

Resolution No.

STOCKTON CITY COUNCIL

RESOLUTION APPROVING A COMMISSION USE PERMIT TO ESTABLISH A RETAILER STOREFRONT CANNABIS BUSINESS, AND AN ADMINISTRATIVE USE PERMIT TO ESTABLISH A RETAIL NON-STOREFRONT (DELIVERY ONLY) CANNABIS BUSINESS ALL CONCERNING A 6,500 SQUARE FOOT COMMERCIAL SPACE AT 7616 PACIFIC AVENUE, UNIT A5 (APPLICATION NO. P20-0693)

The applicant, Heng Heung, submitted an application for a Commission Use Permit, and Administrative Use Permit to establish a 6,500-square foot retailer storefront cannabis business and a retail non-storefront (delivery only) cannabis business on a Commercial General (CG) zoned parcel, located at 7616 Pacific Avenue, Unit A5; and

The applicant is an equity pool applicant winner of the City's 2020 Commercial Cannabis Lottery, used to designate how many applicants are allowed to apply for certain commercial cannabis types, including Retailer Storefront; and

On May 13, 2021, the Planning Commission opened a duly noticed public hearing on the application, in compliance with Stockton Municipal Code (SMC) section 16.88, and continued the review to July 8, 2021; and

On July 8, 2021, the Planning Commission conducted a continued public hearing, at which point all persons wishing to be heard were provided such opportunity; and

One July 8, 2021, and prior to acting on the requested actions, the Planning Commission considered the California Environmental Quality Act (CEQA) determination reflected in the findings below; and

On July 8, 2021, the Planning Commission denied the Commission Use Permit and Administrative Use Permit; and

On July 19, 2021, the applicant filed an appeal of the Planning Commissioner's decisions; and

On September 28, 2021, the City Council convened a public hearing regarding the appeal of the Planning Commission's decision. In such meeting, the City Council considered the request to appeal the Planning Commission's decision and granted the appeal to reverse the Planning Commission's decision based on the findings indicated in said resolution; now, therefore,

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BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

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

B. Based on the staff report, staff presentation, and the public hearing, the City Council makes the following findings based on substantial evidence in the record:

USE PERMIT FINDINGS (COMMISSION AND ADMINISTRATIVE)

1. The proposed use is allowed within the subject zoning district with the approval of a use permit and complies with all other applicable provisions of this Development Code and the Municipal Code. The proposed cannabis business types (i.e., uses) are both allowed in the CG Zone. The subject uses would be located within an existing commercial building and, therefore, do not raise a question of conformance with Title 16 development standards. As noted below, adequate off-street parking spaces are provided for both the existing and proposed uses. The proposed project is subject to location requirements set forth in SMC 16.80.195.A(6) and 16.80.195.B(4). The project meets the location requirements. The project is not located within 300-feet of any existing residential zone. The project is not located within 600-feet of any park, school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center, childcare center, child care, in-home (family day care home), religious facilities, or drug abuse or alcohol recovery/treatment facility.

2. The proposed use would maintain or strengthen the integrity and character of the neighborhood and zoning district in which it is to be located. The proposed cannabis business would be situated in a shopping center with several other commercial land uses. It would be aligned with the intent of the shopping center to provide retail options to the community. It would fill a vacant unoccupied suite which would help strengthen the integrity of the surrounding area by lowering the shopping center's vacancy rate, creating a secured use of the site which will discourage vandalism, graffiti, and crime due to the increased level of security required for this business type.

3. The proposed use would be consistent with the general land uses, objectives, policies, and programs of the General Plan and any applicable specific plan or master development plan. The General Plan Land Use Map designates the subject site as Commercial. The Commercial designation is intended to accommodate a wide variety of commercial uses, including, but not limited to, service uses. SMC Section 16.20.020 Table 2-2 classifies the Cannabis Retailer Storefront and the Non-storefront Cannabis Retail Operator Permit (Delivery Only) use within a service use category. Therefore, the proposed use is consistent with the Commercial designation. Additionally, the project is consistent with General Plan Policy LU-4.2 which states, "Attract employment- and tax-generating businesses that support the economic diversity of the city." The proposed use furthers this policy since it would provide for a business type that generates tax revenue for the City of Stockton's general fund. Land Uses are determined by the General Plan and regulated by Title 16 of the Stockton Municipal Code (Development Code). The

proposed use meets all Development Code requirements and thus meets General Plan land uses, objectives, policies, and programs.

4. The subject site would 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.). The proposed project would occupy a portion of an existing commercial building within a shopping center. The project has been analyzed by all departments and it has been determined all streets and public access ways are adequate to serve the proposed project. Further, the proposed project was reviewed for compliance with all applicable and current Building Code guidelines and found to be in compliance given the nature of the proposed project. No expansion of the building is proposed. The site will have access to City utility services.

5. The establishment, maintenance, or operation of the proposed use at the location proposed and for the time period(s) identified, if applicable, would not 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. The proposed land-use will require the applicant to adhere to all applicable building code, fire code, and requirements established by the State of California, Bureau of Cannabis Control (BCC). The BCC issues annual licenses and monitors Retailer Storefronts and Non-Storefront Retail (delivery only) to ensure safety of business practices. The applicant will also be required to obtain and maintain a City of Stockton, Operator's Permit that requires the business owner to develop and maintain a security and lighting plan that is reviewed annually by the City of Stockton, Police Department. The operations are being carried out indoors, in a commercial zone; appropriate security provisions will be incorporated into the project operations plan, including both electronic surveillance and on-site security personnel procedures.

For the above reasons, the establishment, maintenance, or operation of the proposed land use activity 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.

6. The design, location, size, and operating characteristics of the proposed use would be compatible with the existing and future land uses on-site and in the vicinity of the subject property. The proposed Retailer Storefront and Non-Storefront Retail (delivery only) is located in an existing commercial building and no changes have been proposed to the exterior characteristics of the project site. The proposed use is commercial in nature and modest floor area raises no potential issues related to compatibility with the existing and future land uses on-site and in the vicinity of the subject property.

7. The proposed action would be in compliance with the provisions of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines. The proposed uses would occur within a portion of an existing commercial building. Therefore, the project is

categorically exempt from the CEQA, pursuant to CEQA Guidelines section 15301 (Existing Facilities). A Categorical Exemption under section 15301, Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.

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 City Council grants the requested appeal and approves the requested Commission Use Permit and Administrative Use Permit, subject to the following conditions:

CONDITIONS OF APPROVAL

1. This approval authorizes the operation of cannabis businesses of retailer storefront and retail non-storefront (delivery only) within the commercial building area identified in Exhibit 1, attached, and incorporated by this reference.
2. Comply with all applicable State, County, and City codes, regulations, and adopted standards, and pay all applicable fees.
3. 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.
4. The Use Permit shall become effective following the completion of a ten (10) day appeal period following approval of the application.
5. The Use Permit shall be posted in a conspicuous place and be made available immediately to City personnel upon inspection of the premises.
6. 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.
7. All required elements of the mandatory Security Plan shall be approved by the Police Department and be in place prior to initiation of the subject use and all employees at the subject retail storefront and non-storefront retail commercial cannabis business shall be approved by the Police Department prior to the start of their employment.
8. The Fire Department shall be allowed to inspect the cannabis business 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.
9. Prior to commencing operations, a Cannabis Operations Permit shall be obtained

in accordance with Stockton Municipal Code Chapter 5.100 (Commercial Cannabis Activity Permits).

10. Plans submitted for purposes of building permit(s) shall reflect compliance with the standards at Development Code Table 2-3, including all aspects of Municipal Code Title 16 (Development Code).

11. Prior to the receipt of Certificate of Occupancy, three (3) trees shall be planted in the interior off-street parking lot in accordance with SMC Chapter 16.56 and Section 16.64.080.

12. The permits shall become void unless the required building permit is submitted within 12 months of this permit being issued (SMC 16.96.020.)

PASSED, APPROVED, and ADOPTED: September 28, 2021.

KEVIN J. LINCOLN II
Mayor of the City of Stockton

ATTEST:

ELIZA R. GARZA, CMC
City Clerk of the City of Stockton