

Resolution No.

## STOCKTON CITY COUNCIL

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### **RESOLUTION APPROVING A USE PERMIT TO ALLOW THE OFF-SALE OF BEER AND WINE IN AN EXISTING MEAT MARKET AND BAKERY AT 944 WATERLOO ROAD (P15-339)**

On January 14, 2016, the City Planning Commission denied a Use Permit to allow the off-sale of beer and wine in an existing meat market and bakery at 944 Waterloo Road; and

On January 19, 2016, pursuant to the provisions of Section 16.100.040 of the Stockton Municipal Code (SMC), the applicant submitted an appeal of the Planning Commission's denial of his request for a Use Permit to allow the off-sale of beer and wine in an existing meat market and bakery; and

The subject Use Permit was processed in accordance with previously-effective Development Code requirements related to off-sale alcohol uses that were in effect at the time the application was deemed complete for processing; and

On March 29, 2016, the City Council convened a public hearing regarding the appeal of the Planning Commission's decision; and

Following public testimony, the City Council directed staff to bring back findings for approval and conditions of approval for a Use Permit to allow the off-sale of beer and wine in an existing meat market and bakery at the noted location; now, therefore,

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

1. The City Council hereby approves a Use Permit to allow the off-sale of beer and wine in an existing meat market and bakery at 944 Waterloo Road (See Exhibit 1 - Site and Floor Plans), based on the following General and Problem Use Findings in former Section 16.168.050. A and B of the Stockton Municipal Code:

#### General Findings

a The subject use, a meat market and bakery with the off-sale of beer and wine at 944 Waterloo Road ("Alcohol beverage sales, Off-Sale" use type), is allowed in the CG (Commercial, General) Zoning District with the approval of a Use Permit from the Planning Commission, per SMC Section 16.20.020, Table 2-2. The subject use complies with all other applicable provisions of the Development Code, including those contained in former SMC Section 16.80.040, with regard to separation from schools, which decreases students' potential exposure to social pressures on their way to and from school.

b. The subject use, as conditioned, would maintain the integrity and character of the surrounding neighborhood, because the subject use would operate in an existing commercial building in the CG zoning district and be compatible with the existing retail and office uses in the commercial district.

c. 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 use of the site as a meat market and bakery with the off-sale of beer and wine is consistent with the following General Plan's policies:

LU-4.10 – The City shall encourage the clustering of commercial uses and discourage the splitting of commercial clusters or centers by arterial roadways. The clustering of commercial uses will allow area residents to purchase merchandise within walking distance of their homes and reduce traffic congestion on neighborhood streets; and

ED-2.2 – Recognizing the powerful job creation potential of small business, the City shall promote entrepreneurial development and small business expansion. Allowing the off-sale of beer and wine in the meat market and bakery would provide an additional opportunity for the business operator to compete with the other similar retail uses in the vicinity of the project site and has the potential to create new job opportunities for local residents.

d. 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 site is located within an existing commercial building that is provided with adequate access and services and is not hindered by physical constraints.

e. 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 would be subject to conditions of approval that require a security surveillance video system, the installation of lighting around the premises, and required review periods for the approved Use Permit.

f. 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 meat market and bakery business is classified as a Retail Trade use, in accordance with Table 2-2 (Allowable Land Uses and Permit Requirements) of the Development Code and

the subject use is compatible with other retail uses already in place in the vicinity of the subject use. The anticipated customer base, traffic patterns, noise levels, and general operational conditions of the meat market and bakery are similar to those of nearby commercial uses.

g. The proposed action is expected to be in compliance with applicable provisions of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines, because the project is categorically exempt pursuant to Section 15301, Class 1, of the CEQA Guidelines as a reuse of an existing structure.

h. Public Convenience will be served by the approval of the subject Use Permit, because customers would be able to purchase both beer and wine and other merchandise in a single store, thereby eliminating driving time and other traffic-related impacts, as well as allowing area residents to make more of their purchases within walking distance of their homes.

#### Problem Use Findings– Alcoholic Beverage Sales, Off-Sale

i. The subject use, as conditioned, is not expected to interfere with the comfortable enjoyment of life or property in the area, because the approved conditions would require the operator to install a video surveillance system in the commercial building that would decrease crime or similar impacts associated with problem uses in the vicinity area of the project site.

j. 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 the existing commercial building and the required 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. Further, the operator and employees involved in the sale of alcoholic beverages would be required, by the conditions of approval, to participate in a Licensing Education of Alcohol and Drugs training course offered by ABC, which includes the reduction of blight and deterioration.

k. 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.

2. In accordance with former Stockton Municipal Code (SMC) Section 16.168.070, the following Conditions of Approval are imposed to ensure compliance with the Findings of Approval for the Use Permit:

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### Standard

a. 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.

b. 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.

c. This Use Permit shall be posted in a conspicuous place and shall be immediately made available to City personnel upon inspection of the premises.

d. All signs shall be subject to approval by the Community Development Department.

### Specific

e. All employees involved in the sale of alcoholic beverages shall complete L.E.A.D. (Licensing Education of Alcohol and Drugs) training through the local office of the State Department of Alcoholic Beverage Control (ABC) within six months of their hire date or within six months of the effective date of the Use Permit, whichever occurs later. ABC also maintains an approved list of other Responsible Beverage Service trainer courses that may be substituted for the L.E.A.D. training condition.

f. The consumption or carrying of open containers of alcoholic beverages on the premises shall not be permitted. Signs advising patrons of this prohibition shall be posted adjacent to the front door on the interior of the building.

g. Store windows shall be left unobstructed to allow interior surveillance of the premises 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.

h. 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 premises, including the parking lot and entrances to the building.

i. Prior to the initiation of alcohol sales, exterior lighting shall be installed around the exterior of the premises to provide a safe and visible environment for the store's customers and area residents. The lighting should be fully shielded to prevent glare to adjacent properties and rights-of-way.

j. The hours of operation for the business shall be from 7:00 a.m. to 7:00 p.m., seven days a week.

k. The Use Permit shall be subject to six-month and twelve-month reviews following the initiation of the subject use on the premises.

PASSED, APPROVED, and ADOPTED May 24, 2016.

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ANTHONY SILVA  
Mayor of the City of Stockton

ATTEST:

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BONNIE PAIGE  
City Clerk of the City of Stockton