

CITY OF SANTA ROSA
 DEPARTMENT OF COMMUNITY DEVELOPMENT
 STAFF REPORT FOR PLANNING COMMISSION
February 11, 2010

PROJECT TITLE

4180 Montgomery Drive Service Station
 Appeal

APPLICANT

Jake Gentling

ADDRESS/LOCATION

4180 Montgomery Drive

PROPERTY OWNER

4180 Montgomery LLC

ASSESSOR'S PARCEL NUMBER

013-284-019

FILE NUMBER

CUP09-085

PROJECT SITE ZONING

CN (Neighborhood Commercial)

GENERAL PLAN DESIGNATION

RBS (Retail Business Service)

APPLICATION DATE

September 24, 2009

APPLICATION COMPLETION DATE

September 24, 2009

PROJECT PLANNER

Bill Rose

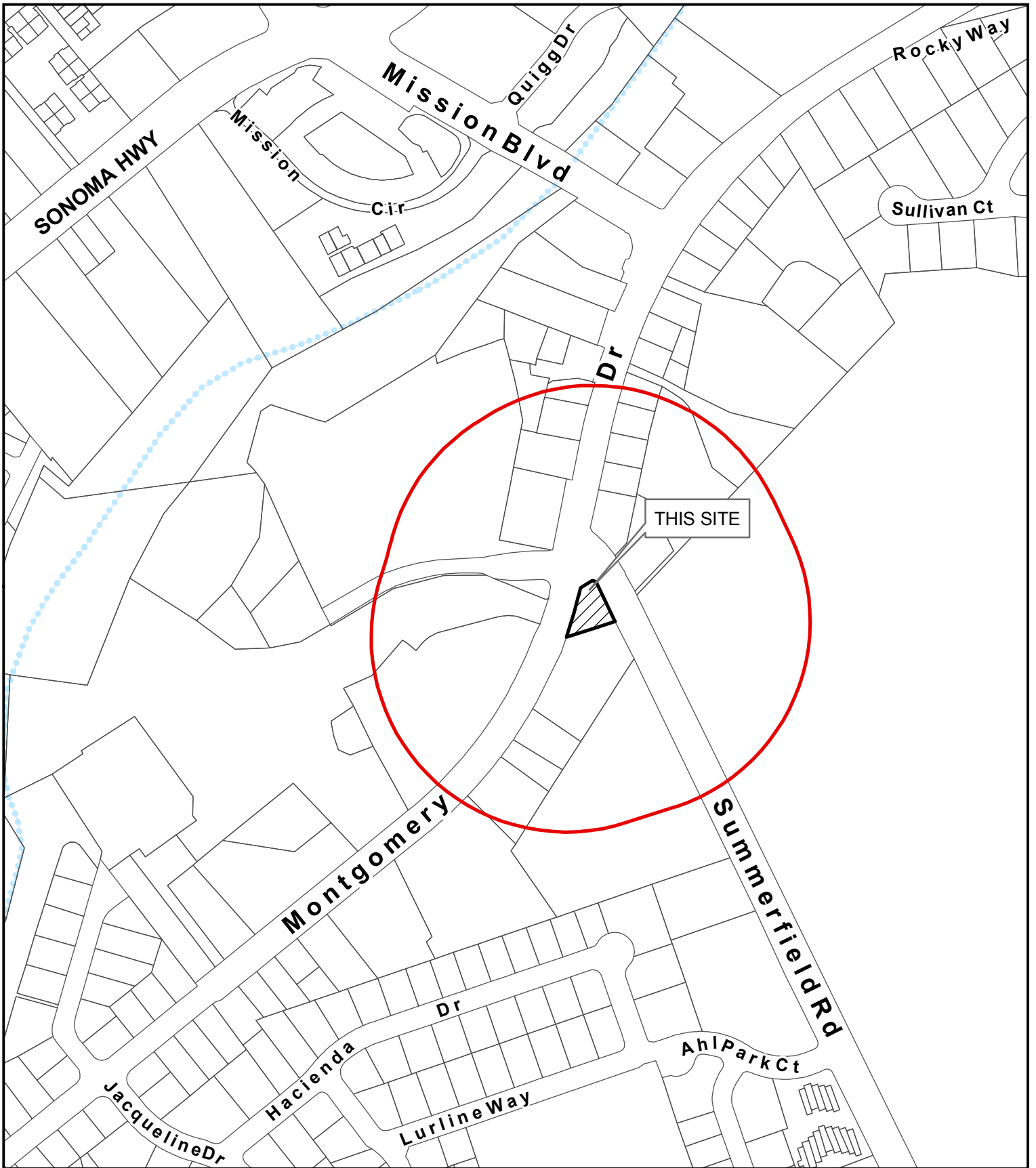
RECOMMENDATION

Adopt the Resolution

SUMMARY

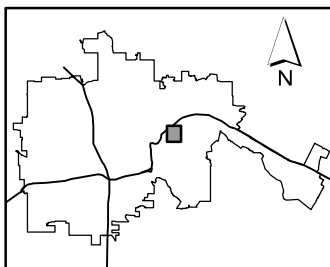
On January 14, 2010, the Planning Commission held a duly noticed public meeting and considered an appeal from Jake Gentling, representing the property owner, who requested that the Planning Commission overturn the determination of the Department of Community Development. The Planning Commission voted unanimously (7-0) to grant the appeal and overturn the staff determination.

The attached resolution memorializes the Planning Commission's decision, and incorporates specific language as directed by the Commission.



4180 MONTGOMERY DRIVE

 500 FOOT BUFFER



RESOLUTION NO.

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ROSA
MAKING FINDINGS AND DETERMINATIONS AND GRANTING AN APPEAL AND
OVERTURNING THE DECISION OF THE COMMUNITY DEVELOPMENT
DEPARTMENT RELATED TO THE PROPERTY LOCATED AT 4180 MONTGOMERY
DRIVE - FILE NUMBER CUP09-085

WHEREAS, on September 24, 2009, an application for a Conditional Use Permit was filed with the Department of Community Development to allow a service station at 4180 Montgomery Drive, also identified as Sonoma County Assessor's Parcel Number 013-284-019; and

WHEREAS, on October 21, 2009, the Department of Community Development determined that the site is nonconforming with respect to the lot area and dimension requirements of Zoning Code, and that an application for a Conditional Use Permit could not be processed pursuant to Zoning Code Section 20-42.150; and

WHEREAS, on November 2, 2009 an appeal was received from Jake Gentling, representing the owner, 4180 Montgomery LLC, appealing to the Planning Commission the determination of the Department of Community Development and requesting that the application be granted a variance or waiver to allow processing of the Conditional Use Permit; and

WHEREAS, on January 14, 2010, Planning Commission considered the application, the appeal, the staff reports, oral and written, the General Plan and zoning on the subject property, City Code, California State law, the testimony, written comments, and other materials presented at the public meeting; and

WHEREAS, the Planning Commission held a duly noticed public meeting on the appeal at which all those wishing to be heard were allowed to speak or present written comments and other materials; and

WHEREAS, the appellant presented a detailed timeline demonstrating a continued chain of activity on the part of the current and former property owners and their agents ("property owners") to operate the service station use at the subject site; and

WHEREAS, on April 9, 2008, a Zoning Clearance was issued by the City which indicated that the Conditional Use Permit granted on April 13, 1998, remained valid; and

WHEREAS, on April 14, 2008, property owners pumped remaining oil out of the underground storage tanks as required by the State's underground storage tank program (UST Program); and

WHEREAS, on April 18, 2008, property owners were issued a Business Tax Certificate in connection with the continued operation of the service station; and

WHEREAS, on January 22, 2009, property owners filed an application for the temporary closure of the underground storage tanks, as required by the UST program; however, this application was denied because it was deemed incomplete; and

WHEREAS, June 21, 2009, property owners paid \$60,000 in delinquent fees and penalties to cure hazardous materials fees that the prior owner/operator had accrued; and

WHEREAS, on July 22, 2009, property owners paid \$50,416 in deferred taxes; and

WHEREAS, on September 23, 2009, property owners facilitated the annual back flow prevention test, as required for continued operation by UST program; and

WHEREAS, on October 12, 2009, property owners executed a lease with a local service station operator to make improvements to the property for continued operation of the service station; and

NOW, THEREFORE, BE IT RESOLVED, that after consideration of the reports, documents, testimony, and other materials presented, and pursuant to Zoning Code Section 20-42.150, the Planning Commission of the City of Santa Rosa finds based upon the evidence referenced above, that particular circumstances surround the subject property at 4180 Montgomery Drive which set forth continued efforts and activities by the property owner(s) to operate the site as a service station and demonstrate a clear and evident intent of continued operation of this site as a service station.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that based on the foregoing findings the Planning Commission of the City of Santa Rosa hereby determines that Santa Rosa Zoning Code Section 20-42.150 (B) does not apply to this site and therefore grants appellants' appeal.

REGULARLY PASSED AND ADOPTED by the Planning Commission of the City of Santa Rosa on the 11th day of February 2010, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED: _____
CHAIR

ATTEST: _____
EXECUTIVE SECRETARY