

Resolution No.

STOCKTON PLANNING COMMISSION

RESOLUTION AMENDING USE PERMIT 18-0720 FOR THE CANNABIS DISPENSARY AT 2401 STAGECOACH ROAD (P18-0720)

The applicant, Delta RE LLC, submitted a Use Permit Amendment application to authorize the expansion of an approved cannabis dispensary within an existing building at 2401 Stagecoach Road in an IG (Industrial, General) zoning district; and

The amendment would allow the expansion of the cannabis dispensary to a maximum total floor area of 9,400 square feet; and

The cannabis dispensary expansion complies with the cannabis dispensary provisions of Stockton Municipal Code (SMC) section 16.80.195, and all minimum separation requirements from sensitive uses and other restriction; and

On February 14, 2019, the Planning Commission held a duly noticed public hearing, pursuant to SMC section 16.88.050(C), to consider the application, at which time all interested parties had the opportunity to be heard; and

On February 14, 2019, and prior to acting on this request, the Planning Commission considered the staff report analyzing the application, including the California Environmental Quality Act (CEQA) determination therein; 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 reference.
2. Based on its review of the entire record herein the Planning Commission hereby approves the requested amendment to Use Permit 18-0720, to allow the operation of an expanded cannabis dispensary based on the following findings of fact and conditions of approval:

Use Permit: General Findings

1. The subject use is allowed in the IG (Industrial, General) zoning district, subject to the approval of a Use Permit by the Planning Commission and complies with all applicable provisions of the Development Code and the Municipal Code. The expansion would not increase the number of dispensaries permitted in the City.
2. The subject use, as conditioned, would maintain the integrity and character of the surrounding neighborhood, because it would result in the use of a vacant building, it provides local employment and, through the implementation of conditions

imposed here as well as security measures required by SMC Chapter 5.100, it would reduce criminal behavior in the area and not jeopardize or be hazardous to public peace and welfare.

3. The proposed use is consistent with applicable general land uses, objectives, policies, and programs of the General Plan because it is a commercial use on a site designated for such uses and is consistent with the following General Plan policies:

Policy 3.1 (Land Use Designation Standards): Industrial allowed Uses: A wide variety of industrial uses including uses with nuisance or hazardous characteristics, warehousing, construction, contractors, light manufacturing, offices, retail sales, service businesses, public and quasi-public uses, and other similar compatible uses. Residential uses are prohibited.

Policy LU-5.5 (Compatible Land Use): The City shall ensure adequate separation between sensitive land uses (residential, educational, healthcare) and industrial land uses to minimize land use incompatibility associated noise, odors, and air pollutant emissions from industrial uses.

The subject use complies with the above General Plan policies because it is consistent with the Industrial Land use designation and is appropriately separated from sensitive land uses as required by SMC section 16.80.195(A) for cannabis dispensaries.

4. The subject site is expected to 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 area is already supplied by the required infrastructure, the subject use is located in an existing warehouse building, and there are no known physical constraints associated with the subject site.
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, as conditioned, security measures deemed adequate by the Police Department will be put in place for the proposed use. The use of the site raises no potential public health and safety issues in the subject industrial setting.
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 under services, in accordance with Table 2-2 (Allowable Land Uses and Permit Requirements) of the Development Code and is compatible with the warehouse use previously in place in the same commercial building. The anticipated customer

base and traffic patterns will operate at different peak periods than the surrounding industrial park warehouse uses. Noise levels and general operational conditions of the subject dispensary are compatible with the industrial uses and the required implementation of air filtration systems will further prevent exposure to noxious odors.

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) 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.

Conditions of Approval

1. This resolution shall supersede that which approved the original Use Permit, 18-0720.
2. This Use Permit authorizes the site plan and floor plan included as Exhibit 1.
3. Comply with all applicable Federal, State, County, and City codes, regulations, and adopted standards, and pay all applicable fees.
4. 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.
5. The Use Permit shall become effective following the completion of a ten-day appeal period following approval of the application.
6. The Use Permit shall be posted in a conspicuous place and be made available immediately to City personnel upon inspection of the premises.
7. 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.
8. 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.
9. 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 and submitted to the Community Development Department as a part of the required review.

10. 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.
11. Edible cannabis products at the dispensary shall be limited to non-potentially hazardous foods, such as cookies, brownies, and candies.
12. Cannabis products shall not be consumed in the dispensary tenant space or the parking area.
13. Edibles shall be clearly labeled with a warning that the item contains 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.
14. 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.
15. 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.
16. The use of any open flame device, including, but not limited to, decorative candles, torches, and cigarette lighters, shall be prohibited within the dispensary.
17. 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.
18. All signs shall be subject to approval by the Community Development Department.
19. 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.
20. 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.

21. 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.
22. An 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.
23. 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 14, 2019.

_____, CHAIR
City of Stockton Planning Commission

ATTEST:

MICHAEL McDOWELL, SECRETARY
City of Stockton Planning Commission