



REPORT TO PLANNING AND DESIGN COMMISSION City of Sacramento

4

915 I Street, Sacramento, CA 95814-2671

PUBLIC HEARING
September 13, 2012

To: Members of the Planning and Design Commission

Subject: 860 Arden Way Shell (P11-085)

A request to reestablish the 24-hour operations at a convenience market which is located within 500 feet of a residential zone or residential use, on a parcel of approximately 0.66 acres in the General Commercial, Transit Overlay (C-2-TO) zone.

- A. Environmental Determination: Exempt (CEQA Guidelines Section 15301, Existing Facilities);
- ~~B. Special Permit to sell alcoholic beverages (beer and wine) for offsite consumption at a convenience market. (Withdrawn by Applicant)~~
- C. Special Permit to operate a 24-hour convenience market that is located within 500 feet of residential property.

Location/Council District:

860 Arden Way (A.K.A. 820 Arden Way), Sacramento, CA 95815

Assessor's Parcel Number: 277-0134-021-0000

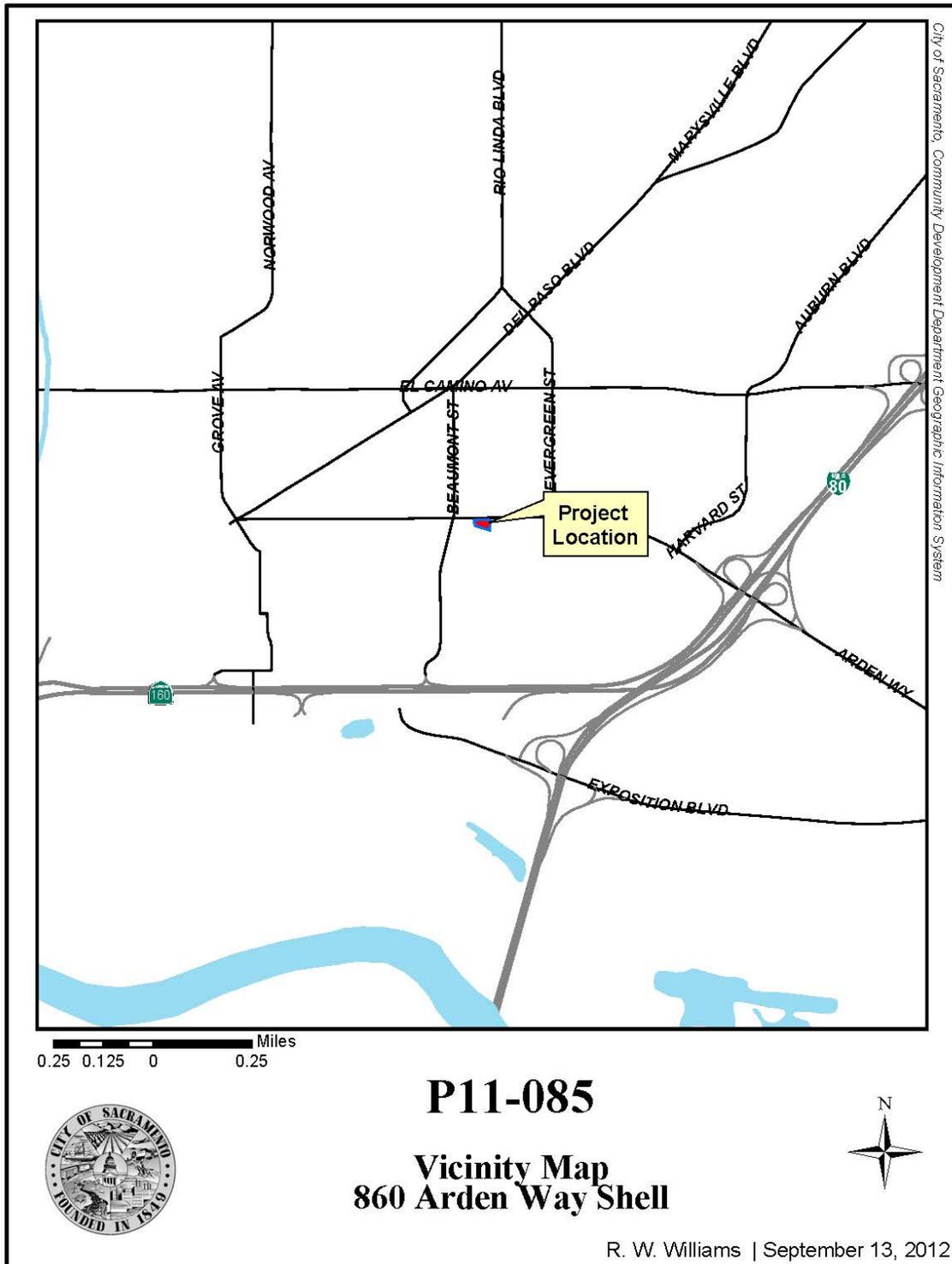
Council District 2

Recommendation: Staff recommends the Commission **approve** the environmental determination (Item A) and the request to operate a 24-hour convenience market (Item C) based on the findings and subject to the conditions listed in Attachment 1. **The project is not considered to be controversial.** The Commission has final approval authority over items A and C above, and its decision is appealable to City Council.

Contact: Robert W. Williams, Associate Planner, (916) 808-7686,
Lindsey Alagozian, Senior Planner, (916) 808-2659

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

Owner: Carolyn Slobe & Nancy James, North Sacramento Land Company,
(916) 925-2761, 400 Slobe Avenue, Sacramento, CA 95815



Summary: The subject site is on the south side of Arden Way, east of Royal Oaks Drive and directly adjacent to the Royal Oaks Light Rail Station. The site is currently developed with an existing service station and convenience market. The service station and convenience market were constructed in 1989. The site was previously entitled by the Planning Commission with a special permit to sell beer and wine for offsite consumption and a special permit to allow a 24-hour convenience market within 500 feet of residential property. The service station and convenience market were closed in June of 2009 and reopened in September of 2011, more than a two year period.

The zoning code states that any special permit, the exercise of which is voluntarily or involuntarily interrupted for a period in excess of two years, shall be deemed automatically revoked (17.212.100(G)). The 24-hour convenience market had not been reopened within the two year time limit; therefore the special permits granted in 1989 expired in June 2011, prior to the reopening in September 2011. **The applicant had applied for a special permit to allow for the operation of a 24 hour convenience market, and for continued beer and wine sales, but now has withdrawn the request for continued beer and wine sales.**

Allowing 24-hour convenience market operations is not considered to be controversial if alcohol is not sold at this site.

Table 1: Project Information
General Plan designation: Urban Corridor Low (UCORLOW) (FAR: 0.3 to 3.0 and site is 0.07)
Community Plan Area: North Sacramento
Design Review District: Swanston Station
Existing zoning of site: C-2-TO (General Commercial, Transit Overlay)
Existing use of site: Service Station with convenience market/store
Property area: 0.66 acres

Background Information: City records show that a service station was established at this address around 1968. At that time, the site was zoned Light Industrial (M-1), and a service station use was allowed as a matter of right in this zone. In 1989 this service station was demolished and a new service station with a convenience market was constructed on the property. This was also allowed as a matter of right in the M-1 zone, however, entitlements were required in order to allow the sale of alcohol and to allow the convenience market to remain open between the hours of 11 PM and 6 AM. On July 13, 1989 the Planning Commission approved a special permit with conditions to allow the sale of beer and wine for offsite consumption and approved a special permit with conditions to allow the 24-hour convenience market (P89-215). In 1989 the convenience market business was branded as a Chevron station. In January 2005, sign permits indicate the service station became a Valero branded station.

On June 6, 2011 a sign application (SIG-1105395) was submitted to the Community Development Department to reface the attached and detached signs at this site. Planning staff who reviewed the proposed signage were not provided any information regarding the length of closure for the service station and convenience market. This sign permit was issued on July 8, 2011.

In July 2011, planning staff reviewed the proposed installation of an Enhanced Vapor Recovery (EVR) system (DR11-086). At that time planning staff received information that the service station and convenience market had been closed for a period of time, however an initial investigation by staff could only date the closure back to March 1, 2010, when a complaint was received by the Code Compliance division regarding an abandoned gas station. The initial investigation indicated the service station and convenience market had been closed for less than two years. In July 2011, the applicant was allowed to proceed with the reestablishment of the service station and convenience market.

After the service station and convenience market reopened for business in September 2011, staff began receiving complaints regarding the sale of beer and wine at this site. Staff was requested to investigate more thoroughly the details associated with the closure of the previous service station and convenience market. In October 2011, staff was provided information from SMUD indicating the site was without electrical power from June 5, 2009 through September 1, 2011. Based on staff's subsequent investigation, staff determined that the service station and convenience market was closed for more than a two year period. Once staff had evidence the service station and convenience market was closed for more than two years, the owner of the service station and convenience market was notified that a new special permit would be required to allow for the sale of beer and wine and to allow the extended hour of operations. On November 7, 2011, a Planning Commission application was submitted to legalize the reestablishment of the existing business operations.

The project was originally scheduled to be heard before the Planning Commission on February 9, 2012 and was continued at the request of the applicant until March 8, 2012. Staff withdrew the project from the March agenda because further investigations into the nonconforming service station land use was requested by the applicant.

Public/Neighborhood Outreach and Comments: Early notification of the proposed project was sent to representatives the Woodlake Neighborhood Association, and also the North Sacramento Chamber of Commerce. Staff has not received any comments from these organizations. On January 27, 2012 the site was posted and the organizations and all property owners within 500 feet of the subject site were notified of a public hearing that was originally scheduled to be held before the Planning Commission on February 9, 2012. Staff has been contacted by two property owners who have expressed opposition to the sale of alcohol at the location. No opposition to the 24-hour convenience market was specifically expressed.

Environmental Considerations: The Environmental Services Manager has determined the project is exempt from environmental review pursuant to the California

Environmental Quality Act (CEQA) Guidelines (Section 15301). Section 15301 consists of existing facilities involving negligible or no expansion of an existing use.

Policy Considerations: 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 Update designation of the subject site is Urban Corridor Low which includes street corridors that have multistory structures and more intense uses at major intersections, lower-intensity uses adjacent to neighborhoods, and access to transit service throughout. At major intersections, nodes of intense mixed-use development are bordered by lower-intensity single-use residential, retail, service, and office uses. Street-level frontage of mixed-use projects is developed with pedestrian-oriented uses. The streetscape is appointed with landscaping, lighting, public art, and other pedestrian amenities. The service station and convenience market were constructed on the site in 1989. As described below, the service station is a legal non-conforming use, while the convenience market is an allowed use.

2030 General Plan Policies:

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 (PHS 1.1.7).*

The City's Police Department does not oppose 24 hour operations of the service station or convenience market, as long as alcohol is not sold at the site.

Infill below Minimum Standards. *The City shall allow renovations and expansions of existing development that fall below the allowed minimum density and floor area ratio (FAR), provided that the existing structure is not demolished (LU 1.1.6).*

Surrounding Uses

The site is located along Arden Way, just east of Royal Oaks Drive and south of Empress Street in North Sacramento. On the north side of Arden Way, there is a mixture of commercial and industrial uses including a used car lot, a take-out restaurant and warehouse buildings. Residential uses are located to the north of the subject site. The Royal Oaks Light Rail Station directly abuts the property to the west and residential uses are located further to the southwest. The light rail tracks and a mixture of commercial and offices are located to the south. To the east there are commercial and industrial uses.

Table 2: Surrounding Uses		
Land Use	Location	Distance from Site
Residential	Boxwood Street	135'
Light Rail Station	800 Arden Way'	Abutting
Recycling Center	777 Arden Way	320'
Convenience Market/Store with Beer/Wine Sales	739 Arden Way	630'
City Park	2415 Evergreen Street	1250'
City Park	500 Arden Way	1950'

Land Use

On April 12, 2011, the City Council adopted the Swanston Station Transit Village Specific Plan (M09-020). This plan included an ordinance rezoning this property from the Light Industrial (M-1) zone to the General Commercial, Transit Overlay (C-2-TO) zone (Ordinance No. 2011-023), which took effect on May 12, 2011. A service station use is not allowed in the Transit Overlay zone; therefore, this preexisting service station was determined to be a non-conforming use on this property.

Staff initially had concerns about whether the newly non-conforming service station use could continue to operate, but records have been provided by the applicant which indicate that beginning in December 2010, a contractor had been performing quarterly inspections, monitoring, and maintenance on the fueling facilities and equipment in preparation of reopening the service station. This activity shows that sufficient work was being diligently pursued on the reopening of this site as a service station, and therefore led staff to determine that the service station use can be allowed to continue as a legal non-conforming use at this site. Staff has no concerns as to the continued use of this site as a service station.

24-Hours Convenience Market

The site contains a 2,030 square foot convenience market. Alcohol sales are currently occurring at this site. The applicant had applied for a special permit to allow beer and wine sales at this site but has recently withdrawn this request after working with staff. Staff has determined that the prior special permit allowing the alcohol sales has expired. The determining factor for the expiration of the special permit for beer and wine sales and the special permit for 24 hour convenience market operations are the actual beer and wine sales and business hours activity. Since the market had no sales or operations of any kind for over two years, the previously approved special permits have

expired. The business owner has the right to have a convenience market/store in either the previous M-1 zone or the new C-2-TO zone, but these operations cannot include the sale of any alcohol without a special permit and the store cannot be open for any reason before 6AM or after 11PM without a special permit. At this time, there is a current code enforcement action on the property; however, City procedures allow continued operations during the entitlement process.

Staff had serious concerns about allowing the beer and wine sales to continue at this site. A high number of alcohol related citations have been issued by both the Sacramento Police Department and the Sacramento Regional Transit Police staff to people who have been consuming alcohol on the premises or in nearby areas, especially the Royal Oaks Light Rail Station. Neighbors have also complained to staff about alcohol related debris in the immediate area. After discussions with Planning Staff and the Sacramento Police Department, the applicant has chosen to withdraw the request for the special permit for beer and wine sales, and continue only with the 24-hour convenience market special permit request, thereby removing the controversial item from the agenda.

Since alcohol will not be sold at this site, staff can support the Special Permit to allow this convenience market to be open after 11PM or before 6AM. The Police Department concerns are based on the problems caused by the alcohol sales in the area, and are not concerns generated by the sales hours of the store. While the site is within 500 feet of residential property, it is not immediately adjacent; therefore, store lights and activities should have very minimal disruption on an already busy thoroughfare.

Section 17.24.050(34) of the zoning code restricts the hours of operation of a convenience market that is located within 500 feet of a residential zone or residential use to be from 6AM to 11PM or else obtain a Special Permit to extend the hours of operation. In evaluating special permit proposals of this type, the Planning and Design Commission is required to make the following findings of fact:

- A. Sound Principles of Land Use. A special permit shall be granted upon sound principles of land use.
- B. Not Injurious. A special permit shall not be granted if it will be detrimental to the public health, safety or welfare, or if it results in the creation of a nuisance.
- C. Must Relate to a Plan. A special permit use must comply with the objectives of the general or specific plan for the area in which it is to be located.

Staff has evaluated the request for 24 hour operations and can support the proposed 24 hour operation, since the convenience market would provide goods to the surrounding neighborhood when other businesses in the area are closed. The elimination of beer and wine sales would reduce any potential impact from this convenience market on the surrounding neighborhood. Based on the benefit to the surrounding neighborhood, staff

believes the Planning and Design Commission can make findings to support a 24-hour convenience market that does not sell beer and wine.

Access, Circulation and Parking

The lot is irregular shape with the main building in the southeast corner of the lot. There are two driveways and two fueling islands and a total of four two side fuel pumps. There are eight parking spaces. There appears to be no bicycle rack which was a previous condition of approval.

Table 2: Parking			
Use	Required Parking	Existing Parking	Difference
Retail	5	8	+3

As indicated above, the project meets or exceeds parking requirements.

Building design, signage and landscaping

There are no proposed changes to the building and structures on the property at this time. Design Review approval will be required for any future renovations or expansions as the site is located within the Swanston Station Design Review District.

Respectfully submitted by: Robert W. Williams
ROBERT W. WILLIAMS
Associate Planner

Approved by:
Lindsey Alagozian
LINDSEY ALAGOZIAN
Senior Planner

Recommendation Approved:

Gregory Bitter
GREGORY BITTER, AICP
Principal Planner

Table of Contents:

Attachment 1:	Recommended Findings and Conditions
Exhibit A:	Site Plan
Exhibit B:	Floor Plan
Exhibit C:	Photo Elevations
Exhibit D:	Photo Elevations
Attachment 2:	Aerial #1
Attachment 3:	Aerial #2
Attachment 4:	Neighbor Letter #1
Attachment 5:	Neighbor Letter #2
Attachment 6:	Neighbor Letter Pictures
Attachment 7:	Zoning Map

**Attachment 1
Proposed Findings of Fact and Conditions of Approval
for a 24-hour Convenience Market
860 Arden Way Shell (P11-085)
860 Arden Way**

Findings Of Fact

- A. Environmental Determination:** 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 and Design Commission finds that the Project is exempt from review under **Section 15301 Existing Facilities** of the California Environmental Quality Act because it involves the use of existing facilities without the expansion of use.
- C.** The **Special Permit** to operate a 24-hour convenience market that is located within 500 feet of residential property is **approved** subject to the following Findings of Fact and Conditions of Approval:
1. The project is based upon sound principles of land use in that the proposed convenience market use is an allowed use in the General Commercial, Transit Overlay (C-2-TO) zone.
 2. The proposed 24-hour convenience market use will not adversely affect the peace or general welfare of the surrounding neighborhood in that: a) no alcohol will be sold at this location and b) the Police Department does not oppose the 24-hour convenience market as long as alcohol is not sold at the store;
 3. The proposed 24-hour convenience market use will not enlarge or encourage the development of a skid row or blighted area in that the establishment will not sell alcoholic beverages; and
 4. The proposed 24-hour convenience market use will not be contrary to the General Plan which designates the site as Urban Corridor Low (UCORLOW) because it allows commercial, retail, and service uses.

Conditions Of Approval

The Special Permit to operate a 24-hour convenience market/store that is located within 500 feet of residential property is hereby **approved** subject to the following conditions:

Planning Division:

1. The business shall establish a “Good Neighbor” policy that includes but not limited to the following:
 - a. In the event of an emergency or to report a complaint, the operator shall have posted onsite the name of an emergency contact person and phone number, in a clearly identified place; and
 - b. The operator shall establish a clear process for neighboring businesses and residents to communicate directly with the management staff should there be any problems or issues.
2. The applicant shall be responsible for the daily removal of all litter generated by the business from the subject site, adjacent properties.
3. Any modifications to the project description shall be subject to the review and approval by the Planning Division and may result in the need for additional planning entitlements.
4. All exterior signage shall conform to the City of Sacramento sign code and shall obtain a sign permit.
5. Visibility to the interior of the store through the storefront windows shall be maintained and shall not be obscured by a predominance of sales racks or advertising posters. Any racking systems placed adjacent to the storefront windows shall be kept in a clean and orderly manner.
6. At least one bicycle rack shall be provided onsite.

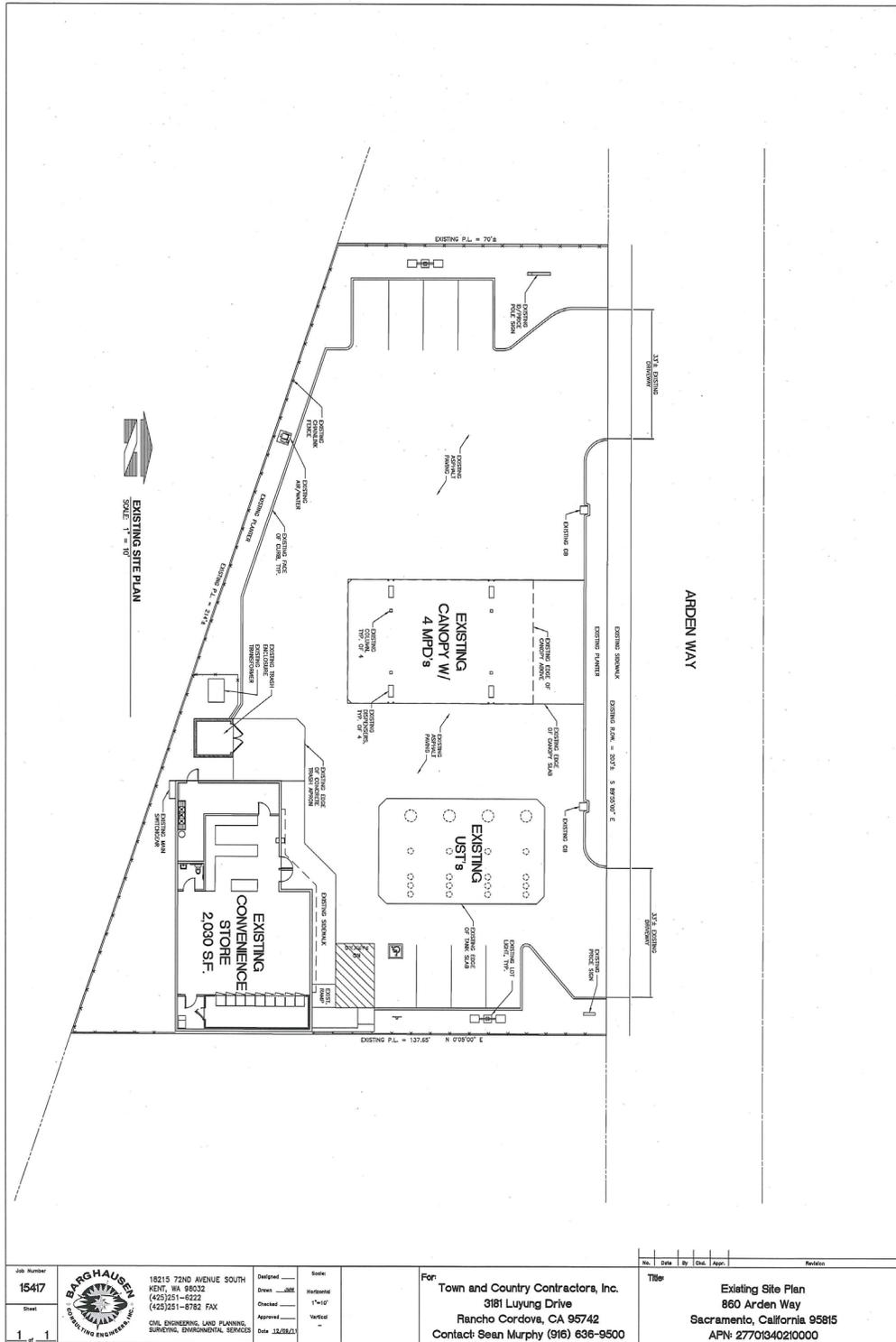
Public Works Department:

1. The applicant shall repair/reconstruct any deteriorated portions of the existing curb, gutter and sidewalk fronting the property along Arden Way per City standards and to the satisfaction of the Department of Transportation.

Solid Waste:

1. Project must meet the requirements outlined in Sacramento City Code Chapter 17.72.
2. Solid waste trucks must be able to safely move about the property, with minimum backing, and be able to empty the bins and cans safely.
3. Properties must accommodate trucks, as well as cans or bins that are roughly the dimensions outlined in the "Truck, Bin, and Can Dimensions" section, on the next page.
4. As a commercial property, this site must have solid waste services, but is not required to use City of Sacramento Solid Waste Services. This means the property manager may have the site served by a franchised hauler instead of the City of Sacramento, if so desired.
5. Solid waste driver must not have to move front-loader bins more than 15 ft. for collection.
6. The property must have enough weekly capacity of both trash and recycling to meet the requirements are outlined in 17.72.030, which for this project is 1 cubic yard for trash, and another 1 cubic yard for recycling.
7. Statement of Recycling must be completed, including a description of trash and recycling operations after the building is built and occupied, such as trash can placement, etc.

Exhibit A: Site Plan



Job Number 15417		18215 72ND AVENUE SOUTH SUITE 108 95832 (425)251-6222 (425)251-8782 FAX	Designer _____ Checker _____ Approved _____ Date 12/08/11	Scale Horizontal 1"=50' Vertical _____	For Town and Country Contractors, Inc. 3181 Luyang Drive Rancho Cordova, CA 95742 Contact: Sean Murphy (916) 636-9500	Title Existing Site Plan 860 Arden Way Sacramento, California 95815 APN: 27701340210000
Sheet 1 of 1		CIVIL ENGINEERING, LAND PLANNING, SURVEYING, ENVIRONMENTAL SERVICES	No. Date By Ck. Appr.			

FilePath: \\S000a\15417\preliminary\15417 AP-1.dwg Date/Time: 12/1/2011 8:42 AM Scale: 11_XREF JMW:DLG Xref: _____

Exhibit C: Photo Elevations

1 EAST BUILDING ELEVATION
 N.T.S.
 15'-3" AFF.
 15'-3" AFF.
 6'-0" FF.
 RANCHO WALK

2 NORTH BUILDING ELEVATION
 N.T.S.
 RANCHO WALK

3 SOUTH BUILDING ELEVATION
 N.T.S.
 RANCHO WALK

4 WEST BUILDING ELEVATION
 N.T.S.
 RANCHO WALK

5 TRASH ENCLOSURE ELEVATION
 N.T.S.
 RANCHO WALK

No.	Date	By	Desc.	Appr.	Revised

Job Number 15417		18215 72ND AVENUE SOUTH NORTH, WA 98032 (425)251-8222 (425)251-8782 FAX CIVIL ENGINEERING, LAND PLANNING, SURVEYING, ENVIRONMENTAL SERVICES	Designed - Drawn - JMS Checked - NLS Approved - Date 12/12/12	For: Town and Country Contractors, Inc. 3181 Luyang Drive Rancho Cordova, CA 95742 Contact: Sean Murphy (916) 636-9500	Title Existing Exterior Elevations 860 Arden Way Sacramento, California 95815 APN: 2770134020000
----------------------------	--	--	---	--	--

File: P:\15417\p11-085\15417 A-2.dwg Date/Time: 12/12/2011 5:09 PM Scale: 1/8"=1'-0" Plot: SHEET 4 of 4

Attachment 2: Aerial #1



Attachment 3: Aerial #2



Attachment 4: Neighbor Letter #1

March 8, 2012

TO: Sacramento City Planning Commission

FROM: Gordon Temple, Owner, 2225 Boxwood Street

RE: Special Permit to allow alcohol sales at 860 Arden Way

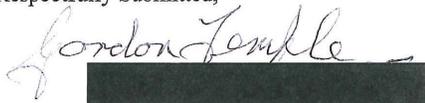
Dear Sirs:

My name is Gordon Temple and I own the property at 2225 Boxwood Street, within 500 feet of the proposed alcohol sales.

The problem I see is the sanitation, which has been ongoing for a while. To my knowledge, the only toilet in the area is at the Arden Shell Station (the property in question) and for the last two months the sign on the toilet door has read "Out of Order". I would like to see one or two portable toilets outside. This may solve the problem of people using the alley as a toilet. Transients use the alley behind our property for a toilet and this will only magnify the problem. If this proposal should be considered, provision should be made for working toilet facilities on the property of 860 Arden Way. As soon as the beer or alcohol is purchased and consumed the problem comes across the street.

I cannot see this is a benefit to our community and could create a undesirable situation. There is already a store less that one block West of this location. The neighborhood is already struggling with the beer cans, bottles and other trash thrown in the Boxwood/Empress alley.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Gordon Temple". The signature is written in black ink and is positioned above a solid black rectangular redaction box.

Gordon Temple

Attachment 5: Neighbor Letter #2

March 11, 2012

Sacramento City Hall
915 I Street
Sacramento, CA 95814
Attention: Ms L. Alagozian

To: Ms Lindsey Alagozian, Senior Planner

From: Gordon Temple, Owner of 2225 Boxwood property

Regarding: Arden Shell request to sell alcohol, 820 Arden Way, 227-0134-021-0000, District 2

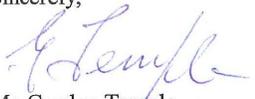
Dear Ms Alagozian:

Your name was given to me at the last council meeting, March 8, 2012

I have attended the last two council meetings trying to voice my concern regarding the sale of beer and wine near this residential area. The problem arises when the transients buy the beer or wine and have no place to relieve themselves and do so in the alley behind my property. I have enclosed photos that demonstrate this problem. These people drag in mattresses and other trash to set up "residence" in the alley across from the Shell station. This has been an ongoing problem and I would like to put a stop to it in my opinion the sale of alcohol in the area will only make it worse. There is already a small store selling the alcohol just a block away.

I have been in contact with Thomas Adams for the past two year hoping to get the council to allow gating of the the alley in question to solve some of the area problem.

Sincerely,

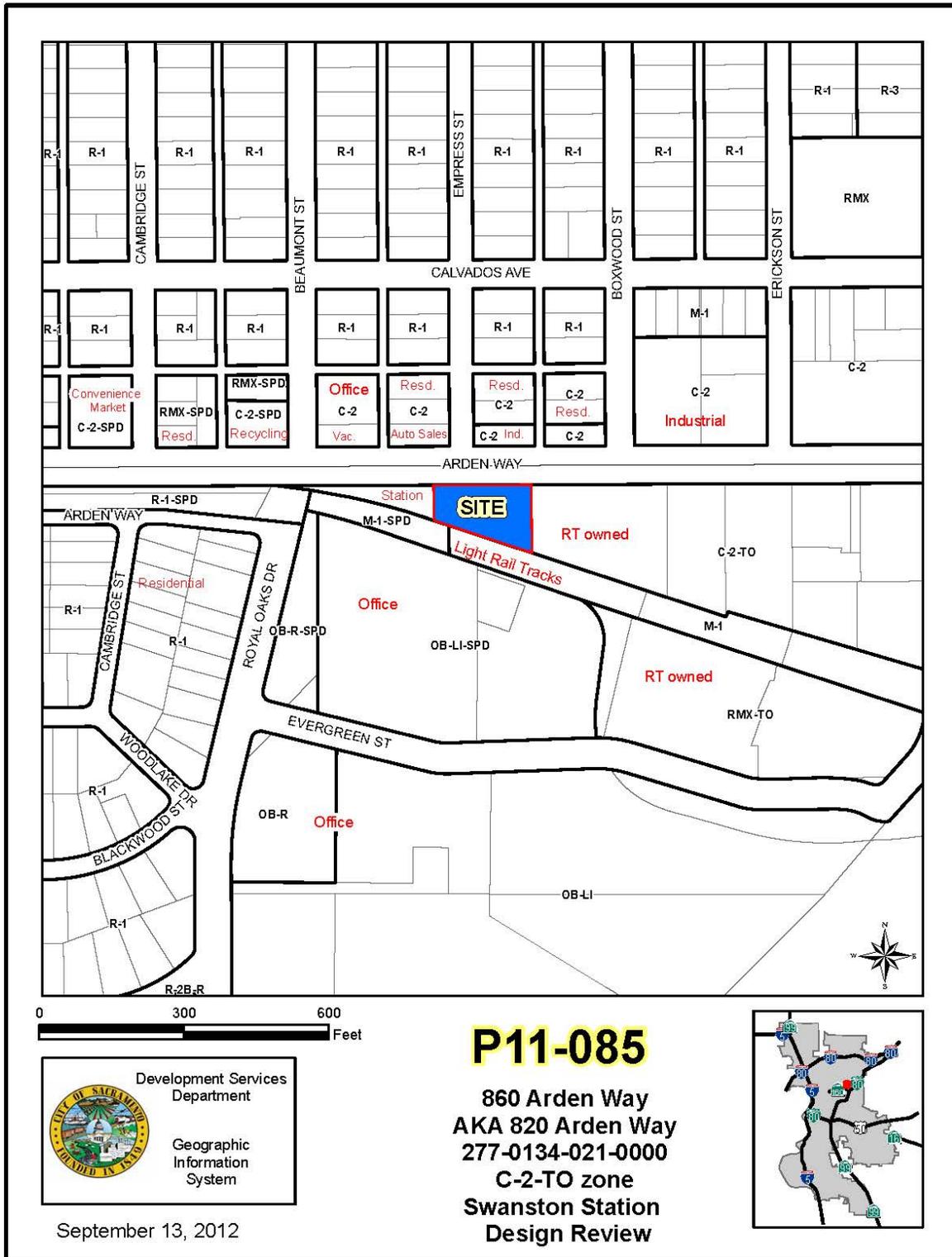


Mr. Gordon Temple
enclosures: 4 photos and 1 letter

Attachment 6: Neighbor Letter Pictures



Attachment 7: Zoning Map



Development Services Department
Geographic Information System

September 13, 2012

P11-085

860 Arden Way
AKA 820 Arden Way
277-0134-021-0000
C-2-TO zone
Swanston Station
Design Review

