

CITY OF ALAMEDA RESOLUTION NO. \_\_\_\_

A RESOLUTION TERMINATING USE PERMIT 88-36 AND THE NON-  
CONFORMING USE OF THE PROPERTY AT 1200 PARK STREET,  
ALAMEDA, CALIFORNIA

WHEREAS, over objections from residents living near 1200 Park Street, the Planning Board, in March 1979, conditionally approved a use permit for an automobile tire repair services business on the property located at 1200 Park Street, including that the term of the use permit be limited to five years and imposed conditions requiring all automobiles to be serviced at the site to be confined to the property itself, that parking of cars on the site be limited, that all work on the cars occur within the building, and that no cars be parked overnight on the property; and

WHEREAS, in 1982 when a franchisee of Big O Tires became the operator of the business and applied for a use permit to operate at the Park Street location, City staff determined that the use permit issued in 1979 was still valid; but confirmed to the operator that the property must be used primarily to sell and install tires, that the use permit for tire sales/installation would expire in 1984 (but could be renewed), and that parking of vehicles must be restricted to the site; and

WHEREAS, in 1988, however, another use permit application for this use was submitted to the City; and.

WHEREAS, residents who lived in the areas near the site objected to the City's issuing another permit for this site, complaining that the operators of the business had not, and were not, complying with the 1979 conditions of approval, in particular that because the number of cars to be serviced greatly exceeded the number of cars that could be reasonably parked on site, the operator was parking cars to be serviced in the adjoining neighborhood, thereby making it difficult for residents to find on-street parking; and

WHEREAS, the Planning Board conditionally approved a new use permit (Use Permit 88-36) but to address the neighbors' complaints about the overflow parking impacting street parking, the Board imposed a condition requiring the operators within 60 days to "find an alternative long term parking site for customer cars, as well as for employees".; and

WHEREAS, some 18 months later, Planning staff sent a letter to the operator advising him that the use was not in compliance with the conditions of approval, in particular the continued parking of cars in the adjoining neighborhood and the failure to secure an alternative site to park cars to be serviced and to park employees' cars; and.

WHEREAS, in January 2013, Planning staff received a lengthy letter from an attorney representing a resident in the area, as well as from other residents, pointing out

that the conditions of approval of the conditional use permit were being violated, including the business parking cars on City streets for long periods of time, thereby making it difficult for residents to find on-street parking close to their residences and/or parking cars on metered City streets, thereby taking up parking spaces intended for shoppers along Park Street; and

WHEREAS, in light of these complaints Planning staff notified the operators of the business that they were not in compliance with the conditions of approval because they had not found an alternative site on which cars associated with the business could be parked and, as a corollary, because the business continued to park cars associated with the business on City streets; and

WHEREAS, as a consequence, the operators submitted an application to amend the 1988 conditional use permit, including deleting the requirement that the operator find an alternative site on which to park its customers' vehicles, and allowing minor automobile repair work to be done outside of the structure; and

WHEREAS, when the Planning Board heard the amendment to the use permit in July 2015, planning staff opposed eliminating that requirement, noting that the business' use of public parking spaces was not acceptable and the operator must confine its operation to its own property because to do otherwise impacts the adjoining neighborhood and other businesses along Park Street and at the Board's hearing, numerous speakers addressed the Planning Board, many of whom were in opposition to allowing the use to continue in that location on grounds that the business negatively impacted parking in the surrounding neighborhood and along Park Street; and

WHEREAS, the Planning Board continued the item in order to give the operator additional time in which to find an alternative site for the overflow parking and some time later the operator indicated an alternative site had been found; and

WHEREAS, in recognition that the operator had represented that a different location had been found on which to move the entire business operation, the Board on November 9, 2015, amended the conditions of the Use Permit to require the operator to continue its efforts to secure a long-term parking site for its customers' and employees' cars; and

WHEREAS, in August 2016, planning staff received a petition from more than 20 residents in the area of the business requesting a public hearing to review the use permit because of their long-standing position that the property was too small for this type of business and the overflow parking needs of the business continued to impact the neighborhood; and

WHEREAS, the Planning Board conducted a public hearing on November 28, 2016, to consider the Planning staff's recommendation that the use permit be terminated but continued the item so that planning staff could monitor the activities at the business and note any violations; and

WHEREAS, Planning staff documented instances where the conditions of approval were not being observed, including employees of the operator parking customers vehicles on City streets; and

WHEREAS, the Planning Board conducted another public hearing on May 8, 2017, to consider whether to terminate the use permit or to modify the conditions of approval in order to allow the use to continue and after receiving considerable testimony from residents who chronicled the lengthy history of the operators not complying with the conditions of approval, receiving testimony from the property owner and representatives of Big O Tires who urged the Board not to terminate the use permit, and discussing the matter at length, the Planning Board voted to terminate the use permit by modifying the use permit to include a condition that the use permit and non-conforming use of the property for auto repair shall terminate within 60 days of final action by the City; and

WHEREAS, the property owner filed a timely appeal to the Planning Board's decision; and

WHEREAS, on July 18, 2017, the City Council conducted a public hearing on the appeal, at which time it considered the July 18, 2017 agenda report and the record attached therewith, the testimony of the property owners and their representatives and the testimony from other members of the public; and

WHEREAS, based thereon, the City Council finds and determines that (1) the property at 1200 Park Street for automobile repair is not consistent with the Zoning Ordinance of the City of Alameda but there are a wide range of uses consistent with the zoning of the property that is available to the property owners, (2) the use is not proper in relation to adjacent uses, (3) the use is materially detrimental to the character of the immediate neighborhood, (4) the conditions of approval that were intended to protect the best interests of the neighborhood have not been observed in that the property has been used in repeated and continued violation of the conditions of approval of Use Permit 88-36, in particular the failure to secure timely, and thereafter to use, an off-site location on which to park customers' vehicles to be serviced, has resulted in vehicles being parked on City streets, thereby exacerbating a shortage of street parking spaces and adversely affecting residents and other businesses near the property, and (5) the property owners have received adequate and sufficient notice of the violations such that they had ample time, but failed, to correct the violations or to have found a solution to the underlying causes of the violations.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ALAMEDA AS FOLLOWS:

Section 1. Use Permit 88-36 and the non-conforming use of the property at 1200 Park Street for automobile repair/service shall terminate within 60 days from the date of this Resolution.

Section 2. This resolution shall take effect immediately upon its adoption.

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 18<sup>th</sup> day of July, 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said City this 19<sup>th</sup> day of July 2017.

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Lara Weisiger, City Clerk  
City of Alameda

Approved as to form:

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Janet C. Kern, City Attorney  
City of Alameda