

CITY OF ALAMEDA RESOLUTION NO. _____

UPHOLDING THE PLANNING BOARD'S APPROVAL OF USE PERMIT AMENDMENT PLN24-0094 TO ALLOW ADDITIONAL OPERATING HOURS FOR THE EXISTING LEGAL NON-CONFORMING GAS STATION LOCATED AT 1310 CENTRAL AVENUE, AS WELL AS SALES OF PACKAGED FOODS AND NON-ALCOHOLIC BEVERAGES IN THE EXISTING STORE

WHEREAS, an application was made on February 27, 2024 by Qais Ahmed for a Use Permit Amendment to modify the conditions of the existing use permit PB-12-11 to allow additional operating hours and sales of a broader mix of convenience items at the existing Mobil gas station located at 1310 Central Avenue; and

WHEREAS, the existing gas station and auto repair use have operated continuously at this location for generations providing necessary and convenient services the neighborhood; and

WHEREAS, increased competition from new gas stations, changes in consumer demand including hybrid and electric vehicles, remote work and limited operating hours have resulted in a significant decrease in fuel sales at this location in the last decade; and

WHEREAS, the subject property is designated as Medium Density Residential in the General Plan; and

WHEREAS, the subject property is located in the R-4, Residential Zoning District; and

WHEREAS, the existing gas station use is a legal non-conforming use and pursuant to AMC 30-20.2, If no structural alterations are made, a nonconforming use of a building may, upon approval of a use permit be changed to another nonconforming use of the same or more restricted use classification; and

WHEREAS, the Planning Board held a duly noticed public hearing for the project on June 9, 2025 and examined pertinent documents; and

WHEREAS, the Planning Board approved by a vote of five to one (5-1) Resolution No. PB-25-03, Qais Ahmed's application PLN24-0094 for Modification of Use Permit PB-12-11; and

WHEREAS, on June 17, 2025, Leland Price filed an appeal of the Planning Board's decision to approve the Use Permit Amendment; and

WHEREAS, after giving due notice to the applicant, appellant, all interested parties, and the public, the Appeal was heard and considered by the City Council at a regular public hearing on July 15, 2025; and

WHEREAS, the applicant, supporters of the application, those opposed to the application and interested neutral parties were given the opportunity to participate in the public hearing; and

WHEREAS, the City Council held a de novo public hearing on July 15, 2025, on the Appeal at which time the City Council considered the entirety of the record, including all submitted materials and public comments regarding the application; and

WHEREAS, the City Council considered the Appeal, the public testimony, and all pertinent reports and evidence in the record as a whole, and made findings to approve the Use Permit Amendment application PLN24-0094 as set forth below.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Alameda that the City Council finds this project categorically exempt from environmental review pursuant to CEQA Guidelines Sections 15301 - Existing Facilities, and finds that none of the exceptions to the categorical exemption apply; and

BE IT FURTHER RESOLVED, that the City Council makes the following findings relative to the Use Permit application (AMC Sections 30-21.3):

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.**
2. The existing gas station has operated at the site for many years. The gas station and auto repair businesses complement the nearby Morton Station neighborhood business district. The use of the property has been generally compatible with the adjacent residential uses due to carefully crafted limitations on the hours of operation and the types of services provided at the station if they are adhered to. The gas station's existing hours are Monday through Friday from 7:00 A.M. to 8:00 P.M. and Saturday from 9:00 A.M. to 4:00 P.M. The gas station's proposed hours are Monday through Friday from 6:00 A.M. to 10:00 P.M., and Saturday and Sunday from 7:00 A.M. to 8:00 p.m. No change to the operating hours for auto repair services are proposed as part of this application. The current proposed modification would maintain compatibility between the gas station and the neighborhood by not increasing the allowed hours of operation for the onsite auto repair business and prohibiting sales of alcohol and tobacco products.
3. **The proposed use will be served by adequate transportation and service facilities including pedestrian, bicycle, and transit facilities.**
The property is located at the intersection of three streets that serve citywide circulation needs as described in the City's Street Classification Index of the General Plan, including State Highway 61, with no barriers to access. AC Transit lines 51A and O stop one block away. The project site is served by continuous existing and under

construction bicycle facilities. Therefore, the proposed use is served by adequate transportation and service facilities, including pedestrian, bicycle, and transit facilities.

4. **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 substantial deleterious effects on existing business districts or the local economy.**

The proposed additional hours of operation and diversified product selection in the small onsite store will improve the available services to the local residents, reducing the need for people to drive greater distances through the neighborhood to access fuel and convenience items. By continuing to limit the auto repair hours of operation and other conditions of approval, the use will not adversely affect other property in the vicinity. The gas station has a difficult time competing with other gas stations in Alameda that have extended hours of operation and full convenience stores with food, beverage, alcohol and tobacco sales. Allowing additional hours of operation and the sale of packaged good and drinks while continuing to prohibit the sale of alcohol and tobacco products will help the business compete under more equitable conditions with other gas stations. Properties with gas stations that cease operations face significant challenges in finding successful new uses. By ensuring the continued viability of the business and avoiding the potential of another shuttered and blighted former gas station property, the use will continue to support the adjacent Morton Station neighborhood business district and the local economy.

5. **The proposed use relates favorably to the General Plan and the purpose of the Alameda Point Zoning District.**

Approving this use is consistent with Alameda General Plan Land Use Element goals and policies. Land Use Element action LU-5a calls for "Permit(ing) continuation and re-investment in existing, small, legal nonconforming neighborhood-serving commercial uses in commercial buildings that predate the zoning code." Approving the use permit modification will support Goal 2 of the Land Use Element to "strengthen and diversify the Alameda business community and economy."

BE IT FURTHER RESOLVED, that the City Council uphold the Planning Board decision to approve Use Permit Amendment application PLN24-0094 to allow additional operating hours for the existing legal non-conforming gas station located at 1310 Central Avenue, as well as sale of packaged foods and non-alcoholic beverages in the existing store.

1. This approval supersedes and replaces the conditions of the previous Use Permit approval contained in the City of Alameda Planning Board Resolution No. PB-12-11, and PB-99-60, Use Permit UP-99-10, and Resolution 14143.
2. The gas station fuel service is permitted to operation between the hours of 6:00 A.M. – 10:00 P.M., Monday through Friday, and 7:00 A.M.- 8:00 P.M. on Saturday and Sunday.

3. The auto repair service is permitted to operate between the hours of 9:00 A.M. – 6:00 P.M., Monday through Friday, 9:00 A.M. – 4:00 P.M. on Saturday, and shall be closed on Sunday.
4. The automobile repair service shall be limited to light duty repair including tune-ups, brake work, electrical services, oil changes, and smog control certification. Automotive overhauling, rebuilding, body work, and painting are expressly prohibited.
5. All auto servicing work shall be conducted within the interior lube bays of the structure.
6. Convenience goods such as packaged foods and non-alcoholic beverages may be sold in the existing store area.
7. The advertising and sale of alcoholic beverages, tobacco, and nicotine products, including vapes and vaping accessories, is strictly prohibited.
8. No cars shall be stored overnight, outside the building on the site, or on adjacent streets at any time.
9. No vehicles shall be offered for sale on the property or on the streets adjacent to the property.
10. All signs shall be in conformance with the Sign Regulations, Section 30-6 of the Alameda Municipal Code.
11. All graffiti on the property shall be removed, pursuant to Graffiti Abatement Procedure, Section 4-2.4 of the Alameda Municipal Code, within three days.
12. The applicant shall keep the restroom door in good working condition.
13. The applicant shall continue to notify the gas suppliers, in a written request, that they use a designated truck route and not to traverse on the smaller residential streets surrounding the site. The business owner shall provide a copy of the letter to the Planning, Building and Transportation Department upon request.
14. The fence that was erected at the rear of the property in conformance with Section 30-5.14 of the Alameda Municipal Code to provide a privacy screen between the subject property and the common boundary residences shall be properly maintained.
15. Applicant shall provide customers with sufficient waste collection receptacles and ensure premises are maintained in a clean and tidy manner to prevent litter on and adjacent to the property.
16. Applicant shall abide by all City of Alameda Noise Regulations (AMC 4-10) and ensure fuel pumps do not play any automated noises, including but not limited to music or advertisements. Intercom type uses are permitted during operating hours and as regulated by the California Business and Professions Code.
17. Vesting: The Use Permit approval shall expire two (2) years after the date of approval or by **July 15, 2027**, unless authorized use of the property, as stated under this Use Permit, 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.
18. Revocation: This Use Permit may be modified or revoked by the Planning Board, pursuant to Alameda Municipal Code Section 30-21.3d should the Planning Board 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.

HOLD HARMLESS. To the maximum extent permitted by law, the applicant (or its successor in interest) 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 and the applicant (or its successor in interest) shall reimburse the City for its reasonable legal costs and attorneys' fees.

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.

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 15th day of July 2025, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the seal of said City this 16th day of July 2025.

Lara Weisiger, City Clerk
City of Alameda

APPROVED AS TO FORM:

Yibin Shen, City Attorney
City of Alameda