

Resolution No.

STOCKTON PLANNING COMMISSION

RESOLUTION RECOMMENDING THE STOCKTON CITY COUNCIL APPROVE REVOCATION OF A MASTER DEVELOPMENT PLAN AND TERMINATION OF A DEVELOPMENT AGREEMENT FOR THE OPEN WINDOW PROJECT

On February 23, 2016, the City Council approved the Open Window project, which proposed mixed-use development for revitalization and redevelopment of 11.88 acres and is comprised of 51 properties within an approximately 15 square block area of Downtown Stockton. As of 2021, only 34-units have been constructed within the Project boundary); and

On October 18, 2021, the Applicant, Zac Cort with Open Window, LLC., requested that the City of Stockton revoke an existing Master Development Plan and Terminate the Development Agreement (DA) for Open Window Project. The Applicant has verbally stated there is no benefit to either the DA or MDP for attracting development of the Project site; and

After consideration of the request, staff agrees that there is little benefit in the agreement and MDP beyond what is already required per local standards; and

On November 18, 2021, the Stockton Planning Commission conducted a public hearing on the application, in compliance with SMC Section 16.108.030 (A) (3), at which point all persons wishing to be heard were provided such opportunity; now, therefore,

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

A. The foregoing recitals are true and correct and incorporated by this reference.

B. Based on its review of the entire record herein and pursuant to Stockton Municipal Code Section 16.108.030(B)(1)(a)(i), the City Council makes the following findings to support the revocation of the Tidewater Master Development Plan:

1. The Applicant has indicated the current housing market is increasingly competitive and somewhat cost-prohibitive and that potential developers are not finding benefit in the existing DA or MDP. Termination is a request for the project approval to allow the Applicant to market and develop the Project without the existing DA construction timeline obligations and to remove the DA and MDP from title to allow the sale of properties. Since staff agrees that there is little benefit in the DA or MDP for the Applicant or City, staff recommends Termination of the DA and revocation of the MDP; and

2. The revocation request for the MDP has been made by the Applicant, and accepted by the City. The MDP is being revoked in accordance with the DA termination, to remove both items to accommodate changes in the housing market and to make the development of the project area more marketable to future buyers; and
3. While the conditions of approval have not been violated, as of 2021, the Applicant has been found to be in noncompliance with the terms of the DA. This includes the inability to purchase City property and the sale of property within the DA boundary to others with City notification or assignment agreements to transfer DA responsibility to the new owners; and
4. While the 2020 DA compliance review indicated a few building permits required completion, no evidence of a violation to any federal, state, or statute was found as the Project does not pose a threat to public health and safety. The Revocation of the MDP and Termination of the DA, will not result in a physical change to the project area, as all future projects will still have to comply with all federal, state, and local standards for health and safety; and
5. The Revocation of the MDP and Termination of the DA, will not result in a physical change to the project area, as all future projects will still have to comply with all federal, state, and local standards for health and safety. The Project will maintain its Commercial General Plan designation and Commercial-Downtown (CD) zoning, as new development will be subject to the City's existing design standards; and
6. Since the Project's approval, the City has extensively updated its General Plan and zoning standards. Because of this update, the development and business allowance previously allowed under the project approval are in some case more restrictive than what current regulations allow. Since the Project's intent was to streamline development consistent with the plan, the intent is not longer a benefit for the Applicant or City. Therefore, the revocation is necessary to encourage new development within the project boundary.

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C. The Planning Commission hereby recommends the City Council adopt a Resolution for Revocation of the Open Window Project Master Development Plan (Exhibit 1), the Master Development Plan (Exhibit 2), and adopt an Ordinance (Exhibit 3) Terminating the Open Window Project Development Agreement, with the Development Agreement included for reference in Exhibit 4.

PASSED, APPROVED, AND ADOPTED November 18, 2021.

ANNE MALLET, CHAIR
Stockton Planning Commission

ATTEST:

MICHAEL MCDOWELL, SECRETARY
City of Stockton Planning Commission