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## City of Sebastopol Planning Commission Staff Report

Meeting Date: November 10, 2020  
Agenda Item: 6A  
To: Planning Commission  
From: Kari Svanstrom, Planning Director  
David Hogan, Contract Planner  
Subject: Benedetti Car Wash - Conditional Use Permit, Variance, Tentative Parcel Map, Mitigated Negative Declaration (CEQA)  
Recommendation: Approve the Resolution Recommending that the City Council Deny the Applications for a Conditional Use Permit, Variance, and Parcel Map  
Applicant/Owner: Mark Reece  
File Number: 2019-27  
Address: 6809 Sebastopol Avenue  
CEQA Status: Mitigated Negative Declaration  
General Plan: Central Core  
Zoning: Downtown Core (CD)

### Introduction:

At the October 13, 2020 Planning Commission meeting, the Commission voted 6-1 to recommend that the City Council not approve the Benedetti Car Wash applications. However, because staff had included only a draft resolution recommending the approval of the project, it was necessary to bring back the proper resolution recommending denial of the applications consistent with the comments provided by the Commission.

As the Commission is aware, the application consideration process consists of two distinct elements.

- The first is the certification or approval of the mitigated negative declaration. In the context of the California Environmental Quality Act, certification/approval of the Mitigated Negative Declaration means that the document was circulated for public review for the required period of time and that the Commission evaluated the impacts of the project in making their decision.
- The second part of the process is the Commission's consideration of the actual applications.

Because members of the Planning Commission referred to the information in the initial study document and suggested changes to one of the mitigation measures during the hearing, staff is recommending that this be acknowledged in the recommendation to the City Council. As a result, the draft resolution recommending denial of the project affirms the information in the Initial Study supporting the finding that the Mitigated Negative Declaration was prepared in

accordance with CEQA and was considered in making their recommendation. If the Commission does not take an affirmative action on the CEQA document, the improvements the Commission made to the mitigation measures will not be part of the Planning Commission's recommendation to the City Council. This means that if the City Council chooses to approve the project, those improved mitigation measures may not be part of the Council action.

The attached draft resolution recognizes, with the adjustments included in response to the Commission's deliberation, that the Mitigated Negative Declaration is adequate and that the City Council could adopt/certify should the Council approve the project. However, the resolution recommends that the City Council deny the applications for the conditional use permit, variance, and tentative parcel map based upon the Findings included in the resolution contained in Exhibit A.

### **Exhibits**

Exhibit A. Resolution Recommending Denial of the Conditional Use Permit, Variance, and Tentative Parcel Map

## EXHIBIT A

### PLANNING COMMISSION RESOLUTION 20-\_\_\_ Planning File No. 2019-27

#### CONDITIONAL USE PERMIT, VARIANCE, and TENTATIVE PARCEL MAP INITIAL STUDY/MITIGATED NEGATIVE DECLARATION Benedetti Car Wash Project 6809 Sebastopol Avenue (APN 004-063-029) CD: Downtown Core Zoning District

Whereas, the Benedetti Tire & Express Lube consists of a tire shop and oil change/maintenance operation; and

Whereas, the project involves additional development as part of the Benedetti Tire & Express Lube, including the construction and operation of an automated car wash with second floor office space on a vacant portion of the site (the "Project"); and

Whereas, the Zoning Code definition for an Automotive Sales, Service, and Repair use includes automotive or truck washing, along with tire sales and service, and fast service oil change uses; and

Whereas, the Zoning Code requires a conditional use permit for Automotive Sales, Service, and Repair uses in the CD: Downtown Core Zoning District; and

Whereas, the Zoning Code requires a minimum floor area ratio of 1.0 in the Downtown Core Zoning District on vacant parcels; and

Whereas, the project applicant is proposing to subdivide the existing lot into three parcels; each lot will accommodate a single building and related landscaping, parking and access; and

Whereas, the subdivision of the existing lot requires that development on the vacant lot is required to comply with the minimum floor area ratio requirement of 1.0 in the Downtown Zoning District in the Zoning Code; and

Whereas, the approval of Project will require the approval of a Variance pursuant to the provisions of the Zoning Code; and

Whereas, the Project was the subject of an Initial Study and Mitigated Negative Declaration prepared in compliance with the California Environmental Quality Act (CEQA), which was circulated for public comment consistent with local and State CEQA requirements, which the Planning Commission has reviewed and considered, as well as comments made on it during its public review period; and the Commission has further considered additional cultural resources information provided in the staff report, and included conditions of approval relating to that topic; and

Whereas, the Mitigated Negative Declaration identifies potential impacts regarding cultural resources, noise/vibration, and tribal cultural resources. However, available and feasible mitigation measures will reduce these impacts to a less than significant level; and

Whereas, the Commission finds that the proposed Project is not compatible with the character of this part of Sebastopol, and could impair the desirability of investment or occupation in the downtown since it is not a mixed use development; and

Whereas, the General Plan Land Use Plan designates the project site as Central Core; and

Whereas, General Plan describes the Central Core as allowing for office, commercial, and retail uses, as well as mixed-use residential developments with minimum Floor Area Ratios of at least 1.0; and

Whereas, the proposed project would have a Floor Area Ratio of only 0.19; and

Whereas, the Project is inconsistent with a number of policies of the General Plan, including but not limited to the following:

*Policy LU 1-3: Require new development to occur in a logical and orderly manner, focusing growth on infill locations and areas designated for urbanization on the Land Use Map (see Figure 2.1), and be subject to the ability to provide urban services, including paying for any needed extension of services.*

While the Project is consistent with the other auto-serving uses on the site, the expansion of the auto service facility is inconsistent with the mixed use focus of the General Plan in the downtown area.

*Policy N 1-1: Ensure the noise compatibility of existing and future development when making land use planning decisions.*

Project noise was considered in the application processing and consideration processes. However, the project will create an additional source of noise in the area and may create future land use incompatibilities and noise conflicts.

### **CONDITIONAL USE PERMIT**

Whereas, the proposed use would be detrimental to the health, safety, comfort, or general welfare of persons residing or working in the neighborhood or within close proximity in that it will contain an auto-oriented use that generates noise in an existing auto service center that would be inconsistent with future development in the surrounding area and could have a detrimental impact on the quality of life of future residents.

### **VARIANCE**

Whereas, the purpose of a Variance is to establish a procedure for the relaxation of the provisions of the Zoning Code so that the public welfare is secured and that substantial justice done in accordance with the intent of the General Plan and Zoning Code; and

Whereas, the project does not currently comply with the minimum floor area ratio identified for the downtown area; and

Whereas, the minimum floor area ratio requirements were established to facilitate mixed use development which include residential uses; and

Whereas, the proposed Variance is not consistent with the intent and provisions of the General Plan in that there are no unusual circumstances applying to the land, building or use which circumstances or conditions do not apply generally to land, buildings, and/or uses in the same district, and

Whereas, that granting the application is not necessary for the preservation and enjoyment of a substantial property right; and

Whereas, that granting the application has the potential to adversely affect the health or safety of persons residing or working in the neighborhood of the property and may be materially detrimental to the public welfare and injurious to property or improvements in that the project could, at some point in the future, be located adjacent to a sensitive land use.

### **TENTATIVE PARCEL MAP**

Whereas, the project application requests approval to subdivide the existing lot into three parcels; and

Whereas, the proposed subdivision, together with the provisions for its design and improvement, and subject to the Conditions of Approval, will be consistent with the General Plan and other provisions of the Sebastopol Municipal Code; and

Whereas, the design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision, as described in the State Subdivision Map Act and any guidelines promulgated by the City Council.

### **PUBLIC PROCESS**

Whereas, the project applicant, in advance of their formal application, undertook a voluntary Preliminary Review by the Planning Commission; and prior to the public hearing complied with public noticing requirements; and

Whereas, the applicant made adjustments to the proposal based on community and Planning Commission comments; and

Whereas, on September 22, 2020, the Sebastopol Planning Commission opened a duly-noticed public hearing on the application, considered the written submittals, including but not limited to the Mitigated Negative Declaration, staff report, resolutions, application materials, plans, and public comments, received a staff report at the hearing, and received a presentation from the applicants before continuing the public hearing to a subsequent meeting; and

Whereas, on October 13, 2020, the Sebastopol Planning Commission continued the public hearing on the application, considering the written submittals, including but not limited to the Mitigated Negative Declaration, staff report, resolutions, application materials, plans, and a number of public comments, receiving a staff report at the hearing, receiving a presentation from the applicants, and providing an opportunity for public comments; all of which the Commission duly considered; and

Whereas, on October 13, 2020, the Sebastopol Planning Commission relied on the information contained in the Initial Study, as updated at the public hearing, in making their recommendation to the City Council.

Now, therefore, the Planning Commission hereby finds and resolves that the Mitigated Negative Declaration, with the additions to the mitigation measures, is adequate as being an accurate description of the environmental effects of the project as required by the California Environmental Quality Act, and could be certified and adopted should the City Council approve the project.

Now, therefore, the Planning Commission further resolves and recommends that the City Council deny the applications for a Conditional Use Permit, Variance, and Tentative Parcel Map applications for the Benedetti Car Wash project located at 6809 Sebastopol Avenue.

### **MITIGATION MEASURES**

The following mitigation measures constitute a mitigation program for the project. These measures are incorporated into the condition of approval. The Planning Department, Building Official, and City Engineer shall monitor the project for compliance with the five mitigation measures and shall verify compliance prior issuance of a Certificate of Occupancy.

*CR-1: Inadvertent Discovery of Cultural Resources. In the event that any prehistoric or historic-period subsurface archaeological features or deposits, including darkened soil (midden), that could conceal cultural deposits, animal bone, obsidian and/or mortar are discovered during earth-moving activities, all ground-disturbing activity within 50 feet of the discovery shall be halted immediately and the Planning and Building Divisions notified within 12 hours. Impacts on any significant resources shall be mitigated to a less-than-significant level through data recovery or other methods determined adequate by the City and that are consistent with the Secretary of the Interior's Standards for Archaeological Documentation. If Native American archaeological, ethnographic, or spiritual resources are discovered, all identification and treatment of the resources shall be conducted by a qualified archaeologist and Native American representatives who are approved by the local Native American community as experts of their cultural traditions consistent with Mitigation Measure TCR-1.*

*NOI-1: Reduce Offsite Noise Effects. Prior to the issuance of a building permit, the applicant shall submit evidence that the proposed car wash drying system incorporates a silencer to achieve operational noise levels no greater than 77 dBA at a distance of 10 feet and 63 dBA at a distance of 50 feet from the entrance and exit to the car wash. Installation of the approved silencer system shall be completed prior to final inspection.*

*NOI-2: Additional Noise Mitigation: Prior to the issuance of a building permit, the applicant shall submit evidence that a noise reducing barrier at least ten feet in height parallel to the exit drive of the car wash through the curving portion of the exit drive to comply with City noise criteria. Installation of the approved noise reducing barrier shall be completed prior to final inspection.*

*NOI-3: Reduce Vibration Impacts. Prior to the issuance of a building permit, the applicant shall identify all heavy construction equipment to be used for this project that have the potential to produce high vibration levels (tracked vehicles, vibratory compaction, jackhammers, hoe rams, etc.). This information shall be submitted to the City during the building permit process. If the applicant proposes the use of heavy construction equipment with the potential to generate*

excessive vibration, the applicant shall submit a plan documenting how the use of this equipment will not occur within 18 feet of existing structures.

*TRC-1: Inadvertent Discovery of Tribal Cultural Resources. To protect tribal cultural resources that may be accidentally discovered during grading or excavation activities, the following requirements shall apply.*

- A. If requested by the Federated Tribes of the Graton Rancheria (FIGR), the property owner shall enter in an Agreement with the Federated Indians of Graton Rancheria for the Treatment of Tribal Cultural Resources and Tribal Monitoring prior to the issuance of a grading permit.*
- B. Within fourteen (14) days prior to the start of any grading or excavation activities, the project applicant shall notify the FIGR Tribal Preservation Officer and the City of Sebastopol of the date and time of the proposed grading/excavation activities.*
- C. Tribal cultural resource monitors and qualified archeologist shall have the authority to stop grading or excavation activities in and around the accidentally discovered resources pending an evaluation of the resource and the determination of how the resource should be treated. Possible treatments include, but are not limited to: the removal of the resource from the site, the protection of the resource in place (when feasible), or reburying the resource on site in a location acceptable to the FIGR. The City of Sebastopol shall be promptly notified if tribal cultural resources are identified.*
- D. Tribal cultural resource monitors and archeologist will work cooperatively with the applicant to address the appropriate treatment of any discovered tribal cultural resources to minimize potential delays in construction.*

Adopted by the Planning Commission on October 13, 2020 by the following vote:

AYES: Fernandez, Fritz, Kelley, Lindenbusch, Oetinger, Wilson  
 NOES: Douch  
 ABSTAIN: None  
 ABSENT: None

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Certified: Kari Svanstrom, Planning Director