

Resolution No.

# STOCKTON PLANNING COMMISSION

---

## **RESOLUTION DENYING A VARIANCE AND DESIGN REVIEW TO ALLOW THE INSTALLATION OF A PROPOSED NEW POLE SIGN IN AN EXISTING SHOPPING CENTER AT 3702-C EAST HAMMER LANE (P18-0712)**

The applicant, Glen Hartigan, submitted a Variance and Design Review application to allow the installation of a proposed new pole sign in an existing shopping center at the noted location; and

The shopping center has two existing legal non-conforming pole signs, one at East Hammer Lane and another at Holman Road. The new pole sign will be the third pole sign in the center; and

The new pole sign is 24 feet in height and 81 square feet in area (per face) and is for an indoor playground facility (Luv2Play) at the southeast side of an existing parking lot of the center; and

On December 13, 2018, the Planning Commission conducted a public hearing to consider the Variance and Design Review request in accordance with Stockton Municipal Code (SMC) section 16.172.050; and

Design review is a required component of variance approval. Here, notwithstanding the ARC's review and recommended approval, both the Variance and Design Review must be denied because the required findings for the Variance cannot be made; now, therefore,

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

1. The foregoing recitals are true and correct and incorporated herein by reference.
2. Based on its review of the entire record herein, the Planning Commission makes the following findings:

### Variance

1. Special Circumstances. "There are special circumstances applicable to the property (e.g., location, shape, size, surroundings, or topography), so that the strict or literal interpretation and enforcement of this Development Code denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts (SMC 16.172.050.A.1)."

Special circumstances are not applicable to the project site. The shopping center is bounded by East Hammer Lane, Sampson Road, Telstar Place, and Holman Road. The subject site is located at the northwest side of both Sampson Road and Telstar Place and is visible from each. The applicant states the subject business is out of view from main entrances of Holman Road and East Hammer Lane. However, the shopping center has two existing pole signs, one at Holman Road and another at East Hammer Lane. Each pole sign has one available panel for the new tenant. Adding a sign copy on each pole sign will provide adequate visibility to notify the tenant's customers of their location. Further, SMC section 16.76.J.2.c also allows wall signs to be installed on the east and south sides of the store wall (Luv2Play). These signs will direct their customers travelling on Sampson Road or Telstar Place to find the facility.

2. Exceptional Circumstances. "There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties classified in the same zoning district; (SMC 16.172.050.A.2)."

Although the subject business is located far back from the main entrances on Holman Road and East Hammer Lane, the site can accommodate code-compliant signage able to adequately orient customers. As reference in Table 1 in the staff report, these include adding sign copies to two existing pole signs, installing a secondary monument sign, adding directional signs at the parking lot area, and/or an electronic message sign at the Sampson Road entrance.

3. Physically Suitable – "The subject site would be physically suitable for the proposed Variance (SMC 16.172.050.A.3)."

The subject site is not physically suitable for the Variance request because the freestanding pole sign will be located inside the shopping center at the southeast side of the existing parking lot in a location not visible from East Hammer Lane or Holman Road. There are two existing pole signs in the center and adding a sign copy on each pole sign will provide adequate visibility to direct the tenant's customers to find the location.

4. Granting the Variance would:

a. "Be necessary for the preservation and enjoyment of substantial property rights possessed by other property owners in the same vicinity and zoning district and denied to the property owner for which the variance is sought."

Granting the Variance request would not preserve the tenant's right possessed by other property owners or tenants in the vicinity shopping centers, because the sign regulations offer other options, such as adding a sign copy on an available panel of existing pole signs, installing a secondary monument sign at entrance to the center, direction signs at the parking lot area, and/or electronic message sign at Sampson Road entrance.

b. “Be consistent with the general land uses, objectives, policies, and programs of the General Plan, any applicable specific plan, precise road plan, or master development plan, and the intent of this Development Code.”

The proposed pole sign in the center is not consistent with SMC section 16.76.010.C to provide for fair and equal treatment of sign users in the center and SMC section 16.76.100.E.1.b.ii.(B)(1) that freestanding pole signs may be located at or near the main street entrance to the integrated center.

c. “Not constitute a granting of special privilege inconsistent with the limitations on other properties classified in the same zoning district.”

Granting the Variance for the construction of a pole sign will constitute a special privilege for the tenant to advertise their own business in the center. It will set up a precedent for other tenants in the same zoning district to request similar signs in the shopping center.

d. “Not authorize a use or activity which is not otherwise expressly authorized by the zoning district regulations governing the subject property.”

Granting the Variance to install the pole sign will result in violation of the zoning regulations to provide for maximum public convenience by properly directing people to various activities, not just for a single tenant in the center.

e. “Not be detrimental to the public convenience, health, interest, safety, or general welfare of the City or materially injurious to properties or improvements in the vicinity.”

Approving the Variance may interfere with the public safety and efficient flow of vehicular traffic in the center, because the Luv2Play customers may not pay attention to pedestrians and/or other vehicles in the center by looking for the sign to find the location.

f. “Be in compliance with the provisions of the California Environmental Quality Act (CEQA) and the City’s CEQA Guidelines.”

Although the project would be Categorical Exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines section 15311 Class 11, Accessory Structures, no finding is required here because the sign will be denied.

//  
//  
//  
//  
//  
//  
//  
//

Based on its review of the entire record, including the December 13, 2018 Planning Commission staff report, all supporting, referenced, and incorporated documents, and all comments received, the Planning Commission hereby denies the Variance request.

PASSED, APPROVED, and ADOPTED December 13, 2018.

---

DON M. AGUILLARD, CHAIR  
City of Stockton Planning Commission

ATTEST:

---

DAVID W. KWONG, SECRETARY  
City of Stockton Planning Commission