

CITY OF ALAMEDA PLANNING BOARD
DRAFT RESOLUTION

A RESOLUTION OF THE PLANNING BOARD OF THE CITY OF ALAMEDA APPROVING A USE PERMIT (PLN20-0365) TO ALLOW EXTENDED HOURS OF OPERATION FOR A PROPOSED DRIVE-THROUGH CAFÉ PERMITTING AN OPENING TIME OF at 5:30 A.M., AND ALLOWING USE OF A PATIO FOR OUTDOOR DINING.

WHEREAS, on August 25, 2020 the project applicant, Rubicon Group, LLC, submitted an application for a Use Permit to extend morning hours of operation and use of a patio for outdoor dining; and

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

WHEREAS, the subject property is located in the C-2-PD, Central Business Planned Development Zoning District; and

WHEREAS, on August 3, 2020, a Design Review application was approved for the site in order for the applicant to make site and building improvements for establishment of a new cafe; and

WHEREAS, the Planning Board held a duly noticed public hearing on September 28, 2020 for the Project and examined pertinent maps, drawings, and documents.

NOW THEREFORE, BE IT RESOLVED, that the Planning Board finds this project is categorically exempt from environmental review pursuant to CEQA Guidelines Section 15301 – Existing Facilities, which includes operation, permitting or minor alteration to existing facilities involving negligible or no expansion of existing or former use.

BE IT FURTHER RESOLVED that the Planning Board makes the following findings relative to the Use Permit application (PLN20-0365):

Conditional 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 cafe qualifies as a local-serving commercial business that is consistent with the C-2-PD zoning. In addition it will satisfies the purposes of the General Plan's Community Commercial designation. Extension of morning business hours will better serve early morning customers, and outdoor seating will activate the site and offer customers the option to better practice current social distancing guidelines. The expanded patronage resulting from the additional seating capacity will serve to strengthen the business. Proposed tenant improvements to property received Design Review approval on August 3, 2020 under PLN20-0217. The improvements were found to be appropriate for the site and compatible with neighboring buildings and the surroundings.

2. **The proposed use will be served by adequate transportation and service facilities, including pedestrian, bicycle, and transit facilities.** The project site is in an urban area with adequate transportation and service facilities. The site is served by AC Transit's OX line providing express service through Alameda to the San Francisco transit center. It is also nearby the 21 bus stop with service through Alameda and Oakland's Dimond and Fruitvale districts, and through Bay Farm Island to the Oakland Airport. Both Island Drive and Mecartney Road, adjacent to the site, are designated paths along Alameda's Bike/Walk system. An existing parking lot provides sufficient off-street parking onsite.
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.** Approval of extended business hours and outdoor seating will benefit the existing business district by supporting the activation of a vacant commercial site. Improvements for the site approved under separate permits provide appropriate screening between the business and nearby residences.
4. **The proposed use relates favorably to the General Plan.** The project is consistent with the General Plan Community Commercial designation. The project will implement General Plan Policy 2.5.a, which calls for supporting services to provide Alameda residents with a full range of retail businesses and services. The establishment of a café with extended business hours and outdoor dining will offer residents a greater option for specialty restaurants. Outdoor seating is conducive to current social distancing requirements, and will be an activating element into the future. General Plan Policy 2.6.g calls for maintenance of neighborhood business districts. The establishment of a new café with early morning hours and outdoor dining will better serve the Bay Farm Island community and will improve the local economy.

BE IT FURTHER RESOLVED, that the Planning Board approves file no. PLN20-0365 for a Use Permit for extended hours of operation in the morning and for outdoor dining, subject to the following conditions:

1. Vesting. Use Permit approval shall expire two (2) years after the date of approval or by **September 28, 2022** unless the subject uses have commenced. The applicant may apply for a time extension, not to exceed two (2) years, to be reviewed and approved by the Planning Director.
2. Compliance with Plans. Any modification on this site shall be in substantial compliance with the plans prepared by TWA Architects, received on August 18, 2020 and on file in the office of the City of Alameda Planning, Building, and Transportation Department, except as modified by the conditions listed in this report.
3. Changes to Approved Plans. This approval is limited to the scope of the project defined in the project description and does not represent a recognition and/or approval of any work completed without required City permits. Any substantial changes to the approved scope of the project shall be submitted to the Planning, Building and Transportation Director for review and approval.
4. Compliance with County Health Order and City Requirements. Food and beverage service and use of the patio space for outdoor dining must be conducted in compliance with all

applicable County Health Orders and City requirements related to COVID-19 as well as laws and regulations of applicable agencies such as the County Environmental Health Department. The cafe shall maintain all necessary food and beverage permits, licenses, and approvals that are required to serve food and beverages.

5. Bicycle Parking. Project shall provide 3 short term and 2 long term bicycle parking spaces consistent with AMC Section 30-7.15 and the City's Bicycle Facility Design Standards. Building improvement plans shall indicate bicycle parking location, type (short vs. long), and clearance requirements to the satisfaction of the Planning, Building and Transportation Director.
6. Noise. The use of amplified music, loudspeakers, or generators is not permitted with the use of the outdoor patio. This use permit does not permit outdoor entertainment within the outdoor areas, including live performances, amplified sound, or electronic displays. All outdoor activity shall comply with the City's Noise Ordinance, AMC Section 4-10.
7. Hours of Operation. Consistent with this use permit the café business may operate with extended hours in the morning beginning at 5:30 A.M., seven days per week. Closing hours shall be as permitted under the C-2 zoning district.
8. Signage: Any temporary or permanent signage is subject to a sign permit approval per the Sign Regulations set forth in AMC Section 30-6.
9. Lighting: Any new exterior lighting fixtures shall be consistent with AMC Section 30-5.16.c, the Alameda Dark Skies Ordinance.
10. Revocation: This Use Permit may be modified or revoked by the Zoning Administrator or Planning Board, pursuant to Alameda Municipal Code Section 30-21.3d should the Zoning Administrator or Planning Board determine any one of the following: 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.
11. HOLD HARMLESS. To the maximum extent permitted by law, the applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Alameda, its City Council, City Planning Board, officials, employees, agents and volunteers (collectively, "Indemnitees") from and against any and all claims, actions, or proceedings against Indemnitees to attack, set aside, void or annul an approval by Indemnitees relating to this project. This indemnification shall include, but is not limited to, all damages, losses, and expenses (including, without limitation, legal costs and attorney's fees) that may be awarded to the prevailing party arising out of or in connection with an approval by the Indemnitees relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate in the defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

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.

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, Building & Transportation Department a written notice of appeal stating the basis of appeal and paying the required fees.

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