



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

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| <input type="checkbox"/> Affordable Housing (Sec. 415) | <input type="checkbox"/> First Source Hiring (Admin. Code) |
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1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Motion No. 19196

HEARING DATE: JULY 24, 2014

Date: July 17, 2014
Case No.: **2014.0508C**
Project Address: **3911 Alemany Boulevard**
Zoning: NC-S (Neighborhood Commercial, Shopping Center) District
40-X Height and Bulk District
Block/Lot: 7126A/123
Project Sponsor: Joseph Lyman
ACS Inc.
1122 Bristol Street
Costa Mesa, CA 92626
Staff Contact: Marcelle Boudreaux – (415) 575-9140
marcelle.boudreaux@sfgov.org
Recommendation: **Approval with Conditions**

ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303 and 713.61 OF THE PLANNING CODE TO ALLOW AN AUTOMOBILE SALES OR RENTAL USE (D.B.A. HERTZ) WITHIN A NC-S (NEIGHBORHOOD COMMERCIAL, SHOPPING CENTER) AND A 40-X HEIGHT AND BULK DISTRICT.

PREAMBLE

On April 9, 2014 Joseph Lyman (hereinafter “Project Sponsor”) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Section(s) 303 and 713.61 to allow an automobile sales or rental use (d.b.a. Hertz) to provide automobile rental within a NC-S (Neighborhood Commercial, Shopping Center) Zoning District and 40-X Height and Bulk District.

On July 24, 2014, the San Francisco Planning Commission (hereinafter “Commission”) conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2014.0508C.

The Project is exempt from the California Environmental Quality Act ("CEQA") as a Class 1 categorical exemption under CEQA.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2014.0508C, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The project site is a vacant storefront located at the Oceanview Village shopping center, on Alemany Boulevard, south side, between Worcester and Saint Charles Avenues, Assessor's Block 7126A, Lot 123. The subject property is located in a NC-S (Neighborhood Commercial, Shopping Center) Zoning District and 40-X Height and Bulk District. The Oceanview Village contains approximately 257,000 square-feet and is developed with a shopping center containing approximately 90,000 square feet of commercial retail space and 320 retail parking spaces. The commercial storefronts currently number eleven, and include a large supermarket and smaller storefronts such as the subject site. The Oceanview Village is also developed with four-story residential apartments above the ground floor retail commercial.

The subject site approximately 800 square feet, is to be located at commercial unit #1003, in a row of four smaller storefronts filled with Extreme Pizza, a dentist and Subway sandwich shop. Other national retailers include Walgreen's and Chase Bank. Oceanview Village maintains a current occupancy rate of 94%.

The 320 retail parking spaces at Oceanview Village provide 54 parking spaces in excess of Code requirements. Per a previous conditional use authorization at the subject site, only 19 of these extra parking spaces have been designated for utilization by Bally's Fitness, a higher-intensity use which was adopted by Motion No. 16116 in March 2001. Thus, there are 35 "extra" parking spaces remaining at the shopping center.

3. **Surrounding Properties and Neighborhood.** The project site is located within an NC-S (Neighborhood Commercial, Shopping Center) District that are intended to serve as small shopping centers or supermarket sites which provide retail goods and services for primarily car-oriented shoppers. They commonly contain at least one anchor store or supermarket, and some districts also have small medical office buildings. The range of services offered at their retail outlets usually is intended to serve the immediate and nearby neighborhoods. These districts

encompass some of the most recent (post-1945) retail development in San Francisco's neighborhoods and serve as an alternative to the linear shopping street.

Shopping centers and supermarket sites contain mostly one-story buildings which are removed from the street edge and set in a parking lot. Outdoor pedestrian activity consists primarily of trips between the parking lot and the stores on-site. Ground and second stories are devoted to retail sales and some personal services and offices.

The NC-S standards and use provisions allow for medium-size commercial uses in low-scale buildings. The neighborhood surrounding the Oceanview Village is characterized by mostly two-story, single-family dwellings. Directly south of the Oceanview Village is the John F. Foran Freeway (I-280).

4. **Project Description.** The project sponsor seeks a Conditional Use Authorization, pursuant to Planning Code Sections 303 and 713.61 to allow an automobile sale or rental use (d.b.a. Hertz). The project involves establishing an automobile rental office in an 801 square foot storefront retail space at the Oceanview Village shopping center, located at 3911 Alemany Boulevard. The business would be staffed by three to five employees, including two managerial positions. Additionally, up to fifteen (15) off-street parking spaces within the shopping center's retail parking area would be designated for use by Hertz, which is approximately 2,430 square feet.

According to a Hertz representative, this location will estimate an average of 25 rentals per day, which should increase over time. There are 4 other Hertz locations within San Francisco, located in the downtown area. The nearest Hertz location is approximately 7 miles away.

5. **Public Comment.** The Department has not received any public comment regarding the project.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Automobile Sales and Rental Use.** Ordinance No. 47-12 was passed on March 13, 2012 by the Board of Supervisors, approved by the Mayor on March 16, 2012, and made effective on April 15, 2012, to amend Planning Code Section 713.61 to allow an automobile sales or rental use as a conditional use on the first floor within the NC-S District. Section 790.12 defines an automobile sales or rental use as a retail use which provides vehicle sales or rentals whether conducted within a building or on an open lot.

The project sponsor seeks Conditional Use Authorization to allow an automobile sales or rental use which shall provide vehicle rentals conducted within a building at the first floor and an open lot within the NC-S District.

- B. **Hours of Operation.** Planning Code Section 713.27 states that in the NC-S District maintaining hours of operation from 6:00 AM. to 2:00 AM. is permitted by right.

The project sponsor has indicated that the proposed hours of operation would be from 7:30 AM to 6:00 PM, Monday through Friday, 9:00 AM to 12:00 PM on Saturday, and closed on Sunday.

- C. **Use Size.** Planning Code Section 713.21 states that a use size of up to 5,999 square feet is permitted by right.

The project site has a use size of approximately 801 square-feet office area and approximately 2,430 square feet of parking spaces, cumulatively 3,231 square feet total, which is below the 5,999 square foot threshold established for uses sizes in an NC-S District.

- D. **Parking.** Planning Section 151 of the Planning Code requires a retail space to provide one off-street parking space for each 500 square feet of occupied floor area up to 20,000 where the occupied floor area exceeds 5,000 square feet, plus one for each 250 square feet of occupied floor area in excess of 20,000. Additionally, for a restaurant, bar, nightclub, pool hall, dancehall, bowling alley or other similar enterprise one off-street parking space is required for each 200 square feet of occupied floor area, where the occupied floor area exceeds 5,000 square feet.

Including the proposed use, the Oceanview Village contains approximately 257,000 square-feet and is developed with a shopping center containing approximately 90,000 square feet of commercial retail space and 320 retail parking spaces. Oceanview Village provides 54 parking spaces in excess of Code requirements. Per a previous conditional use authorization at the subject site, only 19 of these extra parking spaces have been designated for utilization by Bally's Fitness, a higher-intensity use which was adopted by Motion No. 16116 in March 2001. Thus, there are 35 "extra" parking spaces remaining at the shopping center.

- E. **Signage.** Any proposed signage will be subject to the review and approval of the Planning Department

Any proposed signage shall be subject to the review of the Planning Department and required to meet all provisions set forth in Article 6 of the Planning Code pending the approval of this application.

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:

- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

The Project is necessary and desirable because it will provide a convenient service to the surrounding residents and visitors in the neighborhood. Additionally, the Project will also contribute to the economic vitality of the neighborhood by removing a vacant storefront and creating local employment opportunities.

B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

The size and shape of the project site is compatible with the pattern of development in the area, and the project does not involve any alterations to the size, shape, or arrangement of existing structures on the subject lot.

- ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

The Project would not adversely impact public transit as minimal commuter traffic will be associated with the proposed use. The existing supply of parking in the neighborhood should not be overburdened by the project, because the subject property contains an excess of required off-street parking available in the surface parking lot that serves the shopping center.

- iii. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

The Project will not create any noxious or offensive emissions, such as glare, dust, or odor.

- iv. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

There are no proposed changes to existing conditions as they relate to landscaping, screening, open spaces, parking and loading areas, service areas, lighting, and signage.

C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

The Project complies with all relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below.

D. That the use as proposed would provide development that is in conformity with the purpose of the applicable Neighborhood Commercial District.

The proposed project is consistent with the stated purpose of NC-S Districts in that the intended use is located at the ground floor, will provide a compatible convenience service for the immediately surrounding neighborhood during daytime hours, and operates with hours of operation that are permitted by right within the district.

8. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

NEIGHBORHOOD COMMERCE

Objectives and Policies

OBJECTIVE 1:

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1:

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development that has substantial undesirable consequences that cannot be mitigated.

Policy 1.2:

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

Policy 1.3:

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

The project The Project will provide a desirable service to the neighborhood and provides employment opportunities to residents in the community and will not displace an existing business. The conditions of approval will ensure that the use meets minimum, reasonable performance standards. The Project is also located within a neighborhood commercial district and is thus consistent with activities in the commercial land use plan. The shopping center square footage, parking, land use and other development issues were approved through a Final Negative Declaration Case No. 99.194E.

OBJECTIVE 2:

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1:

Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

The Project will not result in the removal of an existing commercial or industrial activity. In fact, the Project will fill a vacant commercial space, one of two at the shopping center.

OBJECTIVE 3:

PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

Policy 3.1:

Promote the attraction, retention and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers.

The Project will provide additional employment opportunities for residents.

OBJECTIVE 6:

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.1:

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

No commercial tenant would be displaced and the project would not prevent the district from achieving optimal diversity in the types of goods and services available in the neighborhood.

9. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

The Project will not displace any existing retail uses within the neighborhood. The Project will fill a vacant retail storefront and create new employment opportunities.

- B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

The Project will not adversely affect existing housing and is consistent with the surrounding neighborhood character.

- C. That the City's supply of affordable housing be preserved and enhanced,

No housing is removed for this project. The proposed project will not impact existing or future affordable housing projects.

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

The Project would not adversely impact public transit or place a burden on the existing supply of parking in the neighborhood, as the site is well served by off-street parking with a total of 320 parking

spaces, 54 in excess of the required per Code, located in the retail parking area of the Oceanview Village Shopping Center.

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

The project will not affect industrial or service sector uses or related employment opportunities.

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

This proposal will not impact the property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

The project site does not contain a landmark or historic building.

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

The Project will have no negative impact on existing parks and open spaces. The Project does not have an impact on open spaces.

10. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
11. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES** Conditional Use Application No. **2014.0508C** subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated February 21, 2014 and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 19196. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives NOTICE that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission **ADOPTED** the foregoing Motion on **July 24, 2014**.

Jonas P. Ionin
Commission Secretary

AYES: Commissioners Hillis, Sugaya, Fong, Antonini, Borden, Moore, and Wu

NAYES: None

ABSENT: None

ADOPTED: July 24, 2014

EXHIBIT A

AUTHORIZATION

This authorization is for a conditional use to allow an automobile sales or rental use (d.b.a. **Hertz**) providing vehicle rentals at 3911 Alemany, Block 7324, and Lot 001 pursuant to Planning Code Sections **303 and 713.61** within an **NC-S** (Neighborhood Commercial, Shopping Center) District and a **40-X** Height and Bulk District; in general conformance with plans, dated **February 21, 2014**, and stamped "EXHIBIT B" included in the docket for Case No. **2014.0508C** and subject to conditions of approval reviewed and approved by the Commission on **July 24, 2014** under Motion No. **19196**. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on **July 24, 2014** under Motion No. **19196**.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. **19196** shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

1. **Validity and Expiration.** The authorization and right vested by virtue of this action is valid for three years from the effective date of the Motion. A building permit from the Department of Building Inspection to construct the project and/or commence the approved use must be issued as this Conditional Use authorization is only an approval of the proposed project and conveys no independent right to construct the project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained within three (3) years of the date of the Motion approving the Project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. The Commission may also consider revoking the approvals if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved.
2. **Extension.** This authorization may be extended at the discretion of the Zoning Administrator only where failure to issue a permit by the Department of Building Inspection to perform said tenant improvements is caused by a delay by a local, State or Federal agency or by any appeal of the issuance of such permit(s).
For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org.

DESIGN

3. **Signage.** Any signs on the property shall be made to comply with the requirements of Article 6 of the Planning Code.
For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org.

OPERATION

4. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the tenant space and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.
For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org/>
5. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.
For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-.5810, <http://sfdpw.org>

6. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

MONITORING - AFTER ENTITLEMENT

7. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

8. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org