

CITY OF ALAMEDA PLANNING BOARD
RESOLUTION NO. PB-15-01

UPHOLDING ZONING ADMINISTRATOR APPROVAL OF ADMINISTRATIVE USE PERMIT NO. PLN14-0757 AND DETERMINATION OF PUBLIC CONVENIENCE TO ALLOW THE WALGREENS STORE AT 1600 PARK STREET TO SELL ALCOHOLIC BEVERAGES FOR OFF-SITE CONSUMPTION.

WHEREAS, the project site is located within a NP-G, North Park Street Gateway Zoning District; and

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

WHEREAS, on February 3, 2015, the Zoning Administrator held a public hearing and conditionally approved Walgreens application for an administrative use permit to allow sale of alcoholic beverages for off-site consumption; and

WHEREAS, on February 10, 2015, O Hwan Kwon, of 1601 Park Street, appealed the Zoning Administrator approval of the application; and

WHEREAS, the Planning Board held a de novo public hearing on March 9, 2015 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

NOW, THEREFORE BE IT RESOLVED THAT, the Planning Board considered the appeal, the public testimony, and all pertinent maps and reports and made the following findings concerning the project:

Appeal Finding:

The Appellant has failed to demonstrate that the Zoning Administrator's actions, findings and conclusions were not supported by substantial evidence, not consistent with General Plan policy, or inconsistent with the purposes and standards of the Zoning Ordinance.

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.**

The proposed sale of alcoholic beverages for off-site consumption is compatible with the commercial and shopping nature of the area, and this accessory use at an existing

pharmacy and general retail establishment will not adversely affect surrounding development. The North Park Street Gateway District is intended to provide a variety of neighborhood serving establishments along Park Street. This proposal to expand the selection of goods at an existing retail establishment is consistent with that goal.

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

The existing establishment is already served by adequate transportation facilities, and the addition of alcoholic beverage sales will not generate significant traffic. Given the limited nature of the proposed accessory use, it is unlikely that there will be a large influx of additional customers. Rather, it is anticipated that many of the same customers who currently shop at Walgreens will continue to shop there, with the added benefit of "one stop" shopping. Therefore, the limited selection of alcoholic beverages, confined to 74 square feet of retail display, will not materially increase the number of truck deliveries or vehicles, and any additional traffic generated by the addition of alcoholic beverages will be negligible.

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.

The business operates daily from 7:00 a.m. to 10:00 p.m., with shorter hours on weekends. There are no operational changes being proposed other than to devote approximately seventy-four (74) square feet of retail display to alcohol sales. The ancillary sale of alcoholic beverages will be conducted in compliance with all conditions upon which approval is made contingent, and the activity will not adversely affect properties in the vicinity. The Alameda Police Department also did not express public safety concerns with this proposal.

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

The site is located within an area designated by the General Plan as Community Commercial. The proposed use is consistent with this land use designation and Guiding Policy 2.5.a, which calls for "providing enough retail services to enable Alameda to realize its full retail sales potential and provide residents with the full range of business and services.

5. The issuance of the Public Convenience or Necessity determination to allow a license to sell beer, wine and distilled spirits at the proposed location will not be detrimental to the surrounding area and will serve a public convenience by providing one-stop shopping opportunity to customers of the business.

The existing Walgreens is located along the Park Street commercial corridor, which is regarded as a primary destination for Alameda residents for goods and services. While many businesses along Park Street hold liquor licenses, the majority are restaurants that provide alcoholic beverages for on-site consumption. By adding alcoholic beverages to its inventory, Walgreens will provide a "one-stop" shopping experience for its customers. This convenience will result in increased efficiency for shoppers, and the sale of alcoholic beverages is typical for such a national retail pharmacy as well as

other convenience retailers in the vicinity of the Park Street commercial district. The negative effects normally associated with the over-concentration of businesses selling alcohol within a particular geographic area, including increased crime, loitering, etc., are not evident along the Park Street commercial district. Moreover, the City's General Plan and Zoning Ordinance encourage a concentration of such uses within the commercial districts in order to minimize potential impacts to other neighborhoods. Therefore, issuance of the requested alcoholic beverage license will serve public convenience but not prove detrimental to public health and safety or welfare.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT, the Planning Board finds that the project is a Class 1 Categorical Exemption and no additional environmental review is necessary pursuant to CEQA Guidelines Section 15301, which exempts permitting of existing facilities involving negligible or no expansion of use from environmental review.

NOW, THEREFORE, BE IT FURTHER RESOLVED THAT the Planning Board of the City of Alameda hereby upholds Zoning Administrator Administrative Use Permit PLN14-0757 to allow sale of alcoholic beverages for off-site consumption at 1600 Park Street, subject to compliance with the following conditions:

PLANNING

1. **Compliance with Conditions:** The applicant shall ensure compliance with all of the following conditions. Failure to comply with any condition may result in the business operation being stopped, issuance of a citation, and/or modification or revocation of the permit.
2. **Approved Plans:** The amount of shelving space devoted to the display of alcoholic beverages shall be limited to 74 square feet of display area, which is equivalent to approximately 18 linear feet of shelf space and six feet of cooler space, as depicted in the floor plan titled "Beer, Wine & Spirits Area" consisting of one sheet, stamped received on December 30, 2014, and shall consist of the use characteristics as indicated in the application supplements, both on file in the Community Development Department offices.
3. **Limitations of this Permit:** The sale of the following types of alcoholic beverage products are excluded from this permit:
 - a. Distilled spirits in sizes smaller than 200ml,
 - b. Malt liquors or ice beers,
 - c. Beer, malt beverages, and wine coolers of 16 oz. or less in single containers (these beverages shall be sold in manufacturers' pre-packaged multi-unit quantities),
 - d. Any wine with alcoholic content of greater than 15% by volume except for "Dinner Wines," as defined by the California Department of Alcoholic Beverage

Control (ABC), which have been aged two years or more and maintained in corked bottles,

e. Wine in bottles or containers smaller than 750ml.

4. **Alcohol Sales:** The permittee and all employees selling alcohol, or directly supervising such sales, shall complete a course in Responsible Beverage Sales and Service (RBSS) through the ABC within six months of employment at the establishment. Employees who have completed the course within the last five (5) years shall be exempt from this requirement. The applicant shall obtain all required permits from the ABC prior to operating the component of their business that includes alcohol.
5. **Signs:** All signage on the premises shall comply with the City Sign Regulations and permitting requirements set forth in AMC Section 30-6.
6. **Vesting:** The Use Permit approval shall expire two (2) years after the date of approval or by March 9, 2017, unless authorized 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.
7. **Expiration:** This Use Permit allows for ancillary sales of beer, wine, and/or spirits for off-site consumption at the existing Walgreens at 1600 Park Street. **This Use Permit shall expire and terminate immediately upon a change of use on the property where the premises no longer operates as a pharmacy and general retailer.**
8. **Use Permit Review:** Upon six months after the sale of alcoholic beverages has begun on the premises, the applicant shall request the Zoning Administrator to schedule a meeting before the Planning Board to report on any public safety issues related to the sale of alcoholic beverages. To facilitate a timely review, the applicant shall immediately inform the Zoning Administrator upon receiving an ABC license to sell alcohol on the premises and the date upon which the sale of alcoholic beverages will commence.
9. **Revocation:** This Use Permit may be modified or revoked by the Zoning Administrator, pursuant to Alameda Municipal Code Section 30-21.3d should the Zoning Administrator 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.
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, Zoning Administrator 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, Zoning Administrator 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, 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

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.


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 9th day of March, 2015, by the following vote to wit:

AYES: (4) Henneberry, Alvarez, Burton, and Tang

NOES: (2) Knox White, and Köster

ABSENT: (1) Zuppan

ATTEST:



Andrew Thomas, Secretary
City of Alameda Planning Board

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