

CITY OF ALAMEDA PLANNING BOARD
RESOLUTION NO. PB-01-66

APPROVING THE USE PERMIT FOR OFF-SALE ALCOHOLIC BEVERAGES IN CONJUNCTION WITH A FINE WINE SALES SHOP IN A C-C, COMMUNITY COMMERCIAL ZONING DISTRICT AT 2526 SANTA CLARA AVENUE #A.

WHEREAS, application was made on October 16, 2001, by Daniel Marshall requesting a Use Permit to permit the sales of liquor within a C-C, Community Commercial Zoning District at 2526 Santa Clara Avenue #A; and

WHEREAS, the application was accepted as complete on October 17, 2001; and

WHEREAS, the subject property is designated as Community Commercial on the General Plan Diagram; and

WHEREAS, the subject property is located in a C-C, Community Commercial Zoning District; and

WHEREAS, the sales of liquor, requires a Use Permit in the C-C, Community Commercial Zoning District, pursuant to AMC, Subsection 30-4.9A(c)(1)(w), Liquor store

WHEREAS, the Planning Board held a public hearing on this application on November 13, 2001 and has made the following findings relevant to the Use Permit application; and

- 1. The location of the proposed use is compatible with other land uses in the general neighborhood area.**

This finding can be made. The location of the proposed use situated between Broadway and Everett Street is within the Community Commercial zoning district. The building fronts Santa Clara Avenue and is located at the ground level where retail services are permitted. A fine wine shop located within this corridor would be consistent with surrounding retail/commercial establishments and therefore, would not reduce or negatively affect other land uses in the general area. In addition, this use would not create parking/circulation demands which would be inconsistent with the parking capacity of the Main Street Business Districts.

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

This finding can be made. AC Transit service and on-street metered parking is available along Santa Clara Avenue and all service facilities are within close proximity.

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.**

This finding can be made. As noted above, under findings #1 and #2 the proposed use is compatible with adjacent retail/commercial establishments and would not create a deficit in parking or parking demand which is inconsistent with the Main Street Business Districts.

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

This finding can be made. This use is consistent with the intent of General Plan Policy 2.5.c. A fine wine shop at the proposed location will assist in a successful district because this use will be consistent with the neighboring retail and commercial establishments within the Main Street Business District.

WHEREAS, the Planning Board of the City of Alameda hereby determines that the proposal is Categorically Exempt from the California Environmental Quality Act, pursuant to Section 15301 - Existing Facilities.

NOW, THEREFORE, BE IT RESOLVED THAT the Planning Board of the City of Alameda hereby approves Use Permit, UP01-034 to allow the operation of liquor sales within the C-C, Community Commercial Zoning District, subject to the following conditions:

1. The operation of wine sales shall substantially be in compliance with the application packet, as marked "Exhibit A", on file in the Planning Department.
2. The use may operate between the hours of 7:00 a.m. to 10:00 p.m.
3. No less than 90% of stock items shall be devoted to the sales of wine, wine glasses, and/or wine accessories.
4. Use Permit shall expire one year from the date of approval by the Planning Board, unless it is vested prior to that date or, prior to the Use Permit expiration, an extension is applied for by the applicant and granted by the Planning Board. Vesting shall consist of operation on or before November 13, 2002. Failing to vest will extinguish the legal nonconforming use.
5. **HOLD HARMLESS.** The City of Alameda requires as a condition of this Use Permit approval that the applicant, or its successors in interest, defend, indemnify, and hold harmless the City of Alameda or its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, and employees to attack, set aside, void, or annul, an approval of the City concerning the subject property, which action is brought within the time period provided for in Government Code Section 66499.37. The City of Alameda shall cooperate promptly, notify the applicant of any claim, action or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim, action, or proceeding, or the City fails to cooperate fully in the defense, the applicant shall not hereafter be responsible to defend, indemnify, or hold harmless the City.

6. ACKNOWLEDGMENT OF CONDITIONS. The applicant shall acknowledge in writing all of the conditions of approval and must accept this permit subject to those conditions and with full awareness of the applicable provisions of Chapter 30 of the Alameda Municipal Code in order for this Use Permit to be exercised.

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 other exactions. You are hereby further notified that the 90-day appeal period in which you may protest these fees and other exactions, pursuant to Government Code Section 66020(a) has begun. If you fail to file a protest within this 90-day period complying with all the requirements of Section 66020, you 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 Department a written notice of appeal stating the basis of appeal and paying the required fees.

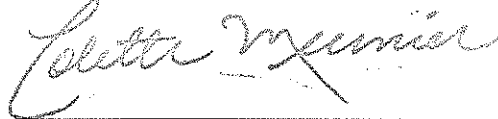
PASSED AND ADOPTED this 13th day of November, 2001 by the Planning Board of the City of Alameda by the following vote:

AYES: (6) Bard, Breuer, Cunningham, Gilmore, Piziali, Rossi

NOES: (0)

ABSENT: (1) Matarrese

ATTEST:



Colette Meunier, Secretary
City Planning Board

Acknowledgment of Conditions:

I hereby acknowledge receipt of Planning Board Resolution No. PB-01-66 for, the Planning Board's approval of Use Permit, UP01-034, approved on November 13, 2001, and in accordance with Conditions herein, I hereby verify that I understand and agree to comply with the Conditions of Approval of said Planning Board Resolution No. PB-01-66 and the applicable provisions of Chapter 30 of the Alameda Municipal Code (Zoning Ordinance).

Executed at: _____ By: _____
City Applicant

On: _____
Date Title

APPLICANT MUST FILL OUT AND RETURN TO THE PLANNING DEPARTMENT.

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Executed at: _____ By: 
City Applicant
On: 12/3/2001 OWNER
Date Title

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Executed at: _____

Alameda, CA

City

By: _____

Daniel Marshall

Applicant

On: _____

11/19/01

Date

Owner

Title

APPLICANT MUST FILL OUT AND RETURN TO THE PLANNING DEPARTMENT.

G:\PLANNING\PB\RESO\2001\22UP0134.SAN

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