

Resolution No.

# STOCKTON PLANNING COMMISSION

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## **RESOLUTION APPROVING A COMMISSION USE PERMIT TO UPGRADE FROM THE OFF-SALE BEER AND WINE TO OFF-SALE OF GENERAL ALCOHOLIC BEVERAGES IN AN APPROVED CONVENIENCE STORE AT 4607 SOUTH AIRPORT WAY (P23-0305) (APN 177-460-24)**

On October 27, 2023, the applicant, Sandy Mann, submitted an application to the Community Development Department for a Commission Use Permit for planning application No. P23-0305, to upgrade an existing Type 20 Alcoholic Beverage Control (ABC) license to a Type 21 ABC license at an approved convenience store; and

On October 14, 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 October 24, 2024, the Planning Commission conducted a public hearing on the application, in compliance with SMC chapter 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 and complies with all other applicable provisions of the Development Code (Title 16) and the SMC. The proposed use is allowed with a Commission Use Permit in the Commercial, General (CG) Zone. 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 upgrade, as conditioned, will maintain or strengthen the integrity and character of the neighborhood and zoning district in which it is to be located. The approved convenience store currently has a Type 20 ABC license. The proposed

upgrade to a Type 21 ABC license will only add goods to the convenience store. It will continue to provide neighborhood-service retail and convenience services to the local neighborhood and businesses.

3. The proposed upgrade 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:

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 development will create jobs and provide services to an underserved area of Stockton.

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 site is fully entitled and developed. The proposed upgrade to the ABC license type does not change the physical suitability of the site or density/intensity of the use. Approval of the upgrade will enable the applicant to sell general alcohol instead of just beer and wine.

5. The establishment, maintenance, or operation of the subject use and proposed upgrade, 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 which currently 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 upgrade are expected to be compatible with existing and future land uses on-site and in the vicinity of the subject property because the convenience store already sells beer and wine and is classified as a retail use that is compatible with the Commercial General Plan land use designation of the subject site. The added sale of general alcohol will not alter this. The anticipated customer base, traffic patterns, noise levels, and general operational characteristics of the proposed upgrade are compatible with the commercial use.

7. The proposed project has an approved Initial Study/Mitigated Negative Declaration that was approved with the original Use Permit. The approval of a new Use permit to allow the off-sale of general alcohol at the existing site will not cause an expansion of the building or modifications to the site. Therefore, the approval of a new Use Permit will be consistent with the approved Initial Study/Mitigated Negative

Declaration.

### Problem Use Findings – Alcoholic Beverage Sales, Off-Sale

1. The proposed upgrade, as conditioned, is not likely to interfere with the comfortable enjoyment of life or property in the area. The proposed upgrade will provide an opportunity for nearby residents and employees to purchase additional convenience items and will not interfere with the comfortable enjoyment of life or property in the vicinity.

2. The proposed upgrade, as conditioned, will not increase or encourage the deterioration or blight of the area. The proposed off-sale of general alcohol will be going into an approved and under construction convenience store and fueling station, on a developed site. 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 ABC.

3. The proposed upgrade 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 a vacant, undeveloped site which will provide services 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

1. 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 convenience store will endure to limit potential nuisance and criminal activity, littering, graffiti, and excessive loitering. The Applicant has agreed to comply with all conditions of approval.

2. 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 the ABC Board approved program within 60 days of hire for new employees. To satisfy this requirement, a certified program must meet the standards of the ABC 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.

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 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.

4. Per the California Business and Professions Code section 23958.4, a public convenience or necessity (PCN) was issued with the original Use Permit approval. Per that approval, public convenience and necessity will be served by the issuance of this Commission Use Permit. Per ABC, the proposed off-sale of general alcohol at this location does not require an additional Public Convenience and Necessity determination.

#### California Environmental Quality Act

The subject use complies with the California Environmental Quality Act (CEQA) as an Initial Study/Final Negative Declaration was prepared and approved or the site under the prior Use Permit, which considered the convenience store use.

#### Conclusion

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 approval authorizes the plans included as Exhibit 1 (Project Plans) incorporated by reference and shall supersede the prior use permit, P17-0013, by this approval.
2. Per SMC 16.96.020, if this Use Permit is not initiated within 12 months from the effective date of this approval, and a time extension has not been filed, this Use Permit shall be deemed expired and the entitlement granted shall be void without further action by the Planning Commission.
3. Comply with all applicable Federal, State, County, and City codes, regulations and adopted standards and pay all applicable fees.
4. The property 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.
5. In order to minimize any adverse financial impact on the City of Stockton 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.

Conditions of Approval: Project Specific

This Use Permit approval incorporates the following conditions of approval.

6. This Use Permit approval authorizes the upgrade of the existing Type 20 ABC license to a Type 21 ABC license, as identified in Exhibit 1, incorporated by reference.
  - a. 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.
  - b. 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.
  - c. This Use Permit shall be maintained on site and shall be immediately made available to City personnel upon inspection of the facility.
  - d. Any future building signage shall be subject to approval by the Community Development Department.
  - e. Separate building permits will be required for alterations to the site or building at the project location.
7. 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.
8. Hours of operation for the alcoholic beverage sales activity are limited to the regulations set forth by the State of California ABC.
9. The following signs are required to be prominently posted in a readily visible manner on an interior wall or fixture, and not on windows, in English, Spanish, and any other predominant language of the patrons:

- iv. "California State Law prohibits the sale of alcoholic beverages to persons under 21 years of age."
  - v. "No Loitering or Public Drinking" signs shall be posted on the exterior of the business.
  - vi. The business shall post E.A.S.Y. (Eliminate Alcohol Sales to Youth) materials that are visible from outside the business.
  - vii. 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 on the interior of the building.
10. 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.
11. Off-sale alcoholic beverage establishments shall be prohibited from selling drug/tobacco paraphernalia products as defined in California Health and Safety Code sections 11014.5 and 11364.5.
12. 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.
13. 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.
14. No single sale of beer or malt liquor in containers under 40 ounces or less shall be permitted in the convenience store.
15. 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.
16. 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.

17. 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 all employees hired. To satisfy this requirement, a certified program must meet the standards of the ABC Responsible Beverage Service Advisory Board, other certifying/licensing body Service Advisory Board, or other certifying/licensing body designated by the State of California.
18. 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.
19. The Commission Use Permit shall be valid for the duration of the use, but if the alcohol sales license is revoked by the State of California, is transferred off-site, or if the establishment does not sell alcohol for a period of 24 months or more, the use permit may be subject to revocation following a public hearing.

PASSED, APPROVED, and ADOPTED October 24, 2024.

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TERRY HULL, CHAIR  
City of Stockton Planning Commission

ATTEST:

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MICHAEL McDOWELL, SECRETARY  
City of Stockton Planning Commission