

PLANNING COMMISSION
Ray Barbour, Chair
John Mercurio, Vice Chair
Jason Laub
Craig Mizutani
Mark Weinmann

Civic Center
1950 Parkside Drive
Concord, CA 94519
www.cityofconcord.org



Regular Meeting of the City of Concord Planning Commission

Wednesday,
August 7, 2019

6:30 p.m.

Council Chamber
1950 Parkside Drive

Information for the public on participation at Planning Commission meetings can be found on the back of the Speaker Identification Card located near the Council Chamber entrance. Should you have any questions after consulting the Speaker Identification Card, please contact the Planning Division at (925) 671-3152 prior to the Planning Commission meeting.

AGENDIZED ITEMS – The public is entitled to address the Planning Commission on items appearing on the agenda before or during the Planning Commission's consideration of that item. Each speaker will be limited to approximately three minutes.

1. ROLL CALL

2. PLEDGE TO THE FLAG

3. PUBLIC COMMENT PERIOD

4. CONSENT CALENDAR

A. [7/17/19 Meeting Minutes](#)

5. PUBLIC HEARINGS

- A. [7-Eleven Finding of Public Convenience and Necessity \(PL19091 – UP\)](#)** – Application for a Use Permit to allow an existing convenience store to sell beer and wine and a request to issue a Finding of Public Convenience and Necessity (FOPCN) authorizing the Department of Alcoholic Beverage Control (ABC) to approve a Type 20 liquor license for the sale of beer and wine at the Clayton Valley Shell and 7-Eleven convenience store at 1500 Kirker Pass Road. CEQA: Pursuant to the California Environmental Quality

Act (CEQA), Guideline Section 15301 Class 1 (Existing Facilities), the project is categorically exempt. The General Plan designation is Neighborhood Commercial; Zoning classification is NC (Neighborhood Commercial); APN 118-031-039. **Project Planner: Lorna Villa @ (925) 671-3176**

- 6. COMMISSION CONSIDERATIONS**
- 7. STAFF REPORTS AND ANNOUNCEMENTS**
- 8. COMMISSION REPORTS AND ANNOUNCEMENTS**
- 9. FUTURE PUBLIC HEARING ITEMS**
- 10. ADJOURNMENT**

Next Meeting: Regular Meeting
Date: 8/21/2019 – 6:30 PM

ADA NOTICE AND HEARING IMPAIRED PROVISIONS - The Council Chamber is equipped with a T-Coil Hearing Loop. This system allows "T" coil reception of the audio proceedings. Please switch your hearing aid or cochlear device to the "T", "T" Coil or telephone position. If you would like better audio reception, a loop receiver that picks up the audio loop is available from the City Clerk.

In accordance with the Americans with Disabilities Act and California Law, it is the policy of the City of Concord to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including those with disabilities. If you are disabled and require a copy of a public hearing notice, or an agenda and/or agenda packet in an appropriate alternative format; or if you require other accommodation, please contact the ADA Coordinator at (925) 671-3031, at least five days in advance of the hearing. Advance notification within this guideline will enable the City to make reasonable arrangements to ensure accessibility.

REGULAR MEETING OF THE
CITY OF CONCORD PLANNING COMMISSION
CITY COUNCIL CHAMBER, 1950 PARKSIDE DRIVE
CONCORD, CALIFORNIA

Wednesday, July 17, 2019

A regular meeting of the Planning Commission, City of Concord, was called to order by Chair Barbour at 6:30 P.M., July 17, 2019, in the City Council Chamber.

I. ROLL CALL

COMMISSIONERS PRESENT: Chair Ray Barbour
Commissioner Jason Laub
Commissioner Mark Weinmann

COMMISSIONERS ABSENT: Vice Chair John Mercurio
Commissioner Craig Mizutani

STAFF PRESENT: Mindy Gentry, Planning Manager/Secretary to the
Planning Commission
Margaret Kotzebue, Senior Assistant City Attorney
Michael Cass, Principal Planner
Abhishek Parikh, Transportation Manager
Winnie Chung, Transportation Program Manager II
Coleman Frick, Associate Planner

II. PLEDGE TO THE FLAG

Chair Barbour led the pledge.

III. PUBLIC COMMENT PERIOD

No public comment was heard.

IV. ADDITIONS / CONTINUANCES / WITHDRAWALS

There were none.

V. CONSENT CALENDAR

APPROVAL OF MINUTES

No public comment was heard.

Motion was made by Commissioner Weinmann and seconded by Commissioner Laub to approve the meeting minutes of July 3, 2019. The motion was passed by the following vote:

AYES: Weinmann, Laub, Barbour

NOES: None
 ABSTAIN: None
 ABSENT: Mercurio, Mizutani

VI. PRESENTATION

Implementing Senate Bill 743 and Vehicle Miles Traveled – Abhishek Parikh, Transportation Manager & Michael Cass, Principal Planner

Julie Morgan, from Fehr & Peers, gave a presentation and answered questions from the Planning Commission regarding the implementation date, how long Vehicle Miles Traveled has been in existence, and potential CEQA impacts.

No public comment was heard.

Commissioner Laub thanked Julie for her presentation and expressed his excitement for the new changes upcoming.

Commissioner Weinmann also thanked Julie for the simplicity of her presentation and he now has a better understanding of the determination process.

Chair Barbour mentioned that although this presentation was quick, he feels this is simply the tip of the iceberg of things to come.

Motion was made by Commissioner Weinmann and seconded by Commissioner Laub that the Planning Commission received and filed the presentation on SB 743. The motion was passed by the following vote:

AYES: Weinmann, Laub, Barbour
 NOES: None
 ABSTAIN: None
 ABSENT: Mercurio, Mizutani

VII. PUBLIC HEARINGS – None

VII. COMMISSION CONSIDERATIONS

There were none.

VIII. STAFF REPORTS / ANNOUNCEMENTS

There were none.

IX. COMMISSION REPORTS / ANNOUNCEMENTS

There were none.

X. FUTURE PUBLIC HEARING ITEMS

Planning Manager Mindy Gentry announced the August 7th meeting currently has one item, a Finding of Public Convenience and Necessity for 7-Eleven at 1500 Kirker Pass Road.

XI. ADJOURNMENT

Commissioner Weinmann moved to adjourn at 6:53 P.M. Commissioner Laub seconded the motion. Motion to adjourn was passed by unanimous vote of the Commissioners present.

APPROVED:

Mindy Gentry
Planning Manager / Secretary to the Planning Commission

Transcribed by Grant Spilman,
Administrative Coordinator

DATE: August 7, 2019

SUBJECT: CLAYTON VALLEY SHELL AND 7-ELEVEN USE PERMIT AND FINDING OF PUBLIC CONVENIENCE AND NECESSITY (PL19091-UP)

Recommendation: Adopt Resolution No. 19-12PC, approving a Use Permit (PL19091-UP) to allow an existing convenience store to sell alcohol and issuing a Finding of Public Convenience and Necessity (FOPCN) authorizing the Department of Alcoholic Beverage Control (ABC) to approve a Type 20 liquor license for the sale of beer and wine at the Clayton Valley Shell and 7-Eleven convenience store.

CEQA: Categorically exempt under CEQA Guidelines Section 15031 (“Existing Facilities”)

I. Introduction

A. Application Request

Application for a Use Permit to allow an existing convenience store to sell beer and wine and a request to issue a Finding of Public Convenience and Necessity (FOPCN) authorizing ABC to approve a Type 20 liquor license for the sale of beer and wine for Clayton Valley Shell and 7-Eleven convenience store, located at 1500 Kirker Pass Road.

B. Location

The project site is located at the northeast corner of Clayton Road and Kirker Pass Road at 1500 Kirker Pass Road, APN: 118-031-039.



C. Applicant	Owner(s)
Compass Commercial	Food Services Paradigm, Inc.
Katy Schardt	Amir Hatambeiki
3005 Douglas Blvd.	1500 Kirker Pass Road
Roseville, CA 95661	Concord, CA 94521

II. Background

On March 30, 2017, the Planning Division approved an Administrative Design and Site Review application to convert a 2,925 square foot automotive service garage at an existing gas station into a 7-Eleven convenience store, with no alcohol sales, at 1500 Kirker Pass Road. Convenience stores with no alcohol sales is a use permitted by right under the property's NC (Neighborhood Commercial) zoning designation. The conversion of the automotive service garage has been completed and 7-Eleven has been operating with no alcohol sales since opening on December 31, 2018.

The Development Code allows for alcohol sales at convenience stores in the Neighborhood Commercial zoning district through the Use Permit process (See Table 18.40.020). Liquor licenses are issued by the Department of Alcoholic Beverage Control (ABC). The ABC may issue liquor licenses following the local jurisdiction's confirmation that the use complies with the underlying zoning, and the ABC's determination that the retailer is not located in an area that is over concentrated with liquor licenses or in an area of high crime. Over concentration is defined when the ratio of the number of licenses to population within a census tract exceeds the ratio in the county. A high-crime area is defined as when the total number of offenses in the reporting district exceeds 120 percent of the average number of offenses. If the location meets either of these criteria, ABC must refer the application to local jurisdictions, who must first find that the proposed alcohol sales serve a public convenience and necessity (FOPCN), before ABC can issue the liquor license. The City's FOPCN permit requirements and findings are located in Section 18.200.040 of the Development Code.

According to the ABC, four licenses are allowed in Census Tract 3553.04 (where the subject site is located) and four licenses have been granted. Therefore, the Type 20 license requested by 7-Eleven would result in an overconcentration of liquor licenses. Additionally, the site is also located in a high-crime area as the total number of offenses in the reporting district exceeds 120 percent of the average number of offenses. The average number of offenses per district is 126, the reporting district had 152 offenses which is 121 percent. On May 22, 2019, the applicant submitted an application for a Use Permit to allow 7-Eleven to sell alcohol along with a request for the City to issue a FOPCN authorizing the ABC to approve a Type 20 liquor license for the off-sale of beer and wine.

The application has been reviewed by the Police Department and they are not opposed to the issuance of a Type 20 license (Exhibit D), provided certain conditions of approval are included.

The application was deemed complete by the Development Advisory Committee (DAC) on June 21, 2019.

III. General Information**A. General Plan**

The General Plan designation is Neighborhood Commercial.

B. Zoning

The site is zoned Neighborhood Commercial.

C. CEQA Status

Pursuant to the provision of the California Environmental Quality Act (CEQA) of 1970, as amended, and pursuant to CEQA Guidelines Section 15301 "Existing Facilities" the project is classified as a Class 1 Categorical Exemption, and therefore, no further environmental review is required. The project consists of the addition of alcohol sales, which is considered to be negligible expansion of the use. Additionally, because the site is not located in a sensitive environment in an historical district, scenic highway, on a site identified to be on a hazardous waste site under Section 65962.5, and there is no cumulative impact of successive projects of the same type in the same place, none of the exceptions to the categorical exemption apply under CEQA Guidelines Section 15300.2.

D. Site Description

Lot Size	.62 acre
Existing Improvements	Gas Station, convenience store, parking area, signage, and site lighting.
Topography	The parcel is flat.
Existing Vegetation	Trees, shrubs, and ground cover along the perimeter of the site.

E. Surrounding Land Use

	Land Use	General Plan Designation	Zoning
North	Clayton City Limits (commercial)	N/A	N/A
South	Clayton Valley Shopping Center	NC	NC
East	Clayton City Limits (commercial/residential)	N/A	N/A
West	Valero Gas Station/Residential	NC/PD	NC/MDR

IV. Detailed Project Description**A. Site Planning/Circulation/Parking**

Lot Size	.62 acre
Existing Improvements	2,925 square foot convenience store and a 7-pump gas station with canopy.
Topography	The parcel is relatively flat.
Existing Vegetation	Trees along property frontages.

B. Description of Business

In 2018, the service bays of Shell gas station were converted into a 2,925 square foot 7-Eleven “Convenience Store, no Alcohol Sales.” The Development Code defines a “Convenience Store” use as “a neighborhood serving establishment that sells a range of food and merchandise oriented to daily convenience shopping needs such as limited groceries, prepackaged food, tobacco products, beverages, and other household good for off-site consumption. A convenience store may be part of a service station or an independent land use and may typically have late hours or 24-hour operation.” Consistent with this use classification, the 7-Eleven store sells a wide variety of common household groceries, beverages, over the counter medications, cigarettes, and lottery tickets as well as gasoline and automotive accessories. The store is currently open 24 hours a day, seven days a week. 7-Eleven proposes to sell alcohol for off-site consumption (off-sale of beer and wine), which would change the use classification to “Convenience Store, with Alcohol Sales.” The alcohol sales area will consist of four cooler cases and shelf space that would occupy no more than 120 square feet of floor area of the 2,925 square foot store.

V. Analysis

A, General Plan/Zoning

The site’s Neighborhood Commercial land use designation is intended for neighborhood commercial centers that provide convenience and comparison goods and services to the local community. The proposed Convenience Store, with Alcohol Sales is consistent with the Neighborhood Commercial land use designation as it provides “convenience and comparison goods and services” to the local community.

The General Plan land use designation is implemented by the NC (Neighborhood Commercial) zoning district, where Convenience Store, with Alcohol Sales are allowed subject to a discretionary use permit and conditions to address potential impacts of the proposed use and compliance with applicable standards. As discussed in this report, the proposed Convenience Store with Alcohol Sales, as conditioned, is consistent or complies with the applicable provisions of the Concord Municipal Code. A General Plan policies applicable to the project is as follows:

Policy LU-2.1.2 Encourage existing neighborhood centers to expand or adapt to market changes through reuse, rehabilitation, and infill development.

Policy LU-3.1.4 Plan for new commercial development to expand or enhance the variety of goods and services to meet region-serving as well as local needs.

B. Use Permit

The NC (Neighborhood Commercial) zoning district allows a Convenience Store, with Alcohol Sales subject to a conditional use permit. Staff finds the project meets the required finding for use permit approval set forth in Development Code Section 18.435.060 as discussed below.

- 1) The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of the development code and the Concord Municipal Code.*

The proposed business is consistent with the Convenience Store, with Alcohol Sales use classification, which is permitted in the NC district subject to a conditional use permit. Additionally, staff has reviewed the proposed use in conjunction with the Police Department, to ensure the use meets the applicable provisions of the Concord Municipal Code.

- 2) The proposed use is consistent with the general plan and any applicable specific plan.*

The proposed project is consistent with the General Plan because it provides convenience and comparison goods as identified in the project description. There is no specific plan that applies to the project site.

- 3) The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity.*

The location, size, and operating characteristics of the proposed business will be compatible with existing land uses in the vicinity that includes convenience stores, general retail, personal services, and both limited service and full service restaurants located at the intersection of Clayton and Kirker Pass Roads and within a quarter mile of the site.

- 4) The site is physically suitable for the type, density, and intensity of the proposed use, including access, utilities, and the absence of physical constraints.*

The site is physically suitable to allow the proposed use since it is already developed and operating as a convenience store. No significant changes are needed to the site or existing improvements to accommodate the issuance of a Type 20 license. The alcohol sales area will consist of four cooler cases and shelf space that would occupy no more than 120 square feet of floor area of the 2,925 square foot store.

- 5) *Granting the permit would not be detrimental to the public health, safety, or welfare of the persons residing or working in the subject neighborhood or materially detrimental or injurious to property or improvements in the vicinity and zoning district where the property is located.*

Granting the use permit would not be detrimental to the public health, safety, or welfare of persons residing or working in the neighborhood. The application has been reviewed by the Police Department and they are not opposed to the issuance of a Type 20 license (Exhibit D), provided certain conditions of approval are included.

C. Finding of Public Convenience and Necessity

ABC will not approve “off-sale licenses” (i.e., sale of alcohol for off-site consumption) in census tracts with a high crime rate and an over concentration of alcohol licenses, as defined by State statute, unless the City makes a Finding of Public Convenience and Necessity (FOPCN). According to ABC, four licenses are allowed in Census Tract 3553.04, and four licenses have been granted. Additionally, the site is also located in a high crime area as the total number of offenses in the reporting district exceeds 120 percent of the average number of offenses. The average number of offenses per district is 126; the total number of offenses in the reporting district is 152, which exceeds the average number of offenses by 121%.

Section 18.200.040(C) of the City’s Development Code states a FOPCN is required when ABC has denied an application for the sale of alcoholic beverages based on an undue concentration of licenses or law enforcement criteria. The applicant is required to submit an application in accordance with the specific procedures. Based on the submitted application, staff is able to make the following required findings in support of the Planning Commission Resolution 19-12PC (Exhibit A):

A FOPCN may be approved when the review authority can make one of the following findings in Section 18.200.040(C)(4)(a) – (e) listed below:

- a. The business has a license at a different location and is relocating within the same census tract;

This is not applicable.

- b. The business is changing from one type of license to another;

This is not applicable.

- c. Denial would result in an undue economic hardship;

This is not applicable.

- d. The business includes alcoholic beverage sales as an ancillary part of its operation; or

The 7-Eleven convenience store sells a wide variety of grocery and convenience items. The sale of alcohol is proposed as a convenience to its customers and would be ancillary to the primary use and function of the property as a convenience store. The alcohol sales area will consist of four cooler cases and shelf space that would occupy no more than 120 square feet of floor area of the 2,925 square foot store. Additionally, the Concord Police Department recommends the following conditions of approval:

- 1. No single bottle and/or can beer sales, only three can/bottle packages.*
 - 2. The sale of malt liquor is prohibited.*
 - 3. Daily alcohol sales to conclude at 9:30 p.m. coolers to be locked after sales time concluded.*
 - 4. No display or sale of beer or wine shall be made from an ice tub.*
 - 5. Submit a Security Plan to be reviewed and approved by the Police Department and Planning Division.*
 - 6. The owner and/or his/her operator shall be responsible for actively discouraging loitering within the premises, to include notification of police when necessary and participation in the CPD Authorization to Arrest program.*
 - 7. No alcohol beverages shall be consumed on any property adjacent to the building under the control of the owner/operator*
- e. The benefits to the community from the sale of alcoholic beverages outweigh law enforcement and concentration criteria.

This is not applicable.

In addition to making at least one of the findings above, a FOPCN may also be approved if the following denial findings in Section 1280.200.040(C)(5)(a) – (b) do **not** apply:

- a. The business does not meet the above criteria; or

The proposal substantially meets the criteria above.

- b. Issuance of a license will result in a public nuisance or otherwise result in an adverse impact on the public's health, safety, or welfare.

The Concord Police Department was consulted regarding any issues pertaining to alcohol sales as an ancillary function of the convenience store. The Police Department does not oppose to the issuance of an off-sale license in this location provided conditions restricting sales of single beer containers, restricting the hours of alcohol sales, preparation of a loitering plan, participation in the Authorization to Arrest program, and the ability to re-review the license.

The attached recommended conditions of approval address these issues.

Accordingly, since a finding can be made that the alcoholic beverage sales are an ancillary part of the convenience store operations and the denial findings cannot be met, staff recommends the Planning

Commission adopt Planning Commission Resolution 19-12PC, with attached Conditions of Approval, approving the proposed application.

VI. Public Contact

Notification was mailed to all owners and occupants of property within three-hundred (300) feet of the subject parcel, and has been published in the Contra Costa Times, as required by the Concord Municipal Code. This item has also been posted at the Civic Center and at the subject site at least 10 days prior to the public hearing.

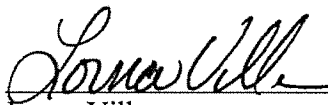
VII. Summary and Recommendations

Staff recommends the Planning Commission adopt Resolution No. 19-12PC, with Conditions of Approval, approving the Use Permit and the request for a Finding of Public Convenience and Necessity to allow for the off sale of beer and wine for Clayton Valley Shell and 7-Eleven convenience store.

VIII. Motion

I (Comm. _____) hereby move that the Planning Commission adopt Resolution No. 19-12PC approving Use Permit (PL19091-UP) and the Finding of Public Convenience and Necessity request to allow a Type 20 liquor license for Clayton Valley Shell and 7-Eleven convenience store, subject to the Conditions of Approval set forth in Attachment A to Resolution No. 19-12PC. (Seconded by Comm. _____.)

Prepared by:



Lorna Villa

Associate Planner

925-671-3176

Lorna.villa@cityofconcord.org

Reviewed by:



Mindy Gentry

Planning Manager

925-671-3369

Mindy.gentry@cityofconcord.org

Exhibits:

- A - PC Resolution No. 19-12PC, Conditions of Approval (Attachment A)
 - B - Applicant's Statement date stamp received May 22, 2019
 - C - Applicant's plans date stamp received May 22, 2019
 - D - Concord Police Department Memorandum date stamp received July 1, 2019
 - E - ABC 245 Form date stamp received June 19, 2019
 - F - Letters of support
 - G - Section 18.200.040 of the Development Code
- 19src.031

**DRAFT
BEFORE THE PLANNING COMMISSION
OF THE CITY OF CONCORD,
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

**A RESOLUTION APPROVING CLAYTON
VALLEY SHELL AND 7-ELEVEN USE PERMIT
AND FINDING OF PUBLIC CONVENIENCE AND
NECESSITY, LOCATED AT 1500 KIRKER PASS
ROAD (PL19091) (APN 118-031-039) Resolution No.
19-12 PC**

WHEREAS, on May 22, 2019, Compass Commercial submitted an application for a Use Permit (UP) and a request for a Finding of Public Convenience and Necessity (FOPCN), to allow the off-sale of beer and wine under a State Department Alcohol and Beverage Control (ABC) "Type 20" license for a 2,925 square foot 7-Eleven convenience store, located at 1500 Kirker Pass Road, APN 118-031-039; and

WHEREAS, pursuant to the provisions of the California Environmental Quality Act (CEQA) of 1970, as amended, and pursuant to CEQA Guideline Section 15301 "Existing Facilities," the project is classified as a Class 1 Categorical Exemption, and therefore no further environmental review is required. The project consists of the addition of alcohol sales, which is considered to be negligible expansion of the use; and

WHEREAS, in March of 2017, the Planning Division approved an Administrative Design and Site Review application to convert the existing 2,925 square foot service bays into a Convenience Store, with No Alcohol Sales; and

WHEREAS, the convenience store is located within Census Tract 3553.04 and the total number of allowed alcohol licenses (four) have been issued by Alcohol Beverage Control (ABC); accordingly, the area is deemed to have an overconcentration of liquor licenses. However, an additional off- sales license is allowed by ABC with approval by the City of Concord through a Finding of Public Convenience and Necessity under Development Code Section 18.200.040; and

WHEREAS, the premises is located within a high crime reporting district because the total number of offenses in the reporting district exceed 120 percent of average number of offenses; and

WHEREAS, On May 22, 2019, an application was submitted for a Use Permit and a Finding

1 of Public Convenience and Necessity (FOPCN) for an off-sale alcohol use at the Clayton Valley Shell
2 and 7-Eleven convenience store and the application was deemed complete on June 21, 2019; and

3 **WHEREAS**, on July 1, 2019, the Concord Police Department indicated that the proposal to
4 sell alcohol beverages under a Type 20 license would be supported with conditions of approval
5 regarding no-sale of single beer containers, prohibiting alcohol sales past 9:30 p.m., submittal of a
6 loitering plan, participation in the Authorization to Arrest program, and the ability to review the
7 license at future date; and

8 **WHEREAS**, the Planning Commission, after giving all public notices required by State law
9 and the Concord Municipal Code, held a duly noticed public hearing on August 7, 2019 on the subject
10 proposal; and

11 **WHEREAS**, the Planning Commission considered testimony and information received at the
12 public hearing and the oral and written reports from City staff dated August 7, 2019, the application
13 materials, as well as other documents contained in the record of proceedings relating to the proposed
14 project, which are maintained at the offices of the City of Concord Planning Division (collectively,
15 "Project Information") in accordance with the applicable law, including the requirements of CEQA
16 and the City of Concord Municipal Code and Development Code; and

17 **WHEREAS**, on August 7, 2019, the Planning Commission, after consideration of all pertinent
18 plans, documents and testimony, declared its intent to approve the subject proposal subject to the
19 Conditions of Approval contained herein as Attachment A.

20 **NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS**, the Planning Commission does
21 hereby approve Use Permit, PL19091-UP and the request for a Finding of Public Convenience and
22 Necessity to allow a Type 20 liquor license for Clayton Valley Shell and 7-Eleven subject to the
23 Conditions of Approval and further makes the following findings:

24 Recitals

25 1. The recitals above are true and correct and incorporated herein by reference. The recitals
26 constitute findings in this matter, and together with the Project Information, serve as an adequate and
27 appropriate evidentiary basis for the findings and actions set forth in this Resolution.

28 CEQA

1 2. Pursuant to the provisions of the California Environmental Quality Act (CEQA) of 1970, as
2 amended, and pursuant to CEQA Guideline Section 15301 "Existing Facilities," the project is
3 classified as a Class 1 Categorical Exemption, and therefore, no further environmental review is
4 required. The project consists of the addition of alcohol sales, which is considered to be negligible
5 expansion of the use. Additionally, because the site is not located in a sensitive environment in an
6 historical district, scenic highway, on a site identified to be on a hazardous waste site under Section
7 65962.5, and there is no cumulative impact of successive projects of the same type in the same place,
8 none of the exceptions to the categorical exemption apply under CEQA Guidelines Section 15300.2.
9

10 Use Permit

11 3. The proposed use is allowed within the applicable zoning district through the granting of a Use
12 Permit and complies with all other applicable provisions of the Development Code and the Concord
13 Municipal Code (CMC). The proposed business is consistent with the Convenience Store, with
14 Alcohol Sales use classification which is permitted in the Neighborhood Commercial (NC) zoning
15 district subject to a conditional use permit.

16 4. The proposed use is consistent with the general plan and any applicable specific plan. The use of a
17 Convenience Store, with Alcohol Sales conforms to the NC land use provisions of the Concord General Plan
18 and complies with the applicable provisions of the Municipal Code. The proposed use, as described in the
19 applicant's written statement, as a convenience store with beer and wine sales through a Type 20 ABC permit,
20 is consistent and compatible with the surrounding commercial designations in the vicinity. There is no
21 applicable specific plan for this project.

22 5. The design, location, size, and operating characteristics of the proposed activity are compatible
23 with the existing and future land uses in the vicinity. Surrounding uses include general retail, person
24 service and both full service and limited service restaurants at the intersection of Clayton and Kirker
25 Pass Roads and within a quarter mile of the site.

26 6. The site is physically suitable for the type, density, and intensity of the proposed use, including access,
27 utilities, and the absence of physical constraints, as the site is already developed and operating as a
28 convenience store. No significant changes are needed to the site or existing improvements to accommodate

1 the issuance of a Type 20 license. The site plan indicates approximately 120 square feet will be utilized for
2 alcohol sales.

3 7. Granting the permit would not be detrimental to the public health, safety, or welfare of the persons
4 residing or working in the subject neighborhood or materially detrimental or injurious to property or
5 improvements in the vicinity and zoning district where the property is located. The application has been
6 reviewed by the Police Department and they are not oppose to the issuance of a Type 20 license provided
7 certain conditions of approval are included.

8 Finding of Public Convenience and Necessity

9 8. The business includes alcoholic beverages sales as an ancillary part of its operation. The 7-
10 Eleven convenience store sells a wide variety of grocery and convenience items. The sale of alcohol is
11 proposed as a convenience to its customers and would be ancillary to the primary use and function of
12 the property as a convenience store. The alcohol sales area will consist of four cooler cases and shelf
13 space that would occupy no more than 120 square feet of floor area of the 2,925 square foot store.
14 Additionally, the Concord Police Department recommends conditions of approval that includes;

- 15 a. No single bottle and/or can beer sales. Only there can/bottle packages.
- 16 b. The sale of malt liquor is prohibited.
- 17 c. Daily alcohol sales to conclude at 9:30 p.m., coolers to be locked after sales time
18 concluded.
- 19 d. No display or sale of beer or wine shall be made form an ice tub.
- 20 e. Submit a security plan to be reviewed and approved by the Police Department and
21 Planning Division.
- 22 f. The operator shall be responsible for actively discouraging loitering within the premises.
- 23 g. No alcohol beverages shall be consumed on any property adjacent to the building under the
24 control of the owner/operator.
- 25 h. A copy of the conditions of approval for the permit issued for the sale of alcohol beverages
26 shall be displayed in a place where any member of the public may readily view it.

27 9. The issuance of Type 20 ABC license will not result in a public nuisance or would not
28 otherwise result in an adverse impact on the public's health, safety, or welfare.

1 10. For the foregoing reasons, the required findings pursuant to Development Code Section
2 18.435.060 and 18.200.040 have been met for approval of the project as submitted or as modified with
3 conditions and therefore the project is recommended for approval.

4 **PASSED AND ADOPTED** this 7th day of August, 2019, by the following vote:

5 **AYES:** Commissioner -

6 **NOES:** Commissioner -

7 **ABSTAIN:** Commissioner -

8 **ABSENT:** Commissioner -

9
10 Mindy Gentry
11 Secretary to the Planning Commission

12 Attachments:

13 A – Draft Conditions of Approval
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ATTACHMENT A

“DRAFT”

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CONDITIONS OF APPROVAL CLAYTON VALLEY SHELL 7-ELEVEN PL19091-UP, FOPCN 1500 KIRKER PASS ROAD APN: 118-031-039

14

PERMIT DESCRIPTION

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23
1. These Conditions apply to and constitute the approval of a **Use Permit and Finding of Public Convenience and Necessity (PL19091-UP, FOPCN) to operate a convenience store** with the sale of beer and wine for off-site consumption.
 2. The application form and plans, date stamp received by the Planning Division on May 22, 2019, are approved and shall be incorporated as Conditions of Approval. *(PLNG)*

24

GENERAL CONDITIONS

- 25
26
27
28
3. The Conditions are the responsibility of the applicant and all contractors. Compliance shall occur as specified in the Conditions. If timing for compliance is not specified, it shall be determined by the Divisions listed after the Condition. *(PLNG, BLDG, ENGR)*
 4. Where a plan or further information is required, it is subject to review and approval by the applicable City Department/Division, as noted at the end of each Condition. The Division listed first shall be the primary contact for implementation of that Condition. *(PLNG, BLDG, ENGR)*
 5. The project shall comply with all applicable federal and State laws and Concord Municipal Code (CMC) requirements. *(PLNG, BLDG, ENGR)*
 6. Minor modifications that are found to be in substantial conformance with the approved plans such as colors, plant materials, or minor lot line adjustments, may be approved administratively. Major modifications shall be approved by the applicable decision making body. *(PLNG, ENGR)*

29

ALCOHOL SALES

- 30
31
32
33
7. No single bottle and/or can beer sales, only three can/bottle packages. *(PD, PLNG)*
 8. The sale of malt liquor is prohibited. *(PD, PLNG)*
 9. Daily alcohol sales to conclude at 9:30 p.m., coolers to be locked after sales time concludes. *(PD, PLNG)*

- 1 10. No display or sale of beer or wine shall be made from an ice tub. *(PD, PLNG)*
- 2 11. Submit a Security Plan that includes measures and procedures addressing potential issues. The
3 Security Plan shall be reviewed and approved by the Police Department and the Planning
4 Division and shall include the following:
- 5 a. A contact for the store manager who can respond to the City and neighbors
6 regarding complaints.
 - 7 b. Measures to control theft, loitering, litter, and noise.
 - 8 c. Method to safely monitor student and groups during after school hours to include
9 measures to control book bags and backpacks (suggestions: no backpacks
10 allowed, a drop-off location at the front of the store that must be used, or the
11 prohibition of more than two students at a time. *(PD, PLNG)*
- 12 12. The owner and/or his/her operator shall be responsible for actively discouraging loitering within
13 the premises, to include notification of police when necessary and participation in the CPD
14 Authorization to Arrest program. *(PD, PLNG)*
- 15 13. No alcohol beverages shall be consumed on any property adjacent to the building under the
16 control of the owner/operator. *(PD, PLNG)*
- 17 14. A copy of the conditions of approval for the permit issued for the sale of alcohol beverages shall
18 be displayed on the premises in a place where any member of the public may readily view it.
19 *(PD, PLNG)*

20 LIGHTING

- 21 15. The parking lot of the premises shall be equipped with lighting of sufficient power to illuminate
22 and make easily discernible the appearance and conduct of all persons on or about the parking
23 lot. *(PD, PLNG, TRANS)*

24 SIGNAGE

- 25 16. No self-illuminated advertising for beer or wine shall be located on buildings or windows.
26 *(PLNG)*
- 27 17. Paper or printed window signs shall be limited to no more than 10 percent of the window area
28 of any street frontage or more than 50 percent of any single window pane. *(PLNG) CMC*

SOLID WASTE/RECYCLING

18. Trash bins and refuse shall be stored within approved trash enclosure and the doors shall be
closed at all times except when the bins are being emptied. *(CE)*

AGREEMENTS, FEES, BONDS

1 19. Pay a Document Imaging fee to reimburse the City for implementation of the Document Imaging
2 and File Retention programs, prior to issuance of Grading or Building Permits. *(PLNG)*

3 **OTHER/MISCELLANEOUS**

4
5 20. The applicant shall defend (with counsel approved by City), indemnify and hold harmless the
6 City, any agency or instrumentality thereof, and its/their respective agents, officers, officials,
7 volunteers, and employees from and against any and all administrative and/or legal claims,
8 actions or proceedings to attack, set aside, void, or annul approval of the project, including
9 without limitation, any related application, permit, certification, condition, environmental
10 determination, other approval, compliance or failure to comply with applicable laws and
11 regulations, and/or processing methods (“Challenge”), with the exception of a Challenge
12 arising out of the City’s sole negligence or willful misconduct. The City shall have the right to
13 pre-approve any material decision involved in defending any such Challenge, including
14 settlement, and may (but is not obligated to) participate in the defense of any Challenge. If
15 applicant does not promptly defend any Challenge, City may (but is not obligated to) defend
16 such Challenge as City, in its sole discretion, determines appropriate, all at applicant’s sole
17 cost and expense. The applicant shall bear any and all losses, damages, injuries, liabilities,
18 costs, and expenses (including, without limitation, staff time and in-house attorney's fees on a
19 fully-loaded basis, attorney’s fees for outside legal counsel, expert witness fees, court costs,
20 and other litigation expenses) arising out of or related to any Challenge (“Costs”), whether
21 incurred by Developer, City, or awarded to any third party, and shall pay to the City upon
22 demand any Costs incurred by the City. No modification of the project, any application,
23 permit, certification, condition, environmental determination, other approval, change in
24 applicable laws and regulations, or change in processing methods shall alter the applicant’s
25 indemnity obligation. Pursuant to Government Code Section 66474.9, the applicant’s
26 indemnification obligation with respect to any claim, action or proceeding to attack, set aside,
27 void, or annul an approval of City concerning a subdivision (tentative, parcel, or final map
28 application or approval) shall be limited to actions brought within the time period provided for
in Government Code Section 66499.37, unless such time period is extended for any
reason. The City shall promptly notify applicant of any Challenge, and shall cooperate fully in
the defense. *(CA)*

21 21. The permit and approval shall expire in **one** year from the date on which they became effective
22 unless construction permits are obtained and work has begun. The effective date of the permit
and approval is **August 18, 2019**. *(PLNG)*

23 22. A request for a time extension from the expiration date of **August 18, 2020** can be considered if
24 an application with required fee is filed at least 10 days before the original expiration date,
25 otherwise a new application is required. A public hearing will be required for all extension
26 applications, except those involving only Design Review. Extensions are not automatically
27 approved. Changes in conditions, City policies, surrounding neighborhood, and other factors
28 permitted to be considered under the law, may require, or permit denial. *(PLNG)*

**CLAYTON VALLEY SHELL 7 ELEVEN
1500 KIRKER PASS ROAD, CONCORD CA 94521**

RECEIVED
MAY 22 2019
PLANNING

*Project Description for Use Permit and
Finding of Public Convenience or Necessity*

In 2018 the Clayton Valley Shell was significantly remodeled to convert the service bay building (former automotive repair) into a convenience food market. The extensive remodel included construction of a new, modern convenience market, on-site parking stalls, accessible path of travel to the right-of-way, masonry enclosure for mechanical equipment and trash enclosure and new landscaping and site lighting. The resulting facility is a much improved and attractive development.

The convenience store is branded as a 7 Eleven store and sells a wide variety of grocery and convenience items as well as gasoline and automotive accessories. The store is open 24 hours a day, seven days a week to offer full convenience to the nearby community.

The owner/operator, Food Service Paradigm Inc, has applied to the Department of Alcoholic Beverage Control for a type 20 (off-sale beer/wine) license. Food Service Paradigm Inc requests the approval from the City of Concord to sell limited quantities of beer and wine at the store for off-premise consumption.

The floor plan included with this application highlights the areas of the store that will display beer and wine. The beer and wine will be ancillary to the sale of gasoline and grocery items and will provide one-stop convenience for customers.

Food Service Paradigm Inc looks forward to a continued partnership with the City of Concord Police Department to ensure a safe and convenient location for the employees and guests.

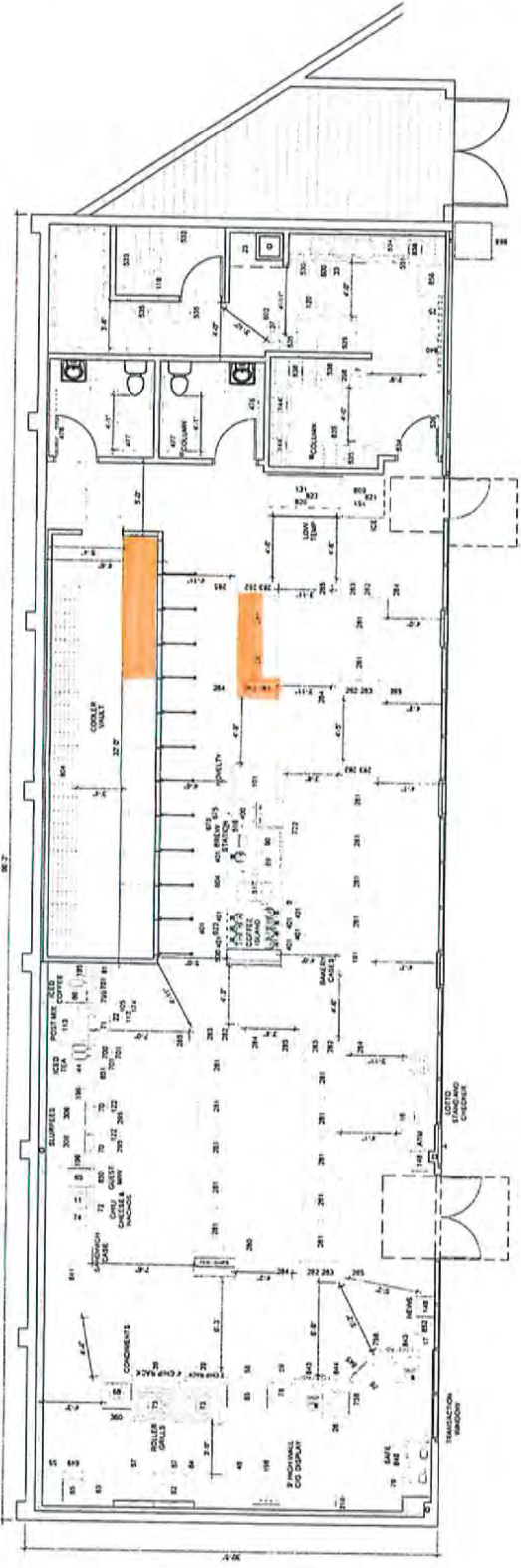
DATE	DESCRIPTION

7-ELEVEN, INC.
3200 HARBURY RD., WAXAH, TEXAS 75093
7-11 #1039755
1500 KIRKER PASS RD
CONCORD, CA



DIMENSION GROUP
ARCHITECTURE
INTERIOR DESIGN
PLANNING
CONSTRUCTION ADMINISTRATION

DATE	10-09-22
SCALE	AS NOTED
DRAWN BY	05/03/17
CHECKED BY	



Proposed location
of beer and
wine

TOTAL SQ FT = 2,925 SF
SALES FLOOR AREA = 2,049 SF
GAS: YES LIQUOR: NO
BEER: NO WINE: NO
OCCUPANCY LOAD (P-49) = 64
TRAVEL DISTANCE (<200) = 64'
COMMON PATH OF TRAVEL (C-75) = 34'
RESTROOMS REQUIRED = 2
EXITS REQUIRED = 2
OVERHEAD SHELVES = 51 FT
FLOOR SHELVES = 18 FT

LAYOUT INFORMATION

- 2 ROLLER GRILLS
- 6 SANDWICH CASE
- 12 VAULT DOORS
- 2 LOW TEMP DOORS
- 1 ICE MERCHANT DOORS
- 1 (SM) NOVELTY CASE
- 6 BAKERY CASE
- 36 SLURPEE BARRELS
- 69 GONDOLA UNITS (60TH)
- 69 END CAPS (60TH)
- 00 POWER WINGS
- 00 LOW WALLS (65TH)
- 00 HIGH WALLS (72TH)
- 45 TOTAL

WALL TYPE LEGEND

- EXTERIOR WALL
- COLUMN
- INTERIOR WALL
- PARTIAL HEIGHT WALL
- COOLER WALL



1039755 - CONCORD, CA - LAYOUT 12

1500 KIRKER PASS RD
CONCORD, CA

SCALE: 1/4"=1'-0"

TDG #16-492

05/03/17

APPROVED: YES NO
05/04/17

SHEET



Sergeant Shawn Phalen
 Concord Police Department
 1350 Galindo Street
 Concord, CA 94520
 Phone: (925) 603-5902
 shawn.phalen@cityofconcord.org

EXHIBIT D
 RECEIVED
 JUL - 1 2019
 PLANNING

Field Operations – Community Impact Team

July 1, 2019

TO: Lorna Villa
 City of Concord Planning Division

SUBJECT: FOPCN for an Off-Sale ABC License
 1500 Kirker Pass Road, Concord, CA
 Crime and Nuisance Data

The purpose of this memorandum is to respond to the proposal for the issuance of an Use Permit ABC license at 1500 Kirker Pass Road. The surrounding neighborhood is a combination of retail, high density residential, and single-family residential uses. The business is located at the intersection of Kirker Pass Road and Clayton Road; both streets are major arterial roadways with three lanes in each direction. Both roadways have extremely high rates of pedestrian and vehicle traffic during both daytime and nighttime hours.

Below is statistical data concerning the business location and surrounding neighborhood.

1. Saturation

As of the date of this memorandum, the census tract in which this property is located (3553.04) contains four off-sale licenses. The three closest census tracts to this business also have off-sale licenses as well. Census tract 3553.01 has three off-sale licenses, tract 3340.04 has three also, and tract 3331.02 has two. In addition to the off-sales licenses, there are twenty on-sale alcohol locations within these four census tracts.

2. Crime Rate

According to the calls for service in the below rated areas, there was a noticeable increase in complaints related to the categories of disturbances and homeless loitering. The ten reviewed data locations appear to have a minimal decrease in incidences of alcohol-related crimes.


Crime	June 2017-2018	June 2018-2019	Percent Change
Intoxicated Driving	7	5	-33.33%
Disturbances	39	50	+24.71%
Homeless Loiterers	20	38	+62.06%
Intoxicated Persons	3	2	-40%
Party Complaints	30	25	-18.18%
Trespass/Unwanted Guests	18	20	+10.52%

Note: While it is recognized that homelessness in itself is not a criminal matter, homeless loiterer complaints in this neighborhood tend to involve a small group of habitual inebriants. The community regularly complains to officers about their intoxication and related behaviors.

The police department currently employs several strategies to combat alcohol-related crime in the city. The Community Impact Team regularly interacts with chronic inebriants, offering drug, alcohol, and homelessness resources in cooperation with CORE. The Community Impact Team and Field Operation Patrol Officers also issue Administrative Citations and arrest criminal violators when observed. Further, the Code Enforcement Unit operates a trespass arrest authorization program in which businesses partner with the Police Department to remove chronic trespassers from their properties. This program is typically active in neighborhoods with high incidence of alcohol violations and related nuisance crimes.

Given the above reviewed alcohol sales saturation information along with the crime data over the past two years, I am not opposed to the issuance of an off-sales license to the business. However, I would require that if an off-sales license is issued to the business, the license be conditioned to include restrictions concerning non sales of single beer containers, allowable hours of alcohol sales, and any other conditions deemed appropriate by the Police Department, ABC, or the City of Concord Planning Department. In addition, I would recommend the business have a plan for addressing the loitering issue, to include participation in the Authorization to Arrest program. Lastly, I would also recommend this license be subject to re-review and modification if conditions are not met or violations are reported.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Shawn Phalen", written in a cursive style.

Sergeant Shawn Phalen

RECEIVED

JUN 19 2019

State of California
Gavin Newsom, Governor
EXHIBIT E

Department of Alcoholic Beverage Control

INFORMATION AND INSTRUCTIONS -

SECTION 23958.4 B&P

PLANNING

Instructions This form is to be used for all applications for original issuance or premises to premises transfer of licenses.

- Part 1 is to be completed by an ABC employee, given to applicant with pre-application package, with copy retained in holding file or applicant's district file.
- Part 2 is to be completed by the applicant, and returned to ABC.
- Part 3 is to be completed by the local governing body or its designated subordinate officer or body, and returned to ABC.

PART 1 - TO BE COMPLETED BY ABC

1. APPLICANT'S NAME

FOOD SERVICE PARADIGM INC.

2. PREMISES ADDRESS (Street number and name, city, zip code)

1500 KIRKER PASS RD., CONCORD CA 94521-3226

3. LICENSE TYPE

20

4. TYPE OF BUSINESS

- | | | | |
|---|--|---|--|
| <input type="checkbox"/> Full Service Restaurant | <input type="checkbox"/> Hofbrau/Cafeteria | <input type="checkbox"/> Cocktail Lounge | <input type="checkbox"/> Private Club |
| <input type="checkbox"/> Deli or Specialty Restaurant | <input type="checkbox"/> Comedy Club | <input type="checkbox"/> Night Club | <input type="checkbox"/> Veterans Club |
| <input type="checkbox"/> Cafe/Coffee Shop | <input type="checkbox"/> Brew Pub | <input type="checkbox"/> Tavern: Beer | <input type="checkbox"/> Fraternal Club |
| <input type="checkbox"/> Bed & Breakfast: | <input type="checkbox"/> Theater | <input type="checkbox"/> Tavern: Beer & Wine | <input type="checkbox"/> Wine Tasting Room |
| <input type="checkbox"/> Wine only | <input type="checkbox"/> All | | |
| <input type="checkbox"/> Supermarket | <input type="checkbox"/> Membership Store | <input type="checkbox"/> Service Station | <input type="checkbox"/> Swap Meet/Flea Market |
| <input type="checkbox"/> Liquor Store | <input type="checkbox"/> Department Store | <input type="checkbox"/> Convenience Market | <input type="checkbox"/> Drive-in Dairy |
| <input type="checkbox"/> Drug/Variety Store | <input type="checkbox"/> Florist/Gift Shop | <input checked="" type="checkbox"/> Convenience Market w/Gasoline | |
| <input type="checkbox"/> Other - describe: | | | |

5. COUNTY POPULATION

1,139,513

6. TOTAL NUMBER OF LICENSES IN COUNTY

On-Sale Off-Sale

7. RATIO OF LICENSES TO POPULATION IN COUNTY

On-Sale Off-Sale

8. CENSUS TRACT NUMBER

3553.04

9. NO. OF LICENSES ALLOWED IN CENSUS TRACT

4 On-Sale Off-Sale

10. NO. OF LICENSES EXISTING IN CENSUS TRACT

4 On-Sale Off-Sale

11. IS THE ABOVE CENSUS TRACT OVERCONCENTRATED WITH LICENSES? (i.e., does the ratio of licenses to population in the census tract exceed the ratio of licenses to population for the entire county?)

- Yes, the number of existing licenses exceeds the number allowed
- No, the number of existing licenses is lower than the number allowed

12. DOES LAW ENFORCEMENT AGENCY MAINTAIN CRIME STATISTICS?

- Yes (Go to Item #13) No (Go to Item #20)

13. CRIME REPORTING DISTRICT NUMBER

2370

14. TOTAL NUMBER OF REPORTING DISTRICTS

99

15. TOTAL NUMBER OF OFFENSES IN ALL REPORTING DISTRICTS

12562

16. AVERAGE NO. OF OFFENSES PER DISTRICT

126

17. 120% OF AVERAGE NUMBER OF OFFENSES

151

18. TOTAL NUMBER OF OFFENSES IN REPORTING DISTRICT

152

19. IS THE PREMISES LOCATED IN A HIGH CRIME REPORTING DISTRICT? (i.e., 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 local law enforcement agency)

- Yes, the total number of offenses in the reporting district equals or exceeds the total number in item #17
- No, the total number of offenses in the reporting district is lower than the total number in item #17

20. CHECK THE BOX THAT APPLIES (check only one box)

- a. If "No" is checked in both item #11 and item #19, Section 23958.4 B&P does not apply to this application, and no additional information will be needed on this issue. Advise the applicant to bring this completed form to ABC when filing the application.
- b. If "Yes" is checked in either item #11 or item #19, and the applicant is applying for a non-retail license, a retail bona fide public eating place license, a retail license issued for a hotel, motel or other lodging establishment as defined in Section 25503.16(b) B&P, or a retail license issued in conjunction with a beer manufacturer's license, or winegrower's license, advise the applicant to complete Section 2 and bring the completed form to ABC when filing the application or as soon as possible thereafter.
- c. If "Yes" is checked in either item #11 or item #19, and the applicant is applying for an off-sale beer and wine license, an off-sale general license, an on-sale beer license, an on-sale beer and wine (public premises) license, or an on-sale general (public premises) license, advise the applicant to take this form to the local governing body, or its designated subordinate officer or body to have them complete Section 3. The completed form will need to be provided to ABC in order to process the application.

Governing Body/Designated Subordinate Name:

Concord Zoning Administrator

FOR DEPARTMENT USE ONLY

PREPARED BY (Name of Department Employee)

Brandon Walton (06/06/2019)

City of Concord
1950 Parkside Drive
Concord, CA 94519

July 25, 2019

Attn: Planning Commission

RE: Amir Hatambeiki – 7 Eleven 1500 Kirker Pass Road, Concord

To Whom It May Concern,

I have known Amir and his wife Gitty since 2005 as owners of the Clayton Valley Shell. As a past Mayor of Clayton and Past President and member of the local Chamber (CBCA) and Clayton resident for over 43 years, I can vouch for their character as being upstanding members of the community and business owners. Over the years, they have supported most community events as sponsors and as participants giving of their time to be part of the events.

As owners of Clayton Valley Shell, (pre-remodel) their service to the community as a reliable quality car repair service was outstanding. Their impressive remodel of their service station to our new 7 Eleven has been a benefit to our community. After several visits, I can vouch for the cleanliness and how well trained the ample staff is.

I feel confident that Amir's desire to make this a full service 7 Eleven selling food and alcohol will again be a 5-star addition to the many establishments of Concord.

Sincerely,

Howard Geller
Past Mayor of Clayton
Hgeller617@aol.com
925-323-4913

From: Carl Wolfe <cwolfe@ci.clayton.ca.us>

Sent: Friday, July 26, 2019 6:03 PM

To: Spilman, Grant <Grant.Spilman@cityofconcord.org>

Subject: Letter to Planning Commission, City of Concord, CA re: Clayton Valley Shell application

Dear Planning Commissioners,

I am writing to you today on behalf of the outstanding character of my friends, Gitty Khatiblou and Amir Hatambeiki, the owners of the Clayton Valley Shell/7-11 store on Kirker Pass Rd at Clayton Rd in Concord.

Both Gitty and Amir are long standing members of the Clayton Business and Community Association, where I got to know them as community supporters and volunteers.

Of course, I, as many of my neighbors do, make regular stops at their Shell station to fill-up.

I understand that you are considering an application to allow beer & wine sales at their new 7-11 store. This I wholeheartedly support and know that both Gitty and Amir will comply with all laws, rules, policies and conditions set upon them.

Thank you for your time.

Sincerely,

Carl "CW" Wolfe
City Council Member
Clayton, California
cwolfe@ci.clayton.ca.us
@cwwolfeclaytoncitycouncil
(925) 673-7324

From: **Tamara Steiner** <tamara@claytonpioneer.com>
Date: Tue, Jul 30, 2019, 8:34 PM
Subject: Beer and Wine License, Clayton Valley 7-11
To: Jason M. Laub <jmlaub@gmail.com>
Cc: Amir Hatambeiki <aahatambeiki@automotiveparadigm.com>, Gitty Khatiblou <gittyak@yahoo.com>

Greetings Chairman Laub and Commissioners:

Amir Hatambeiki and Gitty Khatiblou are applying to the City of Concord for a beer and wine license for their Clayton Valley 7-Eleven store, 1500 Kirker Pass Rd., Concord.

My husband and I have known Amir and Gitty for 20 years both professionally and personally, during which time they have proven to be strong assets to the Clayton/Concord community. They are known for their integrity in business and strong moral character.

Both are enthusiastic supporters of the community and loyal members of the Clayton Business and Community Association.

I admire them both for their perserverance and hard work in running a small business in a tough economy. Their reputation in the community is impeccable.

They have a very close family and a strong network of friends and associates.

The City can approve their beer and wine application with confidence.

Regards,

Tamara Steiner

Publisher and Editor of the Concord Clayton Pioneer
Member of the Board of Directors of the Greater Concord Chamber of Commerce
Vice-chair of the Board, Support 4 Recovery non profit

18.200.040 Alcoholic beverage sales.

Where allowed by Division II of this title (Zoning Districts – Uses and Standards), establishments that sell alcoholic beverages for off-site consumption, when the California Department of Alcoholic Beverage Control (ABC) has denied an application for the sale of alcoholic beverages based on an undue concentration of licenses or law enforcement criteria, thereby requiring a finding of public convenience and necessity (FOPCN) for the sales activity, shall comply with the requirements of this section.

A. Purpose. The following requirements are intended to comply with the requirements of the State of California Business and Professions Code Section 23958.4.

B. Applicability. These requirements shall apply to all applications for alcoholic beverage sales when the California Department of Alcoholic Beverage Control (ABC) has denied an application for the sale of alcoholic beverages based on an undue concentration of licenses or law enforcement criteria, thereby requiring a finding of public convenience and necessity (FOPCN) for the sales activity in accordance with the State of California Business and Professions Code Section 23958.4.

C. Finding of Public Convenience and Necessity (FOPCN). When the California Department of Alcoholic Beverage Control (ABC) has denied an application for the sale of alcoholic beverages based on an undue concentration of licenses or law enforcement criteria, thereby requiring a finding of public convenience and necessity (FOPCN) for the sales activity, the applicant may submit an application for a finding of public convenience and necessity, in accordance with the following procedures:

1. Permit Requirements. An application for a FOPCN shall be submitted to the planning division following the procedures for a minor use permit, pursuant to Chapter 18.435 CDC (Minor Use Permits and Use Permits).
2. Police Department Review. All applications shall be referred to the police department for review and recommendation, based on law enforcement concerns.
3. Hearing Required. Notwithstanding the provisions in Chapter 18.435 CDC (Minor Use Permits and Use Permits), the planning division may require a public hearing in accordance with Chapter 18.500 CDC (Public Hearings), prior to making a determination on an application for a finding of public convenience and necessity. The review authority shall consider the criteria in this section and the recommendation from the police department in making a decision.

4. Approval. An FOPCN may be approved when the review authority can make one of the following findings and the finding in subsection (C)(5)(b) of this section does not apply:

- a. The business has a license at a different location and is relocating within the same census tract;
- b. The business is changing from one type of license to another;
- c. Denial would result in an undue economic hardship;
- d. The business includes alcoholic beverage sales as an ancillary part of its operation; or
- e. The benefits to the community from the sale of alcoholic beverages outweigh law enforcement and concentration criteria.

5. Denial. An FOPCN shall be denied when:

- a. The business does not meet the above criteria; or
- b. Issuance of a license will result in a public nuisance or otherwise result in an adverse impact on the public's health, safety, or welfare.

6. Determination. The determination shall be made within 90 days of a complete application and shall be transmitted to the applicant and to the ABC.

7. Appeal. Any party may appeal the review authority's determination directly to the city council in accordance with Chapter 18.510 CDC (Appeals and Calls for Review).

D. Display of Permit. A copy of the conditions of approval for the permit issued for the sale of alcohol beverages shall be displayed on the premises of the establishment in a place where any member of the public may readily view it. [Ord. 12-4. DC 2012 § 122-617].