

Resolution No.

STOCKTON CITY COUNCIL

RESOLUTION GRANTING THE APPEAL AND APPROVING THE REQUEST FOR A USE PERMIT TO UPGRADE THE OFF-SALE OF BEER AND WINE TO THE OFF-SALE OF GENERAL ALCOHOLIC BEVERAGES IN AN EXISTING RETAIL OUTLET AT 8024 NORTH EL DORADO STREET (P13-148)

On September 12, 2013, the City Planning Commission denied a request for a Use Permit to upgrade the off-sale of beer and wine to the off-sale of general alcoholic beverages in an existing retail outlet at 8024 North El Dorado Street; and

On September 16, 2013, pursuant to the provisions of Section 16.100.040 of the Stockton Municipal Code (SMC), the applicant sent a letter to the City Council appealing the Planning Commission's decision; and

On January 14, 2014, the City Council convened a public hearing regarding the appeal of the Planning Commission's decision and after hearing the appeal, voted to continue the hearing in order for staff to prepare a resolution for approval with findings and conditions; and

On February 25, 2014, the City Council reconvened the public hearing and voted to grant the appeal and overturn the Planning Commission's decision; now, therefore,

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

1. The City Council hereby grants the appeal and overturns the decision of the Planning Commission to deny the request for a Use Permit to upgrade the off-sale of beer and wine to the off-sale of general alcoholic beverages in an existing retail outlet at 8024 North El Dorado Street, based on the following findings:

- a. The proposed use, Convenience Store with the Sale of Alcohol – Off Sale, is allowed in the CG (Commercial, General) Zoning District with the approval of a use permit from the Planning Commission, per SDC 16.20.020, Table 2-2. The proposed use complies with all other applicable provisions of the Development Code including those prescribed in SDC and 16.80.040 and 16.80.140, which, as applicable, are as follows:

- i. The minimum parcel size for a Convenience Store is 15,000 square feet and the subject parcel contains 1.08 acres (47,044 square feet).
 - ii. The minimum parcel frontage for a Convenience Store is 150 feet and the subject parcel has 370 feet of frontage on Iris Avenue.
 - iii. The site is located more than 300 feet from the nearest academic school as the nearest school (Nolan Pulliam Elementary School) is 1,170 feet away.
- b. The proposed use, as conditioned, would maintain the integrity and character of the neighborhood and CG zoning district because it would provide additional retail sales opportunities.
- c. The proposed 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. The project site has a General Plan Land Use designation of Commercial. The use of the site for a retail store is consistent with the following General Plan's policies.
 - i. LU-4.1 – The City shall encourage the upgrading, beautification, revitalization, and appropriate reuse of existing commercial areas and shopping centers.
 - ii. LU-4.8 – The City shall encourage small neighborhood-serving commercial uses adjacent to and within residential areas where such uses are compatible with the surrounding area and mitigate any significant impacts (i.e., traffic, noise and lighting).
- d. 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.). The proposed retail use is located within an established commercial shopping center that provides adequate access and services and is not hindered by physical constraints.
- e. The establishment, maintenance, or operation of the proposed use at the location proposed and for the time period(s) identified, if applicable, would not endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the

proposed use. The proposed use, as conditioned, would be subject to common requirements for security and operation that will reduce the potential for hazard to an acceptable level.

- f. The design, location, size, and operating characteristics of the proposed use would be compatible with the existing and future land uses on-site and in the vicinity of the subject property. The proposed retail use is compatible with the other retail, restaurant and service uses already in place at the shopping center.
- g. The proposed action would be in compliance with the provisions of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines. The project is categorically exempt pursuant to Section 15301 of the CEQA Guidelines because it constitutes reuse of an existing facility.

2. The City Council directly considered the criteria contained in SDC Section 16.80.270 regarding Problem Uses and found that:

- a. The proposed use is not likely to interfere with the comfortable enjoyment of life or property in the area because the included conditions will require improved performance and training by the operator and installation of cameras and signs that will serve as a deterrent to crime or similar impacts associated with problem uses.
- b. The proposed use, as conditioned, will not increase or encourage the deterioration of blight of the area because the use will be contained wholly within the existing commercial shopping center, which uses consistent architectural and sign programs.
- c. The establishment of an additional use of this type in the area will not be contrary to any program of neighborhood conservation, improvement, or redevelopment, either residential or nonresidential, because there is not any recognized or City-sanctioned neighborhood conservation, improvement, or redevelopment programs applicable to the project site or immediate area.

3. The City Manager is authorized to take whatever actions are necessary and appropriate to carry out the purpose and intent of this resolution.

PASSED, APPROVED, and ADOPTED February 25, 2014.

ANTHONY SILVA, Mayor
of the City of Stockton

ATTEST:

BONNIE PAIGE
City Clerk of the City of Stockton