested service expansion meets the required Special Development Permit findings, as the use complies with the General Plan goals and policies that promote an a full spectrum of conveniently located commercial uses. See Attachment 3 for the required Special Development Permit findings.

NEIGHBORHOOD IMPACTS/COMPATIBILITY:

Staff believes this use will not have a negative impact to the surrounding uses with the incorporation of the recommended Conditions of Approval (Attachment 4). The Conditions provide guidance to the applicant, as well as future business owners, and grant the City the right to modify or revoke the permit if the business operations begin to have negative impacts in the area. Therefore, the neighborhood impact from the requested full alcoholic beverage service would be minimal.

PUBLIC CONTACT

944[M11][BA2] notices were sent to surrounding property owners and residents adjacent to the subject site in addition to standard noticing practices, including advertisement in the Sunnyvale Sun Newspaper and on-site posting. No letters or calls were received from the public by staff.

ALTERNATIVES

1. Approve the Special Development Permit with recommended Conditions in Attachment 4.
2. Approve the Special Development Permit with modifications.
3. Deny the Special Development Permit.

RECOMMENDATION

..Recommendation

Alternative 1. Approve the Special Development Permit with recommended Conditions in Attachment 4.

..Staff

Prepared by: Betty Avila, Assistant Planner

Approved by: Momoko Ishijima, Senior Planner

ATTACHMENTS

1. Vicinity and Noticing Map
2. Project Data Table
3. Recommended Findings
4. Recommended Conditions of Approval
5. Site and Architectural Plans
6. Letter from the Applicant
7. Public Comment Received After Staff Report Published and Prior to Four Hours Before Meeting

[MI1]Check with Joey on the number of notices for each project

[BA2R1]Updated to reflect the number of notices sent