

**CITY OF ALAMEDA
COMMUNITY DEVELOPMENT DEPARTMENT**

ADMINISTRATIVE USE PERMIT

ITEM NO: 3-A

PROJECT DESCRIPTION: **PLN16-0107 – 1304 Lincoln Avenue – Applicant: Michael Thanos.** The applicant requests use permit approval for an existing tavern with outdoor seating. Business hours for the tavern are 5:00 PM to 12:00 AM Monday through Thursday, 5:00 PM to 2:00 AM Friday through Saturday, and 3:00 PM to 10:00 PM Sunday. The hours of operation for the outdoor patio area is from 5:00 PM to 9:00 PM. The property is located within the C-1 (Neighborhood Business) zoning district.

GENERAL PLAN: Neighborhood Business

ZONING: C-1

ENVIRONMENTAL DETERMINATION: Categorically Exempt from State CEQA Guidelines, Section 15301, Class 1 (Existing Facilities). The project is categorically exempt from CEQA because the project is a use permit for an existing tavern located in an urban area. The proposed use permit would not result in any significant environmental impacts.

PROJECT PLANNER: Henry Dong, Planner I

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 front of the subject property. Staff received twenty-two public comments on the proposed project as of April 4, 2016. Twenty-one comments were in support, none were in opposition, and three contained questions on the proposal.

ATTACHMENTS:

1. Site Plan
2. Public Comments

RECOMMENDATION: Find that the project is Categorically Exempt from environmental review and approve the project with conditions based on the following findings contained

in this report.

PROPOSAL SUMMARY:

The original building containing Arny's tavern was built before 1909 according to City records. The building was destroyed by fire, and the facility was rebuilt in 1969 with nine parking spaces by Building Permit No. B69-1306. The facility was renamed Forbidden Island in 2006. Taverns are allowed in the C-1 zoning district with the approval of a use permit. The Forbidden Island tavern currently does not have a use permit and is considered a legal nonconforming use. The proposed use permit would bring the tavern and the outdoor patio area into conformance with the C-1 zoning district.

The approximately 1,700 square foot tavern is located at 1304 Lincoln Avenue. The facility will be open 5:00 PM to 12:00 AM Monday through Thursday, 5:00 PM to 2:00 AM Friday through Saturday, and 3:00 PM to 10:00 PM Sunday. The dining tables, and bar would be located in the front portion of the building, and a commercial kitchen, storage, and restroom would be located in the rear of the facility. The existing parking plan has been reconfigured to add two additional parking spaces in order to meet the original nine parking spaces established in 1969. The tavern will serve meals, beer, wine, and cocktails, and provide outdoor seating between 5:00 PM and 9:00 PM. No live music or loud speakers will be allowed in the outdoor area without a Special Events Permit.

USE PERMIT 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 in that:**

The proposal is consistent with the C-1 zoning district and the Neighborhood Business General Plan land use designation with the approval of a use permit. The "Neighborhood Business" land use designation and the C-1 zoning district is intended for uses that serve residential areas with convenient shopping and service facilities. The existing tavern currently serves the surrounding community and has become a local gathering place for Alameda residents to enjoy food and beverages. Conditions of approval will minimize noise and provide controlled operating hours to maintain compatibility of the tavern and outdoor patio area with the residential neighborhoods. The extended hours also complement the busy work schedules of the community by providing evening hours to dine and socialize. The operation of a local tavern enhances the neighborhood business area by providing a bike and pedestrian-friendly use and a primary socializing location. No exterior changes are proposed for the building.

- 2. The proposed use will be served by adequate transportation and service**

facilities, including pedestrian, bicycle and transit facilities in that:

The site is located one block away from Santa Clara Ave, one of the City's best served transit corridors. The tavern is within walking distances to AC Transit bus routes O, 51A, 314, and 851. Metered parking and public bicycle racks are also located along the sidewalk adjacent to the facility. The existing parking plan has been reconfigured to add two additional parking spaces in order to meet the original nine parking spaces established for the facility. Furthermore, the existing tavern is already fully developed and does not require additional service facilities.

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 in that:

The proposed tavern will not adversely affect the surrounding properties, hurt the existing business district, or the local economy. The project is an existing tavern use that will maintain its current operating hours from 7:00 A.M. to 10:00 P.M. on Sundays, 7:00 A.M. to 12:00 A.M. on Mondays through Thursdays, and 7:00 A.M. to 2:00 A.M. on Fridays and Saturdays. The hours of operation for the outdoor patio area will be limited to 5:00 PM to 9:00 PM. The project is located adjacent to existing residential neighborhoods to the east and south of the property. Conditions of approval will minimize noise and provide controlled operating hours to maintain compatibility of the tavern and outdoor patio area with the residential neighborhoods. A comment letter received from the Alameda Police Department showed there were no reported police incidences for the existing tavern in 2016. Furthermore, there are no existing on-site alcohol businesses within 1,000 feet of the project site, and the project will not result in an oversaturation of on-site alcohol retail outlets in the area. Overall, the proposed use will have a positive impact on the neighborhood by providing food, beverages, and outdoor seating for the local residents. Therefore, the proposed use permit will not adversely affect the surrounding neighborhood.

4. The proposed use relates favorably to the General Plan, in that:

The General Plan designates this area as a "Neighborhood Business" which allows uses that meet the convenience shopping needs of nearby residents. Taverns are an allowed use within the Neighborhood Business district with the approval of a use permit. The use provides the convenience of a community gathering location that serves food and beverages within walkable distance to the surrounding neighborhoods. Furthermore, the outdoor patio area provides a unique dining experience for the community to relax and enjoy the local weather. Conditions of approval will minimize noise and provide controlled operating hours to maintain compatibility of the tavern and outdoor patio area with the residential neighborhoods.

CONDITIONS OF APPROVAL:

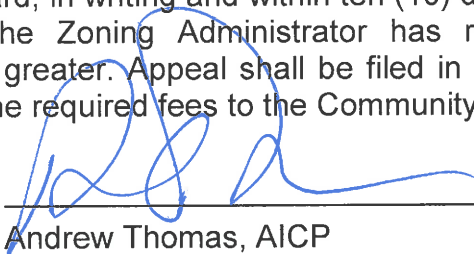
This Use Permit approves a tavern with an outdoor patio pursuant to Alameda Municipal Code Section 30-20.2 subject to the following conditions:

1. **Compliance with Conditions:** The applicant/owner shall ensure compliance with all of the following conditions. Failure to comply with any condition may result in construction being stopped, issuance of a 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. **Hours of Operation:** The hours of operation for the tavern shall be between the hours of 3:00 P.M. to 10:00 P.M. on Sundays, 5:00 P.M. to 12:00 A.M. on Mondays through Thursdays, and 5:00 P.M. to 2:00 A.M. on Fridays and Saturdays. The daily hours of operation for the outdoor patio area shall be limited to 5:00 PM to 9:00 PM.
4. **Commercial Kitchen:** The establishment shall include a full commercial kitchen that includes Food Preparation Equipment defined in the California Energy Code of Regulations. Food Preparation Equipment is cooking equipment intended for commercial use, including coffee machines, espresso coffee makers, conductive cookers, food warmers including heated food servers, fryers, griddles, nut warmers, ovens, popcorn makers, steam kettles, ranges and cooking appliances that allow the establishment to serve hot meals to patrons.
5. **Outdoor Patio Area:** No live music or amplified speakers are allowed outdoors unless approved as part of a Special Events Permit. No smoking is allowed in the outdoor patio area. A sign indicating that no smoking is allowed shall be located in the outdoor patio area at all times. A sign shall be placed in the entrance of the outdoor patio between 9:00 PM and closing every evening indicating that the patio area is closed after 9:00 PM and no customer access is allowed.
6. **Noise:** The applicant shall ensure that all operations are conducted in conformance with the Noise Ordinance. Complaints from neighbors shall be cause for a public hearing to modify or revoke this Use Permit.
7. **Exterior Lighting.** New exterior lighting fixtures shall be low intensity, directed downward and shielded to minimize offsite glare.
8. **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.
9. **Vesting:** The Use Permit approval shall expire two (2) years after the date of approval or by **April 19, 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.

10. **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.
11. **Revocation:** The Zoning Administrator, Planning Board and/or City Council shall have the authority to modify or revoke this entitlement upon finding that the maintenance or operation of the proposed establishment violates any of these conditions or is detrimental to persons residing or working in the neighborhood, to property and improvements in the neighborhood or to the general welfare of the City. Odors, noise and exterior lighting shall be controlled so as to prevent verified complaints from the surrounding neighborhood. This shall include noise created by employees working on the premises before or after patrons arrive.

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; or within three days after the Zoning Administrator has reported to the Planning Board, whichever is greater. Appeal shall be filed in writing stating the basis of appeal and paying the required fees to the Community Development Department

Approved by:  Date: April 19, 2016
Andrew Thomas, AICP
Zoning Administrator