

STAFF-RECOMMENDED FINDINGS FOR DENIAL

The following general findings are required for all use permits:

- 1. The proposed use is 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;**

The proposed use, "Alcoholic Beverage Sales (Off-sale)," is allowed in the CG (Commercial, General) Zoning District subject to the approval of a Use Permit by the Planning Commission, per Stockton Municipal Code (SMC) Section 16.20.020, Table 2-2. The use otherwise complies with all other applicable provisions of the SMC and the Municipal Code, including those related to parking. Further, SMC Section 16.80.040.A imposes a minimum separation of 300 feet between an off-sale alcohol establishment and a public or private school with grades kindergarten through 12th. The proposed use fully complies with this separation requirement, as the nearest schools Stagg High School, the Walton Education Center and Kohl Elementary School, are located approximately 2,800 feet from the project site.

- 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;**

The proposed use has the potential to adversely affect the integrity and character of nearby residential neighborhoods, as well as the existing retail/office businesses by exceeding the number of off-sale alcohol establishments that the State Department of Alcoholic Beverage Control allows in the census tract that contains the subject convenience store. Further, upgrading the off-sale of beer and wine to the off-sale of general alcohol use has the potential to increase the intensive problem uses in the area and result in additional demands for police services, thereby adversely affecting public safety.

- 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;**

The project site has a General Plan Land Use designation of Commercial. The use of the site for a convenience store is consistent with the General Plan objectives, policies and programs for this designation. The site and proposed use are not affected by other plans.

- 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.);**

The requested land use would not increase the demand for provision of utility service or public access and would not be affected by physical constraints.

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, or general welfare of persons residing or working in the neighborhood of the proposed use;**

The off-sale of general alcoholic beverages is a potentially detrimental use that has the potential to adversely affect or endanger public safety in the neighborhood surrounding the subject site by possible additional calls for police services and reductions in available police resources.

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; and**

The proposed off-sale of general alcoholic beverages within the existing convenience store has the potential to be incompatible with offices, retail uses and other personal services in the commercial area by creating police and public safety problems.

7. **The proposed action would be in compliance with the provisions of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines.**

The project is categorically exempt under the California Environmental Quality Act (CEQA), pursuant to Section 15301 of the CEQA Guidelines because it constitutes reuse of an existing facility.

Additional Finding

"Alcoholic Beverage Sales (Off-Sale)" is considered a Problem Use and is subject to the additional regulations contained in SMC Section 16.80.270. These regulations include the following criteria, which are to be considered by the Planning Commission before a Use Permit can be approved:

1. The proposed use with respect to the proximity and type of other problem uses;
2. The effect of dispersal or concentration of problem uses in the general area;
3. The effect that the proposed use is likely to have on the neighborhood;
4. The noise, traffic, and/or visual impacts, as well as other relevant factors, on the compatibility of the proposed use with the surrounding institutional, business, and residential uses;
5. The potential of the proposed use to create or increase loitering or vandalism in the area; and
6. The degree that traffic safety, both on- and off-site, will be adversely affected by the proposed activity.

There are two problem uses located in the census tract including the project site. Approval to upgrade the off-sale of beer and wine to the off-sale of general alcoholic beverages would not increase the number of such licenses in this census tract. However, because an overconcentration of such establishments already exists in this area, the off-sale of general alcoholic beverages in the convenience store would increase the intensity of problem uses and increase the potential to adversely affect or endanger public safety in the neighborhood surrounding the subject site through additional crime and the associated calls for police services. Furthermore, the overconcentration of problem uses in the commercial area and the surrounding neighborhood has the possibility to increase public nuisances such as loitering, vandalism and panhandling, etc. that are generally associated with the convenience store and similar uses. While the proposed use is not expected to be contrary to the on-going conservation or redevelopment of the neighborhood or result in increased noise and traffic (Problem Use criteria 3, 4 and 6), it does have the potential to adversely affect the surrounding neighborhood (Problem Use criteria 1, 2 and 5).

The above criteria are then to be used to inform the following required additional findings for "Problem Uses" (SDC 16.168.050.B):

1. The proposed use is not likely to interfere with the comfortable enjoyment of life or property in the area;

The proposed use has the potential to interfere with the comfortable enjoyment of life or properties in the surrounding neighborhoods because the overconcentration of problem uses in the commercial area may result in increased loitering and vandalism, as well as additional calls for police service.

2. The proposed use will not increase or encourage the deterioration or blight of the area; and

The proposed use has the potential to increase or encourage the deterioration of blight in the commercial area because the resulting concentration of problem uses may result in increased alcohol related problems on the subject site and vicinity area.

5. The potential of the proposed use to create or increase loitering or vandalism in the area.

As already noted in the staff report, the proposed use, by increasing the concentration of problem uses in the commercial area, has the potential to create or increase loitering and vandalism.