

**CITY OF ALAMEDA PLANNING BOARD
RESOLUTION NO. PB-16-08**

A RESOLUTION OF THE PLANNING BOARD OF THE CITY OF ALAMEDA APPROVING USE PERMIT PLN15-0594 TO ESTABLISH AN APPROXIMATELY 592-SQUARE-FOOT CONVENIENCE MARKET AND COFFEE SHOP WITH OUTDOOR SEATING AND OFF-SITE BEER AND WINE SALES AT 1120 BALLENA BOULEVARD.

WHEREAS, an application was made on December 9, 2015, by Emily Vought, applicant, requesting approval of a use permit to operate a convenience market and coffee shop with outdoor seating and off-site beer and wine sales; and

WHEREAS, the subject use permit application was accepted as complete on January 21, 2016; and

WHEREAS, the project site is located within a CM-PD, Commercial Manufacturing – Planned Development zoning district; and

WHEREAS, the project site has a General Plan Land Use Designation of Mixed Use 3; and

WHEREAS, the Planning Board held a public hearing on this application on March 14, 2016.

NOW THEREFORE BE IT RESOLVED THAT, the Planning Board has made the following findings concerning the project:

1. The location of the proposed use is compatible with other land uses in the general neighborhood area, and the project design and size are architecturally, aesthetically, and operationally harmonious with the community and surrounding development.

The proposal is consistent with the CM-PD zoning district and the Mixed Use 3 General Plan land use designation with the approval of a use permit. The Mixed Use 3 land use designation encourages uses on the site that promote “commerce and navigation.” The CM-PD zone is intended to be applied where general commercial facilities are necessary and desirable for public service and convenience. The use permit proposal is consistent with the CM-PD zone and Mixed Use 3 land use designation by providing the convenience of a local market/coffee shop within close proximity for the commercial marina patrons and businesses. The project site is not located adjacent to residential homes and is located more than 600 feet from the nearest residential development. The project is not located within an area with an overconcentration of off-site alcohol sales in the area. The project site is located at least one half mile from the nearest off-site

alcohol retailer. No exterior changes to the existing building envelope is proposed as part of this use permit. The use is compatible with the neighboring commercial, office, and marina uses and will provide a variety of food and beverages to the marina.

2. The proposed use will be served by adequate transportation and service facilities, including pedestrian, bicycle and transit facilities.

The location of the proposal is fully developed and does not require additional service facilities. The proposed convenience market/coffee shop will primarily serve the local commercial business and marina users. The marina facility has ample areas for vehicle and bicycle parking, and there are no barriers to public access to the site. The AC Transit Bus No. 631 provides transit services to the area when the local schools are in session, and is located within ½ mile of the project site.

3. The proposed use, if it complies with all conditions upon which approval is made contingent, will not adversely affect other property in the vicinity and will not have deleterious effects on existing business districts or the local economy.

The proposed market/coffee shop will not adversely affect the surrounding properties, hurt the existing business district, or the local economy. The project is a small, low-intensity use that operates between the hours of 9:00 AM to 6:00 PM, with only 5% of floor area allowed for off-site beer and wine sales. The outdoor seating area will be located in front of the store and limited to normal business hours. The proposed use is consistent with the commercial uses in the marina. Staff has not received any reports of significant police activity or alcohol related problems in the area. A police activity report provided by the Alameda Police Department shows there were approximately 60 total crimes in the surrounding area of the marina between January 1, 2015 and December 31, 2015. Only eight of the crimes from the report were located within one thousand feet of the project site. The proposal is located at least 600 feet from the nearest residential development. Furthermore, there are no existing off-site alcohol businesses within one-half mile of the project site, and the project will not result in an oversaturation of off-site alcohol retail outlets in the area. The proposed use actually will have a positive impact on existing and future businesses at the marina by providing food, beverages, and outdoor seating that will complement the surrounding restaurants, offices, and marina uses. Therefore, the proposed Use Permit will not adversely affect the surrounding neighborhood.

4. The proposed use relates favorably to the General Plan.

The proposal would offer the convenience of a pedestrian-oriented market and coffee shop for the marina. The Mixed Use 3 General Plan land use designation requires uses on the property that promote "commerce and navigation." The proposed commercial use will support commerce and navigation by providing food and beverages to the patrons of the Ballena Isle Marina.

THEREFORE, BE IT FURTHER RESOLVED THAT, this project has been

determined to be Categorically Exempt pursuant to Section 15301 of the CEQA Guidelines, which allows the operation of existing private structures involving negligible expansion of use beyond that which exists.

BE IT FURTHER RESOLVED THAT the Planning Board of the City of Alameda hereby approves Conditional Use Permit No. PLN15-0594 allowing the establishment of an approximately 592-square-foot convenience market and coffee shop with outdoor seating and off-site sale of beer and wine at 1120 Ballena Boulevard subject to compliance with the following conditions:

1. Compliance with Conditions. The applicant/property owner shall ensure compliance with all of the following conditions. Failure to comply with any condition may result in construction being stopped, issuance of citation, and/or modification or revocation of the Permit.
2. Compliance with City Ordinances. The approved use is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies.
3. Alcoholic Beverages. The sale of alcoholic beverages shall be limited to off-site beer and wine sales, ABC Type 20 License, and occupy a maximum of five percent of the store floor area. No sale of spirits shall be allowed at the facility.
4. Outdoor seating. The outdoor seating shall be limited to tables in front of the store during normal operating hours. The outdoor seating area shall conform to the regulations of the City's Noise Ordinance.
5. Signs. The applicant must obtain a City Sign Permit before installing permanent business signage, including window signs.
6. Waste, Recycling, and Composting. The establishment shall recycle cans or bottles that are subject to the State of California Container Deposit Law and comply with all local, state, and regional laws requiring source-separation of waste material for recycling and composting.
7. Building Permits. Building Permit plans shall incorporate this approval notice, including the conditions of approval.
8. Exterior Lighting and Fencing. No new exterior lighting or changes to the exterior fencing shall be allowed without review and approval of the Community Development Department.
9. Revocation. This Use Permit may be modified or revoked by the Zoning Administrator, pursuant to Alameda Municipal Code Section 30-21.3d should the Zoning Administrator determine that: 1) the use or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity; 2) the property is operated or maintained so as to

constitute a public nuisance; or 3) the use is operated in violation of the conditions of the Use Permit.

10. Vesting. The Use Permit approval shall expire two (2) years after the date of approval or by March 14, 2018 unless authorized construction or use of the property has commenced. The applicant may apply for a time extension, not to exceed two (2) years. An extension request will be subject to approval by the Zoning Administrator and must be filed prior to the date of expiration.
11. Indemnification. The Applicant shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City of Alameda, the Alameda City Planning Board and their respective agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Alameda, Alameda City Planning Board, and their respective agents, officers, or employees to attack, set aside, void or annul, an approval by the City of Alameda, the Community Development Department, Alameda City Planning Board, the City of or City Council related to this project. The City shall promptly notify the Applicant of any claim, action, or proceeding and the City shall cooperate in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding. No judicial proceedings subject to review pursuant to California Code of Civil Procedure Section 1094.5 may be prosecuted more than ninety (90) days following the date of this decision plus extensions authorized by California Code of Civil Procedure Section 1094.6.

NOTICE. No judicial proceedings subject to review pursuant to California Code of Civil Procedure Section 1094.5 may be prosecuted more than ninety (90) days following the date of this decision plus extensions authorized by California Code of Civil Procedure Section 1094.6

NOTICE. The conditions of project approval set forth herein include certain fees and other exactions. Pursuant to Government Code Section 66020 (d) (1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations and exactions. The applicant is hereby further notified that the 90-day appeal period, in which the applicant may protest these fees and other exactions, pursuant to Government Code Section 66020 (a) has begun. If the applicant fails to file a protest within this 90-day period complying with all requirements of Section 66020, the applicant will be legally barred from later challenging such fees or exactions.

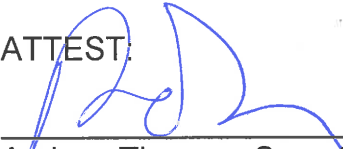
I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Planning Board of the City of Alameda during the Regular Meeting of the Planning Board on the 14th day of March, 2016, by the following vote to wit:

AYES: (5) Knox White, Köster, Henneberry, and Sullivan

NOES: (0)

ABSENT: (2) Mitchell and Zuppan

ATTEST:



Andrew Thomas, Secretary
City of Alameda Planning Board

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