

**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 IN A 4,590-SQUARE-FOOT 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 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 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) anticipated to operate 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. Any proposed future retail uses up to 2,000 square feet in area would require a separate application and Administrative Use Permit approval (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 fifth day of August 2019, by the following vote:

MOTION:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Irena Galieva, Planning Chair, 2019

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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.**

**Posting Anticipated to occur August 6, 2019**