

Resolution No.

STOCKTON PLANNING COMMISSION

REQUEST FOR A USE PERMIT TO ALLOW THE OFF-SALE OF BEER AND WINE IN A PROPOSED CONVENIENCE STORE WITH GASOLINE SALES AND AN ADMINISTRATIVE EXCEPTION TO REDUCE THE NUMBER OF REQUIRED OFF-STREET PARKING SPACES AT 6009 NORTH EL DORADO STREET (P16-0342)

The applicant, Grin Investments, Inc., submitted an application for a Use Permit to allow the off-sale of beer and wine in a proposed convenience store with gasoline sales and an Administrative Exception application to reduce the number of required off-street parking from 21 to 18 spaces, for property located at 6009 North El Dorado Street; and

The subject Use Permit and Administrative Exception applications were processed in accordance with applicable Use Permit, Administrative Exception, and alcohol provisions of the Development Code; and

Approval of the proposed Use Permit for the off-sale of beer and wine in a planned convenience store would have the potential to create an unsafe environment for area residents by increasing crimes, loitering, panhandling, drunkenness, and encouraging deterioration or blight in the area; and

Granting an Administrative Exception to reduce the off-street parking requirement has the potential to result in parking in non-designated areas of the subject site and disrupt on- and off-site traffic circulation; and

This neighborhood already has an adequate number of alcohol sales establishments and adding another off-sale use would have the potential to result in adverse impacts upon the general health and welfare of the neighborhood, increase vagrancy and illegal activities, and cause additional calls for police service; now; therefore,

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

A. The Planning Commission hereby denies the request for a Use Permit to allow the off-sale of beer and wine in a planned convenience store with gasoline sales at 6009 North El Dorado Street, based on the following findings:

General Findings

1. The subject use is allowed within the CN (Commercial, Neighborhood) and CG (Commercial, General) zoning districts, subject to approval of a Use Permit by the Planning Commission, but does not comply with three required Location Restrictions regarding proximity to sensitive land uses, being located in a high-crime Crime Reporting District, and proximity to other alcoholic beverage sales establishments. The subject use does not warrant a Waiver of the noted Location Restrictions, because it does not promote and support economic development in the area. Specifically, the shopping center already has two active off-sale alcohol establishments to serve the surrounding commercial and residential neighborhood. Allowing another off-sale alcohol establishment in an over-concentrated area would not represent “appropriate reuse” of this vacant parcel in the shopping center, as it is contrary to the Development Code and would not add needed goods or services that are not already provided in the area.

2. The proposed use would not maintain or strengthen the integrity and character of the neighborhood and zoning district in which it is to be located, because there is a public park, approximately 400 feet to the north of the project site, which is located in walking distance from the subject site. Alcohol consumers could purchase alcohol from the subject convenience store or other existing off-sale alcohol outlets in the same shopping center and drink it in the park. It would have the potential to increase public drunkenness, public urination/defecation, harassment of passersby, or illegal activities associated with alcohol consumption and result in additional demands for police services.

3. The proposed use will be not consistent with the general land uses, objectives, policies, and programs of the General Plan, any applicable specific plan, precise road plan, or master development plan, and the intent of this Development Code, because the subject site does not provide a sufficient supply of off-street parking for the proposed use to reduce congestion and improve overall operation (Traffic and Circulation Police No. TC2.20). Specifically, the subject development does not comply with the SMC’s development standards to either provide sufficient parking spaces or share existing parking spaces with the adjacent commercial property to improve the on- and off-site circulation and not cause additional traffic congestion in El Dorado Street and Swain Road.

4. The subject site would not 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.), because it cannot adequately accommodate all required off-street parking spaces.

5. The establishment, maintenance, or operation of the subject use at the location proposed and for the time period(s) identified, if applicable, would 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, because the subject alcohol-related use is likely to result in additional calls for police services related to illegal activities from alcohol sales, including noise, vandalism, and panhandling and, thereby, place a further strain on police resources.

6. The design, location, size, and operating characteristics of the subject use would not be compatible with existing and future land uses on the subject site and in the vicinity of the subject property, because the subject use has the potential to be incompatible with existing commercial/retail uses in the vicinity of the project site by the creation of additional alcohol-related impacts, such as noise, illegal drug usage and sales, theft, and violent behavior.

7. Denial of the application does not constitute a project under the California Environmental Quality Act (CEQA) and, therefore, no environmental analysis is needed for this action.

Problem Use Findings

1. The subject use has the potential to interfere with the comfortable enjoyment of life or property in the area, because the project site is located in a high Crime Reporting District and the applicant has failed to provide any evidence that the subject off-sale alcohol establishment would not adversely affect the area surrounding the subject site. According to the Police Department's crime report statistics (2013 through 2015), the average number of crimes reported in all of the Citywide Crime Reporting Districts is 85. The project site is located in Crime Reporting District No. 339. The average number of crimes reported in this District is 181, which is 112.94% above the City-wide average. The Police Department considers any district with an average of 20% or more above the average to be a high Crime Reporting District. Further, the subject use, which is defined as a "Problem Use," has the potential to increase vagrancy and illegal activities and, therefore, can also be expected to result in additional calls for police service, thereby exacerbating the existing high-crime designation in this area.

2. The subject use will increase or encourage the deterioration or blight of the area, because there are nine active off-sale alcohol licenses, including the applicant's pending active license, in the subject site's Census Tract. The shopping center has two active off-sale alcohol outlets, which adequately serve the surrounding commercial and residential neighborhood. Approval of the subject use would increase the number of off-sale alcohol outlets in the shopping center, which has the potential to worsen safety problems in the neighborhood due to increased crimes, illegal activities, and drunkenness, as well as by increasing or encouraging deterioration or blight in the area.

3. The establishment of the subject on-sale alcohol use in the area will not be inconsistent with any City-adopted programs for the conservation, improvement, or redevelopment of the area, because there are no such plans in place at this time. However, approval of the subject use has the potential to be contrary to the improvement of the area, because an additional off-sale alcohol outlet in the shopping center has the potential to increase illegal alcohol-related activities, which would adversely affect the quality of the life for area residents and the viability of future retail/commercial development in the surrounding area. As noted in the staff report for this project, the subject use does not promote and support economic growth in the area. Specifically, the shortage of the required off-street parking would have the potential to result in parking in non-designated areas of the subject site and affect on-site circulation and increase traffic congestion in adjacent high-traffic volume arterial streets.

Alcoholic Beverages Findings

1. The subject use has the potential to result in additional nuisance activities on or in close proximity to the premises, because the subject use is likely to exacerbate an existing higher-than-average crime rate in the subject Crime Reporting District.

2. The owners and all employees of the establishment would complete an approved course in Licensee Education on Alcohol and Drugs (LEAD), or other "Responsible Beverage Sales" (RBS) or any other California Department of Alcoholic Beverage Control Board (ABC) approved program within 60 days of hire for employees hired after the passage of this Development Code or within six (6) months of the passage of this Development Code for existing employees. To satisfy this requirement, a certified program must meet the standards of the Alcohol Beverage Control Responsible Beverage Service Advisory Board, Service Advisory Board or other certifying/licensing body designated by the State of California. This requirement is not applicable, due to the denial of the subject Use Permit.

3. The proposed use will comply with all provisions of local, state and federal laws, rules, regulations, policies, or orders, including, but not limited to, those promulgated and or enforced by the ABC, California Business and Professions Code sections 24200, 24200.6, and 25612.5, and any condition imposed on any valid permit(s) issued pursuant to applicable laws, regulations or other authority. This includes compliance with annual city business license. This requirement is not applicable, due to the denial of the subject Use Permit.

4. If required by Business and Professions Code section 23958.4, public convenience or necessity would be served by the issuance of this commission use permit or land development permit. A finding of Public Convenience or Necessity is not required,

because ABC has determined that transferring an active off-sale beer and wine license (Type 20) within the same census tract does not result in a net increase in the number of active off-sale licenses and does not increase the existing overconcentration of off-sale alcohol licenses in the Census Tract.

B. The Planning Commission hereby denies the request for an Administrative Exception to reduce the number of required off-street parking spaces for the subject use, based on the following findings:

1. The granting of the exception will not result in design improvements, because the reduction of required off-street parking spaces has the potential to result in parking occurring in non-designated areas of the site, thereby disrupting on-site traffic circulation and creating a hardship for drivers entering and exiting the subject site.

2. The project site is not physically suitable for the proposed Administrative Exception, because the subject site is not large enough to accommodate the Development Code's required number of off-street parking to serve the proposed use. While the overall shopping center has an adequate number of parking spaces to accommodate both existing and proposed uses, the applicant has been unable to secure a reciprocal parking agreement for the subject use. Without an adequate number of parking spaces, the project's on-site stacking and queuing problems have the potential to adversely affect adjacent rights-of-way.

3. The granting of the exception will be detrimental to the public convenience, health, interest, safety, or general welfare of the City or injurious to the property in the zone or neighborhood in which the property is located, because El Dorado Street and Swain Road are high-volume arterial streets, the deficiency of on-site parking may affect site access and result in traffic queuing delays, and the subject use has the potential to increase accidents in the noted streets.

4. The granting of the exception will be not consistent with the general land uses, objectives, policies, and programs of the General Plan, any applicable specific plan, precise road plan, or master development plan, and the intent of this Development Code, because the subject use does not provide a sufficient number of off-street parking spaces for the proposed use to reduce congestion and improve overall operation (Traffic and Circulation Police No. TC2.20). Specifically, the subject development does not comply with the SMC's development standards to either provide sufficient parking spaces or share existing parking spaces with the adjacent commercial center to improve the on- and off-site circulation and reduce the traffic congestion in El Dorado Street and Swain Road; and

5. Denial of the application does not constitute a project under the California Environmental Quality Act (CEQA) and, therefore, no environmental analysis is needed for this action.

PASSED, APPROVED, and ADOPTED December 15, 2016.

AYES:

NAYS:

ABSENT:

KEVIN HERNANDEZ, CHAIR
City of Stockton Planning Commission

ATTEST:

DAVID KWONG, SECRETARY
City of Stockton Planning Commission