

CITY OF ALAMEDA PLANNING BOARD
RESOLUTION NO. PB-23-01

A RESOLUTION OF THE PLANNING BOARD OF THE CITY OF ALAMEDA APPROVING USE PERMIT AND DESIGN REVIEW PLN22-0412 TO ALLOW THE ADAPTIVE REUSE OF AN EXISTING COMMERCIAL PROPERTY FOR A TAVERN USE WITH AN OUTDOOR SEATING AREA WITH LIVE MUSIC EVENTS, NEW PERIMETER FENCING, AND EXTENDED HOURS OF OPERATION TO 11:00 PM ON FRIDAYS AND SATURDAYS ON A 0.29-ACRE SITE AT 1200 PARK STREET.

WHEREAS, an application was made on August 26, 2022, by Norman Sanchez Architects (“Applicant”) requesting approval for Use Permit and Design Review PLN22-0412 to allow the adaptive reuse of an existing commercial property as a tavern use with an outdoor seating area with live music events, new perimeter fencing, and extended hours of operation until 11:00 PM on Friday and Saturday located on a 0.29-acre site at 1200 Park Street; and

WHEREAS, the application was deemed complete on January 9, 2023; and

WHEREAS, the subject property is designated as Community Mixed Use in the General Plan; and

WHEREAS, the subject property is located in a C-C-T, Community-Commercial – Theater Combining District; and

WHEREAS, the Planning Board held a duly noticed public hearing for the project on February 13, 2023 and examined pertinent maps, drawings, and documents.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board finds this project categorically exempt from environmental review pursuant to CEQA Guidelines Sections 15301 - Existing Facilities, and 15303 – New Construction or Replacement of Small Structures, and finds that none of the exceptions to the categorical exemptions apply. As a separate and independent basis, the project is also exempt from CEQA pursuant to CEQA Guidelines Section 15183 (projects consistent with General Plan and Zoning); and

BE IT FURTHER RESOLVED, that the Planning Board makes the following findings relative to the Use Permit application (AMC Sections 30-21.3, 30-4.9A.c., 30-4.22.d.):

- 1. The location of the proposed use is compatible with other land uses in the general neighborhood area, and the project design and size is architecturally, aesthetically, and operationally harmonious with the community and surrounding development.** As conditioned the proposed tavern with operating hours until 11:00 PM on Fridays and Saturdays, new perimeter fence, and outdoor seating area with live music is compatible with other commercial and residential land uses in the surrounding neighborhood area. The proposed tavern will operate very similarly to other restaurant operations on Park Street and will be able to provide a family

friendly atmosphere for all ages including minors. The use is consistent with General Plan Policies LU-10 and LU-17. The extended hours of operation for indoor and outdoor operations until 11:00 PM on Fridays and Saturdays are compatible with the operating hours of adjacent businesses, and are consistent with other tavern uses on Park Street that are also open until 11:00 PM on those days. The proposed decorative perimeter fencing is consistent with height and visibility requirements of the Zoning Ordinance and is constructed of materials compatible with the surrounding neighborhood. The outdoor seating area will provide an outdoor gathering space for the community to socialize, and will be limited hours to the same operating hours as the indoor use. The project conditions limit amplified music events to only three times per month on either Friday or Saturday only until 8:00 PM in order to minimize disturbances to the surrounding neighborhood area. The outdoor seating is also consistent with General Plan Health and Safety Policy HS-7.b In addition, the rehabilitation of the existing buildings is compatible with the surrounding neighborhood. Therefore, the proposed use is compatible with the community and surrounding development.

2. **The proposed use will be served by adequate transportation and service facilities including pedestrian, bicycle, and transit facilities.** The location of the project is within the Park Street downtown area and is fully developed and does not require additional service facilities. The Park Street Business District has a City operated parking lot, parking structure, and street parking within walking distance to the site, as well as bike parking facilities on the site and throughout the district. The site has access to public transit and is served directly by AC Transit lines 20, 21, 51A, O and W.
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 substantial deleterious effects on existing business districts or the local economy.** The proposed use of the site, as conditioned, will not adversely affect the surrounding properties, or hurt existing business districts or the local economy. The proposed use is consistent with the pedestrian-oriented commercial uses facilitated by the Community Commercial zoning regulations. The rehabilitation of the existing buildings is compatible with the surrounding neighborhood and will further enhance the Park Street business district. The outdoor seating area will provide an outdoor gathering space for the community to socialize, and will operate primarily like other outdoor dining locations in the Park Street area including the parklets of adjacent restaurants. The project conditions limit amplified music events to only three times per month (on either Friday or Saturday only) until 8:00 PM to minimize disturbances to the surrounding neighborhood area. Therefore, the proposed use is compatible with the community and surrounding development.
4. **The proposed use relates favorably to the General Plan and the purpose of the C-C Zoning District.** The project provides an opportunity to rehabilitate a property that has been vacant for years which is consistent with General Plan Policy LU-17 Adaptive Reuse and Restoration. The project is also consistent with General Plan Policy LU-10, which calls to support, promote and enhance Park Street to provide a

broad mix of retail store, restaurants, entertainment, hospitality, personal and professional service, and transit oriented mixed-use housing opportunities. The tavern use would contribute to the development of the goal of promoting Park Street as a Main Street district, and relates favorably with other restaurant and commercial uses that provide a similar family friendly, pet friendly atmosphere in the Park Street area. The proposal is consistent with the General Plan because, as conditioned, the proposed use would not have a negative impact upon the surrounding properties and commercial businesses. The proposal is also consistent with the Community Commercial Zoning District which is intended to provide for general retail, personal service use, offices, restaurants, hotels/motels, service stations, public and quasi-public uses and similar and compatible uses, and the proposed use is allowed with approval of a use permit.; and

BE IT FURTHER RESOLVED, that the Planning Board makes the following findings relative to the Design Review application (AMC Section 30-37.5):

1. **The proposed design is consistent with the General Plan, Zoning Ordinance, and the City of Alameda Design Review Manual**, because the proposed rehabilitation project is compatible in design and use of materials with the existing building and surrounding neighborhood. The proposed exterior modifications consist of a variety of façade enhancements and restoring the existing brick façade and the existing steel-sash casement windows on the upper level of the main building which are compatible with design elements in the surrounding Park Street area.
2. **The proposed rehabilitation project is appropriate for the site, is compatible with adjacent or neighboring buildings or surroundings, and promotes harmonious transitions in scale and character in areas between different designated land uses.** This rehabilitation of two existing buildings incorporates a variety of façade enhancements including replacement of the existing windows and doors with new storefront and glass roll up doors, replacement of canvas awnings with braced metal awnings, removal of existing metal storage shed, and new perimeter fencing and a decorative brick wall. The proposed modifications restore the existing brick façade and the existing steel-sash casement windows on the upper level of the main building. The project expands the existing building footprint by approximately 176-square feet, which is a negligible expansion of the existing building footprint. In addition, the exterior modifications also do not increase the height of the building. Therefore, the project does not affect the overall scale and character of the building. The new landscaping provides a communal seating area including picnic tables, benches and other seating elements which will serve as a welcoming outdoor gathering space for the community.
3. **The proposed rehabilitation of the structures and exterior materials and landscaping are visually compatible with the surrounding development, and design elements have been incorporated to ensure the compatibility of the structure with the character and uses of adjacent development.** The proposed modifications are designed to be compatible with the existing building and will utilize a storefront with similar windows and doors with large spans of glazing, braced metal

awnings, new paint, and finishes which are also compatible with the design elements found on buildings in the surrounding neighborhood. The outdoor patio, landscaping, and trees are also compatible with the surrounding neighborhood and provides a decorative outdoor gather space for the community; and

BE IT FURTHER RESOLVED, that the Planning Board approves Use Permit and Design Review PLN22-0412 to allow the adaptive reuse of an existing commercial property as a tavern use with an outdoor seating area with live music events during specified times, new perimeter fencing, and extended hours of operation until 11:00 PM on Friday and Saturday located on a 0.29-acre site at 1200 Park Street, subject to the following conditions:

1. Building Permit Conditions: These conditions shall be printed on the first page of all building plans and improvement plans.
2. Building Permit Plans: The plans submitted for the building permit shall be in substantial compliance with the plans prepared by Norman Sanchez Architects, received on January 9, 2023 and on file in the office of the City of Alameda Planning, Building and Transportation Department, except as modified by the conditions in this resolution.
3. Expiration: The Use Permit shall expire two (2) years, and Design Review approval shall expire three (3) years, after the date of approval unless authorized construction or use of the property has commenced. A one-time extension for an additional two years may be granted by the Planning, Building and Transportation Director upon written request and payment of applicable fees.
4. Changes to Approved Plans: This approval is limited to the scope of the project defined in the project description and does not represent a recognition and/or approval of any work completed without required City permits. Any additional exterior changes shall be submitted to the Planning, Building, and Transportation Department for review and approval prior to construction
5. Approved Uses: This use permit approves an approximately 6,000 square foot tavern and outdoor seating patio with extended hours of operation for indoor and outdoor operations to 11:00 PM on Friday and Saturday, a new perimeter fence along Park Street and San Jose Avenue, and live entertainment activities with amplified sound subject to the conditions below.
6. 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 including the County of Alameda Department of Environmental Health, and the Department of Alcohol Beverage Control. The applicant shall obtain a Type 41 ABC license prior to commencement of alcohol sales related activity.

7. Posting of Use Permit and Conditions: A copy of this Use Permit and conditions of approval shall be posted on the premises at all times. Tavern employees shall be informed of these conditions of approval and limits of this Use Permit.
8. Hours of Operation: Hours of operation for the indoor and outdoor operations shall be from 7:00 AM to 11:00 PM on Friday and Saturday only, and normal business hours from 7:00 AM to 10:00 PM Sunday through Thursday.
9. Outdoor Music. Live music events performing outdoors with amplified sound exceeding the ambient noise levels in the area (i.e. live band, DJ) shall:
 - a. Be limited to no more than three (3) days per calendar month on either a Friday or Saturday. The applicant shall provide a calendar of scheduled events and provide such calendar to the City upon request.
 - b. Friday events shall be limited to the hours of 4:00 pm to 8:00 pm.
 - c. Saturday events shall be limited to the hours of 2:00 pm to 8:00 pm.
 - d. Be limited to a total of three (3) hours per day, plus an additional one (1) hour maximum for pre-event sound checks only.
 - e. Set up and breakdown activities may occur for up to 3 hours before and 2 hours after events.
 - f. Comply within a maximum noise level up to 85 dBA when measured at adjacent residential property lines. Upon three-verified violations of the maximum noise level, the Planning Board shall hold a revocation hearing of the Use Permit at the cost of the applicant as outlined in Condition 21.
10. Organizer Contact and Event Schedule. Applicants will provide their contact information to residential and commercial neighbors by posting information on the site that informs the public who to call so that they may report on issues and concerns. Applicants shall also post an up to date calendar of events on the site.
11. Noise Ordinance. The events not covered by condition #9 above shall strictly comply with the Alameda Noise Ordinance (AMC Section 4-10). The applicants shall monitor noise level at every event and ensure compliance with the maximum allowable noise levels in Section 4-10.4.b.
12. Final Architectural Details: Prior to issuance of building permits, the Applicant shall do the following to the satisfaction of the Planning Director:
 - a. Provide final details on the brick wall materials and mesh fencing in the final plans submitted for building permits.

- b. Evaluate the possibility of planting the potted trees into the ground after Soil Excavation Corrective Action Implementation Plan with the County has been complete. If possible, amend final improvement plans to plant trees into the ground.
 - c. Revise the brick masonry wall design to provide visibility into the outdoor patio area from the street.
 - d. Explore providing a covered or interior connection between the restaurant and tap room for dining service.
13. Dark Skies Ordinance: Building Permit plans shall demonstrate compliance with the Alameda Dark Skies Ordinance (AMC Section 30-5.16.c), as applicable.
14. Bird Safe Ordinance: Building Permit plans shall demonstrate compliance with the Alameda Bird-Safe Building Ordinance (AMC Section 30-5.16.b), as applicable.
15. Public Art Requirement: Prior to final building inspection, the Applicant shall demonstrate compliance with the Public Art Ordinance (AMC Section 30-98).
16. Bicycle Parking: The project shall provide the required bike parking spaces consistent with AMC Section 30-7.6 Off-Street Bicycle Parking Requirements. The locations for bicycle parking consistent with the AMC bicycle requirements shall be shown on the Building Permit plans. The bicycle facility shall be located in a secure and safe location and accessible from high pedestrian/bicycle traffic areas, such as at the street frontage, to the satisfaction of the Planning, Building & Transportation Director.
17. Water Efficiency Landscape Ordinance: Prior to issuance of building permits or improvement plans, Applicant shall submit a complete WELO Landscape Document Package, as defined by Alameda Municipal Code (AMC) Section 30-58.3(d), subject to the approval of the Planning, Building, and Transportation Director.
18. Urban Runoff / Stormwater Requirements:
- a. Applicant must ensure that no pollutants, including food waste/grease, liquid wastes, garbage/debris, litter, and/or other materials, are discharged to the City's storm drain system (including roadways and storm drains), or the paved use areas or wind-dispersed off-site.
 - b. Applicant will be required to pick up, remove, and dispose of all garbage, refuse or litter consisting of foodstuffs, wrappers, and/or materials dispensed, and any residue deposited on the street and the paved use areas from the operation thereof, and otherwise maintain in a clean and debris-free condition the entire area within a 25-foot radius of the tavern location.

- c. Applicant will be required to pick up, remove and properly dispose of all wastes, debris and trash from the use site daily.
- d. Applicant shall use best management practices and dry methods of cleaning to prevent accumulation or discharge of any materials to the City's storm drain system (including roadways and storm drains) and the paved use areas.
- e. Applicant shall ensure that any wash water from surface cleaning activities shall be collected and discharged to the sanitary sewer system and shall implement surface cleaning best management practices described in the Bay Area Stormwater Management Agencies Association (BASMAA) "Pollution From Surface Cleaning" guidance document.

19. Integrated Waste Requirements:

- a. Applicant shall provide customers sufficient garbage, recycling, and organic collection receptacles.
- b. All garbage facilities shall be secured within the building or within a fenced area protected from access by raccoons or other vermin. In no circumstances will uncovered garbage, grain, refuse or other edible materials be placed outside the building in an open bin or can.
- c. Applicant shall place graphically rich signs or labels on or adjacent to containers so customer discards are more thoughtfully sorted.
- d. All receptacles shall be covered or secured when operations are closed. Applicant will discourage the scavenging of bottles and cans from use area.
- e. Applicant understands that disposable food service ware that uses polystyrene foam (aka Styrofoam™) is prohibited within jurisdictional limits.
- f. Use of City waste receptacles is prohibited.

20. Six-Month Review: The Use Permit approval is valid for six months from the date of the start of business. The applicant shall submit a use permit application and pay application fees for the use permit renewal prior to six months after the date of Certificate of Occupancy, at which point the use approved under this Use Permit may continue until an action on the permit renewal is made by the Planning Board at a public hearing conducted in conformance with Alameda Municipal Code Section 30-21. If no use permit application is submitted prior to the six month anniversary of the issuance of the Certificate of Occupancy the use permit shall expire, and use of the outdoor amplified music shall be prohibited.

21. Revocation: This Use Permit may be modified or revoked by the Zoning Administrator, Planning Board, or City Council, pursuant to Alameda Municipal Code Section 30-21.3d should the Zoning Administrator, Planning Board, and/or City

Council 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.

HOLD HARMLESS. To the maximum extent permitted by law, the applicant (or its successor in interest) shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Alameda, its City Council, City Planning Board, officials, employees, agents and volunteers (collectively, "Indemnitees") from and against any and all claims, actions, or proceedings against Indemnitees to attack, set aside, void or annul an approval by Indemnitees relating to this project. This indemnification shall include, but is not limited to, all damages, losses, and expenses (including, without limitation, legal costs and attorney's fees) that may be awarded to the prevailing party arising out of or in connection with an approval by the Indemnitees relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate in the defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding and the applicant (or its successor in interest) shall reimburse the City for its reasonable legal costs and attorneys' fees.

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.

The decision of the Planning Board shall be final unless appealed to the City Council, in writing and within ten (10) days of the decision, by filing with the Planning, Building, and Transportation Department a written notice of appeal stating the basis of appeal and paying the required fees.

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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 13th day of February 2023, by the following vote to wit:

AYES: (7) Ariza, Cisneros, Curtis, Hom, Ruiz, Saheba, and Teague

NOES: (0)

ABSENT: (0)

ATTEST:



Allen Tai, Secretary
City of Alameda Planning Board