

Resolution No.

## STOCKTON PLANNING COMMISSION

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### **RESOLUTION APPROVING A LAND DEVELOPMENT PERMIT FOR A FUELING STATION USE AND FREEWAY-ORIENTED POLE SIGN IN THE COMMERCIAL, GENERAL ZONE, AND DESIGN REVIEW FOR ALL EXTERIOR IMPROVEMENTS RELATED TO THE OVERALL COMMERCIAL DEVELOPMENT PROJECT (APPLICATION NO. P19-0372)**

The applicant, Robert Vermeltfoort, on behalf of property owner, Carol Ann Jaques Trust, has submitted an application for a Land Development Permit and Design Review for the development of a commercial development project of approximately 2,348 square feet (sq.ft.) for a Drive-Through Restaurant use and 2,958 sq.ft. for a Fueling Station use including six fueling stations; additionally, a second vehicle access point would occur along West 2<sup>nd</sup> Street – all located on a portion of 760 West Charter Way (Assessor's Parcel Number 163-230-23) within the Industrial, Limited (IL) Zone and hereafter referred to as the "Project"; and

The Project also includes a pole sign (freeway-oriented sign) subject to Stockton Municipal Code (SMC) section 16.76.100(E)(2)(a)(ii); and

On September 25, 2019, the Architectural Review Committee reviewed the Design Review request and forwarded a recommendation of approval to the Director. Additional requests made by the ARC to provide elevations of the fueling station canopy and trash enclosure, a photometric and landscaping plan, and minor revisions to one of the proposed building elevations, will be confirmed by the Director prior to building permit issuance. Pursuant to SMC section 16.120.050(D)(1)(b) for projects requiring discretionary approval of a development application e.g., rezone and land development permit, the concurrent review of the Design Review request may be submitted to the Planning Commission as the final Design Review Authority; and

On January 23, 2020, the Planning Commission conducted a duly noticed public hearing, pursuant to SMC section 16.116.040(D), to consider the requested actions, at which time all interested parties had the opportunity to be heard; and

On January 23, 2020, and prior to acting on the requested actions, the Planning Commission considered the California Environmental Quality Act (CEQA) determination reflected in the findings below; now, therefore,

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

A. The foregoing recitals are true and correct and incorporated herein by reference.

B. Based on the staff report, staff presentation, comments received, and the public hearing, the Planning Commission makes the following findings based on

substantial evidence in the record:

SMC Section 16.136.060 (Land Development Permits: Findings & Decision)

1. Finding: The proposed land use activity is allowed within the subject zoning district with the approval of a land development permit and complies with all other applicable provisions of this Development Code and the Municipal Code. (SMC § 16.136.060(A))

Evidence: The proposed use is permitted in the Commercial General (CG) zone and is subject to approval of a Land Development Permit, per Stockton Municipal Code (SMC) section 16.20.020, Table 2-2. The use, as proposed, meets all applicable development standards at SMC Title 16 (Development Code). There are no applicable overlays or specific plans for this site.

2. Finding: The proposed land use activity would be consistent with the general land uses, objectives, policies, and programs of the General Plan and any applicable specific plan, precise road plan, or master development plan. (SMC § 16.136.060(B))

Evidence: The proposed use is surrounded by Industrial Limited (IL) and Low Density Residential (RL) zoning districts and abuts developed properties. The proposed use would strengthen the integrity and character of the neighborhood by redeveloping an infill site with a compatible nonresidential land use by rezoning the site to Commercial, General (CG). Additionally, the proposed development has been reviewed by the City's Architecture Review Committee (ARC) and determined to be in compliance with applicable provisions of the Citywide Design Guideline.

The proposed 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 designation of Commercial and the subject use is consistent with the following General Plan goals and policies:

LU-6.2 Prioritize development and redevelopment of vacant, underutilized, and blighted infill areas.

The proposed use complies with the above General Plan policy because it supports development of underutilized land. The site is undeveloped and the proposed site improvements would be compatible with the land use of a six-pump fueling station and drive-through restaurant.

3. Finding: The subject site would be physically suitable for the type and density/intensity of use and structure(s) being proposed including the provision of services (e.g., sanitation, utilities, and water), public access, and the absence of physical constraints (e.g., earth movement, flooding, etc.). (SMC § 16.136.060(C)(1).)

Evidence: The site is flat and borders a developed commercial property and two public streets. There are no known physical constraints to development of the site. The site is located within a 200-year flood zone but, as demonstrated below, the risk of flooding is reduced to an acceptable level.

4. Finding: The subject site would be adequate in size and shape to accommodate the use and all fences and walls, landscaping, loading, parking, yards, and other features required by this Development Code. (SMC § 16.136.060(C)(2).)

Evidence: The proposed use of fueling station and drive-through would involve the development of a parcel located in an infill location. Additionally, the site accommodates the use and all fences and walls, landscaping, parking, and other features required by Title 16 (Development Code), including all development standards particular to SMC section 16.80.320 (Service Stations) (Fueling Stations). The project site would be served by streets adequate in width and pavement type to carry the quantity and type of traffic generated by the proposed use.

5. Finding: The subject site would be served by streets adequate in width and pavement type to carry the quantity and type of traffic generated by the proposed development. (SMC § 16.136.060(C)(3).)

Evidence: The fueling station would result in widening the existing driveways (to accommodate delivery vehicles) and the second driveway along West 2<sup>nd</sup> Street. A Traffic Impact Analysis (TIA) was prepared by KD Anderson, dated December 20, 2019, and concludes that the with and without the project traffic levels would satisfy the City's minimum LOS D standard. Therefore, the project site would support the quantity and type of traffic generated by the proposed development.

6. Finding: The establishment, maintenance, or operation of the proposed land use activity at the location proposed would not 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 proposed use. (SMC § 16.136.060(D).)

Evidence: The development of the vacant parcel and associated public improvements, i.e., curb, gutter, sidewalk installation along West Charter Way, will improve conditions for pedestrians. The closest residential area is adjacent to project site's southern boundary. The proposed fueling station and drive-through restaurant are sufficiently removed (i.e., at least 250 feet) from those uses to not create adverse effects (e.g., noise, light) to their general welfare. Lastly, the proposed commercial uses are compatible with others existing along the West Charter Way corridor both west and east of the project site.

7. Finding: The proposed development would be in compliance with the provisions of the California Environmental Quality Act (CEQA) and the City's CEQA

Guidelines. (SMC § 16.136.060(E).)

Evidence: See CEQA finding below.

SMC Chapter 16.90 (Floodplain Management Findings)

8. 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. The substantial evidence in the record consists of the effective 200-year floodplain map and data, determined by the Community Development Director. Therefore, the shallow flood exemption applies to the project.

SMC Section 16.120.060 (Design Review: Findings)

9. Finding: The proposed development is consistent with all applicable provisions of this Development Code and other applicable City ordinances. (SMC § 16.120.060(A).)

Evidence: The proposed site is designated Industrial, Limited (IL) and is proposed a rezone to Commercial, General (CG) Zoning District. The project is consistent with all applicable provisions of the Development Code, including, but not limited to, standards related to setbacks, building height, density, and off-street parking.

10. Finding: The general design considerations, including the character, quality, and scale of design are consistent with the purpose/intent of this chapter and the Guidelines and other design guidelines that may be adopted by the City. (SMC § 16.120.060(B).)

Evidence: The project is subject to Stockton's Citywide Design Guidelines, Section 4.02.060 Special Commercial Use Design Guidelines for the proposed drive-through restaurant and Section 4.02.110 for the proposed fueling stations. The proposed land uses are consistent with the provisions of the section, in that it is compatible with the surrounding uses. Additionally, the site provides elements such as exterior lighting, landscaping, a proposed monument sign, and a 40-foot tall pylon signs.

11. Finding: The architectural design of structures and their materials and colors are visually compatible with surrounding development. Design elements (e.g., awnings, exterior lighting, screening of equipment, signs, etc.) have been incorporated into the project to further ensure its compatibility with the character and uses of adjacent development, and/or between the different types of uses in a mixed-use development. (SMC § 16.120.060(C).)

Evidence: The proposed development is compatible with surrounding developments which are either commercial, industrial, or residential use. The

fueling station canopy, mini-mart, and drive-through restaurant have incorporated brick siding and are painted neutral colors e.g., brown, tan, and white. Additionally, the site would be illuminated with exterior LED lighting and would ensure compatibility with adjacent residential uses.

12. Finding: The location and configuration of structures are compatible with their sites and with surrounding sites and structures and do not unnecessarily block views from other structures or dominate their surroundings. (SMC § 16.120.060(D).)

Evidence: The proposed fueling station and drive-through restaurant is aligned with the adjacent commercial buildings. The City has imposed a condition on the Land Development Permit request that will protect the proposed structure(s) on the property to the urban level of flood protection standard. A civil engineer's report prepared by Hawkins & Associates Engineering, Inc. entitled *200 Year Flood Plain Protection for 760 W Charter Way* (dated January 7, 2020), confirms that the placement of fill to raise the existing ground will provide for the lowest floor elevation of the proposed structure(s) to be protected to the urban level of flood protection. Therefore, the project is compatible with and will not dominate the surroundings and other structures.

13. Finding: The general landscape design, including the color, coverage, location, size, texture, and type of plant materials, provisions for irrigation, planned maintenance, and protection of landscape elements have been considered to ensure visual relief, to complement structures, and to provide an attractive environment. (SMC § 16.120.060(E).)

Evidence: The proposed landscape design incorporates low water trees, shrubs, and ground cover that is compatible with the City of Stockton's master tree list and the Citywide Design Guidelines section 4.01.090(A).

14. Finding: The design and layout of the proposed project will not interfere with the use and enjoyment of neighboring existing or future development and will not result in vehicular or pedestrian hazards. (SMC § 16.120.060(F).)

Evidence: The construction of the fueling station and drive-through restaurant and would not interfere with the neighboring existing and future developments. The driveway along Charter Way will be expanded and the driveway along West 2<sup>nd</sup> Street would be designed to comply with the City's R-59 requirements and 47 parking spaces (in addition to six (6) two-sided multi-product dispensing pumps) are proposed. Therefore, the project would not interfere with existing and future development; nor create a vehicular or pedestrian hazard.

15. Finding: The building design and related site plans, including on-site parking and loading, has been designed and integrated to ensure the intended use will best serve the potential users or patrons of the site. (SMC § 16.120.060(G).)

Evidence: The proposed fueling station and drive-through restaurant would

provide a sufficient amount of parking (e.g., 47 parking stalls in addition to six (6) two-sided multi-product dispensing pumps are proposed) as required by SMC section 16.64 (Off-Street Parking and Loading Standards), Table 3-9.

16. Finding: Special requirements or standards have been adequately incorporated, when applicable, into the building and/or site design (e.g., American Disabilities Act regulations, historic preservation, mitigation measures, open space, utilities, etc.) (SMC § 16.120.060(H).)

Evidence: The proposed fueling station and drive-through restaurant has incorporated three (3) ADA parking stalls in addition to providing a pedestrian accessible route from the fueling station to the mini-mart and to the drive-through restaurant. Final details for accessibility will be evaluated against mandatory standards imposed through the subsequent building permit review process. There are no other special standards (e.g., historic, open space) applicable to the project.

#### California Environmental Quality Act

17. The Project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15332 (In-Fill Development Projects).
- a. The Project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. The General Plan Land Use Map designates the subject site as Commercial. Presently, the Zoning Map provides an Industrial, Limited (IL) Zone to the subject site which is inconsistent with the aforementioned General Plan Land Use Map designation. To remedy that inconsistency, the Project proposes to amend the Zoning Map to assign a consistent designation of Commercial, General (CG) which, pursuant to General Plan Table 2-1, a consistent designation.
  - b. The Project occurs within city limits on a site of no more than five acres substantially surrounded by urban uses. The site is approximately 1.45 acres and surrounded by urban development on all sides including the adjacent U.S. Interstate 5.
  - c. The Project site has no value as habitat for endangered, rare or threatened species. The site is surrounded by urban development and covered with a mixture of ruderal vegetation and gravel rocks. In recent time, the site has been used to park commercial vehicles. The San Joaquin County Multi-Species Habitat Conservation Plan assigns a 'No Pay Zone (HAB2)' to the site.
  - d. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. As substantiated by the Traffic Impact Analysis dated December 20, 2019 and prepared by KD Anderson

& Associates, Inc. no significant effect would result from the project under the topic of traffic. Pursuant to guidance from the San Joaquin Valley Air Pollution Control District dated March 1, 2017, the Project's proposal to install six fueling stations falls below the Small Project Analysis Level; thereby, demonstrating no significant effect on air quality would result. Mandatory compliance with SMC Chapter 13.20 (Stormwater Quality Control Criteria Plan) ensures the project would not significantly affect water quality.

- e. Based on information provided by the Stockton Municipal Utilities District, the site can be adequately served by all required utilities and public services.

- 18. The Project is not subject to any exceptions to the use of a categorically exempt from CEQA as enumerated at CEQA Guidelines section 15300.2 (Exceptions.)

C. Based on its review of the entire record herein, including the staff report and all supporting, referenced, and incorporated documents and all comments received and foregoing findings, the Planning Commission hereby approves the requested Land Development Permit and Design Review, subject to the following conditions:

#### Conditions of Approval

- 1. Comply with all applicable Federal, State, County, and City codes, regulations and adopted standards and pay all applicable fees.
- 2. The property 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.
- 3. In order to minimize any adverse financial impact on the City of Stockton (COS) associated with development and/or use of the subject site, the ODS agrees that it will not challenge or protest any applicable fees associated with the development of the site, but if such fees are amended or modified, the ODS agrees to pay such fees as they may be amended or modified from time to time.
- 4. The subject development must comply with the requirements of the San Joaquin Council Government's San Joaquin Multi-Species Habitat Conversation and Open Space Plan prior to the submittal of a grading permit for the subdivision.

#### Project-Specific Conditions

- 5. This approval authorizes the plans included as Exhibit 1 (Project Plans), except as noted below at Condition No. 8.

6. This approval shall not be effective until and unless the Zoning Map Amendment for 760 West Charter Way (APN 163-230-23) accompanying this application is approved by the Stockton City Council.
7. Prior to the issuance of a Certificate of Occupancy, all off-site improvements (e.g., curb, gutter, sidewalk, street lighting) shall be installed.
8. This approval excludes the proposed “future” building and related site improvements depicted on submitted plans at the approximate southern half of 760 West Charter Way (APN 163-230-23) but requires the construction of the 30-foot wide drive aisle from the Drive-Through Restaurant and Fueling Station use through to West 2<sup>nd</sup> Street. Said drive aisle shall be constructed prior to occupancy of the Drive-Through Restaurant and Fueling Station uses.
9. The lowest finished floor of all proposed structure(s) shall be elevated to provide the required urban level of flood protection, as defined in California Government Code section 65007, based on the effective 200-Year Floodplain Analysis Map and in accordance with the “Technical Memorandum” prepared by Hawkins & Associates Engineering, Inc., dated January 7, 2020.

PASSED, APPROVED, and ADOPTED January 23, 2020.

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KIMBERLY A. WARMSLEY, CHAIR  
City of Stockton Planning Commission

ATTEST:

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MICHAEL MCDOWELL, SECRETARY  
City of Stockton Planning Commission