

## RESOLUTION PC24-07

### RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN PABLO APPROVING A CONDITIONAL USE PERMIT TO ALLOW A MINOR AUTOMOTIVE REPAIR USE (FOR A SMOG CHECK SERVICE) ALONG WITH AN OFFICE USE AND OFF-STREET PARKING REDUCTION AT AN EXISTING COMMERCIAL BUILDING LOCATED IN THE COMMERCIAL MIXED USE (CMU) DISTRICT AT 1440 23RD STREET (APN: 527-021-010)

**WHEREAS**, the project site is located at 1440 23<sup>rd</sup> Street, and it is zoned Commercial Mixed-Use (CMU); and,

**WHEREAS**, an application has been submitted by Cihan Sariyar to request a Conditional Use Permit to allow a new Minor Automotive Repair Use (for a Smog Check service) along with a small professional Office Use in an existing commercial building; and,

**WHEREAS**, the applicant is requesting that the City grant a parking reduction under Section 17.54.050 to reduce the parking requirements to five (5) off-street parking spaces, which is two less than the seven (7) off-street parking spaces required by the zoning ordinance; and,

**WHEREAS**, the proposed Minor Automotive Repair use requires a Conditional Use Permit in the Commercial Mixed Use (CMU zone and the proposed office use is allowed by right; and,

**WHEREAS**, while parking reductions would normally be granted by the zoning administrator pursuant to Zoning Ordinance Section 17.54.050, Zoning Ordinance Section 17.16.070(B) states that all project approvals are considered by the highest approval authority for the project, and since Planning Commission approval is required for the Conditional Use Permit, the Planning Commission must also consider the parking reduction; and,

**WHEREAS**, pursuant to Section 17.20.040 in order to approve the Conditional Use Permit, the Planning Commission shall make findings that the proposed Minor Automotive use will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such use or be detrimental or injurious to the property and improvements in the neighborhood or to the general welfare of the City; and,

**WHEREAS**, pursuant to the California Environmental Quality Act, the proposed project has been determined to be categorically exempt CEQA pursuant to CEQA Guidelines Section 15301, Existing Facilities Class 1. This Class applies to projects within existing private structures, such as the existing commercial building where the new businesses wish to be located; and,

**WHEREAS**, a public hearing notice has been provided by mail to the applicant, local affected agencies and to all property owners within 300 feet of the subject property,

this notice has been published in the West County Times newspaper (West Contra Costa edition of the East Bay Times) in accordance with the requirements of Government Code Section 65091, and a public hearing was held on April 23rd, 2024, at which public testimony was considered.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of San Pablo has reviewed the proposed project and approves this request for a Conditional Use Permit to allow a new Minor Automotive Repair Use (for a Smog Check service) and a secondary Office Use in an existing commercial building, based on the following findings:

- A. The establishment, maintenance or operation of the Minor Automotive Repair use will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the city because the use is unobtrusive, will not generate significant neighborhood impacts, and is of lesser intensity than the prior use on the site.
- B. The proposed Minor Automotive Repair use would serve to re-occupy a commercial building that has been vacant since 2021 and would offer a convenient smog check as well as professional office services, in addition to continuation of the existing mobile vending use. These uses would add to the vitality of the area by providing accessible services to residents of the neighborhood. The proposed Smog Check testing would be located in an existing underused building that will promote pedestrian activity and offer accessible personal services for residents in the area.
- C. The proposed Minor Automotive Repair use would improve the site by removing excess fencing, adding handicapped parking, and improving the parking circulation pattern.
- D. The proposed Minor Automotive Repair use would be responsive to General Plan policies calling for the creation of safe, walkable areas with a diversity of community-serving land uses. The subject site is in a busy location with good pedestrian and transit access and none of the proposed uses would result in a high volume of vehicle or off-street parking need. In addition, there is on-street parking available in the general vicinity.
- E. The proposed Minor Automotive Repair use would be compliant with Zoning Ordinance development regulations pertaining to such uses with approval of the parking reduction.
- F. The proposed project has been determined to be categorically exempt from the provisions of CEQA, in accordance with CEQA Guidelines pursuant to Section 15301, Existing Facilities, Class 1. This Class applies to projects within existing private structures, such as the existing commercial building where the new businesses wish to be located. The project does not involve any alterations to

the existing commercial building and this application is for two new businesses that wish to locate in the existing building with no major improvements proposed.

- G. Public notice of hearing has been given by mail to the applicant, local affected agencies and to all property owners within 300 feet of the subject property and has been published in the West County Times (West Contra Costa edition of the East Bay Times) in accordance with the requirements of Government Code Section 65905.

**BE IT FURTHER RESOLVED** that the Planning Commission of the City of San Pablo hereby approves a parking reduction for the proposed uses on this site pursuant to Zoning Ordinance Sections 17.54.050(F) and (G) which allow for reductions in parking requirements by ten percent and one parking space due to proximity to transit and provision of a bicycle rack, respectively.

**BE IT FURTHER RESOLVED** that the Planning Commission of the City of San Pablo hereby approves this application for a Conditional Use Permit (PLAN2403- 0001) subject to the following Conditions of Approval:

1. The Conditional Use Permit to allow a new Minor Automotive Repair Use for a Smog Check testing business and a secondary office use with five (5) off-street parking spaces is effective after the appeal period has elapsed.
2. If the Minor Automotive Repair Use granted by this Conditional Use Permit is discontinued for a period of six consecutive months, the Use Permit shall automatically expire.
3. The use shall be conducted in substantial compliance with the plans and application submitted to the Community Development Department in PLAN2403-0001. Minor amendments to this Conditional Use Permit may be approved by the Zoning Administrator if it is determined the overall intent of the permit is fulfilled.
4. The chain-link fence along the frontage of the property on 23<sup>rd</sup> Street shall be removed by the time a business license inspection is completed and before the business license is issued.
5. The applicant shall maintain a current business license for each business on the site issued by the City of San Pablo at all times.
6. Non-compliance of the conditions of approval may result in revocation of the business license and use permit.
7. The applicant shall obtain all necessary City of San Pablo Building and Public Works permits as well as any outside agency permits for water, waste, fire and any proposed work and shall submit payment of fees and agency permits and approval from relevant agencies for any proposed interior work.
8. Any roof-mounted and other mechanical equipment shall be screened from view

from adjacent public rights-of-way as well as from adjoining properties, subject to the review and approval during the Plan Check review process.

9. The site shall be kept clean of all debris (boxes, junk, garbage, etc.) at all times. All scrap materials shall be stored in a container and shall be removed regularly.
10. All construction improvements shall be designed by the appropriately licensed design professional. The standards imposed by the City for the private improvements shall be considered as minimum requirements and the standards may be increased by the design professional where judgment and prudence dictate.
11. Prior to construction, Applicant shall submit to City's Public Works Engineering Division, product and material cut sheets for key components, including storm drain pipes, manholes, inlets, street lights and pull boxes, if applicable.
12. Any abandoned pipes and other abandoned miscellaneous improvements shall be removed.
13. Any equipment such as backflow prevention devices, meters and transformers shall be screened with landscaping or other means, and not visible from the public right of way.
14. All applicable ordinances, regulations and requirements of Federal, State and local governments shall be met, including all the requirements of the City of San Pablo Municipal Code. All noise, building permit and grading permit requirements shall be met as applicable.
15. Failure to comply with any of the terms or conditions of this Use Permit is considered to be a violation of the City of San Pablo Municipal Code and is subject to the enforcement provisions prescribed by Chapter 17.10, Enforcement, and any and all other penalties and remedies that may be provided by law.
16. Any Conditional Use Permit granted in accordance with the terms of the City of San Pablo Municipal Code may be revoked if any of the conditions or terms of such permit are violated, the use is discontinued, or if any law or ordinance is violated in connection therewith.
17. Indemnification: Pursuant to Government Code Section 66474.9, the applicant (including any agent thereof) shall defend, indemnify, and hold harmless the City of San Pablo and its agents, officers, or employees from any claim to attack, set aside, void or annul, the City's approval concerning this planning application, which action is brought within the time period provided for in Section 66499.37. The City will promptly notify the applicant of any such claim, action, or proceeding and cooperate fully in the defense.

**BE IT FURTHER RESOLVED** that the foregoing recitations are true and correct and are included herein by reference as findings.

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Adopted this 23rd day of April 2024, by the following vote:

AYES: COMMISSIONERS:  
NOES: COMMISSIONERS:  
ABSENT: COMMISSIONERS:  
ABSTAIN: COMMISSIONERS:

ATTEST:

APPROVED

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Elizabeth H. Tyler, Secretary

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Jerome Jackson, Chair