

CITY OF ALAMEDA RESOLUTION NO. 14729

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ALAMEDA UPHOLDING PLANNING BOARD RESOLUTION PB-12-04 PLANNING BOARD ACTION TO DENY MODIFIED USE PERMIT PLN10-0153 TO ALLOW THE SALE OF ALCOHOL AT A CONVENIENCE STORE LOCATED AT 1716 WEBSTER STREET

WHEREAS, an application was made by Delong Liu, requesting a Use Permit Amendment to remove a condition of approval on Use Permit, PB-95-57, that restricts the sale of alcohol; and

WHEREAS, the project site is located within a C-C, Community Commercial Zone; and

WHEREAS, the project site is designated Community Commercial on the General Plan Diagram; and

WHEREAS, the existing service station building was constructed in 1955 and the convenience store is permitted under an use permit, UP-95-23, Planning Board Resolution PB 95-57; and

WHEREAS, Planning Board held a public hearing on this application on April 9, 2012; and

WHEREAS, after considering all materials submitted and all comments made by all parties, including staff, regarding this application, the Planning Board made the requisite findings to unanimously disapprove the modified use permit application to remove the restriction on the sale of alcohol; and

WHEREAS, the Alameda Municipal code provides that decisions by the Planning Board may be appealed within 10 days of the date of a Planning Board decision; and

WHEREAS, Daniel Hoy on behalf of the applicant filed an appeal on April 13, 2012 appealing the Planning Board's action to deny the project; and

WHEREAS, this Council held a de novo public hearing on the use permit application at which all materials submitted and all comments made by all parties, including staff, regarding this application were considered; and

WHEREAS, the City Council held a public hearing to consider the appeal; and

NOW THEREFORE, BE IT RESOLVED that the City Council finds that:

Approved as to Form
Janet C. Kern, City Attorney

- (1) **The location of the proposed use is not 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 site is immediately adjacent on both sides to residential buildings. Granting of the use permit to allow alcohol sales would create an over-concentration of alcohol sales in the neighborhood and would not be compatible with the adjacent residential uses. The area already has a number of stores that sell alcohol, and residents in the area have reported problems related to late night noise, fights, and litter that may be attributed to alcohol use in the area.
- (2) **The proposed use will adversely affect other property in the vicinity and will have deleterious effects on existing business districts or the local economy.** The addition of alcohol sales at this gas station that is immediately adjacent to residential homes on two sides could adversely affect the adjacent properties. The sale of alcoholic beverages for off-site consumption is plentiful in this vicinity. Increasing the number of retail outlets that sell liquor may cause problems for adjacent businesses and residents. Residents at the public meeting provided testimony of existing police activity in their neighborhood and problems such as litter and late night noise that are attributed to the sale of alcohol in the area.
- (3) **The proposed use relates favorably to the General Plan.** Permitting additional outlets for alcohol sales would over saturate this area, which is adjacent to residential zoning districts and residential uses and cause conflicts between commercial and residential land uses in conflict with General Plan policies to minimize conflicts between adjacent land uses.
- (4) The Appellants have failed to demonstrate in any way that the conclusions by the Planning Board are not supported by substantial evidence.

BE IT RESOLVED THAT, the project is Statutorily Exempt from additional environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines, Section 15270 – Projects Which are Disapproved.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City Council denies the appeal and upholds the Planning Board's adoption of Resolution PB-12-04.

* * * * *

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on the 4th day of September, 2012, by the following vote to wit:

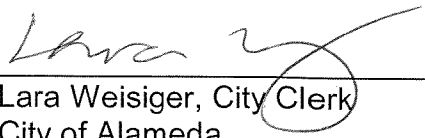
AYES: Councilmembers Bonta, deHaan, Johnson, Tam and Mayor Gilmore – 5.

NOES: None.

ABSENT: None.

ABSTENTIONS: None.

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the seal of said City this 5th day of September 2012.



Lara Weisiger, City Clerk
City of Alameda