

**CITY OF ALAMEDA
PLANNING, BUILDING AND TRANSPORTATION DEPARTMENT**

ADMINISTRATIVE USE PERMIT

ITEM NO: 3-B

PROJECT DESCRIPTION: **PLN21-0227 – Administrative Use Permit – 707 West Hornet Avenue (Aircraft Carrier Hornet) – Applicant: Aircraft Carrier Hornet Foundation.** A public hearing to consider a Use Permit to allow continuation of ship-based museum operations at Pier 3. The project is located within the AP-E4, Alameda Point – Enterprise 4 District.

GENERAL PLAN: Mixed Use, Alameda Point 3 - Marina

ZONING: AP-E4, Alameda Point – Enterprise 4

ENVIRONMENTAL DETERMINATION: Categorically Exempt from State CEQA Guidelines, Section 15301 – Existing Facilities because the project consists of operation, permitting or leasing of existing private structures involving negligible or no expansion of use beyond that which exists.

PROJECT PLANNER: Brian McGuire, Planning Technician

PUBLIC NOTICE: A notice for this hearing was mailed to property owners and residents within 300 feet of the site, published in local newspapers and posted in public areas near the subject property. Staff has not received any public comments on this proposed project.

ATTACHMENTS: 1. Site Plan

RECOMMENDATION: Staff recommends approval of the Use Permit, subject to the recommended conditions.

PROPOSAL SUMMARY: The applicant is requesting a renewal of an expired interim Use Permit for the Aircraft Carrier Hornet Museum (Hornet). Since the previous interim Use Permit was issued in 2008, City Council has adopted the Alameda Point zoning district. The Hornet is located in the Alameda Point – Enterprise 4 district,

which allows museums with a Use Permit. The proposed Use Permit continues the land use activities previously approved by the interim Use Permit to allow the museum use, and it sets conditions, including requirements and limitations on special events. The proposed Use Permit does not have an expiration date.

FINDINGS:

- 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.**

The location of the proposed use is compatible with other uses in the vicinity because the site has historically been used for aircraft carrier berthing facilities for Navy ships including the USS Hornet; the brows (ramps) and modular building are orderly and are of types commonly used by ship museum operations. Museums are conditionally permitted in the Alameda Point - Enterprise 4 district.

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

The proposed use will be adequately served by transportation and service facilities because there are multiple roadway connections from the site and parking lot to West Atlantic Avenue, Main Street, and Central Avenue. People walking and biking to the site can use the San Francisco Bay Trail or Cross Alameda Trail which both serve the general vicinity. AC Transit Line 96 serves the area with stops approximately three quarters of a mile from the site. The new Seaplane Lagoon Ferry Terminal is less than one half mile to the north and began operations July 1st, 2020. AC Transit is launching Line 78 to serve this terminal. Line 78 will have its western terminus at the USS Hornet 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 substantial deleterious effects on existing business districts or the local economy.**

The proposed use will not adversely affect other properties in the vicinity because the use is ongoing and consistent with how the site has been used historically; and because the applicant shall be required to comply with the City's Storm Water Management and Discharge Control Ordinance, and Zero Waste Program conditions. Visitors to, and employees and volunteers of the museum will support local businesses and help support the local economy.

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

The use is consistent with the location's Mixed Use General Plan designation. General Plan policy 9.3.I for Alameda Point states that the City should foster uses that promote vitality and pedestrian activity along the

waterfront. The USS Hornet's historical museum and event uses serve as a regional destination activating this area of the former naval base and the site is flanked by popular multi-use trails that visitors can take advantage of.

CONDITIONS:

1. Approved Use. This Use Permit specifically approves the following uses and activities:
 - a. Use of the former Aircraft Carrier USS Hornet berthed on either the north or south side of Pier 3, as a museum that includes on-board displays of aircraft, spacecraft, historical photographs, and models and rooms of the ship; on-board gift sales totaling approximately 3,000 square feet, meeting space and lodgings for guests, employees and volunteers. The Hornet may be open to the public 7 days per week, from 9 am to 9 pm on Mondays and Tuesdays; 9 am to 10 pm on Wednesdays through Sundays; until 2 am for indoor events below the flight deck, on weekends and New Years' Eve. An estimated 100,000 to 150,000 people are expected to visit the Hornet each year.
 - b. Service of alcoholic beverages to Hornet tour or special event ticket holders only, including beer, wine and liquor, in connection with meals or designated group events such as wine tasting fairs, Hornet Foundation member and staff meetings or conventions: on the top two (2) decks and in restaurant areas of the former Aircraft Carrier USS Hornet berthed on either the north or south side of Pier 3, as a museum; and at up to two (2) mobile food carts in fenced areas adjacent to and included with the Hornet brow/entries of Pier 3.
 - c. Fencing up to 3,000 square feet of the Hornet leased parking area near the intersection of W. Hornet Avenue and Ferry Point, using chain link fence without barbed wire, and aluminum or redwood slats, to the satisfaction of the Planning Director; and storage in these areas only of material in transit to or from the museum such as metal parts, operational equipment, disassembled aircraft components, packaged raw materials not including hazardous materials or combustible materials such as oils or gasoline.
 - d. Filming of television or motion picture programs.
 - e. Outdoor events on the flight deck; and below deck food service on up to 35,000 square feet, in up to eight (8) areas of the ship;
 - f. Use of Navy signal flags and pennants on lines from the ship masts to the decks, in the manner of active duty Navy ships, is included in the use;
 - g. Up to 600 overnight visitors in former crew quarters on the ship;
 - h. Loudspeakers on flight deck control tower for announcements, subject to limitations of noise conditions. The City reserves the right

to impose limitations on the number of loud speakers and/or volume on a case by case basis as part of Special Events Permit review.

- i. Display of up to three (3) vintage military aircraft or replicas, at least 30 years old, for the previously approved 3,500 square foot modular office, on Pier 3 near Ferry Point, in such a manner as to not block emergency access to the Pier, to the satisfaction of the City's Fire Marshal;
 - j. Fireworks events to six (6) per year, not more than one per two-week period, and not to be held during April 1 through August 31 of each year when the Least Terns are nesting at the Wildlife refuge unless USFWS approval is granted; all fireworks to be launched from outside the City limits and not fired toward the land area of the wildlife Refuge;
 - k. Berthing for one (1) visiting Naval or museum ship at a time in the Hornet's lease area of Pier 3, for up to one week per visit or longer with the approval of the Planning Director, for educational and display purposes.
 - l. Up to eight (8) metal directional signs with printed letters, identifying the USS Hornet, typically 4 to 6 square feet each and up to 10 square feet each or larger if approved by the City Public Works Director, in Caltrans format (page 4-94 of the Caltrans manual, similar colors and format to G-14 or G-15 or other sign approved by the Public works Director) to be placed at approximately $\frac{1}{4}$ to $\frac{1}{2}$ mile intervals along the north side of Atlantic Avenue between Webster Street and Ferry Harbor (Ferry Point) and west of Ferry Harbor from Atlantic Avenue to W. Hornet Avenue.
 - m. Tour Boat and/or Ferry Service from Pier 3 including landing barge and ramp area, with operation of tour boats not commencing before 9:00 a.m. or extending past 7:00 p.m. near the land or waters of the City of Alameda, and with up to 8 trips per day with a maximum capacity of 500 persons per boat trip, unless specific written permission has been previously issued by the Planning Director for a special event.
2. USFWS Biological Opinion. All uses and activities permitted under this Use Permit shall comply with the Biological Opinion on the Proposed Naval Air Station Alameda Disposal on Reuse Project (BO) prepared by the US Department of Fish and Wildlife Service. This may require avoiding certain activities or events between April 15th and August 15th each year and/or redirecting noise and light away from the Wildlife Refuge.
 3. Special Events. The applicant shall apply for a Special Event permit from the Permit Center for any event at which over 1,000 visitors are expected. Fourteen days prior to any event at which over 200 visitors are expected, USS Hornet personnel shall notify the police department, the fire department, and the Permit Center that an event will be occurring at the

Hornet.

- a. Film Permits shall be required for any film work that is going to occur on the landside, piers, or parking areas adjacent to the Hornet or elsewhere at Alameda Point. Filming that will occur entirely on-board shall not require a film permit.
 - b. Car Shows, defined as a public exhibition of more than fifteen (15) automobiles in or out of production, ticketed or not ticketed, shall be prohibited, except that up to four (4) time per calendar year, no more than seventy five (75) military or antique vehicles may be temporarily displayed on Pier 3 and/or on board the ship in a manner compliant with other conditions of this Use Permit. For purposes of this use permit, Antique shall mean any vehicle over fifty (50) years old based on its manufacture date.
 - c. In addition to other necessary and appropriate conditions, traffic control plans may be required to manage automobile flow and driver behavior for large events in order to not unreasonably and disproportionately impact adjoining neighborhoods and ensure safe behavior on city streets.
4. Applicability of Requirements. The requirements of this Use Permit apply to the applicant, as well as to any subsequent owners, assigns, lenders, or successors in interest including the U.S. Navy or other Federal agency.
 5. Other Agency Approvals. The applicant shall obtain and maintain all approvals and permits required from other agencies as appropriate, including the San Francisco Bay Conservation and Development Commission (BCDC) for the subject use, and shall adhere to all the conditions imposed by these agencies, as they deem appropriate.
 6. Noise. The applicant shall observe the City of Alameda noise regulations, Alameda Municipal Code Chapter IV, Article II, 4-10. Any use found to increase the noise level above standards may be required to mitigate noise levels, including insulation or baffling noise sources. The applicant shall limit noise, particularly night noise, within the standards of the General Plan and other City noise regulations, to the satisfaction of the Planning Director. The single large loudspeaker system to simulate naval operations shall be limited to daylight hours. The system for amplification of music and special events shall be subject to operational testing prior to use. If significantly audible for adjacent residences or businesses, the applicant shall revise the system, such as but not limited to several smaller speakers, directional speakers etc. to eliminate disturbances. This system shall be limited to interior areas of the lower decks of the ship after 10 p.m.
 7. Hours of Operation. Operation of top deck and outdoor areas with any loudspeakers audible from 2,000 feet distant from the site is limited to between the hours of 9:00 a.m. and 10:00 pm. Indoor concerts and events may be held until 2:00 a.m.
 8. Lighting. Any lighting shall be shielded from view from neighborhood

residences and the Wildlife Refuge in accordance with the Biological Opinion by hoods or skirting, no lights shall shine directly toward residences, and all exterior lighting shall be subject to the approval of the Planning Director.

9. Fire Protection. The applicant shall install and maintain operational fire protection systems to the satisfaction of the Alameda Fire Department standards for occupied areas of the ship. The applicant shall meet the requirements of the Fire Department regarding required fire protection flow in the Pier 3 area and aboard the ship; exit requirements from the ship's compartments and ashore; fire alarm notification, detection and annunciation; emergency lighting and control of all areas of the ship including emergency access and fire rating occupancies.
10. Alameda Municipal Power. The applicant shall coordinate with Alameda Municipal Power for meter installation and power requirements, including any modifications of existing Pier 3 power supplies.
11. Compliance with Laws. The applicant shall comply with all federal, state regional and local laws. Material violation of any of those laws in connection with the use will be cause for revocation of this permit.
12. Public Access. Public access vista points or alternative provisions for public access shall be provided and maintained in the vicinity of the entry to Pier 3, NAS Alameda, as required by BCDC, with plans subject to the review and approval of the Planning Director.
13. Building Inspection. Any proposed use or occupancy of buildings or the ship, which would be equivalent to the past occupancy as defined by the Uniform Building Code would be permitted without requiring modification to comply with the requirements of the current Alameda Building Code. If a change in occupancy classification is proposed it will be necessary for Building Permits to be obtained for the change in use and for the building or ship area to be modified to comply with the Alameda Building Code requirements for the new occupancy classification.
14. Hazards. The applicant will meet the remediation requirements of United States Environmental Protection Agency (USEPA), including the May 2, 1997 draft agreement between the applicant and USEPA, as well as of the City Fire Marshal in encapsulating or removing PCB's, lead based paint and asbestos from areas determined to expose the public to hazardous materials. The applicant shall follow the City's Best Management Practices for storage and processing of hazardous materials and prevention of discharge of hazardous materials.
15. Exhibits, Storage and Displays. Vintage aircraft, photographs, plaques and other memorabilia of the Hornet's historic status may be displayed on the top deck and interior decks as permitted by the Fire Chief and the Planning Director. No aircraft or displays, or any other outdoor storage, larger than a cumulative 200 square feet shall be displayed outdoors on Pier 3, in order to retain pedestrian circulation and emergency access.
16. Least Tern Habitat. Employees, contractors and customers of the

- applicant shall be prohibited from entering wetlands areas including the Seaplane Lagoon waters or areas of endangered species habitat, particularly the Least Tern nesting or feeding areas commencing in land and water areas approximately 2,000 feet to the north and west. Interim users shall post information, to be provided by the City, regarding the value of the habitat areas on the base and the human activity, and shall cooperate in educational programs on these subjects. Prior to any firework show, the applicant shall notify the local U.S. Fish and Wildlife Service office at least 10 days before the show, and shall follow the requirements of USFWS in protecting the Alameda Point Wildlife Refuge area including both Least Tern and Brown Pelican nesting areas. No fireworks shall be launched from the City limits of Alameda nor shall any fireworks be launched toward the Wildlife Refuge.
17. Tour Boats. Tour boats shall only be operated by qualified tour boat services under contract to the applicant, Aircraft Carrier Hornet Foundation. Tour boat operator(s) shall maintain in good standing all required licenses and certifications from the U.S. Coast Guard, the State of California and other applicable agencies. The approach path for tour boats to the Hornet Museum at Pier 3 shall follow a path designated by the U.S. Fish and Wildlife Service, at least approximately 400 feet from either the Alameda Point shore or the breakwater. The Service is responsible for protecting the habitat of the California Least Tern and the Brown Pelican, and prohibits unauthorized entry or approach to nesting and feeding areas needed by endangered species. If the U.S. Fish and Wildlife Service notify the City in writing of two (2) incidents within any 30 day period of tour boats diverting from an approved approach path through these designated waters, the Planning Director may schedule a public hearing on possible revocation of this Use Permit. The tour boat operators shall use former Navy "ranges" (radar reflective paddles) at Alameda Point to align the tour boat approach path.
18. Overnight Accommodations. The Use Permit allows up to 600 berths on the Hornet to be rented overnight to groups from one of these categories only: staff/volunteers of the Hornet, employees of contractors working on the ship, elder hostels, student/scouting, veterans, foreign visitor groups, or other group approved by the Planning Director. The berths shall not be made available to individual members of the general public outside of approved groups. The applicant shall pay City transient occupancy tax (T.O.T.) as applicable. No person shall stay overnight on the Hornet for thirty (30) or more consecutive days. Overnight areas shall be clearly marked including entrances and exits and no overnight area shall be occupied unless sufficient staff volunteer representatives are stationed near the accommodations at all times to provide security and to supervise overnight groups. Failure to abide by this requirement may result in the Planning Director suspending overnight operations for up to 90 days at a time, independent of the vesting or viability of the remaining Use Permit.
19. Alcoholic Beverages. The applicant and any vendors or subcontractors are prohibited from selling or otherwise providing alcohol for off-premises consumption. The applicant shall comply with directions from the Alcoholic Beverage Control Commission, the City Police Chief and other authorized officials regarding limitation on beverage service to

minors. A minor is a person under 21 years old. In particular, no alcoholic beverages shall be served within 300 feet of minors' sleeping quarters on any deck on which minors are allowed overnight. Violation of this condition is grounds for scheduling a hearing on revocation of the Use Permit, in addition to other remedies provided by law. In addition to security and customer control provided for the Hornet Museum, the applicant shall provide enhanced control by use of its own members, staff and contract security, to discourage excessive drinking of alcoholic beverages. All contract personnel and staff who vend or supply beverages shall be instructed to refuse to serve any customer who appears to be intoxicated or who would not appear safe to operate a motor vehicle. It shall be the responsibility of the applicant and applicant staff to visually monitor visitors leaving the ship who may be too intoxicated to drive and to intervene to obtain a designated (non-drinking) driver, taxi, bus or other safe travel mode for such customers where possible. A designated driver program similar to that used in major sporting events and a drinking driver awareness program for applicant employees and contractors, approved by the Police Chief, shall be operated and advertised to customers by the applicant. Signs on Pier 3, in parking areas and in all advertisements for the Hornet's special events, shall provide information, satisfactory to the Planning Director, that these programs are being operated by the applicant. Due to a requirement of the Bay Conservation and Development Commission for public access to Pier 3, the applicant maintains access to persons who are not ticket holders for Hornet tours or events. No alcoholic beverages shall be sold on Pier 3 to anyone who is not a ticket holder for a Hornet tour or event. Beverage service on Pier 3 shall only be in secured, fenced areas to which entry is restricted by applicant security or docents to persons 21 years of age and older, who are Hornet ticket holders.

20. Clean Water Program.

- a. The applicant shall have connections to the piped sanitary system. Each user shall comply with East Bay Municipal Utility District Wastewater Control Ordinance No. 311.
- b. Applicant must ensure that no pollutants, including trash/litter, liquid wastes, facility operations debris, or any other materials, animal wastes or washwaters are discharged in an uncontained manner or otherwise subject to dispersal to the City's right-of-way, storm sewer system (including gutters, curbs and storm drains) and/or directly to waters of San Francisco Bay in accordance with the City's Storm Water Management and Discharge Control Ordinance.
- c. Any fireworks/pyrotechnics display shall effectively prevent the discharge or release of any materials, wastes and/or incidental debris to any on-land or on-water location. The USS Hornet venue shall be responsible for the implementation of all necessary pyrotechnic-industry specific and general pollution prevention best management practices (BMPs) to effectively prevent any pyrotechnic/fireworks materials and/or waste releases to any on-land or on-water location.

- d. The applicant shall implement Best Management Practices (BMPs) to prevent illicit discharges and shall comply with the City of Alameda Municipal Code Sec.18-21 to 18-25 Storm Water Management and Discharge Control Ordinance.

21. Zero Waste Program.

- a. All trash containers shall be tightly covered and secured to prevent the intrusion of rats and other vectors. Applicant is responsible for the clean-up of all litter and debris associated with this activity and should ensure availability of sufficient garbage, recycling and organics receptacles.
- b. Arrangements shall be made with the City's Franchised Hauler, Alameda County Industries (ACI), to have adequate solid waste, commingled recycling services and appropriate organics collection capacity.
- c. Applicant, venue, and all contractors/service providers shall effectively comply with the City's Disposable Food Serviceware Ordinance including, but not necessarily limited to, preferentially striving to use reusable wares, using compostable-fiber foodservice ware, not using any polystyrene foam (aka Styrofoam), not using any plastic foodservice ware, and not offering any straws (non-plastic only) unless requested.
- d. Applicant/venue is responsible for effectively ensuring that all vendors, caterers and any other contracted service providers are effectively complying with all of the City's and State's solid waste management (including recycling, organics recycling, and edible food recovery), record-keeping, and reporting requirements.
- e. The applicant shall comply with the City of Alameda Municipal Code, Disposable Food Service Ware, Sec. 4-4; Solid Waste And Recycling [Sec. 21-2.1](#), [Sec. 21-2.7](#), [Sec. 21-3.2-3.7](#); and with Alameda County Waste Management Authority (ACWMA) Mandatory Recycling Ordinance (MRO) 2012-01; and Reusable Bag Ordinance (RBO) 2012-02, 2016-2 where applicable.

22. Unenclosed Storage. No unenclosed storage shall be permitted unless expressly requested and approved as part of the Use Permit. Outdoor storage may be permitted where it is necessary because of the nature of the material being stored or for the operation of the business. When permitted, it shall be kept to the minimum necessary, shall be sited and screened to avoid visual impacts. If the amount of outdoor storage except vintage aircraft on the flight deck of the Hornet would exceed 1,000 square feet, an amendment to the Use Permit application will be required. There shall be no outdoor storage of hazardous materials, with the exception of up to 300 square feet if permitted by the Fire Department.

23. Master Lease/Categorical Exemption Compliance. The applicant shall comply with the terms and conditions of the Lease in Furtherance of Conveyance and the Record of Decision regarding former Naval Air

Station Alameda (Alameda Point), including those terms and conditions in addition to the conditions of this Use Permit, including payment of a fair share of public service costs at Alameda Point and regulation of maintenance dredging.

24. Revocation. This Use Permit may be modified or revoked by the City Council or Planning Board, should they determine that the proposed uses or conditions under which the property is being operated or maintained is detrimental to the public health, welfare, or is materially injurious to property or improvements in the vicinity, or the property is operated or maintained so as to create a public nuisance.
25. 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.

DECISION:

Environmental Determination

This project does not involve an expansion of an existing use and will not have a significant effect on the environment. The City has determined that the proposed Use Permit is Categorically Exempt under Section 15301 of the California Environmental Quality Act operating, permitting or leasing of existing public facilities involving negligible or no expansion of use.

Use Permit

The Zoning Administrator hereby approves the Use Permit PLN21-0227 with conditions.

The decision of the Zoning Administrator shall be final unless appealed to the Planning Board, in writing and within ten (10) days of the decision.

Approved by:



Date: August 23, 2021

Allen Tai, Zoning Administrator