



Agenda Item

Planning Commission

Item #: 7.2.

11/15/2021

File #: 21-0567

TO: Chair and Members of the Planning Commission

THRU: Anna Pehoushek, Assistant Community Development Director

FROM: Monique Schwartz, Associate Planner

1. SUBJECT

Public Hearing: Conditional Use Permit No. 3039-17 (State of California Department of Alcoholic Beverage Control Type 21 License), Conditional Use Permit No. 3054-17 (Drive-Through Automatic Car Wash), Design Review No. 4898-17, and Minor Site Plan Review No. 0896-17, Shell Service Station Remodel and New Drive-Through Automatic Car Wash, 2640-2658 N. Santiago Boulevard.

2. SUMMARY

The applicant proposes to renovate an existing full-service gas station to include the conversion of existing service bays to convenience store area, expansion of the convenience store building, construction and operation of a new drive-through automatic car wash, related site improvements, and the sale of alcoholic beverages for off-site consumption.

3. RECOMMENDED ACTION

Adopt Planning Commission Resolution No. PC 28-21 entitled:

A Resolution of the Planning Commission of the City of Orange approving Conditional Use Permit No. 3039-17 (State of California Department of Alcoholic Beverage Control), Conditional Use Permit No. 3054-17 (Drive-through Automatic Car Wash), Design Review No. 4898-17, and Minor Site Plan Review No. 0896-17 to renovate an existing full service gas station to include the conversion of existing service bays to convenience store area, expansion of the convenience store building, construction and operation of a new drive-through automatic car wash, related site improvements, sale of alcoholic beverages under a State of California Department of Alcoholic Beverage Control (ABC) Type 21 (Off-Sale General) License, and making a finding of public convenience or necessity, located at 2640-2658 N. Santiago Boulevard.

4. AUTHORIZING GUIDELINES

Orange Municipal Code (OMC) Sections 17.08.020, 17.10.030.C, and 17.13.030 authorize the Planning Commission (PC) to review and take action on the subject applications. OMC Table 17.08.020 - Reviewing Bodies states that when more than one type of application is filed for a single project, the application requiring the highest level of approval shall dictate the review process for the entire group of applications. Therefore, the PC is acting as the final approving body on all of the applications for the project.

5. PROJECT BACKGROUND

<i>Applicant:</i>	Design Concepts: Shiv Talwar
<i>Property Owner</i>	Surinder Multani
<i>Property Location</i>	2640-2658 N. Santiago Boulevard
<i>Existing General Plan Land Use Element Designation</i>	General Commercial (GC)
<i>Existing Zoning Classification</i>	Limited Business Tustin Redevelopment Project Area (C-TR)
<i>Old Towne</i>	No
<i>Specific Plan/PC</i>	No
<i>Site Size</i>	71,683 square feet (1.65 acres)
<i>Circulation</i>	The project site is located on the west side of North Santiago Boulevard, between Nohl Ranch Road to the north and Robinhood Place to the south. The City's Master Plan of Streets and Highways classifies North Santiago Boulevard as a Secondary Arterial with an ultimate right of way width of 86 feet. Three two-way driveways are provided along the east property line. On-site circulation is provided by a single drive-through lane starting at the northwest corner that wraps around the perimeter of the multi-tenant retail building leading to the car wash entrance. Two-way drive aisles are also provided within the project interior for access to the fuel pumps, convenience store, and multi-tenant retail building.
<i>Existing Conditions</i>	Shell service station with a 1,942 square foot building containing a convenience store and three service bays, an attached fuel canopy with associated fuel pumps, a 6,144 square foot multi-tenant retail building, surface parking, and related site improvements.
<i>Surrounding Land Uses and Zoning</i>	To the north of the project site is a one-story, free-standing multi-tenant commercial building, zoned C-TR. To the south is a one-story office complex (The Orchard), zoned Office Professional (O-P). To the east is Santiago Boulevard. Also to the east across Santiago Boulevard is a single family residential neighborhood on an upward sloping topography, zoned Single Family Residential 6,000 square feet (R-1-6) and Single Family Residential 10,000 square feet (R-1-10). To the west is the State Route (SR) 55 interchange with Lincoln Avenue and Nohl Ranch Road.

<p><i>Previous Applications/Entitlements</i></p>	<p>On March 3, 1977, the City Council approved Conditional Use Permit No. 0805, a request to sell beer and wine in conjunction with the operation of a restaurant, located at 2658 N. Santiago Boulevard. On August 6, 1987, the Zoning Administrator approved Conditional Use Permit 1612, a request to re-open an existing service station that had been closed for over two years, located at 2640 N. Santiago Boulevard. On November 4, 1987, the Design Review Committee approved DRC No. 2017 for a sign program, located at 2650-2660 N. Santiago Boulevard. On August 24, 1989, the City approved Conditional Use Permit No. 1788-89, a request for an ABC Type 41 (On-Sale Beer and Wine) License within an existing restaurant, located at 2658 N. Santiago Boulevard. On May 8, 1996, the Zoning Administrator approved Design Review No. 3146-96 for the construction of a freeway sign at an existing service station, located at 2640 N. Santiago Boulevard. On May 14, 1996, the City Council approved Conditional Use Permit No. 2133-95, a request to upgrade an existing ABC Type 20 (Off-Sale Beer and Wine) License to a Type 21 (Off-Sale General) License for a Circle K Mini Market, located at 2650 N. Santiago Boulevard. On June 20, 1996, the Zoning Administrator approved Variance 2018-96 to allow the placement of a freestanding sign which exceeds the maximum height and the number of signs allowed by code, located at 2640 N. Santiago Boulevard. On April 21, 2016, the Community Development Director approved Temporary Use Permit No. 0189-16 for the operation of a fruit stand, located at 2650 N. Santiago Boulevard.</p>
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6. PROJECT DESCRIPTION

The applicant proposes to renovate an existing full-service gas station to include the conversion of existing service bays to convenience store area, expansion of the convenience store building, construction and operation of a new drive-through automatic car wash, related site improvements, and the sale of alcoholic beverages for off-site consumption. Access to the single drive-through lane begins at the northeast driveway entrance where cars form a queue around the northern perimeter of the multi-tenant retail building leading to the automatic pay booth at the entrance of the car wash tunnel. The project has been provided with 39 parking spaces and drive-through queuing capacity for 10 vehicles.

The existing convenience store/service bay building, fuel canopies, fuel pumps, and multi-tenant retail building will remain in the same locations as part of this proposal. Access to the site also remains the same, with three driveway approaches along North Santiago Boulevard.

Convenience Store

The existing 1,942 square foot convenience store/service bay building will be expanded by 333 square feet on the east side, under the existing roof canopy and remodeled on the interior to eliminate the two service bays in order to enlarge the convenience store floor area. The interior of the convenience store will be configured with a restroom, storage room, walk-in cooler, self-service food counters, merchandise shelving for food products and dry goods, and cashier counter. The main entrance/exit is located on the east side of the building, with a separate exterior entrance to the

restroom facility. The gabled roof edge on the north side of the building will be modified to a hipped roof design to better match the roofline of the fuel canopy and south side of the building. The exterior façade will maintain the existing building design and utilize similar materials and finishes in the area of the addition, including new matching windows, painted stucco finish, and vertical wood trim details.

The project also includes a request to sell alcoholic beverages under an ABC Type 21 (Off-Sale General) License within the newly remodeled convenience store in order to provide a one-stop shopping experience to new and existing customers. Three to four refrigerated coolers will be designated for alcoholic beverages, approximately 43 feet from the store's main entrance/exit. The proposed hours for alcohol sales will be 6:00 a.m. to 2:00 a.m. The cooler doors designated for alcohol sales will be locked during non-alcohol selling hours. There will be approximately 10 employees that will operate the gas station, convenience store, and car wash. The proposed hours of operation are:

Gas Station Fueling/Convenience Store: Open 24 hours/day

Car Wash

The new 2,340 square foot drive-through automatic carwash building will be located to the rear of the convenience store and multi-tenant buildings, at the top of an existing landscape slope, and adjacent to the west property line and the SR 55 freeway. Access to the car wash tunnel will be provided by a designated drive-through lane, located at the northeast corner of the property. The interior of the building will be configured with a car wash tunnel, mechanical equipment room, and office area. The exterior design of the building will incorporate similar architectural features and materials as the adjacent convenience store and multi-tenant building, including a terra cotta hip style roof with exposed rafter details, large windows along the west elevation, painted stucco finish, vertical wood trim, metal wall light fixtures, and painted metal utility doors. The proposed hours of operation for the car wash are:

Car Wash: Monday through Sunday: 7:00 a.m. to 9:00 p.m.

Accessory Structure

A new concrete masonry trash enclosure will be located within a landscape planter adjacent to the southwest corner of the site. The enclosure exterior design will utilize matching colors and materials as the other buildings on the site, including painted stucco finish, painted metal doors, and painted overhead wooden trellis.

Multi-tenant Retail Building and Overall Site

The gabled end roofline on the south side of the existing multi-tenant building will be modified to a hipped roof end in order to match the roof design on the north end of the building, and coordinate with the rooflines of the convenience store, fuel canopy, and new carwash building. No other modifications are proposed, except that the exterior of the building will be re-painted to match the newly expanded convenience store and new car wash building.

The proposed exterior color scheme for the entire project will incorporate an earth tone color palette of light beige and dark brown. All existing permanent signage on the property, including ground and wall signs will remain unchanged, except for one ground sign along the east property line that will be removed and replaced. All signs are not included in this proposal.

Landscaping

The project proposes water efficient landscaping along the property frontage, site interior, and perimeter boundaries to include existing Canary Island Pine and Eucalyptus trees, Samuel Sommer Magnolia (standard), Fern Pine (standard), and Chinese Elm (standard) trees, as well as a mix of shrubs and ground cover including Rosenka Bougainvillea, orange Daylily, gold Lantana, and Cape Honeysuckle. The proposed landscape palette will accentuate the design of the buildings along the project's street frontage, provide screening of the new car wash building and back of the existing multi-tenant commercial building along the freeway's edge, and complement the existing landscaping along the North Santiago Boulevard Corridor.

Lighting

New LED wall mounted light fixtures, with the light projecting in a downward direction, are proposed on the north and south sides of the multi-tenant and convenience store buildings, as well as on the east side of the car wash building and south side of the trash enclosure. The project perimeter will include new 25-foot tall, pole mounted LED light fixtures located in landscape planters adjacent to the car wash tunnel entrance and exit, at the northwest corner of the site, along the south property line, and property frontage. All lighting will be shielded and oriented to prevent glare or light spillage onto neighboring properties.

Additional design and landscape details are included in the attached DRC staff report (Attachment 5).

Parking

Orange Municipal Code Table 17.34.060 provides the minimum off-street parking requirements for non-residential uses in the City. Code requires 39 parking spaces for the gas station, car wash, and multi-tenant retail building. The project has provided 39 parking spaces with two surplus stalls for air/water usage for the gas station and vacuum stall for the car wash. In addition, the Traffic Assessment Study of Parking and Queuing conducted by the applicant's consultant (Attachment 4) concludes that 39 parking spaces are sufficient to accommodate the needs of the project.

Development Standards

	Required	Proposed	Code Section
<i>Building Height</i>	Maximum of 32 feet-2 Stories	Convenience Store: 19 feet-3 inches and one story Car Wash: 16 feet-7inches and one story Multi- tenant Building: 18 feet-9 inches and one story	Table 17.18.120
<i>Fence height</i>	6-foot tall	6 foot tall	17.18.140
<i>Floor Area Ratio (FAR)</i>	Maximum 1.0	.15	General Plan

<i>Landscaping (non-residential)</i>	Front: 10 feet minimum Interior Sides and Rear: 4 feet minimum. If perpendicular parking is provided at property lines, than 6 feet minimum Parking Areas - screened with shrubs - 5 gallon minimum size Trash Enclosure: 4-foot wide landscape planter on at least two sides 62 trees	10 feet North Side: 4 feet-3 inches South Side: 10 feet-2 inches Rear: 4 feet-11 inches 5 gallon shrubs 10 feet on two sides 56 trees	17.18.160.A.1.a 17.18.160.A.1.b 17.18.160.A.2 17.18.160.A.3 17.18.160.B.1.a
<i>Lot frontage</i>	None	324 feet	17.18.100
<i>Lot depth</i>	None	169-218 feet	17.18.100
<i>Setback, Front (Santiago Boulevard)</i>	10 feet minimum	86 feet	Table 17.18.130
<i>Setback, Rear</i>	0 feet	8.5 feet	Table 17.18.130
<i>Setback, Interior North Side</i>	0 feet	25 feet	Table 17.18.130
<i>Setback, Interior South Side</i>	0 feet	52 feet	Table 17.18.130
<i>Parking (non-residential)</i>	39 total spaces required: 2 spaces for gas station with convenience store 3 spaces for convenience store 2.5 spaces for car wash 31 spaces for multi-tenant building	39 spaces 1 space for air/water service 1 vacuum space	Table 17.34.060.B
<i>Special Regulations for Drive-through Uses</i>	<ul style="list-style-type: none"> • No obstruction of on-site circulation • Enriched paving for pedestrian walkways • 12 feet minimum width for drive through lane • Queuing Study (7 car stacking distance) 	Drive-through lane wraps around the perimeter of the multi-tenant building and behind the shopping center. On-site circulation is not obstructed. There are no pedestrian walkways proposed adjacent to the drive-through lane. 12 feet wide 10 car stacking distance	17.13.050.S

7. ANALYSIS AND STATEMENT OF THE ISSUES

Issue 1: Drive-through Queuing

OMC Section 17.13.050.S requires that drive-through uses submit a queuing study that is based upon similar operations, addressing the anticipated traffic volumes and vehicular stacking needs of the proposed operation. The applicant submitted a Traffic Assessment Study of Parking and Queuing

(Attachment 4) concluding that a seven car stacking distance (145 feet) before the car wash entrance would be sufficient, based on the comparison to another similar drive-through automatic car wash located in the City of Tustin. The applicant however, has provided a total queue capacity of ten vehicles. Staff and the City's Traffic Engineer have found that the proposed stacking lane will provide enough room for vehicles to wait in the queue and not extend into or block any vehicular paths of travel for the retail uses, gas station, or extend into the public right of way along Santiago Boulevard. In addition, staff has included conditions of approval No. 29 and 30 that provide additional assurance that if queuing/parking issues arise on the site or surrounding neighborhood, the applicant would be required to work with the Community Development Department to resolve any issues. If the queuing/parking issues cannot be resolved to the City's satisfaction, the land use applications would return to the Planning Commission for its consideration of further conditions and/or modifications.

Issue 2: Tustin Street Design Standards

The 1986 Tustin Street Design Standards were created in response to the City's goal of encouraging redevelopment and reinvestment in the Tustin Street Redevelopment Project Area and related Limited Business Tustin Redevelopment Project Area (C-TR) zoning district. Although the Redevelopment Agency no longer exists, the Tustin Street Design Standards are still applicable to all changes proposed to existing buildings and to all new construction within the Tustin Street Project Area. The proposed project is located within Thematic District #1 of the Tustin Street Design Standards. This area is isolated from Tustin Street by the SR 55 freeway. The property is visible from the freeway, and the uses generally serve residential developments to the east and freeway motorists. The design guidelines of the document indicate that "building scale, materials and plant materials shall relate to residential uses".

Modifications to the convenience store/service bay building, multi-tenant building, new car wash building and trash enclosure, associated landscaping, and site improvements are generally in conformance with the Tustin Street Design Standards for Thematic District #1 and complement the existing commercial site. The simple one-story architectural design with hip style terra cotta roofing, painted stucco finish and wood trim details, as well as project landscaping blends with the adjacent residential neighborhoods to the east. The project provides an updated and refreshed, internally consistent, integrated design theme which upholds community aesthetics.

Issue 3: Landscaping - Number of Trees

While the Landscape Guidelines recommend a total of 62 trees to be planted on the site, the project has provided 56 (13 existing and 43 new). In considering the proposed site layout and the limitations of pre-existing buildings and landscape planter locations and sizes, and in response to recommendations by the City's Senior Landscape Coordinator for adequate spacing to prevent overcrowding and tree sustainability, Staff has determined that the proposed conceptual landscape plan, including tree count is adequate for the project.

Issue 4: Existing Licenses within 600 feet of the Site

For information purposes, staff identified the following facilities selling alcoholic beverages that are located within a 600-foot proximity to the retail establishment's entrance (see Attachment 8, ABC Evaluation Map).

Existing Licenses

Establishment Name	License Type	Address
KC Liquor	Type 21 Off-Sale General	2650 N. Santiago Boulevard
Marris Pizza Italian Restaurant	Type 41 On-Sale Beer and Wine	2658 N. Santiago Boulevard
Valero Gas Station	Type 20 Off-Sale Beer and Wine	2700 N. Santiago Boulevard

Issue 5: Sensitive Receptors

The OMC requires a CUP for the sale of alcoholic beverages to ensure there will be no adverse impact on surrounding land uses or allow the availability of alcoholic beverages to minors. When reviewing alcohol permits, the Zoning Ordinance details specific land uses that are sensitive to alcohol activities, but does not establish any specific distances for these uses. The State (ABC) Board investigation requires applicants to identify the sensitive land uses within 600 feet of the site. Below are sensitive receptors in the vicinity of the subject property:

Sensitive Receptors

Establishment Name	Address	Distance To Project Site
Vista Royale Residential Tract: Single Family Residences	N. Vista Glen Road	72 - 600 ft.
	E. Orangeview Lane	79 - 600 ft.
	E. Vista Mesa Way	287 - 600 ft.
	E. Vista Canyon Road	308 - 600 ft.
	E. Hilman Circle	437 - 600 ft.
	N. Vista Court	544 - 600 ft.

While there are no churches, schools, public playgrounds, or other similar uses within 600 feet of the site, the single family residences located within the Vista Royale Residential Tract are located across the street, but do not have direct access to the project site and the sale of alcohol would be accessory to the sale of fuel and convenience store merchandise.

Issue 6: Census Tract Alcohol and Crime Statistics Information

The Orange Police Department's (OPD) Vice Unit reviewed the proposal in September 2017; however, because the project experienced an extended preliminary review period of nearly four years, the OPD reviewed the proposal a second time in September 2021 in order to provide updated statistics. The OPD reports that the existing business is located within Census Tract 758.13 that is considered over-concentrated with off-sale alcohol licenses as follows:

Alcohol Licenses

	Existing	Allowed
On-Sale Licenses	4	6
Off-Sale Licenses	3	2

Census tracts are defined as small geographical areas established by local committees and approved by the Census Bureau, which contain a population segment with relatively uniform economic and social characteristics and clearly identifiable boundaries averaging approximately 1,200 households.

The ABC establishes an over-concentration of alcohol licenses based on the average number of alcohol licenses versus the population in a given census tract. However, the ABC and the City recognize that licenses should be reviewed on a case-by-case basis to ensure that such sales will not adversely affect surrounding residents, businesses, and institutions and to ensure that any such use operates in a manner compatible with existing and future adjacent uses. This site is located within a commercial corridor in the City of Orange, where it is common to have an over-concentration of alcohol licenses.

Crime Statistics

The Applicant is applying for an ABC license in a census tract that is considered a low crime area as follows:

Census Tract Reported Crimes	Citywide Average Reported Crimes	Percent Difference
11	74	65% below the average

Crime statistics were relatively similar in 2017 and in 2020; however, the most current memo from OPD dated September 13, 2021 (Attachment 7) indicates that current crime figures in Reporting District (RD) 117w show 11 crimes reported, with the city-wide average being 74. RD 117w is ranked 68 out of 92 districts in the City of Orange, and is 65% below the average reported crimes. High crime is considered 20% above the average of reported crime within all reporting districts in the City per Business and Professions Code Section 23958.4.

In reviewing the police activity in RD 117w, it was reported that there were 15 arrests in 2020. Out of the 15 arrests, four were related to alcohol use. These offenses included two arrests for driving under the influence, one arrest for public consumption of alcohol, and one arrest for public intoxication. The public intoxication arrest occurred at the subject property (2640 N. Santiago Boulevard), where a call for service was made by a Shell Station employee regarding an assault and battery that occurred outside the business.

The OPD's Vice Unit does not oppose the issuance of CUP No. 3039-17 for an ABC Type 21 (Off-Sale General) License despite the overconcentration of off-sale alcohol permits within Census Tract 758.13. RD 117w is considered a low crime area, which is 65 percent below the average reported crimes. Strong consideration was given to the manner in which the existing establishment operates,

the manner in which it conducts its security, and the fact that the existing business has not created a nuisance to the community or a burden on police services in its previous years of operation. In addition, the total area dedicated to the display of alcoholic beverages will not exceed 10 percent of the store's total sales floor area and the refrigerated coolers containing the alcohol for sale will be located approximately 43 feet from the store's main entrance/exit.

The sale of alcohol is not expected to contribute to the crime statistics in the area or create an undue burden on public safety resources. Staff supports the proposal and does not anticipate that the use will create an impact on neighboring land uses within the area since a convenience store that sells alcoholic beverages is compatible with the mixed commercial uses within the area. Should the Planning Commission approve the proposal, the OPD recommends conditions based on the City's Security Standards (see Attachment 7).

It is important to note that the applicant has reviewed the proposed conditions of approval and is in agreement with all conditions.

Issue 7: Findings of Convenience or Necessity

The PC is also being asked by the ABC to make a finding of public convenience or necessity. The ABC establishes an over concentration of alcohol licenses based on the average number of alcohol licenses versus the population in a given census tract. However, the ABC and the City recognize that licenses should be reviewed on a case-by-case basis to ensure that such sales will not adversely affect surrounding residents, businesses, and institutions and to ensure that any such use operates in a manner compatible with existing and future adjacent uses.

The PC may find that the sale of alcoholic beverages within a gas station convenience store is an appropriate accessory use and is a service typically expected by the public. Should the project be approved, a draft letter to the ABC finding that the project merits favor based on public convenience or necessity is provided for the Commission Chair's signature (Attachment 9).

8. PUBLIC NOTICE

On November 5, 2021, the City sent a Public Hearing Notice to a total of 67 property owners/tenants within a 300-foot radius of the project site and persons specifically requesting notice. The project site has been posted in two locations with the notification on that same date.

9. ENVIRONMENTAL REVIEW

Categorical Exemption: The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15303 (Class 3 - New Construction or Conversion of Small Structures) because it consists of the conversion of service bays into convenience store area, expansion of the convenience store, and construction of a car wash structure (< 10,000 SF in urbanized area) zoned for such use, not involving the significant use of hazardous substances, where all necessary public services are available and where the area is not environmentally sensitive. There is no environmental public review required for a Categorical Exemption.

10. ADVISORY BOARD ACTION

Staff Review Committee:

The City's inter-departmental staff review committee (SMART) conducted reviews of the project on September 27, 2017, April 25, 2018, and September 12, 2018. On April 10, 2019, SMART

recommended that the project proceed to the DRC with conditions.

Design Review Committee:

The DRC conducted reviews of the project on May 15, 2019, November 6, 2019, June 3, 2020, and August 5, 2020 wherein the project was continued at each meeting in order for the applicant to adequately address the Committee's comments and concerns. On September 15, 2021, the DRC unanimously (5-0 vote) recommended project approval to the Planning Commission with the following conditions:

- Replace the Chinese Elm that are located on the lower slope with Arbutus Marina.
- A landscape maintenance plan shall be provided prior to issuance building permit.
- The landscape maintenance shall be performed in such a manner as to allow all trees to attain and retain their full canopy height for screening purposes and canopy breath for shade purposes.

The Staff Report and Minutes for the September 15, 2021 meeting are provided as Attachments 5 and 6 to this report. The DRC conditions of approval are included within Planning Commission Resolution No. PC 28-21 (Attachment 1).

11. ATTACHMENTS

- Attachment 1 Planning Commission Resolution No. PC 28-21
- Attachment 2 Vicinity Map
- Attachment 3 Applicant's Letter of Explanation
- Attachment 4 Traffic Assessment Study of Parking and Queuing by Transtech Engineers, Inc., Dated June 6, 2017
- Attachment 5 September 15, 2021 Design Review Committee Staff Report
- Attachment 6 September 15, 2021 Design Review Committee Meeting Minutes
- Attachment 7 Orange Police Department Memoranda with Conditions, Dated September 20, 2021 and September 25, 2017
- Attachment 8 ABC Evaluation Map
- Attachment 9 Draft Letter to ABC for Finding of Public Convenience or Necessity
- Attachment 10 Project Plans, Site Photographs, Colors and Materials, Date Stamped October 22, 2021