

Resolution No.

STOCKTON PLANNING COMMISSION

REQUEST FOR A USE PERMIT TO UPGRADE FROM THE OFF-SALE OF BEER AND WINE TO GENERAL ALCOHOLIC BEVERAGES IN AN EXISTING CONVENIENCE STORE WITH GASOLINE SALES AT 7272 WEST LANE (P17-0096)

The applicant, Richard Berterro, on behalf of Balwinder Somal and Surinder Kuar (owners of the Quik Stop Market) submitted a Use Permit application to upgrade from the off-sale of beer and wine to general alcoholic beverages in an existing convenience store with gasoline sales at 7272 West Lane; and

In November of 2011, a Use Permit application (P11-323) was submitted to upgrade from the off-sale of beer and wine to general alcoholic beverages in the existing convenience store for the subject site; and

The Use Permit was denied by the Planning Commission and City Council, on appeal, because of the project's potential for an increase in calls for police service, resulting in additional burdens on already-strained police resources. In addition, there were already a number of existing off-sale alcohol establishments operating in the proximity of the site and adding another off-sale general alcohol license in this area would have intensified existing alcohol-related problems in the area surrounding the subject site; and

Approval of the proposed Use Permit to upgrade an alcohol license from the off-sale of beer and wine to general alcohol on the subject site has the potential to create an unsafe environment for area residents by increasing crimes, loitering, panhandling, public drunkenness, and encouraging deterioration or blight in the area; and

This neighborhood already has an adequate number (sixteen off-sale) of alcohol sales establishments and upgrading the off-sale of beer and wine to the off-sale of general alcohol use has 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 upgrade from the off-sale of beer and wine to general alcoholic beverages in an existing convenience store with gasoline sales at 7272 West Lane, based on the following findings:

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General Findings

1. The proposed use is allowed within the CG (Commercial, General) zoning district, subject to approval of a Use Permit by the Planning Commission, but does not comply with two required Location Restrictions regarding proximity to sensitive land uses. The code requires a minimum separation of 500 feet between the subject use and schools. An existing preschool is located approximately 260 feet to the east of the site. The subject site is located in a high Crime Reporting District (CRD), which is more than 20% above the Citywide average. In addition, upgrading the existing alcohol license from the off-sale of beer and wine to general alcoholic beverage in the high CRD has the potential to increase the number of calls for police service and generate more crime-related activities associated with alcohol sales on the site and in the neighborhood surrounding the subject site.

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 an existing preschool, approximately 260 feet to the east of the project site. Approval of the off-sale of general alcoholic beverages would be detrimental to the safety and general welfare of students, teachers, and staff in the existing preschool and residents in the surrounding neighborhood. The proposed use has the potential to increase alcohol-related problems, including public drunkenness, harassment of passersby, or illegal activities that would generate additional demands for police services, resulting in additional burdens on already-strained police resources.

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, because the proposed commercial use is located at a site that is designated on the General Plan for Commercial land uses.

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.), because the building already has existing services and there are no known physical constraints.

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 crimes or 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 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 proposed 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 CRD and the applicant has failed to provide any evidence that the subject off-sale general alcohol establishment use 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 Police Department considers any district with an average of 20% or more above the average to be a high CRD. The project site is located in CRD No. 359. The number of crimes reported in this District is 285, which is 235.29% above the City-wide average. 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 sixteen active off-sale alcohol licenses, including the applicant's active license (Type 20), in the four Census Tracts at the intersection of Hammer Lane and West Lane. Approval of the subject request would generate more intensive alcohol related uses, which have the potential to worsen safety problems in the neighborhood due to increased crimes, illegal activities, and drunkenness, as well as increasing or encouraging deterioration or blight in the area.

3. The establishment of the subject alcohol use on the subject site 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 the subject site located in a high CRD has the potential to increase additional calls for police service and illegal alcohol-related activities, which would adversely affect the quality of the life for area residents and the viability of future commercial development in the surrounding area. Therefore, the subject use does not promote and support economic growth in the area.

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, 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 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. A finding of Public Convenience or Necessity is not required, because the area is not over-concentrated with respect to off-sale alcoholic beverage establishments.

PASSED, APPROVED, and ADOPTED July 13, 2017.

ELIZABETH HULL, CHAIR
City of Stockton Planning Commission

ATTEST:

DAVID KWONG, SECRETARY
City of Stockton Planning Commission