SUBJECT: European Auto Sales: Application(s) for Use Permit to allow for auto retail in an industrial zoning district project located at 275 N. Fair Oaks Ave in a MS Zoning District (APN: 204-39-051):

Motion 2011-7889- Appeal of the denial by the Zoning Administrator of a Use Permit to allow auto retail in an industrial zone.

REPORT IN BRIEF:

Existing Site Conditions
Auto Repair

Surrounding Land Uses
North Multi-Family Residential
South Central Expressway
East Industrial and Commercial
West Central Expressway

Issues Compatibility

Environmental Status A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Zoning Administrator Denied the Use Permit to allow auto retail sales in an Industrial zone.

Staff Deny the appeal and uphold the Zoning Administrator decision.
PROJECT DATA TABLE

<table>
<thead>
<tr>
<th></th>
<th>EXISTING</th>
<th>PROPOSED</th>
<th>REQUIRED/PERMITTED</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>General Plan</strong></td>
<td>Industrial</td>
<td>No Change</td>
<td>Industrial</td>
</tr>
<tr>
<td><strong>Zoning District</strong></td>
<td>MS</td>
<td>No Change</td>
<td>MS</td>
</tr>
<tr>
<td><strong>Lot Size (s.f.)</strong></td>
<td>47,480</td>
<td>No Change</td>
<td>22,500min.</td>
</tr>
<tr>
<td><strong>Gross Floor Area (s.f.)</strong></td>
<td>15,500</td>
<td>No Change</td>
<td>max.</td>
</tr>
<tr>
<td><strong>Gross Floor Area of Tenant Lot Coverage (%)</strong></td>
<td>32%</td>
<td>No Change</td>
<td>40% max.</td>
</tr>
<tr>
<td><strong>Floor Area Ratio (FAR)</strong></td>
<td>32%</td>
<td>No Change</td>
<td>35% max.</td>
</tr>
</tbody>
</table>

Starred items indicate deviations from Sunnyvale Municipal Code requirements.

BACKGROUND:
The subject site is located at 275 N. Fair Oaks Avenue and includes several auto repair uses. The applicant received approval for an auto broker use which allowed three spaces to be used for this use. An auto broker is not allowed to have direct retail transactions on site. Auto broker uses are reviewed by the City and allowed a minimal amount of parking for the transfer of the automobile to the new owner. Display of the automobiles is not allowed. Auto retail allows retail transactions to occur on the site and requires display of the vehicles and prices. Parking for auto retail requires dedicated parking spaces for display in addition to patron parking. The applicant is requesting approval of a Use Permit to change the auto broker use to auto retail for three automobiles for European Auto Works.

Previous Actions on the Site
The following table summarizes previous planning application related to the project site.

<table>
<thead>
<tr>
<th>File Number</th>
<th>Brief Description</th>
<th>Hearing/Decision</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>UP 3055</td>
<td>Allow auto repair on south side of parcel (note: the current parcel is the result of merging two parcels, and this Use Permit affected only the south parcel.)</td>
<td>Planning Commission/Approved on</td>
<td>5/12/75</td>
</tr>
<tr>
<td>File Number</td>
<td>Brief Description</td>
<td>Hearing/Decision</td>
<td>Date</td>
</tr>
<tr>
<td>-------------</td>
<td>-------------------</td>
<td>------------------</td>
<td>--------------</td>
</tr>
<tr>
<td>V-75-32</td>
<td>Variance for reduced setback on south portion of parcel on N. Fair Oaks frontage (25 feet where 35 feet is required)</td>
<td>Planning Commission/Approved</td>
<td>5/12/75</td>
</tr>
<tr>
<td>UP 3650</td>
<td>Allow auto repair</td>
<td>Planning Commission/Approved</td>
<td>3/27/78</td>
</tr>
<tr>
<td>V-78-20</td>
<td>Variance for reduced setback on north portion of parcel on N. Fair Oaks frontage (25 feet where 35 feet is required) and on Arques Avenue frontage (32 feet where 35 feet is required).</td>
<td>Planning Commission/Approved</td>
<td>3/27/78</td>
</tr>
<tr>
<td>DP 6459</td>
<td>Allow auto brokerage and new Master Sign Program.</td>
<td>Administrative Hearing/Approved</td>
<td>10/26/88</td>
</tr>
<tr>
<td>MPA 6585</td>
<td>Landscape modification.</td>
<td>Staff/Approved</td>
<td>3/10/89</td>
</tr>
<tr>
<td>MPA 7316</td>
<td>Modify Master Sign Program.</td>
<td>Staff/Approved</td>
<td>5/30/81</td>
</tr>
<tr>
<td>UP 1998-1164</td>
<td>Allow used auto brokerage ancillary to an existing auto repair facility (1car).</td>
<td>Administrative Hearing/Approved</td>
<td>(Expired, Never Exercised)</td>
</tr>
<tr>
<td>VAR 1999-0957</td>
<td>Restripping of parking lot.</td>
<td>Staff/Denied</td>
<td>3/16/1990</td>
</tr>
<tr>
<td>MPP 2006-0972</td>
<td>Allow autobroker in MS Zone.</td>
<td>Staff/Approved</td>
<td>10/10/2006</td>
</tr>
</tbody>
</table>

**Administrative Hearing Action**

The Zoning Administrator held a public hearing on March 28, 2012. The item was originally continued from February 29, 2012 to March 3, 2012 and finally to March 28, 2012, due to scheduling conflicts with the applicant’s calendar. The applicant requested approval of a Use Permit to allow auto retail sales for three automobiles to supplement their existing auto repair and wholesale
broker business. The applicant indicated that there is adequate parking located on the southern portion of the site which could accommodate the three spaces for auto sales. For clarification, an auto broker is not permitted to display for sale cars on-site, while auto retail is required to display. Staff conducted two site visits and found that there are spaces available; however, there are numerous cars being stored on on-site and any overflow parking cannot be accommodated on site due to site constraints. Staff recommended denial of the Use Permit due to parking and enforcement concerns. The Zoning Administrator denied the Use Permit. The minutes of the Zoning Administrator hearing are provided in Attachment C.

Applicant’s Appeal

On April 10, 2012, the applicant filed an appeal of the Zoning Administrator decision. The applicant states that they are requesting to be allowed to continue to sell three cars at the site (see Attachment D – Appeal Letter). The applicant currently sells automobiles at the site through the existing auto broker license, which is still allowed.

ANALYSIS:

Use Description

The applicant is proposing to allow retail auto sales for three cars for the European Works tenant space located in the southernmost building. The south side of the site is separated from the remaining uses due to the building location and configuration on the site. The southern portion is generally only used by the project applicant. The applicant has been operating as an auto broker since 2006, which does not require display area (unlike retail auto sales). The applicant has indicated that car sales through a brokerage have minimal profit and that auto sales would provide supplemental income for the existing business.

Parking

The Zoning Code requires 73 parking spaces based on the original use permit for an auto repair center. There were 72 spaces on site (including service bays). Based on past applications, parking has always been an issue for this site due to the concentration of uses and limited additional street parking. Staff met with the applicant at the project site to discuss the proposed use and parking availability. The northern half of the site was and has been severely impacted. Parking for the applicant’s side of the site also appeared to be impacted with approximately 6 to 8 spaces open for parking. The applicant indicated that the additional cars located on the site were stored for various clients during the holidays. Staff drove by the site again in early February and June and it appeared there were slightly fewer parking spaces available (approximately 5).
Environmental Review

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines in that the proposed project would be within an existing building and comprised of a use that is similar to the adjacent uses.

PUBLIC CONTACT

Staff has not been contacted by any members of the public regarding the Zoning Administrator Hearing or this appeal.

<table>
<thead>
<tr>
<th>Notice of Negative Declaration and Public Hearing</th>
<th>Staff Report</th>
<th>Agenda</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Published in the Sun newspaper</td>
<td>• Posted on the City of Sunnyvale’s Website</td>
<td>• Posted on the City’s official notice bulletin board</td>
</tr>
<tr>
<td>• Posted on the site</td>
<td>• Provided at the Reference Section of the City of Sunnyvale’s Public Library</td>
<td>• City of Sunnyvale’s Website</td>
</tr>
<tr>
<td>• 24 notices mailed to the property owners and residents within 300 ft. of the project site</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

CONCLUSION

Findings and General Plan Goals: Staff is recommending the Planning Commission uphold the Zoning Administrator decision denying this project because the Findings (Attachment A) were not made. However, if the Planning Commission is able to make the required Findings, staff has included recommending Conditions of Approval (Attachment B).

ALTERNATIVES

1. Uphold the Zoning Administrator Decision denying the Use Permit for auto retail for three automobiles at 275 N Fair Oaks Avenue.

2. Approve the Use Permit for auto retail for three automobiles at 275 N Fair Oaks Avenue subject to a one year review by the Director of Community Development and subject to the Conditions of Approval in Attachment B.

3. Approve the Use Permit for auto retail for three automobiles at 275 N Fair Oaks Avenue subject to a one year review by the Zoning Administrator with modifications to the Conditions of Approval in Attachment B.
RECOMMENDATION

Recommend Alternative 1 to the Planning Commission.

Prepared by:

Shaunn Mendrin
Project Planner

Reviewed by:

Gerri Caruso
Principal Planner

Attachments:

A. Recommended Findings
B. Recommended Conditions of Approval
C. Zoning Administrator Minutes dated March 28, 2012
D. Letter from the Applicant
E. Plans
RECOMMENDED FINDINGS

Use Permit

In order to approve the **Error! Reference source not found.**, the following findings must be made:

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale. **Finding Not Met**

   **Staff was not able to make the findings as the proposed use would further exacerbate parking problems on the subject site.**

2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair the orderly development of, or the existing uses being made of, adjacent properties. **Finding Not Met**

   **The proposed business would require three parking spaces to be devoted to auto display in an area with impacted parking.**
Use Permit to allow auto sales for three automobiles as an ancillary use auto repair business located in the southern tenant space (275 N Fair Oaks Ave).

The following Conditions of Approval [COA] and Standard Development Requirements [SDR] apply to the project referenced above. The COAs are specific conditions applicable to the proposed project. The SDRs are items which are codified or adopted by resolution and have been included for ease of reference, they may not be appealed or changed. The COAs and SDRs are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Applicable mitigation measures are noted with “Mitigation Measure” and placed in the applicable phase of the project.

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following Conditions of Approval and Standard Development Requirements of this Permit:

**GC: THE FOLLOWING GENERAL CONDITIONS OF APPROVAL AND STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE APPROVED PROJECT.**

**GC-1. CONFORMANCE WITH APPROVED PLANNING APPLICATION:**
All building permit drawings and subsequent construction and operation shall substantially conform with the approved planning application, including: drawings/plans, materials samples, building colors, and other items submitted as part of the approved application. Any proposed amendments to the approved plans or Conditions of Approval are subject to review and approval by the City. The Director of Community Development shall determine whether revisions are considered major or minor. Minor changes are subject to review and approval by the Director of Community Development. Major changes are subject to review at a public hearing. [COA] [PLANNING]

**GC-2. USE EXPIRATION:**
The approved use Permit for the use shall expire if the use is discontinued for a period of one year or more. [SDR] (PLANNING)
GC-3. PERMIT EXPIRATION:
The permit shall be null and void one year from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date and is approved by the Director of Community Development. [SDR] (PLANNING)

GC-4. MISCELLANEOUS PLAN PERMIT REVIEW:
The applicant shall apply for a miscellaneous Plan Permit (MPP) permit by June 11, 2013. The MPP will be reviewed by the Director for Community Development for conformance with required parking and evaluation of compatibility of the use with the site. If approved, new Conditions of Approval may be issued. [SDR] (PLANNING)

BP: THE FOLLOWING SHALL BE ADDRESSED ON THE CONSTRUCTION PLANS SUBMITTED FOR ANY DEMOLITION PERMIT, BUILDING PERMIT, GRADING PERMIT, AND/OR ENCROACHMENT PERMIT AND SHALL BE MET PRIOR TO THE ISSUANCE OF SAID PERMIT(S).

BP-1. CONDITIONS OF APPROVAL:
Final plans shall include all Conditions of Approval included as part of the approved application starting on sheet 2 of the plans. [COA] [PLANNING]

AT: THE FOLLOWING CONDITIONS OF APPROVAL AND STANDARD DEVELOPMENT REQUIREMENTS SHALL BE COMPLIED WITH AT ALL TIMES THAT THE USE PERMITTED BY THIS PLANNING APPLICATION OCCUPIES THE PREMISES.

AT-1. HOURS OF OPERATION:
The use permitted as part of this application shall comply with the following hours of operation at all times:

a) The hours of operation are limited to 6:00 a.m. to midnight for standard hours of operation, excluding short duration sales events which may have extended hours. Hours extending beyond midnight shall require approval of the Director of Community Development through a Miscellaneous Plan Permit. [COA] [PLANNING]

AT-2. RECYCLING AND SOLID WASTE:
All exterior recycling and solid waste shall be confined to approved receptacles and enclosures. [COA] [PLANNING]

AT-3. LOUDSPEAKERS PROHIBITED:
Out-of-door loudspeakers shall be prohibited at all times. [COA] [PLANNING]

AT-4. EXTERIOR EQUIPMENT:
All unenclosed materials, equipment and/or supplies of any kind shall be maintained within approved enclosure area. Any stacked or stored items shall not exceed the height of the enclosure. Individual air conditioning units shall be screened with architecture or landscaping features. [COA] [PLANNING]
CITY OF SUNNYVALE
ZONING ADMINISTRATOR HEARING

MINUTES
Wednesday, March 28, 2012

FILE #:
Location: 2011-7889
275 N. Fair Oaks Ave. (APN: 204-39-054)
Proposed Project: Use Permit for auto retail in an industrial zoning district.
Applicant / Owner: European Auto Sales
Environmental Review: Categorically Exempt Class 1
Staff Contact: Shaunn Mendrin, 408-730-7429, smendrin@ci.sunnyvale.ca.us

In attendance: Andrew Miner, Zoning Administrator; Shaunn Mendrin, Project Planner; Luis Uribe, Staff Office Assistant.

Mr. Andrew Miner, Zoning Administrator, on behalf of the Director of Community Development, explained the format that would be observed during the public hearing.

Mr. Miner announced the subject application.

Shaunn Mendrin, Project Planner, presented the item. Mr. Mendrin stated that the project was continued twice since the February 29, 2012 hearing. Staff is recommending denial due to parking issues.

Mr. Miner opened the public hearing.

The applicant was not in attendance.

Mr. Miner closed the public hearing.

Mr. Miner denied the application due to the inability to make the findings.

Mr. Miner stated that the decision is final unless appealed to the Planning Commission with payment of the appeal fee within the 15-day appeal period.

The meeting was adjourned at 2:12 p.m.

Minutes approved by:

[Signature]
Andrew Miner, Principal Planner
Appeal Request for Planning Application 2011-7689

We are requesting to continue to be allowed to sell cars at 275 N. Fair Oaks Ave, Sunnyvale. We have previously been approved for a wholesale license, with the conditions of only being allowed 3 parking stalls for the cars and we do not place window stickers on the windshield. All of these conditions will still remain.

We did not sell any vehicles last year and really need the Auto Sales side of the business to stay open. If you need further details, please let us know.

Sincerely

Jaclyn Imani
European Car Repair
EUROPEAN AUTO SALES
OFFICE