



**CITY OF SACRAMENTO PLANNING COMMISSION  
RECORD OF DECISION**

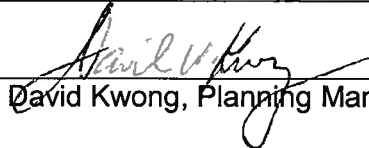
New City Hall, 915 I Street, 3<sup>rd</sup> Floor, Sacramento, CA 95814

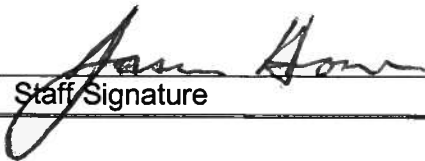
Project Name: Shell Gas Station Addition and Alcohol Sales Special Permit  
Project Number: P08-025  
Project Location: 5551 Martin Luther King Jr. Blvd.  
Assessor's Parcel No.: 022-0300-004  
Applicant: Geoffrey Fujimoto, Sutton and Associates, (916) 688-5850, 65 Quinta Court, Sacramento, CA 95823  
Action Status: Approved Action Date: 8/28/2008

**REQUESTED ENTITLEMENT(S):** A request to construct an approximately 600 square foot addition to an existing convenience market, to modify an existing gas station, and to sell beer and wine for off-premises consumption on approximately 0.56 acres in the General Commercial (C-2) zone. The project requires a Special Permit Modification to expand the convenience market and to remove two fuel dispensers, and a Special Permit for the sale of beer and wine for off-premises consumption.

**ACTIONS TAKEN:** On 08/28/2008, the Planning Commission took the following actions based on the attached findings of fact and subject to the attached conditions of approval:

A. Environmental Determination: Exempt (CEQA Guidelines Section 15303).	Approved
B. Special Permit Modification to construct an approximately 600 square foot addition to an existing convenience market and to remove two fuel dispensers from an existing gas station on approximately 0.56 acres in the General Commercial (C-2) zone.	Approved
C. Special Permit for the sale of beer and wine for off-premises consumption.	Approved

Action certified by:   
David Kwong, Planning Manager

Sent to Applicant: 08/28/2008 By:   
Staff Signature

**NOTICE OF PROTEST RIGHTS**  
The above conditions include the imposition of fees, dedications, reservations, or other exactions. Pursuant to California Government Code section 66020, this Notice of Decision serves as written notice to the project applicant of (1) the amount of any fees and a description of any dedications, reservations, or exactions imposed, and (2) that the

applicant may file a protest against the imposition of those fees, dedications, reservations, or other exactions within 90 days of the date of this approval, which is deemed to be the date that the fees, dedications, reservations, or other exactions are imposed. If the payment of a fee is imposed as a condition of approval, but the amount of the fee is not stated in this Notice of Decision and is not otherwise available to the applicant on a fee schedule or otherwise, the 90 days protest period will begin to run when the applicant is notified of the amount of the fee.

For purposes of this notice, the following fees are deemed to be imposed upon approval of the first discretionary entitlement for the subject development project and are subject to the protest procedures set forth in Title 18 of the Sacramento City Code as indicated: North Natomas Public Facilities Fee, Transit Fee, and Drainage Fee (SCC 18.24.160); North Natomas Land Acquisition Fee (SCC 18.24.340); North Natomas School Facilities Fee (SCC18.24.710); Jacinto Creek Planning Area Facilities Fee (SCC18.28.150); Willow Creek Project Area Development Fee (SCC 18.32.150); Development Impact Fees for the Railyards, Richards Boulevard, and Downtown Areas (SCC 18.36.150); Habitat Conservation Fee for the North and South Natomas Community Plan Areas (18.40.090); and Park Development Impact Fee (18.44.140).

The time within which to challenge a condition of approval of a tentative subdivision map, including the imposition of fees, dedication, reservation, or other exaction, is governed by Government Code section 66499.37

**EXPIRATION**

**TENTATIVE MAP:** Failure to record a final map within three years of the date of approval or conditional approval of a tentative map shall terminate all proceedings.

**SPECIAL PERMIT:** A use for which a Special Permit is granted must be established within three years after such permit is issued. If such use is not so established, the Special Permit shall be deemed to have expired.

**VARIANCE:** Any variance involving an action which requires a building permit shall expire at the end of three years unless a building permit is obtained within the variance term.

**PLAN REVIEW:** Any plan review shall expire at the end of three years unless a building permit is obtained within the plan review term.

**NOTE:** Violation of any of the foregoing conditions will constitute grounds for revocation of this permit. Building permits are required in the event any building construction is planned. The County Assessor is notified of actions taken on rezoning, special permits and variances.

**APPEALS**

Appeals of the Planning Commission decision of this item to the City Council must be filed at 915 I Street, New City Hall, 3rd Floor, within 10 calendar days of this meeting, on or before 09/08/08. If the 10<sup>th</sup> day falls on a Sunday or holiday, the appeal may be filed on the following business day.

**Findings Of Fact**

**A. Environmental Determination: Exemption**

Based on the determination and recommendation of the City's Environmental Planning Services Manager and the oral and documentary evidence received at the hearing on the Project, the Planning Commission finds that the Project is exempt from review under **CEQA Guidelines Section 15303, New Construction or Conversion of Small Structures** of the California Environmental Quality Act Guidelines as follows:

1. This project consists of a request to construct an approximately 600 square foot addition to an existing Shell gas station convenience market on approximately 0.56 acres in the General Commercial (C-2) zone.
2. The proposed project consists of the construction and location of limited numbers of new, small facilities or structures.

**B. The Special Permit Modification** to construct an approximately 600 square foot addition to an existing convenience market and to remove two fuel dispensers from an existing gas station on approximately 0.56 acres in the General Commercial (C-2) zone is approved subject to the following Findings of Fact and Conditions of Approval:

1. The project, as conditioned, is based upon sound principles of land use in that:
  - a. the proposed use (gas station/convenience market) is allowed in this zone subject to a Special Permit; and
  - b. the project is compatible with adjacent developments in the area.
2. The project, as conditioned, will not be detrimental to the public health, safety or welfare, nor result in the creation of a nuisance in that:
  - a. vehicle/pedestrian conflict will be reduced by the elimination of the driveways nearest to the intersection of Martin Luther King Jr. Blvd. and Fruitridge Rd.;
  - b. additional required improvements will ensure safe pedestrian access to the site and accessible paths of travel on the sidewalks adjacent to the site; and
  - c. the project site will be remodeled, landscaped planter areas will be upgraded, and the project will encourage additional renovations of the surrounding properties.
3. The project, as conditioned, is consistent with the General Plan designation of 'Community/Neighborhood Commercial and Offices' in that the expansion of the convenience market use will provide goods for the daily needs of adjacent residential areas.

**C. The Special Permit** for the sale of beer and wine for off-premises consumption is approved subject to the following Findings of Fact and Conditions of Approval:

1. The project, as conditioned, is based upon sound principles of land use in that:
  - a. the proposed use will not adversely affect the peace or general welfare of the surrounding neighborhood in that in that the Police Department has provided conditions restricting the sale of singles containers and requiring sufficient safety elements, such as lighting, operating hours restriction, removal of the existing payphone, and visibility;
  - b. the proposed use will not result in undue concentration of establishments dispensing alcoholic beverages in that this use currently sells alcohol, has maintained a California Department of Alcoholic Beverage Control license since 1990, and will not add any new establishments selling alcohol in the vicinity;
  - c. the proposed use will not enlarge or encourage the development of a skid row or blighted area in that the property is being renovated to enhance the usability of the site and aesthetically improve the site; and
  - d. the proposed use will not be contrary to or adversely affect any program of redevelopment or neighborhood conservation in that the project will enhance

the aesthetics of the site and lend itself to the overall safety and improvement of the corner.

2. The project, as conditioned, will not be detrimental to the public health, safety or welfare or result in the creation of a nuisance in that:
  - a. The sale of beer and wine is existing and will not result in an undue concentration of establishments dispensing alcoholic beverages in that the number of establishments dispensing alcoholic beverages is not being increased;
  - b. Conditions regarding the sale of beer and wine have been imposed; and
  - c. The Police Department has determined the project, as conditioned, has sufficient safety elements, such as lighting, operating hours restriction, and visibility.
3. The project, as conditioned, is consistent with the General Plan policies to support viable businesses.

## Conditions Of Approval

- B.** The **Special Permit Modification** to construct an approximately 600 square foot addition to an existing convenience market and to remove two fuel dispensers from an existing gas station on approximately 0.56 acres in the General Commercial (C-2) zone is hereby approved subject to the following conditions:

### General

- B1. Applicant shall obtain all necessary building permits prior to commencing construction.
- B2. The project shall be constructed in accordance with the attached plans (Exhibits 1A-1D).
- B3. Any modification to the project shall be subject to review and approval by Planning Department staff prior to the issuance of building permits.
- B4. The applicant shall comply with all Design Review conditions of approval (DR07-402).
- B5. A minimum of one bicycle security rack shall be installed at the front of the business.
- B6. The applicant shall submit a revised site and landscaping plan that reflects Development Engineering conditions and includes additional landscaping in the area where the two existing driveways are closed and the southwest corner of the property. The applicant shall also consult with SHRA staff in the design of the landscape plan for the site. The plan shall be consistent with any Community or Urban Design Plans or Guidelines applicable to the site. The final site and landscape plan shall be subject to the review and approval of Design Review and Planning staff prior to issuance of building permits.

### Development Engineering

- B7. Construct standard subdivision improvements as noted in these conditions pursuant to section 16.48.110 of the City Code. Improvements shall be designed and constructed to City standards in place at the time that the Building Permit is issued. All improvements shall be designed and constructed to the satisfaction of the Development Engineering Division. Any public improvement not specifically noted in these conditions shall be designed and constructed to City Standards. This shall include street lighting and the repair or replacement/reconstruction of any existing deteriorated curb, gutter and sidewalk per City standards to the satisfaction of the Development Engineering Division.
- B8. The applicant shall relocate any utility post and/or regulatory sign that are currently on the sidewalk adjacent to the subject property (if necessary), or dedicate a pedestrian easement and meander the sidewalk accordingly to meet A.D.A. requirements to the satisfaction of the Development Engineering Division.
- B9. The applicant shall remove the two existing driveways closest to the round corner adjacent to the subject property (one on Fruitridge Rd. and one on MLK Jr. Blvd.) to the satisfaction of the Development Engineering Division.
- B10. The applicant shall redesign and reconstruct (if necessary) the remaining two driveways to meet current City standards and A.D.A. requirements to the

satisfaction of the Development Engineering Division.

- B11. The site plan shall conform to A.D.A. requirements in all respects. This shall include the replacement of any curb ramp that does not meet current A.D.A. standards.
- B12. The applicant shall construct A.D.A. compliant ramp(s) at the corner of the intersection adjacent to the subject property (if necessary) to the satisfaction of the Development Engineering Division.
- B13. The site plan shall conform to the parking requirements set forth in chapter 17 of City Code (Zoning Ordinance).
- B14. The design of walls fences and signage near intersections and driveways shall allow stopping sight distance per Caltrans standards and comply with City Code Section 12.28.010 (25' sight triangle). Walls shall be set back 3' behind the sight line needed for stopping sight distance to allow sufficient room for pilasters. Landscaping in the area required for adequate stopping sight distance shall be limited 3.5' in height at maturity. The area of exclusion shall be determined by the Development Engineering Division.

#### Police

- B15. The perimeter of the site shall be adequately fenced with a chain link fence containing necessary construction gates to be locked after normal construction hours while project is under construction.
- B16. A security person shall be provided to patrol the project after normal working hours during all phases of construction as necessary.
- B17. Security lighting shall be provided to illuminate vulnerable equipment and materials.
  - a. Lighting shall be at a level to allow adequate visibility of the presence of any person on or about the site during hours of darkness.
- B18. Entrances to the parking areas and other highly visible locations on-site shall be posted with appropriate signs per 22658 (a) CVC to assist in removing vehicles at the property owner/manager's request.
- B19. Tire stops shall be installed in all parking spaces that do not overhang a 6-foot wide landscape or sidewalk area.
- B20. All lighting fixtures shall be of a type and kind to resist breakage and other vandalism.
- B21. Parking areas and driveways shall be illuminated with high intensity discharge lighting with sufficient lumens to provide adequate illumination to:
  - a. Provide a safe, secure environment for persons, property, and vehicles.
  - b. Such lighting shall be equipped with vandal-resistant covers and photocell control.
  - c. A minimum illumination intensity of 1.0 foot-candles per square foot at 6-18 inches above the surface is recommended.
- B22. The jamb on all aluminum-framed, swinging doors shall be so constructed or protected to withstand 1600 pounds of pressure in both a vertical distance of three inches and a horizontal distance of one inch each side of the strike.
- B23. Glass doors shall be secured with a deadbolt lock with a minimum throw of one inch.

The outside ring should be free moving and case hardened.

- B24. Doors with glass panels and doors with glass panels adjacent to the door's frame shall be secured with burglary-resistant glazing or the equivalent, if double-cylinder deadbolt locks are not installed.
- B25. Any single or pair of doors requiring locking at the bottom or top rail shall have locks with a minimum of one throw bolt at both the top and bottom rails.
- B26. Doors with panic bars will have vertical rod panic hardware with top and bottom latch bolts.
- B27. Outside hinges on all exterior doors shall be provided with non-removable pins when pin type hinges are used or shall be provided with hinge studs, to prevent removal of the door.
- B28. All hatchway openings on the roof of any building shall be secured as follows:
  - a. If the hatchway is of wooden material, it shall be covered on the outside with at least 16 gauge sheet steel or its equivalent attached with screws.
  - b. The hatchway shall be secured from the inside with a slide bar or slide bolts. The use of crossbar or padlock must be approved by the fire department.
  - c. Outside hinges on all hatchway openings shall be provided with non-removable pins when using pin-type hinges.
- B29. All air duct or air vent openings exceeding 8" x 12" on the roof or exterior walls of any building shall be secured by covering the same with either of the following:
  - a. Iron bars of at least 1/2" round or one by one-fourth inch flat steel material, spaced no more than five inches apart and securely fastened.
  - b. A steel grill of at least 1/8" material or two inch mesh and securely fastened.
  - c. If the barrier is on the outside, it shall be secured with galvanized rounded head flush bolts of at least 3/8" diameter on the outside.
- B30. The Police Department reserves the right to impose additional security and safety conditions on this site in order to limit the potential for this site to become an attractive location for loitering and other inappropriate or illegal behavior.

#### Building

- B31. An accessible path to travel shall be provided to the public way.

- C. The **Special Permit** for the sale of beer and wine for off-premises consumption is hereby approved subject to the following conditions:

#### General

- C1. No more than three (3) of the eleven (11) proposed cold boxes shall display alcoholic beverages.
- C2. No beer, malt, and/or wine cooler beverage products shall be sold in containers larger than 16 oz.
- C3. Wine shall not be sold in bottles or containers smaller than 750ml.

#### Police

- C4. The sale of alcohol shall be limited to beer and wine only; no hard liquor sales allowed.
- C5. Beer shall not be sold in quantities of less than one six-pack.
- C6. Wine coolers shall not be sold in quantities of less than factory packs of four.
- C7. The applicant shall install buzzers on the doors of the cold box to notify clerks that the door is open.
- C8. The sale of alcohol is allowed between the hours of 7:00 a.m. to 12:00 a.m.
- C9. The applicant shall post the property "No Trespassing" and sign an agreement with the Police Department to prosecute all violators. This agreement shall be kept on file on the premises and in the Police Department.
- C10. The applicant shall work with South Police patrol facility to ensure that the property is posted for "No Loitering" in accordance with 602(k) P.C. An agreement is to be filed with the Police Department which will allow officers to remove loiterers and reflects to operator/owner agreement to prosecute.
- C11. No public telephones shall be installed at the site.
- C12. The existing public telephone(s) on the subject property shall be removed prior to issuance of a certificate or establishment of the proposed use.
- C13. Signs shall be posted prohibiting consumption of alcoholic beverages in the business or in the parking areas. Signs shall read: "It is unlawful to enter or remain on these premises, adjacent parking lot, or adjacent sidewalk with an open alcoholic beverage container. P.C. 647e(a)"; plus any appropriate local ordinances. Lettering is to be block-style and a minimum of 2 ½ " in height. Signs will be clearly visible to the patrons of the business parking lot and to persons on the public sidewalk.
- C14. All illegal activities observed on or around the business shall be promptly reported to the Police Department.
- C15. Business rules shall be posted in the business interior in a conspicuous place.
- C16. Store windows shall be left unobstructed by either signage and/or display racks, shelving, and merchandise in order to allow viewing of the interior of the business by patrolling police.
- C17. There shall be no video/arcade machines maintained upon the premises at any time.
- C18. The applicant shall be responsible for the daily removal of all litter generated by the business, from the subject site, adjacent properties, and streets.
- C19. Trash receptacles shall be locked & enclosed at all times.

### **Advisory Notes**

#### **General**

- 1. The neighborhood association suggests that the convenience market stock some fresh food items in order to provide the nearby residential neighborhoods with healthy choices.

#### **Police**

- 2. Landscaping should not create blind spots or hiding spots and should be situated in locations that maximize observation while still providing the desired degree of

aesthetics.

3. Landscaped areas should be planned for maximum growth while at the same time providing unobstructed observation of buildings, parking areas, and walkways, day and night. The following guidelines are recommended:
  - A. Groundcover plants, including perennial and annual wildflowers, should be used within five feet (5') of the edge of walkways and areas requiring visual surveillance.
  - B. Groundcover plants should not exceed a height of two feet (2') at maturity in order to allow for adequate natural surveillance.
  - C. Shrubs should be placed five feet (5') from the edge of walkways requiring natural surveillance and should not be placed within five feet (5') of any fire hydrant or cluster-type postal receptacle.
  - D. The height of shrubs should not exceed three (3) feet at maturity. Shrubs that exceed a height of three feet (3') due to natural growth are not recommended with the exception of security-planting materials utilized as barrier plants.
  - E. Security-planting materials are recommended along property lines and under vulnerable windows throughout landscaped areas.
    - (1) Security-planting materials containing thorns or needles, or those dense in structure may exceed three feet (3') and should be used adjacent to perimeter walls, fences and other walls where pedestrian cut-through-traffic is undesired.
  - F. Landscaping rock such as river rock and other masonry material such as brick, etc. that are normally used for landscaping accents or borders, frequently lend themselves for use as weapons and/or tools for the commission of crimes.
    - (1) When river-rock and other masonry materials are used, the material should be grouted to prevent removal by hand. River rock should be grouted so that only one-third (1/3) of the rock is exposed above ground
  - G. Landscaping should not cover any exterior doors or windows; block or screen the visibility of building address numbers from a public or internal street; block or screen the view of any seated driver from oncoming vehicles or pedestrians at driveways.
  - H. Trees of an appropriate number, size and species are encouraged throughout landscaped areas and shall be maintained at a minimum distance of eight feet (8') from the lowest branch to the ground.
  - I. The use of trees, maintained at a minimum distance of eight feet (8') from the lowest branch to the ground, may also be used in such areas to provide shade for pedestrians.
  - J. Trees shall be placed as not to inhibit the light pattern of electroliers.
    - (1) A minimum distance of fifteen (15) feet from the fixture shall be maintained when planting trees in order to meet required illumination levels.
4. Trash dumpsters and enclosures should not create blind spots or hiding places and should be clearly visible and well lit.

#### Parks

5. As per City Code, the applicant will be responsible to meet his/her obligations

regarding Title 18, 18.44 Park Development Impact Fee, due at the time of issuance of building permit. The Park Development Impact Fee due for this project is estimated at \$96.00. This is based on 600 sq. ft. at the retail infill rate of \$0.16 per sq. ft. Any change in these factors will change the amount of the PIF due. The fee is calculated using factors at the time that the project is submitted for building permit.

#### Building

6. All exterior doors shall be accessible and strike side clearance shall be provided at each door.

#### Utilities

7. Only one domestic water service is allowed per parcel.
8. There is an existing 6" sewer main that is currently running along the north property line of the subject property. Per City Code section 13.04.230, no permanent structure (including without limitation garages, patios, concrete slabs, tool shed and similar structures) shall be constructed on top of water, sewer or drainage pipelines or anywhere within the associated utility easements, unless approved by the director upon execution of a hold harmless agreement approved by the city attorney.
9. The lot shall be graded so that drainage does not cross property lines.
10. Post construction, stormwater quality control measures shall be incorporated into the development to minimize the increase of urban runoff pollution caused by development of the area. Only source control measures are required for the project. Refer to the "Guidance Manual for On-site Stormwater Quality Design Manual" dated May 2007 for appropriate source control measures.