

Resolution No.

STOCKTON PLANNING COMMISSION

REQUEST FOR A COMMISSION USE PERMIT AND WAIVER TO ALLOW THE OFF-SALE OF BEER AND WINE AT AN EXISTING MARKET AT 2208 MAIN STREET (P23-0185)

On July 7, 2023, the applicant, Mogalli Hussein Al Thabeti, submitted an application to the Community Development Department for Commission Use Permit No. P23-0182, add the off-sale of beer and wine (Type 20) at their existing general merchandise and meat market at the 2208 East Main Street, known as “Mi Ranchito Market and Carniceria”; and

On July 15, 2024, public notice for the subject application was published in the local newspaper in accordance with Stockton Municipal Code (SMC) section 16.88.030; and

On July 25, 2024, the Planning Commission conducted a public hearing on the application, in compliance with SMC 16.88, at which point all persons wishing to be heard were provided such opportunity; now, therefore,

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

A. The foregoing recitals are true and correct and incorporated herein reference.

B. Based on its review of the entire record herein, the Planning Commission makes the following findings:

Use Permit: General Findings

1. The proposed use is allowed in the Commercial, General (CG) zoning districts, subject to approval of a Use Permit by the Planning Commission. With approval of a Waiver for the total amount and location of licenses in the Census Tract, the use will comply with provisions of the Development Code (Title 16), the SMC, and Alcohol Beverage Control (ABC). Per SMC section 16.20.020, Table 2-2 the use, as proposed, will meet all applicable development standards at SMC Title 16 (Development Code). There are no applicable overlays or specific plans for this site.

2. The proposed use, as conditioned, will maintain or strengthen the integrity and character of the neighborhood and zoning district in which it is to be located. The proposed use will occur within an existing neighborhood serving market. Approval of this Use Permit will facilitate the creation of a one-stop-shop market that retails alcoholic

beverages along with general merchandizing goods to the local neighborhood.

3. The proposed use will 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 is in the Commercial General Plan land use designation, and is consistent with all applicable objectives, policies, and programs of the General Plan, for example:

- Goal CH-3: Expand opportunities for local enterprise, entrepreneurship, and gainful employment.
- ED - 1: To maintain a thriving business community that provides a sound tax base for the City, jobs for the local workforce, and commercial shopping opportunities for residents and visitors alike. The proposed use will enable the existing market to provide a variety of neighborhood goods in one location and therefore the ability for business' longevity in the neighborhood.

4. The subject site will be physically suitable for the type and density/intensity of the 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 Project and development site currently have adequate utility services and site access. There are no known physical constraints for the existing market use at this site. For all these reasons, the proposed use is of an appropriate intensity and would be carried out on a suitable site.

5. The establishment, maintenance, or operation of the subject use, at the location proposed and for the time period(s) identified, is not expected to 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 subject use. The use will be subject to conditions of approval that require a security surveillance video system, installation of lighting around the premises, as well as additional conditions of approval relating to loitering and obeying all laws established by the City of Stockton and ABC.

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. The existing market with the off-sale of beer and wine is classified as a retail use that is compatible with the Commercial General Plan designation on the subject site. The anticipated customer base, traffic patterns, noise levels, and general operational characteristics of market with the off- sale of beer and wine are compatible with nearby commercial uses.

7. The proposed project is in compliance with the provisions of the California Environmental Quality Act (CEQA). The proposed project is exempt from CEQA under section 15301(a), Existing Facilities, because it includes interior alterations with no expansion of existing use. The use is entirely indoors, with minor interior modifications dedicated to the sales, display, and storage of alcohol. No exterior modifications are

proposed to the existing building.

Problem Use Findings – Alcoholic Beverage Sales, Off-Sale

8. The proposed use, as conditioned, is not likely to interfere with the comfortable enjoyment of life or property in the area. The proposed off-sale of beer and wine will occur in an existing market that primarily provides a range of grocery and general merchandise to the neighborhood.

9. The proposed use, as conditioned, will not increase or encourage the deterioration or blight of the area. The proposed off-sale of beer and wine will be going into an existing store. The Owners, Developers, and/or Successors in Interest (ODS) are required to conform to all Conditions of Approval related to the Project, which include conditions related to loitering, as well as all laws and regulations provided by Alcoholic Beverage Control.

10. 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. The use will be going into an existing store that will provide additional goods to the neighborhood. There are no neighborhood conservation programs, improvement programs, or redevelopment programs in the area that the Project would be subject to.

Alcoholic Beverages Findings

11. The proposed use will not result in repeat nuisance activity on or near the premises. Nuisance activity includes, but is 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. As conditioned, the market will ensure to limit potential nuisance and criminal activity, littering, graffiti, and excessive loitering through implementation of safety measures such as lighting, signage, and staff training programs. The Applicant has agreed to comply with all conditions of approval.

12. The owners and all employees of the establishment will complete an approved course in Licensee Education on Alcohol and Drugs (LEAD), or 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. 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 a condition of approval, the Applicant will complete the approved course for responsible beverages sales.

13. The proposed 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 condition imposed on any valid permit(s) issued pursuant to applicable laws, regulations, or other authority. This includes compliance with annual city business license fees. The Applicant and proposed use will comply will all provisions of local, state, and federal laws, rules, regulations, policies, or orders enforced by the City of Stockton and ABC.

14. Business and Professions Code section 23958.4 requires a determination if public convenience or necessity would be served by the issuance of this Commission Use Permit. Per ABC, four (4) off-sale licenses are permitted within Census tract 19, and there are currently eight (8) existing off-sale licenses in operation. Approval of the Use Permit for the proposed off-sale of beer and wine would increase the number of licenses in the census tract, however public necessity would be served by the issuance of this Commission Use Permit. The existing market with proposed alcoholic beverage sales would provide for localized business growth by providing more choices in the area, and additional goods in an underserved area in the community.

Waiver Findings

A. The granting of the waiver shall enable the site to be utilized so that specific standards can be addressed without creating undue hardship. The proposed use is going into an existing establishment that would provide additional goods and services to the public. Approving the waiver enables the applicant to offer competitive pricing to the existing neighborhood where there are two off-sale establishments; one (1) liquor store and one (1) market.

B. The granting of the waiver shall allow for the economic viability and use of the site. The proposed use is allowed in the CG zoning district. Allowing the addition of off-sale of beer and wine, diversifies the establishment to provide a “one-stop shop” for neighborhood residents furthering the economic vitality and business retention in the area.

C. The granting of the waiver, with conditions that are imposed, will not be detrimental to the public convenience, health, interest, safety, or general welfare of the City or injurious to the property or improvements in the zone or neighborhood in which the property is located. The addition of alcoholic beverage sales in the existing market will enable the applicant to offer more diverse goods for the enjoyment of the neighborhood . In addition, the project will not be detrimental to the general welfare, or be injurious, to the property or of the neighborhood as the alcohol consumption will not be permitted at the property and the project will be conditioned to implement security measures to support safety in its surroundings.

D. The granting of the waiver will be consistent with the general land uses, objectives, policies, and programs of the General Plan, any applicable specific plan, precise road plan, or master development plan, and the intent of this Development Code.

The use is consistent with the Commercial land use designation and the goals, objectives, and policies in the General Plan; the site is physically suitable for the use will be subject to the conditions of approval; the retail use of the store is compatible with other land uses within the vicinity.

E. The granting of the waiver will not conflict with applicable provisions of the latest edition of the California Building Code and Fire Code and other applicable Federal, State, and local laws and regulations. The Use Permit will be applied to an existing facility that provides a variety of services to the public. The project is conditioned to obtain any applicable building or fire permits resulting from this project.

F. The granting of the waiver will be in compliance with the provisions of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines. This is described in detail in the following section.

California Environmental Quality Act

The proposed project is Categorical Exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines section 15301(a), Existing Facilities, since it includes interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances. The interior of the store is being modified to include space dedicated to alcohol sales, display, and storage. No exterior modifications are proposed to the existing building.

Conditions of Approval

Based on its review of the entire record herein, all supporting, referenced, and incorporated documents, and all comments received, the Planning Commission hereby approves the requested Use Permit, subject to the following conditions of approval.

Conditions of Approval: Standard

1. This Use Permit approval authorizes the sale of beer and wine in an existing neighborhood serving market identified in Exhibit 1.
2. The Owners, Developers, and/or Successors in Interest (ODS) shall comply with all applicable Federal, State, County, and City codes, regulations, laws, and other adopted standards and pay all applicable fees.
3. Compliance with these Conditions of Approval is mandatory. Failure to comply with these Conditions of Approval is unlawful and may constitute a public nuisance subject to the remedies and penalties identified in the SMC including but not limited to, monetary fines and revocation of this Permit.
4. This Use Permit shall be posted in a conspicuous and shall be immediately made available to City personnel upon inspection of the facility.

5. Any future building signage shall be subject to approval by the Community Development Department.
6. Separate building permits will be required for alterations to the site or building at the project location.

Conditions of Approval: Project Specific

This Use Permit incorporates the following conditions of approval.

7. This Use Permit is limited to a Type 20 Alcoholic Beverage Control license, which limits sales to beer and wine only.
8. The property owners, developers and/or successors-in-interest (ODS) shall be responsible for the City's legal and administrative costs associated with defending any legal challenge of the approvals for this project or its related environmental document.
9. In order to minimize any adverse financial impact on the City of Stockton (COS) associated with development and/or use of the subject site, the ODS agrees that it will not challenge or protest any applicable fees associated with the development of the site, but if such fees are amended or modified, the ODS agrees to pay such fees as they may be amended or modified from time to time.
10. A "complaint response community relations" program established and maintained by the establishment conducting the Alcoholic Beverage Sales Activity may be required. The program must include the following:
 - i. Posting 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.
 - ii. Coordinating efforts with the Police Department to monitor community complaints about the establishment's activities.
 - iii. 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.
11. Hours of operation for the sale of alcoholic beverages are limited to the regulations set forth by the State of California Alcoholic Beverage Control (ABC) Department.
12. No more than 20% of the market floor area shall be dedicated to the sale and display of alcoholic beverages.
13. The following signs are required to be prominently posted in a readily visible manner or an interior wall or fixture, and not on windows, in English, Spanish, and any other predominant language of the patrons:

- i. "California State Law prohibits the sale of alcoholic beverages to persons under 21 years of age."
 - ii. "No Loitering or Public Drinking" signs shall be posted on the exterior of the business.
 - iii. The business shall post E.A.S.Y (Eliminate Alcohol Sales to Youth) materials that are visible from the outside of the business.
 - iv. The consumption or carrying of open containers of alcoholic beverages on the premises of the off-sale alcohol establishment is not permitted. Signs advising patrons of this prohibition shall be posted adjacent to the front door of the interior of the building.
14. The establishment shall be required to operate in a manner appropriate with mitigating alcohol-related problems that negatively impact those individuals living or working in the neighborhood, including, but not limited to 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.
15. Off-sale alcoholic beverage establishment shall be prohibited from selling drug/tobacco paraphernalia products as defined in Health and Safety Code Sections 11014.5 and 11364.5.
16. The establishment's operators or employees shall be required to discourage loiterers 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.
17. Prior to the initiation of alcoholic beverage sales activity, the most current technology for a video surveillance system with at least a seven (7) day 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 premises, including the parking lot and the entrances to the building.
18. Exterior vegetation shall not be planted or maintained, if it could be used as a hiding place for persons on the premises. Exterior vegetation shall be planted and maintained in a manner that minimizes its use as a hiding place.
19. 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 in which the cash registers are maintained, from the exterior public sidewalk or entrance.
20. The 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 employees hired 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.

21. Exterior areas of the premises and adjacent parking lots shall be provided with sufficient lighting in a manner that provides adequate illumination for alcoholic beverage sales establishment patrons while not spilling onto surrounding parcels and rights-of-way. A photometric study may be required to demonstrate compliance once the use is initiated.

Planning Commission Action

Based on its review of the entire record herein, including the July 25, 2024, Planning Commission staff report, all supporting, referenced, and incorporated documents, and all comments received, the Planning Commission hereby approves the Use Permit application as shown in Exhibit 1.

PASSED, APPROVED, and ADOPTED July 25, 2024.

TERRY HULL, CHAIR
City of Stockton Planning Commission

ATTEST:

MICHAEL MCDOWELL, SECRETARY
City of Stockton Planning Commission