



## Legislation Text

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**File #:** 18-260, **Version:** 1

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PLN18-0031; Conditional Use Permit; to allow for the sale of beer and wine for off-site consumption from the Shell station convenience store at 2175 Marina Blvd. The proposed beer and wine sales requires a Conditional Use Permit pursuant to Zoning Code Section 4-1644 (Concurrent Sale of Motor Vehicle Fuel and Alcoholic Beverages). CN(S) - Commercial Neighborhood (Special Review Overlay) District; Alameda County Assessor's Parcel Number 79A-568-10-7; RADC Enterprises, Inc. (applicant); Anabi Real Estate Development, LLC (property owner).

### **SUMMARY AND RECOMMENDATION**

The applicant RADC Enterprises, Inc. is proposing to allow for the sale of beer and wine for off-site consumption from an existing  $\pm 1,757$  square foot convenience store at 2175 Marina Blvd. San Leandro Zoning Code  $\S 4-1644$  requires approval of a Conditional Use Permit for businesses engaged in the concurrent sale of motor vehicle fuel and alcoholic beverages in the CN(S) Commercial Neighborhood, Special Review Overlay Zoning District. The existing permits (CU-70-4 and SD-88-23) allow for the existing gas station and convenience store to be located at the subject property in its current configuration.

Staff believes that, with the recommended Conditions of Approval, the proposed project will be compatible with adjacent residential, commercial, and industrial development in the immediate neighborhood. Staff recommends that the Board of Zoning Adjustments:

1. Adopt the California Environmental Quality Act categorical exemptions;
2. Adopt the recommended Findings of Fact; and
3. Approve Conditional Use Permit PLN18-0031 subject to the attached recommended Conditions of Approval.

### **APPLICANT'S SUPPORTING STATEMENT**

See attached Applicant Statement.

### **RELATIONSHIP TO SURROUNDING AREA**

The subject property is zoned CN(S) Commercial Neighborhood (Special Review Overlay) District, as are the immediate properties to the south, east, and west. Properties to the west along both sides of Marina Blvd. consist of a mix of uses including: commercial office; a car wash; restaurants; a church; a massage spa, and multiple single-family and multi-family residential properties. Diagonally to the south is Marina Center and directly to the east is the former Marina Supermarket. The area directly north of the property is zoned IP Industrial Professional and its current use is self-storage warehouse.

### **BACKGROUND**

The site is located on the northeast corner of Marina Blvd. and Doolittle Dr. and encompasses an area of approximately 31,291 square feet ( $\pm 0.72$  acre). The site contains an existing single-story  $\pm 1,757$  square-foot convenience store and car wash, and a self-service gas station with two canopies totaling 12 fuel pumps. The existing landscaping on the site will remain, totaling  $\pm 3,226$  square feet.

The convenience store has one main entrance, one public and one employee-only restroom, two storage spaces totaling  $\pm 350$  square feet, and  $\pm 878$  square feet of sales and cashier floor area. The proposed beer and wine cooler space will occupy a total of  $\pm 25$  square feet, approximately three percent of the total sales floor area. There are four employee shifts per day, with two employees on site between 6:00 am and 11:00pm and one employee on site between 11:00 pm and 6:00 am.

The property received a conditional use permit CU-70-4 to redevelop a Shell gas and service station in the 1970's. In 1988, the use permit was modified in part by SD-88-23 to allow for the redesign of the three service bays into its present condition, with an automated car wash and convenience store, and nine surface parking spaces. The gas station, convenience store, and car wash have been in continual use since approximately 1989, when improvements were completed for the property.

### **DETAILS OF THE PROPOSAL**

The applicant is requesting to sell beer and wine at the existing Shell Station convenience store. They are seeking a Type 20 California Department of Alcoholic Beverage Control (ABC) license which authorizes the sale of beer and wine for consumption off the premises where sold. Within the existing convenience store, the beer and wine will be located in existing coolers located along the rear wall, a minimum of 65 feet away from the nearest fuel pump station. The sales floor space allocated to alcoholic beverages shall not exceed 10 percent of the total sales floor area. While the convenience store is open 24 hours a day, no alcohol will be sold between 2:00 am and 6:00 am per Business and Professions Code §25631.

Concurrent sales of motor vehicle fuel and alcoholic beverages is a conditionally permitted use within the CN Commercial Neighborhood Zoning District. This is to ensure that such uses meet additional minimum standards and are evaluated on a case-by-case basis and that the Board of Zoning Adjustments has the ability to place Conditions of Approval in order to deem the use adequate and appropriate with the surrounding area. The site is also under the S Special Review Overlay District, which was established in 1997 through Ordinance 97-027 to provide for special review criteria for the Marina Entryway area.

### **STAFF ANALYSIS**

The proposed sales of alcoholic beverages is accessory to the existing convenience store use and will occupy approximately three percent (3%) of total sales floor area. The provision for sales of beer and wine for off-site consumption will comply with the requirements of the CN Commercial Neighborhood designation at the subject location because the property has been operating as a convenience store for over 25 years and the proposed accessory use is appropriate in the commercial neighborhood as prescribed in the definition of the CN District. Additionally, the proposed use is in an existing facility with no proposed expansions or interior alterations.

The project materials have been reviewed and were found to conform with the 1970 use permit and the 1988 modified use permit and site development plan. The use permit CU-70-4 states that the station would be an improvement both to the appearance of the site and services offered to the consumer, and that the location of the service station would not adversely affect other property in the vicinity.

The proposed accessory use in conjunction with the existing business also meets the district review criteria for the "S" Special Review Overlay District, in that any new retail uses in the Marina Entryway

be “compatible with the neighborhood retail needs of the community.”

Finally, the proposed use complies with all of the minimum standards for approval and conditions of approval for concurrent sale of motor vehicle fuel and alcoholic beverages per Zoning Code §4-1644.

Surrounding Area - The block between Menlo St. and Doolittle Dr. consists of a mix of unrelated uses including several restaurants, a sports bar, small offices, local serving businesses, and single and multi-family residential units. The closest sensitive uses are two day care facilities located approximately 600 feet from the subject property. Both day care facilities are located south of the property, separated by Marina Blvd. and Doolittle Dr.

Traffic / Circulation - This segment of Marina Boulevard has a speed limit of 30 miles per hour and a recorded average daily traffic of 7,711 vehicles per day, with a peak traffic flow at 4:45 PM (November 2016). The subject property is accessible via four driveways, two from Marina Blvd. and two from Doolittle Dr. The driveway locations comply with the approved plans for CU-70-4 and SD-88-23, which are located as far as possible from the corner radius while still permitting acceptable circulation on the site. The proposed accessory use will not increase the number of employees on site and the net increase in trip making is negligible, as the offering of beer and wine will be incidental to the retail offerings already present on the site.

Landscaping / Fencing - With 3,226 square feet of planting and corner landscaping-approximately 10 percent of the site-the property exceeds the minimum five percent (5%) zoning requirements for site landscaping. The property is separated from its adjacent neighbors to the north and east by a row of hedges and a ridged slat chain link fence, respectively. The hedges and fencing encourage general access from the driveways and sidewalks, preventing any cut through from neighboring properties. The chain link fence is conditioned to be lowered to three feet height within the 10-foot front yard set back to conform with Zoning Code §4-1682 which permits a maximum height of three feet in the front or corner side yard.

Building - The proposed accessory use is located within an existing facility and meets zoning requirements for lot size, width, height, setbacks, floor area ratio (FAR), and coverage.

Parking - Zoning Code §4-1704 requires that service stations provide 1 space per 2,500 square feet of lot area, in addition to 1 space per 200 square feet of convenience store, which amounts to 21 parking spaces required for the subject property. Nevertheless, the subject property complies with the nine off-street parking spaces as approved under CU-70-4 Modification and SD-88-23, and it is unlikely that the proposed use will generate significant parking demand.

Security - The applicant will install digital security cameras to monitor the interior and exterior premises and shall maintain digital footage for no less than 30 days. Footage will be shared with law enforcement upon request. Additionally, the business is conditioned to participate in San Leandro Police Department’s Crime Free Business Program, which involves training, on-site security evaluation, and on-site business follow-up.

The existing site is adequately served by streets, sidewalks, utilities and other public facilities. The San Leandro Police Department conducted a review of the proposal and added to the conditions of approval to address security concerns and operations at the subject property. Recommended Conditions of Approval for the proposed project include:

- No On-site Consumption. Consumption of beer and wine shall not be permitted on-site.
- Mandatory Training. Licensee, owner, and employees are to complete an ABC LEADs training course within three months of hire and every two years thereafter.
- Permits and Licensure. The applicant/property owner must obtain the necessary Type 20 ABC License, as well as any other necessary permits required under City regulations and State law.
- Review and Revocation. The City shall maintain the ability to review or revoke the Conditional Use Permit and set a new public hearing date to correct problems that may arise.
- Compliance. Licensee, owner, and employees conducting business on the property are required to comply with the terms and conditions of this Conditional Use Permit and obtain a City Business License.

### **GENERAL PLAN Conformance**

The General Plan designates this site as a Neighborhood Commercial land use area, which permits “local-serving businesses and services...that serve the daily needs of nearby residential areas.” Thus the provision of concurrent sale of motor vehicle fuel and the sale of beer and wine for off-site consumption from the Shell Station convenience store is consistent with the City of San Leandro General Plan.

The following General Plan goals, policies, and actions are applicable to the proposed project:

- Policy LU-2.1 Complete Neighborhoods. Strive for “complete neighborhoods” that provide an array of housing choices, easy access to retail stores, commercial services, and medical care.
- Policy ED-4.1 Retail Diversity. Encourage a diverse range of commercial uses, offering goods and services that fully meet the needs of San Leandro residents and businesses.
- Policy LU-8.1(c) Retail Hierarchy. Maintain a range of retail uses in the City, consisting of Neighborhood shopping districts located within subareas of the City, providing basic goods and services within easy access of neighborhood residents.
- Policy LU-8.12 Marina Boulevard. Improve the Marina Boulevard corridor as an east-west connector between Downtown San Leandro and the waterfront.

### **ENVIRONMENTAL REVIEW**

This item (PLN18-0031) is categorically exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines, Article 19, Section 15301(a) as it is in an Existing Facility with no proposed expansions or interior alterations.

### **PUBLIC OUTREACH**

This item received noticing for the June 7, 2018 Board of Zoning Adjustments hearing, including a legal advertisement in the East Bay Times/Daily Review newspaper, the posting of notices at City Hall and on the property, and mailing notification to business and property owners within 500 feet of

the subject property. No comments were received by staff regarding this proposal at the time of the filing of this report.

## **ATTACHMENTS**

Vicinity Map

Applicant Statement

Recommended Findings of Fact

Recommended Conditions of Approval

Exhibits A-B

- Exhibit A - Site Plan
- Exhibit B - Floor Plan

Photographs of Existing Site Conditions

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