RESOLUTION DENYING THE APPEAL AND UPHOLDING THE DECISION OF THE PLANNING COMMISSION'S APPROVAL OF THE ISSUANCE OF A USE PERMIT TO A.G. SPANOS CONSTRUCTION, INC., TO ALLOW THE OFF-SALE OF BEER AND WINE (PHASE I) AND GENERAL ALCOHOL BEVERAGES (PHASE II) IN CONJUNCTION WITH AN APPROVED BY-RIGHT RETAIL STORE (UP15-04)

WHEREAS, the City Planning Commission, at its meeting of April 8, 2004, approved the request of A.G. Spanos Construction, Inc., to allow the off-sale of beer and wine (Phase I) and general alcohol beverages (Phase II) in conjunction with an approved by-right retail store on property generally located at the northwest corner of Trinity Parkway and Consumnes Drive (UP15-04); and

WHEREAS, pursuant to the provisions of Section 16-089.1 of the Stockton Municipal Code, William D. Kopper (Attorney at Law) on behalf of Rosemary Atkinson, Paul Diaz, Susan Rutherford, Larin Essex, and Stockton Citizens for Sensible Planning, did, by letter received on April 14, 2004, to the City Council, appeal the decision of the Planning Commission approving the Use Permit to allow the off-sale of beer and wine (Phase I) and general alcohol beverages (Phase II) in conjunction with an approved by-right retail store on property generally located at the northwest corner of Trinity Parkway and Consumnes Drive (UP15-04); and

WHEREAS, the City Council opened a public hearing on June 22, 2004, regarding the above-mentioned individuals' appeal of the Planning Commission's decision to approve the request of A.G. Spanos Construction, Inc., to allow the off-sale of beer and wine (Phase I) and general alcohol beverages (Phase II) in conjunction with an approved by-right retail store on property generally located at the northwest corner of Trinity Parkway and Consumnes Drive (UP15-04); now, therefore,
BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

A. The City Council finds as follows:

1. The proposed use is consistent with all applicable goals, policies, and standards of the City's adopted General Plan Policy Document, the site's Mixed Use General Plan Diagram designation, the Master Development Plan (MDP1-00) for the A.G. Spanos Business Park, and the Development Agreement for the A.G. Spanos Business Park (DA 1-00).

2. The proposed use is in compliance with the Zoning Code requirements, subject to approval of a Use Permit, and has been reviewed in accordance with Section 16-083.B, pursuant to which the Council finds:

   a. The site is suitable and adequate for the sale of alcohol;
   b. The sale of alcohol at the site will not have an effect on present and future traffic;
   c. The sale of alcohol at the site will not affect the neighborhood as a nuisance;
   d. The provided off-street parking and loading is adequate;
   e. The provided landscaping and screen planting is adequate; and
   f. There is no possibility that the sale of alcohol at the site will have a significant effect on the environment.

3. The Council has considered the following criteria pursuant to Section 16-086.B, and found that the proposed use does not raise any issues with respect to the criteria:

   a. The proposed use with respect to the proximity and type of other enumerated uses;
   b. The effect of dispersal or concentration of enumerated uses in the general area;
   c. The effect that the proposed use is likely to have on the neighborhood;
d. The compatibility of the proposed use with the surrounding institutional, business, and residential uses with respect to noise and/or traffic and/or visual impact and other relevant factors;

e. The potential of the proposed use to create or increase loitering or vandalism in the area;

f. The degree that traffic safety both on and off-site will be adversely affected by the proposed activity.

4. The Council makes the following affirmative findings pursuant to Section 16-086.C, based upon evidence presented at the hearing:

a. The proposed use is not likely to interfere with the comfortable enjoyment of life or property in the area;

b. The proposed use will not increase or encourage the deterioration or blight of the area;

c. 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.

5. The proposed use is expected to be compatible with the surrounding land uses and is not likely to interfere with the comfortable enjoyment of life or property in the area, subject to any applicable mitigation measures specified in the Supplemental Environmental Impact Report/Initial Study (SEIR3-87/IS13-00) and the previously adopted "Findings and Mitigation Monitoring and Reporting Program for the Spanos Park West Project."

6. The proposed use will not be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood or be detrimental or injurious to the health, safety, peace, or general welfare of the City.

7. This project is exempt from CEQA because there is no possibility that the activity in question will have a significant effect on the environment.

8. The environmental consequences of development within the Spanos Park West Project area have been previously considered by SEIR3-87/IS13-00, which was
certified by the Planning Commission on December 20, 2001, and the City Council on January 29, 2002, for their respective approvals. With the exception of the unavoidable or unresolved adverse effects of the project, all other potentially adverse environmental effects of the subsequent development of the area will be mitigated to an acceptable level through project design and/or by enforceable conditions of approval on associated discretionary permits.

9. The Planning Commission's approval of the Use Permit was appropriate and based upon the required findings.

10. The appeal fails to raise any valid grounds that the Use Permit for the off-sale of general alcoholic beverages in the already approved retail store should not have been granted.

B. The City Council hereby denies the appeal and upholds the decision of the Planning Commission and approves the request of A.G. Spanos Construction, Inc., to allow the off-sale of beer and wine (Phase I) and general alcohol beverages (Phase II) in conjunction with an approved by-right retail store on property generally located at the northwest corner of Trinity Parkway and Consumnes Drive (UP15-04), based on the above findings and subject to the following conditions:

1. Comply with all applicable Federal, State, County, and City Codes, regulations, and adopted standards and pay all applicable fees.

2. In the event that the sale of alcoholic beverages or operation of this use proves 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 Zoning Code.

3. The consumption of alcoholic beverages on the premises shall not be permitted.

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

5. Every employee involved in the sale of alcoholic beverages shall complete L.E.A.D. training (Licensing Education of Alcohol and Drugs) through the local office of the State Department of Alcoholic Beverage Control within six (6) months of the employee's hire date.
6. Structures and other improvements shall be constructed, installed, and maintained in accordance with the site plan, floor plans, elevations, color renderings approved with MDP1-00, and with this Use Permit's conditions of approval and be maintained in a manner so as not to be blighted or deteriorated.

7. This Use Permit shall be posted in a conspicuous place and shall be immediately made available to City personnel upon inspection of the premises.

8. Pursuant to Sections 15091 and 15093 of the State CEQA Guidelines, approval of this Use Permit is subject to the previously adopted CEQA findings and to the implementation of any applicable required mitigation measures and mitigation monitoring and reporting provisions, respectively, as specified in the "Findings and Mitigation Monitoring/Reporting Program for the Spanos Park West Project" (December 2001).

PASSED, APPROVED, and ADOPTED ____________________________

JUN 22 2004

GARY A. PODESTO, Mayor
of the City of Stockton

ATTEST:

KATHERINE GONG MEISS
City Clerk of the City of Stockton