

Resolution No.

STOCKTON PLANNING COMMISSION

RESOLUTION APPROVING A USE PERMIT AND LOCATION RESTRICTION WAIVER FOR A TO ESTABLISH A PROPOSED MARKET WITH OFF-SALE OF GENERAL ALCOHOLIC BEVERAGES IN AN EXISTING COMMERCIAL BUILDING AT 2550 E. FREMONT STREET (P16-0584)

The applicant, Daljit Singh Dhami, submitted an application for a Use Permit to relocate an existing market at 2517 E. Fremont Street to the new location across the street at 2550 E. Fremont Street and upgrade from off-sale beer and wine to off-sale of general alcoholic beverages with a location restriction waiver of the 500 ft. separation requirement from other off-sale locations; and

The applicant wants to expand the existing business at the current location but does not have adequate space to do so; and

The applicant intends to purchase another property with a larger building located on the southeast corner of E. Fremont Street and N. Filbert Street; and

The proposed 3,000-square foot market will be located in the northern end of an existing vacant commercial building on the south side of Fremont Street; and

The building will have a 130 square-foot beer and wine section of the cold case and a 30 square-foot liquor shelf next to the register area and the alcohol sales and storage space will account for approximately 5 percent of the total floor area; and

Approving the subject use would result in the reuse of a portion of an existing vacant building and will revitalize this commercial center; and

The proposed use will allow area residents to purchase merchandise and/or alcohol within a reasonable distance of their homes and reduce potential traffic-related impacts in the surrounding residential and commercial neighborhood; now, therefore,

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF STOCKTON, AS FOLLOWS:

The Planning Commission hereby approves the request for a Use Permit to allow the establishment of market with the off-sale of general alcoholic beverages at 2550 E. Fremont Street (Exhibit 1 – Floor Plan) based on the following Findings for Decision and Conditions of Approval:

//
//

General Findings

1. The subject use is allowed in the CG (Commercial, General) zoning district, subject to approval of a Use Permit by the Planning Commission and complies with all applicable provisions of this Development Code, with the exception of two location restrictions, for which waivers have been requested and granted. The subject use warrants waiver for one of the required location restrictions regarding proximity to other off-sale locations because it would promote and support local economic development, encourage reuse of an existing commercial building, and revitalize an existing commercial center by the reuse of a portion of the existing commercial building.
2. The subject use, as conditioned, would maintain the integrity and character of the surrounding neighborhood, because the subject use would operate in an existing commercial building in the CG zoning district and be compatible with existing commercial uses in the commercial center and would continue the neighborhood market use that serves the surrounding area.
3. The subject use would be consistent with the general land uses, objectives, policies, and programs of the General Plan and any applicable specific plan or master development plan, because it would upgrade, beautify, or revitalize an existing commercial building (Land Use Policy No. LU-4.1); encourage the establishment of new neighborhood-serving commercial uses to nearby residential areas (Land Use Policy No. LU-4.8); and encourage the clustering of commercial uses (Land Use Policy No. LU- 4.10).
4. The subject site would be physically suitable for the type and density/intensity of use being proposed, including the provision of services (e.g., sanitation and water), public access, and the absence of physical constraints (e.g., earth movement, flooding, etc.), because the area is already supplied with all required infrastructure and the subject use is located in an existing commercial building and there are no known physical constraints.
5. The establishment, maintenance, or operation of the subject use at the location proposed and for the time period(s) identified, if applicable, is not expected to endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, peace, or general welfare of persons residing or working in the neighborhood of the proposed use, because the Conditions of Approval address potential public health and safety issues that may be associated with the subject use.
6. The design, location, size, and operating characteristics of the subject use are expected to be compatible with existing and future land uses on-site and in the vicinity of the subject property, because the subject use is classified as a Retail Trade use, in accordance with Table 2-2 (Allowable Land Uses and Permit Requirements) of the Development Code and the subject use is compatible with other retail uses already in place in the vicinity of the subject use. The anticipated customer base, traffic patterns, noise levels, and general operational conditions of the subject liquor store are similar to those of nearby commercial uses.

7. The proposed action would be Categorically Exempt from the provisions of Section 15301, Class 1, of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines, because it will be located within an existing commercial building and existing infrastructure is adequate to serve the site and subject use.

Problem Use Findings

1. The subject use is not likely to interfere with the comfortable enjoyment of life or property in the area, because the Conditions of Approval require the business operator to install a video surveillance system inside and outside of the commercial building and to establishment of a "Complaint Response Community Relations Program" that is expected to decrease crime or similar impacts in the vicinity area of the project site associated with the subject Problem Use.

2. The subject use will not increase or encourage the deterioration or blight of the area, because the proposed use is not located in an area that would lead to the grouping of more than four (4) off sale alcoholic beverage establishments within a 1,000-foot radius. The Conditions of Approval require the business operator to install security lighting around the exterior of the premises and the parking lot, helping to provide a safer environment for the store's customers and area residents.

3. The establishment of the subject use will not be contrary to any program of neighborhood conservation, improvement, or redevelopment, either residential or nonresidential, because there are no such programs in place in the subject neighborhood.

Findings for Alcoholic Beverages

1. The subject use will not result in nuisance activities on or in close proximity to the premises (nuisance activities include, but are not limited to: disturbing the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination/defecation, theft, assaults, batteries, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noise (especially in the late night or early morning hours), traffic violations, curfew violations, lewd conduct, or police detentions and arrests), because the applicant will install surveillance cameras on-site and will have a zero tolerance policy on violence and service to minors. The applicant has indicated that he will work with law enforcement staff to combat any problems in the surrounding area and establish a Complaint Response Community Relations Program, as required by the Conditions of Approval.

2. The owners and all employees of the establishment will be required to complete an approved course in Licensee Education on Alcohol and Drugs (LEAD), other "Responsible Beverage Sales" (RBS), or any other California Department of Alcoholic Beverage Control Board (ABC) approved program within 60 days of hire for new employees or within six (6) months for existing employees. To satisfy this requirement, a certified program must meet the standards of the Alcohol Beverage Control Responsible Beverage Service Advisory Board, Service Advisory Board, or other certifying/licensing

body designated by the State of California, as required under the Code and in the Conditions of Approval.

3. The subject use will comply with all provisions of local, state and federal laws, rules, regulations, policies, or orders, including, but not limited to, those promulgated and or enforced by the ABC, California Business and Professions Code Sections 24200, 24200.6, and 25612.5, and any conditions imposed on any valid permit(s) issued pursuant to applicable laws, regulations, or other authority. This includes compliance with annual City business license fees, because this is required under the SMC and the applicant has indicated that all federal, state and local regulations will be adhered to.

4. A finding of Public Convenience or Necessity will be required and can be made for the ABC Type 20 license to be surrendered and upgraded to a Type 21 off-sale General License. The Fremont Center Market has been a neighborhood market serving the area as a convenience to the existing clientele. This finding is supported by General Plan land use goals and policies, LU-4.1, which encourages the upgrading, revitalization, and appropriate reuse of the existing commercial areas and shopping centers and policies LU-4.8, and LU-4.10, which relate to the promotion of economic business growth by encouraging small neighborhood- serving commercial uses adjacent to and within residential areas where such uses are compatible with the surrounding area.

Conditions of Approval

1. Comply with all applicable Federal, State, County, and City codes, regulations, and adopted standards, and pay all applicable fees.

2. In the event the operation of this use should prove detrimental to the health, safety, peace, or general welfare of the surrounding neighborhood, this Use Permit shall be subject to revocation or modification as provided in the Development Code. The Use Permit shall become effective following the completion of a ten-day appeal period following approval of the application.

3. Pay telephones on the site of the establishment shall be required to be of the type restricted to allow only outgoing calls and shall be located inside the building in a visible and well-lit area, subject to approval by the Chief of Police.

4. The business owner shall establish a "Complaint Response Community Relations Program" that will include:

A. a sign posted at the entry of the establishment that provides the telephone number for the area commander of the local law enforcement substation to any requesting individual;

B. coordinating efforts with the Police Department to monitor community complaints about the establishment's activities; and

C. having a representative of the establishment meet with neighbors or the applicable neighborhood association on a regular basis and at their request to attempt to resolve any neighborhood complaints regarding the establishment.

5. The following signs are required to be prominently posted in a readily-visible manner on an interior wall or fixture, and not on windows, in English, Spanish, and any other predominant language of the patrons:

A. California State Law prohibits the sale of alcoholic beverages to persons under 21 years of age.

B. "No Loitering or Public Drinking" signs shall be posted on the exterior of the business.

C. The business shall post E.A.S.Y. (Eliminate Alcohol Sales to Youth) materials that are visible from outside the business.

D. The consumption or carrying of open containers of alcoholic beverages in the store, on the subject site, or on adjacent public streets and sidewalks shall not be permitted. Signs advising patrons of this prohibition shall be posted adjacent to the front door on the interior of the building available immediately to City personnel upon inspection of the premises.

6. The subject use shall operate in a manner appropriate with mitigating alcohol-related problems that negatively affect those individuals living or working in the neighborhood, including avoiding sales to minors, the congregation of individuals, violence on or near the premises, drunkenness, public urination, solicitation, drug-dealing, drug use, loud noise, and litter.

7. The establishment's operators and employees shall be required to discourage loitering on or near the premises and to ask persons loitering longer than 15 minutes to leave the area and contact local law enforcement officials for enforcement of applicable trespassing and loitering laws, if persons requested to leave fail to do so.

8. Prior to the initiation of the subject use, the most current technology for a video surveillance system with at least a seven-day (7) continuous recording capability shall be in place. Video recordings shall be archived for at least 30 days. The video surveillance system shall cover the entire exterior of the building, including the parking lot and entrances to the premises.

9. No more than 20 percent of windows or clear doors shall bear advertising of any sort and all advertising signage shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the premises, including the area where cash registers are maintained, from the exterior public sidewalk or entrance.

10. The business owners and all employees of the alcoholic beverage sales establishment who are involved in the sale of alcoholic beverages shall complete an approved course in "Responsible Beverage Sales" (RBS), or any other ABC approved course, within 60 days of hire for new employees or within six (6) months for existing employees. To satisfy this requirement, a certified program must meet the standards of the Alcohol Beverage Control Responsible Beverage Service Advisory Board, other certifying/licensing body Service Advisory Board, or other certifying/licensing body designated by the State of California.

11. Prior to the initiation of the subject use, exterior areas of the premises shall be provided with sufficient lighting in a manner that provides adequate illumination for the patrons of the off-sale alcohol establishment while not spilling onto surrounding parcels and rights-of-way.

PASSED, APPROVED, and ADOPTED March 23, 2017.

XX, CHAIR
City of Stockton Planning Commission

ATTEST:

DAVID KWONG, SECRETARY
City of Stockton Planning Commission