

RESOLUTION NO. 5177-14

RESOLUTION APPROVING WITH CONDITIONS A CONDITIONAL USE PERMIT FOR U-HAUL TO ALLOW RENTAL AND LEASING OF AUTOS AND LIGHT TRUCKS IN THE LIGHT MANUFACTURING (ML) PLANNING DISTRICT FOR U-HAUL AT 7100 SW MCEWAN ROAD (TAX MAP 2S1 13DD, TAX LOTS 900, 1000, 1100, 1200, 1600, AND 1700, AND TAX MAP 2S1 24AA, TAX LOT 5500) (CUP-13-05)

WHEREAS, U-Haul International / AMERCO Real Estate Co., submitted an application for a conditional use permit to allow rental and leasing of autos and light trucks in the Light Manufacturing (ML) planning district;

WHEREAS, a quasi-judicial public hearing was held before the City Council of the City of Tualatin on February 10, 2014, and continued to February 24, 2014, upon the request of the applicant; and

WHEREAS, the City provided notice of CUP-13-05 pursuant to the Tualatin Development Code - TDC 31.077; and

WHEREAS, the City Council heard and considered the testimony and evidence presented by the City staff, the applicant, and those appearing at the public hearing; and

WHEREAS, after the conclusion of the public hearing, the Council voted unanimously to approve the application.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

**Section 1.** The City Council approves the Conditional Use Permit with the following Conditions:

- A. The applicant must operate the use consistent with all application materials submitted to the City on November 27, 2013, and revised December 12, 2013, and February 12, 2014, unless otherwise directed by another condition of approval.
- B. Truck rental cannot commence until there is compliance with Conditions C(1) and (2).
- C. The applicant must comply with the noise, vibration, air quality, odors, and other manufacturing planning districts environmental standards of TDC 63.

- (1) The applicant must provide site perimeter landscaping by planting trees, shrubs, lawn and live groundcover in yards along SW McEwan Road and the entire adjacent segment of I-5 in compliance with TDC 73.240(9).
  - (2) The applicant must provide site perimeter landscaping at least 5 feet in width and adhering to planting specifications in TDC 73.340(2)(a)(i-iv) and in compliance with comply with TDC 73.340(2).
- D. The applicant must screen any outdoor storage with dense evergreen landscaping along the west/northwest boundary of the subject property along I-5 pursuant to TDC 73.160(4)(b) and 73.260(1)(b) and (c). Any shrubbery proposed for such screening shall be at least a gallon in size.
- E. Prior to issuance of a building permit, the applicant must provide a landscaping plan.
- F. Prior to issuance of a temporary certificate of occupancy or certificate of occupancy, the applicant must install all landscaping according to the approved landscaping plan.
- G. The applicant must comply with the retail restrictions on conditional uses in the ML Planning District pursuant to TDC 60.041 and indicate compliance on a site plan submitted prior to issuance of any building permits.
- H. The applicant must, separately from this CUP approval, submit sign permit applications and receive approval from the City for any proposed signage.
- I. The approval period shall be pursuant to TDC 32.090 - Automatic Termination of Conditional Use as follows:
- (1) Unless otherwise provided by the Council in the resolution granting approval of the conditional use permit, a conditional use permit shall automatically become null and void two years after the effective date upon which it was granted, unless one of the following events occur:
    - (a) The applicant or his successor in interest has secured a building permit within said two-year period, if a building permit is required, and has actually commenced construction of the building or structure authorized by the permit within said two-year period.

- (b) The applicant or his successor in interest has commenced the activity or installation of the facility or structure authorized by the conditional use permit within said two-year period.
- (2) The applicant may submit a written request to the City Council for an extension of time on the conditional use permit to avoid the permit becoming null and void. The request for extension must be submitted prior to the expiration of the times established by Subsection A above. The City Council may, in the resolution granting such conditional use permit, provide for an extension of time beyond 1 year.
- J. This CUP approval excludes approval of any site improvements as described in TDC 73.040(1). Any such site improvements that the applicant might propose shall be subject to all applicable TDC policies and regulations.
- K. The applicant must comply with all applicable TDC policies and regulations.

**Section 2.** The City Council adopts as its Findings and Analysis the findings set forth in "Exhibit 1," which is attached and incorporated by reference.

**Section 3.** This Resolution is effective upon adoption.

Adopted by the City Council this 24 Day of March, 2014.

CITY OF TUALATIN, OREGON

BY [Signature]  
Mayor

APPROVED AS TO FORM

BY [Signature]  
City Attorney

ATTEST:

BY [Signature]  
City Recorder

**CUP-13-05 ATTACHMENT 101C:**

**ANALYSIS AND FINDINGS**

The issue before the City Council is consideration of a conditional use permit to allow rental and leasing of autos and light trucks with incidental sale of vehicles for U-Haul.

In order to grant the proposed Conditional Use Permit, the request must meet the approval criteria of Tualatin Development Code (TDC) Section 32.030. The applicant prepared a narrative that addresses the criteria, which is within the application materials (Attachment 101B), and staff has reviewed this and other application materials and included pertinent excerpts below:

**1. The use is listed as a conditional use in the underlying planning district.**

The subject property, which comprises Tax Map 2S1 13DD, Tax Lots 900, 1000, 1100, 1200, 1600, and 1700, and Tax Map 2S1 24AA, Tax Lot 5500, is within the Light Manufacturing (ML) Planning District. "Rental and leasing of autos and light trucks, except not allowed in the Special Commercial Setback, TDC 60.035(1-3)" is a conditional use within the ML Planning District pursuant to TDC 60.040(1)(p), and the subject property is not subject to the Special Commercial Setback pursuant to TDC Map 9-5.

The criterion is met.

**2. The characteristics of the site are suitable for the proposed use, considering size, shape, location, topography, existence of improvements and natural features.**

Size: The minimum lot size within the ML Planning District is 20,000 square feet (s.f.), approximately 0.46 acres. The site is approximately 10.08 acres and is developed with four industrial buildings vacated by NW Natural [Gas]. The tax lot exceeds the minimum lot size requirement.

The site size is suitable for the proposed use.

Shape: The site is a triangular composition of lots with access from and frontage along SW McEwan Road. The site abuts I-5 to the west/northwest and the Portland & Western Railroad (PNWR) to the south/southeast.

The lot shape is suitable for the proposed use.

Location: The site is located within the ML Planning District with access from SW McEwan Road.

CUP-13-05: U-Haul – Truck Rental  
February 10, 2014

The location is suitable.

**Topography:** According to City Geographic Information System (GIS) contour data, the developed site has negligible slope. The site generally slopes downward from north/northeast to south/southwest.

The topography would not interfere with the proposed use.

**Improvements:** The site is developed with four industrial buildings vacated by NW Natural [Gas]. The applicant proposes to re-use and convert the site and existing buildings into a self-storage, warehouse, and truck/equipment rental facility for U-Haul.

Of the adjacent public street, the Engineering Division Memorandum (Attachment 101D) identifies no needed improvements.

Asbuilts show existing sanitary sewer and water laterals to City systems. The existing water meter is in need of replacement. A replacement water meter is scheduled to have been completed by January 17, 2014. The sanitary sewer and water needs are met.

**Natural Features:** Staff visited the site on January 10 and 24, 2014. The developed site has several mature trees, with many in a park-like area in the northerly middle of the site, between the buildings and the northernmost parking. The applicant stated during the neighborhood/developer meeting on November 20, 2013 that there was no intention to redevelop this area.

The criterion is met.

**3. The proposed development is timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use.**

The following information is reproduced from the Engineering Division Memorandum (Attachment 101D):

*Transportation:* The site is east of I-5 and southwest of SW McEwan Road. The applicant has submitted a Traffic Information Report from Mackenzie dated December 12, 2013. As the Institute of Transportation Engineers (ITE) Trip Generation Manual does not have a use similar to U-Haul, a survey of a larger active U-Haul site was counted for comparison.

TABLE 2 –U-HAUL TRIP GENERATION CHARACTERISTICS				
Time Period	Weekday (Tues-Thurs)		Weekend	
	Peak Hour	ADT	Peak Hour	ADT
Peak	44 (16% in/84% out)	365	39 (54% in/46% out)	327
Average	33 (50% in/50% out)	332	28 (60% in/40% out)	218

Weekdays yielded higher overall peak trip generation and average peaking characteristics than the weekend days. Weekday peak and Average Daily Traffic (ADT) surpassed weekend peak and ADT, therefore weekday trip rates were evaluated to determine potential trip increases that might result in higher level of service (LOS).

TABLE 4 – NET SITE TRIP GENERATION						
Time Period	Weekday Midday Peak Hour Trips			Weekday PM Peak Hour Trips		
	Entering	Exiting	Total	Entering	Exiting	Total
Proposed Site	17	16	33	10	21	31
Existing Site	19	22	41	10	21	31
<b>Net Trip Impact</b>	<b>-2</b>	<b>-6</b>	<b>-8</b>	<b>0</b>	<b>0</b>	<b>0</b>

Based on Table 4, the U-Haul development will not increase trips on the adjacent street system, and there will be no change in traffic operation during peak hours and a decrease during midday, therefore no impact to LOS at nearby intersections.

*Sanitary Sewer, Stormwater, & Water:* Asbuilts show existing sanitary sewer and water laterals to City systems. The existing water meter is in need of replacement. A replacement water meter is scheduled to be completed by January 17, 2014. The sanitary sewer and water needs are met.

No stormwater lines are available. Stormwater from this site will need to be addressed during redevelopment through infiltration or construction of new public stormwater lines.

Criterion 3 is met.

**4. The proposed use will not alter the character of the surrounding area in any manner that substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying planning district.**

The subject property is in the ML Planning District. Surrounding land uses by cardinal direction and planning district include:

CUP-13-05: U-Haul – Truck Rental  
February 10, 2014

N: CG SW McEwan Road, Legacy Medical Group  
E: ML SW McEwan Road, North to south: Public Storage, Oswego  
Storage, and Puremist Corp.  
S: n/a Portland & Western Railroad (PNWR); outside city limits, in Lake  
Oswego: industrial businesses  
RMH Portland & Western Railroad (PNWR), Piper's Run Subdivision  
(residential, mostly duplexes)  
W: CG I-5, Providence Bridgeport medical facility, Claim Jumper restaurant

The proposed use can be conditioned to be compatible with surrounding uses including a rail line and mostly industrial businesses. The site lacks screening of outdoor storage and the west/northwest yard does not currently meet perimeter landscape standards, and a condition addresses this. Piper's Run Subdivision, across the PNWR, had co-existed with the developed industrial site, vacated by NW Natural [Gas], and can co-exist with the proposed use provided that the applicant complies with the conditions of approval. With applicant compliance with the conditions of approval, staff finds that the proposed use would not alter the character of the surrounding area in any manner which substantially limits, impairs or precludes the surrounding properties for the primary uses listed in the underlying planning districts.

The following are conditions of approval to meet Criterion 4:

3. *Condition 3: Landscaping & Outdoor Storage Screening*

*(a) Provide site perimeter landscaping by planting trees, shrubs, lawn and live groundcover in yards along SW McEwan Road and the entire adjacent segment of I-5 in compliance with TDC 73.240(9). Additionally, the applicant shall provide site perimeter landscaping at least 5 feet in width and adhering to planting specifications in TDC 73.340(2)(a)(i-iv) and in compliance with comply with TDC 73.340(2). Prior to issuance of a building permit, provide a landscaping plan. Prior to issuance of a temporary certificate of occupancy or certificate of occupancy, the applicant shall install the landscaping.*

This condition keeps from harming surrounding properties the subject property that is subject to these landscaping standards. This condition is necessary because the site currently lacks perimeter landscaping.

*(b) Screen any outdoor storage with dense evergreen landscaping along the west/northwest boundary of the subject property along I-5 pursuant to TDC 73.160(4)(b) and 73.260(1)(b) and (c). Any shrubbery proposed for such screening shall be at least a gallon in size. Prior to issuance of a building permit, provide a landscaping plan. Prior to issuance of a temporary certificate of occupancy or certificate of occupancy, the applicant shall install the landscaping.*

CUP-13-05: U-Haul – Truck Rental  
February 10, 2014

This condition keeps from harming surrounding properties the subject property that is subject to the screening standard. The condition is necessary because the site currently lacks adequate screening from public right-of-way (ROW).

#### **5. The proposal is consistent with plan policies.**

The applicable Tualatin Community Plan policies and TDC regulations that apply to the proposed conditional use in the ML Planning District include TDC:

- Chapter 7 "Manufacturing Planning Districts", Section 7.030 "Objectives";
- Chapter 32 "Conditional Uses", Section 32.030 "Conditional Uses – Siting Criteria";
- Chapter 38 "Signs";
- Chapter 60 "Light Manufacturing Planning District (ML)", Sections 60.010 "Purpose" and 60.041 "Restrictions on Conditional Uses";
- Chapter 63 "Environmental Regulations"; and
- Chapter 73 "Community Design Standards", Sections 73.040(1), 73.050(4), 73.160(3)(c) and (4)(b), and 73.380(6).

TDC 7.030 states that "the following are general objectives used to guide the development of the Plan and that should guide implementation of the Plan's recommendations: ... (2) Provide increased local employment opportunity."

The proposal is for truck rental use by U-Haul, a business new to Tualatin and new to the developed site that was vacated by NW Natural [Gas], and would allow for a number of jobs greater than the zero that presently exist on site, mitigating erosion of employment opportunity.

This Analysis & Findings (Attachment 101C) examines the five conditional use siting criteria within TDC 32.030, and this section addresses Criterion 5.

TDC 60.010 states that "The purpose of this district is to provide areas of the City that are suitable for industrial uses and compatible with adjacent commercial and residential uses. ... The district is suitable for warehousing, wholesaling, and light manufacturing processes that are not hazardous and do not create undue amounts of noise, dust, odor, vibration, or smoke."

The proposal is for truck rental use by U-Haul, a use that, having both commercial and industrial character, fits well with the ML Planning District meant as a buffer or transitional district adjacent to commercial and residential districts. As examined above for Criterion 4, surrounding land uses including the commercial Legacy Medical Group site to the north and the residential Piper's Run Subdivision of mostly duplexes to the south across the Portland & Western Railroad (PNWR). The proposal threatens no inherent, imminent, or great hazard or conflict with surrounding uses, particularly none of the nuisance kind that the general public might associate with industry such as undue



CUP-13-05: U-Haul – Truck Rental  
February 10, 2014

amounts of noise, dust, odor, vibration, or smoke. As listed in Criterion 4, surrounding uses include a mini storage use similar to the U-Haul proposal.

TDC 60.041 establishes retail restrictions on conditional uses:

The following restrictions shall apply to those uses listed as conditional uses in TDC 60.040:

(1) The retail sale of products manufactured, assembled, packaged or wholesaled on the site is allowed provided the retail sale area, including the showroom area, is no more than 5% of the gross floor area of the building not to exceed 1,500 square feet.

(2) For other retail uses, excluding retail sales of products manufactured, assembled, packaged or wholesaled on the site, the following restrictions shall apply:

(a) Retail uses on land designated Employment Area or Corridor on Map 9-4 shall not be greater than 60,000 square feet of gross floor area per building or business.

(b) Retail commercial, retail service and professional service uses on land designated Industrial Area on Map 9-4 shall not be greater than 5,000 square feet of sales or service area in a single outlet, or not greater than 20,000 square feet of sales or service area for multiple outlets in a single building or in multiple buildings that are part of the same development project, with the following two exceptions, which shall not be subject to the size limitations stated in this sub-section:

(i) Commercial uses within the Special Setbacks for Commercial Uses Area, shown on Map 9-5, and as specified in TDC 60.035.

(ii) Development approved through the application of the Industrial Business Park Overlay District, as specified in TDC Chapter 69.  
[Ord. 1212-06, 06/26/06]

The application materials don't suggest an inherent conflict with or inability to comply with the restrictions, but because it's unclear if the applicant is aware of and would comply with the restrictions and for other reasons examined below, the staff report lists a condition of approval referencing these restrictions, which is reproduced and examined below.

The following are conditions of approval to meet Criterion 5.

1. *Condition 1: Application: The applicant shall operate the use consistent with all application materials submitted to the City on November 27, 2013 and revised*

CUP-13-05: U-Haul – Truck Rental  
February 10, 2014

*December 12, 2013 and February 12, 2014 unless otherwise directed by another condition of approval. Truck rental cannot commence until there is compliance with Conditions 3(a) and (b).*

This condition ensures compliance with the TDC.

2. *Condition 2: Environmental Regulations: The applicant shall comply with the noise, vibration, air quality, odors, and other manufacturing planning districts environmental standards of TDC 63.*

This condition ensures compliance with the TDC by the subject property, which is subject to these standards, and draws the applicant's attention to them.

4. *Condition 4: Restrictions on Conditional Uses: The applicant shall comply with the retail restrictions on conditional uses in the ML Planning District pursuant to TDC 60.041 and indicate compliance on a site plan submitted prior to issuance of any building permits.*

The proposed use is by a business of commercial character selling goods and service related to the uses of mini storage and truck rental, meaning that there will be retail with U-Haul and its land uses. Notation on the preliminary site plan also indicates square footage allocations for retail. This condition confirms that the subject property is subject to the retail restrictions and draws the applicant's attention to them in order to comply with them and indicate compliance on a revised site plan to be submitted.

5. *Condition 5: Signage: The applicant shall separately from this CUP approval submit sign permit applications for any proposed signage.*

The condition is necessary to make explicit that approval of a CUP does not automatically approve any related signage.

6. *Condition 6: Approval Period: The approval period shall be pursuant to TDC 32.090 Automatic Termination of Conditional Use as reproduced:*

*(1) Unless otherwise provided by the Council in the resolution granting approval of the conditional use permit, a conditional use permit shall automatically become null and void two years after the effective date upon which it was granted unless one of the following events occur:*

*(a) The applicant or his successor in interest has secured a building permit within said two-year period, if a building permit is required, and has actually commenced construction of the building or structure authorized by the permit within said two-year period.*

CUP-13-05: U-Haul – Truck Rental  
February 10, 2014

*(b) The applicant or his successor in interest has commenced the activity or installation of the facility or structure authorized by the conditional use permit within said two-year period.*

*(2) The applicant may submit a written request to the City Council for an extension of time on the conditional use permit to avoid the permit's becoming null and void. The request for extension must be submitted prior to the expiration of the times established by Subsection (1) above. The City Council may, in the resolution granting such conditional use permit, provide for an extension of time beyond 1 year. [Ord. 743-88, 3/28/88; Ord. 1333-11 §2, 9/12/11]*

This confirms an implicit assumption for the subject property that is subject to the approval period restrictions and draws the applicant's attention to them. It would also be useful if the City later revised TDC 32.090 because it would be clear what approval period regulations applied at the time of approval of the conditional use.

7. *Condition 7: Site Improvements: This CUP approval excludes approval of any site improvements as described in TDC 73.040(1). Any such site improvements that the applicant might propose shall be subject to all applicable TDC policies and regulations.*

The condition is necessary to make explicit that approval of a CUP does not automatically approve any related site improvements.

8. *Condition 8: General: The applicant shall comply with all applicable TDC policies and regulations.*

This condition ensures compliance with the TDC.

The proposal including conditions of approval satisfies those objectives and policies of the TDC that are applicable to the proposed use.

The proposal including conditions of approval is consistent with plan policies.

Based on the application, the conditions of approval, and the above analysis and findings, U-Haul (CUP-13-05) meets the criteria of TDC 32.030.

For administrative reference, the conditions of approval are reproduced below in numerical order:

1. Application: The applicant shall operate the use consistent with all application materials submitted to the City on November 27, 2013 and revised December 12, 2013 and February 12, 2014 unless otherwise directed by another condition of approval. Truck rental cannot commence until there is compliance with Conditions 3(a) and (b).

CUP-13-05: U-Haul – Truck Rental  
February 10, 2014

2. Environmental Regulations: The applicant shall comply with the noise, vibration, air quality, odors, and other manufacturing planning districts environmental standards of TDC 63.
3. Landscaping & Outdoor Storage Screening:
  - (a) Provide site perimeter landscaping by planting trees, shrubs, lawn and live groundcover in yards along SW McEwan Road and the entire adjacent segment of I-5 in compliance with TDC 73.240(9). Additionally, the applicant shall provide site perimeter landscaping at least 5 feet in width and adhering to planting specifications in TDC 73.340(2)(a)(i-iv) and in compliance with comply with TDC 73.340(2). Prior to issuance of a building permit, provide a landscaping plan. Prior to issuance of a temporary certificate of occupancy or certificate of occupancy, the applicant shall install the landscaping.
  - (b) Screen any outdoor storage with dense evergreen landscaping along the west/northwest boundary of the subject property along I-5 pursuant to TDC 73.160(4)(b) and 73.260(1)(b) and (c). Any shrubbery proposed for such screening shall be at least a gallon in size. Prior to issuance of a building permit, provide a landscaping plan. Prior to issuance of a temporary certificate of occupancy or certificate of occupancy, the applicant shall install the landscaping.
4. Restrictions on Conditional Uses: The applicant shall comply with the retail restrictions on conditional uses in the ML Planning District pursuant to TDC 60.041 and indicate compliance on a site plan submitted prior to issuance of any building permits.
5. Signage: The applicant shall separately from this CUP approval submit sign permit applications for any proposed signage.
6. Approval Period: The approval period shall be pursuant to TDC 32.090 Automatic Termination of Conditional Use as reproduced:
  - (1) Unless otherwise provided by the Council in the resolution granting approval of the conditional use permit, a conditional use permit shall automatically become null and void two years after the effective date upon which it was granted unless one of the following events occur:
    - (a) The applicant or his successor in interest has secured a building permit within said two-year period, if a building permit is required, and has actually commenced construction of the building or structure authorized by the permit within said two-year period.
    - (b) The applicant or his successor in interest has commenced the activity or installation of the facility or structure authorized by the conditional use permit within said two-year period.

CUP-13-05: U-Haul – Truck Rental  
February 10, 2014

(2) The applicant may submit a written request to the City Council for an extension of time on the conditional use permit to avoid the permit's becoming null and void.

The request for extension must be submitted prior to the expiration of the times established by Subsection (1) above. The City Council may, in the resolution granting such conditional use permit, provide for an extension of time beyond 1 year. [Ord. 743-88, 3/28/88; Ord. 1333-11 §2, 9/12/11]

7. Site Improvements: This CUP approval excludes approval of any site improvements as described in TDC 73.040(1). Any such site improvements that the applicant might propose shall be subject to all applicable TDC policies and regulations.
8. General: The applicant shall comply with all applicable TDC policies and regulations.