

**CITY OF ALAMEDA PLANNING BOARD  
DRAFT RESOLUTION**

A RESOLUTION OF THE PLANNING BOARD OF THE CITY OF ALAMEDA APPROVING THE SIX MONTH REVIEW OF CONDITIONAL USE PERMIT PLN12-0230 TO ALLOW A SMOG SERVICE AT 1928 HIGH STREET AND AMENDING THE USE PERMIT TO APPROVE SATURDAY SMOG SERVICE HOURS FROM 9:00 A.M. TO 5:00 P.M.

WHEREAS, an application was made on July 5, 2012, by Irman Taranovic for European Auto Repair, requesting a conditional use permit and design review to add a smog test facility to the existing business, remove one window facing Fernside Boulevard and replace it with a garage door; and

WHEREAS, the application was accepted as complete on August 20, 2012; and

WHEREAS, the project site is located within a C-1, Neighborhood Business District; and

WHEREAS, the project site is designated Neighborhood Business on the General Plan; and

WHEREAS, Zoning Administrator held a public hearing on this application on October 16, 2012; and continued the item for review by the Planning Board; and

WHEREAS, Planning Board held a public hearing on this application on January 15, 2013 and approved the use permit; and

WHEREAS, the Planning Board required a review of the use permit six months after smog testing activities commenced at the property and other site improvements to be made as part of a separate Design Review action; and

WHEREAS, the Planning Board held a public hearing and approved the design review for various site improvements on October 24, 2014; and

WHEREAS, in April 2016, the applicant began offering smog service to the public after completing the various site improvements approved under Design Review and acquired the necessary state licenses to operate a smog check business;

WHEREAS, on December 12, 2016, the Planning Board held a public hearing to review the use permit for compliance with conditions of approval and to consider amending the use permit to allow Saturday business hours, and has examined pertinent documents associated with the review and proposed hours; and

NOW THEREFORE BE IT RESOLVED THAT, the Planning Board has found the

smog check use at 1928 High Street operating in compliance with all conditions of approval set forth in Use Permit PLN12-0230.

BE IT FURTHER RESOLVED THAT, the Planning Board has made the following findings with regard to new Saturday business hours from 9:00 a.m. to 5:00 p.m.:

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 existing commercial property at 1928 High Street is located at the corner of High Street and Fernside Boulevard. This site has been used for automotive services since 1951. The business is closed on Sunday and neighbors describe the business as a good neighbor. The addition of smog services at this location has been subtle, and the smog testing activities have not been found to be a nuisance to the neighborhood. The City has not received any complaints since smog operations began in April 2016. Due to new state smog check requirements, the use of a dynamometer and tailpipe emissions tests for 1999 and older model year vehicles is anticipated to be phased out. Currently, only 30% of cars, or 3 cars per day, require testing on the dynamometer where the dyno runs for approximately 90 seconds. The majority of smog tests will only involve a computer, which generates minimum noise. Therefore, adding Saturday hours from 9:00 a.m. to 5:00 p.m. will be compatible with the surrounding neighborhood.
2. **The proposed use will be served by adequate transportation and service facilities, including pedestrian, bicycle and transit facilities.** The site is located at High Street and Fernside Boulevard, an important access point to Alameda. As an auto-oriented business, it is inherent that customers will drive to the site. Off-street parking is available and has been improved by new striping on the pavement performed as a requirement under the 2014 Design Review approval. During a site visit conducted by staff on November 23, 2016, ample street parking was available and the rest home parking lot was not full and on-street parking was not impacted. The smog business, which is servicing up to 10 cars per day is not currently impacting traffic at this location, and the additional Saturday hours from 9:00 a.m. to 5:00 p.m. is only anticipated to generate 15 to 20 cars, or two to three cars per hour. Therefore, the current business and extended hours will not generate a significant increase in traffic to the site.
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.** Automotive uses have been in operation at this site since 1951. The site formerly included a gasoline station. There is no history of building code violations other than complaints regarding graffiti on the building in 2001. In the past six months, the smog business has not resulted in a substantial intensification of use or

create significant impacts to the surrounding properties. The subject site faces Fernside Boulevard and has sufficient space between it and the neighboring residential properties. Smog test customers are typically served immediately and do not leave their cars at the site. Under the current smog check program implemented by the California Bureau of Automotive Repair, the entire process takes an estimated 10 minutes or less, with 70% of the test not requiring use of a dynamometer. The applicant anticipates that the new service on Saturday may generate up to 15 customers per day. Currently there are approximately 10 smog check customers per day. Approval of the extended hours will help an established family-owned business remain competitive and successful.

4. **The proposed use relates favorably to the General Plan.** The proposed project is in conformance with General Plan goals and policies for this area. The site is located in the East End and is designated as Neighborhood Business under the General Plan. This land use classification is intended to serve residential areas with convenient shopping and service facilities. Allowing an established business to expand its services to remain competitive is consistent with General Plan Guiding Policy 2.5.a, which is to provide enough retail business and services space to enable Alameda to realize its full retail sales potential and provide Alameda residents with the full range of retail business and services.

BE IT FURTHER RESOLVED THAT, the Planning Board finds this project Categorically Exempt from additional environmental review pursuant to CEQA Guidelines Section 15301 – Existing Facilities.

BE IT FURTHER RESOLVED THAT, the Planning Board of the City of Alameda hereby approves amending Use Permit PLN12-0230 to allow Saturday smog service from 9:00 a.m. to 5:00 p.m., subject to the following conditions:

1. **Use Permit Amendment:** Use Permit PLN12-0230 is hereby amended to allow Saturday smog check between the hours of 9:00 a.m. and 5:00 p.m. These hours are in addition to existing hours for smog check occurring from 8:00 a.m. to 5:00 p.m. Monday through Friday. This resolution supersedes Planning Board resolution PB-13-02 and applicable conditions of approval from that resolution are incorporated below.
2. **Compliance with Conditions:** The applicant/property owner shall ensure compliance with all conditions of approval. Failure to comply with any condition may result in issuance of citations, and/or modification or revocation of the use permit.

3. **Compliance with Noise Ordinance:** Operating noise levels of the smog test services shall not exceed noise level standards listed in Section 4-10 of the Alameda Municipal Code.
4. **Exterior lighting:** All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
5. **Landscaping and Irrigation:** Functioning irrigation systems shall be maintained for at the landscaping on the site, including the existing planter areas and the galvanized planters.
6. **Use of public street prohibited:** No vehicles waiting to be serviced or retrieved by customers shall be parked or stored on any public street at any time.
7. **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 a violation of the City of Alameda Noise Ordinance; or 3) the use is operated in violation of the conditions of the Use Permit.
8. **Vesting:** This Use Permit approval to allow Saturday hours shall expire two (2) years after the date of approval or by **December 12, 2018** unless authorized construction or 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 Community Development Department Director and must be filed prior to the date of expiration.
9. **HOLD HARMLESS.** The applicant, or its successors in interest, shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City of Alameda, the Alameda City Planning Board and their respective agents, officers, and employees from any claim, action, or proceeding against the City of Alameda, Alameda City Planning Board and their respective agents, officers or employees to attack, set aside, void or annul, any approval or related decision to this project. This indemnification shall include, but is not limited to, all damages, costs, expenses, attorney fees or expert witness fees arising out of or in connection with the 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.

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 Community Development Department a written notice of appeal stating the basis of appeal and paying the required fees.

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