



REPORT TO PLANNING COMMISSION City of Sacramento

4

915 I Street, Sacramento, CA 95814-2671

PUBLIC HEARING
October 13, 2011

To: Members of the Planning Commission

Subject: Tooley Gas and Convenience Store Alcohol Sales (P11-041)

A request to allow beer and wine sales at an existing gas station with convenience market located on approximately 0.44 acres in the General Commercial Special Planning District (C-2-SPD) zone in the Alhambra Corridor SPD.

- A. Environmental Determination: Exempt** per CEQA Guidelines Section 15301 (Existing Facilities);
- B. Special Permit** to allow the sale of beer and wine for off-premises consumption in the C-2-SPD zone;

Location/Council District:

730 29th Street and 2831 H Street, Sacramento, CA 95816

Assessor's Parcel Number 003-0204-023-0000

Council District 4

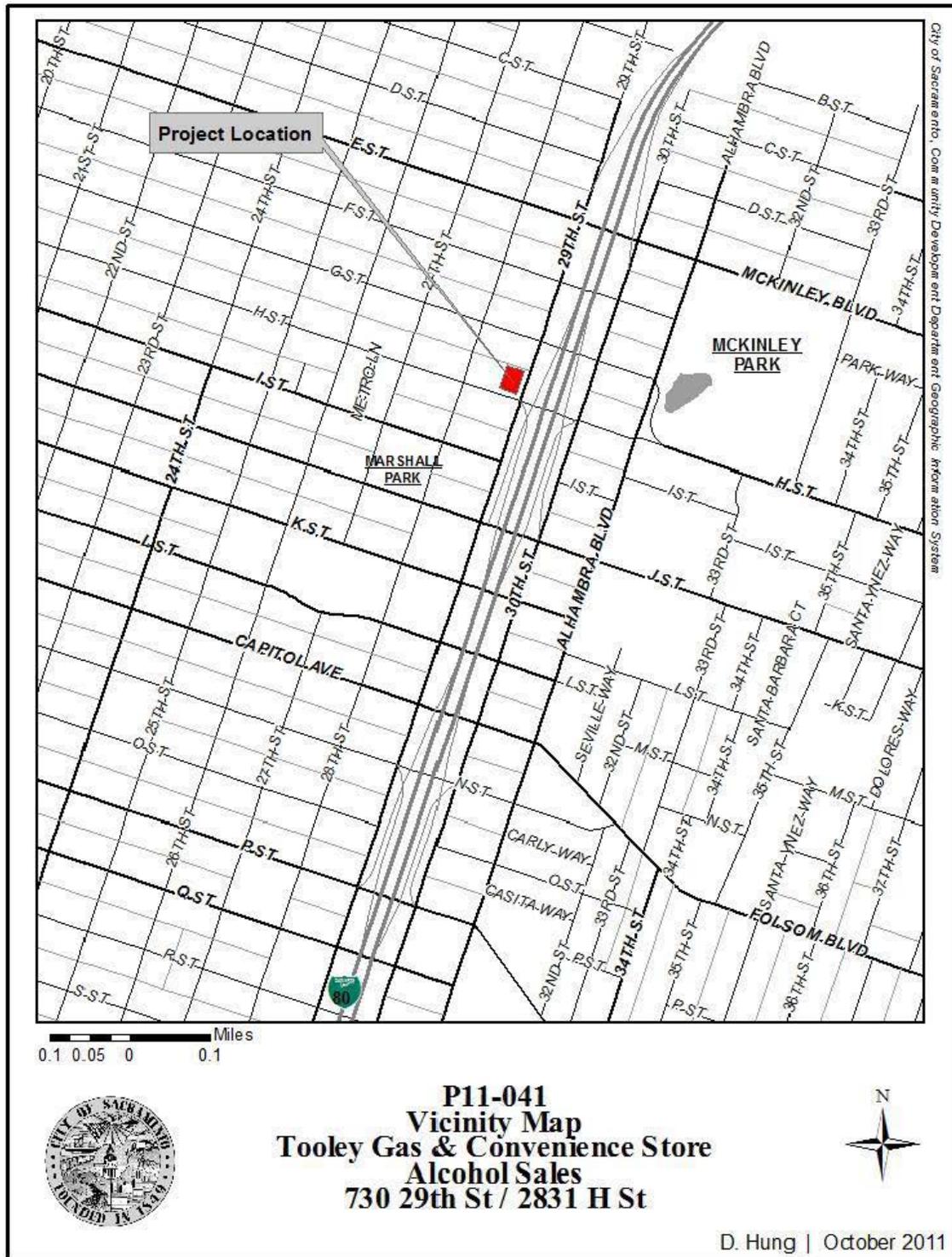
Recommendation: Staff recommends the Commission approve the request based on the findings and subject to the conditions listed in Attachment 1. The Commission has final approval authority over items A and B above, and its decision is appealable to City Council. **The project is non-controversial at the writing of this report.**

Contact: David Hung, Associate Planner, (916) 808-5530;
Stacia Cosgrove, Senior Planner, (916) 808-7110

Applicant: Eric Rasmusson, Rasmusson Public Affairs, Inc., (916) 447-0283, 2200 L Street, Sacramento, CA 95816

Owner: Michael Tooley, Tooley Oil, (916) 972-1228, 1111 Exposition Blvd., #600, Sacramento, CA 95815

Vicinity Map



Summary: The applicant is requesting the sale of beer and wine at an existing gas station with convenience market located in the General Commercial Special Planning District (C-2-SPD) zone. The project requires a Special Permit to allow the sale of beer and wine at this business. Staff has sent early notification to community groups and notified all property owners within 500 feet of the site for this public hearing. The applicant has done outreach efforts in the neighborhood and at the time of the writing of this report, staff is not aware of any outstanding issues.

Table 1: Project Information
General Plan designation: Urban Corridor Low
Existing zoning of site: General Commercial Special Planning District (C-2-SPD)
Special Planning District: Alhambra Corridor
Existing use of site: Service Station and Convenience Market
Property area: 0.44 acres

Background Information: The subject gas station was constructed in the mid 1960's and operated by the current owner since 2005. In 2003, the Zoning Code was amended to require the approval of a Special Permit for a service station in the C-2 zone; therefore, this gas station has a "deemed" special permit. On October 16, 2003, the Zoning Administrator approved a Minor Modification to the deemed Special Permit to modify the subject service station which involved remodeling the existing canopies, painting the building and replacing the signage (Z03-270). On October 15, 2007, the Zoning Administrator approved a Minor Modification to the deemed Special Permit to rehab existing fuel canopies, rehab exterior of convenience store building, convert auto service area into retail area for the convenience store, install new trash enclosure and install new landscaping (Z07-192). A staff level Design Review application (DR07-253) was also approved in association with the work under file Z07-192. The work approved under these modifications has been completed.

Public/Neighborhood Outreach and Comments: Early notification was sent to various neighborhood advisory groups including Boulevard Park Neighborhood Association, East Sacramento Improvement Association, East Sacramento Preservation, Friends of Grant Park, Marshall School/New Era Park Neighborhood Association, McKinley East Sacramento Neighborhood Association, Midtown Neighborhood Association and Alkali/Mansion Flats Historic Neighborhood Association. An early notice was also sent to property owners within 500 feet radius of the project site. Staff has received letters of support from the Marshall School/New Era Park Neighborhood Association and an adjacent neighbor (Attachments 3 and 4). Staff has also been in contact with a concerned neighbor who requests that: 1) the sale of alcohol be limited between the hours of 8 a.m. to 11 p.m., 2) security camera be used on site, 3) the business keep the site clear of loitering, and 4) the owner participates in an application for alley closure adjacent to the parcel. The applicant has met with the

neighbor and has addressed all the above concerns. The concerned neighbor has also indicated that as these issues are now addressed, he is not opposed to the project.

Environmental Considerations: The Community Development Department, Environmental Planning Services Division has reviewed this project and determined that it is exempt from the provisions of the California Environmental Quality Act (CEQA) under Section 15301, Existing Facilities. The project is a request for alcohol sales special permit in an existing store which involves negligible or no expansion of use beyond that existing at the time of determination.

Policy Considerations:

General Plan. The 2030 General Plan Update was adopted by City Council on March 3, 2009. The 2030 General Plan's goals, policies, and implementation programs define a roadmap to achieving Sacramento's vision to be the most livable city in America. The 2030 General Plan designation of the subject site is Urban Corridor Low which provides for a mix of horizontal and vertical mixed-use development and single-use commercial and residential development. The 2030 General Plan has identified goals and policies under the Land Use and Urban Design Element. Some of the goals and policies supported by this project are:

- *Land Use and Urban Design Element (Policy LU 2.1.3) Complete and Well-Structured Neighborhoods.* The City shall promote the design of complete and well-structured neighborhoods whose physical layout and land use mix promote walking to services, biking, and transit use; foster community pride; enhance neighborhood identity; ensure public safety; are family-friendly and address the needs of all ages and abilities.
- *Land Use and Urban Design Element (Policy LU 6.1.1) Mixed-Use Corridors.* The City shall create or improve mixed-use corridors by requiring compact development patterns that are oriented to and frame the street, establish a safe and comfortable environment for walking, and avoid encroachment upon adjacent residential areas.
- *Public Health and Safety (Policy 1.1.7) Development Review.* The City shall continue to include the Police Department in the review of development projects to adequately address crime and safety, and promote the implementation of Crime Prevention through Environmental Design principles.

The proposed project meets the 2030 General Plan goals and policies related to Citywide Land Use and Urban Design Element. The project promotes walking to services and does not encroach upon adjacent residential uses. The project was reviewed by the Police Department and conditions and restrictions are provided for the proposed alcohol sales.

Alhambra Corridor Special Planning District. The project site is within the Alhambra Corridor Special Planning District (SPD); the goals of the SPD are as follows:

- A. Maintain and improve the character, quality and vitality of individual neighborhoods;

- B. Maintain the diverse character and housing opportunities provided in these urban neighborhoods;
- C. Provide the opportunity for a balanced mixture of uses in neighborhoods adjacent to transit facilities and transportation corridors;
- D. Maintain the neighborhood character of existing commercial neighborhoods while allowing for limited office to serve the medical complex in this area;
- E. Provide the opportunity for reuse and rehabilitation of heavy commercial and industrial neighborhoods to take advantage of close-in living while reducing the number of obsolete and underutilized buildings and sites.

Staff believes that the proposal, by allowing alcohol sales at an existing convenience store, is not contrary to the goals of the SPD because the character of the neighborhood is maintained.

Licensing: The applicant is applying for Type 20 (Off-Sale Beer and Wine) license from the Department of Alcoholic Beverage Control. Type 20 license authorizes the sale of beer and wine for consumption off the premises where sold. The City's Police Department has issued a letter to Alcoholic Beverage Control stating that the Public Convenience or Necessity will be served with this proposed beer and wine sales. The Police Department has also placed conditions of approval on the alcohol sales.

Project Design:

Land Use

The applicant is requesting the sale of beer and wine at an existing gas station with a 2,013 square-foot convenience market. Section 17.24.050(40) of the zoning code requires the issuance of a special permit for sale of alcoholic beverages in a store less than 15,000 square-foot in size. The Planning Commission shall consider whether the proposed use will detrimentally affect nearby residentially zoned areas, and shall give consideration to the distance of the proposed use from residential buildings and from churches, schools, hospitals, public parks and playgrounds, child care centers, social services, and other similar uses. In addition to the considerations applicable to all special permit applications, the planning commission may consider the following regulations: hours of operation; quantity and size of containers sold; alcoholic content of wines sold for off-premises consumption; percentage of shelf space devoted to alcoholic beverages; a requirement that the establishment post, in compliance with the city code, signs prohibiting the possession of open alcoholic beverage containers or the consumption of alcoholic beverages on any property adjacent to the establishment under the control of the establishment's operator; any other activities proposed for the premises.

The subject site abuts a multi-family complex directly to the west, zoned Multi-Family SPD (R-3A-SPD). Residential buildings within the Multi-Family SPD (R-3A-SPD) zone are located across the alley to the northwest of the site. Residential buildings in the General Commercial SPD (C-2-SPD) and Multi-Family SPD (R-3A-SPD) zones are also located across H Street to the south of the project site. There are no known churches

or hospitals within 500 feet of the site. Staff has identified the following sensitive uses within close proximity to the site.

Table 2: Surrounding Sensitive Uses		
Use	Address	Approximate Distance from Project Site
Old Marshall School (vacated building)	2718 G Street	282 Feet
Marshall Park and Hart Senior Center	915 27 th Street and 916 28 th Street	577 Feet
McKinley Park	Bounded by G Street, 33 rd Street, H Street and Alhambra Boulevard	969 Feet

The Old Marshall School at 2718 G Street is currently vacated due to structural analysis being undertaken and future usage is unknown pending decision by the governing board of the Sacramento Unified School District. The Old Marshall School used to house the California Montessori Project which has since re-located to Jefferson Elementary School. Both Marshall Park and McKinley Park are located beyond 500 feet of the site.

In evaluating the subject special permit proposal, the Commission is required to make the following findings:

- A. The proposed use will not adversely affect the peace or general welfare of the surrounding neighborhood.

The proposed use will not adversely affect the peace or general welfare of the surrounding neighborhood in that: 1) alcohol sales are restricted between 8:00 a.m. and 11:00 p.m., and 2) restrictions on alcoholic container sizes are conditions of approval.

- B. The proposed use will not result in undue concentration of establishments dispensing alcoholic beverages.

The proposed use will not result in undue concentration of establishments dispensing alcoholic beverages in that the Police Department has reviewed the project and issued a letter stating that Public Convenience or Necessity is served.

- C. The proposed use will not enlarge or encourage the development of a skid row or blighted area.

The proposed use will not enlarge or encourage the development of a skid row or blighted area since the sale of alcohol will be restricted between 8:00 a.m. to 11:00 p.m. and the site is conditioned to be maintained and kept clear of litter.

D. The proposed use will not be contrary to or adversely affect any program of redevelopment or neighborhood conservation.

The proposed use is not contrary to policies in the 2030 General Plan and does not impact redevelopment or neighborhood conservation.

Staff supports the request to sell beer and wine at the subject site since Public Convenience or Necessity is served and the project is conditioned to restrict hours of alcohol sales and sizes of alcoholic containers.

Access, Circulation and Parking

The site is located at the northwest corner of 29th Street and H Street with driveways fronting on both streets. The site can also be accessed by the alley to the north of the site. The proposal does not expand the envelope of the existing convenience store and therefore does not require additional parking than what is currently available on the site.

Height, Bulk and Setbacks

There are no changes to the height, bulk or setback of any structures on the site.

Building design, signage and landscaping

There is no proposed expansion to the existing 2,013 square foot convenience store building and no revision to the site layout including landscaping. No new signage is proposed under this application. The floor plan shows that the beer will be located in existing coolers on the south end of the store and the wine will be located on one of the end caps at one of the aisles. The hours of operation are 8:00 a.m. to 11:00 p.m. and the sale of alcoholic beverages is also restricted to those hours as conditioned.

Conclusion: Staff recommends the Commission approve the request based on the findings and subject to the conditions listed in Attachment 1. Staff's recommendation is based on Public Convenience or Necessity being served and that the project is conditioned to restrict hours of alcohol sales and sizes of alcoholic containers.

Respectfully submitted by: David Hung
DAVID HUNG
Associate Planner

Approved by: Stacia Cosgrove
STACIA COSGROVE
Senior Planner

Recommendation Approved:

Gregory Bitter
GREGORY BITTER, AICP
Principal Planner

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Attachment 1
Proposed Findings of Fact and Conditions of Approval
Tooley Gas and Convenience Store Alcohol Sales (P11-041)
730 29th Street and 2831 H Street, Sacramento, CA 95816

Findings of Fact

A. Environmental Determination: Exemption

1. 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 Section 15301, Existing Facilities, of the California Environmental Quality Act, as follows:
 - a. The project is a request for alcohol sales special permit in an existing store which involves negligible or no expansion of use beyond that existing at the time of determination.

B. The **Special Permit allow the sale of beer and wine for off-premises consumption in the C-2-SPD zone is **approved** subject to the following Findings of Fact and Conditions of Approval:**

1. The proposed use will not adversely affect the peace or general welfare of the surrounding neighborhood in that: 1) alcohol sales are restricted between 8:00 a.m. and 11:00 p.m., and 2) restrictions on alcoholic container sizes are conditions of approval.
2. The proposed use will not result in undue concentration of establishments dispensing alcoholic beverages in that the Police Department has reviewed the project and issued a letter stating that Public Convenience or Necessity is served.
3. The proposed use will not enlarge or encourage the development of a skid row of blighted area since the sale of alcohol will be restricted between 8:00 a.m. to 11:00 p.m. and the site is conditioned to be maintained and kept clear of litter.
4. The proposed use is not contrary to policies in the 2030 General Plan and does not impact redevelopment or neighborhood conservation.

Conditions of Approval

- B.** The **Special Permit** to allow the sale of beer and wine for off-premises consumption in the C-2-SPD zone is hereby approved subject to the following conditions:

Planning Division

- B1. The applicant shall obtain all necessary licenses from the Department of Alcoholic Beverage Control prior to the sale of alcoholic beverages.
- B2. The business shall establish a “Good Neighbor” policy that includes but not limited to the following:
- a. Provide an emergency contact person and phone number on-site, in a clearly identified place; and
 - b. Establish a process for neighbors to communicate directly with the management staff should there be any problems or issues.
- B3. The hours of operation of the convenience store shall be 8:00 a.m. to 11:00 p.m.
- B4. The site shall be maintained and kept clear of any litter.
- B5. Any modifications to the project shall be subject to review and approval by the Planning Division.

Police Department

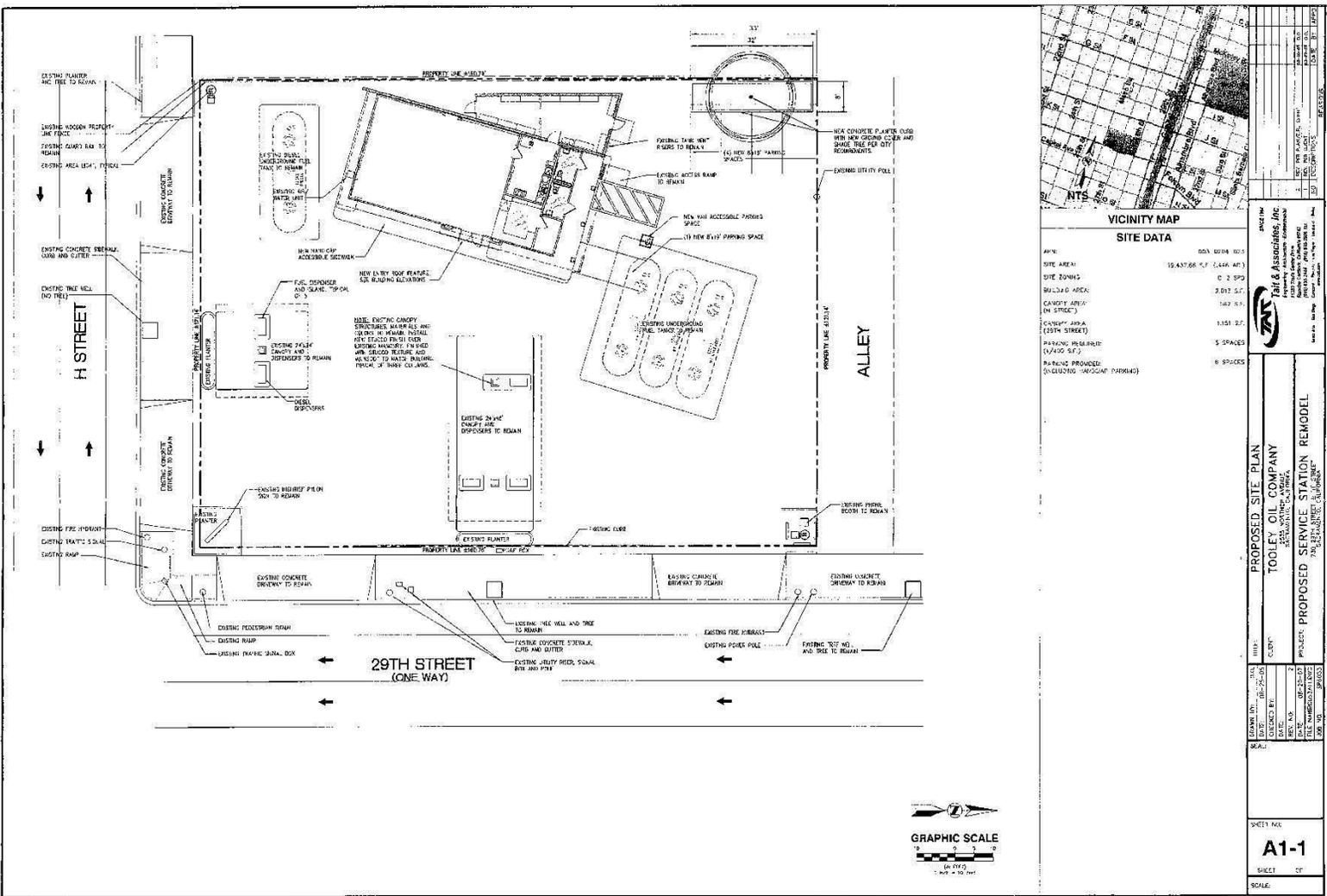
- B6. The main cashier counter shall be equipped with a central station silent robbery alarm system and a telephone.
- B7. Alcohol sales are limited to the hours between 8 A.M. and 11 P.M.
- B8. Beer, ale, and/or malt beverages shall be sold in original factory packages of a six pack or greater, except malt based coolers. At no time, shall a single unit smaller than 24 ounces be sold individually.
- B9. Wine and/or wine coolers must be sold in no less than 750 ml containers or 4-pack containers.
- B10. No distilled spirits shall be sold.
- B11. Any rear door used to admit employees or deliveries shall be equipped with a 180 degree viewing device to screen persons before allowing entry.
- B12. Height markers which display height measures are required on the interior doorway of the business.
- B13. All exterior lighting fixtures shall be maintained and operational.

- B14. No public telephone/pay phone shall be allowed on the premises.
- B15. The applicant shall post the property No Trespassing / No Loitering in accordance with section 602(k) of the California Penal Code, and sign an enforcement agreement with the police department to prosecute all violators.
- B16. Signs shall be posted prohibiting consumption of alcoholic beverages in the business or in the parking areas. The proprietor, or their agent, shall immediately disperse anyone drinking on the property in order to prevent nuisance or unreasonable interference with adjacent properties.
- B17. The proprietor or his agent is responsible for reasonably controlling the conduct of persons on or immediately adjacent to the site and shall immediately disperse loiterers in order to prevent nuisance or unreasonable interference with adjacent properties.
- B18. There shall be no video/arcade machines maintained upon the premises at any time.
- B19. All dumpsters must be kept locked.
- B20. The applicant shall be responsible for the daily removal of all litter generated by the business, from the subject site, adjacent properties and streets.
- B21. Closed-circuit color video cameras shall be employed to monitor the cash registers and the entrances.
- B22. The recording device shall be a digital video recorder (DVR) capable of storing a minimum of 7 days worth of activity. (A DVR capable of storing 30 days worth of activity is preferable.)
- B23. The DVR must be kept in a secured area that is accessible only to management.
- B24. Television style monitors should be mounted in a visible location near the entrance so that patrons can clearly see their activities are being monitored when they come through the front door.
- B25. Closed-circuit color video cameras should also be used in the parking lot area to create comprehensive coverage. Parking lot cameras often make an immense difference during the investigation of a crime.

Sacramento Area Sewer District

- B26. The subject property is outside the boundaries of the SASD but within the Urban Service Boundary and SRCSD shown on the Sacramento County General Plan. SRCSD will provide ultimate conveyance and treatment of the sewer generated from this site, but the Sacramento City Utilities Department's approval will be required for local sewage service.

Exhibit 1A: Site Plan



Attachment 2: Public Convenience or Necessity Letter



DEPARTMENT OF
POLICE

CHIEF OF POLICE
RICK BRAZIEL

DEPUTY CHIEFS
SAM SOMERS, JR.
BRIAN LOUIE

CITY OF SACRAMENTO
CALIFORNIA

May 5, 2009
Ref. No.: LC9-5-4

5770 FREEPORT BLVD., SUITE 100
SACRAMENTO, CA
95822-3516

PH 916-808-0800
FAX 916-808-0818
www.sacpd.org

Lori Ajax
District Administrator
Alcohol Beverage Control
3321 Power Inn Road, Suite 230
Sacramento, CA 95826

Dear Ms. Ajax:

The Sacramento Police Department has completed the investigation for Tooley Oil Co. located at 730 29th St. The Police Department feels that Public Convenience or Necessity will be served.

Sincerely,

Mike McCarthy, Captain
Metro Division

The mission of the Sacramento Police Department is to work in partnership with the Community to protect life and property; solve neighborhood problems, and enhance the quality of life in our City.

Attachment 3: Support Letter (1)

**MARSHALL SCHOOL/NEW ERA PARK
NEIGHBORHOOD ASSOCIATION**

P. O. Box 19043
Sacramento, CA 95819
marshall.newera@gmail.com

August 10, 2011

VIA EMAIL

David Hung, Associate Planner
City of Sacramento
Community Development Department
300 Richards Boulevard, 3rd Floor
Sacramento, CA 95758

Re: Tooley Gas & Convenience Store Off-Sale Alcohol
File No.: P11-041

Dear Mr. Hung:

I am writing this letter in response to your request for comments to the Tooley Gas and Convenience Store off sale alcohol Special Permit. The Tooley Family, along with their representative Eric Rasmussen has met with the Board of Marshall School/New Era Park on two separate occasions. They have sufficiently addressed our concerns and have also been a willing participant to do so. We are assured by the Tooley's that should issues arise pertaining to the sale of alcohol at their location; they will address them immediately with the neighborhood and the Association. They continue to be a good business neighbor.

We are in support of their request for a Special Permit to sell off-sale alcohol at their convenience store.

Very truly yours,

Mark Hefling
Co-Chair

jam
cc: MSNEP Board Members

Attachment 4: Support Letter (2)

Michael Murphy
2731 G Street
Sacramento, CA 95816
916-447-8178

August 10, 2011

VIA EMAIL

David Hung, Associate Planner
City of Sacramento
Community Development Department
300 Richards Boulevard, 3rd Floor
Sacramento, CA 95758

Re: Tooley Gas & Convenience Store Off-Sale Alcohol
File No.: P11-041

Dear Mr. Hung:

I write this letter to offer my support for the Tooley Gas application for Off-Sale Alcohol. The Tooley family and their representatives have reached out to the neighborhood association to solicit comments and concerns regarding their application. They also attended a recent neighborhood function to further connect with our neighborhood. As a neighborhood, we are working to find compromise and consensus among businesses and residents. I feel that the Tooley family is committed to that process as well. They have been a good business neighbor and I believe they will continue to be a foster a relationship with the residents. I support the granting of the Special Use Permit to allow the alcohol sales at Midtown Shell.

Please contact me if you have any questions.

Very truly yours,



Michael Murphy

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