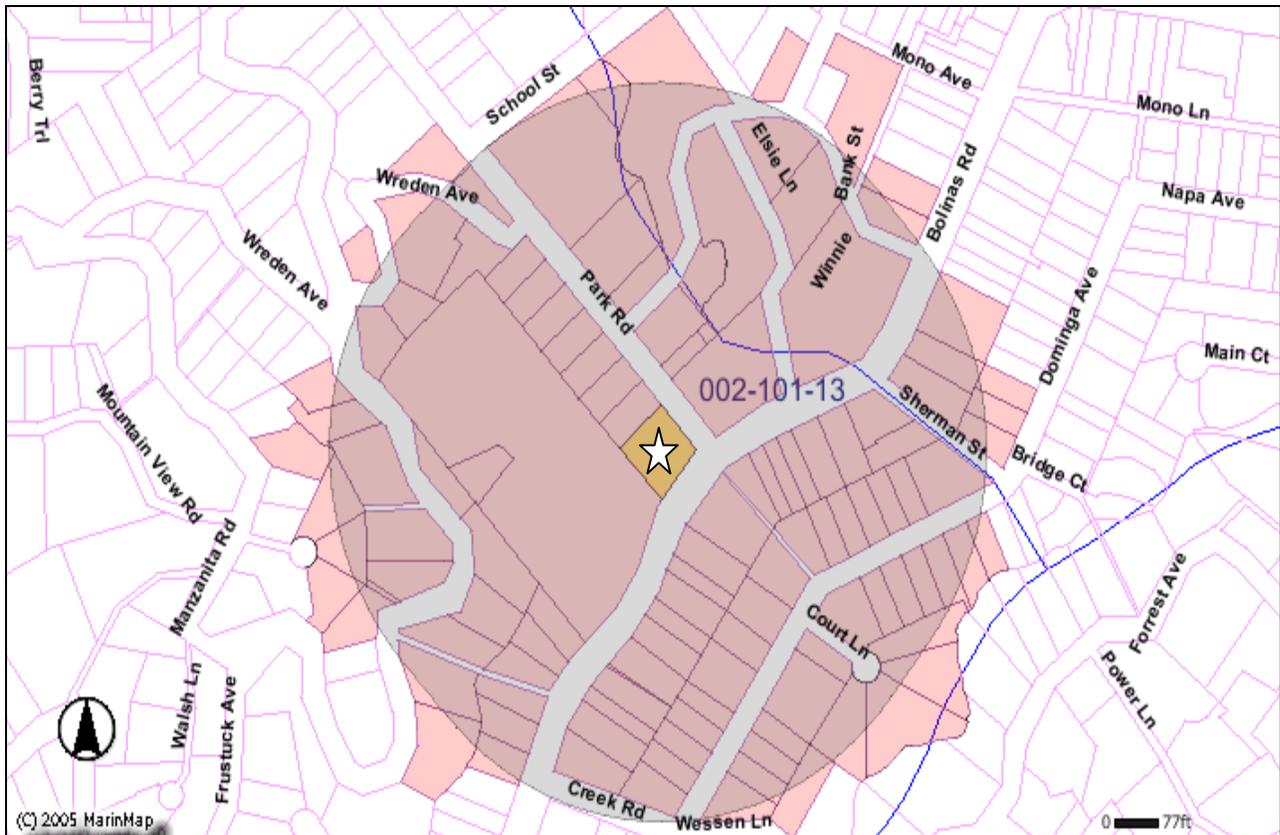


# TOWN OF FAIRFAX STAFF REPORT

## Department of Planning and Building Services

**TO:** Fairfax Planning Commission  
**DATE:** April 21, 2011  
**FROM:** Jim Moore, Director of Planning and Building Services  
Linda Neal, Senior Planner  
**LOCATION:** 150 Bolinas Road; Assessor's Parcel No. 002-101-13  
**PROJECT:** Changing 7-11's hours to remain open 24 hours per day  
**ACTION:** Use Permit Modification; Application # 79-UP-33  
**APPLICANT:** Rajiv Uppal  
**OWNER:** Richard N. Matthews Trust  
**CEQA STATUS:** Categorically exempt, § 15301



## 150 BOLINAS ROAD

## BACKGROUND

The 10,000 square foot site is level and developed with a 2,160 square foot building. In 1972 the Planning Commission approved a Use Permit for a retail store on the site subject to the hours being limited from 6:00 AM to 12:00 PM and subject to the planters being landscaped and the landscaping being maintained. The Planning Commission denied a request to expand the operation to 24 hours by 7-11 in 1979. The denial was based on concerns of the Police Chief and residents of the apartments at 200 Bolinas Road that the expanded hours would significantly change the atmosphere and climate of the area during the late night and early morning hours. The Chief was concerned that the new hours would result in people loitering in the parking lot making noise and disrupting the neighboring apartment tenants and property owners.

## DISCUSSION

The staff has circulated the request for extended hours to all the agencies that have jurisdiction over the property including the Fairfax Police Department and we received the following comments (See Exhibit B):

The Fairfax Police Department has no concerns about the expanded hours.

The Ross Valley Fire Department indicated that the business must remain in compliance with the Town of Fairfax Fire Code at all times.

The Marin Municipal Water District specified that any landscaping plan must comply with their Water Conservation Ordinance No. 414.

The Sanitary District, Marin County Environmental Health and the Fairfax Public Works Department had no comments.

All neighboring property owners and tenants within 300 feet of the property were noticed about the hearing.

The shrubs that use to be located in the landscape planter at the southeast corner of the property were removed and never replaced. The barren dirt filled planter has become an eyesore and some type of native, water conserving landscaping should be replaced. Staff has recommended that this be made a condition of approval.

The applicants indicate that they want to provide a twenty four hour to serve the grocery needs of Fairfax's residents at any hour of the day they might need them.

The concerns of the Police Chief back in 1979 are not shared by the current police force who have indicated that they do not have problems with loitering or excessive noise in the 7-11

parking lot. The neighboring residents already deal with some noise between 12:00 Midnight and 6:00 PM when fire trucks and police vehicles run their sirens when responding to emergencies.

If the new hours do end up causing some unforeseen problems for the Town or surrounding properties, the Use Permit can be revisited and either be revoked or have additional Use Permit conditions placed upon the property to mitigate impacts.

### RECOMMENDATION

Move to approve a modification of Use Permit No. 79-UP-33 based on the following findings and subject to the following conditions of approval:

#### Recommended Conditions

- Some type of native water conserving landscaping treatment shall be installed in the planter at the southeast corner of the parking lot. The applicant shall provide a landscaping bond to the Town or evidence that they have entered into a contract with a landscaping company for at least one year until the landscape material becomes established.
- The applicant shall continue to comply with all the requirements of the Fairfax Fire Code.

#### Recommended Findings

1. The approval of the use permit shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment because there are other businesses in Town that, while not staffed all the time, provide services 24 hours a day such as the Rhino Gas Station and Bank of America gas station and bank ATM's. Most 7-11 stores are open 24 hours a day.
2. The police have indicated that having the 7-11 open 24 hours a day will not cause excessive or unreasonable detriment to surrounding properties because the store is located immediately across the street from the Police Department and is not a location where people tend to loiter.
3. Approval of the use permit is not contrary to those objectives, goals or standards contained in Title 17, the Zoning Ordinance, of the Fairfax Town Code which indicates that businesses in the CH Zone allow a variety of retail businesses with long operating hours.
4. Approval of the use permit is in the public interest because it will provide a place to purchase food staples during hours when other retail stores are closed without having to

travel out-of-Town.

**ATTACHMENTS**

Exhibit A – applicant’s supplemental information

Exhibit B - Other agency/department comments