

Resolution No.

STOCKTON PLANNING COMMISSION

RESOLUTION APPROVING A USE PERMIT TO ALLOW THE ESTABLISHMENT OF A CONVENIENCE STORE WITH THE OFF-SALE OF BEER AND WINE, FUELING STATION, AND GENERAL MERCHANDISE, WITH A CAR WASH FACILITY, AT 9036 THORNTON ROAD (P23-0083) (APN 072-410-43)

On March 23, 2023, the applicant, Al Shaghaghi, submitted an application to the Community Development Department for a Commission Use Permit, among other things, to develop a Convenience Store with off sale of beer and wine, Fueling Station and Car Wash; and

On October 30, 2023, 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 November 9, 2023, the Planning Commission conducted a public hearing on the application, in compliance with SMC Chapter 16.88, at which point all persons wishing to be heard were provided such opportunity; and

On November 9, 2023, the Planning Commission directed staff to return with a resolution approving the Use Permit for the project; and

On December 14, 2023, the Planning Commission considered the revised resolution for consistency with its discussion and direction; 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 City Council approvals of a General Plan Amendment from Administrative Professional to Commercial, and Rezone of the site from Commercial, Office (CO) to Commercial, General (CG). With approval of a waiver of the required location restrictions, the use will comply with all other applicable provisions of the Development Code (Title 16) and the Stockton Municipal Code. 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, fueling station and car wash 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.

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 will be provided with adequate services and accesses. The site is flat and borders developed public streets. As an infill development project, the proposed use will be served by the existing surrounding access and utilities, including sanitation, storm sewer, and water, located on Thornton Road and Waudman Avenue. 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 and industrial uses.

7. The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines, in accordance with the provisions of section 15332(b) - which consists of projects characterized as in-fill development that meet: (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. (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses. (c) The project site has no value as habitat for endangered, rare or threatened species. (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. (e) The site can be adequately served by all required utilities and public services.

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 introduced into an established residential and commercial area which includes full-service restaurants, retail stores, financial institutions, and other retailers.

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, redevelop a blighted and vacant corner of the existing shopping center. 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 an established area 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. The convenience store would endure to limit potential nuisance and criminal activity, littering, graffiti, and excessive

loitering. The Applicant has agreed to comply with all potential 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 with all provisions of local, state, and federal laws, rules, regulations, policies, or orders enforced by the City of Stockton and ABC.

14. Business and Professions Code Section 23958.4 requires a determination if public convenience or necessity would be served by the issuance of this Commission Use Permit. Per ABC, two (2) active off-sale licenses are permitted within the census tract, and there are currently four (4) existing off-sale licenses in operation. Approval of the Use Permit for proposed off-sale of beer and wine would increase the amount of licenses in the census tract, however public necessity would be served by the issuance of this Commission Use Permit. The proposed convenience store would provide for localized business growth by providing more choices in the area, and additional services in an underserved area in the community.

California Environmental Quality Act

15. The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines, in accordance with the provisions of section 15332(b) - which consists of projects characterized as in-fill development that meet: (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. (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses. (c) The project site has no value as habitat for endangered, rare, or threatened species. (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. (e) The site can be adequately served by all required utilities and public services.

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Conditions of Approval

1. This approval authorizes the operation of a Convenience Store with the off-sale of beer and wine, otherwise known as the "Project", as identified in Exhibit 1, attached and incorporated by this reference.
2. The project shall comply with all applicable State, County, and City codes, regulations, and adopted policies and standards, and pay all applicable fees.
3. In the event the operation of this use should prove to be detrimental to the health, safety, peace, or general welfare of the surrounding neighborhood, this Use Permit will be subject to revocation or modification, as required by 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. A sign shall be posted at the entrance to the location containing the name and functioning telephone number of a 24-hour on-call person engaged in the management of the convenience store who shall receive, log, and respond to complaints and other inquiries. This data shall be made available upon request by the Police Department and other Community Development Departments on a yearly basis,
7. 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, if any.
8. Prohibited Products. To discourage nuisance activities, this off-sale alcoholic beverage establishments is prohibited from selling the following products:
 - (A) Wine in containers of less than 750 milliliters.
 - (B) Malt beverage products with alcohol content greater than five and one-half (5 1/2) percent by volume.
 - (C) Wine with an alcoholic content greater than 14 percent by volume unless in corked bottles and aged at least two (2) years.
 - (D) Beer or malt liquor sold individually in containers of 40 ounces or less.
 - (E) Containers of beer or malt liquor not in their original factory packages of six (6) packs or greater.
 - (G) Cooler products, either wine- or malt beverage-based, in less than four (4) pack quantities.
9. Program. A "complaint response community relations" program established and maintained by the establishment conducting the Alcoholic Beverage Sales Activity is required. The program shall include the following:

(A) 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.

(B) Coordinating efforts with the Police Department to monitor community complaints about the establishment's activities.

(C) 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.

10. Cups. In off-sale alcoholic beverage establishments, the sale or distribution to the customer of paper or plastic cups in quantities less than their usual and customary packaging is prohibited.

11. Hours of Operation. The sale of alcoholic beverages shall be restricted to 6am to 10pm, seven (7) days a week. The Convenience store hours of operation is permitted to be open 24 hours a day, seven (7) days a week. 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:

(A) "California State Law prohibits the sale of alcoholic beverages to persons under 21 years of age."

(B) "No Loitering or Public Drinking" signs shall be posted on the exterior of the business.

(C) The business shall post E.A.S.Y. (Eliminate Alcohol Sales to Youth) materials that are visible from outside the business.

(D) 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.

12. Posting and Presentation of Documents. The commission use permit or land development permit shall be posted in a conspicuous place and shall be immediately made available to City personnel or police officers upon inspection of the premises.

13. Mitigating Alcohol-Related Problems. 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.

14. Drug Paraphernalia. 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. "Drug paraphernalia" means all equipment products and materials of any kind, that are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise

introducing into the human body a controlled substance in violation of the California Uniform Controlled Substances Act, commencing with California Health and Safety Code section 11000.

15. Loitering. 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.

16. Security Cameras. 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.

17. Prohibited Vegetation. 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.

18. Window Obstructions. 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.

19. Training Program. 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 employees hired after the passage of the ordinance codified in this section or within six (6) months of the passage of the ordinance codified in this section for existing employees. 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.

20. Lighting. 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.

21. Expiration. The commission use permit or land development 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.

22. Applicant shall submit off-site improvement plans for the development of the Waudman Avenue property frontage to the Community Development Department - Engineering Division for review and approval.
23. Applicant shall remove existing City streetlights from wooden utility pole(s) and install City standard streetlight pole(s) with current standard lighting.
24. Applicant shall show all existing property pins or other survey monument and note to protect in place.
25. Applicant shall show pedestrian walk path from Thornton Road to the store.
26. Applicant shall revise the existing bike lane at the proposed driveway at Thornton Road.
27. At the proposed driveway at Thornton Road, applicant shall install a double yellow (detail 22) line to segregate ingress and egress vehicles, install a STOP bar/legend, and a STOP sign (R1-1).
28. Building permit(s) are required from the City of Stockton Building & Life Safety Division for all new construction and alterations to the site. A Planning permit approval does not authorize construction until the appropriate building permits have been obtained.
29. The Preliminary Landscape Plan meets the intent of the City's requirements. Please note that Landscape Construction Plans will be required with the submittal of the Building Plans, and shall meet all requirements of MWELO, including water calculations and applicable Planting and Irrigation Specifications and Details.

Planning Commission Action

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 due to the ability to make all required findings.

PASSED, APPROVED, and ADOPTED December 14, 2023.

WAQAR RIZVI, CHAIR
City of Stockton Planning Commission

ATTEST:

MICHAEL McDOWELL, SECRETARY
City of Stockton Planning Commission