

Resolution No.

## STOCKTON PLANNING COMMISSION

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### **RESOLUTION APPROVING A USE PERMIT TO UPGRADE FROM OFF-SALE BEER AND WINE TO THE OFF-SALE OF GENERAL ALCOHOLIC BEVERAGES IN AN EXISTING MINI -MART LOCATED AT 1255 BUENA VISTA AVENUE (P17-0695)**

Khalid Almahri is applying for an ABC license upgrade from type 20 (off-sale beer and wine) to type 21 (off-sale general alcohol) in an existing mini-mart located at 1255 Buena Vista Avenue; and

Per Stockton Municipal Code (SMC) section 16.80.040.D(2)(C), upgrade or transfer of existing off-sale alcohol licenses in the same census tract are exempt from separation requirements from sensitive uses. The upgrade will not result in a net increase in the number of off-sale licenses, the subject site is not located in a high crime reporting district, and additional conditions placed on the new Use Permit will mitigate any potential negative impact on the surrounding neighborhood, now, therefore;

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

#### Use Permit

The Planning Commission hereby approves a Use Permit for off-sale general alcohol at 1255 Buena Vista Avenue, based on the following findings and conditions of approval:

#### General Findings

1. The subject use is allowed within the proposed CN (Commercial, Neighborhood) zoning districts, subject to the approval of a Use Permit by the Planning Commission. The use complies with the two required Location Restrictions: 1. Crime Reporting District: The site is located in a crime reporting district that is 34.12% below the citywide average. 2. Proximity to other Alcoholic Beverage sales establishments: A maximum of 4 off-sale licenses are permitted within 1,000 feet of the subject location. 1255 Buena Vista has 1 off-sale ABC license within 1,000 feet, meeting this requirement.
2. The subject use, as conditioned, would maintain the integrity and character of the surrounding neighborhood, the mini-mart has been part of the community for many years and remained in good standing with the Stockton Police Department and Code Enforcement. The continued operation of a neighborhood-serving mini-mart would provide the same level of service to the community, maintaining the integrity of the neighborhood.

3. 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 Commercial and the subject use is consistent with the following General Plan goals and policies:

LU-4.8 Neighborhood Serving Commercial: The city shall encourage small neighborhood-serving commercial uses adjacent to and within residential areas where such uses are compatible with the area and mitigate any significant impacts (i.e. traffic, noise, lighting). The proposed project would continue to provide neighborhood commercial services in compliance with the conditions outlined in the resolution.

4. 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.). The subject site is an existing neighborhood-serving commercial use with adequate public access and utilities. The subject development is not hindered by physical constraints.
5. 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 will be subject to conditions of approval that require a security surveillance video systems, and provides for education requirements for new employees through the Department of Alcohol and Beverage Control (ABC) to prevent alcohol related hazards.
6. 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 mini-mart is a retail use that is compatible with the Commercial Neighborhood Zoning. The anticipated customer base, traffic patterns, noise levels, and general operational characteristics of the neighborhood serving mini-mart with the off-sale of general alcohol is compatible with nearby residential uses.
7. The proposed action is a Categorically Exempt use, in accordance with the provisions of section 15301, Class 1, of the California Environmental Quality Act (CEQA) for existing facilities, as the project will be reusing an existing building, the site has existing infrastructure and access to public utilities.

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### Problem Use Findings – Alcoholic Beverage Sales, Off-Sale

1. 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 for review by Police Department personnel, as necessary.
2. The subject use, as conditioned, is not expected to increase or encourage the deterioration or blight of the area, because the required installation of security cameras, and prohibiting sales of single serving sizes of alcohol will help to provide a safer environment for the store's customers and area residents.
3. 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.

### Alcoholic Beverages Findings

1. The subject use is not expected to result in additional nuisance activities on or near the premises because the operator has installed 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. Removing single serving sizes of alcohol and prohibiting loitering will provide a safer environment for the store's customers and area residents.
2. The owners and all employees involved in the sale of alcoholic beverages will 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 being hired. 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.
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 conditions imposed on any valid permits are issued pursuant to applicable laws, regulations or other authority. This includes compliance with annual city business license.

#### Conditions of Approval

1. 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.
2. 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 Stockton Municipal Code (SMC) Section 16.80.040.F, including but not limited to, monetary fines and revocation.
3. This Use Permit shall be posted in a conspicuous place and shall be immediately made available to City personnel upon inspection of the store.
4. All signs shall be subject to approval by the Community Development Department.
5. 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.
6. 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.
7. 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.
8. 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.
9. Loitering shall be prohibited in or near the convenience store and on the subject site.
10. No single sales of beer or malt liquor in containers of 40 ounces or less

shall be permitted in the mini-mart.

11. Pay phones shall be prohibited on the premises.
12. The business shall post E.A.S.Y. (Eliminate Alcohol Sales to Youth) materials that are visible from outside the business.
13. The Use Permit shall be subject to a one-year review following initiation of the subject use.

PASSED, APPROVED, and ADOPTED April 12, 2018.

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DON M. AGUILLARD, CHAIR  
City of Stockton Planning Commission

ATTEST:

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DAVID W. KWONG, SECRETARY  
City of Stockton Planning Commission