

Resolution No.

## STOCKTON PLANNING COMMISSION

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### **RESOLUTION APPROVING A COMMISSION USE PERMIT TO ALLOW THE ESTABLISHMENT OF A CONVENIENCE STORE WITH THE OFF-SALE OF BEER AND WINE, FUELING STATION, AND GENERAL MERCHANDISE AT THE SOUTHEAST CORNER OF EAST HAMMER LANE AND MARANATHA DRIVE (P19-0718)**

On September 9, 2019, the applicant, Hammer Lane, LLC, submitted an application to the Community Development Department for Commission Use Permit No. P19-0718, to develop a Convenience Store with off-sale of beer and wine, and Fueling Station (Project); and

On November 24, 2020, the Architectural Review Committee recommended approval of the Project design to the Director. Changes were made to a portion of the project, which was subsequently reviewed by the Architectural Review Committee who made a recommendation to the Director for approval. The Director confirmed the Architectural Review Committee's recommendation and made a recommendation to the Planning Commission for final approval of the Project's design; and

On June 14, 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 June 24, 2021, the Planning Commission conducted a public hearing on the application, in compliance with SMC Section 16.168.040(D), at which point all persons wishing to be heard were provided such opportunity; now, therefore,

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

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

B. Based on its review of the entire record herein, the Planning Commission makes the following findings:

#### Use Permit: General Findings

1. The proposed use is allowed in the Commercial, General (CG) zoning districts, subject to approval of a Use Permit by the Planning Commission and complies with all other applicable provisions of the Development Code (Title 16) and the Stockton Municipal Code. Per Stockton Municipal Code (SMC) Section 16.20.020, Table 2-2, the use, as proposed, will meet all applicable development standards at SMC Title 16

(Development Code) with a waiver of the location restriction (SMC 16.80.040(D)(2)(d)(i)(A)) in a crime reporting district that exceeds the average number of crime for all reporting districts by more than 20 percent, since Crime Reporting District 0358 covers an unusually large territory of commercial shopping centers and the project will promote and support local economic development by compliance with General Plan Policy LU-4.2 through attraction of employment – and tax generation businesses that support the economic diversity of the City. There are no applicable overlays or specific plans for this site.

2. The proposed use, as conditioned, will maintain or strengthen the integrity and character of the neighborhood and zoning district in which it is to be located. The proposed convenience store and fueling station facility will occur within a new building that was reviewed by the Architectural Review Committee (ARC), determined to be in compliance with the applicable provisions of the Citywide Design Guidelines. Further, it will provide additional neighborhood-service retail and convenience services to the local neighborhood.

3. The proposed use will be consistent with the general land uses, objectives, policies, and programs of the General Plan and any applicable specific plan or master development plan:

Goal CH-3: Expand opportunities for local enterprise, entrepreneurship, and gainful employment.

Land Use-4.5, Commercial Area Aesthetics – The City shall require that new commercial development incorporate landscaping and good design in accordance with Citywide Design Guidelines. The City's ARC has reviewed and determined that the project's proposed elevations, renderings, and materials are substantially in compliance with applicable provisions of the Citywide Design Review Guidelines.

ED—1 To maintain a thriving business community that provides a sound tax base for the City, jobs for the local workforce, and commercial shopping opportunities for residents and visitors alike. The proposed development will create jobs and provide services to an underserved area of Stockton.

4. The subject site will 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.). The Project and development site have been evaluated by all City Departments for consistency with the development standards in the Municipal Code and will be provided with adequate services and accesses. The site is flat, and borders developed public streets and commercial property. The proposed use will be served by the existing surrounding access and utilities, including sanitation, storm sewer, and water, located on Hammer Lane. There are no known physical constraints to develop the site. For all these reasons, the proposed use is of an appropriate intensity and would be carried out on a suitable site.

5. The establishment, maintenance, or operation of the subject use, at the location proposed and for the time period(s) identified, is not expected to 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 subject use, because the use will be subject to conditions of approval that require a security surveillance video system, installation of lighting around the premises, as well as additional conditions of approval relating to loitering and obeying all laws established by the City of Stockton and Alcoholic Beverage Control.

6. 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 uses.

7. The proposed project is in compliance with the provisions of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines. The City has prepared an Initial Study/Addendum to the 2040 General Plan Environmental Impact Report (EIR Addendum) in compliance with CEQA guidelines section 15162. The EIR Addendum and the Mitigation Monitoring and Reporting Plan must be adopted by the City Council before the Commission Use Permit may be issued.

#### Problem Use Findings – Alcoholic Beverage Sales, Off-Sale

8. The proposed use, as conditioned, is not likely to interfere with the comfortable enjoyment of life or property in the area. The proposed off-sale of beer and wine will occur in a new convenience store and fueling station, which will be part of the larger retail commercial center at the site. The retail commercial center will have several tenants, including a full-service restaurant, a quick-service restaurant, and an Elite Car Wash. The site is currently vacant. The nearest residential area is located approximately 200 feet to the north on the opposite side of Hammer Lane.

9. The proposed use, as conditioned, will not increase or encourage the deterioration or blight of the area. The proposed off-sale of beer and wine will be going into a new convenience store and fueling station and redevelop a blighted and vacant corner. The Owners, Developers, and/or Successors in Interest (ODS) are required to conform to all Conditions of Approval related to the Project, which include conditions related to loitering, as well as all laws and regulations provided by Alcoholic Beverage Control.

10. The establishment of an additional use of this type in the area will not be contrary to any program of neighborhood conservation, improvement, or redevelopment, either residential or nonresidential. The use will be going into a new retail commercial center and will provide additional services to the neighborhood. There are no neighborhood conservation programs, improvement programs, or redevelopment programs in the area that the Project would be subject to.

### Alcoholic Beverages Findings

11. The proposed use will not result in repeat nuisance activity on or near the premises. Nuisance activity includes, but is not limited to: disturbing the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination/defecation, theft, assaults, batteries, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noise (especially in the late night or early morning hours), traffic violations, curfew violations, lewd conduct, or police detentions and arrests. As conditioned, the convenience store will endure to limit potential nuisance and criminal activity, littering, graffiti, and excessive loitering. The Applicant has agreed to comply with all conditions of approval.

12. The owners and all employees of the establishment 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 hire for new employees. To satisfy this requirement, a certified program must meet the standards of the Alcohol Beverage Control Responsible Beverage Service Advisory Board, Service Advisory Board, or other certifying/licensing body designated by the State of California. As a condition of approval, the Applicant will complete the approved course for responsible beverages sales.

13. 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 condition imposed on any valid permit(s) issued pursuant to applicable laws, regulations, or other authority. This includes compliance with annual city business license fees. The Applicant and proposed use will comply will all provisions of local, state, and federal laws, rules, regulations, policies, or orders enforced by the City of Stockton and ABC.

14. If required by Business and Professions Code section 23958.4, public convenience or necessity will be served by the issuance of this Commission Use Permit. The proposed off-sale of beer and wine at this location does not require a Public Convenience and Necessity determination.

### California Environmental Quality Act

C. The City has prepared an Initial Study/Addendum to the 2040 General Plan Environmental Impact Report (EIR Addendum) in compliance with CEQA guidelines section 15162. The EIR Addendum and the Mitigation Monitoring and Reporting Plan must be adopted by the City Council before the Commission Use Permit may be issued.

D. Based on its review of the entire record herein, all supporting, referenced, and incorporated documents, and all comments received, the Planning Commission hereby approves the requested Use Permit and waiver of a location restriction (SMC 16.80.040(D)(2)(d)(i)((A)), subject to the following conditions of approval.

### Conditions of Approval: Standard

1. This Use Permit approval authorizes the operation of a Convenience Store with off-sale of beer and wine and Fueling Station in the site area and design identified in Exhibit 1.
  - a. The Owners, Developers, and/or Successors in Interest (ODS) shall comply with all applicable Federal, State, County, and City codes, regulations, laws, and other adopted standards and pay all applicable fees.
  - b. 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 of this Permit.
  - c. This Use Permit shall be maintained on site and shall be immediately made available to City personnel upon inspection of the facility.
  - d. Any future building signage shall be subject to approval by the Community Development Department.
  - e. Separate building permits will be required for alterations to the site or building at the project location.

### Conditions of Approval: Project Specific

This Use Permit incorporates the following conditions of approval.

2. This Use Permit is limited to a Type 20 Alcoholic Beverage Control License, which limits sales to off-sale beer and wine.
3. A “complaint response community relations” program established and maintained by the establishment conducting the Alcoholic Beverage Sales Activity may be required. The program must include the following:
  - i. Posting at the entry of the establishment that provides the telephone number for the area commander of the local law enforcement substation to any requesting individual.
  - ii. Coordinating efforts with the Police Department to monitor community complaints about the establishment’s activities.
  - iii. Having a representative of the establishment meet with neighbors, or the applicable neighborhood association on a regular basis and at their request to attempt to resolve any neighborhood complaints regarding the establishment.

4. Hours of operation for the alcoholic beverage sales activity are limited to 6:00 AM to 2:00 AM, seven (7) days per week.
5. The following signs are required to be prominently posted in a readily visible manner on an interior wall or fixture, and not on windows, in English, Spanish, and any other predominant language of the patrons:
  - i. "California State Law prohibits the sale of alcoholic beverages to persons under 21 years of age."
  - ii. "No Loitering or Public Drinking" signs shall be posted on the exterior of the business.
  - iii. The business shall post E.A.S.Y. (Eliminate Alcohol Sales to Youth) materials that are visible from outside the business.
  - iv. The consumption or carrying of open containers of alcoholic beverages on the premises of the off-sale alcohol establishment is not permitted. Signs advising patrons of this prohibition shall be posted adjacent to the front door on the interior of the building.
6. 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.
7. Off-sale alcoholic beverage establishment shall be prohibited from selling drug/tobacco paraphernalia products as defined in Health and Safety Code sections 11014.5 and 11364.5.
8. The establishment's operators or employees shall be required to discourage loiterers on or near the premises and to 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.
9. Prior to the initiation of alcoholic beverage sales activity, the most current technology for a video surveillance system with at least a seven (7) 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 premises, including the parking lot and the entrances to the building.
10. Exterior vegetation shall not be planted or maintained if it could be used as a hiding place for persons on the premises. Exterior vegetation shall be planted and maintained in a manner that minimizes its use as a hiding place.
11. No more than 20 percent of windows or clear doors shall bear advertising of any sort and all advertising signage shall be placed and maintained in a manner that

ensures that law enforcement personnel have a clear and unobstructed view of the interior of the premises, including the area in which the cash registers are maintained, from the exterior public sidewalk or entrance.

12. 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 all employees hired. 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.
13. Exterior areas of the premises and adjacent parking lots shall be provided with sufficient lighting in a manner that provides adequate illumination for alcoholic beverage sales establishment patrons while not spilling onto surrounding parcels and rights-of-way. A photometric study may be required to demonstrate compliance once the use is initiated.
14. The Commission Use Permit shall be valid for the duration of the use, but if the alcohol sales license is revoked by the State of California, is transferred off-site, or if the establishment does not sell alcohol for a period of 24 months or more, the use permit may be subject to revocation following a public hearing.
15. The existing PG&E easement must be modified or abandoned prior to building permit issuance. New structures, utilities, etc., will not be allowed within the easement.
16. The proposed landscaping design must comply with the State Model Water Efficient Landscape Ordinance (MWELO). A landscape design package from a California licensed landscape architect will be required as part of the building permit submittal.
17. If the Convenience Store will sell prepared food, approval will be required from the San Joaquin County Environmental Health Department prior to building permit issuance.
18. The Owners, Developers and/or Successors (ODS) shall be responsible for the establishment of reciprocal utility, access, and parking easements. The noted easements shall be shown on the parcel map as reserved easements or recorded as separate instruments prior to the recordation of the parcel map.
19. The ODS shall also submit a plan to the San Joaquin County Environmental Health Department (EHD) for the review of the underground fuel storage tanks and associated piping/dispensers, etc.
20. The ODS shall submit detailed subdivision improvement plans. These plans shall show all on-site and off-site utilities necessary to provide water, storm, and sanitary

sewer utility service. These plans shall be designed in accordance with the City's most recently adopted water, storm, and sanitary collection system master plans and the City's Public Works design standards.

21. Any on-site wells and septic tanks shall be abandoned and destroyed prior to recordation of any final map in accordance with SMC 16.72.080(E). Standard for abandonment and destruction shall be as required by San Joaquin County Department of Environmental Health.
22. As a part of the building permit review process, MUD will require the project to submit a Stormwater Quality Control Plan (SWQCP) and provide a WDID number for the State approved Stormwater Pollution Prevention Plan (SWPPP).
23. This project must comply with the Storm Water Quality Control Criteria Plan, per the Stockton Municipal Code Section 13.20.010 and as outlined in the City's Phase 1 Storm Water NPDES permit issued by the California Water Quality Control Board, Central Valley Region (Order No. R5-2016-0040). The Owners, Developers, and/or Successors-in-Interest (ODS) must execute a Maintenance Agreement with the City, prior to receiving a Certificate of Occupancy, to provide funding for the operation, maintenance, and replacement costs of the storm water best management practices.
24. The ODS shall comply with any and all requirements, and pay all associated fees, as required by the City's Storm Water Pollution Prevention Program as set forth in its NPDES Storm Water Permit.
25. A sand/oil separator must be included with the carwash component of the project and can be reviewed at the time of building permit submittal.

PASSED, APPROVED, and ADOPTED June 24, 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