

Resolution No.

STOCKTON CITY COUNCIL

RESOLUTION DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION'S DECISION APPROVING A USE PERMIT FOR A MEDICAL CANNABIS DISPENSARY IN AN EXISTING BUILDING IN THE COMMERCIAL, GENERAL ZONE AT 3706 EAST HAMMER LANE, SUITE 6 (P17-0262)

The applicant, David Draper Jr., submitted a Use Permit application to allow the establishment of a 3,500-square foot medical cannabis dispensary in an existing commercial building in the Commercial, General (CG) zone; and

The subject building is approximately 9,960-square feet in size and is currently occupied by multiple tenants. The subject site is in an existing shopping center at the southwest corner of Hammer Lane and Sampson Road. The subject dispensary will occupy the eastern portion of the commercial building; and

The subject dispensary complies with the provisions of Stockton Municipal Code (SMC) section 168.80.195, Medical Cannabis Businesses - Permitting, and all minimum separation requirements from sensitive uses and other restrictions; and

The Stockton Police Department has reviewed the required security plan for the subject facility. The proposed Security Plan meets the Police Department standards and includes provisions for security guards, access controls, video surveillance, and lighting; now, therefore,

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

A. The City Council hereby denies the appeal and upholds the Planning Commission's decision approving a Use Permit to allow the establishment and operation of a medical cannabis dispensary in an existing commercial building at 3706 East Hammer Lane, Suite 6 (Exhibit 1, Site and Floor Plans), based on the following Findings of Fact and Conditions of Approval:

General Findings

1. The subject use is allowed within the CG zoning district, subject to the approval of a Use Permit by the Planning Commission. The subject use complies with applicable provisions of the Stockton Municipal Code, particularly the Location Restrictions contained in section 16.80.195.A.3.

2. The subject use, as conditioned, would maintain the integrity and character of the surrounding neighborhood, because the subject use is defined as a service use

which is permitted in an existing commercial building in the CG zoning district and would be compatible with the existing uses in the same zoning district.

3. The subject use is consistent with applicable general land uses, objectives, policies, and programs of the General Plan and any applicable specific plan or master development plan related to the subject use, because it is a commercial use on a site designated for Commercial land uses and is consistent with the following General Plan policies:

Land Use Policy No. LU-4.1, Commercial Revitalization - The City shall encourage the upgrading, beautification, revitalization, and appropriate reuse of existing commercial areas and shopping centers.

LU-4.10, Commercial Cluster Encouragement/Protection - The City shall encourage the clustering of commercial uses and discourage the splitting of commercial clusters or centers by arterial roadways.

The subject use complies with the above General Plan policies, because it will occupy an existing commercial building and the exterior of the structure will be upgraded by the addition of surveillance cameras, thereby improving security in the integrated center in which the subject use is located. In addition, the subject use is located in an existing commercial shopping center that is served, but not split, by arterial roadway.

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, is not expected to 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 Conditions of Approval adequately address potential public health and safety issues that may be associated with the subject use by requiring installation of security cameras and patrolling of the site by security guards.

6. The design, location, size, and operating characteristics of the subject use are expected to be compatible with existing and future land uses on the site and in the vicinity of the subject property, because the subject use is classified as a service use, in accordance with Table 2-2 (Allowable Land Uses and Permit Requirements) of the Development Code, and is expected to be compatible with existing and future uses already in place in the surrounding commercial zone. The anticipated customer base,

traffic patterns, noise levels, and general operational conditions of the subject use are compatible with the surrounding area.

7. The proposed action is a Categorical Exempt use, in accordance with the provisions of Section 15301, Class 1, of the California Environmental Quality Act (CEQA), because it will be located within an existing commercial building and existing infrastructure is adequate to serve the site and subject use.

Conditions of Approval

1. Comply with all applicable Federal, State, County, and City codes, regulations, and adopted standards, and pay all applicable fees.
2. In the event the operation of this use should prove detrimental to the health, safety, peace, or general welfare of the surrounding neighborhood, this Use Permit shall be subject to revocation or modification, as provided in the Development Code.
3. The Use Permit shall be posted in a conspicuous place and be made available immediately to City personnel upon inspection of the premises.
4. The owners, developers and/or successors-in-interest (ODS) shall be responsible for the City's legal and administrative costs associated with defending any legal challenge of the approvals for this project or its related environmental document.
5. All required elements of the mandatory Security and Lighting Plan shall be approved by the Police Department and be in place before initiation of the subject use and all security guards employed at the subject dispensary shall be approved by the Police Department before the start of their employment.
6. The applicant shall post the name and phone number of the required on-site community relations staff on the exterior of the business, near the public entrance to the dispensary. An answering machine or similar device shall be operational during all times that the business is closed. The posting shall also state that the Police Department may be contacted for emergency problems associated with the subject use and that the Code Enforcement Division may be contacted to report non-emergency problems associated with the subject use. The notice should include 24-hour phone numbers for the Police Department and the Code Enforcement Division. A log of calls received by the dispensary's community relations staff/phone answering system shall be maintained as long as the business is in operation. The call log for the first 12 months shall be submitted to the Community Development Department and used in conjunction with the review at 12 months after the initiation of the subject use.

7. The operator of the business shall monitor the area surrounding the store to prevent customers from congregating outside the premises and to prevent parking and noise problems.
8. Edible cannabis products at the dispensary shall be limited to non-potentially hazardous foods, such as cookies, brownies, and candies.
9. Cannabis products shall not be consumed in the dispensary tenant space or the parking area.
10. Edibles shall be clearly labeled with a warning that the item contains medical cannabis and is medication, not food. The package label shall be opaque (not clear) and shall be clearly labeled with a warning to keep the product away from children. The package label shall not be attractive to children or resemble candy.
11. The Fire Department shall be allowed to inspect the subject dispensary at any reasonable time to ensure compliance with all applicable provisions of the Fire Code, as well as other applicable codes, laws, and provisions, and is authorized to enforce those standards, as necessary.
12. A Fire Safety Plan shall be submitted for review as part of the building permit application. Portable fire extinguishers are required throughout the tenant space.
13. The use of any open flame device, including, but not limited to, decorative candles, torches and cigarette lighters, shall be prohibited within the dispensary.
14. The establishment's operators and employees shall discourage loitering on or near the premises and ask persons loitering longer than 15 minutes to leave the area and contact local law enforcement officials for enforcement of applicable trespassing and loitering laws if persons requested to leave fail to do so.
15. All signs shall be subject to approval by the Community Development Department.
16. Before the initiation of the subject use, the most current technology for a video surveillance system with at least a seven-day (7) continuous recording capability shall be in place. Video recordings shall be archived for at least 30 days. The video surveillance system shall cover the interior and exterior of the building, including the parking lot and entrances to the premises.
17. Before the initiation of the subject use, exterior areas of the premises shall

be provided with sufficient lighting in a manner that provides adequate illumination for the patrons of the dispensary while not spilling onto surrounding parcels and adjacent rights-of-way.

18. The property owner or business operator shall provide at least one uniformed, licensed security guard to patrol the project site and the vicinity of the subject site during all business hours, including one hour before and after the business opens and closes.
19. An air filtration or odor neutralizing system shall be utilized, installed, and maintained in the building and be subject to the approval of the Community Development Director and if required, the San Joaquin Valley Air Pollution Control District (SJVAPCD) prior to the initiation of the subject use. Any chemicals used to neutralize odors shall be non-toxic and shall not be noxious or offensive to persons residing or working in the vicinity.
20. The subject Use Permit shall be subject to review at 12 months after the initiation of the subject use. At least one (1) month before the required review, the business operator shall submit a Compliance Report to the Planning Division. The document shall, at a minimum, report on compliance with all the adopted Conditions of Approval and the Security Plan.

PASSED, APPROVED, and ADOPTED February 27, 2018.

MICHAEL D. TUBBS
Mayor of the City of Stockton

ATTEST:

BRET HUNTER, CMC
City Clerk of the City of Stockton