

Resolution No.

# STOCKTON PLANNING COMMISSION

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## **RESOLUTION APPROVING DESIGN REVIEW AND A VARIANCE TO ALLOW A REDUCED FRONT SETBACK FOR A FIRE PUMP STRUCTURE AT AN EXISTING BUSINESS AT 2005 WEST WASHINGTON STREET (APN 145-030-03) (APPLICATION NO. P20-0424)**

The applicant, M&L Commodities, submitted a Variance and Design Review application to allow a reduced setback associated with the construction of a fire pump structure at an existing business; and

On February 18, 2021, the Community Development Director reviewed the Project's design and made a recommendation to the Planning Commission for final approval of the Project's design; and

On March 30, 2021, public notice for the subject application was published in the local newspaper in accordance with Stockton Municipal Code (SMC) Section 16.88.030; and

On April 8, 2021, the Planning Commission conducted a public hearing to consider the Variance and Design Review request in accordance with Stockton Municipal Code (SMC) Section 16.172.040(C) (Notice and Hearing); and

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

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

### Variance Findings

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)."

M&L Commodities runs their business out of an existing building. The fire pump structure is being included as a minor appurtenance to the front of the building solely to enclose a new fire protection standpipe, so a fire sprinkling system can be provided to the building. There are no financially feasible opportunities elsewhere around or within the

building, to incorporate the fire pump structure. Strict interpretation of the Development Code would burden the business such that they could not install a fire suppression system, and therefore unable to expand their cold storage business. Developers of new construction on a similar parcel would be required to conform to the current Development Code, and therefore would not likely require a variance. They would have the benefit of designing the project from the ground up and would not require a variance. As this variance request is for an existing building, the outright interpretation of the Development Code is a denial of privileges enjoyed by other property owners, effectively disallowing the project.

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).”

The structure was built prior to a requirement for a fire sprinkler suppression system. Water service is provided to the building from Washington Street. The western side of the building is directly next to a railroad track with direct access to the building, limiting the addition of a structure on this side. The eastern side of the building has only enough room for vehicular and truck access. On the rear of the site there is room to construct the fire pump structure, however constructing a dedicated water line over 500’ to the rear of the site is cost prohibitive for the Applicant. The front of the site abutting West Washington Street, has room to accommodate the fire pump structure with the loss of two (2) existing parking spaces. There are currently seventeen (17) existing parking spaces along the front of the building, and a larger paved surface at the rear of the property for truck staging, loading, and off-loading, and parking. The reduction of two (2) spaces will leave a remaining fifteen (15) spaces for staff and guest parking. The facility currently employs seven (7) persons.

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

The subject site would be physically suitable for the proposed variance. The site is flat, with a large existing warehouse occupying a majority of the site. The location of the structure for the fire pump is along the front of the building and will be attached to the building. The structure will be located where two (2) existing parking stalls are along the front of the building. These stalls are perpendicular to West Washington Street. Even with the two (2) stall reduction along the front, there is sufficient parking on-site that complies with the Municipal Code. Therefore, Staff can determine that the site is physically suitable for the proposed variance.

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 of a variance will enable the owner to install a dedicated fire sprinkler suppression system inside the existing building. The building was not originally equipped with a fire sprinkler suppression system. New construction in the same vicinity and zoning district could likely accommodate and plan for a similar system without the need for a variance through their project design. If denied, the owner will not be able to operate their cold storage facility at this location and would be forced to look elsewhere.

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.”

Approval of a variance would support multiple goals, objectives, and policies in the General Plan. The General Plan designation is Industrial, which supports a wide variety of industrial uses, including uses with nuisance or hazardous characteristics, warehousing, construction contractors, light manufacturing, office, retail sales, service business, public and quasi-public uses, and other similar and compatible uses. M&L Commodities operates a cold storage facility that provides storage of refrigerated and frozen goods to businesses across the nation. General Plan Policy LU-4.2 states “Attract employment - and tax-generating businesses that support the economic diversity of the city.”

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

Granting the variance does not change how the business operates or provide a special privilege not available to other businesses located in the Industrial zoning district. Granting the variance enables M&L Commodities to install a fire sprinkler suppression system inside their warehouse, the intent of which is to provide additional measures to protect the building in a fire event

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

The land use is considered “Warehouse” under Industry, Manufacturing, and Processing Uses in SMC 16.20.020, Table 2-2. Warehouses are permitted by right in the IG zoning district.

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.”

Approval of the Variance would not cause detriment to the public convenience, health, interest, safety, or general welfare of the City of materially injurious to properties or improvement in the vicinity. The structure to contain the fire pump is located on the property, does not interfere with traffic or pedestrian movement, and is being installed to support a new fire suppression sprinkler system for the building, making it a safer structure in a fire event.

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

The proposed action is a Categorical 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 is in an existing building with only minor alterations to the site proposed. The action is also not subject to any of the exceptions enabling the use of a Categorical Exemption under CEQA Guidelines 15300.2.

### Conditions of Approval

#### *Standard Conditions of Approval*

1. This approval recommendation is for the Design Review and Variance approvals included as Exhibit 1 and incorporated by this reference.

2. The use or construction for this entitlement shall be initiated within 12 months from the effective date of this approval of the application and diligently pursued to completion.

3. Comply with all applicable Federal, State, County, and City codes, regulations and adopted standards and pay all applicable fees.

4. 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 approval for this project or its related environmental document.

5. In order to minimize any adverse financial impact on the City of Stockton associated with development and/or use of the subject site, the ODS agrees that it will not challenge, or protest and applicable fees associated with the development of the site, but if such fees are amended or modified, the ODS agree to pay such fees as they may be amended or modified from time to time.

6. All work shall be performed under a building permit for which drawings and plans have been approved under the procedures and requirements of SMC §16.120.010. All work shall conform to the approved drawings and plans. The signed and/or stamped plans shall be submitted before, or at the same time as, the building permit application.

Based on its review of the entire record, including the April 8, 2021, Planning Commission staff report, all supporting, referenced, and incorporated documents, and all comments received, the Planning Commission hereby approves the Variance request.

PASSED, APPROVED, and ADOPTED April 8, 2021.

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ANNE MALLET, CHAIR  
City of Stockton Planning Commission

ATTEST:

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WILLIAM CREW, SECRETARY  
City of Stockton Planning Commission