SUBJECT: ARCO/Silicon Valley Fuels: Appeal of a Zoning Administrator decision to approve a project located at 1697 S. Wolfe Rd. in a C-1/PD Zoning District (APN: 309-51-027):

Motion 2011-7502- Special Development Permit to allow the sale of beer and wine at an existing Arco automobile service station convenience store.

REPORT IN BRIEF:

Existing Site Conditions
Automobile service station

Surrounding Land Uses
- North: Liquor store
- South: Shopping center (Cupertino Square)
- East: Restaurant and offices
- West: Restaurant

Issues
Public safety

Environmental Status
A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Zoning Administrator Action
Approve with conditions

Staff
Deny the appeal and uphold the Zoning Administrator’s decision to approve the Special Development Permit
PROJECT DATA TABLE

<table>
<thead>
<tr>
<th></th>
<th>EXISTING</th>
<th>PROPOSED</th>
<th>REQUIRED/PERMITTED</th>
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<tbody>
<tr>
<td><strong>General Plan</strong></td>
<td>Commercial Neighborhood Shopping</td>
<td>Same</td>
<td>Commercial Neighborhood Shopping</td>
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<td><strong>Zoning District</strong></td>
<td>C-1/PD</td>
<td>Same</td>
<td>C-1/PD</td>
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<td><strong>Lot Size (s.f.)</strong></td>
<td>23,400</td>
<td>Same</td>
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<td><strong>Gross Floor Area (s.f.)</strong></td>
<td>1,672</td>
<td>Same</td>
<td>16,380 max.</td>
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<td><strong>Parking</strong></td>
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<tr>
<td><strong>Total Spaces</strong></td>
<td>23</td>
<td>Same</td>
<td>19 min.</td>
</tr>
<tr>
<td></td>
<td>(11 uncovered plus 12 under fuel canopies)</td>
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BACKGROUND:

**Zoning Administrator Hearing**

On September 20, 2011, the Zoning Administrator approved the Special Development Permit to sell beer and wine at this site. Several members of the public were present and voiced concerns regarding public safety and business competition with an adjacent liquor store (see Attachment F).

Based on staff’s analysis and public testimony, the Zoning Administrator was able to make the findings to approve the permit and added a condition to require a security plan for the area behind the service bays and the lot periphery where it adjoins the adjacent lots to the north (area of concern for the residents), which may involve the installation of additional cameras, lighting and signs specifying the contact information for the property owner and on-site manager (see Attachment B, Condition of Approval AT-5).

An appeal was subsequently submitted by the owner of the adjacent liquor store (Wolfe Liquors) on September 30, 2011. The following sections of the report provide project details and address the appeal request.

**Previous Actions on the Site**

Prior to consideration of the subject permit, a Miscellaneous Plan Permit was approved in 2008 to allow grocery sales at this service station (File Number 2008-0020). As part of the permit, the property owner was required to correct any violations, and install security measures, such as security cameras. These security measures were implemented and verified by the Department of Public Safety’s Neighborhood Preservation Division in 2008 and are still in place.
DISCUSSION:

Requested Permit(s)

- Special Development Permit

The property owner proposes to offer the sale of beer and wine for off-site consumption within the service station’s existing convenience store. Beer and wine will be stored within existing coolers and shelves within the store. With the exception of additional security measures required by the Zoning Administrator, no additional physical changes are proposed to the building interior or exterior.

ANALYSIS:

Hours of Operation

The applicant currently proposes to maintain the existing hours of operation for the convenience store, which are from 5:30 a.m. to midnight, seven days a week. Hours of operation for service stations with convenience stores are not generally restricted by the City in low-crime neighborhood. In fact, it is not uncommon for service stations with convenience stores (with or without alcohol sales) to operate twenty-four hours a day. For example, at least two gas stations (Chevrons stations at El Camino Real/Mary and Fair Oaks/Arques) within low-crime neighborhoods have been approved by the Planning Commission for alcohol sales with no city-imposed restrictions on the hours of operation.

Staff has consulted with the California Department of Alcoholic Beverage Control (ABC), which is the state governing authority over alcohol sales. As part of their permitting process, there is a general restriction of alcohol sales between 2 a.m. and 6 a.m. Additional restrictions may be warranted if there is an “overconcentration” of off-sale of beer and wine (for consumption off-site), which is defined as four or more facilities within a census tract. ABC has indicated that this facility would be the third, which is not considered to be an “overconcentration”.

Department of Public Safety Review

Planning staff has also consulted with the Sunnyvale Department of Public Safety (DPS) on this project. DPS expressed no concerns about off-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. DPS also commented that there would be no concerns with a twenty-four hour operation in this low-crime neighborhood, and finds that ABC’s restrictions for alcohol sales are adequate to reduce potential public safety impacts.
To further 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:

- No beer or wine shall be displayed within 5 feet of the cash register or front door unless inside a permanently-affixed cooler,
- No advertisements for beer or wine shall be displayed at motor fuel islands,
- Employees on duty between the hours of 10 p.m. and 2 a.m. who sell beer and wine shall be at least 21 years old, and
- The sale of single servings of beer or wine is prohibited.

The applicant is in agreement with these conditions, which are contained in staff’s recommended conditions of approval in Attachment B.

**Appeal**

Wolfe Liquors is located adjacent to the project site to the north. The owner of Wolfe Liquors has appealed the decision to approve the Special Development Permit based on the following (Attachment E):

1. Residents were not adequately informed of applicant’s intention to convert the existing convenience store to an AM/PM.
2. Approval of alcohol sales at this site, along with a twenty-four hour operation, may increase crime and loitering within the neighborhood.
3. Additional security measures requested by the Zoning Administrator, such as lighting, may impact the property value of neighboring homes.

**Staff’s Response to Appeal**

The following is staff’s response to the appeal:

1. The name or affiliation of the convenience store (e.g. AM/PM or generic “convenience store”) is not a land use issue; it is a private decision that a property owner makes. The use as a convenience store will be maintained, regardless of the name or operator. The only issue that is discretionary is the off-sale license for beer and wine.
2. As discussed in other sections of the report, the Department of Public Safety does not find that safety is compromised by approval of this permit and does not find it necessary to restrict the hours of operation of either the convenience store or the sale of beer/wine beyond those restrictions that may be imposed by ABC. In addition, approval of off-sale beer and wine at this site is not considered by ABC to be an “overconcentration” within this census tract. There are restaurants within the vicinity (adjacent to the site and also at the Cupertino Village Shopping Center) which may also serve alcohol for on-site consumption, but are not included in ABC’s definition of “overconcentration” of off-sale licenses. Much of the security issues cited in the letter are associated with the parking lot behind Wolfe Liquors, which is not readily visible from the street. The ARCO gas station is on an entirely different parcel.
and is reasonably visible from Homestead and Wolfe Road. This corner is generally active, which may discourage loitering.

3. Sunnyvale Municipal Code Section 19.42.050 requires that “lights be shielded or equipped with special lenses in such a manner as to prevent any glare or direct illumination on any public street or other property”. As recommended, the additional security measures will be reviewed by staff to ensure that they meet the intent of the condition and codes, which is to create a well-lit, visible and secure environment around the entire perimeter of the gas station site.

**Environmental Review**

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 1 Categorical Exemptions include minor changes in use.

**FISCAL IMPACT**

No fiscal impacts other than normal fees and taxes are expected.

**PUBLIC CONTACT**

With the exception of the appellant’s letter, staff has received one additional letter from an adjacent resident that currently lives in a two-story house behind Wolfe Liquors (Attachment F). The resident states that although the parking lot of ARCO is well lit, approval of the permit may increase the amount of loitering in the parking lot behind the Wolfe Liquors, which is not well-lit and has limited street visibility. The resident further states that when loitering occurs behind the liquor store, he currently contacts the liquor store owner to resolve the issue and does not contact the Department of Public Safety.

<table>
<thead>
<tr>
<th>Notice of Public Hearing</th>
<th>Staff Report</th>
<th>Agenda</th>
</tr>
</thead>
<tbody>
<tr>
<td>Published in the Sun newspaper</td>
<td>Posted on the City of Sunnyvale’s Web site</td>
<td>Posted on the City’s official notice bulletin board</td>
</tr>
<tr>
<td>Posted on the site</td>
<td>Provided at the Reference Section of the City of Sunnyvale’s Public Library</td>
<td>Posted on the City of Sunnyvale’s Web site</td>
</tr>
<tr>
<td>45 notices mailed to property owners and residents adjacent to the project site. 3 email notices were sent out to interested residents.</td>
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**CONCLUSION**

**Discussion:** With consultation with the Department of Public Safety and the California Alcoholic Beverage Control, staff finds that approval of the project, with or without a twenty-four hour operation, will result in minimal public safety impacts. In addition, the public safety concerns expressed by the appellant and neighbors do not appear to be associated with the ARCO gas
station, which is located on a corner property with reasonable lighting and street visibility and is not directly adjacent to residential properties. Staff finds that public safety concerns will be reduced with implementation of the conditions of approval.

**Findings and General Plan Goals:** Staff was able to make the required Findings based on the justifications for the Special Development Permit. Recommended Findings and General Plan Goals are located in Attachment A.

**Conditions of Approval:** Recommended Conditions of Approval are located in Attachment B.

**ALTERNATIVES**

1. Deny the appeal and uphold the Zoning Administrator’s decision to approve the Special Development Permit with attached conditions.
2. Deny the appeal and uphold the Zoning Administrator’s decision to approve the Special Development Permit with modified conditions.
3. Approve the appeal and deny the Special Development Permit.

**RECOMMENDATION**

Alternative 1.

Prepared by:

Noren Caliva
Project Planner

Reviewed by:

Trudi Ryan
Planning Officer

Attachments:

A. Recommended Findings
B. Recommended Conditions of Approval
C. Site and Architectural Plans
D. Letter from the Applicant
E. Appeal Letter
F. Letter from a Neighbor
G. Minutes from the Zoning Administrator Hearing of September 14, 2011
H. Map of Nearby Properties with Off-Site Sale of Alcohol
RECOMMENDED FINDINGS

Special Development Permit

Goals and Policies that relate to this project are:

1. 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 not able to make finding 1.a. as there are two businesses with off-sale alcohol sales within 500 feet of the property, Wolfe Liquors at 1689 S. Wolfe Road (Sunnyvale) and 99 Ranch Market at 10983 N. Wolfe Road (Cupertino). Although there are no public parks or schools within 500 feet of the property, it should also be noted that there is a privately-owned preschool approximately 150 feet away at Good Samaritan United Methodist Church across Homestead Road at 19624 Homestead Road (Cupertino).

   Staff was not able to make finding 1a.

2. 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.

   A study issue (2007-0264) completed in 2007, which revised the Municipal Code to allow for grocery and alcohol sales with permits, found that crime is associated more with site-specific and operational issues, rather than the type of product sold on the premises. The Department of Public Safety still finds crime to be low within this neighborhood, and has no concerns with the off-sale beer and wine at this location, with or without a twenty-four hour operation. In addition, the property is located on a well-lit corner lot, with reasonable visibility along both street frontages. This corner is generally active, and may discourage loitering. As a result, the project will not be detrimental to surrounding persons or properties, will not adversely affect surrounding property values, nor will it be detrimental to the public health, safety, or welfare. Therefore, findings 2.a. – 2.c. can be made.

   The project is expected to have minimal impacts on neighboring properties.
ATTACHMENT B

RECOMMENDED CONDITIONS OF APPROVAL AND STANDARD DEVELOPMENT REQUIREMENTS
NOVEMBER 14, 2011

Planning Application 2011-7502
1697 S. Wolfe Road
Special Development Permit to allow the sale of beer and wine at an existing Arco automobile service station convenient store.

The following Conditions of Approval [COA] and Standard Development Requirements [SDR] apply to the project referenced above. The COAs are specific conditions applicable to the proposed project. The SDRs are items which are codified or adopted by resolution and have been included for ease of reference, they may not be appealed or changed. The COAs and SDRs are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Applicable mitigation measures are noted with “Mitigation Measure” and placed in the applicable phase of the project.

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following Conditions of Approval and Standard Development Requirements of this Permit:

**GC: THE FOLLOWING GENERAL CONDITIONS OF APPROVAL AND STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE APPROVED PROJECT.**

**GC-1. CONFORMANCE WITH APPROVED PLANNING APPLICATION:**
All building permit drawings and subsequent construction and operation shall substantially conform with the approved planning application, including: drawings/plans, materials samples, building colors, and other items submitted as part of the approved application. Any proposed amendments to the approved plans or Conditions of Approval are subject to review and approval by the City. The Director of Community Development shall determine whether revisions are considered major or minor. Minor changes are subject to review and approval by the Director of Community Development. Major changes are subject to review at a public hearing. [COA] [PLANNING]

**GC-2. USE EXPIRATION:**
The approved use Permit for the use shall expire if the use is discontinued for a period of one year or more. [SDR] (PLANNING)
GC-3. PERMIT EXPIRATION:
The permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date and is approved by the Director of Community Development. [SDR] (PLANNING)

GC-4. ALCOHOL BEVERAGE CONTROL (ABC):
The project applicant shall obtain all appropriate and/or licenses from the Department of Alcoholic Beverage Control prior to commencement of use approved as part of this permit. [COA] [PLANNING]

GC-5. USE AND ABC COMPLIANCE:
Non-compliance with the Conditions of Approval for this planning application or the requirements of the Department of Alcoholic Beverage Control at any time may trigger either reconsideration (discretionary review of new application) of the SDP and the imposition of additional Conditions of Approval or the initiation of the revocation process by the Director of Community Development. [COA] [PLANNING]

GC-6. NOTICE OF CONDITIONS OF APPROVAL:
A Notice of Conditions of Approval shall be filed in the official records of the County of Santa Clara and provide proof of such recordation to the City prior to issuance of any City permit, allowed use of the property, or Final Map, as applicable. The Notice of Conditions of Approval shall be prepared by the Planning Division and shall include a description of the subject property, the Planning Application number, attached conditions of approval and any accompanying subdivision or parcel map, including book and page and recorded document number, if any, and be signed and notarized by each property owner of record.

For purposes of determining the record owner of the property, the applicant shall provide the City with evidence in the form of a report from a title insurance company indicating that the record owner(s) are the person(s) who have signed the Notice of Conditions of Approval. [COA] [PLANNING]

AT: THE FOLLOWING SHALL BE COMPLIED WITH AT ALL TIMES THAT THE USE PERMITTED BY THIS PLANNING APPLICATION OCCUPIES THE PREMISES.

AT-1. DISPLAY NEAR FRONT DOOR (SERVICE STATIONS ONLY):
No beer or wine shall be displayed within 5 feet of the cash register or front door unless it is inside a permanently-affixed cooler. [SDR] [PLANNING]

**AT-2.** DISPLAY AT MOTOR FUEL ISLANDS (SERVICE STATIONS ONLY):
No advertisement of alcoholic beverages shall be displayed at motor fuel islands. [SDR] [PLANNING]

**AT-3.** EMPLOYEE AGE (SERVICE STATIONS ONLY):
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 21 years old. [SDR] [PLANNING]

**AT-4.** PROHIBITION OF SINGLE SERVINGS SALES (SERVICE STATIONS ONLY):
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.” [SDR] [PLANNING]

**AT-5.** SECURITY PLAN (as approved by the Zoning Administrator):
The applicant is required to submit and institute a security plan to be approved by the Director of Community Development for the area behind the service bays and the lot periphery where it adjoins the adjacent lots to the north. The plan may include but is not limited to cameras that provide visibility to cashiers and employees, additional lighting and signs to identify adjacent private property. Clearly identified contact information for the property owner and on-site manager shall be displayed. [COA] [PLANNING]
Special Development Permit – to allow the sale of beer and wine at an existing gas station and snack shop.

Description of Proposed Project
Offer the off-site sale of beer and wine at an automobile service station's existing snack shop. The purchase of beer and wine would occur at the proposed site, but the consumption would take place off-site. Beer and wine sales will occur from existing coolers and shelves within the store. No physical changes or expansion of area are proposed to the interior or exterior of the structure.

Site Layout
Subject site is located at the Northwest corner of Wolfe Road and Homestead Road, with double driveways on both streets. There are two canopies, one on the East side of the property (adjacent to Wolfe Road) covering eight pumps, and one on the South side of the property (adjacent to Homestead Road) covering four pumps. In the middle of the property is a steel commercial building comprised of a 1082 square foot Auto Repair Shop and a 192 square foot Snack Shop / Convenience Store. See Attachment A, pages 1 - 3.

Adjacent to the property on the North side is a Liquor Store (Wolfe Liquors). Adjacent to the property on the West side is a restaurant (Pho Little Saigon). Across Homestead Road to the South is a shopping center (99 Ranch Market and Starbucks). Across Wolfe Road to the East is an office building (Insurance Agency and Dental Offices). See Attachment A, page 4.

Compliance with Development Standards/Guidelines
Finding 1 can not be met because the proposed project is located within 500 feet of other uses with off-site alcohol sales. See Attachment B.

1. Off-Site alcohol sales within 500 feet
   a) Wolfe Liquors (1689 S. Wolfe)
   b) 99 Ranch Market (10983 N. Wolfe)

2. # of Businesses with Off-Site alcohol sales within 1000 feet
   a) Wolfe Liquors (1689 S. Wolfe)
   b) 99 Ranch Market (10983 N. Wolfe)

3. Public Parks and Schools within 500 feet
   a) None.

4. Other notable sites within 500 feet
   a) Good Samaritan United Methodist Church and Preschool (19624 Homestead)

Expected Impact on the Surroundings
1. Will not adversely affect persons residing or working in surrounding area
2. Will not adversely affect surrounding property values
3. Will not be detrimental to public health, safety, and welfare
The sale of beer and wine at the automobile service station's existing convenience store is offered as a convenience to local residents and commuters working in the surrounding area. The proposed use is not expected to have a negative impact on surrounding residents, properties, or uses. The proposed sales would occur along with grocery sales in the existing convenience store. Adequate site security and video surveillance is in place to discourage loitering, theft, on-site consumption of alcoholic beverages, and other un-permitted activities.

a) No beer or wine will be displayed within 5 feet of the cash register.
b) No advertisement of alcoholic beverages will be displayed at motor fuel islands.
c) Employees on duty between the hours of 10pm and 2am who sell beer or wine will be at least 21 years old.
d) There will be no sale of single servings of beer (less than 24 ounces).
e) Existing security measures include adequate lighting inside and outside, clear visibility into and out of the store, and an 8 camera DVR based video surveillance system.
f) The site will continue to be maintained in a clean manner free from debris and noise to avoid impacts on surrounding residential uses.

The incidence of drunk in public calls, robberies and aggravated assaults in the subject area is very low, and the addition of beer and wine sales at the service station is not expected to change that activity. [data from CrimeReports.com (via link from City of Sunnyvale Public Safety Statistics web site) for 1/15/11 thru 7/15/11]. See Attachment C.

Hours of Operation:
5:30am - 12am (Midnight)
This letter is to appeal the Zoning Administrator’s decision to approve the Special Development Permit (2011-7502) on September 20, 2011. I personally don’t believe that the surrounding residences were adequately informed and notified of the true intentions of ARCO/Silicon Valley Fuels. The letter sent out to a select group of the people residing in the area does not state the plan to gradually become an AM/PM. The applicant himself admitted during the previous hearing that those were his true intentions. As receiving the Special Development Permit for the sale of beer and wine, the applicant will not need to notify any of the surrounding areas of the gradual transformation of their current business in the near future. This decision allowing ARCO to become an AMPM will set precedence over every other gas station in Sunnyvale to convert as well. In addition, the study specified by the City regarding grocery and alcohol sales (2007-0264) states that crime is associated more with site specific and operational issues rather than the product sold on the premises. However, an AM/PM that is open twenty four hours a day creates an opportunity for an increase in crime and loitering. I am not sure if the city spent an adequate and sufficient amount of time to make a finding on the loitering and crime issue. My inquiry is how the decision came about even though surrounding residents that did attend the initial hearing mentioned loitering and crimes do occur at multiple times throughout the day. I do not understand how the City can make a finding based on one person going out to the applicant’s site for a few hours during a single visit. The surrounding neighbors that have lived there for over a decade each state that there are numerous issues. As mentioned by the resident residing directly behind both properties, crime and loitering problems do arise behind the lot of ARCO towards the adjacent property of Wolfe Liquors. Even though reported crimes are low, many crimes that do
arise from the back of the parking lot of ARCO are never reported. Numerous times throughout the day people loiter for hours, sometimes vandalizing all three adjacent properties, yet they are not reported. The crime study by the City was made in 2007 yet times have changed drastically the last four years. The economy is in a much more unstable state than it was in 2007. In addition, the data used to determine that study must have come before 2007 as well. Using data from a different period of time to justify the present day crime issue is irresponsible. I believe we all can agree that the economy and the public are suffering a greater deal compared to 2007 and the years before this study was conducted. The current residing resident behind both properties has mentioned witnessing multiple acts of crime throughout the day. Currently he is coordinating with our current business of Wolfe Liquors to prevent any issues that might arise. The Zoning Administrator has made recommendations to create a well lit visible secure environment, yet the current residents behind both businesses have also stated their wish that no additional lights or light poles be added. As mentioned in the email, the property is separated by a wall, yet it fails to mention how the resident’s home is very large and a two story property. The resident’s windows face the back of the ARCO and adjacent businesses, where he can make observations that others cannot make. Also, the residents stated that they are strongly opposed to additional lighting from the ARCO by devaluing their home values and interrupting their well being.

X phu nguyen X hue nguyen 9/30/11

RECEIVED
SEP 6 0 2011
PLANNING DIVISION
From: <mhodge@ci.sunnyvale.ca.us>  
Date: 9/14/2011 3:15 PM  
Subject: Fw: Fwd: File Number: 2011-7502 Permit Type: Special Development Permit  
Attachments: Arco Station Wolfe Liquor parking.jpg; San Jose-20110908-00083.jpg

Sent via BlackBerry by AT&T

From: m>  
Date: Wed, 14 Sep 2011 11:18:53 -0/00  
To: Cotton, James Z  
Subject: Fwd: File Number: 2011-7502 Permit Type: Special Development Permit

----------- Forwarded message -----------  
From: Jim Cotton  
Date: Mon, Sep 12, 2011 at 11:17  
Subject: File Number: 2011-7502 Permit Type: Special Development Permit  
To: ncaliva@ci.sunnyvale.ca.us

File Number:
2011-7502 Permit Type: Special Development Permit

Location:
1697 S. Wolfe Rd. (near Homestead Ave.) APN: APN: 309-51-027

Applicant/Owner:
ARCO / Silicon Valley Fuels  
Staff Contact:  
Noren Caliva, Associate Planner, (408) 730-7637  
Noren: I am a Sunnyvale resident and have lived at 1678 Martin Ave for almost 14 years. Our residence is adjacent to the Wolfe Liquor rear parking lot that is next to the ARCO gas station. I have a "birds eye view" of the parking lot behind Wolfe Liquor from our 2nd story windows. I have some concerns about the sale of beer and wine by the ARCO gas station mini-market. My main concern is with the potential of patrons who purchase beer or wine at the ARCO, moving/walking/driving into the adjacent Wolfe Liquor parking and consuming their alcohol. The parking lot is completely dark by 9 pm when the parking lot lights go off. I would encourage you to visit this location after 9 pm and make a judgement for yourself. I've attached a picture from my cell phone taken at 9:15 pm tonight just to give you an idea of what I am talking about. This is the view from one of our upstairs windows. The parking lot of the ARCO station is lit. But just a few short steps away is a...
completely dark parking lot with little to no visibility from the street. This makes it a convenient place to consume the alcohol purchased at the ARCO.

Your report makes mention of a video surveillance system at the ARCO. It is comforting to me that there is this level of safety at the gas station. But to my knowledge there is no video surveillance behind Wolfe Liquor.

I am especially concerned about what could happen at night after the liquor store closes. The report says that the ARCO will be able to sell beer and wine until Midnight.

I have reviewed your crime report included in the report for the hearing. When there is alcohol consumption going on in the parking lot, I contact the liquor store owner and ask him to deal with it rather than calling the police. This might not be the "official" method of resolution, but it gives the store owner the opportunity to take care of the problem and maintain a reputable business. He has taken care of all situations that I have brought to his attention. He is at a disadvantage since his store has no rear facing windows to the parking lot.

I've included a second picture for your reference. I took this one just last week on September 8th at 5:25pm. It's a man drinking a beer in the parking lot. He positioned himself in a secluded corner of the parking lot (very close to my home) and behind a parked motorhome that blocked all view from the street or the ARCO parking lot. I didn't contact the store owner, since the person came and went in about 10 minutes or less. I am not sure where the person purchased his beer. Had he stayed longer and decided to drink more than one beer, I would have done something about it and contacted the store owner.

Your report also makes reference to the convenience it would be for ARCO customers to be able to purchase beer and wine at the gas station. On the same piece of property, adjacent to the gas station, within about 60 feet of two islands of gas pumps is a full service liquor store entrance. Why do we need to add an addition location to sell beer and wine on the same busy corner? I am having difficulty understanding this justification.

In conclusion, I would like you to take my concerns into consideration and not grant a permit for the ARCO station to sell alcohol. While there has been a comprehensive report assembled, I think it has not taken into account the late night issues that are generated by selling alcohol at this location until midnight. Please reconsider your recommendation.

Feel free to contact me if you would like to discuss this further.

Thank you,

Jim Cotton
In attendance: Jeff Honda, Applicant; Gil Tarabanovic, Neighbor; Tam Nguyen, Neighbor; James Cotton, Neighbor; Hieu Nguyen, Neighbor; Gerri Caruso, Zoning Administrator; Mariya Hodge, Project Planner; Luis Uribe, Staff Office Assistant.

Ms. Gerri Caruso, Zoning Administrator, on behalf of the Director of Community Development, explained the format that would be observed during the public hearing.

Ms. Caruso announced the subject application.

Mariya Hodge, Project Planner, presented the item. Staff did talk to the owner of an adjacent business who had concerns in regards to parking. They also had concerns regarding expansion of the building in the future if this application was to be approved. Staff told them it is possible but another application would be needed.

Ms. Caruso opened the public hearing.

Jeff Honda, Applicant, received and reviewed a copy of the staff report. Mr. Honda had no questions or comments and is in agreement with the conditions of approval.

Gil Tarabanovic, Neighbor, stated that he feels that adding another store that sells the same products as a store that already exists in the same shopping center is not needed. Mr. Tarabanovic wanted to know the benefit of opening another store that sells alcohol. Ms. Caruso stated that there are two sets of findings and if they cannot be met there is another set that can be used to justify the use. She also stated that if the findings and conditions are met they may be allowed to proceed. Mr. Tarabanovic stated that this is something that the city does not need.

Tam Nguyen, Neighbor, stated that he feels that the neighborhood was not informed that this business will be open 24 hours a day and feels that this information should have been given.
James Cotton, Neighbor, stated that their residence borders the Wolfe liquor store. Mr. Cotton stated that he is concerned with another beer and wine establishment opening at this location. He mentioned that there is an alleyway located behind the retail building that gets very dark and is not visible from the street and feels that it will attract people and eventually create a nuisance. Mr. Cotton mentioned that he emailed a picture to staff showing someone loitering in that spot, consuming alcohol. He also stated that there is a lot of garbage building up due to people loitering in that area.

Hieu Nguyen, Neighbor, stated that he is not against big business but feels that this business has the monetary assets to take this building to a bigger level and has the possibility of driving down his business. Mr. Nguyen mentioned that he installed security cameras and that Public Safety does occasionally drive through the area but feels that allowing this business to go past midnight and sell alcohol will exasperate loitering and crime. He also stated that this business will affect his business a lot and doesn’t see the cost effectiveness of having two similar businesses in the same area.

Jeff Honda, Applicant, stated that the company is trying to sell beer and wine for two reasons, first, as a convenience to the customer. They are a convenience store trying to offer additional convenience. Second, for financial reasons, they would be able to offer competitive prices for their customers. Mr. Honda also mentioned that they are applying right now to sell beer and wine in the existing facility if approved. They would work with Arco to convert the existing building into an AM/PM convenience store. He also stated that they are currently not open 24 hours a day but plan to. Mr. Honda stated that he understands the concerns about crime in the area but feels that the loitering issue is a current problem and was not brought in by his business. Ms. Caruso asked that if the application would the applicant be willing to add additional security cameras. The applicant stated that if they do move forward to change to an Arco AM/PM, they would install security lighting and cameras.

Ms. Hodge stated that Mr. Cotton mentioned that he sent an e-mail containing a photo and stated that staff has not received any e-mail containing a photograph. It was discovered that Mr. Cotton sent the e-mail to a Planner that has been out of the office this week. She also stated that Public Safety did review this and didn’t think there was a lot of crime in this area but as the public mentioned there is a lot of crime that they take care of instead of reporting it to the authorities.

Ms. Caruso closed the public hearing.

Ms. Caruso took this application under advisement until September 20, 2011. The Zoning Administrator approved the Special Development Permit as recommended by staff with modified conditions of approval. Condition of Approval AT-5 shall read:

The applicant is required to submit and institute a security plan to be approved by the Director of Community Development for the area behind the service bays and the lot periphery where it adjoins the adjacent lots to the north. The plan may include but is not
limited to cameras that provide visibility to cashiers and employees, additional lighting and signs to identify adjacent private property. Clearly identified contact information for the property owner and on-site manager shall be displayed.

Therefore, the Zoning Administrator was able to make the findings that although there would be two adjacent businesses selling liquor within 500 feet of each other;

a) The project will not adversely affect persons residing or working in the surrounding areas;

b) The project will not adversely affect surrounding property values;

c) The project will not be detrimental to public health, safety, and welfare.

The project site is zoned for commercial use. The commercial area is separated from adjacent residences by a wall and is located on a completely separate street. The study conducted by the City regarding grocery and alcohol sales (2007-0264) found that crime is associated more with site specific and operational issues, rather than the type of product sold on the premises. The project has not been found to cause the loitering problems on the minimally visible parking lot of the adjacent liquor store business as identified by the neighbors. This is an operational issue associated with an adjacent business. Reported crimes in the neighborhood are low. The rear parking lot of the proposed project site is reasonably visible to Homestead Road. Due to the gas station use, the project site is reasonably active on the exterior to discourage loitering, and as conditioned by the Zoning Administrator, the applicant will be required to institute a plan to create a well-lit, visible and secure environment around the entire perimeter of the site.

Ms. Caruso stated that the decision is final unless appealed to the Planning Commission with payment of the appeal fee within the 15-day appeal period.

The meeting was adjourned at 2:42 p.m.

Minutes approved by:

[Signature]
Gerri Caruso, Principal Planner
1697 S Wolfe Rd

Nearby Properties With Off-Site Sale of Alcohol

This map is created by the City of Sunnyvale Planning Division.
Data Sources: City of Sunnyvale Planning Division
10/27/2011, 13:00

City of Sunnyvale