

Resolution No. **2021-09-09-0301**

## **STOCKTON PLANNING COMMISSION**

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### **RESOLUTION DENYING A USE PERMIT TO ESTABLISH A RETAIL STOREFRONT CANNABIS BUSINESS AND AN ADMINISTRATIVE USE PERMIT TO ESTABLISH A RETAIL NON-STOREFRONT (DELIVERY ONLY) CANNABIS BUSINESS AT 7616 PACIFIC AVENUE, UNIT A5 (APPLICATION NO. P20-0693)**

On September 16, 2020, the applicant, Heng Heung, submitted an application to the Community Development Department for Commission Use Permit and Administrative Use Permit No. P20-0693 to establish a Retail Storefront and Retail Non-Storefront (Delivery Only) Cannabis Businesses at 7616 Pacific Avenue, Unit A5; and

On May 3, 2021, a 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 May 13, 2021, upon request of the applicant, the Planning Commission continued the Public Hearing to the July 8, 2021 Planning Commission meeting date; and

On July 8, 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; and

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

On July 8, 2021, the Planning Commission approved motion 2021-07-08-0501-02, based on verbalized findings (by a vote of 4-2) to deny to the Project; 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 here in reference.

B. All findings must be made in the affirmative to approve the project.

C. 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:

**Use Permit: General Findings**

As evidenced below, not all findings of fact as required by the Stockton Municipal Code (SMC) Section 16.168.050 for use permit (Commission or administrative) can be made, and therefore, the project cannot be approved:

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, childcare, in-home (family day care home), religious facilities, or drug abuse or alcohol recovery/treatment facility.

2. The proposed use would not maintain or strengthen the integrity and character of the neighborhood and zoning district in which it is to be located as it would not be conducive or beneficial to surrounding businesses. The proposed use would reduce neighboring business prosperities and would create an excessive concentration in this area, placing the burden of the legal cannabis market on this one area.

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.

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 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 increased number of retail storefront cannabis businesses in the surrounding area may cause a possible increase in surrounding crime rates. Further, the addition of another Storefront Retailer Cannabis Business to the shopping center will increase traffic congestion and reduce available parking for neighboring business patrons.

6. The design, location, size, and operating characteristics of the proposed use would not be compatible with the existing and future land uses on-site and in the vicinity of the subject property. The proposed use would not be beneficial because it would interfere with existing neighboring businesses. With the current existence of the neighboring Storefront Retailer Cannabis Business, excessive concentration would contribute to reduced economic activity for the existing Storefront Retailer Cannabis Business and future activity as land uses should be balanced and varied.

7. The proposed action is a Categorically Exempt use, in accordance with the provisions of Section 15302(b), of the California Environmental Quality Act (CEQA) for replacement of a commercial structure with a renovated structure of substantially the same size, purpose, and capacity. The action is not subject to any of the exceptions to using a Categorical Exemption as enumerated in the CEQA Guidelines Section 15300.2.

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Planning Commission Action

Based on its review of the entire record herein, including the July 8, 2021, Planning Commission Staff Report, all supporting referenced, and incorporated documents, and all comments received at the public hearing, and the findings above, the Planning Commission denies the requested Commission Use Permit and Design Review request by a vote of 4-2.

PASSED, APPROVED, and ADOPTED September 9, 2021.



ANNE MALLET, CHAIR  
City of Stockton Planning Commission

ATTEST:



WILLIAM CREW, SECRETARY  
City of Stockton Planning Commission