

City of Hercules

*111 Civic Drive
Hercules, CA 94547*



Meeting Agenda

Monday, August 19, 2019

7:00 PM

Council Chambers

Planning Commission

*Chair Irina Galieva
Vice Chair Hector Rubio
Commissioner Ken Morrison
Commissioner Susan Tolley
Commissioner Nicole Sacramento*

To view webcast of meetings, live or on demand, go the City's website at www.ci.hercules.ca.us.

I. CALL TO ORDER - ROLL CALL

II. PLEDGE OF ALLEGIANCE

III. PUBLIC COMMUNICATION

IV. CONSENT CALENDAR

V. PUBLIC HEARINGS

1. [19-683](#) **Conditional Use Permit #19-02 for Alphas Wheels & Tires LLC at 636 Alfred Nobel Drive**, to operate a wheel rim warehouse and distribution business in a 4,590-square-foot ground floor space with the potential of retail sales of associated product in approximately 2,000 square feet in a Planned Office-Research & Development Mixed-Use District (PO/RD).
Recommendation: Approve Resolution #19-08 authorizing CUP #19-02.

Attachments: [Staff Report for Alphas Wheels - CUP 19-02](#)
 [Attach 1 - PC Reso 19-08 for CUP 19-02 - Alphas Tires and Wheels](#)

VI. DISCUSSION / ACTION ITEMS

VII. PLANNING DIRECTOR REPORTS AND ANNOUNCEMENTS

VIII. COMMISSIONER REPORTS AND ANNOUNCEMENTS

IX. ADJOURNMENT

The next Regular Meeting of the Planning Commission is Monday, September 16, 2019, at 7:00 p.m. at Hercules City Hall, 111 Civic Drive, Hercules, CA.

Agendas are posted in accordance with Government Code Section 54954.2(a) or Section 54956. Members of the public can view electronic agendas and staff reports by accessing the City's website at www.ci.hercules.ca.us then clicking on the Planning Commission meeting you are interested in. You can also receive an e-notice from the City's homepage. Agendas and staff reports may also be obtained by contacting the Planning Department at (510) 799-8244.

Posted: August 15, 2019

COMMISSION STATEMENT OF PURPOSE: The Planning Commission typically meets the first and third Monday of every month; its primary functions are to advise the City Council on policy matters in regard to the growth and development of the City of Hercules and to act on applications for development permits.

SPECIAL ACCOMMODATIONS: In compliance with the Americans with Disabilities Act, if you require special accommodations to participate in a Planning Commission meeting, please contact the City Clerk at 510-799-8215 at least 48 hours prior to the meeting.

AGENDA ITEMS: Persons wishing to add an item to an agenda must submit the final written documentation 12 calendar days prior to the meeting. The City retains the discretion whether to add items to the agenda. Persons wishing to address the Commission otherwise may make comments during the Public Communication period of the meeting.

PUBLIC COMMUNICATION: Persons who wish to address the Commission should complete the speaker form prior to the Commission's consideration of the item on the agenda. Speakers will be called after the project applicant has presented the project.

Anyone who wishes to address the Commission on a topic that is not on the agenda and is relevant to the Commission should complete the speaker form prior to the start of the meeting. Speakers will be called upon during the Public Communication portion of the meeting. In accordance with the Brown Act, the Commission may not take action on items not listed on the agenda. The Commission may refer to staff any matters brought before them at this time and those matters may be placed on a future agenda.

In the interests of conducting an orderly and efficient meeting, speakers will be limited to three (3) minutes.

Anyone may also submit written comments at any time before or during the meeting.

CONSENT CALENDAR: All matters listed under Consent Calendar are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items unless requested by a member of the Commission or a member of the public prior to the time the Commission votes on the motion to adopt.

PUBLIC HEARINGS: A public hearing enables the public to present information, opinions, and arguments relevant to the actions of the Commission, and informs the public about the details of the proposal.

At the beginning of an item, the Chair will read the description of that item as stated on the agenda. The staff will then give a brief presentation of the proposed project. The Commission may then ask staff questions about the item.

The Chair will open the public hearing and ask the applicant(s) if he or she wishes to make a presentation or statement. Those persons in favor of the project will then be given an opportunity to speak followed by those who are opposed to the project. The applicant(s) will then be given an opportunity for rebuttal.

The public hearing will then be closed, and the Commission may discuss the item amongst themselves and ask questions of staff. The Commission will then vote to approve, deny, approve in a modified form, or continue the matter to a later date for a decision. The Chair will announce the Commission's decision and advise the audience of the appeal procedure.

Persons who wish to speak on matters set for public hearings will be heard when the Chair calls for comments in support thereof or in opposition thereto. After the hearing is closed, there is no further comment permitted from the audience unless invited by the Chair.

The Commission has decided that no public hearings will begin after 11:00 p.m., and that items still remaining on the agenda after 11:00 p.m. will be held over to the next Commission meeting.

LEGAL CHALLENGES: If you challenge a decision of the Planning Commission in court, you may be limited to raising only those issues you or someone else raised at the meeting or in written correspondence delivered at, or prior to, the meeting. Actions challenging Commission decisions shall be subject to the time limitations contained in the Code of Civil Procedures Section 1094.6.

NOTIFICATION PROCEDURE: Property owners within 300 feet of a proposal will receive a notice of the proposal at least ten (10) days prior to the public hearing. The notice lists the type of application, application number, brief description and location of the project, and the applicant. The City of Hercules subscribes to a service that uses the property owner information from the most recent data on the Contra Costa County Tax Assessor's rolls. Please be aware there often is a time lag for both the tax rolls and this service to be updated.

AGENDA POSTING: The Planning Commission Agenda is posted at least 72 hours prior to the meeting at City Hall, the Hercules Swim Center, Ohlone Child Care Center, Hercules Post Office, and on the City's website (www.ci.hercules.ca.us),

REVIEW OF PUBLIC DOCUMENTS: All Planning applications are public documents, and can be reviewed by the public. These files, however, are not allowed out of the office. Should a member of the public require copies of information contained within the file, a written request must be submitted to the City Clerk's Office. Staff will accommodate the request within ten (10) calendar days. The charge is \$0.20 per page. If you require a complete copy of the file, or if staff cannot accommodate your request within ten (10) calendar days, you must make arrangements to bring in a copier or copy service that can make copies without leaving City Hall.

Environmental Impact Reports, Specific Plans, and other project specific documents are made available for the public to review at City Hall at 111 Civic Drive, Hercules CA. Loan copies (limited supply) are available for review, not purchase, at the Planning Department. These documents must be checked out with staff. You will be asked to provide your name, phone number, and a deposit. Persons will be informed of the date and time the document must be returned. You may check out the loan document, but staff will not make a complete copy of the document. Staff will accommodate the request to make photocopies based upon the current workload and availability of personnel to make copies. Costs are outlined in above paragraph.



PLANNING COMMISSION STAFF REPORT

MEETING DATE: August 19, 2019

TO: Members of the Planning Commission

SUBMITTED BY: Holly Smyth, AICP, Planning Director
Michele Rodriguez, Adjunct Planner

SUBJECT: Conditional Use Permit #19-02 application for Alphas Wheels & Tires LLC at 636 Alfred Nobel Drive, to operate a wheel rim warehouse and distribution business in a 4,590 square feet ground floor space with the potential of retail sales of associated product in approximately 2,000 square feet in a Planned Office-Research and Development Mixed-Use District (PO/RD).

APPLICANT: Yao Hua Zhu dba as Alphas Wheels & Tires, LLC.

1. RECOMMENDATION

That the Planning Commission hold a public hearing and consider approving Resolution #19-08 approving CUP 19-02 subject to the conditions therein.

2. PROJECT DESCRIPTION, RELEVANT HISTORY, AND SETTING

Project Description: The proposed Conditional Use Permit #19-02 is to operate a 4,590-square-foot ground floor wheel rim warehouse and distribution business with the option of retail sales of associated product in approximately 2,000 square feet in the North Shore Business Park. The applicant owns and operates an existing tire and wheel business in Hayward. The business owner has outgrown the Hayward building capacity so he recently purchased the Hercules building unit for additional warehousing, storage, and shipping and intends to keep the Hayward location open to handle service needs.

The building is located in the Planned Office-Research and Development Mixed-Use District (PD/RD), which allows “warehouse and distribution uses” with an approved conditional use permit.

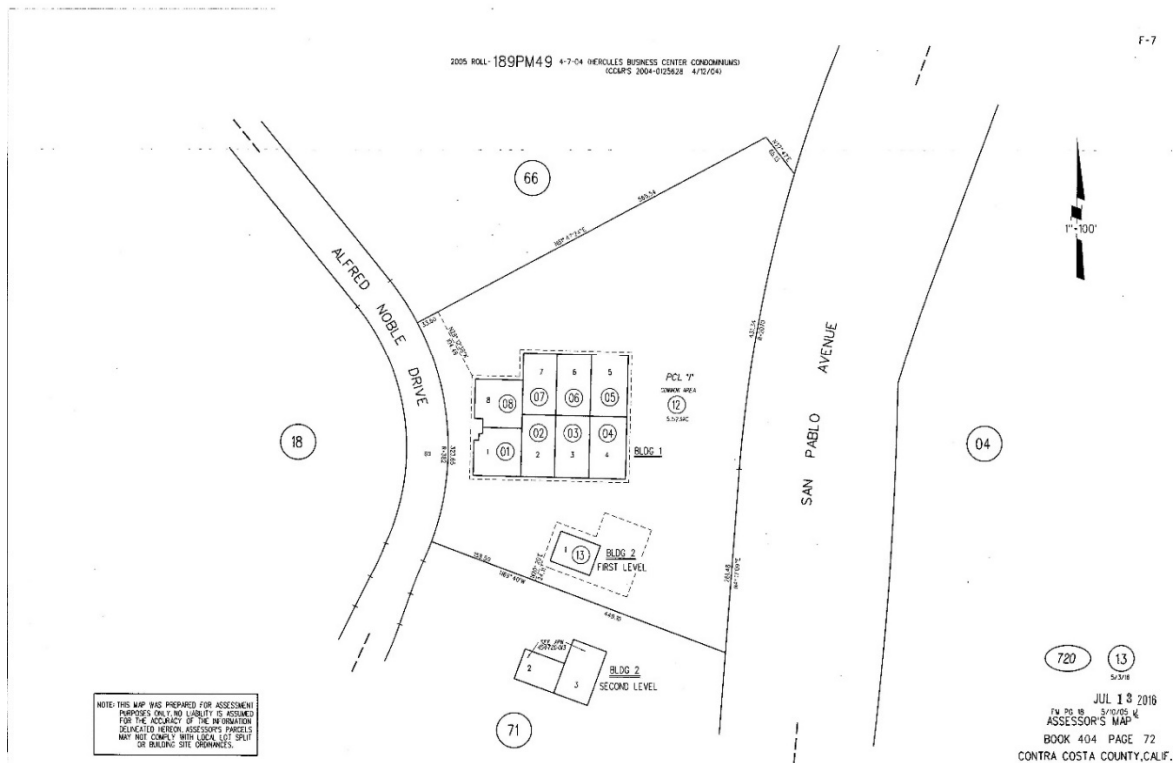
The business model for the Hercules location includes monthly shipment of wheels (tire rims) delivered by shipping container from China to Oakland. The shipping container is delivered to the Hayward location for unloading and storage. Wheels will be delivered monthly to the Hercules location via a 26’ truck which would back into the warehouse via the large sliding door without blocking the other tenant parking or common driveway aisles. Wheels would be unloaded using a hand-truck to be stored on the ground within the warehouse. The wheels are advertised for sale on a variety of websites such as Amazon, EBay or wholesale sites. Smaller shipping and delivery is anticipated to occur once per day via FedEx, or USPS.

In addition, the owner would like the potential of retail sales of associated product of up to 2,000 square feet. The land use regulations allow certain commercial uses, including retail sales of 2,000 square feet or less subject, to administrative approval. The previous use had retail sales of motorcycle clothing and accessories in the front portion of the building we no record of complaints associated to this portion of the business use. There is no expected direct impact from the retail sales to adjacent uses because the primarily business emphasis is on rims, and retail sales are secondary and incidental to occur when during normal business hours of Monday–Friday, 8:00 a.m.–5:00 p.m. (closed on weekends). There is no tire storage, sales or tire / wheel balancing proposed in Hercules and therefore noise will be kept to a minimum.

The applicant may consider applying in the future for administrative approval of a small portion of the building to be used as a retail store for the rims and car accessories (excluding the rubber tires) similar to what the prior motorcycle business tenant conducted new storefront signage.

Background: In 1984 Subdivision #6212 was created forming the North Shore Business Park which has it's own CC & R's dated August 21, 1984, which gives the Major Developer, Bio-Rad, approving authority for land uses that are not clearly allowed by the CC&Rs, signage, and building improvements for this site as well as the entire Business Park. In reviewing the Business Park CC&Rs "Regulation of Uses" section, permitted Uses include "Storage, warehouse, and distribution uses without any caveats (which is slightly different than the City's zoning code provisions). Bio-Rad has provided its letter of approval for the proposed business.

Later a condo map was filed separating out 13 Assessor's parcels with 2 buildings and a common area serving the grouping. A 5.52 common parking, drive access, and landscape area exists and is owned by the Hercules Business Center Association. The proposed use is located at 636 Alfred Noble Drive which is within Building 1 which contains 8 contiguous spaces individually owned by different parties (with the applicant owning lot 4). Building 2 contains 1 business space (fitness center) on the southerly portion of the shared site. The former use within lot 4 was California Sport Touring, a motorcycle parts and accessories sales and repair shop which contained a retail display area, order counter, restrooms, warehouse/ work area for repairs to component parts on the ground floor and additional office space on the 2nd floor.



Existing Setting. The shared parcel area is bordered on the east by San Pablo Avenue and on the west with access from Alfred Nobel Drive. Located to the north and south existing multi-tenant business park buildings. As mentioned above the shared site contains two buildings with a variety of uses, with the proposed business located on the southeast portion of the approximate 30,000-square-foot building. The business contains approximately 4,590 square feet of ground floor area with a warehouse, restroom, and office/ potential retail sales area and approximately 500 square feet of 2nd floor mezzanine space. The existing shared site is fully developed with drive ingress and egress, more than 10% required landscaping and approximately 121 parking spaces (107 exterior parking spaces and 14 interior parking spaces under the fitness center) plus 5 handicapped stalls with 5 loading zones for the ADA spots.. Because the business site shares a common parking area, many of the units have assigned number of parking spaces with the ownership of their business location. When the project applicant purchased their unit it included eight dedicated parking spaces. According to 13-32.300 Municipal Code, parking requirements for “unspecified uses” are 1/employee and 3 employees being proposed with the business with little to no foot traffic the 8 spaces are considered adequate parking for the proposed use. Should the applicant wish to incorporate a retail section as part of the business, parking for “large hard goods) is 2.5 per 1,000 square feet and would therefore allow up to 2,000 square feet of retail space to be used.

As a side note, across from this proposed business unit is a gym which has its peak hours generally experienced after 5:00p, and they tend to occupy this units 8 parking spaces. Because the business hours are anticipated to be closed after 5:00p this is not anticipated to be a concern.

3. PROCESS

According to the Hercules General Plan, the land use designation is Planned Office/R&D (PO/RD). This land use category is intended to provide areas of adequate size and access to support development of a wide variety of employment-oriented business and enterprise complexes. Warehouse, distribution, or wholesale uses may be appropriate in these areas, if they serve or are essential to businesses in Hercules.

Chapter 13-16.400 of the Hercules Municipal Code, PO/RD Planned Office-Research and Development Mixed-Use District, allows warehouse and distribution uses within the district that generate low volumes of traffic, and can be shown to be compatible with permitted uses pending approval of a conditional use permit. Chapter 13-50 Use Permits, includes the requirement that Planning Commission has authority to approve, deny, or conditionally approve the proposed use subject to required findings.

Because the project is subject to discretionary review, Sections 13-40.700 and 13-44.200 of the Municipal Code (the “Mailing Lists and Address Labels” and the “Hearings, Appeals, and Judicial Review” sections) require that the City hold a noticed public hearing and notify all property owners within 300-ft. of the project property. Therefore, public hearing notices were mailed to property owners and tenants within 300 feet of the subject site, posted at City sites, and then published in the West County Times regarding the Planning Commission’s public hearing of this Use Permit request at least 10 days prior to the hearing.

4. ENVIRONMENTAL DETERMINATION

Staff has determined that the proposed use is Categorically Exempt according to Section 15301, “Existing Facilities,” of the California Environmental Quality Act (CEQA). As defined under CEQA, “existing facilities” include:

“....the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination. The types of ‘existing facilities’ itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of an existing use. Examples include but are not limited to:

(a) Interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances...”

5. REQUIRED FINDINGS

Section 13-50.300 of the Municipal Code allows the Planning Commission to grant an application for a use permit only if certain findings are made. Below are the required five (5) findings with supporting facts:

Finding 1: The proposed use is consistent with the General Plan.

The General Plan Land Use Map designates the project property as Planned Office/R&D (PO/RD). The original Planned Development Plan included provisions for adequate sewer capacity, access to public streets, adequate parking, landscaping, and architectural guidelines. The proposed use within an existing building for a wheel warehouse and distribution business may be appropriate if the use can meet the following objectives and policies of the City's Land Use Element of the General Plan:

- a. "This [Planned Office/R&D] land use category is intended to accommodate employment-oriented business and enterprise complexes, including warehouse, distribution, or wholesale uses if they serve or are essential to businesses in Hercules. Wheels are an essential compliment to employment, and distribution in the City of Hercules, and is consistent with the intent of this land use designation.

- b. *Land Use Element, Objective 3: Ensure the provision of services needed to support growth that balances jobs, commercial, and housing opportunities, page II-13*

"Create a focus for business that would provide services which would attract patrons from a regional area, while not disturbing existing residential and community oriented areas."

Land Use Element Policy 3D, page II-14

- c. "Emphasize employment-generating development which is lagging behind residential development."

Land Use Element Policy No. 2C, page II-13

- d. "Encourage uses that bring additional revenues (retail sales, property taxes) either directly or indirectly to the City."

Land Use Element Policy 4B, page II-15.

- e. "Develop sufficient employment and commercial tax generating uses to maintain a positive City government fiscal condition."

Land Use Element Objective No. 4, page II-15

Finding 2: The proposed location of the use conforms with the purposes of the zoning ordinance and the purposes of the district in which the site is located, and will comply with the applicable provisions of the Zoning Ordinance.

The City of Hercules Zoning Ordinance ("PO/RD" Planned Office-Research and Development mixed-Use District); Section 13-16 of the Hercules Municipal Code) defines what uses are allowed through either an Administrative Use or Conditional Use Permit (those that are not listed are not allowed). Table 13-16.1, "Land Use Regulations: PO/RD," requires a conditional use permit (CUP) for warehouse, distribution, and storage facilities related to the primary use. Retail sales of 2,000 square foot or less requires an Administrative Use Permit, which has been merged with this application for decision. Specific findings are required for the Planning Commission to grant a conditional use permit. Section 13-16.100 Specific purposes of the PO/RD district (3) to allow warehouse, distribution, and wholesale uses within this district if they directly serve or are essential to businesses in Hercules. Wheels are considered essential to businesses in Hercules to conduct economic development tasks.

A condition of approval is being included in the proposed approving resolution that the business will need to meet all Performance Standards contained in Section 13-31.300 of the Hercules Municipal Code Zoning section (which includes provisions on noise, storage, equipment and the like) as well as the Building code at all times.

Finding 3: *The location, size, design, and operating characteristics of the proposed use will be compatible in design, scale, coverage, and density with existing and anticipated adjacent uses.*

The use will be conducted entirely within the existing building. Marketing of wheels (meaning the alloy rims not the rubber tires) on E-Bay, Amazon, and their own website. Orders will be received from the internet or by phone. Distribution of orders once per day will occur via FedEx, or United States Postal Service. The business does not conduct wheel repair or assembly of wheels and tires, and therefore has no waste tires for hazardous materials. There is on-site storage of wheels for sale. The goal for wheel sales is 1000 per month. They will have up to four employees working daily. The proposed use is equal to, or less than, the amount of activity allowed in this zoning district in terms of number of employees or users including library, daycare facilities, banks, business services, restaurant, deli, light manufacturing use. No physical changes or improvements to the existing unit are proposed, however the building department will need to verify that the existing 2nd floor space and bathroom were properly permitted to meet code

Finding 4: *There is adequate access, traffic, public utility, and public service capacity for the proposed use and surrounding existing and anticipated uses.*

The currently vacant unit already has all utilities and services necessary for the business to operate, including access from Alfred Nobel Dr. which is a city street with curbs, gutters, and sidewalks. The project site is fully served with underground utilities, including existing water, sanitary sewer, gas, and electrical services, and no additional services are required to be provided.

Finding 5: *There are no potential, significant adverse environmental impacts that could not be feasible mitigated and monitored.*

The proposed business is Categorically Exempt per Section 15301 of the California Environmental Quality Act as discussed above.

6. ISSUES FOR PLANNING COMMISSION'S CONSIDERATION

Based on the above report, staff has prepared a draft resolution for Planning Commission's consideration. In voting to approve, modify, or deny the application for CUP #19-02, the Planning Commission should consider if the use satisfies the required findings with facts listed above and is appropriate for the Northshore Business Park and compatible with the requirement that they directly serve or are essential to businesses in Hercules. Additionally, Commission should consider if the conditions of approval included in the draft resolution are adequate to ensure that the proposed use is compatible with the zoning or if conditions need to be added or modified.

7. ATTACHMENTS:

Attachment 1 – Draft Resolution 19-08 approving Conditional Use Permit #19-02 with conditions of approval contained therein

Figure 1: Project Vicinity and Location (636 Alfred Nobel Drive)

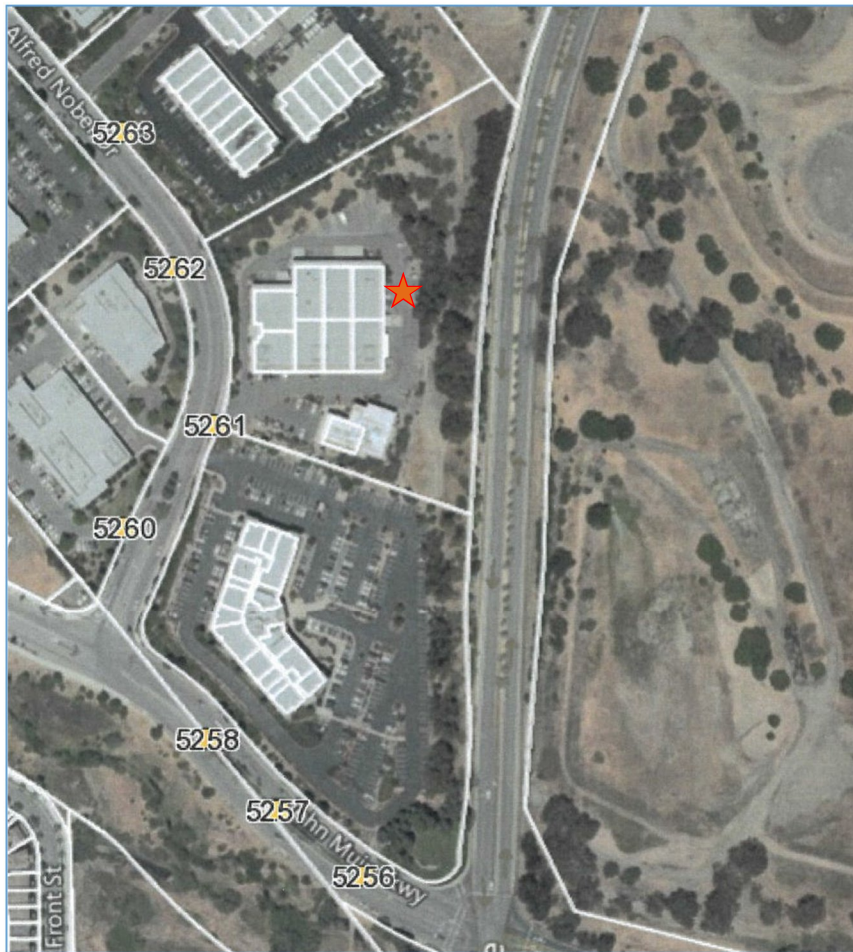


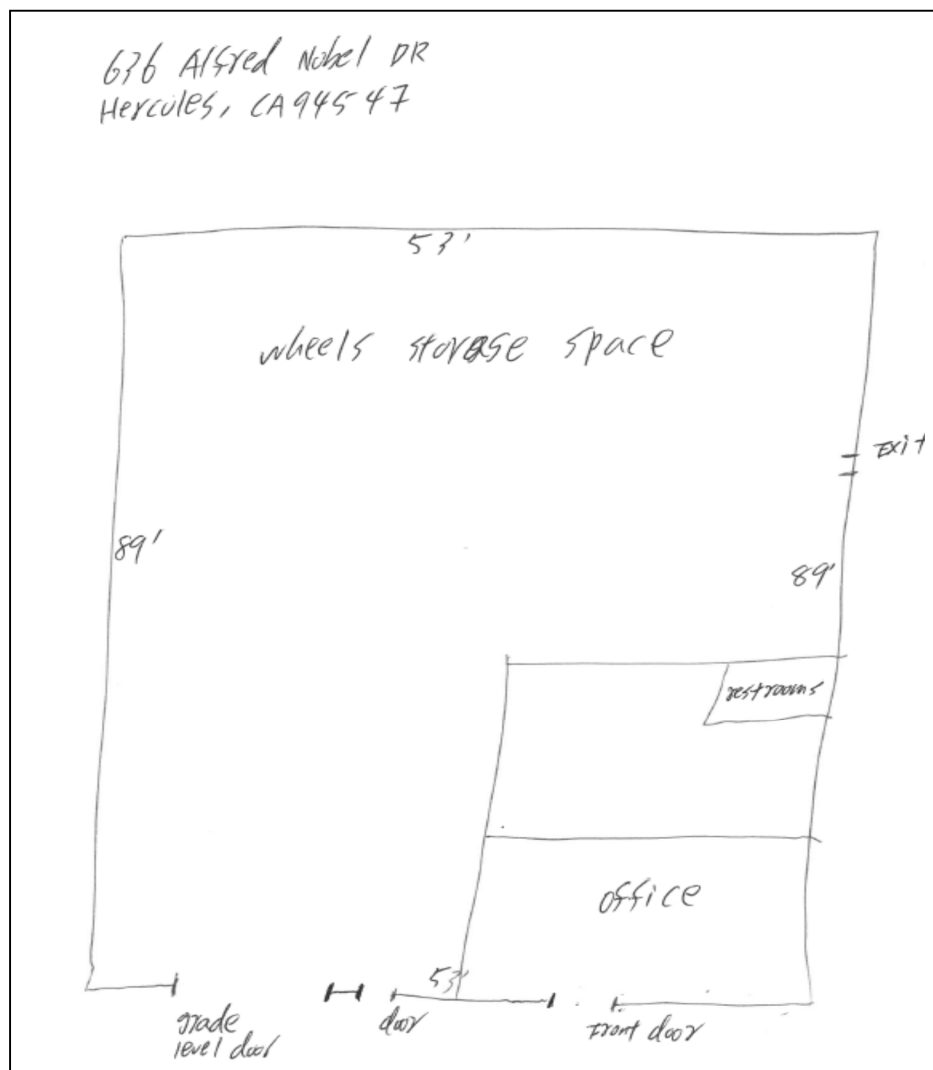
Figure 2: Existing Frontage of 636 Alfred Nobel Drive



Figure

3:

Existing to Remain Interior for Alphas Wheels & Tires



RESOLUTION # 2019-08
CONDITIONAL USE PERMIT # CUP 19-21
(ALPHAS TIRES AND WHEELS)

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERCULES APPROVING CONDITIONAL USE PERMIT #CUP 19-02, TO PERMIT THE OPERATION OF A WHEEL WAREHOUSE AND DISTRIBUTION BUSINESS AND UP TO 2,000 SQ.FT. OF RETAIL IN A 4,590-SQUARE-FOOT GROUND FLOOR AREA IN A PLANNED OFFICE-RESEARCH AND DEVELOPMENT MIXED-USE DISTRICT LOCATED AT 636 ALFRED NOBEL DRIVE, IN THE NORTH SHORE BUSINESS PARK IN HERCULES, CALIFORNIA, 94547, SUBJECT TO CERTAIN CONDITIONS.

WHEREAS, the Planning Commission of the City of Hercules has considered an application for Conditional Use Permit No. 19-02, filed by Yao Hua Zhu in accordance with Chapter 13-50 (“Use Permits”) of the Hercules Zoning Ordinance; and

WHEREAS, the limited tenant improvements for and operation of an wheel (tire rim) warehouse and distribution and associated retail sales in an existing building are Categorically Exempt in accordance with the California Environmental Quality Act, Section 15301, which describes Class 1 exemptions as consisting “of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination”; and

WHEREAS, the Planning Commission finds, after due study of the proposed use with the supporting facts provided in the August 5, 2019 staff report, deliberation, and public hearing, that the following circumstances exist with regard to the use permit application:

- a. That the proposed use is consistent with the General Plan;
- b. That the proposed location of the use conforms with the purposes of the Zoning Ordinance and the purposes of the district in which the site is located, and will comply with the applicable provisions of the Zoning Ordinance;
- c. That the location, size, design, and operating characteristics of the proposed use will be compatible in design, scale, coverage, and density with existing and anticipated adjacent uses;
- d. There is adequate access, traffic, public utility, and public service capacity for the proposed use and surrounding existing and anticipated uses;
- e. There are no potential, significant adverse environmental impacts that could not be feasibly mitigated and monitored; and

WHEREAS, the Planning Commission finds that the applicant agrees with the necessity of and accepts all elements, requirements, and conditions of this resolution as being a reasonable manner of preserving, protecting, providing for, and fostering the health, safety, and welfare of the citizenry in general and the persons who work or visit this development.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Hercules hereby determines that the proposed use is Categorically Exempt according to Section 15301, “Existing Facilities,” of the California Environmental Quality Act (CEQA).

NOW, THEREFORE, BE IT FURTHER RESOLVED the Planning Commission approves Conditional Use Permit #CUP 19-02 located at 636 Alfred Nobel Drive subject to the below Conditions of Approval based on the Findings with Facts contained in the August 5, 2019 Planning Commission staff report.

The departments and divisions listed below have primary responsibility for implementing listed conditions of approval.

LEGEND:	B = Building	PD = Police
	CA = City Attorney	PL = Planning
	F = Fire District	PW = Public Works
	FIN = Finance	

1. Conditional Use Permit #CUP 19-02 is granted for the property described in the application materials, identified as 636 Alfred Nobel Drive, for the warehousing and distribution of wheels (i.e. rims) and associated retail sales up to 2,000 square feet of the 4,590 square foot ground floor space operating Monday – Friday, 8:00a.m. – 5:00p.m. and shall not be transferable to other addresses and shall run with the land. No outdoor storage of wheels or supplies or shipments are allowed at any time. No tire sales or storage is allowed onsite as they would require additional improvements and conditions not covered in this permit. Additionally, no wheel mounting and balancing is allowed. (PL).
2. No materials or equipment shall be allowed in the parking lot or outside the building exterior. All materials and equipment shall be stored within the building and not visible from public access areas. (PL)
3. No residential occupancy or human habitation at 636 Alfred Nobel Drive shall be permitted. (PD/F)
4. Any proposed signs on the building or monument signs shall be reviewed and approved by the North Shore Business Park Agent and the Planning Division prior to their installation under a separate permit (PL).

5. This permit shall become null and void within 12 months from the date of issuance, unless the building is occupied and an active business license is issued, unless a one year extension is granted from the Community Development Director. (PL)
6. Delivery of wheels (rims) may occur during business operation hours. Delivery and shipment shall be conducted by vehicles less than 27' in length. Delivery shall occur entirely within the building, keeping building travel lanes clear. A minimum of 8 dedicated parking spaces shall be kept for the business during business operating hours. (PL)
7. The use by the applicant/grantee of any activity or structure authorized by this permit shall constitute acceptance of all of the conditions and obligations imposed by the City on this permit. The applicant/grantee by said acceptance waives any challenges as to the validity of these conditions. (CA)
8. Developer/applicant agrees as a condition of approval to indemnify the City, its agents, officers and employees and to defend at developer's/applicant's own expense against and from any claim, action, or proceeding brought within the time period provided for in Section 66499.37 of the Government Code to attack, set aside, void, or annul the approval of this resolution. City shall promptly notify developer/applicant of such claim, action, or proceeding of which City receives notice, and City will fully cooperate with developer/applicant in the defense thereof. Developer/applicant shall reimburse the City for any court costs and attorney's fees which the City may be required to pay as a result of any such action. City may, in its sole discretion, participate in the defense of any such claim, action, or proceeding, but such participation shall not relieve the developer/applicant of the obligations of this condition. (CA)
9. The business will meet all State Building code and City Performance Standards contained in Section 13-31.300 of the Hercules Municipal Code Zoning section (which includes provisions on noise, storage, equipment and the like) prior to occupancy and continue to comply once the business is operational. (PL/B)
10. A building permit shall be secured for interior tenant improvements of any new construction or modification to structures. Prior to the issuance of a Building Permit for tenant improvements, the applicant shall verify with the Planning and Building Divisions that no outstanding balances are due to the City of Hercules Finance Department. Plans submitted for tenant improvement approval shall be considered final design drawings. No changes to exterior architecture are approved with this permit. (/PL/B/FIN)
11. Changes to the business use or the site other than this approval may require a new application for an Administrative Use Permit, Minor Exception, or Minor Modification approved by staff or a new Conditional Use Permit approved by the Planning Commission in conformance with Hercules Municipal Code Zoning Sections 13-50, 13-45, 13-46 respectively. (PL)

12. Obtain a City of Hercules business license annually for operation of the business. (PL).
13. A fire inspector walk-thru shall be scheduled, and proof of sign-off of all fire requirements shall be provided to the Planning Department prior to obtaining business license. Any questions regarding Fire District conditions of approval may be directed to the Battalion Chief at the Rodeo-Hercules Fire Protection District at (510) 799-4561. (F)

PASSED AND ADOPTED by the Planning Commission of the City of Hercules on this 19th day of August 2019, by the following vote:

MOTION:

AYES:

NOES:

ABSENT:

ABSTAIN:

Irena Galieva, Planning Chair, 2019

Holly Smyth, AICP Recording Secretary and Planning Director

Any determination or decision made by the Planning Commission may be appealed to the City Council, as stated in Section 13-44 of the Hercules Municipal Code Zoning Section, by filing a written appeal with the Planning Director within 14 calendar days of the posting of this Resolution (which is a notice of decision). The Council, through majority vote, may call up for review any decision of the Planning Commission at its next regular meeting following the posting of this Resolution (anticipated to be September 10, 2019).

Posting Anticipated to occur August 20, 2019