

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

Hearing Date/Agenda Number
P.C. 8-28-02 Item: 3.b.

File Number
CP02-033

Application Type
Conditional Use Permit

Council District
1

Planning Area
West Valley

Assessor's Parcel Number(s)
303-26-059

STAFF REPORT

PROJECT DESCRIPTION

Completed by: **Darren McBain**

Location: **South side of Stevens Creek Boulevard approximately 200 feet westerly of Boynton Avenue**

Gross Acreage: **0.3**

Net Acreage: **0.3**

Net Density: **n/a**

Existing Zoning: **CG Commercial General**

Existing Use: **Used car dealership**

Proposed Zoning: **No change**

Proposed Use: **Car rental facility**

GENERAL PLAN

Completed by: **DM**

Land Use/Transportation Diagram Designation

General Commercial

Project Conformance:

Yes No

See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: **DM**

North: **Automobile dealership**

City of Santa Clara

East: **Used car dealership**

CG Commercial General

South: **Single-family attached residential**

A(PD) Planned Development

West: **Tire sales/installation facility**

CG Commercial General

ENVIRONMENTAL STATUS

Completed by: **DM**

Environmental Impact Report
 Negative Declaration circulated on
 Negative Declaration adopted on

Exempt
 Environmental Review Incomplete

FILE HISTORY

Completed by: **DM**

Annexation Title: **Boynton No. 5**

Date: **September 21, 1956**

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval
 Approval with Conditions
 Denial

Date: _____

Approved by: _____
 Action
 Recommendation

OWNER

Eleanor and William Tschirgi
19144 Chaparral Drive
Penn Valley, CA 95946

APPLICANT/DEVELOPER

Hertz Corporation
1650 Old Bayshore Highway
Burlingame, CA 94010

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: Darren McBain

Department of Public Works

See attached memo

Other Departments and Agencies

See attached memos

GENERAL CORRESPONDENCE

None received

ANALYSIS AND RECOMMENDATIONS**BACKGROUND**

The applicant, Hertz Corporation, is requesting a Conditional Use Permit to allow car rental on a site with an existing structure that previously served as a used car dealership. Vehicle rental is a conditional use in the commercial zoning districts. No new construction is proposed, but the project does include upgrades to the existing landscaping and restriping of the parking lot. Nearby land uses include single-family attached residences on the south side of the property, and commercial establishments on the other two sides and across Stevens Creek Boulevard to the north.

Project Description

The proposed car rental agency is to take place in an existing modular building that is situated on a permanent foundation. The existing structure was approved in 1990 with a Site Development Permit (File No. H90-137). No substantial new construction is proposed, but this project includes legalization of two existing storage structures for which no permit history exists (see analysis section, below).

As part of this project, the existing landscaped area along Stevens Creek Boulevard will be restored to conformance with the Commercial Design Guidelines, and additional landscaping will be added on the other side of the driveway. The existing, nonconforming pole signs are to be removed and replaced with new signage that conforms to the City's current Sign Ordinance.

ENVIRONMENTAL REVIEW

The Director of Planning has determined that this project is exempt from environmental review under the requirements of the California Environmental Quality Act (CEQA). CEQA Guidelines include an exemption (section 15301) for the operation of, or minor alterations to, existing facilities involving negligible or no expansion of the existing use. The Director of Planning has determined that the proposed use meets this definition.

GENERAL PLAN CONFORMANCE

The proposed use is consistent with the San Jose 2020 General Plan Land Use/Transportation Diagram designation of General Commercial.

ANALYSIS

The primary focus of the analysis is the project's conformance to the Zoning Ordinance and the City's Commercial Design Guidelines (CDGs). As described in greater detail below, staff finds that the proposed project conforms to the Zoning Ordinance and is adequately consistent with the CDGs.

Zoning Ordinance Conformance

The Zoning Ordinance requires car rental agencies to provide one parking space per 400 square feet of building area, plus one additional parking space per rental vehicle on the site. Thus, the parking requirement for car rental varies in relation to how many rental cars are located on the site at any given time. The purpose of this parking standard is to allow for adequate parking to be provided for customers who may drive--or be driven--to the site to arrange a vehicle rental, as well as employees of the business. Small-scale car rental agencies typically involve frequent movement of rental vehicles to and from off-site storage yards, which makes it even more desirable for an adequate amount of parking to be provided on the site. The Zoning Ordinance prohibits long-term storage of rental vehicles at car-rental agencies in commercial zoning districts. These locations tend to be smaller-scale and are not generally suitable for vehicle storage, a use more appropriate for locations in industrial areas.

For purposes of determining the required parking, based on "net" floor area (85% of the gross square footage), the existing building is less than 400 square feet and requires only one parking space. The Conditional Use Permit process allows such standards to be further modified, if determined to be appropriate. Since it is highly likely that more than just one parking space would be needed for employees and customers, staff recommends that six (6) parking spaces be made available for employees and customers. There are a total of 19 parking spaces on the site. Therefore, no more than 13 rental cars may be parked on the site at any one time.

The used car dealerships in this vicinity on Stevens Creek Boulevard, specifically the adjacent use to the east, have been the subject of Code Enforcement investigations with regard to their possible impact on the availability of parking on Boynton Avenue. As part of the Planning Commission recommendation for an unrelated, recently approved 6-unit residential project on Boynton Avenue (file PDC02-028), the Commission asked staff to follow-up and report on code actions related to this effort and whether such existing use(s) are impacting street parking opportunities on Boynton Avenue. A more detailed report will be provided on this topic at a subsequent Planning Commission hearing. To staff's knowledge, this site was not associated with any of the parking-related Code Enforcement complaints. However, the applicants have been informed of the situation and are aware that this project should not allow its operations to spill over into the nearby residential neighborhood. A condition of approval requiring employee parking to take place on-site has been included in this permit.

CDG Consistency

The proposed project includes use of an existing modular building. Although the CDGs do not specifically prohibit or discourage modular structures, these structures are generally considered undesirable outside of industrial areas. However, the building in question was constructed legally and is not undergoing any expansion or substantial exterior modification as part of this project, and is therefore considered acceptable for purposes of this relatively minor change in use. This modular building is relatively well designed and less boxy looking than many others.

The front setback area currently lacks any planting material. This area will be filled in with ground cover and one or more trees, consistent with the CDGs for perimeter landscaping. A new, additional front landscaped area with a similar treatment is to be created on the other side of the site's driveway. The new landscaping will significantly improve the street frontage along this portion of Stevens Creek Boulevard, which is currently in a state of neglect.

Although an appropriately-sized area of landscaping is shown, the plans received prior to the hearing for this project do not show an adequate level of detail for the new landscaping that will be added along the street frontage. In addition, the note indicating existing landscaping in the front setback is inaccurate, as the area currently contains bare dirt. A subsequent Permit Adjustment showing the details of the proposed planting types and layout of this area, has been included in this permit as a condition of approval (see Concurrent Conditions section, below).

The two existing storage structures behind the primary modular building were not included in the approval of the previous Site Development Permit. The storage structures adequately conform to relevant City policies, and their inclusion on the current plans constitutes approval for Planning purposes, subject to obtainment of a Building Permit.

PUBLIC OUTREACH

Notices for the public hearing were distributed to the owners and tenants of all properties located within 500 feet of the project site. Staff has been available to discuss the project with members of the public.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following facts and findings in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of General Commercial on the adopted San José 2020 General Plan Land Use/Transportation Diagram
2. The project site is located on a 0.3-gross-acre parcel in the CG Commercial General Zoning District.

3. The project site is currently developed with an approximately 470-square-foot modular building and two separate storage sheds.
4. The proposed project consists of the use of the existing facilities for purposes of a car rental agency
5. Rental of vehicles is a conditional use in the City's residential zoning districts.
6. Under the provisions of Section 15314 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.
7. The proposed project conforms to the setbacks of the CG Commercial General Zoning District.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the site's designation of Public/Quasi-Public on the adopted San José 2020 General Plan Land Use/Transportation Diagram of the City of San José.

The proposed project complies with applicable provisions of the Zoning Ordinance.

1. The proposed project is in compliance with the California Environmental Quality Act.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:

- a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
- b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Except as noted below, development of the site shall conform to approved development plans entitled "Hertz Local Edition," dated June 10, 2002, on file with the Department of Planning Building and Code Enforcement.
2. **Adjustment Required.** Prior to occupancy, the applicant is required, as a condition of approval of this permit, to secure and agree to implement a Permit Adjustment showing a more specific and comprehensive landscape plan, including planting materials, trees, and a more specific front landscaping layout, to the satisfaction of the Director of Planning.
3. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
4. **No New Construction.** No new construction is approved under this permit. Building permits for the two storage structures shall be obtained prior to the issuance of an occupancy permit.

5. **Vehicle Parking/Storage.** All rental vehicles associated with the project proponent(s) shall be parked on the site, not on the public streets. No rental vehicle shall remain on the site for more than 72 hours. On-site parking shall be made available in conformance with the Zoning Ordinance. No more than 13 rental vehicles shall be parked on the site at any one time.
6. **On-Site Employee Parking.** Employees of the business operation on the subject premises shall park their personal vehicles on-site during their shift.
7. **Signs.** No new signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning. The existing sign shall be removed or relocated, to the satisfaction of the Director of Planning.
8. **No Outside Storage.** No outside storage is permitted for the project except in areas designated on the approved plan set.
9. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief.
10. **Fire Hydrants and Driveways.** All fire hydrants shall be at least 10 feet from all driveways to the satisfaction of the Fire Chief.
11. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.
12. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
13. **Tree Removals.** No tree removals are approved under this permit. All tree removals on this site are subject to review by the Director of Planning. No tree larger than 56 inches in circumference, at a height 24 inches above the natural grade slope, may be removed without a Tree Removal Permit issued by the Director of Planning.
14. **Hazardous Materials.** No storage of hazardous materials, including but not limited to, gasoline, oil and solvents shall be permitted under this permit.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of

this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.

2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.