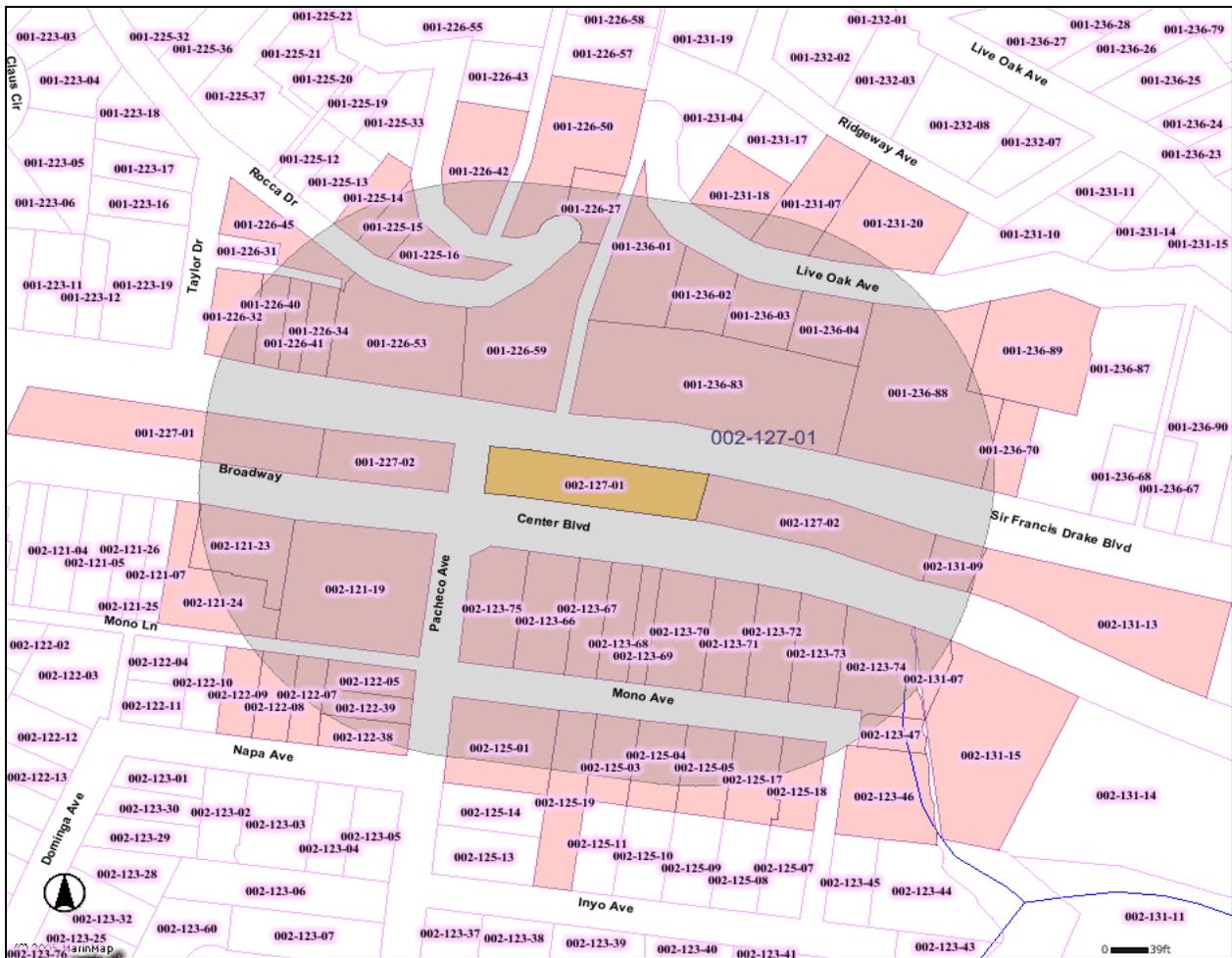


# TOWN OF FAIRFAX STAFF REPORT

## Department of Planning and Building Services

**TO:** Fairfax Planning Commission  
**DATE:** February 16, 2012  
**FROM:** Jim Moore, Director of Planning and Building Services  
Linda Neal, Senior Planner  
**LOCATION:** 1789 Sir Francis Drake Blvd.; Assessor's Parcel No. 002-127-01  
**PROJECT:** Expansion of an existing gasoline station kiosk  
**ACTION:** Modification of an existing Use Permit; Application # 12-01  
**ZONING:** Highway Commercial CH Zone District  
**APPLICANT:** Laura Kehrlein and Fred Divine, Fredric Divine Associates, Architects  
**OWNER:** Dusty Divine  
**CEQA STATUS:** Categorically exempt, § 15301(e)(1)



# 1789 SIR FRANCIS DRAKE BOULEVARD

## BACKGROUND

The 11,611 square foot site is level and currently developed with a Volare???? Service station. On September 12, 1966, the Fairfax Town Council approved a use permit to allow the operation of a Mobile gasoline station at 1789 Sir Francis Drake Boulevard subject to the owner refraining from parking his tow truck on the westerly corner of the site.

The station was redesigned several times over the years most recently in 2002 when the Town approved a design change for the current pumps, canopies and the new kiosk. The Town granted an encroachment permit on August 7, 2002 for a corner of one of the canopies that extends into the Center Boulevard right-of-way.

Over the years getting the various business owners to adequately maintain the landscaping has been an ongoing challenge.

## DISCUSSION

The applicants are requesting a modification of the original Use Permit to allow a minor 199 square foot expansion of the 223 square foot gas station kiosk to accommodate the sale of snack foods.

The project requires a Use Permit for the following reasons:

Town Code § 5.36.010 limits the services that can be provided at a service station to vehicle maintenance products and other accessories and minor servicing. It prohibits the repairs or reconditioning of the chassis, motors, engines, radiators unless specifically provided for in the business license permit.

The Zoning Ordinance, Town Code § 17.096.050(B)(5) indicates that serviced stations require the review and approval of a Use Permit by the Planning Commission. The Town Attorney has indicated that the Commission has the authority to modify a station use permit to allow the sale of snacks in a small area of an expanded kiosk.

The proposed expansion is 199 square feet in size and will accommodate two new refrigerator cases, new product display shelves and pre-prepared food service counters.

Due to the location of the gas station and the availability of other convenience stores with less constrained sites and more easily accessible parking, it is doubtful that many customers will visit the site just to purchase snack foods and beverages. The expanded kiosk will cater mostly to customers already visiting the site when they are paying for gas.

## **Hours of Operation**

Staff has surveyed other stations with kiosks that offer limited snack foods and their kiosk hours vary from 24 hours to 7 AM through 9 PM. The other station in Town, Rino Gas Station, has their kiosk open from 7 AM to 9 PM .

The applicant's station currently has 24 hour pay at the pump service while the kiosk is open from 7 AM to 9 PM. Therefore, even if the hours of the kiosk are expanded somewhat the expanded hours will not have a significant impact on the neighboring residential uses. Staff recommends the kiosk hours not be expanded beyond 6 AM to 10 PM because of the close proximity of the neighboring residential units.

## **Parking**

Currently existing on the site are three parking spaces. Two, including a handicapped space, next to the kiosk, and 1 next to the garbage container and the air/water pumps. The expansion would result in the elimination of the 1 standard parking space next to the kiosk while the handicapped space would remain and the standard space next to the air/water pumps would also be retained.

Town Code § 17.096.120(B)(2)(a) sets forth the parking requirements for uses in the Highway Commercial CH Zone District as follows:

One parking space for each 200 square feet, or fraction thereof, of gross floor area occupied by the principal use. Based on this requirement the expanded 422 square foot building requires two parking spaces to comply with the code and they are provided.

## **Landscaping and Site Maintenance**

The landscaping on the site was recently upgraded with the installation of new plant material which appears to be doing well. However, routine landscape maintenance is not happening and weeds are thriving. Also, the guard rail at the rear of the property and lattice is dilapidated and in need of repair and painting. The garbage enclosure is also damaged with one of the doors off the hinges.

In the past the Town has required, as a condition of use permit modification for this site, the submittal of cash deposits to the Town in the amount of \$8,000 and the submittal to the Town of a landscape maintenance contract with a reputable, licensed landscaping firm. These conditions were placed upon the discretionary permit in an attempt to try and have this site maintained to the same standard as gas stations in other communities and to date we have not been successful. 1789 Sir Francis Drake Boulevard is a visually significant gateway site located on Sir Francis Drake Boulevard which is identified as a scenic highway in the Fairfax General Plan (Scenic Highways Element 2.0.0). As such, properties along Sir Francis Drake should be maintained to industry standards.

## **Other Agency/Department Comments**

Ross Valley Fire Department –

The project must comply with the 2010 California Fire Code, Chapter 22, Motor Fuel Dispensing Facilities and Repair Garages.

Fire Code Section 903.2 requires the installation of a fire suppression system that must be reviewed and approved by the Fire Department prior to the project final inspection.

An effective fire break must be maintained by removing and clearing all flammable vegetation and/or other combustible growth. Ross Valley Fire Department Fire Protection Standard 220 Vegetation/Fuels Management Plan is available online.

Address numbers at least 6 inches tall must be in place adjacent to the front door.

All the above requirements shall be notes on the plans submitted for building permit.

Marin Municipal Water District –

District Code Title 13 – Water Conservation is a condition of water service. Indoor plumbing fixtures must meet specific efficiency requirements.

A landscaping plan shall be submitted including an irrigation plan and a grading plan for District approval prior to the project final inspection.

## **RECOMMENDATION**

1. Open the public hearing and take testimony.
2. Close the public hearing.
3. Move to approve a modification of the existing Use Permit, application # 12-01 based on the following findings and subject to the following conditions:

### **Recommended findings**

The small expansion of the kiosk will not increase the parking requirement beyond the 2 spaces required by the Code and therefore, the project will not require a parking variance. The expansion will also not impact circulation of cars or delivery trucks on the site. Therefore approval of the Use Permit will not constitute a grant of special privilege.

The development and use of property as conditioned under the use permit, limiting the hours of

the kiosk from 6 AM to 10 PM, will not cause excessive or unreasonable detriment to adjoining properties or premises. The modified use of the kiosk will not create undue or excessive burdens in the use and enjoyment of adjacent properties *substantially* beyond that which might occur without approval or issuance of the use permit.

The site is located in the Highway Commercial CH Zone District the purpose of which is as follows: To allow a variety of service, retail and wholesale businesses with long operating hours, diversity of building size and type and short term parking. The CH Zone is designed to cater to automobile traffic rather than to pedestrian traffic.

Approval of the use permit modification will not substantially modify the use of the site while allowing the owner to expand the snack food area of the business to be more in keeping with what other competing stations are providing.

### **Recommended conditions**

The applicants shall provide the Town with a landscaping deposit that will cover 1 year of landscaping services in the event that the landscaping on the site is not maintained. The amount will be equal to a landscaping services estimate provided to the business by a licensed landscape contractor. If, after a year, the business has shown a good faith effort to maintain the site this amount will be refunded.

The guardrail at the rear of the site and the garbage enclosure shall be repaired and painted.

### **ATTACHMENTS**

Plans

Exhibit A – Other Agency Comments

