



City of Stockton

Legislation Details (With Text)

File #:	14-0051	Version:	1
Type:	Public Hearing	Status:	Agenda Ready
File created:	1/8/2014	In control:	City Council/Successor Agency to the Redevelopment Agency/Public Financing Authority Concurrent
On agenda:	1/14/2014	Final action:	
Title:	APPEAL OF THE PLANNING COMMISSION'S DENIAL OF THE REQUEST FOR A USE PERMIT TO UPGRADE THE OFF-SALE OF BEER AND WINE TO THE OFF-SALE OF GENERAL ALCOHOLIC BEVERAGES IN AN EXISTING RETAIL OUTLET AT 8024 NORTH EL DORADO STREET (P13-148) RECOMMENDATION It is recommended that the City Council adopt a Resolution affirming the Planning Commission's denial of the request for a Use Permit to upgrade the off-sale of beer and wine (Type 20) to the off-sale of general alcoholic beverages (Type 21) in an existing retail outlet at 8024 North El Dorado Street. (Note: This item is continued from the December 17, 2013 City Council meeting - Agenda Item 16.2)		
Sponsors:			
Indexes:			
Code sections:			
Attachments:	Attachment A - Appeal Letter Attachment B - Project Location Maps Attachment C - September 12, 2013 Planning Commission Staff Report Attachment D - Findings for Denial Proposed Resolution - Affirming Planning Commission Denial		

Date	Ver.	Action By	Action	Result
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APPEAL OF THE PLANNING COMMISSION'S DENIAL OF THE REQUEST FOR A USE PERMIT TO UPGRADE THE OFF-SALE OF BEER AND WINE TO THE OFF-SALE OF GENERAL ALCOHOLIC BEVERAGES IN AN EXISTING RETAIL OUTLET AT 8024 NORTH EL DORADO STREET (P13-148)

RECOMMENDATION

It is recommended that the City Council adopt a Resolution affirming the Planning Commission's denial of the request for a Use Permit to upgrade the off-sale of beer and wine (Type 20) to the off-sale of general alcoholic beverages (Type 21) in an existing retail outlet at 8024 North El Dorado Street. (Note: This item is continued from the December 17, 2013 City Council meeting - Agenda Item 16.2)

Summary

The City Council is asked to consider an appeal submitted by the business owner, Roop Singh Chouhan of the Planning Commission's September 12, 2013 denial of a Use Permit application that

would have allowed the applicant to acquire a general alcoholic beverage sales license to replace the existing beer and wine sales license. Staff recommended denial of the Use Permit based on the underlying facts and an inability to establish findings of approval. Because the Planning Commission was unable to make affirmative findings to support the request, the application was denied.

DISCUSSION

Background

In 1982, the business, under former ownership, was issued a Use Permit (UP62-82) to allow the retail sale of beer and wine with a Type 20 (Off-Sale Beer and Wine) License to be issued by the California Department of Alcoholic Beverage Control (ABC). The applicant recently purchased the business with the intent to acquire a Type 21 (Off-Sale General) License which would allow for the retail sale and off-site consumption, of all types of alcoholic beverages. The existing Use Permit only allows the sale of beer and wine. Therefore, under the Development Code, a new Use Permit is required in order for the applicant to offer alcoholic products other than beer and wine.

An application for a new Use Permit was received on August 1, 2013. The Planning Commission considered the Use Permit application at its regular meeting of September 12, 2013. Following the public hearing, which included the applicant's testimony, the Commission voted 6-0 (Commissioner Eley absent) to deny the application. As expressed in the adopted findings of denial, the Planning Commission was unable to determine that the requested action would not be detrimental to the public welfare or that it satisfied other necessary findings for retail alcohol sales. That determination was informed by the over-concentration of similar alcoholic beverage sales outlets in this census tract, the availability of similar products at similar outlets nearby, and the proximity of other "problem uses" in the same shopping center.

On September 16, 2013, the applicant submitted an appeal of the Planning Commission's denial (Attachment A - Appeal Letter).

Location

The business is located at 8024 North El Dorado Street (Attachment B - Project Location Maps) and occupies a 1,750-square foot suite within an existing 8,400-square foot commercial building. The building is located on the north side of the commercial shopping center at the northeast corner of El Dorado Street and Hammer Lane. That shopping center contains a variety of retail stores, offices, restaurants, a gas station, and other businesses in several commercial buildings. The surrounding neighborhood is comprised of duplexes and apartments.

Operation

According to the application, beer and wine would be stored in a new walk-in cooler on the east side of the business and bottles of other alcoholic beverages would be stored on shelves behind the cashier. The store would continue to sell other grocery and sundry items and would be open from 6 a.m. until midnight, seven days a week.

Cal. Dept. of Alcoholic Beverage Control (ABC)

The California Department of Alcoholic Beverage Control (ABC) generally regulates alcohol sales

licenses using a population-based ratio to determine how many sales licenses should be located in a given census tract. Once an ABC-determined concentration is met, additional licenses may not be issued by ABC unless the City adopts a specific finding of public convenience and necessity. This particular application did not require such a finding because it would have been contingent upon surrender of the existing Type 20 license and, as a result, there would not have been a net increase in the number of licenses in the census tract or increase in concentration.

The project site is located within Census Tract 33.10, which is bound by Hammer Lane to the south, the Union Pacific Railroad tracks to the east, Mosher Slough to the north, and Lower Sacramento Road to the west. The population of Census Tract 33.10 is 4,158 according to the U.S. Census. Based on this population, ABC determined that a maximum of three (3) off-sale licenses should be allowed in this census tract. ABC does not apply separate regulations for Type 20 or Type 21 licenses. There are currently five (5) active off-sale licenses in the census tract, including the Type 20 license held by the applicant. Of the remaining four (4) alcohol sales licenses, three are located within the same shopping center and the fourth is held by the Food 4 Less grocery market located at 789 W. Hammer Lane. The license types held by these other locations as well as the distance of those locations from the project site are outlined in the table on the following page:

License Type	Business / Address	Distance from Project Site
20	Retail Store (apl.) / 8024 N El Dorado	-
21	Rite-Aid / 8016 N El Dorado	315 ft.
20	Lions Supermarket / 7924 N El Dorado	210 ft.
20	A.J. Foodmart (gas) / 7906 N El Dorado	400 ft.
21	Food 4 Less / 789 Hammer Lane	1,800 ft.

For the Council's information, the Rite-Aid project site has a valid Use Permit (UP025-72), which allows the off-sale of general alcoholic beverages in a retail and drug store. The Use Permit runs with the land in perpetuity, which means that a new business operator could choose to operate a retail business for the off-sale of general alcoholic beverages under the existing Use Permit. Therefore, although the Rite-Aid is currently not in operation, the license remains active and may be resumed by another operator at any time without City approval.

Planning Commission Findings

Development Code Section 16.168.050(a) requires that the Planning Commission make specific findings of fact in order to issue a Use Permit and requests that findings of fact be made on the following considerations: the integrity and character of the neighborhood; General Plan and Development Code consistency; suitability of the site and its compatibility with other uses; and the impact of the operation on the public convenience, health, interest, safety or general welfare of the area. (Attachment C - September 12, 2013 Planning Commission Staff Report).

Section 16.168.050(b) requires additional findings for uses defined as “problem uses” such as the sale of alcoholic beverages, which include: that the proposed use is not likely to interfere with the comfortable enjoyment of life or property in the area; the proposed use will not increase or encourage deterioration or blight in the area; and the use will not be contrary to any neighborhood program of conservation or redevelopment.

As is clear from the attached findings (Attachment D - Findings for Denial), that the Planning Commission was unable to make affirmative findings to issue the Use Permit. Specifically, the Planning Commission found that the intensification of an existing alcoholic beverage sales outlet in an area that is already over-concentrated (by ABC standards) would not serve the public interest and could lead to additional alcohol-related impacts such as those described in the Development Code. In particular, the Commission looked at the potential for off-site impacts which could be exacerbated by the proximity of residential uses and other alcohol sales outlets in the immediate area. Similar reasoning prevented the Commission from making affirmative findings related to problem use.

In sum, the Planning Commission accepted the recommended findings of denial set forth by staff because no credible facts or arguments were made by the applicant during the public hearing which called for a different outcome. Since nothing has occurred since to change the staff recommendation, staff now recommends that the Council deny the appeal and uphold the decision of the Planning Commission denying the Use Permit.

FINANCIAL SUMMARY

There is no anticipated financial impact to the City of Stockton as a result of the project.

VOTES REQUIRED

Five (5) votes of the City Council are necessary to overturn the decision of the Planning Commission. Staff recommends that the appeal be denied and that Council uphold the decision of the Planning Commission denying the Use Permit.

Attachment A - Appeal Letter

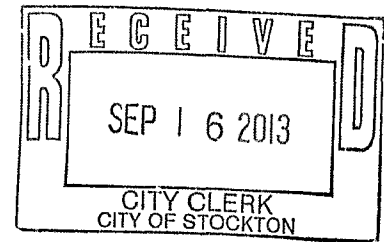
Attachment B - Project Location Maps

Attachment C - September 12, 2013 Planning Commission Staff Report

Attachment D - Findings for Denial



STOCKTON CITY COUNCIL
CITY HALL, STOCKTON, CALIFORNIA 95202
TELEPHONE (209) 937-8458



APPEAL TO THE CITY COUNCIL

Today's Date: 9/16/13

Date of Planning Commission Decision: 9/12/13

Last day to file Appeal (ten days): _____

APPELLANT: ROOP SINGH CHOUHAN
(Name)
8961 LOST MEADOW LN
(Address)
STOCKTON, CA 95210
(City, State, Zip)
(209) 981-0213
(Telephone)

APPEAL: P13-148
(Case Number and Project Name)

8024 N. EL DORADO ST STOCKTON, CA 95210
(Property Address)

FEE: \$414.00 (effective 7/1/10) per appeal

PAID BY: _____ check/number X Cash _____ Money Order

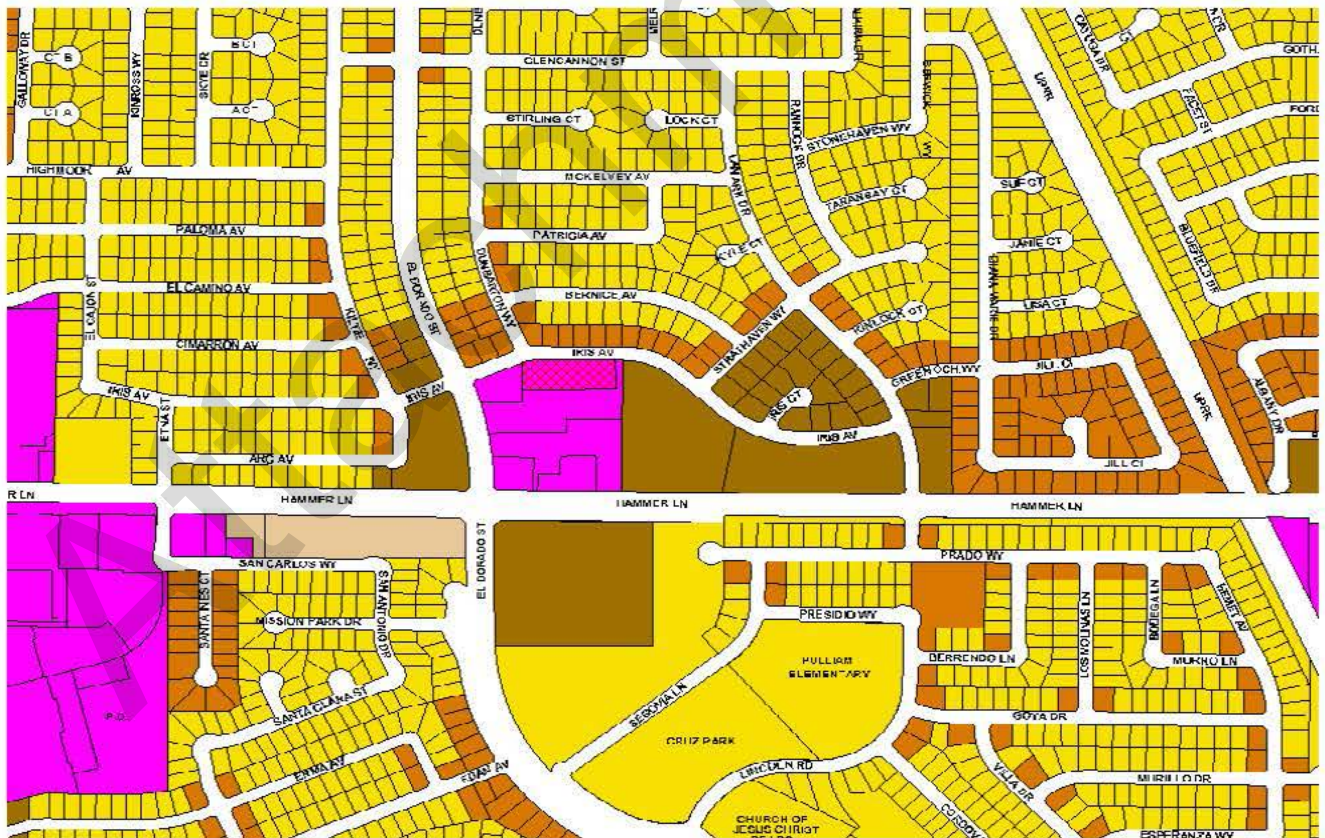
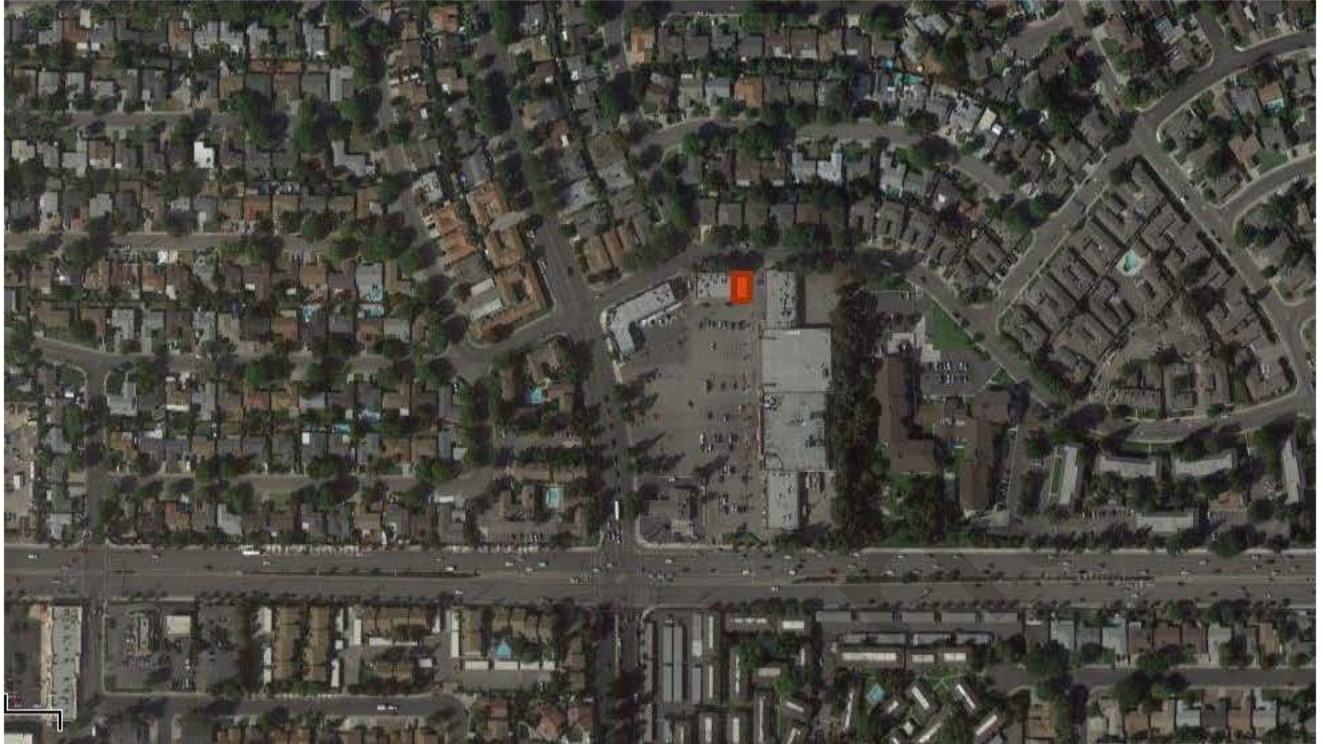
HAND DELIVERED: X MAILED: _____

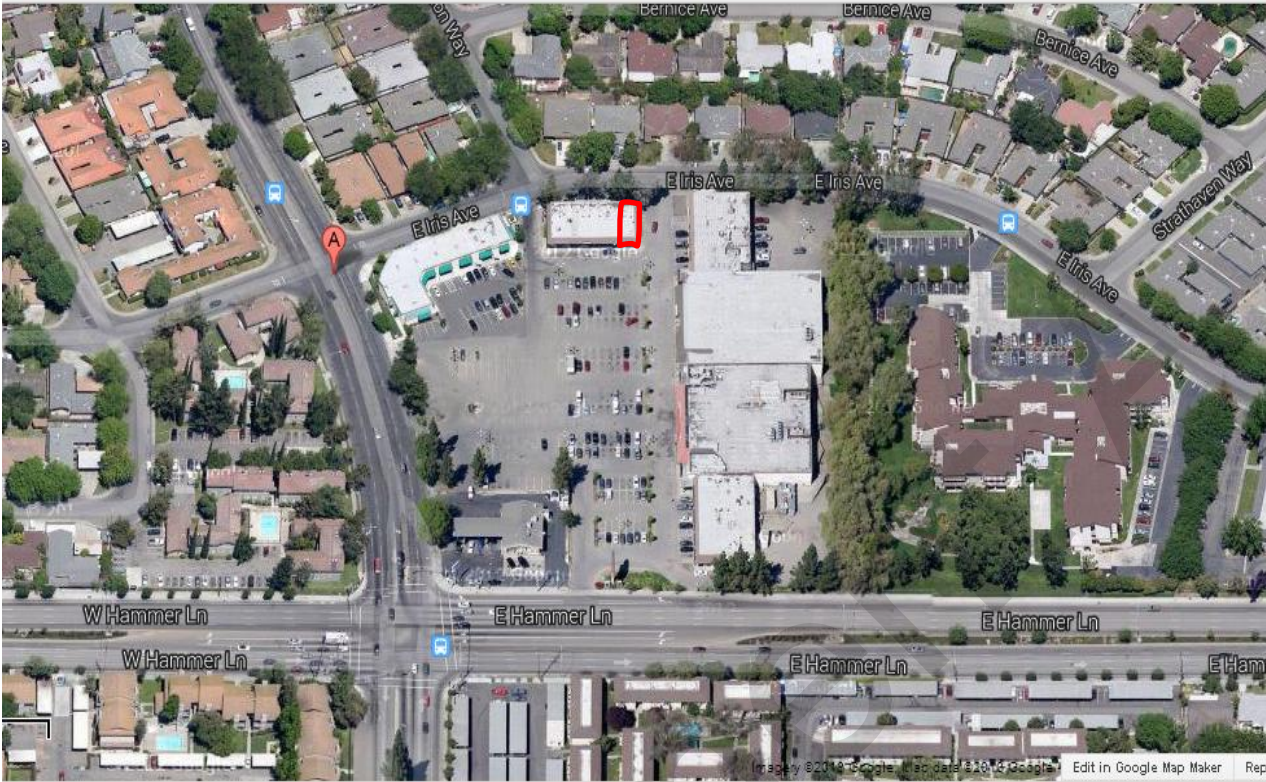
STATE REASON FOR FILING THIS APPEAL: I sent notices to neighbors & not one neighbor objected. I even went to The Police Department & they ~~are~~ not object. In fact on one occasion, the police authorities even thanked me for ~~being~~ being cooperative. The business ~~I have~~ ^{has} never in approximately 15 years ever had a problem with the police. I had a business in a this county for 12 years & I have never had any problems.

Appellant's Signature: R-S Chouhan

NOTE: APPELLANT WILL BE OUT OF THE COUNTRY UNTIL 11/7/13. RC

SCAN AND E-MAIL TO: JoAnne Montanez, Lori Asuncion, Karen Costa, Christian Clegg, Florence Low, Forrest Ebbs, Richard Larrouy, and Sylvia Sandoval AND CC TO: Bonnie Paige, Bret Hunter, Dora Sidrian, Geoff Aspiras, Carolina Saqueton, and Lori Nielsen





Item 5.01

STAFF REPORT

SEPTEMBER 12, 2013

TO: Planning Commission

FROM: Jenny Liaw, Senior Planner

SUBJECT: **8024 NORTH EL DORADO STREET; APPLICATION NO. P13-148 REQUESTING APPROVAL OF A USE PERMIT TO UPGRADE THE OFF-SALE OF BEER AND WINE TO THE OFF-SALE OF GENERAL ALCOHOLIC BEVERAGES IN AN EXISTING 1,750-SQUARE FOOT MINI-MART; APPLICANT: ROOP SINGH CHOUHAN; CG (COMMERCIAL, GENERAL) ZONING DISTRICT**

RECOMMENDATION

It is recommended that the Planning Commission deny the subject Use Permit in accordance with the findings for decision detailed herein.

Summary

The applicant, Roop Singh Chouhan, recently purchased an existing mini-mart business at the above-noted location and has submitted a Use Permit in order to upgrade his alcoholic license from the off-sale of beer and wine to the off-sale of general alcoholic beverages in the existing mini-mart. The applicant has indicated that no more than 20% of the store's floor area would be devoted to alcohol and that it would be displayed either behind the counter area or in enclosed cooler cases. In addition to general alcoholic beverages, the business operator would offer various grocery, laundry and household items, as well as cigarettes and bottled/canned beverages.

DISCUSSION

Background

The approximately 1,750-square foot suite is located within an existing 8,400-square foot commercial building on the north side of the overall shopping center at the northeast corner of El Dorado Street and Hammer Lane in north Stockton. The shopping center includes a stand-alone gasoline service station with a food-mart on the southwest corner of this commercial center and a variety of retail stores, offices, restaurants and other services within several commercial buildings on the east, north and northwest sides of this center. The overall shopping center is zoned CG (Commercial, General) and is approximately 6.8 acres in size. It is bounded to the:

- north across Iris Avenue by duplexes zoned RM (Residential, Medium-Density);
- east by an apartment complex zoned RH (Residential, High-Density);
- south across Hammer Lane by an apartment complex zoned RH; and

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- west across El Dorado Street by multi-family complexes zoned RH (see attached exhibits).

Project Description

The mini-mart has a valid Use Permit (UP62-82) approved in 1982 to allow the off-sale of beer and wine in conjunction with the operation of the mini-mart. The applicant is requesting a Use Permit from the Planning Commission in order to upgrade from the off-sale of beer and wine to the off-sale of general alcoholic beverages to satisfy his customers' needed. According to the applicant, the display of general alcohol will be located on shelves behind the sales counter on the west side of the store. Beer and wine will continue to be displayed in a new walk-in cooler on the east side of the business, respectively. The store will also sell a variety of grocery items. The current hours of operation for the business are from 6 a.m. until 12 p.m., seven days per week.

The project site is located within Census Tract 33.10. Based upon the population in that geographic area, the State Department of Alcoholic Beverage Control (ABC) has determined that three (3) off-sale alcoholic beverage establishments should be allowed in the census tract. There are already five (5) off-sale alcoholic establishments within this census tract, including the license that is currently held by the applicant on the project site. This shopping center has four off-sale alcohol licenses Lions supermarket, Rite Aid (off-sale license surrendered due to business closed), AJ food mart and the applicant's mini-mart. The fifth off-sale alcohol license was issued to Food for Less Supermarket at 789 West Hammer Lane which is not located in the shopping center, but is 0.7-mile drive away. The applicant has confirmed for staff that the existing off-sale beer and wine license would be canceled upon issuance of a new ABC license for the off-sale of general alcoholic beverages. He mailed a letter to the surrounding neighborhood within a 300-foot radius and stated his intention to upgrade the ABC license from the off-sale beer and wine to the off-sale of general alcohol. Replacing the off-sale beer and wine license (Type 20) with the off-sale general alcohol license (Type 21) would not increase the number of such licenses in the census tract. ABC regulations do not require a finding of Public Convenience and Necessity (PCN) from the Planning Commission in order for ABC to issue an alcohol license for the subject site

Analysis

The following general findings are required for this use permit:

- 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

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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 school is located approximately 1,200 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 shopping center, 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 mini-market. Further, upgrading the off-sale of beer and wine to the off-sale of general alcohol use has the potential to increase the intensive uses in the shopping center 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 mini-market 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.

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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 mini-market has the potential to be incompatible with offices, retail uses and other personal services in the shopping center 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 already four problem uses located in the shopping center 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 center. However, an overconcentration of such establishments already exists in this center. The off-sale of general alcoholic beverages in the mini-mart 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 shopping center and the surrounding neighborhood has the possibility to increase public nuisances such as loitering, vandalism and panhandling,

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etc. that are generally associated with liquor stores 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 property in the area because the overconcentration of problem uses in the shopping center 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 area because the resulting concentration of problem uses may result in increased alcohol related problems in the shopping center 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 shopping center, has the potential to create or increase loitering and vandalism.

CONCLUSION

In conclusion, the required affirmative Use Permit and Problem Use findings for the mini-market with the off-sale of general alcoholic beverages cannot be made in the affirmative. As such, staff recommends that the Planning Commission deny the subject Use Permit.

ATTACHMENTS

1. Location Map

C: Applicant

Property Owner

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 school is located approximately 1,200 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 shopping center, 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 mini-market. Further, upgrading the off-sale of beer and wine to the off-sale of general alcohol use has the potential to increase the intensive uses in the shopping center 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 mini-market 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 mini-market has the potential to be incompatible with offices, retail uses and other personal services in the shopping center 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 already four problem uses located in the shopping center 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 center. However, an overconcentration of

such establishments already exists in this center. The off-sale of general alcoholic beverages in the mini-mart 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 shopping center and the surrounding neighborhood has the possibility to increase public nuisances such as loitering, vandalism and panhandling, etc. that are generally associated with liquor stores 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 property in the area because the overconcentration of problem uses in the shopping center 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 area because the resulting concentration of problem uses may result in increased alcohol related problems in the shopping center 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 shopping center, has the potential to create or increase loitering and vandalism.

Resolution No.

STOCKTON CITY COUNCIL

RESOLUTION DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION'S DENIAL OF THE REQUEST FOR A USE PERMIT TO UPGRADE THE OFF-SALE OF BEER AND WINE TO THE OFF-SALE OF GENERAL ALCOHOLIC BEVERAGES IN AN EXISTING RETAIL OUTLET AT 8024 NORTH EL DORADO STREET (P13-148)

On September 12, 2013, the City Planning Commission denied a request for a Use Permit to upgrade the off-sale of beer and wine to the off-sale of general alcoholic beverages in an existing retail outlet at 8024 North El Dorado Street; and

On September 16, 2013, pursuant to the provisions of Section 16.100.040 of the Stockton Municipal Code (SMC), the applicant sent a letter to the City Council appealing the Planning Commission's decision to deny his request for a Use Permit to upgrade the off-sale of beer and wine to the off-sale of general alcoholic beverages in an existing retail outlet at 8024 North El Dorado Street; and

On December 3, 2013, the City Council convened a public hearing regarding the appeal of the Planning Commission's decision; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

1. The City Council hereby denies the appeal and upholds the decision of the Planning Commission to deny the request for a Use Permit to upgrade the off-sale of beer and wine to the off-sale of general alcoholic beverages in an existing retail outlet at 8024 North El Dorado Street, based on the following findings:

a. The operation of the proposed use conflicts with the general findings for Use Permit applications found in Section 16.168.050.A of the SMC; specifically, endangering and jeopardizing public convenience, health, interest, safety, and general welfare of persons residing or working in the neighborhood of the use. Specifically, the off-sale of general alcohol is likely to produce additional calls for police services and further strain police resources.

b. The operation of the proposed use conflicts with the "Problem Uses" findings contained in SMC section 16.168.050.B; specifically, it is likely to interfere with the comfortable enjoyment of life or property in the area, encourages deterioration or blight in the area, and is contrary to the conservation, improvement, and redevelopment of the area because having an overconcentration of problem uses will likely increase alcohol-

related problems such as noise, panhandling, and public drunkenness in the shopping center and the surrounding neighborhood.

c. The off-sale of general alcoholic beverages at the proposed business is incompatible with surrounding land uses and would contribute to increased crime, loitering, and vandalism in the area. Because the shopping center in question already has four problem uses, allowing the applicant to upgrade to the off-sale of general alcoholic beverages in this same retail outlet would only increase the intensity of these problem uses by providing an additional venue for crime, loitering, and vandalism.

2. The City Manager is authorized to take whatever actions are necessary and appropriate to carry out the purpose and intent of this resolution.

PASSED, APPROVED, and ADOPTED December 17, 2013

ANTHONY SILVA, Mayor
of the City of Stockton

ATTEST:

BONNIE PAIGE
City Clerk of the City of Stockton