

Resolution No.

STOCKTON CITY COUNCIL

RESOLUTION APPROVING A COMMISSION USE PERMIT AND DESIGN REVIEW TO ESTABLISH A RETAIL STOREFRONT CANNABIS BUSINESS AND AN ADMINISTRATIVE USE PERMIT TO ESTABLISH A RETAIL NON-STOREFRONT (DELIVERY ONLY) CANNABIS BUSINESS, IN AN EXISTING 4,375 SQUARE FOOT COMMERCIAL BUILDING AT 2521 WEST LANE (APN 117-090-32) (APPLICATION NO. P21-0602)

The applicant, Caroline Johnson, submitted an application for a Commission Use Permit to establish a 4,375 square foot cannabis storefront retail and an Administrative Use Permit for delivery, and Design Review on a parcel zoned Commercial, General (CG), located at 2521 West Lane and included as Exhibit 1; and

The applicant is the general pool winner of the City's 2021 Commercial Cannabis Lottery, used to designate how many applicants are allowed to apply for certain commercial cannabis types, including cannabis retail storefronts; and

Because the Project requires more than one application under the provisions of the Stockton Municipal Code Section 16.88.050, the applications are being processed concurrently; and

On April 14, 2022, the Planning Commission conducted a duly noticed public hearing on the application, in compliance with Stockton Municipal Code (SMC) Section 16.88, at which point all persons wishing to be heard were provided such opportunity and continued the review to April 28, 2022; and

On April 28, 2022, the Planning Commission attempted a vote for approval of the Project, but a majority vote was not obtained; A subsequent vote was attempted for a continuation of the Project, but a majority vote was not obtained, therefore, the Project was summarily denied; and

On May 10, 2022, the Project applicant filed an appeal of the Planning Commission's denial; and

On September 27, 2022, the City Council convened a public hearing regarding the appeal of the Planning Commission's decision. In such meeting, the City Council considered the request to appeal the Planning Commission's decision and granted the appeal to reverse the Planning Commission's decision based on the findings indicated in said resolution; now, therefore,

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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 reference.

B. Based on the staff report, staff presentation, comments received, and the public hearing, the City Council makes the following findings based on substantial evidence in the record:

Commission and Administrative Use Permit Findings (per SMC 16.168.050)

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 cannabis business type (i.e., uses) is conditionally allowed in the CG Zone with approval of a Commission Use Permit and Administrative Use Permit. Per SMC Section 16.20.020(A)(3) (Allowable land uses and permit requirements – Multiple Uses on a Single Site) sites where a proposed project includes multiple land uses, and more than one type of land use permit is required, the most restrictive land use permit shall apply for all land uses. Therefore, the applicant is requesting approval for a Commission Use Permit to establish a Cannabis Retail Storefront and retail no-storefront delivery use in accordance with the SMC. As conditioned, the cannabis uses will be in conformance with the development standards outlined in Title 16 of the Municipal Code. Adequate off-street parking spaces will be provided for the proposed use.

The proposed project meets the location requirements set forth in SMC 16.80.195(A)(6) and 16.80.195 (B)(4). The project is not located within 300-feet of any existing residential zone. The project is not located within 600-feet of any park, school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center, childcare center, child care, in-home (family day care home), religious facilities, or drug abuse or alcohol recovery/treatment facility.

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 cannabis retailer and delivery service would be situated in a vacant building that formerly housed an automotive repair facility, situated near several other commercial and industrial uses; away from sensitive land uses. It would fill an existing unoccupied site which would help strengthen the integrity and security of the surrounding area by providing added security due to the nature of the land use. The proposed uses would also align with the intent of the general plan to attract employment and tax-generating businesses that support the economic diversity of the city.

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 General Plan Land Use Map designates the subject site as Commercial. The Commercial designation is intended to accommodate a wide variety of

commercial uses, including, but not limited to, retail, personal and business services, commercial recreational uses, and a mix of office, commercial and/or residential uses. The proposed use is a cannabis retail storefront and delivery business where cannabis products will be sold on-site and delivered off-site to consumers. All of which are consistent with the uses described in the General Plan for the Commercial land use designation. The zoning district (CG) is also consistent with the City's General Plan Commercial land use designation for the project site.

Additionally, the project is consistent with the following General Plan goals and policies:

- Goal LU-6: To provide for orderly, well-planned, and balanced development.
- Goal LU-4: Attract and retain companies that offer high-quality jobs with wages that are competitive with the region and state.
- Goal CH-3: Expand opportunities for local enterprise, entrepreneurship, and gainful employment.
- Policy LU-4.2: Attract employment and tax-generating businesses that support the economic diversity of the city

The proposed use furthers the above goal and policy since it would provide for a business type that generates tax revenue for the City of Stockton's general fund and also expands opportunities for employment and entrepreneurship.

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 proposed project has been analyzed by all departments and it has been determined all existing streets and public accessways are adequate to serve the proposed project. Further, a Building Permit is required for the proposed business before full occupancy; and the project will be required to comply with all applicable Building Code standards. The site will have access to City utility services.

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, peace, or general welfare of persons residing or working in the neighborhood of the proposed use. The proposed land use will require the applicant to adhere to all applicable Building and Fire codes, and requirements established by the State of California, Department of Cannabis Control. The Department of Cannabis Control issues annual licenses and regulates cannabis retailers to ensure safe practices. The applicant will also be required to obtain and maintain an Operator's Permit from the City that requires the business owner to develop and maintain a security and lighting plan that is reviewed annually by the Police Department.

All cannabis operations for the proposed cannabis business will occur indoors in a Commercial zone. Appropriate security provisions will be incorporated into the project operations plan, including on-site security.

For the above reasons, the establishment, maintenance, or operation of the proposed land use activity 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.

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. The proposed cannabis business is located in an existing vacant building in an commercial zone near automobile repair facilities and a recycling facility. The proposed use is commercial and raises no potential issues related to compatibility with the existing and future land uses on-site and in the vicinity of the subject property.

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 proposed uses would occur within a portion of an existing commercial building. Therefore, the project is categorically exempt from the CEQA, pursuant to CEQA Guidelines section 15301 (Existing Facilities). A categorical Exemption under section 15301, Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.

Design Review Findings per SMC 16.120.060

1. The proposed development is consistent with all applicable provisions of this Development Code and other applicable City ordinances; The Project has been evaluated against all applicable development code standards. Representatives of each department within community development, municipal utilities, and fire prevention have reviewed the Project and have found it to be in compliance with all applicable city ordinances. The Director has found the Project to be in substantial compliance with provisions of the Stockton City-wide Design Guidelines for Commercial properties.
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. The Site Plan Review Committee and Director have reviewed the site plan and building elevations, materials, and design in a comprehensive manner. The proposed Project will incorporate high-quality, durable materials according to the design review guidelines.
3. The architectural design of existing structure and its materials and colors are visually compatible with surrounding development. Updated design elements, such as paint and windows, have been incorporated into the Project to further ensure its compatibility with the character and uses of adjacent development. The Project has

incorporated screening other decorative landscaping elements.

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: the site design and development pattern are consistent within the context of the surrounding developments. There are no protected views that would be blocked from the proposed development.
5. The general landscape design, including the color, coverage, location, size, texture, and type of plant materials, have been considered to ensure visual relief, to complement structures, and to provide an attractive environment. The Project has incorporated landscaping into the overall design, using landscaping to highlight and enhance entrances, screen unattractive elements, and provide shade and beautification to internal parking lots. A detailed irrigation plan will be approved by the building department prior to the issuance of a Certificate of Occupancy.
6. The design and layout of the existing building does not currently interfere with the use and enjoyment of neighboring existing or future development and will not result in vehicular or pedestrian hazards; The Stockton Design Guidelines establish criteria for residential and non-residential development to achieve a product of high-quality design that is compatible with the character of the surrounding area. The proposed architecture and site improvements are consistent with the Development Code will be like surrounding commercial uses within the area.
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; The site plan has been evaluated by all applicable departments. On-site parking and loading have been incorporated per development code standards. The engineering department and Public Works have evaluated the layout to ensure adequate circulation for patrons. Building design and frontage improvements have been incorporated into the design and shall be installed by the Applicant prior to occupancy of the facility.
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.). (Prior code Section 16-515.060) ADA requirements per the Uniform Building Code have been evaluated by the building department and incorporated in the final design. Emergency vehicle access and other standards have been evaluated by fire prevention, and all comments have been incorporated into the final design. Individual departments will review other standards during plan check to ensure compliance with all other standards.

CONDITIONS OF APPROVAL

1. The project shall comply with all applicable State, County, and City codes, regulations, and adopted standards, and pay all applicable fees.

2. In the event the operation of this use should prove to be detrimental to the health, safety, peace, or general welfare of the surrounding neighborhood, this Use Permit will be subject to revocation or modification, as required by the Development Code.
3. The Use Permit shall become effective following the completion of a ten (10) day appeal period following approval of the application.
4. The Use Permit shall be posted in a conspicuous place and be made available immediately to City personnel upon inspection of the premises.
5. A sign shall be posted at the entrance to the location containing the name and functioning telephone number of a 24-hour on-call person engaged in the management of the cannabis business who shall receive, log, and respond to complaints and other inquiries. This data shall be made available upon request by the Police Department and other Community Development Departments on a yearly basis.
6. 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, if any.
7. Prior to commencing operations, the business owner shall submit a complete security plan, subject to review and approval by the Police Department. The Chief of Police or designee may impose additional security and safety conditions upon receipt of the security plan before the facility can begin operations. All employees at the site shall be approved by the Police Department prior to the start of their employment.
8. The Fire Department shall be allowed to inspect the cannabis business at any reasonable time to ensure compliance with all applicable provisions of the Fire Code, as well as other applicable codes, laws, and provisions, and is authorized to enforce those standards, as necessary.
9. Prior to commencing operations, a Cannabis Operations Permit shall be obtained in accordance with Stockton Municipal Code Chapter 5.100 (Commercial Cannabis Activity Permits).
10. The project is required to obtain a Building Permit from the Building Department. Plans submitted for building permit(s) shall reflect compliance with the conditions outlined in this approval and Title 16 (Development Code) of the Municipal Code.
11. To assist staff's timely review of the Building Permit, plans submitted for Building Permits shall include a cover letter identifying the sheet numbers that correspond to each condition of approval.
12. All cannabis retail operations shall be limited to the hours of 7:00 a.m. to 8:00 p.m., per SMC 5.100.280 (Retailer operator permit – Hours of operation).

13. All on-site parking stalls shall comply with the following requirements per SMC 16.64.080 (Development standards for off-street parking):

- a. There shall be a minimum of 8 on-site parking stalls.
- b. The parking spaces shall be a minimum of 9 ft. x 19 ft. with two feet of vehicle overhang.
- c. The parking spaces shall be clearly outlined with four (4) inch wide lines painted on the surface of the parking facility.
- d. All parking spaces, driveways, circulation isles, and maneuvering areas shall be clearly marked with arrows and lines, in conformance with SMC 16.76.100(B).
- e. Disabled Parking spaces shall be striped and marked so as to be clearly identified, in compliance with the applicable State standards.
- f. Continuous concrete curbing at least six (6) inches high and five and one-half (5.5) inches wide shall be provided for parking spaces located adjacent to fences, walls, property lines, landscaped areas, and structures. Individual wheel stops may be provided in lieu of continuous curbing when the parking is adjacent to a landscaped area, and the drainage is directed to the landscaped area, subject to the approval of the Director.

14. The proposed site shall include a minimum of one (1) bicycle parking space, per SMC 16.64.100 (Bicycle parking requirements and development standards). Bicycle parking shall be conveniently located within 50 feet of a building entrances or exits.

15. Any graffiti on the building or in the property shall be removed within 48 hours of notification by the City. The City shall have the right to remove any graffiti not removed within 48 hours of notification.

16. All light and glare shall be shielded or modified to prevent emission of light and glare beyond the property line, or upward into the sky. Bare bulbs shall not be allowed on any exterior areas of the property.

17. Plans submitted for Building Permits shall comply with the following fencing requirements per SMC 16.48.100, and will be subject to review and approval by the Director:

- a. The new iron fence along West Lane shall not exceed eight (8) feet in height.
- b. Indicate whether fencing will be electrified.
- c. The existing fence adjacent to the railroad shall include graffiti limiting landscaping with vegetation that will cover at least 80 percent of the fence within three (3) years. Applicant shall provide a statement on the construction drawings confirming they have met this requirement, per SMC 16.32.060 (Graffiti).
- d. Vinyl coated chain linked fencing shall be located at least (ten) 10 feet from the front and street side property lines. Chain link fencing is allowed along the

interior and rear property lines provided it is not within (ten) 10 feet of the front or street side property lines.

- e. Other types of chain link fencing or similar materials (chicken wire, hog fencing, etc.) are prohibited within the 10-foot front and street side yard areas.
- f. A "Knox Box" or other similar approved devices shall be installed for emergency access by Police and Fire Departments.

18. Parking areas shall have lighting capable of providing adequate illumination for security and safety. Lighting shall be in scale with the height and use of the on-premise structure. All exterior lighting shall be energy efficient, stationary, and directed away from adjoining properties and public rights-of-way.

19. The proposed site shall use an activated carbon filtration system to prevent any odors from spilling outside of the facility related to the storage process, per SMC 16.32.90 (Odors).

20. Plans submitted for Building Permits shall include a final Landscape Plan, subject to review and approval by the Director, which shall include the following information:

- a. Prior to the receipt of Certificate of Occupancy, five (5) trees shall be planted in the interior off-street parking lot in accordance with SMC Chapter 16.56 and Section 16.64.080 (F)(7) (a.i).
- b. All trees within parking area shall be a minimum of 15-gallon container stock with a caliper size, at the time of planting.
- c. Trees shall be located in planters that are bounded on at least three (3) sides by parking area paving.
- d. All ends of parking lanes shall have landscaped islands.
- e. All areas with landscaping shall a minimum interior dimension of six (6) feet.
- f. Landscaped areas shall be provided with an automatic irrigation system(s).
- g. Sidewalks providing pedestrian access shall be considered in the design of all landscaped areas, including the need to locate plants so as not to interfere with the ability of pedestrians to have an adequate view of paths and surrounding areas to ensure their safety.
- h. Trees and shrubs shall be planted so that at maturity they do not interfere with service lines and traffic sight areas.
- i. All plant materials shall include both evergreen and deciduous tree, shrubs and attractive erosion preventing ground cover.
- j. At minimum seventy-five percent of the plants selected in non-turf areas shall be well suited to the climate of the region and require minimal water once established in the landscape. Plants that require similar water needs should be grouped together and shall be irrigated separately. Attention shall be given to appearance, height, spread, growth rate, moisture requirements, potential root damage, disease, pest susceptibility, climate adaptability, soil type slope, function, and decreased maintenance.

21. Trash enclosures shall be a minimum of 24 square feet in size. The trash

enclosure shall be screened from view on at least three (3) sides. Construction and screening shall consist of solid masonry walls, metal gates, and landscaping, per SMC 16.36.130(D)(6). The design and color of the trash enclosure shall be architecturally compatible with the rest of the new building.

22. Signage for the building is subject to a separate Sign Permit from the Building Division and shall comply with Section 16.76.100 and Section 16.76.110 of Title 16 (Development Code).

Community Development Department: Building

23. The proposed site shall make all trash enclosures connected along the accessible route with the building (s) they serve. Access into the trash enclosures must meet accessibility guidelines including, but not limited to, door/gate hardware, operating force, clear landings.

24. Plans submitted for Building Permits shall clearly demonstrate the location of pedestrian gates and demonstrate appropriate maneuvering clearance per California Building Code 11B-404.

Community Development Department: Engineering

25. The business operation and plan submitted for Building Permits shall clearly note the proposed sliding gates will remain open a half hour before and a half hour after posted business hours.

26. The existing driveway approach shall be upgraded to current City standards, per SMC 16.36.030. Install commercial driveway approach with current ADA truncated domes.

27. ODS shall replace/repair all cracked/displaced curb, gutter, and sidewalk along the public frontage of the project site.

28. Plans submitted for Building Permits shall include note to plans, stating "All work performed in the public right of way or within a public utility easement requires a separate City Encroachment Permit."

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29. The permit shall become void unless the required building permit is submitted within 12 months of this permit being issued (SMC 16.120.080(D)).

PASSED, APPROVED, and ADOPTED: September 27, 2022.

KEVIN J. LINCOLN II
Mayor of the City of Stockton

ATTEST:

ELIZA R. GARZA, CMC
City Clerk of the City of Stockton