

Resolution No.

STOCKTON CITY COUNCIL

RESOLUTION APPROVING A COMMISSION USE PERMIT TO ESTABLISH A RETAIL STOREFRONT CANNABIS BUSINESS, ADMINISTRATIVE USE PERMIT TO ESTABLISH A RETAIL NON-STOREFRONT (DELIVERY ONLY) CANNABIS BUSINESS, AND A WAIVER OF CANNABIS BUSINESS LOCATION REQUIREMENTS – ALL CONCERNING A 4,123 SQUARE FOOT COMMERCIAL SPACE AT 6709 PLYMOUTH ROAD, SUITES C & D (APPLICATION NO. P20-0596)

The applicant, Alissa Metzger, submitted an application for a Commission Use Permit, Administrative Use Permit, and Location Waiver to establish a 4,123-square foot retail storefront cannabis business and a retail non-storefront (delivery only) cannabis business in a Commercial General (CG) zoned parcel, located at 6709 Plymouth Road, Suites C & D; and

The applicant is a general pool applicant winner of the City’s 2019 Commercial Cannabis Lottery, used to designate how many applicants are allowed to apply for certain commercial cannabis types, including Retail Storefront; and

On December 10, 2020, the Planning Commission conducted a duly noticed public hearing on the application, in compliance with Stockton Municipal Code (SMC) section 16.88, at which point all persons wishing to be heard were provided such opportunity; and

On December 10, 2020, and prior to acting on the requested actions, the Planning Commission considered the California Environmental Quality Act (CEQA) determination reflected in the findings below; and

On December 10, 2020, the Planning Commission denied the Commission Use Permit, Administrative Use Permit, and the Waiver of Location Requirements; and

On December 21, 2020, the applicant filed an appeal of the Planning Commissioner’s decisions; and

On March 23, 2021, the City Council convened a public hearing regarding the appeal of the Planning Commission’s decision. In such meeting, the City Council considered the request to appeal the Planning Commission’s decision and granted the appeal to reverse the Planning Commission’s decision based on the findings indicated in said resolution; now, therefore,

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

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

B. Based on the staff report, staff presentation, and the public hearing, the City Council makes the following findings based on substantial evidence in the record:

USE PERMIT FINDINGS (COMMISSION AND ADMINISTRATIVE)

1. The proposed uses are allowed within the subject zoning district with the approval of a use permit and complies with all other applicable provisions of this Development Code and the Municipal Code because Retail Storefront Commercial Cannabis and Non-storefront Retail (delivery only) Commercial Cannabis is allowed in a Commercial, General (CG) zone with a Use Permit and meets all of the requirements under SMC 16.80.195(A) and (B).

The subject uses would be located within an existing commercial building and, therefore, do not raise a question of conformance with Title 16 development standards, except for the location requirements which are being addressed through the request for waiver. As noted below, adequate off-street parking spaces are provided for both the existing and proposed uses.

2. The proposed use would maintain or strengthen the integrity and character of the neighborhood and zoning district in which it is to be located because operating a facility engaged in retail storefront commercial cannabis and retail non-storefront (delivery only) commercial cannabis is consistent with the Commercial General (CG) zoning district, where commercial cannabis retail uses are permitted, and with the surrounding commercial land uses. The proposed use would strengthen the surrounding neighborhood by turning a vacant suite into usable commercial space, and the proposed security would serve to further enhance the surrounding neighborhood.

It would be aligned with the intent of the shopping center to provide retail options to the community. It would prevent the shopping center from having a vacant unoccupied suite which would help strengthen the integrity of the surrounding area by encouraging secured use of the site which will discourage vandalism, graffiti, and crime due to the increased level of security required for this business type.

3. 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 because the project is a commercial land use consistent with the Commercial land use designation of the General Plan and it is consistent with General Plan Policy LU-4.2 to attract employment and generating businesses that support the economic diversity of the City.

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The General Plan Land Use Map designates the subject site as Commercial. The Commercial designation is intended to accommodate a wide variety of commercial uses, including, but not limited to, service uses. SMC Section 16.20.020 Table 2-2 classifies the Cannabis Retail Storefront and the Non-storefront Cannabis Retail Operator Permit (Delivery Only) use within a service use category. Therefore, the proposed use is consistent with the Commercial designation.

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 project is reusing a portion of an existing commercial building. The project has been analyzed by all departments and it has been determined all streets and public access ways is adequate to serve the proposed project. The site will have access to City water services and the Municipal Utilities Department has reviewed the project.

5. 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, peace, or general welfare of persons residing or working in the neighborhood of the proposed use because operations are being carried out indoors, in a commercial zone; appropriate security provisions will be incorporated into the project operations plan, including both electronic surveillance and on-site security personnel procedures.

6. 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 because the project is the use of an existing building suite, which is compatible with the current commercial use. The use of the vacant suite would enhance the neighborhood surrounded by commercial uses.

7. The proposed use qualifies for a California Environmental Quality Act (CEQA) Categorical Exemption under section 15301, Class 1, for Existing Facility, because the proposed project would occur within an existing commercial building and the project involves no expansion of use. Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.

WAIVER FINDINGS

1. The granting of the waiver will enable the site to be utilized so that specific standards can be addressed without creating undue hardship. The proposed use is consistent with the intent of the Cannabis Regulatory Program to expand the cannabis industry within the City and continue to balance the needs for the public health and safety of the community by locating businesses in commercial zones. The proposed site is located approximately 574 feet from a childcare center to the southwest, which is less

than the minimum 600 foot location requirement in SMC section 16.80.195 by approximately 26 feet; However, the childcare center is separated by the I-5 freeway which creates a unique physical barrier and the actual "path of travel" between the two uses is over 1,500 feet and access to the childcare center is through a side street (Grisby Place) and is not directly accessed on Hammer Lane. For these reasons, the project location meets the intent of the separation requirement.

2. The granting of the waiver will allow for the economic viability and use of the site. The proposed uses will provide for a new business to be developed within the Commercial, General (CG) zoning district which is consistent with SMC Chapter 16.80.195 and will allow for the use of a currently vacant building suite. The opening of a new business will increase the economic vitality of the area and benefit the community, especially during the current time of economic hardship due to the Covid-19 pandemic.

3. 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 applicant will be required to adhere to all marketing and advertising mandates stated in California Code of Regulations, Title 16, Division 42, section 5040. The project will be required to follow all State and City protocols as it relates to security, lighting and safety and must maintain an annual Operators Permit.

4. 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. It is consistent with General Plan Policy LU-4.2 to attract employment and generating businesses that support the economic diversity of the City. Also, the project site is not subject to a specific plan, precise road plan, or master development plan.

5. 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 Building and Life Safety Division staff reviewed the proposed project and determined the project may feasibly comply with the referenced codes.

6. 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. See General Finding No. 7 above which is incorporated by this reference.

C. Based on its review of the entire record herein, including the staff report and all supporting, referenced, and incorporated documents and all comments received and foregoing findings, the City Council grants the requested appeal and approves the requested Commission Use Permit, Administrative Use Permit, and Waiver, subject to the following conditions:

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CONDITIONS OF APPROVAL

1. This approval authorizes the operation of cannabis businesses of retail storefront and retail non-storefront (delivery only) within the commercial building area identified in Exhibit 1.

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

3. 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.

4. The Use Permit shall become effective following Council approval.

5. The Use Permit shall be posted in a conspicuous place and be made available immediately to City personnel upon inspection of the premises.

6. The 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.

7. All required elements of the mandatory Security Plan shall be approved by the Police Department and be in place prior to initiation of the subject use and all employees at the subject retail storefront and non-storefront retail commercial cannabis business shall be approved by the Police Department prior to the start of their employment.

8. The Fire Department shall be allowed to inspect the cannabis business at any reasonable time to ensure compliance with all applicable provisions of the Fire Code, as well as other applicable codes, laws, and provisions, and is authorized to enforce those standards, as necessary.

9. Prior to commencing operations, a Cannabis Operations Permit shall be obtained in accordance with Stockton Municipal Code Chapter 5.100 (Commercial Cannabis Activity Permits.)

10. Plans submitted for purposes of building permit(s) shall reflect compliance with the standards at Development Code Table 2-3, including all aspects of Municipal Code Title 16 (Development Code.)

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11. The permit shall become void unless the required building permit is submitted within 12 months of this permit being issued (SMC 16.120.080(D).)

PASSED, APPROVED, and ADOPTED: March 23, 2021.

KEVIN J. LINCOLN II
Mayor of the City of Stockton

ATTEST:

ELIZA R. GARZA, CMC
City Clerk of the City of Stockton