

Resolution No.

# STOCKTON PLANNING COMMISSION

---

## **RESOLUTION DENYING A COMMISSION USE PERMIT AND WAIVER TO UPGRADE FROM OFF-SALE BEER AND WINE TO OFF-SALE OF GENERAL ALCOHOLIC BEVERAGES AT AN EXISTING CONVENIENCE STORE AT 10715 TRINITY PARKWAY (APN 066-020-40) (P24-0254)**

On December 19, 2024, the applicant, Leslie Burnside on behalf of Trinity Parkway Inc./Trinity Parkway AMPM, submitted an application to the Community Development Department for a Commission Use Permit and Waiver application to upgrade an existing Type 20 California Department of Alcoholic Beverage Control (ABC) license to a Type 21 ABC license at an existing convenience store; and

On June 2, 2025, 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 12, 2025, 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; 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. Although the proposed ABC license upgrade is allowed in the AG Spanos Master Development Plan, Mixed Use (MX) zoning district, subject to approval of a new Use Permit by the Planning Commission, the Project does not comply with all the applicable provisions of the Development Code (Title 16), Section 16.80.040(D)(2) without approval of a Waiver. The Project is within 500 feet of another off-sale alcoholic beverage sales establishment, and is in a crime district that exceeds the citywide average crime by 372%. There are no applicable overlays or specific plans for this site.

2. The proposed Project does not conform to certain location restrictions identified in SMC Section 16.80.040(D) for alcoholic beverage off-sale license upgrades that are intended to protect the surrounding neighborhoods from harmful effects

attributable to the sale of alcoholic beverages and to prevent public nuisances in the community. Most notably, the proposed use does not conform to the 500 foot location restriction from another off-sale alcohol establishment, as there is one other off-sale alcohol establishment within less than 500' and is located in a crime reporting district that exceeds the citywide average by 372%. Based on the combined circumstances, the authorization of a Use Permit for the proposed off-sale license upgrade, and requested Waiver, would potentially increase the harmful effects which the City has deemed attributable to the sale of alcoholic beverages.

3. The proposed upgrade 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. The proposed upgrade would allow the business to be competitive.

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 upgrade would allow the business to be competitive by providing a wider range of goods allowing it to attract and retain business.

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 site is fully entitled and developed. The proposed upgrade to the ABC license type does not change the physical suitability of the site, however /intensifies the use by adding the sale of distilled alcohol products.

5. The proposed off-sale license upgrade to a type 21 (beer, wine and distilled spirits) is 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. This is based on the fact that the use does not conform to the location restrictions identified in SMC Section 16.80.040(D) for alcoholic beverage off-sale upgrades that are intended to protect the surrounding neighborhoods from harmful effects attributable to the sale of alcoholic beverages and to prevent public nuisances in the community. Most notably, the proposed use does not conform to the 500 foot location restriction from another off-sale alcohol establishment, as there is one other off-sale alcohol establishment within less than 500' and is located in a crime reporting district that exceeds the citywide average by 372%. Based on the combined circumstances, the authorization of a Use Permit for the proposed off-sale license upgrade, and requested Waiver, would potentially increase the harmful effects which the City has deemed attributable to the sale of alcoholic beverages.

6. The design, location, size, and operating characteristics of the ABC license

upgrade are expected to be compatible with existing and future land uses on- site and in the vicinity of the subject property because the existing convenience store is classified as a retail use, which is compatible with the surrounding uses. The convenience store already sells beer and wine and the added sale of general alcohol is likely to change the characteristics of the land use. The anticipated customer base, traffic patterns, noise levels, and general operational characteristics of the proposed upgrade are compatible with the commercial use.

7. The project is Categorical Exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15301(a) – Existing Facilities because, the proposal, at most, may include interior modifications to dedicate space for additional alcohol sales, display, and store. No exterior modifications are proposed to the existing building.

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

1. The proposed upgrade, as conditioned, is likely to interfere with the comfortable enjoyment of life or property in the area. This is based on the fact that the use does not conform to certain location restrictions identified in SMC Section 16.80.040(D) for alcoholic beverage off-sale upgrades that are intended to protect the surrounding neighborhoods from harmful effects attributable to the sale of alcoholic beverages and to prevent public nuisances in the community. Most notably, the proposed use does not conform to the 500 foot location restriction from another off-sale alcohol establishment, as there is one other off-sale alcohol establishment within less than 500' and is located in a crime reporting district that exceeds the citywide average by 372%. Based on the combined circumstances, the authorization of a Use Permit for the proposed off-sale license upgrade, and requested Waiver, would potentially increase the harmful effects which the City has deemed attributable to the sale of alcoholic beverages.

2. The proposed upgrade would increase or encourage the deterioration or blight of the area. This is based on the fact that the use does not conform to certain location restrictions identified in SMC Section 16.80.040(D) for alcoholic beverage off-sale upgrades that are intended to protect the surrounding neighborhoods from harmful effects attributable to the sale of alcoholic beverages and to prevent public nuisances in the community. Most notably, the proposed use does not conform to the 500 foot location restriction from another off-sale alcohol establishment, as there is one other off-sale alcohol establishments within less than 500' and is located in a crime reporting district that exceeds the citywide average by 372%. Based on the combined circumstances, the authorization of a Use Permit for the proposed off-sale license upgrade, and requested Waiver, would potentially increase the harmful effects which the City has deemed attributable to the sale of alcoholic beverages.

3. The proposed upgrade 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 existing convenience store with fueling station that provides 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

1. The proposed use would potentially 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. This is based on the fact that the use does not conform to certain location restrictions identified in SMC Section 16.80.040(D) for alcoholic beverage off-sale upgrades that are intended to protect the surrounding neighborhoods from harmful effects attributable to the sale of alcoholic beverages and to prevent public nuisances in the community. Most notably, the proposed use does not conform to the 500 foot location restriction from another off-sale alcohol establishment, as there is one other off-sale alcohol establishments within less than 500' and is located in a crime reporting district that exceeds the citywide average by 372%. Based on the combined circumstances, the authorization of a Use Permit for the proposed off-sale license upgrade, and requested Waiver, would potentially increase the harmful effects which the City has deemed attributable to the sale of alcoholic beverages.

2. The owners and all employees of the establishment will complete an approved course in Licensee Education on Alcohol and Drugs (LEAD), "Responsible Beverage Sales" (RBS), or similar ABC approved program within 60 days of approval or of hire for new employees. To satisfy this requirement, a certified program must meet the standards of the ABC 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.

3. 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. However, the proposed Project does not conform to certain location restrictions identified in SMC Section 16.80.040(D) for alcoholic beverage off-sale license upgrades sales that are intended to protect the surrounding neighborhoods from harmful effects attributable to the sale of alcoholic beverages and to prevent public nuisances in the community. Most notably, the proposed use does not conform to the 500 foot location restriction from another off-sale alcohol establishment, as there is one other off-sale alcohol establishment within less than 500'

and is located in a crime reporting district that exceeds the citywide average by 372%. Based on the combined circumstances, the authorization of a Use Permit for the proposed off-sale license upgrade, and requested Waiver, would potentially increase the harmful effects which the City has deemed attributable to the sale of alcoholic beverages.

4. Per the California Business and Professions Code section 23958.4, a public convenience or necessity (PCN) was issued with the original Use Permit approval. Per that approval, public convenience and necessity will be served by the issuance of this Commission Use Permit. Per ABC, the proposed upgrade to off-sale of general alcohol at this location does not require an additional Public Convenience and Necessity determination.

#### Waiver Findings

1. The granting of the waiver shall enable the Project site to be utilized so that specific standards can be addressed without creating undue hardship. The proposed use is going into an existing establishment that would provide additional goods and services to the public. Although approving the waiver would address the hardship generated by the special circumstance resulting from locations requirements, the off-sale of general alcohol use would be intensified within the existing built environment.

2. The granting of the waiver shall allow for the economic viability and use of the site. The granting of the waiver would enable the applicant to be competitive with the surrounding businesses. The existing convenience store use is allowed in the AG Spanos Master Development Plan (MX zoning district) and the proposed upgrade would only add the sale of spirits to the existing beer and wine license in addition to the other convenience items.

3. The granting of the Waiver may be detrimental to the public convenience, health, interest, safety, or general welfare of the City or injurious to the property or improvements in the zone or neighborhood in which the property is located. The Project is located in an overconcentrated census tract. Further, the proposed use does not conform to certain location restrictions in SMC Section 16.80.040(D)(2) for ABC off-sale license upgrades. Most notably, the proposed use does not conform to the 500-foot location restriction from another off-sale alcohol establishment and is located in a crime reporting district that exceeds the citywide average by 372%. Based on the combined circumstances, the authorization of a Use Permit for the proposed Project and requested Waiver would weaken the integrity of the neighborhood and zoning district and potentially increase the harmful effects which the City has deemed attributable to the sale of alcoholic beverages.

4. The granting of the waiver will 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. The use is consistent with the goals, objectives, and policies in the General Plan; Although the proposed ABC license upgrade is allowed in the AG Spanos Master Development

Plan, Mixed Use (MX) zoning district, subject to approval of a new Use Permit by the Planning Commission, the Project does not comply with all the applicable provisions of the Development Code (Title 16), Section 16.80.040(D)(2) without approval of a Waiver. The Project is within 500 feet of another off-sale alcoholic beverage sales establishments, and is in a crime district that exceeds the citywide average crime by 372%.

5. The granting of the waiver will not conflict with applicable provisions of the latest edition of the California Building Code and Fire Code and other applicable Federal, State, and local laws and regulations as the project site is already developed as a convenience store.

6. The granting of the waiver will be in compliance with the provisions of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines. This is described in detail in the following section.

#### California Environmental Quality Act

The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines, in accordance with the provisions of section 15301(a) - Existing Facilities because it only includes interior alterations. The interior of the store is being modified to include space dedicated to the sales, display, and storage of alcohol. No exterior modifications are proposed to the existing building.

#### Conclusion

Based on its review of the entire record herein, all supporting, referenced, and incorporated documents, and all comments received, the Planning Commission hereby denies the requested Use Permit and Waiver.

PASSED, APPROVED, and ADOPTED June 12, 2025.

\_\_\_\_\_  
JEFF SANGUINETTI, CHAIR  
City of Stockton Planning Commission

ATTEST:

\_\_\_\_\_  
MICHAEL McDOWELL, SECRETARY  
City of Stockton Planning Commission