



# TOWN OF FAIRFAX

## STAFF REPORT

### January 15, 2014

**TO:** Mayor and Town Council

**FROM:** Garrett Toy, Town Manager *GT*  
Jim Moore, Director of Planning and Building Services

**SUBJECT:** Council directed referral of a Planning Commission approval of a Conditional Use Permit, Design Review, Sign Permit, and Traffic Impact Permit to operate a gas station/ convenience market at 2001 Sir Francis Drake Boulevard (APN 002-116-04). Project is categorically exempt from CEQA per 14 C.C.R. §§ 15301, 15302, and 15303

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#### RECOMMENDATION

- 1) Continue the open public hearing,
- 2) Close public hearing,
- 3) Make a determination on the requested approvals and direct staff to return with the required findings at the next meeting.

#### INTRODUCTION

Tonight, the Council is continuing a public hearing that was opened on December 4, 2013. At that time, the Council had convened to consider a Council directed referral of a set of approvals and recommendations issued by the Planning Commission. Specifically, on September 19, 2013, the Planning Commission approved a Use Permit (including a Formula Business Use Permit), Design Review, Sign Permit, and Traffic Impact Permit for the reuse of an existing gas station at 2001 Sir Francis Drake Boulevard. Each of these actions would have been constituted a final approval, except for the Traffic Impact Permit, which must also be approved by the Town Council.

On September 26, 2013, prior to the time the Council received the Traffic Impact Permit for its consideration, Councilmember Goddard called the entire matter to the jurisdiction of the Town Council on a directed referral. As explained below, under the directed referral process, a Councilmember may call up to the Town Council for consideration a matter previously acted on by the Planning Commission. Thus, the Council on December 4<sup>th</sup> considered not only the Traffic Impact Permit, but all of the approvals previously issued by the Planning Commission.

The public hearing was duly noticed and opened on December 4<sup>th</sup>. In the course of that meeting, public comment was taken, and the Council requested further information from both the applicant and staff. The public hearing was thus continued to allow for this information to be gathered.

Tonight, the Council is asked to consider this further information and render a decision on this application. For ease of reference, the information originally set forth in earlier staff reports is

set out again, except where new data, materials, answers to Council inquiries, or project changes have required the report to be updated. Due to the volume of material, staff did not attach any documents/displays previously submitted at the public hearing on December 4, 2013. However, they are available upon request or on the Town's website under agendas.

Attached to the staff report are the following materials:

- Exhibit 1- Revised site map and plans
- Exhibit 2- Responses to questions asked by the town council and public at the December 4, 2014 meeting. The responses include the applicant's response and staff's assessment. The responses refer to the various attachments.
- Exhibit 3- Additional traffic analysis prepared by the applicant's traffic engineer (W-Trans)
- Exhibit 4 Review of W-Trans report by the Town's traffic engineer (Parisi Consulting)
- Exhibit 5- Market analysis (fuel/store volumes)
- Exhibit 6- Town sales tax data
- Exhibit 7- Property information on other stations in Town
- Exhibit 8- Information on gasoline additives
- Exhibit 9- State Water Resources Control Board summary report on the property
- Exhibit 10- Arborist report
- Exhibit 11- Invoices for remediation work
- Exhibit 12- Additional written comments received from the community
- Exhibit 13- Copy of encroachment permit from 1970

Staff suggests the Council consider the same process as used at the December 4<sup>th</sup> meeting which was to hear the applicant's presentation first and then receive public comment.

## **BACKGROUND**

***Location.*** The site in question is located at 2001 Sir Francis Drake Boulevard. (see Exhibit 1.) It comprises some 8,700 square feet, sloping downward at a 7% grade from the southwest corner to the eastern property line. As can be seen, the site lies between Sir Francis Drake Boulevard and Broadway Boulevard, with existing curb cuts from Sir Francis Drake allowing vehicular access onto and through the site.

***Site usage over time.*** The site currently bears a single 1,950 square foot structure of uncertain age, though it is known that it was built some time prior to 1969. (The exact construction date is not clear from the record.) The site was remodeled in the early 1970's as a Chevron Gas Station with an auto repair shop. It remained such until the mid 1990's, when it became an independent gas station, Fairfax Gas. The business last obtained a business license in 2008 and closed in late 2008 or early 2009.

Since the station's closure, the site has remained vacant, with the building unoccupied. A chain link fence currently surrounds the property. Given the passage of time since the closure of operations at the site, it no longer has legal nonconforming status as a gas station.

***Proposed project.*** Applicant Arash Salkhi proposes to remodel the existing building into a Chevron Gas Station/Extra Mile convenience store, offering, among other things, organic foods, baked goods, and other foods from local producers or vendors. The applicant has also indicated

that he has contacted local coffee providers to determine if they would be interested in selling coffee through the convenience market. The proposed operating hours of operation are 6:00 A.M. to 9:00 P.M. Two employees would operate the store while open.

***Proposed parking.*** The parking configuration and number of stalls to be provided have flexed as this project has been processed. Originally, the applicant proposed providing parking along the front of the store in a way that would have required drivers to repeatedly pass over the pedestrian access along the Sir Francis Drake Boulevard project frontage to complete the necessary turning movements. The Planning Commission required the applicant to reconfigure the parking so as to avoid that necessity. Subsequent to the December 4<sup>th</sup> Council meeting, the applicant provided an updated site plan (attached as Exhibit 1), which shows his latest proposed parking configuration. It includes six parking stalls. This proposal includes three parking spaces along the project's eastern edge, in a public right of way over which an encroachment permit currently grants the 2001 Sir Francis Drake Boulevard property use rights. This is discussed in greater detail below.

## **DISCUSSION**

***Procedural posture.*** On September 19, 2013, the Planning Commission approved a Use Permit (including Formula Business Use Permit findings), Design Review, a Sign Permit, and a Traffic Impact Permit for the proposed project. One week later, Councilmember Goddard called the entire application up for Town Council review by filing a directed referral with the City Clerk. In accordance with the requirements of the directed referral process, Councilmember Goddard listed her grounds for seeking a directed referral; these included questions regarding (1) the Project's consistency with the Town Code, and (2) the adequacy of the public notice provided in conjunction with the processing of the application.

Under section § 17.036.130(A) of the Town Code:

Any action brought before the Town Council by the directed referral process is before the Council in a state of full review. The Council may conduct a de novo hearing on the pending application and, notwithstanding the provisions of § 17.036.120, the Council shall not be limited to a consideration of the grounds set forth in the directed referral. All alternatives open to the primary authority are also opened to the Council such that approval, approval with conditions or denial action may be taken by the Council.

Thus, the Council considers the proposed project in its entirety.

***Land use designation.*** The Town's General Plan 2012 set forth a "vision for the future of the Town" (GP, page 5) by, among other things, establishing general plan land use designations for every parcel within its scope (GP, Fig. LU-1), identifying existing zoning for some parcels and future zoning for others (GP, Fig. LU-2), and setting out the goals, objectives, policies, and programs that would allow for the implementation of this vision. As relevant to the Project, the Project site bears a General Plan land use designation of Central Commercial (Fig. LU-1). The site is also identified in the zoning map included in the General Plan as bearing a new zoning district designation of Central Commercial (Fig. LU-2). This would represent a change from the site's previous zoning district designation of Highway Commercial, a zoning designation that

was abandoned in the 2012 General Plan. The Town Council adopted the General Plan via a resolution in April 2012.

The General Plan is implemented through various other documents, including the Town Code. In the wake of the General Plan's adoption, a number of actions contemplated in it are still getting underway. Here, the Town Code still contains language referencing this site as found within the Highway Commercial zoning district.

### **CONDITIONAL USE PERMIT**

Chapter 36 (Highway Commercial) of Title 17 (the Zoning Ordinance) of the Town Code governs land use and development within the Highway Commercial zoning district. Under § 17.096.050, service stations are permitted within the CH zoning district upon securing a conditional use permit. (Note that, unlike the Central Commercial zoning district, the HC district does not require the satisfaction of Formula Business Use Permit considerations.)

***General provisions.*** As provided in the Town Code's chapter on conditional use permits, "in consideration of an application for a conditional use, the Planning Commission [or the Town Council, as the case may be] shall give due regard to the nature and condition of all adjacent uses and structures, to the physical environs of the proposed use and to all pertinent aspects of the public health, safety and general welfare." Town Code § 17.032.010(A). In this regard, Councilmembers at the December 4<sup>th</sup> public hearing raised various questions regarding the completion of the site remediation work. According to the applicant's consultant, the remediation work is completed and they are working on a final report to submit to the Water Quality Control Board (WCB) within a few weeks. As the WCB is the authority in this area, the Town will look to their confirmation that the site is indeed completely remediated. Monitoring of the site will continue, but the length of the monitoring will depend on whether the site receives a closure letter or not. The applicant indicates that the Water Resource Board's normal procedure is to monitor the site 6-12 months after soil excavation. The provision of gasoline is a closely regulated industry and the applicant will be required to comply with all applicable regulations if he receives approval from the Town to operate a gas station at this location.

***Findings needed.*** Applicants for any use permit in the Town must demonstrate the ability of their proposed use to meet the four factors set out in § 17.032.060 in order to gain approval. Findings must be made to support each conclusion. Each of these factors, as set out in italics, is considered in turn below.

***(A) 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.***

Analysis: The December 4, 2013, staff report on this matter stated that there was no evidence in the record at that time that would indicate that granting this requested use permit would constitute a grant of special privilege or otherwise contravene the doctrines of equity and equal treatment given that service stations are conditionally permitted within the CH zoning district.

At the December 4<sup>th</sup> hearing, a question was raised as to whether allowing the applicant to use the public right of way adjacent to his site for the provision of required parking, as well as ingress and egress through one or both of the site's eastern driveways (see Exhibit 1), might actually constitute a "grant of special privilege."

As can be seen from the site plans, the eastern property line of the 2001 Sir Francis Drake Boulevard site runs through the area proposed to be used for parking and circulation by the applicant. The real property immediately adjoining this eastern property line is actually public right of way (the Public Right of Way Area) which has been used as a part of the site by the operators of 2001 Sir Francis Drake Boulevard for some 42 years on the basis of an encroachment permit issued in 1970 for the benefit of the then-owner. The notes from the City Administrator (the precursor to the Town Manager position) documenting the actions of the Town Council on April 13, 1970 to the Planning Commission represent the documentation that has been found on this permit and provide that the Town Council:

Granted an encroachment permit to Standard Oil Company service station, 2001 Sir Francis Drake Boulevard, for an area of planting along Sir Francis Drake Boulevard and planter area on Bank Street, with the stipulation that should traffic conditions prove to be unsatisfactory on bank Street, the City [sic] will require the planter to be removed.

It is apparently on the basis of this document that the previous operator of the gas station at this location utilized the roughly 24.25' wide public right of way adjoining the eastern edge of the site.

As noted above, the applicant now proposes to locate three of the required parking stalls for the use in this Public Right of Way Area, as well as provide ingress and egress to and from both Sir Francis Drake Boulevard and Broadway. Council must determine whether allowing this proposed use of the Public Right of Way Area would constitute a "grant of special privilege," given that the original encroachment permit apparently was issued not for the provision of parking but for landscaping enhancements.

From a technical perspective, the Town's traffic engineer has reviewed the proposed parking plan and believes that it provides better on-site circulation and parking. This does not address the propriety of the use of the Public Right of Way Area for parking and circulation with regard to the purpose for which the encroachment permit was originally granted.

***(B) The development and use of property, as approved under the use permit, shall not create a public nuisance, cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, any or all of which effects are substantially beyond that which might occur without approval or issuance of the use permit.***

Analysis: The Council will need to consider whether the proposed Project creates the adverse impacts described in this section. To assist in the Council deliberations, staff provides the

definitions of terms as identified in the Town Code, as well as other issues to consider with regard to this section.

### ***Public Nuisance***

The Town has defined a ‘public nuisance’ to include “[a]nything injurious to health, indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by a neighborhood or by a considerable number of persons in the town.” Town Code § 1.012.005. In addition, the ‘public nuisance’ definition also includes “any condition caused or permitted to exist in violation of any provision of this Code ...” Ibid. The Code also lists particular activities that would constitute a nuisance, including the obstruction of public streets (§ 1.12.035) and unpermitted encroachments “on or upon any sidewalk, alley, street, lane, court, park or other public place.” (§ 1.12.040)

Analysis: As discussed above, this site was operated as a gas station for decades prior to closing a few years ago. The Town has no records indicating that its previous operation as a gas station caused any of the deleterious effects prohibited by this factor. In the years since the station closed, development in close proximity to it has not given rise to substantially different surroundings, the comfortable enjoyment of which would suffer as a result of approving the re-use of this site as a gas station.

### ***Obstruction of public streets.***

The Code identifies the obstruction of public streets as a public nuisance (§ 1.12.035). Specifically, the Code states that:

No person shall obstruct the use of streets, alleys, sidewalks, roads, trails, public ways or places or buildings in the town by causing or permitting to be placed, erected or otherwise set in position any fence, barrier, or other obstruction protruding past the nearest property line adjoining the public sidewalk or public walkway, nor shall any person obstruct the flow of any creek, tributary or any other watercourse with any objects or materials that interfere with or redirect the natural course of the water, except pursuant to permits issued by appropriate regulatory agencies.

In addition, § 17.052.040(A) of the Town Code states that “parking facilities shall be designed to provide for safe circulation of vehicular and pedestrian traffic within the parking area and in relation to adjacent streets. Direct backing into or out of parking from a public street shall not be permitted, except for one-family and two-family dwellings.” (See also Policy C-1.3 of the General Plan’s Conservation Element, which directs decision-makers to “promote pedestrian and bicycle circulation to ensure that automobile convenience does not compromise bicycle and pedestrian safety and convenience.”)

Analysis: As relevant here, the applicant had originally proposed the inclusion of five parking spaces to serve the Project. Three of these spaces were proposed to be perpendicular to the northern frontage of the existing structure (see Exhibit 1, which shows the proposed vehicle turning paths). The use these spaces would have required vehicles to cross into the sidewalk to complete the turning movements necessary to exit the site. While the August 2013 Traffic

Impact Study prepared by the applicant’s consultant did not determine this to be a safety hazard (see August 20, 2013 *Traffic Analysis for Conversion of Service Bays to a Convenience Market*, p.17), the Planning Commission took issue with the configuration and required the applicant to reconfigure the parking to avoid this conflict. This reconfiguration, in turn, led to a loss of one proposed parking space.

The applicant’s latest parking proposal would make use of the Public Right of Way Area discussed above to provide additional parking stalls and avoid turning movements that would repeatedly cross the driveway entrances and exits. The Council’s decision as to the propriety of the use of the Public Right of Way Area for that purpose will directly impact the site’s potential to provide parking.

***(C) Approval of the use permit is not contrary to those objectives, goals or standards pertinent to the particular case and contained or set forth in any master plan, development plan or other plan or policy, officially adopted by the town.***

Analysis: To assist the Council in its deliberations, this report provides information (see next page) on applicable General Plan policies and compares the standards in the CH zoning to the CC zoning.

***(D) Approval of the use permit will result in equal or better development of the premises than would otherwise be the case, and that the approval is in the public interest and for the protection or enhancement of the community.***

Analysis: Without the approval of this use permit, the site will conceivably remain vacant and unused for at least some period of time. With the approval, it will operate as a service station and associated convenience mart. In addition, the proposed Project would generate significant net new sales tax revenues to the Town. These revenues could be used to fund programs/studies currently identified in the General Plan, but not funded such as “Create a long-term education program to change the travel habits of residents, visitors and workers by informing them about transportation alternatives, incentives and impacts (Program C-6.3.4)”; or used to enhance existing programs such as youth/teen or environmental education and outreach programs. The Council must decide which circumstance would better serve the public interest and enhancement of the community.

**GENERAL PLAN AND ZONING**

To assist the Council in its deliberations, staff provides information on applicable General Plan policies and compares the standards in the CH zoning to the CC zoning.

As a policy document, the Town’s General Plan contains its objectives and goals. The zoning ordinance delineates the standards applicable to uses and development within each zoning district. Here, the two documents currently conflict, as the zoning has not yet caught up with the changes anticipated by the General Plan. As is discussed in greater detail below, this conflict makes it difficult to find the “approval of [this] use permit is not contrary” to the “objectives, goals, or standards pertinent” to this application. ***General plan conformance.*** As noted above,

all land use decisions must conform to the general plan. Listed below are some of the applicable General Plan 2012 objectives and goals relevant to this site:

*Land Use Element*

- *General Plan land use designation.* General Plan 2012 identifies this site as being within the ‘Central Commercial’ land use district. (Fig. LU-1)
- *Zoning district.* The General Plan likewise contemplated this site being rezoned from Commercial Highway to Central Commercial, thus bringing it into conformance with its General Plan land use designation. (Fig. LU-2)
- *Preservation of community and neighborhood character.* Land Use Program 7.1.1.2 provides “[r]ezone all Commercial Highway (CH) Zone to Central Commercial (CC) Zone and revise the CC Zone as appropriate.”
- *Mix of land uses.* Land Use Policy 7.1.2 envisions “[n]ew and/or renewed development in the Town Center Area should preserve and enhance the village character of the Town Center Area in the mix of land uses, architectural styles and ornamentation, materials, colors and textures.”

*Circulation Element*

- *Complete circulation networks.* General Plan Circulation Element Goal C-5 directs decision-makers to “[c]onsider pedestrian and bicycle facilities as an integral part of a complete circulation network that provide affordable, healthful, and ecological means of transportation.”
- *Infrastructure.* “Improve and maintain bicycle and pedestrian infrastructure.” (Program C-5.1.3)

**Zoning Ordinance conformance.** As previously discussed, the proposed project site’s current zoning land use designation (CH) differs from that dictated by the General Plan (CC). Under state law, “[i]n the event that a zoning ordinance becomes inconsistent with a general plan by reason of amendment to the plan, or to any element of the plan, the zoning ordinance shall be amended within a reasonable time so that it is consistent with the general plan as amended.” (Government Code § 65860(C)) No deadlines are established by statute for the completion of this work, and the Town is still in the process of completing this formal rezoning.

As relevant here, the CH and CC zoning districts deal markedly differently with uses such as applicant proposes here. The December 4, 2013 staff report showed these differences of approach in a table. For the sake of clarity, staff here presents only the applicable sections of the CH zoning district, as the parcel still bears that zoning designation.

<b>Regulation</b>	<b>CH Zoning Provisions</b>	<b>Project Satisfaction of Provisions</b>
Purpose	Among other things: “to cater to automobile traffic rather than to pedestrian traffic.” (§17.096.010(B))	As a gas station and convenience market, the Project would cater to automobile traffic.
Uses permitted	Service stations allowed with a conditional use permit (§17.096.050)	In order to issue a use permit for this Project, Council must be able to make the findings analyzed above.



Regulation	CH Zoning Provisions	Project Satisfaction of Provisions
Parking	<p>Generally, one parking space is required for each 200 sq.ft., or fraction thereof of gross floor area + one large off street loading space for each 20,000 sq.ft. or fraction thereof (§17.096.120(A)) (Total here: 10 parking spaces + 1 loading)</p> <p>However, for uses permitted with a CUP, the number may be varied “in accordance with the facts, findings, and determinations governing approval of the use permit as set forth in Ch. 17.032 of this title and in conformity with design review requirements.” (§ 17.096.120(C)(2))</p>	<p>Though that zone’s parking calculations would suggest ten parking spaces for a facility this size, the ordinance does permit a parking reduction, provided certain facts, findings, and determinations governing approval of the use permit are met, and design review is satisfied. Exercising this discretion, and in light of the tight turning movements necessary on the site, the Planning Commission had approved three official parking spaces for this use. Moreover, the Planning Commission found that the gas station bays should be considered as additional parking. (Note that the Planning Commission’s resolution does not indicate whether, in making this decision as to the acknowledgment of additional parking, they considered the development standards governing off-street parking set forth in Town Code § 17.052 (‘Off Street Parking and Loading Requirements’).) For reference, staff notes that the Traffic Impact Study prepared by W-Trans estimated 4,341 daily trips for applicant’s proposed use. To satisfy this factor, Council will need to find that the approval of this use, as so configured, is not contrary to the zoning standards that apply here.</p>

**DESIGN REVIEW, SIGN PERMIT, AND TRAFFIC IMPACT PERMITS**

The Directed Referral allows the Council to also consider the Design Review and Sign Permits for the Project. The Town Code requires both the Planning Commission and the Town Council to consider the Traffic Impact (TIP) for the project.

***Traffic Impact Permit***

The discretionary Traffic Impact Permit has to be approved by both the Planning Commission and the Town Council. The Commission approved the Traffic Study based on the finding that can be found as number 6 of the attached Planning Commission Resolution No. 13-06. The discussion of the Traffic Impact Permit can be found on pages 7, 8, and 9 of the September 19, 2013 Commission staff report.

Staff recommends that Council refer to the Traffic Impact Study as needed in discussing the conditional use permit issues, but not render a decision as to the TIP until the conditional use permit is decided.

***Design Review and Sign Permits***

The Commission granted discretionary permits for the design of the project and the reuse of the monument sign. A discussion of these discretionary permits can be found on pages 6 and 7 of the September 19, 2013, Planning Commission staff report and as findings 9 and 10 in Planning Commission Resolution No. 13-06.

Since the December 4<sup>th</sup> meeting, applicant has indicated that there will be a Chevron sign only on the proposed monument sign. In addition, while the applicant proposes to include the ExtraMile sign on the building (not illuminated, he has stated that he may be willing to remove that). The Council may wish to have the applicant explain how his proposed sign program has evolved since the December 4<sup>th</sup> meeting.

As with the TIP, staff recommends that the Council render a decision as to the requested conditional use permit before deciding these matters.

**ENVIRONMENTAL REVIEW**

Staff had previously determined this project to be exempt from the California Environmental Quality Act (“CEQA,” as codified at Public Resources Code §§ 21,000, et seq., and regulated by 14 C.C.R. §§ 15,000, et seq.) pursuant to the categorical exemption for Existing Facilities (14 C.C.R. § 15301). Further analysis has determined that exemptions under § 15302 and § 15303 both also apply to this proposed Project.

QUESTIONS ASKED BY THE TOWN COUNCIL AND PUBLIC AT  
THE DECEMBER 4, 2014 MEETING

1. Explore the feasibility of extending the sidewalk east on Sir Francis Drake Boulevard and then routing it south past the small parking lot to meet up with the existing cross walk that crosses to the existing sidewalk on the south side of Broadway.

**Done: and feasible by moving the curb and gutter of the small parking lot eastward and using some of the available parking lot space. Shown on revised plans dated 1/7/14.**

2. Analyze the safety of pedestrians and bicyclists utilizing the adjacent streets and crosswalks to pass-by or through the site and to access the site with the proposed reconfiguration of the property including the new driveway off Broadway and reorientation of the parking spaces (analyze with both the driveway being one way and two way). Is there a way to make the site more pedestrian oriented (a suggestion was made to provide two doors on the east and west elevations on the side of the southern side of the building to create an interior "sidewalk that connects with the dead end sidewalk by the savings and loan building.

**Refer to the applicant's traffic engineer's report - and peer review by the Town's traffic engineer. The Town's traffic engineer, David Paris, believes the new site plan provides better on-site circulation and parking. Parisi also concurs with W-Trans analysis of the traffic distribution, but does not agree that the number of trips would be less than what was analyzed.**

3. Address whether or not franchise operations charge more for services and products than independents?

**The applicant indicates it will depend on a variety of factors. However, he states that the current gas stations have extremely high prices with low quality gas, but believes their prices have decreased tremendously in the last few months because of his application.**

4. Address whether or not the Chevron logo and ExtraMile logo be eliminated completely from the site and buildings.

**Chevron sign only on monument; ExtraMile sign on the building, but not illuminated; One sign each. The applicant indicates he is willing to remove the Extra Mile (Chevron) signage on the building.**

5. Provide information on how the product mix to be sold will be chosen and address the flexibility the business owner has in choosing products. The owner mentioned that he has a certain amount of flex space where he can choose items to be sold. Will that be the entire store square footage or only a set floor area and if the area where sales are flexible is fixed, what is the percentage of floor space.

**Applicant indicates they can sell organic foods, bakery, and other foods from a local producer or vendor in Fairfax to keep more business in Fairfax. At the meeting, the applicant indicated he has a certain amount of floor space he can dedicate for these items.**

6. Address the franchise within a franchise issue (i.e. ExtraMile selling Starbucks coffee).

**The applicant states that he will not have Starbucks coffee and has contacted local businesses to determine their interest in selling their coffee in his store. The applicant reiterates that he can buy from a local vendor in Fairfax and keep the business in Town.**

7. Provide an analysis of how the posting of the "no left turn" sign to direct west bound traffic on Sir Francis Drake Boulevard will impact traffic on the surrounding surface streets especially those to the west by the lumberyard and library.

**Refer to the applicant's traffic engineer's (W-Trans) report and the Town's traffic engineer (Parisi) peer review. The Town's traffic engineer concurs with W-Trans analysis.**

8. Provide a revised site plan showing the reoriented parking and the Broadway driveway. Have the applicant's traffic engineer do a thorough analysis of how pedestrians, delivery vehicles and customers will circulate through the site based on the revised site plan. The analysis will be reviewed by the Town Traffic Engineer.

**Done: see the revised plans dated January 7, 2014. Six parking spaces are shown. The Town's traffic engineer believes the new site plan provides better on-site circulation and parking, but three parking spaces are in the Town's easement and tanker trucks would need to access the easement to leave the site.**

9. Have a surveyor stake the property corners and the public right-of-way location in the field.

**Done: see question #29 below.**

10. Provide information on whether or not there is the possibility for Chevron to sell carbon credits to customers.

**The applicant is open to the concept, but will need to further investigate.**

11. Discuss elimination or decrease in size of the ExtraMile portion of the business and whether doing so could result in an increase in the on-site parking or better maneuverability through the site.

**The applicant states the following: “The gross occupied floor area of the building is 1,398 sq. ft. (total sq. ft. minus the walk-in coolers and restrooms). Given the parking requirements are 1 space per 200 sq. ft., seven total parking spaces are required. We are proposing a total of 10 parking spaces on the site: six spaces are striped and four spaces are provided at the fueling dispensers.**

**The jurisdictions of Marin and Sonoma counties recognize that 50 % of the fueling positions available at a gas station count toward the parking requirements. This site has eight fueling positions, thus four spaces count toward the requirement. Fairfax’s traffic engineer has acknowledged that this is a commonly accepted standard for gas stations.**

**Decreasing the size of the store by converting one of the bays to a parking space will not increase the parking available on-site. The accessible parking space is located in front of the building and would have to be relocated if a bay were converted to parking.”**

12. When will the site cleanup be completed with a final approval in writing from the Water Quality Control Board?

**The applicant’s consultant indicates the remediation work is completed and they are working on a final report to submit to the Water Quality Control Board in a few weeks. Attached is a summary report on the site from the State Water Resources Control Board website. The report also shows the funds reimbursed to date, but not necessarily to the applicant.**

13. How many years will the site continue to be monitored and will the Town be provided with documentation to prove the monitoring will take place.

**Monitoring continues, but the length of the monitoring will depend on whether the site receives a closure letter or not. The applicant indicates that the Water Resource Board's the normal procedure is to monitor the site 6-12 months after soil excavation.**

14. How can the Town be sure the site is cleaned up?

**The Town will rely on the Water Quality Board for verification.**

15. What was the cost of the clean-up and how much of the costs will the owner be reimbursed by the State.

**Applicant has provided all his invoices (see also State report attached). It appears that the property will be eligible to be reimbursed up to \$1.5 million for site clean-up. The State website indicates the property has received over \$500,000 in reimbursements to date. Presumably, the applicant can be reimbursed for the balance of the work up to \$1.5 million. The applicant states: "If the State allows for the work to be authorized. They only pay certain amounts of the clean-up. Invoice #2684 we anticipate the fund will pay 90%+ but anything that is not paid is my sole responsibility. In addition, invoice #2680, 2681, 2682, 2683 are not being reimbursed by the State. All those invoices I have accrued the sole responsibility of paying the consultants."**

16. What steps will the new station take if approved to ensure that no future contamination occurs?

**Applicant indicates that he will comply with all State regulations (e.g., standard operating procedures).**

17. What steps will be taken to ensure there is no gas fume leakage at the pump dispensers that might impact passersby or neighboring businesses.

**Applicant indicates that he will comply with all State regulations (e.g., standard operating procedures) including the installation of new fuel dispensers that meet all state standards. Applicant indicates the existing underground tanks meet current standards and will be tested by California governmental agencies.**

18. Have the Town Attorney explore whether the project should be categorically exempt and give a recommendation as to whether a higher level of environmental review can be required by the Town. Provide information on how the level of environmental review is determined.

**Staff, in conjunction with the Town Attorney, have conducted additional review of the project per CEQA and have confirmed that the project is categorically exempt under current CEQA standards.**

19. Provide an analysis of how the policies in the General Plan coordinate with the Zoning Ordinance. Address how the General Plan affect decisions the Town makes in the absence of some of the tasks to bring the Zoning Ordinance into compliance with the General Plan having been accomplished.

**The Zoning Ordinance needs to be updated to conform to the 2010 -2030 GP.**

**However, there are certain Goals, Objectives, Policies and/or Programs that give clear policy direction on the desired future of the Town Center Area. These include:**

**LAND USE ELEMENT:**

**GOAL LU-7: Preserve community and neighborhood character.**

- **Policy LU-7.1.2: New and/or renewed development in the Town Center Area should preserve and enhance the village character of the Town Center Area in the mix of land uses, architectural styles and ornamentation, materials, colors and textures.**
- **Policy LU-7.2.3: Traffic and parking concerns related to new and renewed development shall be addressed in a manner that does not result in undue hardship or significant negative impacts on properties and infrastructure in the vicinity.**

**CIRCULATION ELEMENT:**

**GOAL C-2: Promote the safe use of collector streets by automobiles, cyclists and pedestrians.**

- **Policy C-2.6: Promote safe use of the collector streets for pedestrians and cyclists.**
- **Program C-2.6.1: Provide continuous sidewalks where possible and prioritize these locations where it is most feasible to provide them.**

**GOAL C-6: Promote less reliance on single-occupant vehicles.**

- **Policy C-6.3: Support the development and expansion of comprehensive, effective programs to reduce auto use at both the local and regional level and promote and encourage improved transit options, including restoring the light rail vehicle system; particularly by privatizing (through “right-pricing”) the true cost of auto use, whereby mass transit systems will become more economically viable at lower thresholds of housing densities.**
- **Program C-6.3.4: Create a long-term education program to change the travel habits of residents, visitors and workers by informing them about transportation alternatives, incentives and impacts. Work with the School District and private interests, such as the Chamber of Commerce, to develop and implement the program. Safe Routes to Schools, which originated in Fairfax and is now national, is an excellent example of this type of program.**

**GOAL C-8: Improve circulation and safety in the downtown area.**

- **Policy C-8.1: Promote better utilization of the Elsie Lane/Bank Street to connect Bolinas Road to Broadway and Sir Francis Drake Boulevard**

**CONSERVATION ELEMENT:**

**GOAL C-1: Energy conservation and climate.**

- **Objective CON-1.1: Integrate reduction of the use of non-renewable energy resources and GHG emissions into planning for the Town of Fairfax.**
- **Objective CON-1.2: Reduce consumption of non-renewable energy resources and reduce GHG emission by the residents and Town of Fairfax.**

20. Provide evidence that the additive in Chevron gas are different from those in the gas sold by independent stations.

**See attachments provided by the applicant.**

21. Provide the amount of revenue expected from the convenience market vs. that from the sale of gasoline.

**Applicant indicates the convenience market will generate approximately \$45,000/month in sales and fuel sales will average about 150,000 gallons per month**



(see attachment) which equates to approximately \$600,000 in sales/month (Average 150,000 gal X \$4 = \$600,000+/-).

The Town's sales tax consultant found that Chevron stations in Marin County generate an average of \$7,000/month in sales tax revenues to a town (based on 1% sales tax rate) which equates to \$700,000/month in sales. An independent brand generates an average of \$4,000/month which equates to \$400,000/month in sales. The consultant could not break it down by location or convenience market v. fuel sales. The applicant estimates average sales per month to be about \$650,000+/- which is consistent with the average for Chevron stations in Marin County.

If we assume the proposed station is similar to the average station, the Town would receive approximately \$9,750 in sales tax revenue per month (based on 1.5% of the taxable sales). This equates to \$117,000 per year in sales tax revenue to the Town. This amount could be high given the station's location. It should be noted that sales tax revenue fluctuates with gas prices.

22. Research whether or not an encroachment permit was ever issued for the portions of the station that are located on public property. Review the code to determine what permits are required, when those permits should be obtained and if the permits require other than ministerial review.

We have found records that indicate that both the Town Council and the Planning Commission granted an encroachment permit in 1970 - which runs with the land (see attached).

**Note:** Currently, encroachment permits where there are no structures involved are granted administratively. If this project were to be approved, staff would grant a revocable encroachment permit with the condition of installing a new sidewalk on the east side of the existing easement within the Town's property.

23. Provide a study that looks at the proposed site configuration and the configuration of the proposed Town Center Element with respect to the future use of the site.

The use of the Bank Street easement as a new connector street will not interrupt the operation of the gas station (see sheet SCP1 of the revised plans). The applicant indicates Chevron has agreed to allow a smaller tanker truck to deliver to the site. The Town Center Element is not addressed in this analysis because it has yet to be developed in detail.

24. Provide evidence to support the assertion that Fairfax can support 300,000 gallons of gas sales per month and that the existing stations are only capturing a portion of that amount now.

**The applicant has submitted his documentation of market fuel projections (see attached). The applicant indicates the market can support 300,000 gallons/month in fuel sales. He projects his station will sell approximately 150,000 gallons per month which is approximately 50% of the market share which would assume the other stations currently capture less than 50% of the market share.**

**Staff does not have the expertise to verify the applicant's market analysis, but the Town's sales tax consultant did analyze sales tax revenue for the existing stations. The data indicates that existing gas stations only capture 40% of the tax revenue for a town of this size (see attached). In other words, the Town experiences 60% sales tax leakage for service stations. This would imply that there is significant market share to capture. The applicant has also provided information on gas stations for sale in Town. The data identifies the fuel volume/month for one station. Combining that fuel sale information with the sales tax data would seem to indicate that the existing stations probably capture 40%-50% of the market share.**

**While the Town cannot release a business's sales tax data without permission, the data would seem to imply that the proposed station's sales projections would capture the remainder of the sales tax leakage. The proposed project would probably cannibalize some sales from existing stations and other businesses in town, as is usually the case with new competing businesses. Staff believes that the impact to sales at other businesses would be less than 10%, but it is impossible to fully evaluate at this time. However, staff is confident that the Town will capture additional gas sales and experience a significant net increase in revenues from the service station category (50%-100% increase in sales tax revenue).**

25. Explain how there can be a negligible increase in traffic impacts if the applicant proposed to establish a high volume sales business plan for the site.

**See applicant's traffic consultant's letter. The Town's traffic engineer believes the analysis using the higher trip generation rates is more accurate for the proposed use.**

26. Compare the ExtraMile convenience store operation/items to be sold to the other existing convenience stores in Town (7-11, Don's Market, North Bay Gas, Rhino Gas, Quality Liquors).

**From our field survey, it appears that the same type of products would be sold at the ExtraMile as those sold at all of the other stores mentioned above. The table below compares the operations of the proposed ExtraMile with other convenience stores in Town:**

<i>Store</i>	<i>Retail sq'</i>	<i>Items Sold</i>	<i>Hours</i>	<i>Signs</i>
ExtraMile	1199 sq'	TBD	6am-9pm	1 M. 1 Bld.
7-11	1300 sq'	beer, wine, soda, dairy, pre-paid phone cards and debit cards, dog food, frozen pizza, toiletries, first-aid, fresh fruit, cigarettes...	6am-12am	1 Bld.
Don's Market	1000 sq' (approx.)	ice cream, frozen food, canned food, pasta, beer, wine, liquor, cigarettes, household items	M-Th 9am-11pm Fri 9am-12am Sat 10am-12am Sun 10am-10pm	1 Bld.
North Bay Gas	350 sq'	cigarettes, soda, candy, chips, motor oil, some automotive tools	6 am- 9 pm	1 M.
Rhino Gas	140 sq'	gum, candy, chips, soda, motor oil	7am -9pm	1 M. 2 Bld.
Quality Liquors	800 sq' (approx.)	Beer, wine, liquor, snacks, ice cream	M-Th 9am-11pm F-Sat 9am-1am, Su 10 am-11 pm	1 Bld.

27. Compare the services provided and products to be sold to those provided and sold by the other two gas stations in Town so the Council can show that the granting of this use permit will not be a grant of special privilege.

**The other two gas stations sell items that would presumably be sold at the ExtraMile.**

**The proposed square footage of the ExtraMile is approximately 1200 sq. ft.; Rino's space for selling these items is approximately 140 sq. ft., and North Bay Gas approximately 350 sq. ft.**

28. An analysis shall be provided by the applicants Traffic Engineer and shall be reviewed by the Town Traffic Engineer showing how the site will operate once the Town utilizes its public right-of-way.

**See applicant's traffic consultant's letter and the Town's traffic engineer's peer review. The Town's traffic engineer believes the new site plan provides better on-site circulation and parking.**

29. Provide a history of why Bank Street is wider along its Bank of America Frontage than adjacent to the gas station.

**The Town's surveyor has confirmed the historic record showing a 24' foot wide right-of-way as show.**

JAN 08 2014

RECEIVED

January 7, 2014

Mr. Arash Salkhi  
9 Alpine Road  
Novato, CA 94945

**Response to Town Council Comments Regarding Traffic on the  
Chevron Gas Station and Convenience Market**

Dear Mr. Salkhi;

As requested, W-Trans has prepared responses to a number of questions and comments that came up during the public hearing on your project on December 4, 2013. The comments are summarized below followed by our responses.

- *Provide an analysis of how the posting of the "no left turn" sign to direct westbound traffic on Sir Francis Drake Boulevard will impact traffic on the surround surface streets, especially those to the west by the lumberyard and library.*

Drivers who patronize the site frequently would be expected to recognize that they need to turn at Claus Drive; the analysis reported in the final traffic study includes data for conditions with all inbound traffic from the east making the left turn at Claus Drive.

For those drivers who are patronizing the site for the first time, including traffic passing through Fairfax to points west, the first intersection where they can turn left and return to the site is at Azalea Avenue. This intersection does not have a left-turn pocket, but turns into the adjacent neighborhood are relatively common, so this movement would be consistent with existing driver behavior. The 40 percent of inbound trips assigned as coming from the east translates to about 20 to 30 inbound trips during the peak hour, again, most of which would be expected to turn left at Claus Drive. Even if one-quarter of these drivers missed the turn and used Azalea Avenue instead, it would result in fewer than 10 additional peak hour trips. As has been shown through the analysis of the other study intersections, this minimal increase in trips would have a less-than-significant and most likely imperceptible impact on traffic operations both at Sir Francis Drake Boulevard/Azalea Avenue and along Broadway from Azalea Avenue back to the site.

- *Provide a revised site plan showing the reoriented parking and the Broadway driveway. Have the applicant's traffic engineer do a thorough analysis of how pedestrians, delivery vehicles and customers will circulate through the site based on the revised site plan. Please study the vehicular movements associated with the proposed angled parking; will they conflict with the sidewalk, cyclists, SFD, etc.?*

The project site plan has been redesigned to eliminate the need for drivers exiting the parking spaces to cross into the sidewalk, and all parking maneuvers will now take place around the perimeter of the building and the site. As now proposed, there is expected to be little conflict between parking maneuvers and other site users, including vehicles parked at the fueling positions. A copy of the plan showing both the tanker path and parking maneuver is enclosed for reference.

Pedestrian activity within the site is expected to be limited to patrons walking to the convenience store, either from a fueling position or from the sidewalk. Given that the block on which the site is located is only one parcel wide, and access is available between Sir Francis Drake Boulevard and Broadway both to

the east and the west of the site, there does not appear to be any reason for pedestrians to routinely pass through the site. Pedestrian access will be improved through the installation of sidewalk along the site's Sir Francis Drake Boulevard frontage between the two driveways and also along the easterly side of the site adjacent to existing public parking. These new facilities will provide continuous facilities for pedestrians traveling either along Sir Francis Drake Boulevard or between it and Broadway at Claus Drive.

- *How will the project distribute traffic, and how much more of it, at Claus, Bank, Broadway, and other nearby streets?*

Existing turning movement patterns at the various study intersections were used to estimate the path of travel for project-generated traffic. As shown in the following table from the traffic study, the project is expected to generate fewer than 10 new peak hour trips on any of the local streets.

**Trip Distribution Assumptions**

<b>Route</b>	<b>Percent</b>	<b>Daily Trips</b>	<b>AM Trips</b>	<b>PM Trips</b>
To/from the east on Sir Francis Drake Blvd	40%	625	20	21
To/from the west on Sir Francis Drake Blvd	25%	391	12	13
To/from Bolinas Ave via Claus Dr	20%	313	10	10
To/from Broadway west of Claus Dr	8%	125	4	4
To/from the north on Claus Dr	4%	63	2	2
To/from Pacheco	3%	47	1	2
<b>TOTAL</b>	<b>100%</b>	<b>1,564</b>	<b>49</b>	<b>52</b>

As discussed below, the daily trip generation rates used for the analysis resulted in a conservative assessment that we believe overstates the project's actual impact. The trips shown in the table above are based on the much higher daily rates applied for the analysis; had the rates that we originally suggested been used, the new daily trips would be about 40 percent of the numbers shown above.

- *When were counts for the study done? Do they reflect current conditions and/or high peak conditions?*

As confirmed with the Town's Traffic Engineer, volume data collected for the General Plan Update was used together with new counts for Sir Francis Drake Boulevard/Claus Drive that were obtained on January 17, 2013, while local schools were in session. As noted in the report, the current volumes were compared to data from the General Plan update and it was determined that the General Plan volumes were generally higher. Where exceptions were noted the additional trips were added to balance the volumes along the entire corridor.

- *The daily trips seem quite high; why is that?*

The anticipated trip generation for the proposed project was originally estimated using standard rates for "Gasoline/Service Station with Convenience Market" (ITE LU #945). However, at the direction of the Town's Traffic Engineer, the higher rates for a "Convenience Market with Gas" were used for the study. As can be seen in the following table, use of the rates as requested by the Town resulted in a more conservative analysis, though the difference in primary trips is less for peak periods than for the day. We maintain that in reality the rates used overstate the project's anticipated trip generation as the

primary use of the site is to be a gas station, not a convenience market; these rates would be more appropriately applied to a Circle K with gas pumps rather than a Chevron with a convenience store. Application of the rates for a gas station with a convenience store indicate that the project would be expected to generate 651 new trips per day, and a total of 1,302 trips at the driveways, or fewer total trips than were indicated as being primary trips due to application of the more conservative "convenience market with gas pumps" rates.

**Trip Generation Summary**

Land Use	Units	Daily		AM Peak Hour				PM Peak Hour			
		Rate	Trips	Rate	Trips	In	Out	Rate	Trips	In	Out
<b>As Proposed</b>											
Gas/Service Station w/Conv. Market	8 vfp	162.78	1,302	10.16	81	41	40	13.38	107	54	53
	<i>Pass-by trips</i>	-50%	-651	-62%	-50	-25	-25	-56%	-60	-30	-30
<b>As Evaluated</b>											
Conv. Mkt w/Gas Pumps	8 vfp	542.60	4,341	16.57	133	66	67	19.07	153	76	77
	<i>Pass-by trips</i>	-64%	2,778	-63%	-84	-42	-42	-66%	-101	-50	-51
<b>Difference in Primary Trips *</b>			<b>912</b>		<b>18</b>	<b>8</b>	<b>10</b>		<b>5</b>	<b>2</b>	<b>3</b>

Note: vfp = vehicle fueling positions

\* As originally proposed versus as evaluated per staff direction.

Turning movement volumes at Sir Francis Drake Boulevard/Claus Drive were used to estimate the daily volume of traffic passing the project site on Sir Francis Drake Boulevard. After applying seasonal adjustment factors, these counts indicate that during peak summer months Sir Francis Drake Boulevard carries approximately 17,000 vehicles per day west of Claus Drive. Application of the convenience market rates leads to the conclusion that more than 16 percent of all drivers passing by the site would divert into the gas station and/or convenience market (pass-by trips), which does not appear reasonable. Use of the gas station with a convenience market rates, as originally proposed, indicates that about 4 percent of passing traffic would divert into the site, which seems much more realistic. Based on this comparison, the total daily volume of 1,302 trips (651 vehicles entering and exiting) is anticipated to more closely reflect the actual operation of the project.

We hope this information adequately addresses the issue of the project's potential traffic impacts. Thank you for allowing us to provide these services. Please contact me if you have any questions.

Sincerely,

Dalene J. Whitlock, PE, PTOE  
Principal

DJW/djw/FAI014.L2

Enclosure: Tanker Path Plan

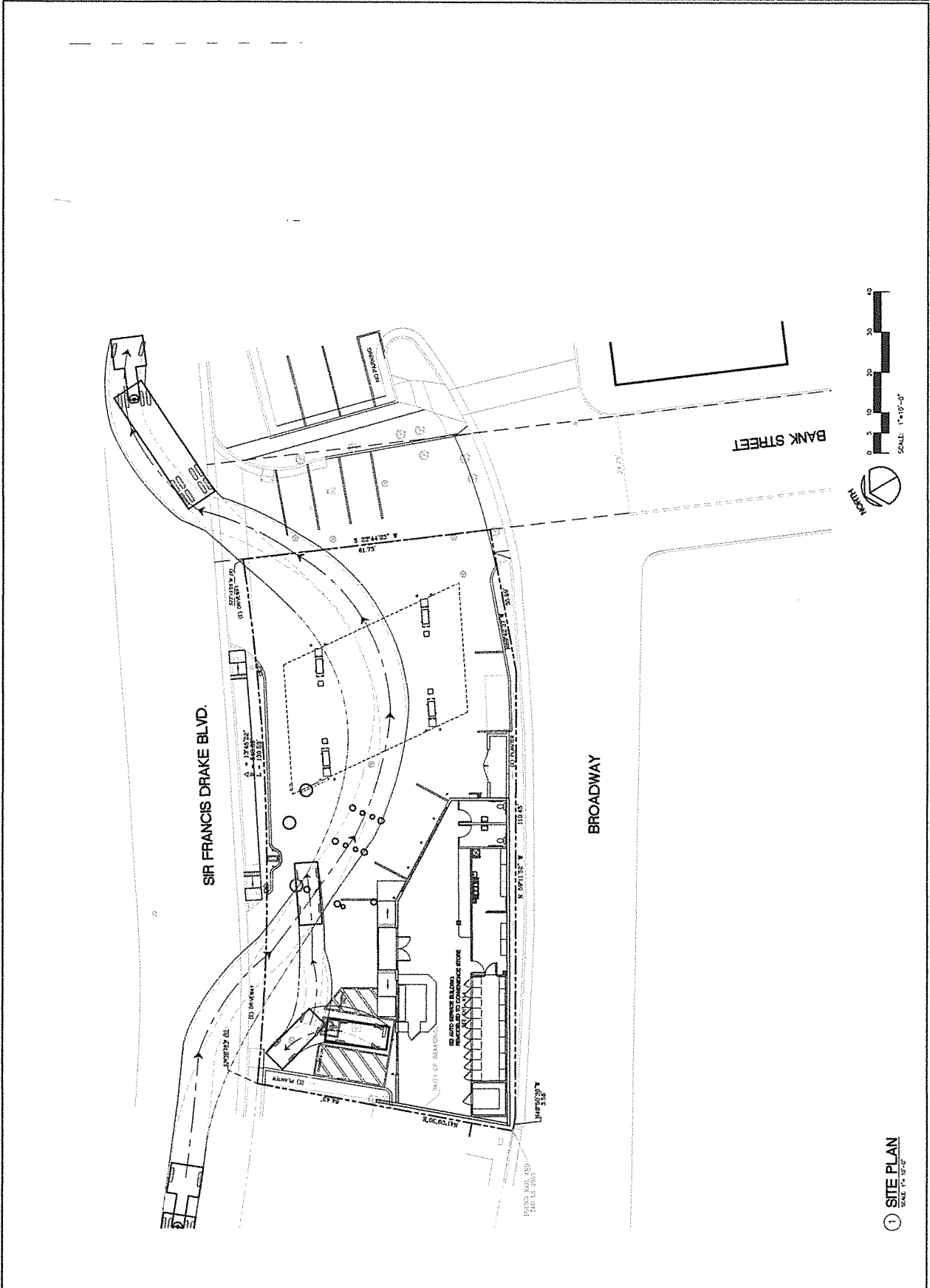


DATE	REVISION
11/14/12	PER SITE PLAN FOR PLANNING COMMISSION COMMENTS
11/21/12	REVISIONS TO PARKING LOT
01/13/13	PER SITE PLAN
02/03/13	PER SITE PLAN

**SALKHI FAMILY TRUST**  
 CHEVRON STATION  
 2001 SIR FRANCIS DRAKE BLVD.  
 SAN FRANCISCO, CA

Project Number: **SPCE3002.0**  
 Sheet Name: **TANKER PATH PLAN**

**TP1**



① **SITE PLAN**  
 SCALE: 1" = 10'-0"



January 10, 2014

Linda Neal, Senior Planner  
Town of Fairfax  
142 Bolinas Road  
Fairfax, CA 94930

**Subject: Review of Response to Town Council Comments Regarding Traffic on the Chevron Gas Station and Convenience Market**

Dear Ms. Neal:

Pursuant to your request, Parisi Transportation Consulting has reviewed the "Response to Town Council Comments Regarding Traffic on the Chevron Gas Station and Convenient Market", dated January 9, 2014.

The following are our comments:

- *"No Left Turn" effects for westbound Sir Francis Drake Boulevard traffic:* We concur with W-Trans' assessment.
- *Reoriented parking and Broadway driveway:* The redesign would enable better on-site circulation and parking, and would reduce potential conflicts with vehicles traveling along eastbound Sir Francis Drake Boulevard, as well as with pedestrians traveling along the sidewalk. It would also discourage direct cut-through routing between Broadway Boulevard/Bank Street and Sir Francis Drake Boulevard. However, it would require parking be provided within the Town easement. Tanker trucks would also need to cross through the easement.
- *Distribution of project-related traffic:* We concur with W-Trans' assessment, however we do not agree that project trips would be 40 percent of the numbers used in the report. See additional discussion below.
- *Period of traffic counts:* The background traffic counts were conducted during a recent and appropriate period.
- *Daily trips:* Vehicle trip generation rates for the proposed use, using data from the Institute of Transportation Engineers (ITE) Trip Generation Manual, can be estimated using either ITE's standard rates for "Gasoline/Service Station with Convenience Market" or rates for "Convenience Market with Gasoline Pumps."

58 Alta Vista Avenue, Mill Valley, CA 94941

[www.parisi-associates.com](http://www.parisi-associates.com)

**EXHIBIT #** 4

ITE's definition of a "Gasoline/Service Station with Convenience Market" is the following:

*"This land use includes gasoline/service stations with convenience markets where the primary business is the fueling of motor vehicles. These service stations may also have ancillary facilities for servicing and repairing motor vehicles. Some commonly sold convenience store items are newspapers, coffee or other beverages and snack items that are usually consumed in the car."*

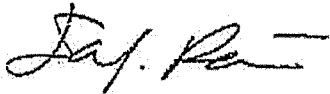
ITE's definition of a "Convenience Market with Gasoline Pumps" is:

*"The convenience markets sell gasoline, convenience foods, newspapers, magazines and often beer and wine. This land use includes convenience markets with gasoline pumps where the primary business is the selling of convenience items, not the fueling of motor vehicles."*

Based on the proposed size of the convenience market, including the scale of the sales area and types of items proposed to be sold, including alcohol, we believe the appropriate trip generation rates to apply are closer to the latter use.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "David Parisi". The signature is stylized and cursive.

David Parisi, PE, TE  
Principal



TOWN OF FAIRFAX

JAN 08 2014

RECEIVED

**2001 Sir Francis Drake  
Fairfax, CA  
Chevron Projection Fuel/Store Volume  
January 2014**

Historical data and fuel industry analysis indicates that, under normal market conditions, 12% of vehicles passing a gas station require fuel and will stop to patronize the station. The traffic study for 2001 Sir Francis Drake Blvd. in Fairfax indicates that approximately 14,000 vehicles a day use the Sir Francis Drake Blvd. corridor through town. Based upon averages, 1,680 vehicles a day should be stopping to fuel their vehicles in Fairfax.

Industry averages indicate that the average fuel purchase per trip is approximately six gallons. With 1,680 trips per day, this equates to a total of 10,080 gallons of fuel per day that the Town of Fairfax should be selling. Further projecting these numbers, the Town should be generating tax revenues off the sale of 306,600 gallons per month and over 3,600,000 gallons per year.

The traffic study, which has been directed and approved by the Town's Traffic Engineer, says that the operation of the new Chevron Station will generate approximately 650 trips/visits on a daily basis. Further industry averages reflect that 80%, or 520 of these trips will result in the purchase of fuel. Chevron customers typically purchase more fuel per visit, ten gallons versus the average six gallons stated above. These projections indicate that the station will be selling approximately 5,200 gallons of fuel per day and just more than 150,000 gallons per month.

The balance of the 130 trips/visits per day will result in ancillary purchases in the convenience store. The average convenience store purchase is approximately \$7.00. Non-fuel buying customer convenience store sales are projected to be approximately \$910.00 per day. Due to the significant number of fuel buying customers that will not be making convenience store purchases, the average ticket for fuel buying customers is significantly lower at \$1.13 per visit. The 520 fuel buying customers will generate approximately \$590.00 per day in convenience store sales. The total convenience store sales are projected to be \$1,500.00 per day or \$45,000.00 per month.

EXHIBIT # 5

# Town of Fairfax

Sales Period: July 2012 - June 2013

## Summary

### News from Sales Tax Quarter

- Nationally, 2013Q2 Retail Trade was up 5% over 2012Q2 and up 3.3% over last quarter.
- California Residential Building Permits continued to increase in July, though not at the pace of the preceding twelve months. The average increase over the same month in the prior year for the past 12 months was 63.6%. April 2013 increased over April 2012 172.3%, May 2013 over May 2012 43.2%, June 2013 over June 2012 29.8% and July 2013 over July 2012 only 18%.
- According to the California Department of Finance, New Light Vehicle Registrations increased 12.5% during the first 6 months of 2013 versus a year earlier, much higher than the 7.7% improvement nationally.

### News from Today

- According to ShopperTrak, National Retail Revenue in November and December should rise 2.4% over 2012, a little less than the 3% increase of November and December of 2012 over 2011.
- In the first eight months of 2013 9,830 small business were sold in California, up 4.6% from the 9,397 that were sold in the first eight months of 2012.
- According to the Bureau of Economic Analysis, U.S. Retail and Food Services Sales for August were up 4.7% over August 2012. Total sales for the June through August 2013 period were up 5.4% from the same 3 month period a year ago.
- Inflation Update: The California Consumer Price Index, (CPI-U), for August is up 1.2% over August of 2012.

### Quarter-Over-Quarter

Apr - Jun 2012 to Apr - Jun 2013

### Year-Over-Year

Jul - Jun 2012 to Jul - Jun 2013

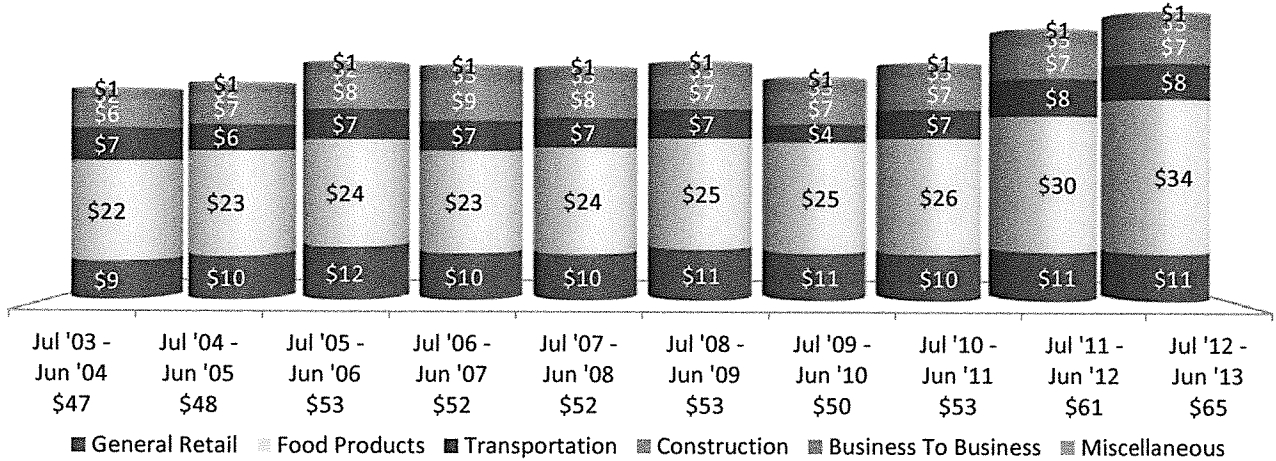
	Town of Fairfax	S.F. Bay Area	Statewide	Town of Fairfax	S.F. Bay Area	Statewide
<b>Total</b>	<b>6.4%</b>	<b>2.1%</b>	<b>2.7%</b>	<b>6.6%</b>	<b>5.0%</b>	<b>4.8%</b>
General Retail	18.3%	3.3%	2.8%	-2.7%	4.4%	4.0%
Food Products	5.4%	6.1%	4.9%	13.6%	6.6%	5.4%
Transportation	8.5%	6.9%	3.8%	-1.1%	10.6%	6.5%
Construction	4.2%	9.2%	6.2%	2.0%	9.0%	8.4%
Business To Business	-18.8%	-10.2%	-2.4%	4.5%	-3.0%	1.6%
Restaurants	1.9%	6.8%	5.9%	6.1%	7.0%	5.6%
Food Markets	10.1%	3.9%	1.8%	23.8%	5.4%	4.8%
Bldg.Matls-Retail	6.0%	5.2%	-0.3%	4.0%	7.2%	3.3%
Service Stations	9.3%	-3.3%	-4.4%	-0.6%	1.0%	-0.7%
Miscellaneous Retail	29.7%	4.6%	3.7%	5.8%	2.2%	3.2%
Business Services	-24.3%	-1.6%	2.4%	1.4%	8.3%	9.1%
Recreation Products	21.3%	5.1%	3.0%	10.1%	6.6%	5.5%
Auto Parts/Repair	3.6%	4.2%	3.0%	-4.7%	4.4%	3.5%
Florist/Nursery	-32.6%	6.1%	3.8%	-19.7%	7.5%	4.1%
Liquor Stores	-0.4%	3.2%	2.6%	7.9%	4.1%	3.8%
Furniture/Appliance	-9.1%	1.0%	1.6%	-16.8%	2.8%	1.3%
Apparel Stores	-19.9%	6.1%	4.3%	-14.9%	10.1%	8.0%
Health & Government	-24.2%	3.8%	-5.4%	-23.8%	3.0%	-3.4%
Miscellaneous Other	-0.6%	-20.4%	-1.6%	16.6%	9.7%	6.6%

# Town of Fairfax

Sales Period: July 2012 - June 2013

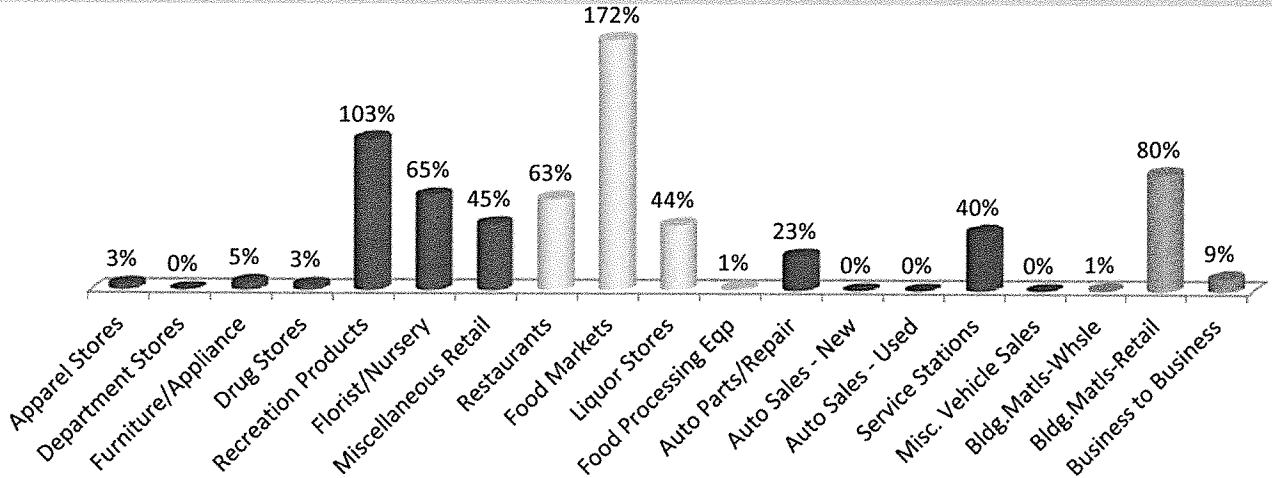
## Sales Tax Per Capita

Town of Fairfax's annualized sales tax divided by its population as reported by State Department of Finance

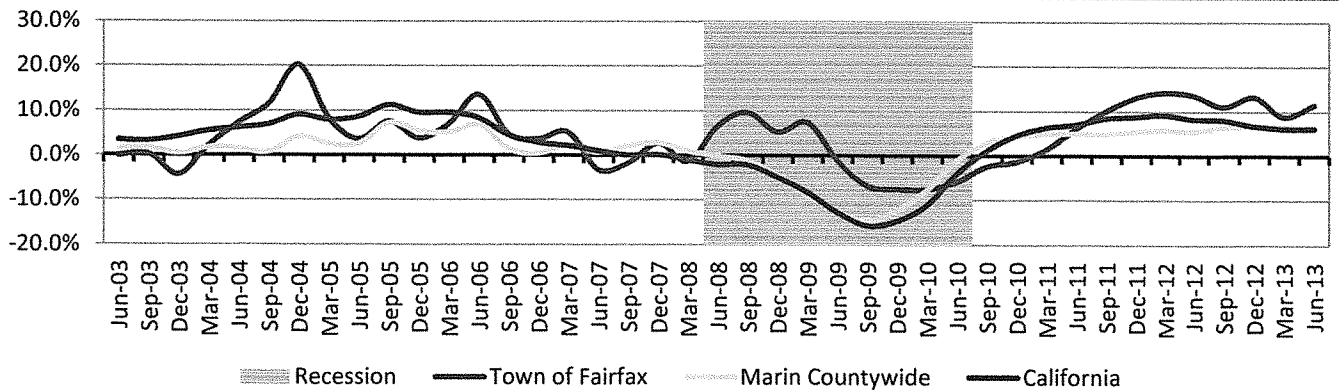


## Sales Tax Capture & Leakage Analysis

100% = Equilibrium; Over 100% = Capture; Under 100% = Leakage



## Annualized Change in Sales Tax Cash Receipts



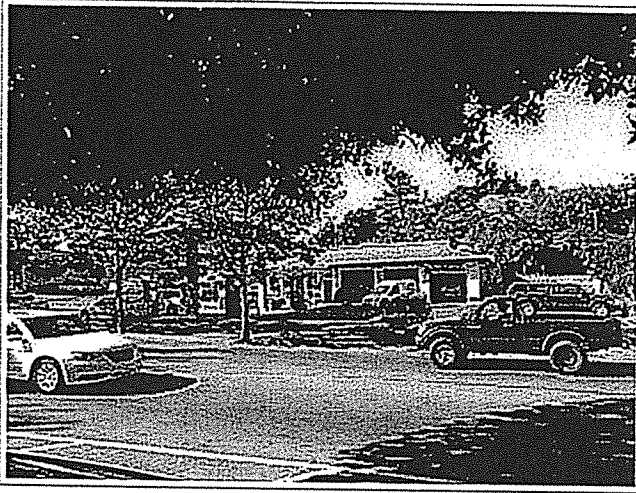
Redwood Property Group

Anil Bembey — (707) 293-9073

Retail Property For Sale

## Ferraro Service

1942 Sir Francis Drake Blvd., Fairfax, CA 94930



Price:	\$270,000
Building Size:	3,000 SF
Price/SF:	\$90
Property Type:	Retail
Property Sub-type:	Service/Gas Station
Property Use Type:	Business For Sale
Commission Split:	4%
Lot Size:	14,000 SF

Last Updated 22 days ago  
Listing ID 18381476

### Description

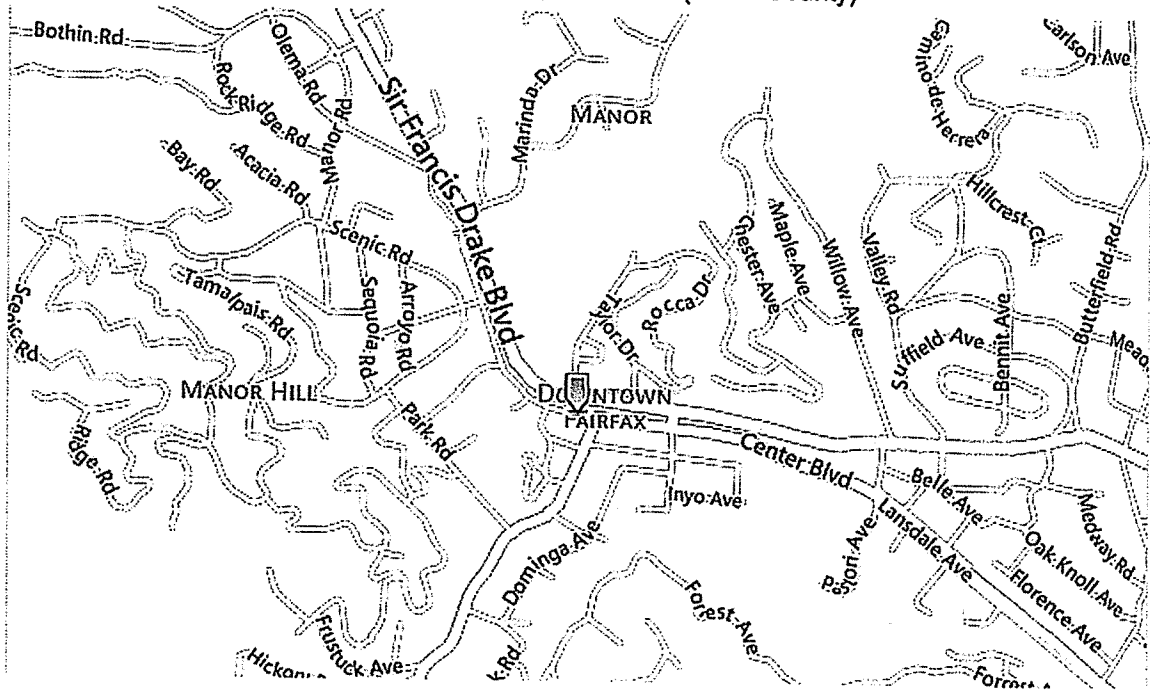
Very Well Established and Profitable Small Gas Station with 3 Bay Auto Repair Garage. Same Owner 23 years, wishes to retire due to ill health. There is a small Market that Landlord is willing to expand. NDA required for details, ideal for small family business/ owner operator

Wealthy Marin County, Fairfax is in the western portion, next to San Rafael and San Anselmo. Station is located in the heart of downtown, many loyal and regular clients over the years. can modify for new owner.

EXHIBIT #

7

Map of 1942 Sir Francis Drake Blvd., Fairfax, CA 94930 (Marin County)





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**LoopNet Property Records**

LoopNet Property Records display available information such as historical listings, property details, property tax records, property deeds, owners, mortgages, tenants, and more. Information is aggregated from the LoopNet marketplace, LoopNet research, leading independent data providers, Marin County tax records, and LoopNet members.

Retail Property Record

**1789 Sir Francis Drake Boulevard, Fairfax, CA 94930**

- [Summary](#)
- [Sale & Lease](#)
- [Stats & Trends](#)
- [Property](#)
- [Owner & Mortgage](#)
- [Tenant](#)
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Sort by [LoopNet Listing](#)

		Date	Change	Price/Rent
 <b>View Historical Sale Listing</b> <b>\$1,650,000 (\$3,909.95/SF)</b> Property and business for sale. 4 dispensers. All new in 2004. Pumps about 81,000 gallons per mon...		Mar 2013	Set Off-Market	\$1,650,000 (\$3,909.95/SF)
		Nov 2012	Price Changed	\$1,650,000 (\$3,909.95/SF) from \$1,350,000 (\$116.27/SF)
		Jan 2012	New Listing	\$1,350,000 (\$116.27/SF)
 <b>View Historical Sale Listing</b> <b>\$1,150,000 (\$2,875/SF)</b> Branded gas station was pumping approximately 3000 gallons per day prior to closing. Easy ingress an...		Mar 2010	Set Off-Market	\$1,150,000 (\$2,875.00/SF)
		Dec 2009	Price Changed	\$1,150,000 (\$2,875.00/SF) from \$1,247,000 (\$3,117.50/SF)
		Jun 2009	Price Changed	\$1,247,000 (\$3,117.50/SF) from \$1,495,000 (\$3,737.50/SF)
	Apr 2009	New Listing	\$1,495,000 (\$3,737.50/SF)	
 <b>View Historical Sale Listing</b> <b>\$1,595,000 (\$705.75/SF)</b> Price to include real property, land, building and all structures. Modern (2004) Valero gas station...		Feb 2009	Set Off-Market	\$1,595,000 (\$705.75/SF)
		Aug 2008	Price Changed	\$1,595,000 (\$705.75/SF) from \$1,645,000 (\$727.88/SF)
		Jun 2008	New Listing	\$1,645,000 (\$727.88/SF)
 <b>View Historical Sale Listing</b> <b>\$1,800,000</b> Property and business owned by one owner only. Gas station includes mini shop. Gasoline- 130,000 Gal...		Feb 2006	Set Off-Market	\$1,800,000
		Jul 2005	New Listing	\$1,800,000
 <b>View Historical Sale Listing</b> <b>\$1,900,000 (\$86.36/SF)</b> This property located in a very busy section of Fairfax, right on Sir Francis Drake, the service s...		Mar 2004	Set Off-Market	\$1,900,000 (\$86.36/SF)
		Apr 2003	New Listing	\$1,900,000 (\$86.36/SF)

Options

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TOWN OF FAIRFAX

JAN 08 2014

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### Chevron w/Techron

#### Exceeds EPA Detergent Requirements

Modern engines are designed to run their best when vital engine parts are kept clean. Fuel injector and intake valve deposits from lower quality gasolines can result in lower fuel economy and increased tailpipe emissions. Some gasolines can cause excessive buildup of harmful deposits in the combustion chamber. Combustion chamber deposits can give rise to higher emissions, and can cause an engine to require a higher octane fuel to avoid knocking or loss of power.

All Chevron branded gasolines contain the unique Techron additive. Techron contains a polyether amine (PEA)-based chemistry designed to keep vital engine parts cleaner than lower quality competitors, helping reduce the amount of tailpipe emissions. It all adds up to a cleaner and happier car.

#### Helps Protect Original Engine Performance

Excessive deposits that can result from the use of lower quality gasolines can interfere with the amount of air and fuel your engine requires for optimal performance. This can cause hesitation, lower fuel economy and reduced power under certain driving conditions, especially under heavy acceleration when you need power the most.

All Chevron branded gasolines contain the unique Techron additive. Techron contains a polyether amine (PEA)-based chemistry designed to protect your engine's vital engine parts from harmful buildup, helping to protect your car's original engine performance and fuel economy.

#### More Than 30 Years of Cleaning Power

Is your car as clean on the inside as the outside? If you've been using lower quality gasoline, it could be dirtier than you think.

While lower quality gasolines can dirty up your engine, all Chevron branded gasolines contain the unique Techron additive. Techron uses a polyether amine (PEA)-based chemistry to help clean up your engine and keep it clean. With more than 30 years of lab and field-tested research and development, Chevron with Techron is unbeatable at cleaning and protecting vital engine parts.

EXHIBIT # 8

# Gasoline Additives

## History[[edit](#)]

In the late 1980s, automakers became concerned with fuel additives as fuel injection technology became widely used in new cars. The injectors often became clogged, and the problem was found to be inadequate levels of detergent additives in some gasolines. The automakers began to recommend specific brands of gas with adequate content to their customers. But some gas companies were still not using detergents, and in a move supported by the auto industry, the federal government mandated specific levels of additives. The [U.S. Environmental Protection Agency](#) (EPA) introduced the minimum gasoline detergent standard<sup>[2]</sup> in 1995.

However, the new regulations had an unexpected effect. The new EPA standards required lower levels of detergent additives than were then being used by a few major gasoline companies. When the new regulations came in, most gasoline marketers who had previously provided higher levels of detergents reduced the level of detergents in their gasolines to meet the new standard.<sup>[3]</sup> The EPA detergent additive levels were designed to meet emissions standards but not engine longevity standards. Automakers said they were seeing persistent problems such as clogged fuel injectors, and contaminated combustion chambers, resulting in higher emissions and lower fuel economy.<sup>[4]</sup>

By 2002, the automakers said their repair records suggested that the EPA standard for detergents wasn't high enough, but the EPA was not responsive when they asked them to increase the standards. These concerns were heightened by plans to introduce a new generation of vehicles that would meet the EPA's "Tier Two" environmental standards for reduced emissions. These vehicles require higher levels of detergents to avoid reduced performance.<sup>[3]</sup> Cars with direct injection technology (GDI) have been especially prone to carbon buildup, and car makers recommend fuels with higher detergent levels to combat the problem.<sup>[5]</sup> At first GDI was mainly available in high-end autos, but it is now being used in mid-range cars, such as the Hyundai Sonata and in many Fords.<sup>[6][7]</sup>

In 2004 representatives of [BMW](#), [General Motors](#), [Honda](#), and [Toyota](#) got together to specify what makes a good fuel. Using recommendations from the Worldwide Fuel Charter, a global committee of automakers and engine manufacturers, they established a proprietary standard for a class of gasoline called **Top Tier Detergent Gasoline**. The new standard required increased levels of detergents, and restricted metallic content.

Volkswagen/Audi joined the consortium in 2007. Gas brands can participate and get Top Tier listing if they meet certain standards, which includes performance tests for intake valve and combustion chamber deposits, fuel injector fouling, and intake valve sticking. Additive manufacturers pay for the testing, which costs an estimated \$25,000 to \$30,000, while gasoline companies pay an annual fee based on the number of stations it operates to participate in the program.<sup>[8]</sup>

In addition to higher detergent levels, Top Tier standards also require that gasolines be free of metallic additives.<sup>[9]</sup>

## Availability<sup>[edit]</sup>

In 2004 the standard was adopted by ten gasoline distributors. Chevron and QuikTrip were first,<sup>[10]</sup> followed that same year by 76 Stations, Conoco, Phillips 66, Road Ranger, Kwik Trip, Shell, Entec Stations, and MFA Oil Company. Since then 20 more gasoline distributors have met the proprietary standard and Top Tier gasoline can now be found in gas stations all over the U.S. and Canada.<sup>[11][12]</sup> In the U.S, Aloha Petroleum, BP, CountryMark, Exxon, Mobil, Hawaii Fuelling Network (HFN), Holiday Stationstores, Kwik Star, MFA Oil Break Time, Ohana Fuels, Mileage Stations, Schierl Oil, Texaco, Tri-Par Oil Company, USA, and US Oil now offer Top Tier gasoline. In Canada, Chevron Canada, Petro Canada, Shell Canada, and most recently Esso have attained the designation.<sup>[13]</sup> Meeting this standard allows gasoline marketers to differentiate themselves from their competition. All stations selling the brand must meet Top Tier standards before the brand is qualified.<sup>[13]</sup>

Although BP (British Petroleum) was identified in a media report as having detergent levels that met or exceeded Top Tier standards, the company did not initially elect to join the consortium.<sup>[14]</sup> However, in June, 2013, the company decided to formally join Top Tier. The company explained that they had become aware that consumers increasingly seek out the TOP TIER designation, many by checking the Top Tier website to see which gasoline companies are listed.<sup>[15]</sup>

A previous standard used was the BMW Unlimited Mileage Test. BP claims to meet this. BMW now mentions Top Tier gas in its owner's manuals but not the unlimited mileage test.<sup>[16]</sup>

## Purpose of detergents in gasoline<sup>[edit]</sup>

While General Motors' fuels engineer Andrew Buczynsky says that no one has identified the exact molecule in gasoline that causes engine buildup, he says that consistent use of Top Tier detergent gasoline will keep engines cleaner.<sup>[17]</sup> Engine "gunk" typically builds up in fuel injectors and intake valves, causing reduced fuel efficiency, acceleration, and power, as well as increasing emissions, rough idling, tendency to stall, and increased motor repairs.<sup>[18][19]</sup>

When fuel injectors accumulate deposits, they do not distribute fuel evenly, creating pockets of too much fuel and too little fuel. Too-little fuel around the spark plug dampens the combustion that drives the piston downward and may cause a misfire. When the frequency of misfires reaches a certain point, the on board computer turns on the "service engine" light on the dash. The repair for this type of problem depends on the severity of the deposits. In milder cases, a mechanic may solve the problem by simply scraping clean the fuel injectors, or by adding a can of fuel-injector cleaner into the gas tank. However, in some cases, the fuel injectors must be replaced. And if the deposits have formed on the intake valves, a more costly cylinder-head rebuild may be necessary, costing \$1000 or more.<sup>[17]</sup>

Sulfur contamination of gasoline, which can contaminate fuel sending units and lead to erratic dashboard gauge readings, is another problem that higher levels of gasoline detergents can solve. It costs up to \$1000 to repair this problem. Although one type of gasoline additive may resolve the problem of a sulphur-contaminated sending unit, the regular use of a Top Tier gasoline can prevent it from occurring in the first place.<sup>[20]</sup>

## Characteristics of Top Tier gasoline<sup>[edit]</sup>

Gasoline marketers agree when they sign on to Top Tier that all grades of gasoline that they sell must meet the Top Tier standards: their regular grade gasoline must be at least as good as their premium gasoline in terms of its ability to attain agreed-upon standards for clean engines.<sup>[21]</sup>

They must promise the automakers in writing that every grade of gasoline they sell has an additive content that will keep an engine free of contaminating deposits as measured by specific types of tests. However, premium grade gasolines may have yet higher levels of detergent additives.<sup>[22]</sup> Typically, Top Tier gasolines will contain two to three times the amount of detergent additives currently required by the EPA.<sup>[23]</sup> The extra additives are estimated to cost less than a cent per gallon.<sup>[24]</sup>

According to its auto industry research and to automotive journalists, all vehicles will benefit from using Top Tier Detergent Gasoline over gasoline meeting the basic EPA standard.<sup>[21][25][26]</sup>

New vehicles will supposedly benefit by keeping their engine clean and running optimally, older vehicles may benefit with increased engine performance and prolonged vehicle life.

## Reception<sup>[edit]</sup>

Most of the fuel experts and auto mechanics who have publicly commented on Top Tier gasoline recommend it. A 2007 USA Today article quoted three critics who say it has little or no benefit, but the same article quoted three endorsers of the new standard.<sup>[22]</sup> Tom Magliozzi, co-host of NPR's weekly radio show, Car Talk, said that using top tier detergent gasoline is only critical on high-end vehicles.

For other vehicles, he and another source said that periodic use of a concentrated engine cleaner every 100,000 miles will "often" clean out carbon buildup.<sup>[27]</sup> However, journalist and automotive mechanics instructor Jim Kerr says that with some brands of gasoline, deposits can build up on intake valves in less than 10,000 kilometres (6200 miles).<sup>[28]</sup> And General Motors fuels engineer Andrew Buczynsky says the various engine-cleaning additives available at auto-parts stores should be used with caution. He said some work but most don't, and that care must be taken when using these additives because some may contaminate the catalytic converter. Also, if too much is used, the *additive* may cling to valve stems and cause them to hang open.<sup>[17]</sup>

Most mechanics agree that consistent use of a fuel with adequate cleaning ability is best. Magliozzi's co-host, Ray Magliozzi, said that in order to be sure of preventing buildup of fuel injectors and valves, motorists should use Top Tier gasoline "at least most of the time."<sup>[27][29]</sup> Several others agree: Mechanic Pam Oakes says Top Tier gas is effective in cleaning carbon from engines and is worth buying. She says she's seen the difference it can make and recommends it to all of her customers.<sup>[30]</sup> Westside Autos in Clive, Iowa, and Motor Age columnist Larry Hammer also recommend Top Tier for removing carbon build-up, adding that a cleaner engine will also burn fuel more cleanly and therefore produce less emissions.<sup>[31]</sup> Automotive mechanics instructor Jim Kerr concurs: "All gasoline is not created equal . . . Top Tier does have benefits."<sup>[21]</sup>

**STATE WATER RESOURCES CONTROL BOARD**  
**GEOTRACKER**

FAIRFAX GAS (T060417917) - [\(MAP\)](#)

2001 SIR FRANCIS DRAKE BLVD  
FAIRFAX, CA 94930  
MARIN COUNTY  
LUST CLEANUP SITE

**CLEANUP OVERSIGHT AGENCIES**

SAN FRANCISCO BAY RWQCB (REGION 2) (LEAD) - CASE #: 21-0366

CASEWORKER: RALPH LAMBERT

MARIN COUNTY

CASEWORKER: GREG MOBLEY

CUF Claim #:

14537

CUF Priority Assigned:

C

CUF Amount Paid:

\$569,954

Regulatory Profile

[PRINTABLE CASE SUMMARY](#)

**CLEANUP STATUS - DEFINITIONS**

OPEN - REMEDIATION AS OF 4/18/2007 - [CLEANUP STATUS HISTORY](#)

**POTENTIAL CONTAMINANTS OF CONCERN**

GASOLINE, WASTE OIL / MOTOR / HYDRAULIC / LUBRICATING

**POTENTIAL MEDIA AFFECTED**

OTHER GROUNDWATER (USES OTHER THAN DRINKING WATER)

**FILE LOCATION**

REGIONAL BOARD

**BENEFICIAL USE**

NONE SPECIFIED

**GROUNDWATER MONITORING FREQUENCY**

# OF WELLS MONITORED - SEMI-ANNUALLY : 9

Site History

Pump & treat from french drain started 10/20/2007, very low yield.

**CASE REVIEWS**

TITLE / DESCRIPTION	TYPE	REVIEWED BY	DATE REVIEWED	SUMMARY
<a href="#">Path to Closure Plan</a>	Path to Closure Plan	SAN FRANCISCO BAY RWQCB (REGION 2)	12/12/2013	
<a href="#">LTCP Checklist</a>	LTCP Checklist	SAN FRANCISCO BAY RWQCB (REGION 2)	11/1/2012	NEFC
<a href="#">09-42 Closure Review</a>	09-42 Closure Review	SAN FRANCISCO BAY RWQCB (REGION 2)	11/19/2009	NEFC

Cleanup Action Report

ACTION TYPE	BEGIN DATE	END DATE	PHASE	CONTAMINANT MASS REMOVED	DESCRIPTION
IN SITU PHYSICAL/CHEMICAL TREATMENT (OTHER THAN SVE)	10/22/2009	9/30/2011	Water	1,619 Pounds	TPH mass removed reflects 2009 pilot test, 2010- 20 day test extraction, and 29 day extraction event in Sept. 2011.
PUMP & TREAT (P&T) GROUNDWATER	10/20/2007		Water	8 Pounds	453 cubic yards soil removed with tanks in 1998.

LUST FUND PAYMENTS DATA

CLAIM NO	PMNT #	DATE REC'D	PAID AMT	CLAIMANT NAME
14537	1	2/18/2003	\$55,740	DAVID SHERBON REVOCABLE TRUST, ASSIGNEE
14537	2	9/12/2003	\$19,208	DAVID SHERBON REVOCABLE TRUST, ASSIGNEE

**EXHIBIT # 9**

14537	3	11/15/2004	\$25,279	DAVID SHERBON REVOCABLE TRUST, ASSIGNEE	
14537	4	4/28/2005	\$23,095	DAVID SHERBON REVOCABLE TRUST, ASSIGNEE	
14537	5	2/3/2006	\$14,566	DAVID SHERBON REVOCABLE TRUST, ASSIGNEE	
14537	6	11/27/2006	\$40,820	DAVID SHERBON REVOCABLE TRUST, ASSIGNEE	
14537	7	8/23/2007	\$42,617	DAVID SHERBON REVOCABLE TRUST, ASSIGNEE	
14537	8	4/15/2008	\$68,224	DAVID SHERBON REVOCABLE TRUST, ASSIGNEE	
14537	9	9/17/2008	\$18,933	DAVID SHERBON REVOCABLE TRUST, ASSIGNEE	
14537	10	12/14/2009	\$61,621	DAVID SHERBON REVOCABLE TRUST, ASSIGNEE	
14537	11	11/29/2010	\$77,412	DAVID SHERBON REVOCABLE TRUST, ASSIGNEE	
14537	12	8/26/2011	\$30,619	DAVID SHERBON REVOCABLE TRUST, ASSIGNEE	
14537	14	8/12/2013	\$41,820	DAVID SHERBON REVOCABLE TRUST, ASSIGNEE	
TOTAL AMOUNT PAID			\$519,954		
<b>LUST FUND LETTERS OF COMMITMENT</b>					
<u>CLAIM #</u>	<u>AMEND #</u>	<u>FY</u>	<u>LOC AMT</u>	<u>TO ORIGINATOR</u>	
14537	0	02	\$45,000	1/15/2003	
14537	1	02	\$30,000	5/27/2003	
14537	2	04	\$25,227	3/16/2005	
14537	3	05	\$23,095	10/24/2005	
14537	4	05	\$14,566	3/24/2006	
14537	5	06	\$87,112	2/23/2007	
14537	6	08	\$64,549	7/14/2008	
14537	7	09	\$1,210,451		
TOTAL LOC AMOUNT			\$1,500,000		
<b>LUST FUND PREAPPROVAL REQUESTS</b>					
<u>CLAIM #</u>	<u>PA #</u>	<u>DATE REC'D</u>	<u>DATE COMPLETED</u>	<u>AMT REQ</u>	<u>AMT APPROVED</u>
14537	1	10/14/2013		\$121,000	
TOTAL AMT APPROVED					\$0
<b>LUST FUND 5 YEAR REVIEWS</b>					
<u>CLAIM #</u>	<u>REVIEW #</u>	<u>REVIEWER</u>	<u>DATE TO OVERSIGHT</u>	<u>DATE TO CLAIMANT</u>	
14537	1	168	4/30/2012		

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TOWN OF FAIRFAX

JAN 0 8 2014

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ARBORIST REPORT

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**Coast Redwoods  
2001 Sir Francis Drake Boulevard  
Fairfax, CA 94930  
(APN: 002-116-04)**

*Prepared for:*  
**Arash Salkhi  
Salkhi Family Trust  
7474 Redwood Blvd  
Novato, CA 94945**

**James M. Moore  
Director of Planning and Building Services  
Town of Fairfax  
142 Bolinas Road  
Fairfax, CA 94930**

*Prepared by:*  
**ARBORSCIENCE  
Post Office Box 111  
Woodacre, CA 94973**

January 8, 2014



EXHIBIT # 10



## ASSIGNMENT

Arash Salkhi hired ARBORSCIENCE to assess tree-retention suitability for seven (7) coast redwoods (*Sequoia sempervirens*) growing at the Chevron Station construction site in Fairfax. I conducted my fieldwork on January 1, 2014.

## TREE OWNERSHIP AND INSPECTION LIMITATIONS

Information regarding property boundaries, land and tree ownership was obtained using Marinmap Geographic Information System parcel data. I have neither personal nor monetary interest in the outcome of this matter. All determinations reflected in this report are objective and to the best of my ability. Observations and conclusions regarding the subject trees and site conditions were made by me, independently, based on my education, experience, and inspection of the site. Unless expressed otherwise, information contained in this report covers only those items examined and reflects the condition of those items at the time of inspection. My inspection was limited to visual examination of accessible tree components from the ground without trunk dissection or root crown excavation. There is no warranty or guarantee, expressed or implied, that problems or deficiencies of the trees in question may not arise in the future.

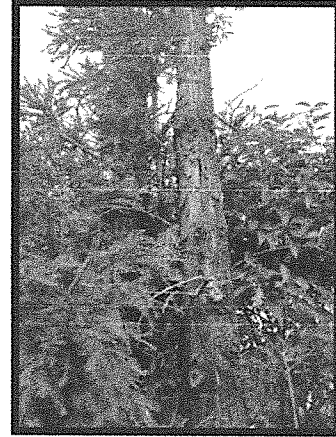
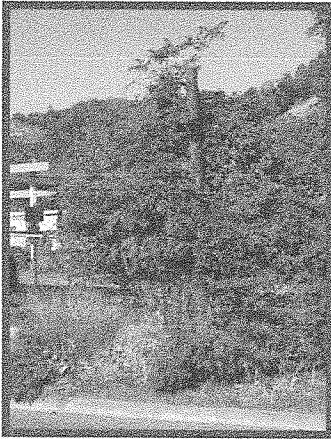
## LOCATION

The subject coast redwoods are growing in a north-south trending row in the planting strip between the former Fairfax Gas Station (APN: 002-116-04) and the public parking lot to the east (photo below). Existing improvements on this commercial property include a main gas station structure (office and garage), underground tanks, gas pump canopy, and paved surfaces. A concrete curb with apron frames the eastern edge of the gas station. Four (4) of the subject trees (Trees 1, 2, 3, and 7) are rooted in the public right of way that aligns with Bank Street; two (2) of the subject trees (Trees 4 and 5) are rooted in the parking lot property (APN: 002-117-01); one (1) of the subject trees (Tree 6) straddles the property line.



## SUBJECT TREE DESCRIPTIONS

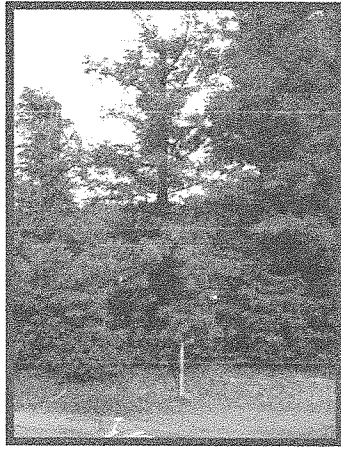
Six (6) of the subject coast redwoods (Trees 1-6) are in especially poor condition, making them unsuitable for retention in this setting. These trees were planted too densely (not enough growing space for normal development), have been growing in an especially harsh site (paving with radiant heat, exhaust, fuel fumes), and have experienced poor pruning care that included topping that has led to stem decay. One (1) of these redwoods (Tree 7) is in good condition and is suitable for retention.



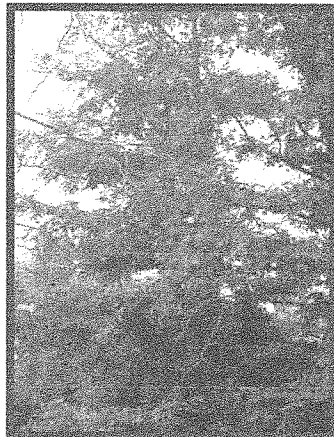
Tree 1 (above left) is a coast redwood that separates into two spars (5.6, 6.8" dbh) that were previously topped at 10' above grade. The spars are joined at an acute angle with included bark. The taller spar has long, vertical cracks. This tree is unsuitable for retention at the site because of its poor condition.



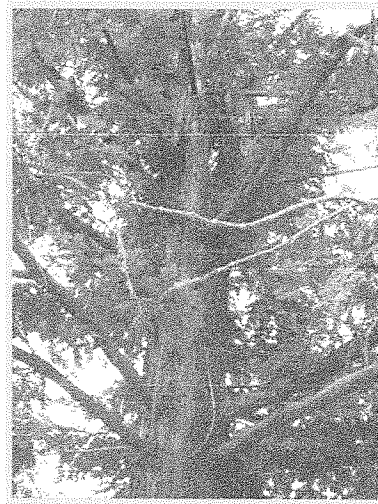
Tree 2 (above left) is a coast redwood with a single stem (12.6" dbh) that was topped at 12' above grade. This tree has a large canker (open wound) on the south side of the tree that reveals the presence of decay. This tree is unsuitable for retention at the site because of its poor condition.



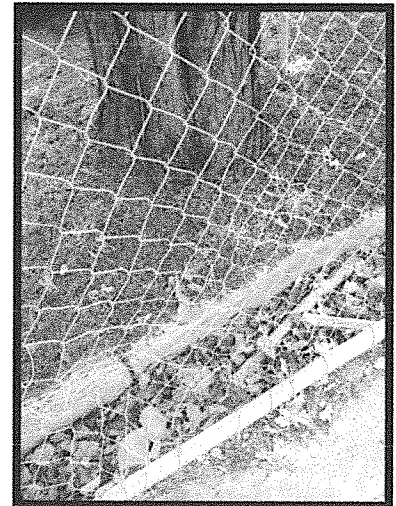
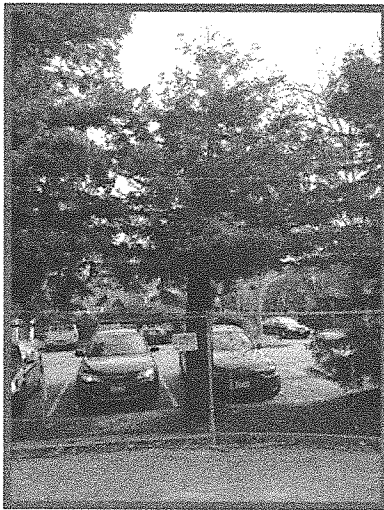
Tree 3 (above left) is a coast redwood that divides at 1' above grade into two spars (7.8" and 11.2" dbh) that joined by an acute angle crotch with included bark. The north spar was topped at 8' above grade and is decayed; the south spar was topped at 16' above grade. Extensive decay is present in this tree. This tree is unsuitable for retention at the site because of its poor condition.



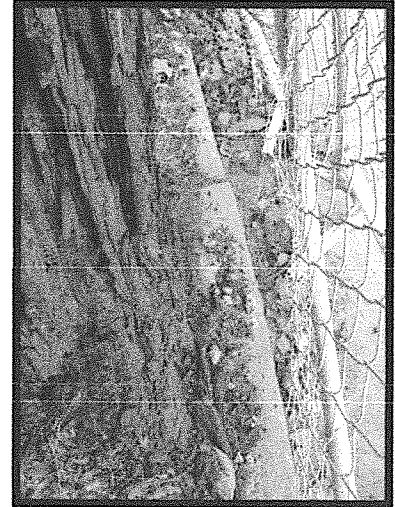
Tree 4 (above left) is a coast redwood that divides 2' above grade into two codominant spars (6.3" and 4.7" dbh) with an acute angle crotch and included bark. The southern spar is decayed. This tree is unsuitable for retention at the site because of its poor condition.



Tree 5 (above left numbered) is a coast redwood (14.6" dbh) that has multiple codominant trunks of comparable size with a common point of attachment at 12' above grade where the tree was previously topped. This tree is unsuitable for retention at the site because of its poor condition.



Tree 6 (above left) is a coast redwood (16.7" dbh) was previously topped at 10' above grade that gave rise to several tops, one of which previously failed into the gas station parking area. Roots from this tree are displacing the nearby curb. This tree is unsuitable for retention at the site because of its poor condition.



Tree 7 (above left) is a coast redwood (22.3" dbh) with a well tapered trunk supporting a balanced crown of healthy green foliage. There are broken, hanging limbs on the west side of the tree about 15' above grade that pose a falling hazard. Roots from this tree are displacing the curb to the west. This tree is suitable for retention at the site because it is in good condition. Tree 7 and two other coast redwoods growing nearby along Sir Francis Drake Boulevard make an attractive redwood grove.

## CONCLUSIONS AND RECOMMENDATIONS

Six (6) of the subject coast redwoods (Trees 1-6) are in extremely poor condition and cannot be pruned to improve their form or health. These trees are unsuitable for retention in this setting and I recommend that they be removed and their roots ground to prevent re-growth.

Tree 7 is in good condition and is suitable for retention. Broken limbs on the west side of Tree 7 should be removed for safety reasons.

Sincerely,

**ARBORSCIENCE**

Kent R. Julin, Ph.D.  
ISA Certified Arborist #WE-8733A  
ISA Tree Risk Assessor Qualified