



City of Sonoma Planning Commission AGENDA

Regular Meeting of December 12, 2013 -- 6:30 PM
Community Meeting Room, 177 First Street West
Sonoma, CA 95476

Meeting Length: No new items will be heard by the Planning Commission after 10:30 PM, unless the Commission, by majority vote, specifically decides to continue reviewing items. If an item is not heard due to the length of the meeting, the Commission will attempt to schedule a special meeting for the following week. If a special meeting is necessary, potential dates will be established at the close of this meeting, and a date set as soon as possible thereafter.

CALL TO ORDER – Chair, Chip Roberson

Commissioners: Gary Edwards
Robert Felder
Mark Heneveld
Matt Howarth
Mathew Tippell
Bill Willers
James Cribb (Alternate)

*Be Courteous - **TURN OFF** your cell phones and pagers while the meeting is in session.*

PLEDGE OF ALLEGIANCE

COMMENTS FROM THE PUBLIC: Presentations by audience members on items not appearing on the agenda.

CORRESPONDENCE

ITEM #1 – PUBLIC HEARING

RECOMMENDED ACTION:

ISSUE:

Consideration of amendments to the Development Code establishing definitions and zoning regulations for wine tasting facilities.

Forward recommendations to City Council.

Staff: David Goodison

ITEM #2 – PUBLIC HEARING

Project Location:

711 Broadway

RECOMMENDED ACTION:

REQUEST:

Application for a Use Permit allowing a formula restaurant on a commercial property.

Approve subject to conditions.

Applicant/Property Owner:

RJF Enterprises, Inc. (dba Dutch Bros. Coffee)

Zoning:

Planning Area: Downtown District

Base: Mixed Use (MX)

Staff: David Goodison

Overlay: Historic (/H)

ISSUES UPDATE

COMMENTS FROM THE COMMISSION

COMMENTS FROM THE AUDIENCE

ADJOURNMENT

I do hereby certify that a copy of the foregoing agenda was posted on the City Hall bulletin board on December 6, 2013.

CRISTINA MORRIS, ADMINISTRATIVE ASSISTANT

Rights of Appeal: Any decision of the Planning Commission may be appealed to the City Council. Appeals must be filed with the City Clerk within fifteen (15) calendar days following the Planning Commission's decision, unless the fifteenth day falls on a weekend or a holiday, in which case the appeal period ends at the close of the next working day at City Hall. Appeals must be made in writing and must clearly state the reason for the appeal. Appeals will be set for hearing before the City Council on the earliest available agenda. A fee is charged for appeals.

Copies of all staff reports and documents subject to disclosure that relate to any item of business referred to on the agenda are available for public inspection the Monday before each regularly scheduled meeting at City Hall, located at No. 1 The Plaza, Sonoma CA, (707) 938-3681. Any documents subject to disclosure that are provided to all, or a majority of all, of the members of the Planning Commission regarding any item on this agenda after the agenda has been distributed will be made available for inspection at the Administrative Assistant office, No. 1 The Plaza, Sonoma CA during regular business hours.

If you challenge the action of the Planning Commission in court, you may be limited to raising only those issues you or someone else raised at the public hearing described on the agenda, or in written correspondence delivered to the Administrative Assistant, at or prior to the public hearing.

In accordance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk (707) 933-2216. Notification 48-hours before the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

M E M O

To: Planning Commission
From: Planning Director Goodison
Re: Draft amendments to the Development Code implementing direction on options related to the regulation of wine tasting facilities

Background

In light of the increasing number of wine tasting facilities in the downtown area, the Planning Commission has discussed the possible increased regulation of such facilities. In the second of those discussions, which took place on March 14, 2013, the Commission voted to forward a series of recommendations to the City Council for the increased regulation of wine tasting facilities. These recommendations were reviewed by the City Council over the course of two meetings, at the second of which the City Council voted 3-2 to direct the Planning Commission to develop draft amendments to the Development Code, as follows:

- Establish definitions in the Development Code for wine tasting facilities that clearly distinguish between tasting rooms and wine bars.
- Create a two-tiered permitting system in which tasting facilities with limited hours would be permitted as of right, while facilities with extended hours and wine bars would be subject to use permit review.
- Establish operating standards for wine tasting facilities and wine bars.

Based on this direction, staff has developed a set draft amendments to the Municipal Code. The Planning Commission reviewed in a study session at its meeting of July 11, 2013. There was considerable discussion on the draft amendments, both on the part of the Planning Commission and from interested members of the public, including potentially business-people. At the conclusion of the discussion, the Planning Commission suggested that staff meet with representatives of the wine community to discuss their concerns. Based on this direction, staff arranged a meeting with Richard Idell (associated with Sonoma Valley Vintners and Growers) and Danny Fay (Envolv Winery). Also attending were Planning Commissioners Gary Edwards and Mathew Tippell, along with the Planning Director and the Police Chief.

At the meeting, the representatives of the wine community expressed concern that the regulation of wine tasting rooms did, from their perspective, relate to any identified problem. They objected to any local restrictions that addressed issues already regulated by the ABC (e.g., the size of pours). They were also concerned that (depending on specific provisions) requiring use permit reviews for already-established tasting rooms could devalue those businesses. They also noted that the business of wine was evolving, which was reflected in the changing nature of tasting

rooms. Staff noted that other types of business that serve alcohol, such as restaurants and bars are subject to use permit review and that ABC regulations do not address issues such as hours of operation and parking requirements. It was also noted that as tasting rooms operating with a Type 42 ABC permit offer different types of experiences and extended hours, they have the potential to become de facto bars (“morphing”). There was general agreement by all in attendance that the type of license employed by a tasting room was a valid basis of regulatory distinction, as tasting rooms operating under a Type 2 license (in essence a duplicate license associated with a specific winery) are not subject to the problem of morphing. **Note:** the attached memo from the Police Chief includes a discussion of the differences between the Type 2 and Type 42 ABC licenses.

Revised Draft Development Code Amendments

Planning staff has developed revised draft regulations for the Planning Commission to consider that are consistent with the overall approach suggested by the City Council while responding to the concerns expressed by representatives of the wine industry. As proposed, most wine tasting rooms operating with a type 2 ABC permit would continue to be a permitted use in Commercial zoning districts, except when extended hours of operation are proposed. Wine tasting rooms operating under a type 42 ABC permit would be subject to use permit review. Local regulations would not address matters that are already subject to ABC control, such as the size of pours. Further details are as follows:

- A. *Definitions.* Draft definitions are provided for “Wine Bars”, “Wine Tasting Room”, and “Wine Tasting Room, Limited” (see attachment 1).
- B. *Permitting.* Per the City Council’s direction, “Wine Bars” and “Wine Tasting Rooms” would be subject to conditional use permit review by the Planning Commission. A facility meeting the definition of “Wine Tasting Room, Limited” would be permitted as of right, meaning that no use permit review would be required. (See attachment 2.) To qualify under the definition of “Wine tasting Room, Limited,” the business would need to operate under a Type 2 license and its hours of operation could not exceed 7 p.m. In the Mixed Use zoning district, all types of wine tasting facilities would be subject to use permit review.
- C. *Operating Standards and Findings.* Basic operating standards are proposed and these would be set forth in the “special use standards” section of the Development Code (Chapter 19.50). These provisions also include additional findings that the Planning Commission would need to make in order to approve a use permit for a wine bar or a wine tasting facility. These findings are modeled after the factors used in establishing the finding of “public convenience and necessity” that the Police Chief must make in order to approve an ABC license for this type of facility. (See attachment 3.)
- D. *Parking Standards.* On the matter of parking standards, staff has identified the following the options:
 - 1. Apply the retail parking ratio of 1 space per 300 square feet of building area, while controlling the number of seats associated with an individual business through use permit

review. This option represents the status quo, but does not address how seating would be limited for wine tasting rooms not subject to use permit review.

2. Apply the restaurant parking ratio of one space for every four seats could be applied. This option would likely result in the creation of a great many non-conforming uses, but as a practical matter most existing wine tasting rooms would not be affected.
3. Apply a standard that is specific to wine tasting uses. For example a ratio of one seat for every 55 square feet of building area would result in a somewhat higher level of seating than the retail ratio.

The proposed regulations on wine tasting uses would not impose training requirements that are not imposed on bars and on restaurants that serve alcohol. The City Council may want to consider responsible hospitality regulations that address all locations where alcohol is served, but this would be addressed as a separate issue, depending on Council interest in the concept.

Review of Existing Non-conforming Businesses

Assuming that new regulations are ultimately adopted, with respect to wine tasting facilities already in operation, staff recommends that they be considered legal non-conforming, except that a use permit would be required in compliance with any new regulations under the following circumstances: 1) change in ABC license type; 2) violation of ABC license (one Commissioner suggested that two violations should be the threshold); and 3) any expansion or intensification involving factors subject to the regulation of the use. These factors include hours of operation and seating, but would not include an application for a music license.

Recommendation

Staff recommends that the Planning Commission review the draft amendments to the Development Code and provide direction to staff on any necessary changes. As discussed above, a key area where direction is needed is that of parking standards.

cc: Bret Sackett, Chief of Police
Laurie Decker, Economic Development Coordinator
Daniel Fay, Envolve
Richard Idell, Sonoma Valley Vintners and Growers

Attachments

1. Minutes of the Planning Commission meeting of July 11, 2013
2. Memo from the Police Chief
3. Draft Definitions/Draft Operating Standards and Additional Use Permit Findings

Comm. Heneveld stated that 18 bicycle spaces should be required.

Chair Roberson feels that 75 parking spaces should be more than sufficient for the use.

Comm. Edwards made a motion to approve the Use Permit and Parking Exception, subject to the conditions of approval prepared by staff with an additional condition requiring 18 bicycle parking spaces on site. Comm. Willers seconded. The motion was unanimously approved 7-0.

Item #5 – Discussion – Consideration of amendments to the Development Code establishing definitions and zoning regulations for wine tasting facilities.

Planning Director Goodison presented staff's report.

Chair Roberson opened the public hearing.

Danny Faye, Envolve, discussed some concerns of his peers about placing further restrictions on the wine tasting rooms. He is of the opinion that all businesses are in compliance with all regulations.

Erik James, Erik James Tasting Room, feels it is not necessary to make any changes for the wine tasting facilities. He is comfortable with the atmosphere of the tasting rooms and the interactions with the community.

Robert Idell, resident and attorney representing the wine growers association indicated that the County is struggling with the same issues. Jurisdictions are trying to prevent winery tasting rooms from becoming restaurants since they often times are directly linked. He is of the opinion that the Planning Commission is not acting as an adjudicatory body when proposing this type of legislation-guidelines. He suggests more study on the subject in a roundtable.

Chair Roberson closed the public hearing.

Comm. Willers agreed with Planning Director Goodison that there is not necessarily going to be a limit on the number of tasting rooms around the Plaza, but in his view, the Development Code does not address wine tasting adequately and the rules and definitions that govern such uses need to be clarified.

Comm. Edwards likes the concept of people buying a bottle of wine and then taking it to a local restaurant. He recognizes and respects the role of wine and wine tasting in the community. However, he is concerned that in some cases wine tasting facilities are functioning more like bars and this is occurring without any form of use permit review, which is a requirement that does apply to bars and restaurants.

Comm. Howarth agreed with Planning Director Goodison that this process is not punitive. There is not a clear definition of wine tasting rooms in the Development Code and, in his view that needs to be addressed.

Comm. Roberson sees a range of uses that are quite broad with all proposals being evaluated by the Development Code for these land use decisions. He appreciates the turnout tonight and says that the intent is not to discriminate against certain businesses developing around the

Plaza. The goal is it has a graduated definition that will be acceptable under which wine businesses can successfully operate.

Comm. Tippell agreed that this discussion has been productive, especially with the participation of representatives from the wine tasting community. He would like to see that dialog continue.

Comm. Howarth asked whether a representative from the Alcohol and Beverage Control Board might be available to attend a follow-up meeting.

Planning Director Goodison will arrange an ad-hoc meeting with representatives of the wine tasting community, two members of the Planning Commission, and the Police Chief.

Issues Update:

1. Comm. Willers was re-appointed as the alternate and will interview for the vacant Planning Commissioner position.
2. Special Planning Commission meeting on 7/18/13 to discuss the Mission Square project.
3. Comm. Henevald notes County-wide water concerns.
4. Comm. Tippell will not attend the 8/8/13 meeting.
5. The Hotel petition is certified and the City Council may adopt, schedule an election, or authorize an impact analysis.

Comments from the Audience: No public comments.

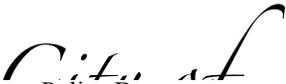
Comm. Edwards made a motion to adjourn. Comm. Henevald seconded. The motion was unanimously approved, 7-0.

Adjournment: The meeting adjourned at 9:30 p.m. to the next regular meeting scheduled for 6:30 p.m. on Thursday, August 8, 2013.

I HEREBY CERTIFY that the foregoing minutes were duly and regularly adopted at a regular meeting of the Planning Commission on the day of , 2013.

Approved:

Cristina Morris, Administrative Assistant


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Sonoma California 95476-6690
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Date: December 10, 2012
To: David Goodison, Planning Director
From: Bret Sackett, Chief of Police
RE: Wine Tasting Facilities

Alcohol is an important contributor to the unique culture and vitality of Sonoma. However, alcohol can also impact the health and safety of our youth and adults – and play a role in a range of community problems, such as driving under the influence, underage drinking and alcohol related crimes. A recent survey of DUI drivers from Sonoma revealed that 56% obtained their final drink at an ABC licensed establishment, while youth focus groups routinely cite that alcohol is “fairly easy” to obtain from ABC licensed establishments.

According to criteria established by the California Department of Alcoholic Beverage Control, the City of Sonoma has a higher number of off-sale alcohol establishments than recommended (greater than 1 per 2,500 population). As such, each new license application for a retail outlet – such as liquor stores, convenience stores, and bars – require the local jurisdiction to make a determination that the new alcohol license will serve a “public convenience or necessity.” In Sonoma, the police chief makes that determination, but denials can be appealed to the City Council.

In order to obtain such a license, the applicant must obtain a “Letter of Public Convenience or Necessity” from the police chief. Unfortunately, the term “Public Convenience or Necessity” is not clearly defined by ABC, but the police chief considers some of the following criteria when making such a finding:

- The proposed use will not be detrimental to the character of immediate neighborhood
- Proximity to sensitive land use issues
- There are no conflicts with zoning regulations
- The economic benefit outweighs the negative impacts to the community
- The license will provide a needed service not currently being met in the community
- Unique and unusual circumstances to justify a new retail alcohol outlet when there are already similar alcohol uses existing nearby (this is much more difficult to establish)

While ABC has a wide variety of license types, it does not offer one specific to “wine tasting.” ABC allows a winery, which operates with Type 02 license, to operate an off-site tasting room under their existing Type 02 license. However, a wine tasting business that is not associated with a specific winery and wishes to provide tastings from multiple wineries – and subsequent purchase for on or off site consumption – must obtain a Type 42 license. It’s important to note that a Type 42 license authorizes the sale of beer and wine for consumption on or off the premise and is not limited to just “wine tasting.” In essence, a Type 42 license authorizes a business to operate like a bar or tavern, although they may call themselves a “tasting facility.”

The police chief would like to make the Planning Commission aware of the potential for a wine tasting business to morph into a “wine and beer bar” absent other regulatory criteria. In essence, we cannot rely on the ABC license to regulate wine tasting businesses without other local zoning regulations. In addition, the police chief respectfully requests the Planning Commission’s opinion as to what constitutes “Public Convenience or Necessity”, so he can take those opinions into consideration as he reviews additional requests for new ABC licenses.

Definitions (Draft)

Wine Tasting Rooms and Wine Tasting Rooms, Limited. “Wine Tasting Rooms” and “Wine Tasting Rooms, Limited” are establishments that sell wines and related products on behalf of a single winery and enable customers to taste wine (with and without charge) as a regular part of the sales process. Food may be provided if it is at no cost to the consumer, is made off-premises and the facilities are approved by Sonoma County Department of Health Services. “Wine Tasting Rooms, Limited” may be located within larger retail establishments. These establishments are limited to a Type 2 license from the Alcoholic Beverage Control Board. Additional standards and regulations applicable to this use are found in Section 19.50.XXX.

Wine Bar. "Wine Bar" means an establishment devoted to the sampling and sale of wine produced by multiple wineries and enable customers to taste wine (with and without charge) as a regular part of the sales process. Food may be provided if it is at no cost to the consumer, is made off-premises and the facilities are approved by Sonoma County Department of Health Services. These establishments are limited to a Type 42 license from the Alcoholic Beverage Control Board. Additional standards and regulations applicable to this use are found in Section 19.50.XXX.

Operating Standards and Additional Use Permit Findings (Draft)

19.50.XXX—Wine Tasting Facilities. This Section sets forth requirements for the establishment and operation of Wine Tasting Facilities (defined as Wine Bars, Wine Tasting Rooms, and Wine Tasting Rooms, Limited) in zoning districts where they are allowed by Section 19.10.050 (Allowable Land Uses and Permit Requirements).

A. General requirements. All Wine Tasting Facilities shall be subject to the following requirements:

1. For applications for a any wine tasting facility, the description of the premises shall match that provided to and approved by the California Department of Alcoholic Beverage Control.
2. On-going compliance with applicable requirements and licensing of the California Department of Alcoholic Beverage Control and the Sonoma County Health Department is required.

B. Wine Tasting Rooms, Limited. Wine Tasting Rooms, Limited shall be subject to the following requirements:

1. Hours of operation shall not exceed 11 a.m. to 7 p.m.
2. If operated as an accessory use located within a larger retail establishment, the area devoted to the use shall not exceed 600 square feet.

C. Wine Tasting Rooms. Wine Tasting Rooms shall be subject to the following allowances and requirements:

1. Hours of operation shall not exceed 11 a.m. to 10 p.m., although more restrictive hours may be imposed through the use permit review process.

D. Wine Bars. Wine Bars shall be subject to the following allowances and requirements:

1. Hours of operation shall not exceed 11 a.m. to 10 p.m., although more restrictive hours may be imposed through the use permit review process.

E. Additional Use Permit Findings. In addition to the findings set forth in section 19.54.040, the approval of a use permit for a Wine Tasting Room or a Wine Bar shall be subject to the following additional findings by the Planning Commission:

1. There are no sensitive land uses nearby that would experience significant adverse impacts associated with the proposed facility.
2. The proposed use would provide a needed service not currently available in the area that it would serve; or, unique or unusual circumstances justify a new Wine Bar or Wine Tasting Facility in a location where there are similar uses nearby.

Agenda Item Title: Application for a Use Permit to operate an existing drive-through espresso service as a formula business.

Applicant/Owner: RJF Enterprises, Inc./Lippow Development Co.

Site Address/Location: 711 Broadway

Staff Contact: David Goodison, Planning Director
Staff Report Prepared: 8/6/10

PROJECT SUMMARY

Description: Application of RJF Enterprises, Inc. for a Use Permit to operate an existing drive-through espresso service as formula business.

General Plan Designation: Mixed Use (MU)

Zoning: **Base:** Mixed Use (MX) **Overlay:** Historic

Site Characteristics: The site is a rectangular parcel, approximately 15,000 square feet in area, located on the southwest corner of Broadway and Andrieux Street. It is developed with a former gas station. A portion of the interior of the gas station building is used as an espresso kitchen, which supports a drive-through espresso service where the fueling stations were formerly located along the Broadway frontage for the site. The majority of the building is occupied by a flower and gift shop. Parking is located along the western edge of the property and on the south side of the building.

Surrounding Land Use/Zoning: **North:** A restaurant (across Andrieux Street)/Mixed Use
South: An office building/ Mixed Use
East: An office building (across Broadway)/Mixed Use
West: An office building/ Mixed Use

Environmental Review:

<input checked="" type="checkbox"/> Categorical Exemption	<input type="checkbox"/> Approved/Certified
<input type="checkbox"/> Negative Declaration	<input checked="" type="checkbox"/> No Action Required
<input type="checkbox"/> Environmental Impact Report	<input type="checkbox"/> Action Required
<input type="checkbox"/> Not Applicable	

Staff Recommendation: Approve subject to conditions.

PROJECT ANALYSIS

BACKGROUND

The drive-through espresso serve that currently operates on the property was approved by the Planning Commission in 1995. Its approved hours of operation are from 5 a.m. to 4:30 p.m., Monday through Friday, with weekend hours of 7 a.m. to 6 p.m. In 2010, the Planning Commission approved a use permit revision that provided for the following:

- The relocation of the espresso preparation area to the interior of the building (it had been located at the pub island), along with a coffee roaster. This change included a small expansion of the building on the southeast.
- The reconfiguration of the drive-through circulation to bring vehicles through the back of the property, from Andrieux Street, and the associated reconfiguration of the parking. This pattern increased on-site stacking capacity and improved safety by having drivers exit onto Andrieux Street, so as to enter Broadway at a stop-sign-controlled intersection.
- An expansion of the use to allow for a café/restaurant within the former service station building, with 28 indoor seats and 8 outdoor seats. This use was intended to occur in the area of the building occupied by the flower and gift shop.

Following that approval, the espresso preparation area was relocated and the circulation/parking reconfiguration was implemented, but the restaurant expansion did not occur.

DETAILED PROJECT DESCRIPTION

The applicant is requesting approval of a Use Permit to operate the existing drive-through espresso service as a formula business, specifically a Dutch Bros. Coffee. Dutch Bros. Coffee operates a chain of drive-through espresso businesses and it is therefore defined as a “Formula Restaurant” in the City’s Development Code. In 2012, the City Council adopted zoning regulations aimed at regulating formula businesses. Under these rules, the operation of the existing drive-through espresso service as a formula restaurant is subject to use permit review. As stated in the project narrative (attached), the size and configuration of the drive-through espresso service would not change. However, the applicant is seeking to increase the hours of operation to 10:00 p.m. Sunday through Thursday and to 11:00 p.m. on Friday and Saturday. (Changes in the building colors and signage are also proposed, but these would be subject to Design Review, if the use permit is approved.) The applicant is not proposing to carry forward the approved restaurant use, so if this use permit were to be approved, that allowance would be eliminated.)

GENERAL PLAN CONSISTENCY (Not Applicable to this Project)

DETAILED PROJECT DESCRIPTION

The property is designated Mixed Use by the General Plan, a designation that is intended to accommodate uses that provide a transition between commercial and residential districts, to promote a pedestrian presence in adjacent commercial areas, and to provide neighborhood commercial services to adjacent residential areas. In addition, a residential component is required in new development, unless an exemption is granted through the use permit review. (Note: As set forth in the Development Code, the requirement for a residential component may be waived in a project that involves the replacement of a commercial with another commercial use.)

DEVELOPMENT CODE CONSISTENCY (Not Applicable to this Project)

Use: The property is zoned Mixed Use (MX). Drive-through services are allowed in the Mixed Use zone, subject to use permit review, as are restaurants. The current drive-through espresso service

operates with an approved use permit. However, under changes to the Development Code adopted by the City Council in 2012, Formula Restaurants (defined as a chain of ten or more business offering a standardized array of products) are subject to use permit review. Because the existing use is proposed to be operated as a Formula Restaurant, the change in the business type is subject to use permit even though in most respects the characteristics of the operation would remain the same. In addition, increased hours of operation are proposed, which would also be subject to use permit review, even if there the change to a Formula Restaurant were not proposed. The findings required for the approval of Formula Restaurant are discussed below. The proposed change in the hours of operation are discussed under project issues.

Development Standards: The drive-through espresso service is an existing use and no changes are proposed to the existing building. As a result, the project does not raise any issues in terms of compliance with building setback, FAR, lot coverage, open space, and building height standards.

Design Review: As normally required, any changes to the exterior of the building, new landscaping, or signage proposed for the business would be subject to review and approval by the Design Review Commission.

On-Site Parking and Circulation: For the existing combination of uses on the site, a total of five off-street parking spaces are required. Following the approval of the 2010 use permit, the parking was reconfigured to provide nine spaces, as additional parking would have been needed for the restaurant use. As it stands, the amount of off-street parking available exceeds the minimum requirement and, as discussed above, if this use permit is approved, the allowance for the restaurant use will be removed. With respect to circulation, that too was changed following the 2010 use permit approval. Under the updated configuration, vehicles enter the property from Andrieux Street, circle around the back of the building, and then exit back onto Andrieux Street. This change in the circulation pattern increased on-site stacking capacity and improved safety. Staff is not aware of any issues with the updated configuration.

Formula Restaurant Findings: Dutch Bros. is a franchise-based business, meaning that individual locations are typically locally-owned and operated. However, each location has a consistent set of offerings and hours of operation. There are approximately 200 Dutch Bros. locations, in Oregon, California, Washington, Idaho, and Nevada, Colorado, and Arizona. The Planning Commission may approve a Use Permit for a Formula Restaurant only if the following two findings below can be made in addition to those identified in SMC 19.54.040, Use Permits. In approving a Use Permit for a formula restaurant, the Planning Commission also has the discretion to adopt any conditions of approval deemed necessary to comply with other City plans or regulations and to ensure the protection of the public health, safety, and/or welfare.

1. The Formula Business establishment will promote diversity and variety to assure a balanced mix of commercial uses available to serve both resident and visitor populations; and,
2. The proposed use, together with its design and improvements, is consistent with the unique and historic character of Sonoma, and will preserve the distinctive visual appearance and shopping/dining experience of Sonoma for its residents and visitors.

It is staff's opinion that these findings can be made. The continuation of the drive-through espresso use on the subject property contributes to the diversity of options for those interested in coffee. The change in business type would not change the mix of commercial uses in the area, since the site is already in operation as a drive-through espresso service. With respect to design and improvements, no significant changes to the site are proposed. Alterations in the paint color and signage will be subject to the review

and approval of the Design Review Commission and are not expected to alter or diminish the historic character of Broadway.

CONSISTENCY WITH OTHER CITY ORDINANCES/POLICIES (Not Applicable to this Project)

ENVIRONMENTAL REVIEW (Not Applicable to this Project)

Pursuant to Section of 15301 of the State CEQA Guidelines, the leasing or minor alteration of existing private structures and facilities is Categorically Exempt from the provisions of CEQA (Class 1 – Existing Facilities).

DISCUSSION OF PROJECT ISSUES

Formula Business Findings: As discussed above, it is staff's view that the use permit findings for approval of a Formula Restaurant may be made.

Extended Hours of Operation: As discussed above, the applicant has proposed to extend the hours of operation to 10:00 p.m. Sunday through Thursday and to 11:00 p.m. on Friday and Saturday. (The currently approved hours are 5 a.m. to 4:30 p.m., Monday through Friday, with weekend hours of 7 a.m. to 6 p.m.) Ensuring compatibility with surrounding uses is always a consideration in a use permit review. In this instance, potential compatibility issues are limited in that the properties that directly adjoin the subject site feature commercial uses. However, there are residential uses in the vicinity of the site that could be potentially affected, if the increased hours of operation result in noise impacts. In particular, a live-work development is located kitty-corner to the site on the southwest and there are two residences located across Broadway from the site, one to the northeast and one somewhat to the southeast. The distance between these residences and the subject property ranges from approximately 125 feet to 160 feet. However, unlike the situation with the live-work property, which is screened from the subject property by fences and buildings, the sight-lines are unimpeded.

In the current operation of the drive-through espresso service, no microphones or speakers are used. Employees of the service walk up to waiting vehicles to take the orders. In staff's experience with the current use, there is no particular noise impact on residences in the vicinity due to the distances involved. Following the receipt of this application, staff has gone out to the site to assess current noise levels, parking across Broadway at the nearest adjoining residence. Even during complete breaks in traffic, staff was not able to hear any conversation between employees of the espresso service and customers. Vehicle noise from the drive-through was typically very quiet, as cars are either idling or moving at very low speeds. Prior to the Planning Commission meeting, staff will conduct additional noise measurements in the early morning hours, when ambient noise levels are at a minimum. The proposed conditions of approval would prohibit the use of microphones or any noise amplification in conjunction with the proposed use.

RECOMMENDATION

Assuming that the follow-up noise measurements do not identify any significant impacts, staff recommends approval of the use permit, subject to the attached conditions.

Attachments

1. *Draft findings of Project Approval*
2. *Draft Conditions of Approval*
3. *Location Map*
4. *Project Narrative*
5. *Site Plan*

cc: RJF Enterprises
Attn. Robert Fulton
311 Chico Canyon Road
Chico, CA 95928

Dave Mock
89 Specht Road
Sonoma, CA 95476

Lippow Development Co.
P.O. box 469
Martinez, CA 94553

City of Sonoma Planning Commission
FINDINGS OF PROJECT APPROVAL
Dutch Bros Coffee Formula Restaurant – 711 Broadway

December 12, 2013

Based on substantial evidence in the record and upon consideration of all testimony received in the course of the public review, including the public review, the City of Sonoma Planning Commission finds and declares as follows:

Use Permit Findings

1. The proposed use is consistent with the General Plan;
2. The proposed use is allowed with a conditional Use Permit within the applicable zoning district and complies with all applicable standards and regulations of this Development Code;
3. The location, size, design, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity; and
4. The proposed use will not impair the architectural integrity and character of the zoning district in which it is to be located.

Use Permit Findings (Formula Businesses)

1. The Formula Business establishment will promote diversity and variety to assure a balanced mix of commercial uses available to serve both resident and visitor populations; and,
2. The proposed use, together with its design and improvements, is consistent with the unique and historic character of Sonoma, and will preserve the distinctive visual appearance and shopping/dining experience of Sonoma for its residents and visitors.

City of Sonoma Planning Commission
CONDITIONS OF PROJECT APPROVAL
Dutch Bros Coffee Formula Restaurant – 711 Broadway

December 12, 2013

1. The conditions of approval associated with the use permit approval of August 12, 2010 for the subject property (attached) shall remain in full force and effect, except as modified by these conditions.

Enforcement Responsibility: *Planning Division*
Timing: *Ongoing*

2. The drive-through espresso service shall operate in substantial conformance with the project narrative and approved site plan and floor plan, except as modified by these conditions and the following:
 - a. No microphones or noise amplification whatsoever shall be employed in conjunction with the use, including personal radios and other music amplification devices.
 - b. Approved hours of operation shall be 5:30 a.m. to 10:00 p.m., Sunday through Thursday and 5:30 a.m. to 11:00 p.m. on Friday and Saturday.
 - c. The previous approval for the restaurant/café is revoked.
 - d. Apart from coffee drinks and other non-alcoholic beverages (including smoothies and similar items), food service is prohibited.

Enforcement Responsibility: *Planning Division*
Timing: *Ongoing*

3. Exterior changes to the building (including new paint colors) and any new or altered landscaping shall be subject to the review and approval of the Design Review Commission (DRC). As normally required, the applicant/property owner shall submit a sign permit for the business, subject to review and approval by City Staff or the Design Review Commission (DRC) as appropriate.

Enforcement Responsibility: *Planning Division; DRC*
Timing: *Prior to operation*

City of Sonoma Planning Commission
CONDITIONS OF PROJECT APPROVAL
Hot Shots Drive-through Reconfiguration and Cafe – 711 Broadway

August 12, 2010

1. The café and re-configured drive-through shall operate in substantial conformance with the project narrative and approved site plan and floor plan, except as modified by these conditions and the following:
 - a. Indoor seating shall be limited to 28 and outdoor seating shall be limited to 8.
 - b. The coffee roaster shall be as specified in the project (or equivalent in terms of capacity and control of smoke and odors).
 - c. Approved hours of operation shall remain at 5 a.m. to 4:30 p.m., Monday through Friday, with weekend hours of 7 a.m. to 6 p.m.

Enforcement Responsibility: *Planning Division*
Timing: *Ongoing*

2. The parking and circulation plan (including directional signage) shall be subject to the review and approval of the City Engineer. A minimum of ten parking spaces shall be required, including handicapped accessible spaces in the number required by the Building Department. The parking lot shall be resurfaced. If deemed necessary by the City Engineer to meet design requirements for handicapped access, the driveway cuts shall be reconstructed.

Enforcement Responsibility: *City Engineer*
Timing: *Prior to operating and/or issuance of occupancy permit*

3. The cargo container shall be brought into conformance with current setback requirements and Building Code requirements.

Enforcement Responsibility: *Planning Department; Building Division*
Timing: *Prior to operating and/or issuance of occupancy permit*

4. A screened trash enclosure shall be provided. Bicycle parking shall be provided.

Enforcement Responsibility: *Planning Department; Building Division*
Timing: *Prior to operating and/or issuance of occupancy permit*

5. The applicant shall pay for any necessary City water upgrade fees, as determined by the City Engineer and Building Division.

Enforcement Responsibility: *City Engineer; Building Division*
Timing: *Prior to issuance of a building permit or issuance of occupancy permit*

6. All applicable Fire Department and Building Code requirements shall be met, including requirements relating to fire sprinklers, structural, mechanical, and disabled access (ADA). A building permit shall be required for the necessary tenant improvements.

Enforcement Responsibility: *Fire Department; Building Division*
Timing: *Prior to operating and/or issuance of occupancy permit*

7. The applicant shall obtain any necessary approvals from the Sonoma County Health Department for the cafe.

Enforcement Responsibility: *Planning Division; Building Division; Sonoma County Health Dept.*
Timing: *Prior to operating and/or issuance of occupancy permit*

8. The applicant shall comply with the requirements of the Sanitation Division of Sonoma County Planning & Management Resource Department (PMRD) and the Sonoma County Water Agency (SCWA). The applicant shall submit a Wastewater Discharge Survey to PRMD. Written clearance must be obtained from the Sonoma County Sanitation Division or Industrial Waste Division prior to issuance of the required building permit for the use.

Enforcement Responsibility: Sanitation Division of Sonoma County Planning & Management Resource Department; Sonoma County Water Agency; Building Division
Timing: Prior to issuance of a building permit

9. A sewer clearance shall be provided to the City of Sonoma Building Division verifying that all applicable sewer fees have been paid prior to the issuance of any building permit. **Note: Substantial fees may apply for new sewer connections and/or the use of additional ESDs from an existing sewer connection. The applicant is encouraged to check with the Sonoma County Water Agency immediately to determine whether such fees apply.**

Enforcement Responsibility: Building Division
Timing: Prior to issuance of a building permit

10. The following agencies must be contacted by the applicant to determine permit or other regulatory requirements of the agency prior to issuance of a building permit, including the payment of applicable fees:

- a. Sonoma County Water Agency [For sewer connections and modifications and interceptor requirements]
- b. Sonoma Valley Unified School District [For school impact fees]
- c. Sonoma County Health Department [For café and relocated espresso service structure]
- d. Air Quality Control Board [for coffee roaster, if applicable]

Enforcement Responsibility: Building Division; Public Works Division
Timing: Prior to issuance of a building permit

11. Exterior changes to the building and any new landscaping shall be subject to the review and approval of the Design Review Commission (DRC). This review shall encompass site plan adjustments as required by these conditions or as deemed necessary by the DRC (except no modifications substantially altering the approved site plan or at variance with the conditions of approval shall be made), and review of elevation details, exterior materials and colors. The trash enclosure design and bicycle parking shall be included in this review. As normally required, the applicant/property owner shall submit a sign permit for the business, subject to review and approval by City Staff or the Design Review Commission (DRC) as appropriate.

Enforcement Responsibility: Planning Division; DRC
Timing: Prior to operation

Vicinity Map



Project Summary

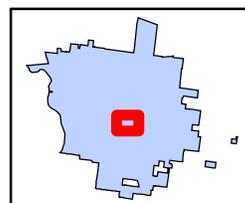
<i>Project Name:</i>	Dutch Bros. Coffee Use Permit
<i>Property Address:</i>	711 Broadway
<i>Applicant:</i>	of RJF Enterprises, Inc. (dba Dutch Bros. Coffee)
<i>Property Owner:</i>	Lippow Development Co.
<i>General Plan Land Use:</i>	Mixed Use
<i>Zoning - Base:</i>	Mixed Use
<i>Zoning - Overlay:</i>	Historic

Summary:

Application for a Use Permit allowing a formula restaurant on the property.

Zoning Designations

- R-HS Hillside Residential (1 D.U./10acres, maximum)
- R-R Rural Residential (2 D.U./acre, maximum)
- R-L Low Density Residential (2-5 D.U./acre)
- R-S Sonoma Residential (3-8 D.U./acre)
- R-M Medium Denisty Residential (6-10 D.U./acre)
- R-H High Density (9-12 D.U./acre)
- R-O Housing Opportunity (15-20 D.U./acre)
- R-P Mobile Home Park (7 D.U./acre, maximum)
- MX Mixed Use (12 D.U./acre, maximum)
- C Commercial (15 D.U./acre, maximum)
- C-G Commercial-Gateway (15 D.U./acre, maximum)
- W Wine Production
- P Public Facility
- Pk Park
- A Agriculture



0 100 200 400 Feet

1 inch = 200 feet

City of Sonoma

Uniform Application – Project Narrative November 15, 2013

Formula Business Use Permit and Current Use Permit Hours of Operation Amendment

RJF Enterprises, Inc. dba Dutch Bros. Coffee
711 Broadway
Sonoma, CA

Application Summary

RJF Enterprises, Inc. dba Dutch Bros. Coffee is applying for a Use Permit to operate a Formula Business in the City of Sonoma. The application also requests an amendment to the Hours of Operation allowed in the current Hot Shot Coffee Use Permit that exists on the subject property.

By separate application to the Design Review Committee, RJF Enterprises, Inc. dba Dutch Bros. Coffee is also applying for approval of new trim paint colors for the existing building. A Sign Application will be submitted to the Planning Department following review of both the Use Permit request and Design Review.

Dutch Bros. Coffee

- Unlike most formula business's, Dutch Bros. Coffee is **NOT** a National chain with hundreds of locations in strip shopping centers and along interstate freeways across the Country.
- Dutch Bros. Coffee **IS** a locally owned franchise where individual operators have the authority and autonomy to run their business in the best interest of the customer and community.

Dutch Bros. Coffee was started over twenty years ago in Grants Pass, Oregon by two local "Dutch Brothers" who's Father was a dairyman. Their beginning was centered around an espresso coffee cart that would serve both walk-up and drive- up customers. Coincidentally, this is very similar to Hot Shots Coffee's early days in Sonoma.

Business was overwhelming and they soon opened additional locations throughout Grants Pass. Their refreshing approach to business was contagious and soon others wanted to be part of the Dutch Bros. culture. Slowly, they began franchising throughout the rural communities of Oregon and Northern California. Their values have not waivered which has ensured that the individual owner's carry on the culture established at the beginning. Customer service, quality and community involvement are at the forefront of all Dutch Bros. Coffee locations.

Formula Business Use Permit

Currently, Hot Shots Coffee operates at the subject location under a Use Permit with Conditions issued August 12, 2010. Under this application, Dutch Bros. Coffee is proposing to take over the Hot Shots space and continue to operate under those conditions with the exception of the hours of operation as noted below.

Hot Shots Coffee is very similar to Dutch Bros. Coffee in regards to its beverage menu and drive-through/walk-up service. The number of employees during the day would be similar, with additional employees required by Dutch Bros. during the extended hours of operation in the evening that are being requested as part of this application. Its facility will be contained within the existing Hot Shots space and the existing florist will continue to occupy the remaining space in the building.

Formula Business Use Permit Criteria

1. The formula business establishments will promote diversity and variety to assure a balance mix of commercial uses available to serve both resident and visitor.

Dutch Bros. Coffee is actually replacing an existing business (Hot Shots Coffee) that currently provides diversity and variety within the community. Its operation and offering is very similar to Hot Shots and will continue to be one of the few drive-through coffee facilities in Sonoma. Dutch Bros. Coffee will also provide fruit smoothie's, infused teas and other "on the go" beverages and food products that are not available elsewhere.

It is also unique in its people driven culture, specifically in terms of community involvement. On a macro basis, Dutch Bros. Coffee has led the way in the fight against muscular dystrophy which took the life of one of the Dutch Bros. founders in 2009. Each year, all the operators' band together to raise and donate money by holding MDA Day in May. Last year, over a quarter of a million dollars was raised for the cause. Locally, the list is long as Owner's have held numerous fund raisers to generate funds for their communities. Local causes include:

- Community Food Banks
- Boys and Girls Clubs
- March of Dimes
- Relay for Life
- High School Sports and Activity Programs
- Sober Grad Night's
- World Autism Day
- Free Drinks for Veterans on Veterans Day
- Toys for Tots
- CASA
- Community Crisis Centers

The hours of operation proposal included in this application will also provide diversity and variety that is currently missing in Sonoma. By remaining open into the evening, Dutch Bros. Coffee will be there for the Sonoma visitor who faces a long drive back to the City or other parts of the Bay Area. This also holds true for community members who face evening activities or work where a Dutch Bros. beverage is desired.

2. The proposed use, together with its design and improvement, is consistent with the unique and historic character of Sonoma, and will preserve the distinctive visual appearance and shopping/dining experience of Sonoma for its residents and visitors.

Under this proposal, there will be no changes made to the existing use, design or improvements at the subject location. Two new historic paint colors will be proposed

under a separate design review application for the trim of the building. All other surfaces will remain the same.

The signage will also be modified as the business name is changing, however all historical design elements of the current signage will remain and all new signage will go through the Planning Department approval process.

Current Use Permit Hours of Operation Amendment

Under the existing Hot Shot Coffee use permit, the hours of operation are stated as 5 a.m. to 4:30 p.m., Monday through Friday with weekend hours of 7 a.m. to 6 p.m. Dutch Bros. Coffee is proposing to amend these hours of operation to 5:30 a.m. to 10:00 p.m., Sunday through Thursday and 5:30 a.m. to 11:00 p.m. on Friday and Saturday.

These proposed hours of operation would provide both visitors and local residents the opportunity to pick up their favorite non-alcoholic beverage throughout the evening hours. This is also true for the patrons of the Hopmonk Beer Garden located across the street. Whether they are headed back home or on their way out, Dutch Bros. has found that these early morning and evening hours of operation serve a unique group of customers and are required under the franchise agreement.

Summary

In consideration of this formula business use application, we hope the following points are considered:

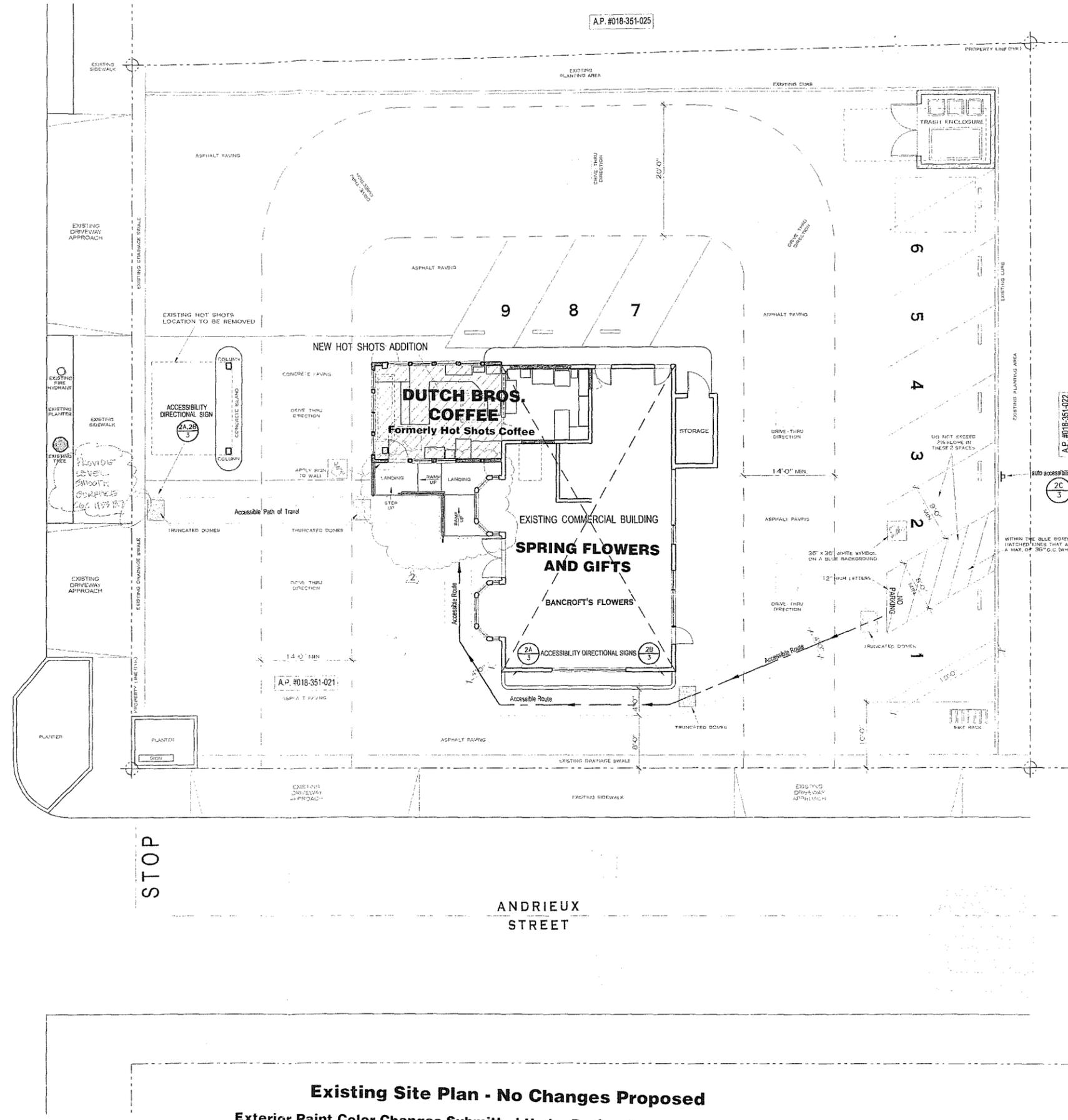
- Dutch Bros. Coffee will **be locally owned and operated** with a **focus on people and community.**
- Dutch Bros. Coffee will allow the current use of the site to continue, thus **maintaining the diversity and variety that this use provides the community.**
- The proposed hours of operation will provide **expanded service for customers and more hours for employees.**
- The facility's design and improvements will remain unchanged, **allowing the historic character of the building to continue.**

FRANCE STREET
STOP

BROADWAY

STOP

ANDRIEUX STREET



Existing Site Plan - No Changes Proposed
 Exterior Paint Color Changes Submitted Under Design Review Application

PROPOSED SITE PLAN
 A.P. #018-351-021

1/8" = 1'-0"

SEE SHEETS 9 & 10 FOR TYPICAL DETAILS & NOTES

Revisions:
 1 AUG. 24, 2011
 2 NOV. 22, 2011

FIGODRAWINGS
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 707.996.0112 FAX
 FIGODRAWINGS@GMAIL.COM
 WWW.FIGODRAWINGS.COM

HOT SHOTS COFFEE
 Addition/Remodel
 711 Broadway
 Sonoma, California

Date: JULY 2011
 Scale: AS NOTED

Proposed Site Plan