

Planning Staff Analysis

S25-0006a / National Equipment Dealers

City Council District 3

REQUEST:

Specific Use Permit (SUP) to allow for an Equipment Sales and Rental use on approximately 4.25 acres of land. The subject property is zoned Light Industrial (LI). The Equipment Sales and Rental use is an allowed use with an approved Specific Use Permit.

OWNER:

Texas Blue Horseshoe LTD

APPLICANT:

Mack Mattke with Kimley Kimley-Horn & Associates

STAFF RECOMMENDATION:

Staff recommends **approval** of the SUP request with the following conditions:

1. Development of the site shall substantially comply with the attached Site Plan and Landscape Plan. Administrative approval of changes that do not increase the size of the designated equipment rental display and storage areas, change the number of parking spaces, decrease the buffer and screening requirements, or result in a decrease of more than 5 percent in the landscape area for the whole site may be administratively approved, if such changes are permissible per the Denton Development Code. All other changes shall require a Specific Use Permit amendment in accordance with the Denton Development Code.
2. Notwithstanding the limited administrative approvals authorized in condition 1, the City reserves the right to require approval by ordinance of any amendments or alterations to the SUP, the attached Site Plan, and the attached Landscape Plan, including those referenced in condition 1. The attached site plan and landscape plan are incorporated as requirements of the SUP.
3. Improvements within the Texas Department of Transportation (TxDOT) right-of-way require approval by TxDOT. If TxDOT plans for the widening of North Interstate-35 impact the subject property and minor alterations are required to realign the proposed drive aisle, add a turn lane, or any other changes required by TxDOT, these changes may be approved by City staff, provided that the final configuration of the right-of-way complies with the TxDOT requirements as well as all elements of the DDC and that the drive aisle width remains no less than 30-foot wide at the subject property line. All other changes to site access shall require a Specific Use Permit amendment in accordance with the Denton Development Code.
4. Repairs and maintenance services of equipment shall be conducted entirely within an enclosed structure. Inoperable or wrecked equipment or materials shall be maintained entirely within an enclosed structure or shall be opaquely screened from the North Interstate-35 and Jim Christal rights-of-way, and shall comply with standards in Subsection 7.7.8: Walls, Fences, and Screening. Staff may approve changes to fences proposed on the attached Site Plan and Landscape Plan to accommodate for screening of future outdoor storage.
5. The zoning map shall reflect the Specific Use Permit on the property consistent with the Post-Decision Action Steps for Specific Use Permits in the 2019 DDC.

SITE DATA:

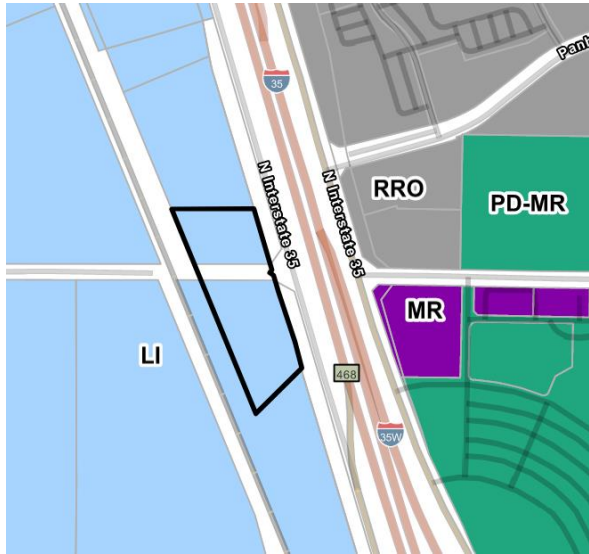
The subject property, an approximately 4.25-acre site, is currently undeveloped. In 2000, a 309.41-foot-long portion of Jim Christal Road was abandoned on the subject property between the west right-of-way (ROW) line of North Interstate-35 (N I-35) and the east ROW line of the Canadian Pacific Kansas City (CPKC) Railroad, and a 60-foot-wide public utility easement was created where the former Jim Christal ROW was abandoned. Today, a variety of utilities including gas and electric exist adjacent to said easement, resulting in an approximately 93-foot wide utility incumbered area across the subject property. There is no FEMA floodplain or floodway located on the property. An approximately 28-foot-wide strip of land consisting of Riparian Buffer Environmentally Sensitive Areas (ESAs) exists along the southern property line.

The subject property has approximately 625 feet of frontage on N I-35. N I-35 is a freeway on the current Mobility Plan and is maintained by the Texas Department of Transportation (TxDOT). Access in and out of the site will be through one driveway located on the N I-35 southbound service road, which is subject to the approval of a TxDOT permit as noted in the recommended conditions. See Exhibit 7 – Proposed Site Plan.

SURROUNDING ZONING AND LAND USES:

<p>Northwest:</p> <ul style="list-style-type: none"> • Zoning: Light Industrial (LI) District • Use: CPKC Railroad ROW, Manufacturing across the ROW 	<p>North:</p> <ul style="list-style-type: none"> • Zoning: Light Industrial (LI) District • Uses: Self Service Storage 	<p>Northeast:</p> <ul style="list-style-type: none"> • Zoning: Rayzor Ranch Overlay (RRO) • Use: North I-35 (TxDOT ROW), Medical Office and Medical Clinic across the ROW
<p>West:</p> <ul style="list-style-type: none"> • Zoning: Light Industrial (LI) District • Use: CPKC Railroad ROW, Manufacturing and Building Materials and Supply Store across the ROW 	<p>SUBJECT PROPERTY</p>	<p>East:</p> <ul style="list-style-type: none"> • Zoning: Mixed-Use Residential (MR) District • Use: North I-35 (TxDOT ROW), Medical Office across the ROW
<p>Southwest:</p> <ul style="list-style-type: none"> • Zoning: Light Industrial (LI) District • Use: CPKC Railroad ROW, Manufacturing and Building Materials and Supply Store across the ROW 	<p>South:</p> <ul style="list-style-type: none"> • Zoning: Light Industrial (LI) District • Use: Undeveloped Land 	<p>Southeast:</p> <ul style="list-style-type: none"> • Zoning: Planned Development • Use: North I-35 (TxDOT ROW), Hospital Services across the ROW

See images of the current zoning and surrounding land uses below and provided as Exhibits 5 and 3, respectively.



CONSIDERATIONS:

A. Section 2.4.5E of the Denton Development Code (DDC) provides approval criteria applicable to all applications.

1. *General Criteria*

a. *Unless otherwise specified in this DDC, City review and decision-making bodies must review all development applications submitted pursuant to this subchapter for compliance with the general review criteria stated below.*

The general criteria have been applied.

b. *The application may also be subject to additional review criteria specific to the type of application, as set forth in sections 2.5 through 2.9.*

Section 2.5.2D of the DDC applies to Specific Use Permit (SUP) requests. An analysis of this request per those criteria can be found below in Consideration B.

c. *If there is a conflict between the general review criteria in this section and the specific review criteria in sections 2.5 through 2.9, the applicable review criteria in sections 2.5 through 2.9 controls.*

There are no conflicts between the general criteria and the criteria specific for Specific Use Permit requests.

2. *Prior Approvals*

The only prior approval for the subject property is the ROW abandonment of Jim Christal Road approved in 2000. The proposed Specific Use Permit plans (Exhibits 7 and 8) reflect the various utility easements that remained in place after the ROW abandonment.

3. *Consistent with the Comprehensive Plan and Other Applicable Plans*

The decision-making authority:

a. Shall weigh competing goals, policies, and strategies.

The proposed Specific Use Permit is consistent with the goals, policies, and actions of the Comprehensive Plan and with the Future Land Use Designation of Regional Mixed Use (see inset map below and in Exhibit 4), including the goals and actions listed below:

GOAL LU-2: Grow with Purpose: Achieve re-investment, revitalization, and redevelopment of key growth Centers and Corridors.

GOAL FEV-2: Improve the City's job-to-worker ratio by increasing the number of jobs available to the resident workforce and local graduates.

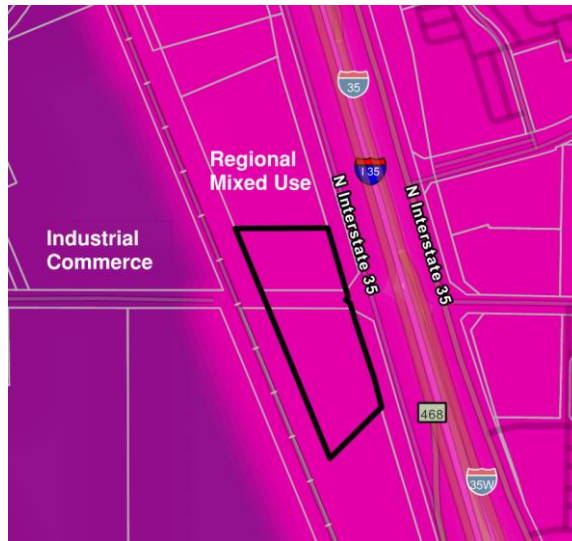
The applicant's requested use is consistent with the overall goals of the Denton 2040 Comprehensive Plan to provide for a robust and diverse economy and increase jobs within Denton by bringing a new commercial business to Denton that would also support area agricultural uses and new construction/development and the workers within those fields with the types of equipment sold and rented. According to Table 3.1 in the Comprehensive Plan, Agriculture, Construction and Retail jobs are underprovided compared to the skills of Denton's workforce. The requested use would support these industries and offer direct jobs to said workforce.

Additionally, given the surrounding zoning pattern of Light Industrial and the industrial uses west of N I-35, the potential for any nuisance or compatibility issues to arise from this use are limited. The proposed use is less intense than other uses, such as manufacturing, that are permitted by right in the Light Industrial zoning district. As a commercial use, Equipment Sales and Rental is expected to produce less potential noise and traffic than adjacent industrial uses.

b. May approve an application that furthers the overall goals of the Comprehensive Plan even if the development does not match the future land use designation in the Comprehensive Plan.

The use and scale of the proposed Equipment Sales and Rental use conforms to the Future Land Use element of the Denton 2040 Comprehensive Plan.

(continued on next page)



Per the Future Land Use Map in the Denton 2040 Comprehensive Plan, the subject property is designated as Regional Mixed Use (see image above and provided as Exhibit 4). The description for the Future Land Use designation is provided below:

The **Regional Mixed Use** designation applies to areas that serve as regional destinations within Denton. Development may include residential, commercial, office, entertainment and other uses except industrial, at the highest levels of scale and density within the city. Unique development standards are proposed to create the walkable urban character and day and nighttime activity of an urban center. Major medical and health care institutions and the areas of influence around them are included in this future land use designation. This designation is located primarily along I-35 interchanges and along primary arterials to encourage the greatest regional accessibility. Future development in Regional Mixed-use areas will complement and embrace existing, viable uses, and raise the standard of design to increase their regional draw, accommodate greater connectivity and mobility options, and create a sense of place.

The proposed National Equipment Dealers commercial business consists of approximately 5,000 square feet of indoor Equipment Sales and Rental use, 42,000 square feet of outdoor Equipment Sales and Rental use, and 7,000 square feet of supporting warehouse/storage area. Furthermore, given that the existing Light Industrial zoning allows for warehouse, manufacturing, and storage uses by right, it is appropriate to consider allowing the commercial Equipment Sales and Rental use, allowing site to function more as a commercial business and more in line with the Future Land Use designation than what could be proposed by right. See definition below:

Equipment Sales and Rental

An establishment engaged in the display, sale, and rental of equipment, tools, supplies, machinery or other equipment used for building construction, manufacturing, farming or agriculture. This use includes the sale of farm-specific vehicles such as tractors, tillers, farm trailers, back hoes, graders, boom lifts, and front-end loaders, but not including car or truck rentals.

The Equipment Sales and Rental use is consistent with the Regional Mixed Use Future Land Use designation which includes commercial uses at the highest level of scale and density within the City. The use will provide commercial products that support

agriculture and construction projects in the greater Denton region, contribute to the mix of uses in the area, and will increase the City's economic vitality as envisioned by the Denton 2040 Comprehensive Plan.

4. *Compliance with this DDC*

- a. *The proposed development shall comply with all applicable standards in this DDC, unless the standard is to be lawfully modified.*

If the subject Specific Use Permit request is approved, all subsequent development on this site will comply with applicable standards in the DDC, including, but not limited to, minimum lot size and dimensions, building coverage, access, parking, tree preservation, and landscaping.

- b. *Compliance with these standards is applied at the level of detail required for the subject submittal.*

The proposed site plan and landscape plan were reviewed to ensure compliance with the Denton Development Code. If the proposed Specific Use Permit request is approved, prior to development, a detailed plan review will accompany all required civil engineering plans, final plat, and building permit submittals. As noted below, the applicant did seek administrative deviations from certain code requirements, as allowed for in the DDC.

Parking

The total parking required for the proposed development is 24 parking spaces. This number was calculated based on the Equipment Sales and Rental parking ratio of DDC Table 7.9-I for the indoor space only. Although the DDC's designated parking ratio also calls for parking spaces to be provided based on the area of outdoor display, given the nature of this use it was not appropriate to require striped parking for the display area, so the balance of the site is designed to provide sufficient parking/display area for the large equipment to be sold and leased.

Landscaping

The applicant also submitted an Alternative Landscape Plan. The purpose of the Alternative Landscape Plan is to deviate from the requirements of Subsection 7.7.7: Street Tree Requirements and Table 7.E: Landscape Area Point System of the Denton Development Code. These Sections require the elements listed in the tables below, and requested alternatives are summarized below each table.

Subsection 7.7.7 Street Tree Requirements

Street trees shall be located within the street right-of-way or within 10 feet of the street right-of-way.
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At least one street tree is required for every 30 feet of street frontage.
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Street trees are not required to be regularly spaced at 30-foot intervals; however, street trees shall not be planted further apart than 50-foot intervals and not closer than 25 feet apart.

The applicant requested alternate locations and spacing for the street trees due to presence of TxDOT ROW and the easements that encumber the site, both paralleling the ROW and bisecting the site east to west. As an alternative, the street trees are located 20 to 35 feet from the property line, outside of the TxDOT ROW that does not permit street trees and outside of multiple utility easements along the TxDOT frontage.

Additionally, one street tree is relocated to the rear side of the property within the parking lot landscaping area due an approximately 90-foot-wide area of utility easement that crosses the property perpendicularly to the ROW.

Table 7.E Landscape Area Point System

Internal landscape islands with an area of at least nine feet by 18 feet containing at least one large canopy tree placed evenly at an average of one for every ten spaces (or portion thereof). For lots of ten spaces or less, at least one internal landscape island is required but does not have to be centrally located within a row of parking spaces (5 points)
End caps with an area of at least 9-feet by 18-feet containing at least one large canopy tree (5 points)

The applicant also requested to deviate from the Landscape Area Points System. A minimum of 30 points are required, two elements (equaling 10 points) of which must be taken from Section B: Parking Lot Landscaping Elements. Due to the existing 90-foot-wide area of utility easements that intersects with the proposed parking lot, the applicant has proposed to relocate one end cap tree and one parking island tree to the rear side of the property within the parking lot landscaping area.

Pursuant to Subsection 7.7.3C Alternative Landscaping of the Denton Development Code, the Director may approve alternative landscape plans that do not meet the specific requirements stated in Section 7.7 Landscaping, Screening, Buffering, and Fences, when the Director determines that the alternatives meet the criteria listed in Subsection 7.7.3C.2 Alternative Landscape Plan Approval Criteria. After review of a submitted Alternative Landscape Plan, staff has determined that the information and assumptions used in the plan meets the approval criteria listed in Subsection 7.7.3C.2 Alternative Landscape Plan Approval Criteria and has approved the applicant's proposed Alternative Landscape Plan, which is provided as Exhibit 8.

Access

The applicant also submitted requests to vary from transportation related criteria. DDC Subsection 8.3.2C.1.c.ii requires two full points of vehicular access for nonresidential developments on lots 20,000 square feet or larger. The subject site has approximately 622 linear feet of frontage along N I-35; however, to provide a second point of access to N I-35, the drive would have to cross a designated Riparian Buffer on the southern portion of the site to meet the TxDOT driveway spacing requirement of 425 feet. The proposed development is expected to generate a low number of daily trips, and staff anticipated there would be no issue servicing the site with one point of access. Pursuant to DDC Subsection 8.3.2C.1.d, the requirement for two full points of access in DDC Subsection 8.3.2C.1.c.ii may be waived when it is shown to the satisfaction of the City Engineer that two points of vehicular access are deemed unattainable on the basis of Environmentally Sensitive Areas, adjacent site improvements, or vehicular or pedestrian safety factors. After review of the submitted variance request, staff approved the variance request in order to preserve the Environmentally Sensitive Area and allow for appropriate drive spacing intervals when adjacent property develops in the interest of traffic safety.

Additionally, DDC Subsection 7.8.10A requires all non-residential development to be designed to allow cross-access to adjacent properties. The applicant has requested a variance (in accordance with DDC Subsection 7.8.10.B) to waive the cross-access

requirement due to the adjacent constructed pond and recorded drainage easement to the north, Riparian Buffer to the south, and CPKC Railroad to the west. Staff has approved the variance request due to existing features making it unattainable to provide cross-access.

Fences

Pursuant to DDC Subsection 7.6.7E.1, fences shall not be built within or across dedicated utility, water, or sewer easements. The City Engineer, in consultation with the Directors of Water and Waste Water Utilities, at their discretion, may allow fences to be built across an easement if gates at least 12 feet wide are built. A six-foot, ornamental, wrought iron perimeter fence is proposed to protect equipment displayed on site. Due to the existing curb-cut placement and 60-foot-wide utility easement that overlaps the proposed drive aisle, a 26-foot-wide sliding gate is proposed across the drive aisle. Water Utilities staff reviewed and approved the request. Additionally, the applicant will be required to obtain permission from the gas and electric easement holders prior to approval of any fences crossing or within said easements.

5. *Compliance with Other Applicable Regulations*

This proposed request complies with all other applicable regulations.

6. *Consistent with Interlocal and Development Agreements*

There are no interlocal or development agreements for the subject site.

7. *Minimizes Adverse Environmental Impacts*

Within the subject area, a variable 15- to 28-foot-wide area of confirmed Riparian Buffer Environmentally Sensitive Area (ESA) exists along the southern property line, as confirmed in an ESA assessment approved by staff. No improvements are proposed within the ESA, and a detention pond is proposed on the southern end of the property, minimizing impervious surface in the area closest to the ESA. There is no FEMA floodplain or floodway located on the property, and a Tree Preservation Plan has been submitted and approved to meet the minimum preservation requirements at the site plan level. All developments shall comply with applicable standards in the DDC, Criteria Manual, Municipal Code of Ordinances, and other state and federal standards. Development of the site will require a full review of all site conditions, including additional review of the Tree Preservation Plan.

8. *Minimizes Adverse Impacts on Surrounding Property*

The proposed Equipment Sales and Rental use is not expected to have any adverse impact on surrounding property. The existing land use pattern in the surrounding area is a mix of undeveloped land and industrial uses. The Equipment Sales and Rental use is appropriately incorporated into the overall design of the site and is compatible with this land use pattern.

During the final platting and civil engineering process, the precise requirements for public infrastructure improvements, including water, sewer, and drainage will be determined.

9. *Minimizes Adverse Fiscal Impacts*

The proposed Equipment Sales and Rental use will not have an adverse fiscal impact. A Fiscal Impact Summary has been completed and it provided in Exhibit 9. This summary report indicates that the commercial use would have a positive net impact on the City's General Fund.

10. *Compliance with Utility, Service, and Improvement Standards*

Water and sewer are available along the N I-35 ROW and intersect the property where the former Jim Christal Road ROW was abandoned and a 60-foot wide public utility easement remains. A full review of their capacity level will be conducted as part of the Civil Engineering Plan review prior to final platting.

No negative drainage impact is permitted onto adjacent properties upon development. Detention requirements will be assessed as part of the Civil Engineering Plan review prior to final platting. Drainage facilities required on site will need to comply with the DDC and adopted criteria manual prior to any building permit being issued.

11. *Provides Adequate Road Systems*

The subject property has approximately 622 feet of frontage on N I-35, an existing freeway on the current Mobility Plan. Access in and out of the site will be through one driveway located on N I-35. See Exhibit 7 – Proposed Site Plan. Additionally, any work within the TxDOT right-of-way will require approval of a TXDOT permit as noted in the recommended conditions of approval.

12. *Provides Adequate Public Services and Facilities*

The proposed Equipment Sales and Rental use will not affect public services and facilities within the area.

13. *Rational Phasing Plan*

The project does not have a phasing plan.

B. Section 2.5.2D of the DDC states that in reviewing a proposed SUP, the Planning and Zoning Commission and City Council shall consider the general approval criteria in Subsection 2.4.5E and whether:

1. *The specific use proposed is compatible with the surrounding area;*

The proposed Equipment Sales and Rental use is compatible with the surrounding area and is appropriate and expected in a high visibility area such as along an interstate highway. The existing land use pattern in the surrounding area is a mix of undeveloped land and industrial uses.

Additionally, given the long, narrow configuration of the property and the significant easement encumbrances bisecting the site, this type of land use is most appropriate given a significant portion of the development area would be used for the display of moveable equipment. Permanent vertical improvements such as buildings are not allowed within

the various utility easements crossing the site, which would make most permitted industrial uses akin to those already in the area ill-suited to be developed on this property.

2. *The specific use proposed has negative impacts on future development of the area; and*

The proposed Equipment Sales and Rental use is anticipated to have no negative impacts on future development of the area. The development of this property would improve the area by building on an otherwise undeveloped property along a major corridor in the city.

3. *Any impacts associated with access, traffic, emergency services, utilities, parking, refuse areas, noise, glare, and odor have been adequately mitigated.*

The proposed site plan and landscape plan depict that the development would be in conformance with the requirements of the DDC (as allowed to be administratively modified) in terms of parking and landscaping as described in criterion A.4.b above.

After construction, the proposed use is not anticipated to generate offensive odors, fumes, dust, or noise. Site lighting will be required to comply with the DDC, which requires lights be shielded and downward facing and prohibits light spill-over onto adjacent properties.

Water and sewer lines are available adjacent to and across the subject site. A full review of the utility connections will be conducted as part of the Civil Engineering Plan review prior to final platting.

No negative drainage impact is permitted onto adjacent properties upon development. Detention requirements will be assessed as part of the Civil Engineering Plan review prior to final platting. Drainage facilities required on site will need to comply with the DDC prior to any building permit being issued.

During the final platting and Civil Engineering Review process, the precise requirements for public infrastructure improvements, including water, sewer, and drainage, will be determined.