BEFORE THE TOWN OF MORAGA PLANNING COMMISSION

In the Matter of:

An amendment to an approved Use Permit which allows a 450 square foot food mart in an existing building at the Lamorinda Service Station located at 1410 Moraga Road.	**Resolution No. 14-99** File No. UP-09-98 Adoption Date: June 7, 1999 Appeal Period Ends: June 17, 1999

WHEREAS, on January 28, 1985, the Planning Commission approved a use permit for a service station with an auto repair facility, formerly Autohaus Stuttgart, at 1410 Moraga Road with adoption of Resolution 4-85; and

WHEREAS, on May 5, 1992, an administrative use permit was granted to operate a service station with minor auto repair; and

WHEREAS, an application was filed by Yahya Tehrani (Applicant) and Russell Bruzzone (Owner) to amend the approved use permit to allow the addition of a food mart within the existing enclosed building at the facility; and

WHEREAS, the project qualified for categorical exemption under Section 15301 (e) of the California Environmental Quality Act (CEQA) Guidelines; and

WHEREAS, public hearing notices were mailed to all property owners within 300 feet of the property on May 25, 1999, and the notice was published in the May 26, 1999 edition of the Contra Costa Sun; and

WHEREAS, on June 7, 1999, the Planning Commission held a public hearing and received testimony from the applicant.

NOW THEREFORE BE IT RESOLVED, that the Planning Commission of the Town of Moraga hereby approves an amendment to the Use Permit to allow a food mart (approximately 450 square feet) within the existing enclosed building at the Lamorinda Gasoline Service Station facility located at 1410 Moraga Road, with findings and conditions listed below:

FINDINGS:

SPECIFIC FINDINGS NECESSARY FOR ALL CONDITIONAL USE PERMITS UNDER SECTION 8-404 OF THE MUNICIPAL CODE:

(1) The proposed use is appropriate to the specific location;
The proposed use involves an expansion to an approved existing service station. The conditions of approval for the use permit provide adequate provisions to mitigate the impacts of the facility.

(2) The proposed use is not detrimental to the health, safety, and general welfare of the Town;
There should be no adverse impact to public health and safety or the general welfare of the Town.

(3) The proposed use will not adversely affect the orderly development of property within the Town;
The expansion of an existing facility within a commercial zone will have no impact on the orderly development of property within the Town.

(4) The proposed use will not adversely affect the preservation of property values and the protection of the tax base and other substantial revenue sources within the Town;
The proposed use is consistent with the surrounding uses and is not expected to have an effect on property values or revenue sources within the Town.

(5) The proposed use is consistent with the objectives, policies, general land uses and programs specified in the general plan and applicable specific plan;
The use is consistent with the general plan and zoning designation for the property.

(6) The proposed use will not create a nuisance or enforcement problem within the neighborhood;
The conditions of the use permit provide mechanisms to assure that the use does not create a nuisance or enforcement problem.

(7) The proposed use will not encourage marginal development within the neighborhood;
With the conditions of approval, expansion of the existing facility will have no effect on the quality of the existing neighborhood and future improvements to the adjacent Shopping Center.

(8) The proposed use will not create a demand for public services within the Town beyond that of the ability of the Town to meet in the light of taxation and spending restraints imposed by law;
The added food mart to the existing facility is not likely to create a demand for any additional public services.

(9) The proposed use is consistent with the Town's approved funding priorities;
The project has no impact on the Town's funding priorities.

SPECIFIC FINDINGS NECESSARY FOR ALL CONDITIONAL USE PERMITS UNDER SECTION 8-3402(b) OF THE MUNICIPAL CODE:

(1) The use will not generate significant amounts of pedestrian and vehicular traffic that will foster the flow of traffic between the proposed use and uses across abutting streets;
The additional food mart will not create a significant increase in pedestrian or vehicular traffic above the current level created by the existing use.

(2) The use is compatible in land use and traffic characteristics and design with other uses directly affected by the proposed use;
The addition to the existing use will have a minimal effect on the adjacent Shopping Center.

(3) Any adverse characteristics of the use can be mitigated to the extent necessary to make the use compatible with neighboring uses;
The characteristics of the proposed use will have no discernible changes since the use will be within an existing building.

(4) The use will be within a building or space enclosed by approved fencing, landscaping, or other buildings;
The secondary retail (food mart) use of the site will be inside a building as are minor auto repairs, while the existing gasoline service station is outside along with the parking of vehicles on-site, which areas are addressed by the conditions of the use permit.

(5) The use will not generate noise levels in excess of 55 dba during the daytime hours, or 50 dba during the nighttime hours;
The existing noise levels will not change with this proposal.

(6) The use will not create an excessive public economic problem;
The use will have no foreseeable impact upon public financial resources.

(7) The use will not generate glare, electrical interference, odor, vibration, brilliant light, dust, smoke, fumes or have other

characteristics that are otherwise offensive to the senses to enjoyment of other property in the vicinity;
None of the above characteristics of the use are going to interfere with the development or enjoyment of other property in the vicinity.

(8) The hours of operation will not foster conditions detrimental to the neighborhood or town;
No change in the hours of operation is proposed. There have been no problems or complaints resulting from the current use.

CONDITIONS

1. The proposed use shall be substantially in conformance with the Planning Commission Official Exhibit, dated June 7, 1999.

2. Within 30 days, the existing illegal freestanding sign shall be reviewed by the Design Review Board. All signs shall conform to the Moraga Sign Ordinance. Any temporary banners shall be in conformance with Section 8-3039.

3. Operating hours open to the public shall be limited to 6:00 a.m. to 9:00 p.m., seven days a week. The applicant may continue to operate after the close of business, but only within an enclosed building and no later than 10:00 p.m.

4. The merchandise permitted for sale at the food mart includes such items as: snack foods, candy, chips, beverages, and automobile oil. Sales of alcoholic beverages, hot food items or perishable items such as: milk, eggs and vegetables is prohibited on site.

5. Operation of the business shall be subject to all applicable conditions of approval in Planning Commission Resolution No. #29-86 and #4-85.

6. Within 30 days from the approval of the amendment to the use permit or July 7, 1999 which ever occurs first, the applicant shall submit for review and approval by the Design Review Board a landscape and irrigation plan for the site. The landscaping plan should include additional landscaping along the Moraga Road frontage of the subject site if it is physically possible and does not create a health and safety problem.

7. All landscaping shall be maintained in a healthy condition, using generally accepted methods for cultivation and watering. The applicant shall maintain that standard of care necessary to prevent the landscaping from deteriorating so that its value as landscaping is not destroyed.

ADOPTED by the Planning Commission of the Town of Moraga on June 7, 1999, by the following vote:

AYES: Metcalf, Tomine, Woehleke and Rei

NOES: Carey and Craig

ABSTAIN: VanDeKerchove

ABSENT: None

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Matthew L. Rei, Chair

ATTEST:

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Jay Tashiro, Secretary
Planning Director