

Resolution No. **2017-10-26-0501**

STOCKTON PLANNING COMMISSION

RESOLUTION APPROVING A PROPOSED DEVELOPMENT OF A COMMERCIAL CENTER INCLUDING A CONVENIENCE STORE SELLING A COMBINATION OF ALCOHOL, GASOLINE AND GENERAL MERCHANDISE WITH CAR WASH FACILITY AND TWO ADDITIONAL COMMERCIAL BUILDINGS AT THE SOUTHEAST CORNER OF EIGHT MILE ROAD AND THORNTON ROAD (P17-0667)

The applicant, Parveen Sekhon-PS Fuels, LLC, on behalf of Jimenez-Thornton Ranch Properties, LLC, the property owner, is proposing to develop a commercial center on a 2.11-acre portion of the overall 10.09-acre site at the noted location; and

The subject 10.09-acre site is currently designated High-Density Residential and is zoned RH (Residential, High Density); and

To develop a commercial center on the subject 2.11 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; and
- Tentative Parcel Map to subdivide a 10.09-acre site into two parcels;
- Initial Study/Proposed Mitigated Negative Declaration for the Thornton Road/Eight Mile Road ARCO Station Project;
- General Plan Amendment to amend a 2.11-acre portion of the overall 10.09-acre site from High-Density Residential to Commercial;
- Rezoning the subject site from RH (Residential, High Density) to CG (Commercial, General);
- Amendment to Eight Mile Road Precise Road Plan to allow a proposed 30-foot wide right-in and right-out driveway on Eight Mile Road;
- Design Review to ensure a gasoline station and other commercial buildings in compliance with all applicable provisions of the City's Design Review Guidelines.

Two commercial buildings will be located on the east and west sides of the subject site. A gasoline station will be located in the central/north portion of the subject

property. A convenience store with car wash facility 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 three required location restrictions regarding proximity to sensitive land uses; and

The subject site is located in Census Tract 38.02. Ten (10) off-sale alcoholic beverage establishments are allowed within the Census Tract. There are currently four (4) active off-sale licenses in the Census Tract. The area is not, therefore, over-concentrated if the subject Use Permit is approved and an additional license is granted by ABC; now, therefore,

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

APPROVALS

Use Permit

The Planning Commission hereby approves a Use Permit for a convenience store selling a combination of alcohol, gasoline, and general merchandise and car wash 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 to purchase merchandise and/or alcohol within a reasonable walking distance, thereby reducing traffic congestion on neighborhood street.
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; and

Land Use-4.10, Commercial Cluster Encouragement/Protection – The City shall encourage the clustering of commercial uses and discourage the splitting of commercial clusters or centers by arterial roadways. The subject use will be located on the southeast corner of Eight Mile Road and Thornton Road that is served, but not split, by arterial road. The development of the vacant parcel at the the above-noted location will allow area residents to purchase a greater variety of merchandise within the commercial center, thereby reducing traffic congestion on neighborhood streets.

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 two commercial buildings 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 Commercial 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 similar to those of nearby commercial 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 Thornton Road/Eight Mile Road ARCO Station 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 building 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 there are no other alcohol establishments and sensitive land uses in the proximity of the subject site. Area residents would be able to purchase both alcohol and other merchandise in a single store, thereby eliminating driving time and other traffic-related impacts. 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 Use Permit shall be subject to a one-year review following initiation of the subject use.
13. Approval of the Use Permit will not be effective until the General Plan Amendment and Rezoning have been approved by the City Council and become effective.
14. 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 (P16-0667) and the "Findings and Mitigation Monitoring/Reporting Program for the Thornton Road/Eight Mile Road ARCO Gasoline Station Project.

Tentative Parcel Map

The Planning Commission hereby approves a Tentative Parcel Map, attached as Exhibit 1 and incorporated herein, to subdivide a 10.09-acre site into two parcels based on the following findings and conditions of approval:

Findings

1. The proposed subdivision, together with the provisions for its design and improvement, is consistent with the General Plan, and any applicable specific plan, precise road plan, or master development plan, because of approval of General Plan Amendment from High-Density Residential to Commercial, the subject development would be consistent with the General Plan designation.

2. None of the findings for disapproval in SMC Section 16.188.060, B can be made, because the proposed project does not cause any substantial environmental damage and the improvement of the project site is not detrimental to the public health safety.
3. The subject Tentative Parcel Map 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 Thornton Road/Eight Mile Road ARCO Station Project.
4. In accordance with SMC Section 16.90.020.A.5, the City finds, based on substantial evidence in the record, that the property is located in an area of potential flooding of three feet or less from a storm event that has a 1-in-200 chance of occurring in any given year, from sources other than local drainage. The substantial evidence in the record consists of the effective 200-year floodplain map and data, determined by the Director.

Supplemental Findings

In addition to the above-noted findings required for approval of a Tentative Parcel Map by SMC Section 16.188.060.A.1, the Review Authority shall make the following findings, when they are applicable to the specific proposal.

1. Construction of Improvements- The project will be subject to the installation of a full frontage, including streets, sidewalks, curbs, gutters, sidewalk, landscaping, pavement widening, and street lighting. Should installation of these improvements prove not practical due to existing physical constraints, the owner/developer can request a Deferred Improvement Agreement whereby the owner/developer agrees to install the required improvements at such time as it is practical. All improvements will comply with the City's Standard Plans and Specifications.
2. Dedications or Exactions- A 10-foot public utility easement within the limits of the site shall be dedicated with the recordation of Parcel Map.

Conditions of Approval

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

3. 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.
4. In order 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.
5. Approved Tentative Parcel Map shall not be effective until the requested General Plan Amendment and Rezoning applications have been approved by the City Council and become effective.
6. Approved Tentative Parcel Map shall not be effective until the requested Relinquishment of Restricted Accesses and Amendment to Eight Mile Road Precise Road Plan have been approved by the City Council and become effective.
7. The ODS shall abandon and destroy any on-site wells and septic tanks prior to the recordation of any final parcel map. Standards for abandonment and destruction shall be as required by San Joaquin County Department of Environmental Health.
8. The ODS shall submit improvement plans for right-turn in and right-turn out of the driveways along Eight Mile Road and Thornton Road. The improvements shall include, but not be limited to the driveways and the extruded curbing per City of Stockton Standard Plans and Specifications. Said improvements shall be installed prior to occupancy of any buildings/structured on this site.

CERTIFICATIONS/RECOMMENDATIONS

Certification of Initial Study/Mitigated Negative Declaration

The Planning Commission hereby certifies that:

1. The Initial Study/Final Mitigated Negative Declaration (P17-0667), attached as Exhibit 2 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/Final 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 sail 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 17074 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 Thornton Road/Eight Mile Road ARCO Station Project.

General Plan Amendment/Rezoning

The Planning Commission recommends that the City Council approve an amendment to the General Plan to change the site designation from High-Density Residential to Commercial and approve a rezone of the site from Residential High Density to Commercial General, attached as Exhibit 3 and incorporated herein, based on the following findings:

Findings

1. The proposed 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 General Plan Amendment and Rezoning will allow the subject uses to comply with applicable provisions of the Development Code for the commercial development. The amendment maintains consistency with the General Plan goals and policies as follows:

Land Use-4.8 Neighborhood Serving Commercial – The City shall encourage small neighborhood serving commercial uses adjacent to and within residential areas where such uses are compatible with the surrounding area and mitigate any significant impacts (i.e., traffic, noise, lighting). The development of commercial center will be established adjacent to the residential area to create compatible uses with an opportunity for a jobs-to-housing relationship and minimize the need for vehicle trips.

HE-1.2, Avoid Downzoning – The City shall not downzone parcels identified in the Housing Element inventory unless they are replaced concurrently by comparable zoned land elsewhere within

the City, or the City makes findings that there still adequate sites in the inventory to meet the remaining regional housing needs allocation. A future high-density residential development containing 234 units will be constructed on the 7.98-acre remainder site with a density of 29 units per acre. By comparison, the City's Housing Element, adopted in 2016, projected that 222 housing units would be developed on the entire 10.09-acre parcel, so the number of residential units would exceed the Housing Element projection.

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. The proposed amendment complies 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 Thornton Road/Eight Mile Road ARCO Station 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, utilities and accesses. Approval of the Rezoning will allow the commercial use nearby an existing residential neighborhood and provide convenience neighborhood retails and services to area residents.

Precise Road Plan Amendment

The Planning Commission recommends that the City Council approve an amendment to the Eight Mile Road Precise Road Plan, attached as Exhibit 4 and incorporated herein, based on the following findings and Conditions of Approval:

Findings

1. The proposed amendment is consistent with the general land uses, objectives policies, and programs of the General Plan and other adopted goals and policies of the City. The project complies with General Plan goals and policies:

Land Use-4.10, Commercial Cluster Encouragement/Protection –
The City shall encourage the clustering of commercial uses and

discourage the splitting of commercial clusters or centers by arterial roadways. The subject use will be located on the southeast corner of Eight Mile Road and Thornton Road that is served, but not split, by arterial road. The development of the vacant parcel at the above-noted location will allow area residents to purchase a greater variety of merchandise within the commercial center, thereby reducing traffic congestion on neighborhood streets.

Transportation and Circulation-2.21, Shared Parking – To minimize land consumption and to pave, the City shall promote shared parking among land uses whose demand for parking peaks at different times. The proposed commercial center will provide sufficient off-street parking spaces and share the parking with other uses in the center to reduce the traffic congestion and improve an on-site and off-site operation.

2. The proposed amendment complies 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 Thornton Road/Eight Mile Road ARCO Station Project.

Conditions of Approval

1. A Precise Road Plan Amendment must be approved by the City of Stockton prior to installation of the Eight Mile Road driveway access.
2. The owners, developers and/or successors-in-interest (ODS) shall submit improvement plans for right-turn in and right-turn out of the driveways along Eight Mile Road and Thornton Road. The improvements shall include, but not be limited to the driveways and the extruded curbing per City of Stockton Standard Plans and Specifications. Said improvements shall be installed prior to occupancy of any buildings/structured on this site.
3. 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.

Architectural Design Review

The Planning Commission recommends that the City Council approve the Architectural Design Review, attached as Exhibit 5 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. The architectural style and layout would be compatible with other buildings in the same commercial center.
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 southeast corner of Eight Mile Road and Thornton Road (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 developer will install raised medians on Eight Mile Road and Thornton Road along the project's site frontage to prevent vehicles from making left turns to the commercial site. The subject site with the installation of the barriers will not result in vehicular or pedestrian hazards.
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, because the City staff has reviewed the site plan to ensure that the plans comply with the City Codes and provide the best serve to the patrons of the site.
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. The proposed quick service restaurant and retail building shall be subject to review and approval by the Architecture Review Committee prior to the submittal of the building permits.
2. 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.

PASSED, APPROVED, and ADOPTED October 26, 2017.


ELIZABETH MOWRY HULL, CHAIR
City of Stockton Planning Commission

ATTEST:


DAVID KWONG, SECRETARY
City of Stockton Planning Commission