

Resolution No. **2018-02-08-0501**

STOCKTON PLANNING COMMISSION

RESOLUTION APPROVING A USE PERMIT TO ALLOW THE ESTABLISHMENT OF A CONVENIENCE STORE WITH THE OFF-SALE OF BEER AND WINE, GASOLINE, AND GENERAL MERCHANDISE WITH A CAR WASH FACILITY AND TRUCK FUELING STATION AT 4607 S AIRPORT WAY (P17-0013) AND RECOMMENDING THAT COUNCIL ADOPT THE INITIAL STUDY/MITIGATED NEGATIVE DECLARATION, REZONE FROM INDUSTRIAL, GENERAL TO COMMERCIAL, GENERAL AND APPROVE DESIGN REVIEW

The applicant, Airport Petroleum, LLC, on behalf of Ben Rishwain, the property owner, is proposing to develop a Convenience Store, Car Wash and Truck Fueling Station on a 2.22-acre parcel at the noted location; and

The subject 2.22-acre site is currently designated Commercial and is zoned IG (Industrial General); and

To develop a commercial center on the subject 2.22 acres, the project requires the following:

- Use Permit for a convenience store selling a combination of alcohol, gasoline, and general merchandise and car wash at the noted location;
- Initial Study/Proposed Mitigated Negative Declaration for the Airport Sperry Commercial Project;
- Rezoning the subject site from IG (Industrial General) to CG (Commercial, General); and
- Design Review to ensure a gasoline station and other commercial buildings in compliance with all applicable provisions of the City's Design Review Guidelines.

A proposed 18x60 truck fueling station and a car wash facility will be located on the east side of the commercial site. A gasoline station will be located in the central/north portion of the subject property. A 3,764-square foot convenience store will be located on the south side of the gasoline station; and

In accordance with the Stockton Municipal Code (SMC) Section 16.80.040, the subject use with the off-sale of beer and wine complies with all applicable location restrictions; now, therefore

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

APPROVAL

Use Permit

The Planning Commission hereby approves a Use Permit for a convenience store selling a combination of alcohol, gasoline, and general merchandise a car wash, and truck fueling station at the noted location based on the following findings and conditions of approval:

General Findings

1. The subject use is allowed within the proposed CG (Commercial, General) zoning districts, subject to the approval of a Use Permit by the Planning Commission. The use complies with three required Location Restrictions regarding proximity to sensitive land uses, being located in a high-crime Crime Reporting District, and proximity to other alcoholic beverage sales establishments; further, the proposed use would allow area residents and motorists to purchase merchandise and/or alcohol in an underserved area of Stockton.
2. The subject use, as conditioned, would maintain the integrity and character of the surrounding neighborhood because the gasoline station, convenience store and car wash facility have been reviewed by the City's Architectural Review Committee (ARC) and determined to be in compliance with applicable provisions of the Citywide Design Guidelines.
3. The subject use, as conditioned, would be consistent with the general land uses, objectives, policies, and programs of the General Plan. The project site has a General Plan Land Use designation of Commercial and the subject use is consistent with the following General Plan goals and policies:

Land Use-4.5, Commercial Area Aesthetics – The City shall require that new commercial development incorporate landscaping and good design in accordance with Citywide Design Guidelines. The City's ARC has reviewed and determined that the project's proposed elevations, renderings, and materials are substantially in compliance with applicable provisions of the Citywide Design Review Guidelines.

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 development would create jobs and provide services

to an underserved area of Stockton.

4. The subject site would 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.), because the project site will be occupied by a gasoline station, convenience store, car wash facility and truck fueling station that will be provided with adequate services and accesses. The subject development is not hindered by physical constraints.
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, because the use will be subject to conditions of approval that require a security surveillance video system and the installation of lighting around the premises.
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 planned convenience store 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 the proposed convenience store with the off-sale of beer and wine are compatible with nearby commercial and industrial uses.
7. The subject use must comply with the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines because an Initial Study/Final Mitigated Negative Declaration has been prepared and is intended to provide environmental clearance under CEQA for the Airport Sperry Commercial Project.

Problem Use Findings – Alcoholic Beverage Sales, Off-Sale

1. The subject use, as conditioned, is not expected to interfere with the comfortable enjoyment of life or property in the area, because the conditions of approval require the operator to install a video surveillance system in the commercial building that would decrease crime and other impacts associated with problem uses in the vicinity area of the project site. It would also allow the operator to monitor activities around the premises and would allow the maintenance of surveillance records for review by Police Department personnel, as necessary.

2. The subject use, as conditioned, is not expected to increase or encourage the deterioration or blight of the area, because the use will be contained wholly within a new commercial development and the required installation of security lighting around the exterior of the building will help to provide a safer environment for the store's customers and area residents.
3. The subject use, as conditioned, is not expected to be contrary to any program of neighborhood conservation, improvement, or redevelopment plan, either residential or non-residential, because there is not any recognized or City-sanctioned neighborhood conservation, improvement, or redevelopment program applicable to the project site or in the immediate area.

Alcoholic Beverages Findings

1. The subject use is not expected to result in additional nuisance activities on or near the premises because the operator to install a video surveillance system in the commercial buildings that would decrease crime and other impacts associated with problem uses in the vicinity area of the project site. The installation of security lighting around the exterior of the premises will help to provide a safer environment for the store's customers and area residents.
2. The owners and all employees involved in the sale of alcoholic beverages 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 being hired. 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.
3. 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 conditions imposed on any valid permits are issued pursuant to applicable laws, regulations or other authority. This includes compliance with annual city business license.
4. A Public Convenience or Necessity will be served by the issuance of this Use Permit because the subject site is not located in a high crime area, there are no other alcohol establishments and sensitive land uses in the proximity of the subject site. Area residents and motorists would be able to purchase both alcohol and other merchandise, thereby allowing an underserved area of South Stockton to have access to beer wine and other

merchandise in a single store. A video surveillance system and exterior lighting will be installed in the commercial buildings to decrease crime and other impacts associated with alcohol uses in the vicinity area of the project site. The establishment will comply with all applicable building and health codes.

Conditions of Approval

1. The business operator shall comply with all applicable Federal, State, County, and City codes, regulations, laws, and other adopted standards and pay all applicable fees.
2. 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.
3. This Use Permit shall be posted in a conspicuous place and shall be immediately made available to City personnel upon inspection of the store.
4. All signs shall be subject to approval by the Community Development Department.
5. 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.
6. Store windows shall be left unobstructed to allow interior surveillance of the store during operating hours. No more than 20% of the windows may be covered by any form of temporary or permanent sign, poster, graphic, or lettering.
7. Prior to the initiation of alcohol sales, exterior lighting shall be installed around the exterior of the building to provide a safe and visible environment for the store's customers and area residents. The lighting shall be fully shielded to prevent glare to adjacent properties and rights-of-way.
8. Prior to the initiation of alcohol sales, a video surveillance system with at least a seven-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 building, including the parking lot and entrances to the store.
9. Loitering shall be prohibited in or near the convenience store and on the subject site.
10. No single sales of beer or malt liquor in containers of 40 ounces or less

- shall be permitted in the convenience store.
11. Pay phones shall be prohibited on the premises.
 12. The owner/developer shall dedicate right-of-way to the City Stockton along the project site frontage of Sperry Road in conformance with the City Council adopted Arch-Sperry Road Precise Road Plan.
 13. The requested project driveway access on Sperry Road shall be limited to right-in/right-out only. The owner/developer shall design and construct raised curbing within the existing striped median of Sperry Road, which shall at minimum extend from the Airport Way intersection westerly to approximately 100' beyond the proposed project driveway access to preclude left turns.
 14. The owner/developer shall dedicate right-of-way, design and construct frontage improvements along the project site frontage of Airport Way, including but not limited to, curb, gutter, sidewalk, street paving, landscaping and right-turn driveway ingress.
 15. The Use Permit shall be subject to a one-year review following initiation of the subject use.
 16. Approval of the Use Permit will not be effective until the Rezoning has been approved by the City Council and become effective.
 17. Pursuant to section 15074 of the State CEQA Guidelines, the project shall be subject to all applicable mitigation measures identified in the City-adopted Final Mitigated Negative Declaration/Initial Study (P17-0013) and the "Findings and Mitigation Monitoring/Reporting Program for the Airport Sperry Commercial Project".
 18. Comply with all applicable Federal, State, County, and City codes, regulations and adopted standards and pay all applicable fees.
 19. Pursuant to section 15074 of the State CEQA Guidelines, the project shall be subject to all applicable mitigation measures identified in the City-adopted Initial Study/Final Mitigated Negative Declaration (P16-0667) and the "Findings and Mitigation Monitoring/Reporting Program" for the project.
 20. 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.
 21. 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.

CERTIFICATIONS/RECOMMENDATIONS

Certification of Initial Study/Mitigated Negative Declaration

The Planning Commission recommends that the City Council adopt the Initial Study/Mitigated Negative Declaration based on the following certifications:

1. The Initial Study/Final Mitigated Negative Declaration (P17-0013), attached as Exhibit 1 and incorporated herein, has been completed in compliance with the California Environmental Quality Act (CEQA), State CEQA and City Guidelines for the implementation of CEQA.
2. The Initial Study/Proposed Mitigated Negative Declaration has been reviewed and considered prior to any related project approval, reflects the City's independent judgment and has been found to be adequate for all discretionary approvals.
3. Based on the review of the Final Initial Study, consideration of all written and oral comments received and subject to any modifications and mitigation measures identified in the Final Initial Study. The project will not have a significant environmental impact with the implementation of mitigation measures in the sections of Aesthetics, Biological Resources, Cultural Resources, Geology and Soils, Hydrology and Water Quality, Noise, Public Services, Tribal Cultural Resource, and Utilities and Service Systems.
4. Pursuant to section 15070 of the State CEQA Guidelines, all project approval shall be based on and subject to the CEQA Findings, Mitigation Measures, and Mitigation Monitoring/Reporting Program for the Airport Sperry Commercial Project.

Rezoning

The Planning Commission recommends that the City Council approve a rezone of the site from Industrial General to Commercial General, attached as Exhibit 2 and incorporated herein, based on the following findings:

Findings

1. The proposed zoning amendment ensures and maintains internal consistency with general land uses, objectives, policies, programs, and actions of all elements of the General Plan on balance and would not create any inconsistencies with this Development Code, because approving the Rezoning will allow the subject uses to comply with applicable provisions of

the Development Code for the commercial development and the amendment maintains consistency with the General Plan designation goals and policies as follows:

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.

2. The proposed amendment will 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 City, because the business owner will be required to install a video surveillance system inside and outside of the commercial buildings and 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. Pursuant to section 15070 of the State CEQA Guidelines, all project approval shall be based on and subject to the CEQA Findings, Mitigation Measures, and Mitigation Monitoring/Reporting Program for the Airport Sperry Commercial Project.

Additional Finding for Rezoning

4. The site would be physically suitable (including access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints) for the requested zoning designation and anticipated land use development because the area is already supplied with the required infrastructure and utilities. Access will be provided, subject to approval by the City Engineer.

Architectural Design Review

The Planning Commission recommends that the City Council approve the Architectural Design Review, attached as Exhibit 3 and incorporated herein, based on the following findings and Conditions of Approval:

Findings

In accordance with SMC 16.120.060, the Review Authority shall determine whether a project adequately meets adopted City standards and the Guidelines, based on consistency with the following findings:

1. The proposed development is consistent with all applicable provisions of this Development Code and other applicable City ordinance because the proposal is consistent with the Citywide Design Guidelines that are used to meet the requirements of Design Review as outlined in SMC section 16.120.020 B.
2. The general design considerations, including the character, quality, and

scale of design are consistent with the purpose/intent of this chapter and the Guidelines and other design guidelines that may be adopted by the City, because the Architectural Review Committee (ARC) has reviewed the on-site buildings, parking areas, access uses, architectural design in comprehensive manner. The commercial development will incorporate high quality, durable materials and provide an efficient site layout to serve the surrounding neighborhood.

3. The architectural design of structures and their materials and colors are visually compatible with surrounding development. Design elements (e.g., awnings, exterior lighting, screening of equipment, signs, etc.) have been incorporated into the project to further ensure its compatibility with the character and uses of adjacent development, and/or between the different types of uses in a mixed-use development, because the subject project addressed site context in the site plan and materials palettes as determined by ARC.
4. The location and configuration of structures are compatible with their sites and with surrounding sites and structures and do not unnecessarily block views from other structures or dominate their surroundings because the commercial structures on the subject site will be located at the northeast corner of Sperry Road and S Airport Way (open vacant land). The configuration of the buildings would not block or dominate the surroundings.
5. The general landscape design, including the color, coverage, location, size, texture, and type of plant materials, provisions for irrigation, planned maintenance, and protection of landscape elements have been considered to ensure visual relief, to complement structures, and to provide an attractive environment, because the proposed landscape design will provide the extensive use of landscaping to enhance views of the site by screening unattractive elements such as trash enclosures, drive-through lane, and parking areas.
6. The design and layout of the proposed project will not interfere with the use and enjoyment of neighboring existing or future development and will not result in vehicular or pedestrian hazards because the project will provide services to nearby industrial uses. All future industrial development will be compatible with the commercial development.
7. The building design and related site plans, including on-site parking and loading, has been designed and integrated to ensure the intended use will best serve the potential users or patrons of the site, City staff has reviewed the site plan to ensure that the plans comply with all applicable City Codes.
8. Special requirements or standards have been adequately incorporated, when applicable, into the building and/or site design (e.g., American Disabilities Act regulations, historic preservation, mitigation measures, open

space, utilities, etc., because other standards will be reviewed by individual departments during plan check with Building Life and Safety Division.

Conditions of Approval

1. Pursuant to section 15070 of the State CEQA Guidelines, the project shall be subject to all applicable mitigation measures identified in the City-adopted Initial Study/Final Mitigated Negative Declaration (P17-0013) and the "Findings and Mitigation Monitoring/Reporting Program" for the project.

PASSED, APPROVED, and ADOPTED February 8, 2018.



ELIZABETH MOWRY HULL, CHAIR
City of Stockton Planning Commission

ATTEST:



DAVID W. KWONG, SECRETARY
City of Stockton Planning Commission