

Resolution No. **2018-04-26-0501**

STOCKTON PLANNING COMMISSION

RESOLUTION APPROVING THE USE PERMIT TO ALLOW OFF-SALE OF BEER AND WINE IN A CONVENIENCE STORE SELLING GASOLINE AT 6649 EMBARCADERO DRIVE (P18-0069)

The applicant, Village West Marina LLC., submitted an application for a Use Permit to allow off-sale of beer and wine in a convenience store selling gasoline at 6649 Embarcadero Drive, zoned Commercial General (CG); and

The proposed 400-square foot convenience store will be located on the northern portion of an existing commercial development. The subject site, currently a market, is located in the Village West Marina development on the fueling dock which extends into Fourteen Mile Slough; and

Approving the subject use will allow a convenience store selling a combination of alcohol, gasoline, and general merchandise to serve the patrons and tenants of the Village West Marina; now, therefore,

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

The Planning Commission hereby approves the request for a Use Permit to allow off-sale of beer and wine in a convenience store at 6649 Embarcadero Drive, based on the following Findings for Decision 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, being located in a high-crime Crime Reporting District, and proximity to other alcoholic beverage sales establishments.

2. The subject use, as conditioned, would maintain the integrity and character of the surrounding neighborhood, because the convenience store is integrated within the existing marina, supporting boat and waterway recreational uses, and maintains the mixed commercial and high-density residential character of the neighboring area.

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-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 surrounding area and mitigate any significant impacts.

Land Use-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.

Economic Development-2.2 Small Business – Recognizing the powerful job creation potential of small business, the City shall promote entrepreneurial development and small business expansion.

Recreation and Waterways-5 – To preserve and enhance waterways for recreation and open space.

The subject use complies with the above General Plan policies because it will support and expand an existing small business and provides a neighborhood service to the marina and surrounding commercial and high density residential uses. The subject use supports General plan policies to encourage recreation and appreciation of Stockton's waterways through catering business to water-related recreation, such as boating and fishing.

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 area is already supplied with all required infrastructure and the subject use is located in an existing commercial building. There are no known physical constraints.

SB 5 – The subject use does not result in a change of occupancy; therefore, this project does not trigger an SB 5 finding.

5. The establishment, maintenance, or operation of the subject sign 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 sign by requiring the sign to meet all applicable Federal, State, County, and City codes, regulations, and adopted standards

6. The establishment, maintenance, or operation of the subject sign 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 sign by requiring the sign to meet all applicable Federal, State, County, and City codes, regulations, and adopted standards.

7. 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 planned convenience store with the off-sale of beer and wine is classified as a retail use that is compatible with the Commercial General Plan designation on the subject site. The anticipated customer base, traffic patterns, noise levels, and general operational characteristics of the proposed convenience store with the off- sale of beer and wine are compatible with nearby commercial and high-density residential uses.

8. The proposed action would be categorically exempt from the provisions of Section 15301, Class 1, of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines, because it will be located within an existing commercial building and existing infrastructure is adequate to serve the site and subject use.

Problem Use Findings

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 use will be located in an existing market that serves an established neighborhood in the marina and surrounding properties.

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.

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Alcoholic Beverages Findings

1. The subject use is not expected to result in additional nuisance activities on or near the premises,
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.
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. A Public Convenience or Necessity will not be required because the Census Tract, 31.06, is not overconcentrated. The subject use will be the second of two (2) authorized off-sale ABC licenses in Census Tract 31.06 (Exhibit B - Census Tract 31.06, Liquor Licenses). There are no other alcohol establishments and sensitive land uses in the proximity of the subject site. A video surveillance system will be installed in the commercial buildings to decrease crime and other impacts associated with alcohol uses in the vicinity area of the project site. 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, 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. 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.

5. 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.

6. 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.

7. Loitering shall be prohibited in or near the convenience store and on the subject site.

8. No single sales of beer or malt liquor in containers of 40 ounces or less shall be permitted in the convenience store. Containers of beer or malt liquor shall be sold in their factory packages of six (6) packs or greater.

9. The owners and all employees of the alcoholic beverage sales establishment who are involved in the sale of alcoholic beverages shall complete an approved course in "Responsible Beverage Sales" (RBS), or any other ABC approved course, within 60 days of hire for employees hired after the passage of the ordinance codified in this section or within six (6) months of the passage of the ordinance codified in this section for existing employees. To satisfy this requirement, a certified program must meet the standards of the Alcohol Beverage Control Responsible Beverage Service Advisory Board, other certifying/licensing body Service Advisory Board, or other certifying/licensing body designated by the State of California.

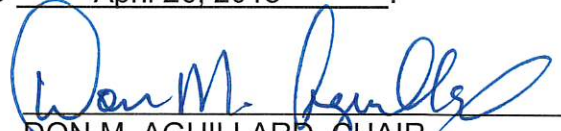
10. The establishment shall be required to operate in a manner appropriate with mitigating alcohol-related problems that negatively impact those individuals living or working in the neighborhood, including, but not limited to: sales to minors, the congregation of individuals, violence on or near the premises, drunkenness, public urination, solicitation, drug-dealing, drug use, loud noise, and litter.

11. Any future signage shall be subject to approval by the Community Development Department prior to the issuance of a building permit.

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12. The Use Permit shall become valid ten days after approval, unless the action is appealed.

PASSED, APPROVED, and ADOPTED April 26, 2018.


DON M. AGUILLARD, CHAIR
City of Stockton Planning Commission

ATTEST:


DAVID W. KWONG, SECRETARY
City of Stockton Planning Commission