

Resolution No. **2016-05-26-0701**

STOCKTON PLANNING COMMISSION

RESOLUTION APPROVING A USE PERMIT TO ALLOW THE OFF-SALE OF GENERAL ALCOHOLIC BEVERAGES IN A PROPOSED LIQUOR STORE AT 2700 COUNTRY CLUB BOULEVARD (P15-0520)

The applicant, Harry Shergill, submitted an application for a Use Permit to allow the off-sale of general alcoholic beverages in a proposed liquor store at 2700 Country Club Boulevard; and

On April 14, 2016, the Planning Commission conducted a public hearing regarding the subject Use Permit to allow the off-sale of general alcoholic beverages in a proposed liquor store; and

Following public testimony, the Planning Commission did not concur with staff's recommendation and instead directed staff to bring the subject Use Permit back to the Commission with findings for approval and conditions of approval; 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 general alcoholic beverages in a proposed liquor store at 2700 Country Club Boulevard (see Exhibit 1 - Site and Floor Plans), based on the following findings:

General Findings

a. The subject use, a liquor store with the off-sale of general alcoholic beverages at 2700 Country Club Boulevard ("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 Stockton Municipal Code (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.A, 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 existing retail and office uses in the shopping center.

c. The subject use, as conditioned, would be consistent with the

general land uses, objectives, policies, and programs of the General Plan, because the project site has a General Plan Land Use designation of Commercial and the use of the site as a liquor store with the off-sale of general alcoholic beverages is consistent with the following General Plan's Policies:

LU-4.1 – The City shall encourage the upgrading, beautification, revitalization, and appropriate reuse of existing commercial areas and shopping centers. Reuse of the existing commercial building will result in the retention of its existing architectural character, which is compatible with retail and office buildings in the area surrounding the project site; and

LU-4.10 – The City shall encourage the clustering of commercial uses and discourage the splitting of commercial clusters or centers by arterial roadways. Approval of the subject Use Permit 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 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 an extensive security surveillance video system, the installation of lighting around the premises, and two required reviews of the subject 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 liquor store 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 liquor store 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 the reuse of an existing structure.

h. Public Convenience or Necessity 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 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. 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. Finally, the operator is required by the conditions of approval to establish a Good Neighbor Program in the shopping center containing the subject liquor store.

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 are no such programs applicable to the project site or in the immediate area.

2. In accordance with 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:

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 following 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, including a minimum of twenty-four (24) inside cameras and thirteen (13) outside cameras 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 store.

l. No single sale of beer, miniature bottles of alcohol or spirits, or malt liquor in containers of 40 ounces or less shall be permitted in the subject liquor store.

m. Pay phones shall be prohibited on the premises.

n. The operation of the subject business shall only be permitted between 7:00 a.m. and 11:00 p.m., seven days a week.

o. The applicant shall initiate a "Good Neighbor Program" within one year of the initiation of the subject use for the purpose of creating and maintaining a neighborhood watch policy to prevent vandalism and crimes and to reduce service calls to the Police Department at the shopping center. The applicant and any future operator/owner shall maintain the "Good Neighbor Program." The program shall, at a minimum, include the following:

- 1). Posting of signage at the entry of the establishment that provides the telephone numbers of the business owner or manager and for the area commander of the nearest Police Department facility,
- 2). Coordinating efforts with the Police Department to monitor community complaints about alcohol-related activities on the subject site and in the adjacent shopping center, and
- 3). Requiring the operator/owner of the subject store, or a designated representative, to meet with other business owners in the shopping center and nearby neighbors on at least a quarterly basis to discuss and resolve any complaints regarding the subject alcohol use.

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p. The subject use shall be subject to twelve month and twenty-four month reviews following initiation of the use.

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