

Resolution No.

STOCKTON PLANNING COMMISSION

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 3,600 SQUARE FOOT COMMERCIAL SPACE AT 7840 WEST LANE, SUITE F (APPLICATION NO. P20-0673)

The applicant, Julian Michalowski (Coastal Retail Lompoc, LLC), submitted a Commission Use Permit, Administrative Use Permit, and Waiver application to establish a 3,600-square foot retail storefront cannabis business and a retail non-storefront (delivery only) cannabis business in a Commercial General (CG) zoned parcel, located at 7840 West Lane, Suite F (Exhibit 1); and

The applicant is a winner as a general pool applicant of the City's 2020 Commercial Cannabis Lottery used to designate how many applicants are allowed to apply for certain commercial cannabis types, including Retail Storefront; and

On January 14, 2021, 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 January 14, 2021, 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 January 14, 2021, the Planning Commission unanimously approved Motion 2021-01-14-0501, based on verbal findings to approve the Project; 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 by reference.
- B. All findings must be made in the affirmative to approve the project.
- C. Based on the staff report, staff presentation, comments received, and the public hearing, the Planning Commission makes the following findings based on substantial evidence in the record:

USE PERMIT FINDINGS (COMMISSION AND ADMINISTRATIVE)

As evidenced below, all findings of fact as required by Stockton Municipal Code (SMC) Section 16.168.050 for use permit (Commission or Administrative) can be made, and therefore, the project is approved:

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). There are several location requirements set forth in SMC 16.80.195. One of which is to not be located within 600 feet of a religious facility. The project is located within 600 feet of three (3) religious facilities. The applicant submitted a request to waive the location requirement. The merits were analyzed, discussed and determined to warrant approval based on the fact that the three (3) religious facilities submitted letters of non-opposition for the project, the religious facilities are small and located within suites of an office commercial building, and the separation of an arterial road (West Lane) from the sensitive use is a significant and appropriate distance given the multi-lane separation. The project meets the location requirements based on the approval of the waiver from the location requirements granted within this resolution.

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. There are several location requirements set forth in SMC 16.80.195. One of which is to not be located within 600 feet of a religious facility. The project is located within 600 feet of three (3) religious facilities. The applicant submitted a request to waive the location requirement. The merits were analyzed, discussed and determined to warrant approval based on the fact that the three (3) religious facilities submitted letters of non-opposition for the project, the religious facilities are small and located within suites of a commercial office building, and the separation created by the multi-lane arterial roadway (West Lane) provides adequate separation from sensitive uses.

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.

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 using a portion of an existing commercial building. The project has been analyzed by all City 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. There are several location requirements set forth in SMC 16.80.195. One of which is to not be located within 600 feet of a religious facility. The project is located within 600 feet of three (3) religious facilities. The applicant submitted a request to waive the location requirement. The merits were analyzed, discussed and determined to warrant approval based on the fact that the three (3) religious facilities submitted letters of non-opposition for the project, the religious facilities are small and located within suites of a commercial office building, and the separation created by the multi-lane arterial roadway (West Lane) provides adequate separation from sensitive 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 use is located within 600 feet of three (3) religious facilities to the west, however the proposed

project is not located within the direct line of sight from said sensitive uses. The merits were analyzed, discussed and determined to warrant approval based on the fact that the three (3) religious facilities submitted letters of non-opposition for the project, the religious facilities are small and located within suites of an office commercial building, and the separation created by the multi-lane arterial roadway (West Lane) provides adequate separation from sensitive uses, and results in a path of travel distance of approximately 1,040 (walking) and 1,200 (vehicular) from the sensitive uses.

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.

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 proposed project and the sensitive-uses, located in neighboring office suites, are separated by a ten lane arterial street (West Lane) and the path of travel is approximately 1,040 (walking) and 1,200 (vehicular). The sensitive use (religious facilities) tenants of said office suites provided non-opposition letters for the proposed project. The project will also be subject to providing a security and lighting plan as a part of the review to obtain an Operators Permit, which will include security measures, including but not limited to an armed guard and a camera security system.

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 proposed use is located within 600 feet of three (3) religious facilities to the west, however the proposed project is not located within the direct line of sight from said sensitive uses. The merits were analyzed, discussed and determined to warrant approval based on the fact that the three (3) religious facilities submitted letters of non-opposition for the project, the religious facilities are small and located within suites of an office commercial building, the separation of a ten lane arterial street (West Lane), and the path of travel is approximately 1,040 (walking) and 1,200 (vehicular) from the sensitive use is a significant and appropriate distance given the multi-lane separation. 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. See Finding No. 3 above. 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 & 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.

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, attached and incorporated by this reference.

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 the completion of a ten (10) day appeal period following approval of the application.

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).

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)).

Planning Commission Action

Based on its review of the entire record herein, including the January 14, 2021 Planning Commission staff report and all supporting, referenced, and incorporated documents and all comments received at the public hearing, and the findings above, the Planning Commission unanimously voted to pass Motion 2021-01-14-0501 approving the requested Commission Use Permit, Administrative Use Permit, and Waiver request.

PASSED, APPROVED, and ADOPTED: February 11, 2021.

WAQAR RIZVI, CHAIR
City of Stockton Planning Commission

ATTEST:

WILLIAM CREW, SECRETARY
City of Stockton Community Development