

Resolution No.

STOCKTON PLANNING COMMISSION

RESOLUTION APPROVING A USE PERMIT TO ALLOW THE OFF-SALE BEER AND WINE IN AN EXISTING MINI-MART LOCATED AT 6025 PACIFIC AVENUE (P17-0658)

The applicant, Lalita Kiran, is requesting a Use Permit to allow the off-sale of beer and wine (Type 20, Off-Sale Beer, & Wine) in an existing mini-mart at 6025 Pacific Avenue; and

Pursuant to Stockton Municipal Code (SMC) sections 16.80.040. D. 2. a. and d. ii, the subject use complies with the three location restrictions: proximity to sensitive land uses, not being located in a High Crime Reporting District, and proximity to other alcoholic beverage sales establishments; and

The subject site is located in Census Tract 31.10, which is permitted to have three (3) off-sale alcohol licenses. There are currently eight (8) active off-sale licenses in the census tract which means it is currently overconcentrated, as defined by Department of Alcohol and Beverage Control (ABC) regulations. The Use Permit, if approved, will add an additional off-sale alcohol license to the existing overconcentration of such licenses in the area; and

ABC regulations require that a finding of Public Convenience or Necessary (PCN) must be made by the Planning Commission in order for ABC to issue an off-sale beer and wine license in an overconcentrated census tract. Therefore, a finding of Public Convenience or Necessary (PCN) for the subject site if the Use Permit is approved; and

According to SMC 16.80.040.D.2.d, the Planning Commission may exercise its discretion and waive the location restrictions that pertain to alcoholic beverage sales establishments in order to promote and support local business growth. The applicant requests, and staff supports, the Planning Commission's exercise of discretion to approve a waiver to allow the addition of an off-sale alcohol license in the existing overconcentrated census tract; 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 the off-sale beer and wine in an existing mini-mart at 6025 Pacific Avenue, based on the following findings and conditions of approval:

General Findings

1. The subject use is allowed within the proposed CG (Commercial, General) zoning districts, subject to the approval of a Use Permit by the Planning

Commission. The use complies with three required Location Restrictions regarding proximity to sensitive land uses, not being located in a High Crime Reporting District, and proximity to other alcoholic beverage sales establishments; Further, the proposed use would allow area residents to purchase merchandise and/or alcohols within a reasonable walking distance, thereby reducing traffic congestion on neighborhood street.

2. The subject use, as conditioned, will maintain the integrity and character of the surrounding neighborhood, because the mini-mart has been part of the community since 2016 and remains 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:

Land Use Policy No. 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), because 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.), because the overall site are occupied by multi-retail businesses that are provided with adequate services and accesses. The subject use 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 and existing employees through the 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 General (CG) Zoning. The anticipated customer base, traffic patterns, noise levels, and general operational characteristics of the neighborhood serving mini-mart with the off-sale of alcohol is compatible with nearby existing 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 located in an existing mini-mart. The site has existing infrastructure and access to public utilities.
8. 200-Year Flood Protection: In accordance with SMC section 16.90.020A.5, the City finds, based on substantial evidence in the record, that the property is located in an area of potential flooding of three feet or less from a storm event that has a 1-in-200 chance of occurring in any given year, from sources other than local drainage. Therefore, the shallow flood exemption applies. The substantial evidence in the record consists of the effective 200-year floodplain map and data, determined by the Director.

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.
4. Public Convenience or Necessity will be served by the issuance of this Use Permit, because the operator will transfer an existing Type 20 license from an outside census tract to this overconcentrated census tract (Census Tract 31.10). The subject use complies with three location restrictions regarding proximity to sensitive land uses, not being located in a High Crime Reporting District, and proximity to other alcoholic beverage sales establishments. The establishment will comply with all applicable building and health codes.

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 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 May 24, 2018.

DON M. AGUILLARD, CHAIR
City of Stockton Planning Commission

ATTEST:

DAVID W. KWONG, SECRETARY
City of Stockton Planning Commission