

Resolution No. **2016-05-26-0301**

STOCKTON PLANNING COMMISSION

RESOLUTION APPROVING A USE PERMIT TO ALLOW THE OFF-SALE OF BEER AND WINE IN A PLANNED CONVENIENCE STORE AS PART OF THE DEVELOPMENT OF A GASOLINE STATION AND CAR WASH FACILITY AT 10715 TRINITY PARKWAY (P16-0051)

The applicant, Barghausen Consulting Engineers, acting on behalf of the property owner, RAB Property Investments, LLC, has submitted a Use Permit application to allow the off-sale of beer and wine in a planned convenience store associated with the development of a gasoline station and car wash facility at 10715 Trinity Parkway; and

On April 14, 2016, the Planning Commission conducted a public hearing regarding the Use Permit to allow the off-sale of beer and wine in a planned convenience store as part of the development of a gasoline station and car wash facility; and

Following public testimony, the Planning Commission did not concur with staff's recommendation for denial of the subject Use Permit and directed staff to bring back findings for approval and conditions of approval for the Use Permit to allow the planned use; now, therefore,

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

1. The Planning Commission hereby approves a Use Permit to allow the off-sale of beer and wine in a planned convenience store as part of the development of a gasoline station and car wash facility at 10715 Trinity Parkway (See Exhibit 1 - Site and Floor Plans) based on the following findings:

General Findings

a The subject use, the off-sale of beer and wine in a planned convenience store as part of the development of a gasoline station and car wash facility at 10715 Trinity Parkway, is allowed in the MX (Mixed Zone) zoning district with the approval of a Use Permit from the Planning Commission, per Section 6.4 of A. G. Spanos Business Park Master Development Plan (MDP). The subject use also complies with all other applicable provisions of the Stockton Municipal Code (SMC) for alcoholic beverage sales, including those contained in former SMC Section 16.80.040.A, with regard to the minimum 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 a convenience store associated with the development of a gasoline station and car wash facility in the MX zoning district. The building design has been reviewed and approved by the A. G. Spanos Business Park Design Review Board and the City's Architectural Review Committee (ARC). The planned structure's architectural design and treatments would be compatible with existing retail and office uses in the regional shopping center.

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 Mixed Use and the subject use is consistent with the following General Plan policies:

LU-4.5 – 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 approved the project's proposed elevations, renderings, and materials and found them to be substantially in compliance with applicable provisions of the Citywide Design Review Guidelines;

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 the existing shopping center, thereby reducing traffic congestion on neighborhood streets.

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 project site will be occupied by a gasoline station, car wash facility, and convenience store located at an existing shopping center 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 and the installation of lighting around the premises.

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 planned convenience store with the off-sale of beer and wine is classified as a commercial use, in accordance with Section 6.4 of the A. G. Spanos Business Park MDP, 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 characteristics of the planned convenience store with the off-sale of beer and wine, as part of a gasoline station and car wash facility, 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) Guidelines Section 15332, Class 32, as an in-fill development under five acres. The proposed use is consistent with the MX (Mixed Use) General Plan designation and applicable Development Code requirements. The subject use would not result in any significant, adverse impacts related to traffic, noise, air quality, or water quality and would be adequately served by all required utilities and public services.

h. Public Convenience will be served by the approval of the subject Use Permit, because customers would be able to purchase both alcohol 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 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.

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 a new 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 will 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 Stockton Municipal Code Section 16.168.070, the following Conditions of Approval are imposed to ensure compliance with the Findings of Approval for the Use Permit:

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 store.

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

e. The Use Permit shall become effective after the completion of a ten-day appeal period following approval of the application.

Specific

f. The operator and 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.

g. 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.

h. 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.

i. 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.

j. 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.

k. Loitering shall be prohibited in or near the convenience store and on the subject site.

l. No single sales of beer, or malt liquor in containers of 40 ounces or less shall be permitted in the convenience store.

m. Pay phones shall be prohibited on the premises.

PASSED, APPROVED, and ADOPTED May 26, 2016.

AYES:

NAYS:

ABSENT:

KEVIN HERNANDEZ, CHAIR
City of Stockton Planning Commission

ATTEST:

DAVID KWONG, SECRETARY
City of Stockton Planning Commission