

CITY OF ALAMEDA PLANNING BOARD
RESOLUTION NO. PB-03-24

A RESOLUTION OF THE PLANNING BOARD OF THE CITY OF ALAMEDA GRANTING USE PERMIT, UP02-0003, FOR 2431 CENTRAL AVENUE

WHEREAS, an application was made on February 11, 2002 by John Murray for Use Permits to legalize an existing tavern which conducts business after the hours of 10:00 p.m. and to legalize use of an existing outdoor patio area, and for a Major Design Review for the construction of a side yard deck; and

WHEREAS, the application was deemed complete for processing on February 25, 2002; and

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

WHEREAS, the subject property is in the C-C, (Community Commercial) zoning district; and

WHEREAS, the Planning Board approved the Use Permits and the Major Design Review application on March 25, 2002; and

WHEREAS, the applicant contacted Staff in January to schedule the one year review of the approved Use Permit's that allowed Scobie's Tavern to conduct business after 10:00 p.m. to 2:00 a.m., and allowed use of an outdoor patio area; and

WHEREAS, the Planning Board makes the following findings regarding the Use Permits relating to the legalization of the existing tavern which conducts business after 10:00 p.m. and for an outdoor patio area:

1. **The location of the use is compatible with other land uses in the general neighborhood area.** This finding can be made. With conditions imposed by the resolution, the tavern and rear patio area will be compatible with other uses in the general area. The proximity of the bar situated near Park Street, experiences a consistent flow of automotive and pedestrian traffic, each assisting in above average ambient noise levels. The unenclosed patio area is located at the rear northeasterly portion of the property and is surrounded by a parking lot and a side wall of an adjacent commercial building which fronts Central Avenue. Therefore, the deck should not result in a significant intensity of use and it will be compatible with adjacent land uses.
2. **The use will be served by adequate transportation and service facilities.** This finding can be made. The site is located one block south of Santa Clara Avenue and one block east of Park Street which are both served by AC Transit and all utility services exist. Numerous on-street metered parking spaces are available along Central Avenue and public parking lots exist 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. With conditions imposed by the resolution, the tavern and outdoor patio area will not adversely affect other property in the vicinity because it will not increase levels of noise, light, and traffic to the area.
4. **The proposed use relates favorably to the General Plan.** This finding can be made. The proposed patio will meet convenience needs of both the customer and the business owner by allowing the tavern to meet current laws regarding limitations to smoking.

NOW, THEREFORE, BE IT RESOLVED THAT the Planning Board of the City of Alameda hereby determines that the proposal is Categorically Exempt under California Environmental Quality Guidelines, Section 15301, Existing Facilities/Accessory-patios

BE IT FURTHER RESOLVED THAT the Planning Board of the City of Alameda approves Use Permit, UP02-0003, subject to the following conditions:

1. Any noise emanating from this use shall not be clearly audible across the street from Scobie's Tavern on Central Avenue, or at the property line of any residentially zoned area within proximity of the tavern.
2. There shall be no amplification of music or live entertainment in the outdoor patio area. This area can be used for dining purposes and beverage consumption.
3. If the patio area is extended closer than seventy (70') feet from the front property line at the easterly portion of the property, the applicant shall construct an eight (8') foot high fence separating the patio area from Central Avenue. This fence shall be constructed with the intent to absorb or deflect noise, generated by the outdoor patio area, towards the rear of the property. Planning Staff will determine compliance with this condition during final inspection.
4. The door accessing the rear patio from the Tavern shall remain closed after the hours of 8:00 p.m. in order to minimize any potential negative noise impacts associated with the Tavern use. This door shall remain operable at all times.
5. The gate accessing the rear patio area from the alley on the easterly portion of the building shall remain closed at all times. This gate shall not be removed and it should remain operable at all times.
6. Compliance with Codes: All work related to the proposal shall comply with the applicable Zoning, Uniform Building, and Uniform Fire Codes.
7. Acknowledgment of Conditions. The permittee shall acknowledge and accept in writing the conditions of approval set out in this Resolution in order for this Use Permit to be exercised.
8. Hold Harmless. The City of Alameda requires 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 these Use Permit's, which action is brought within the time period provide for in Government Code Section 66499.37. The City of Alameda shall 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 if the City fails to cooperate fully in the defense, the applicant shall not hereafter be responsible to defend, indemnify, or hold harmless the City.

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 or final action on any appeals 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 or decision on any appeal by completing and submitting an appeal form and paying the required fee.

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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 the requirements of Section 66020, the applicant will be legally barred from later challenging such fees or exactions.

PASSED AND ADOPTED this 28th day of April, 2003 by the Planning Board of the City of Alameda by the following vote:

AYES: (5) Piziali, Cunningham, Cook, Gilmore, Rossi

NOES: (0)

ABSENT: (1) Bard

ATTEST:

Gregory Fuz, Secretary
City Planning Board

Acknowledgment of Conditions:

I hereby acknowledge receipt of Planning Board Resolution No. PB-03-24 for the Planning Board's approval of Use Permit, UP02-0003, approved on April 28, 2003, 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-03-24 and the applicable provisions of Chapter 30 of the Alameda Municipal Code (Zoning Ordinance).

Executed at: _____
City

By: _____
Applicant

On: _____
Date

Title

APPLICANT MUST FILL OUT AND RETURN TO THE PLANNING DEPARTMENT.

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