



Planning & Transportation Commission

Staff Report (ID # 14824)

Report Type: Action Items **Meeting Date:** 10/26/2022

Summary Title: 1700 Embarcadero Road: New Automobile Dealership

Title: PUBLIC HEARING / QUASI-JUDICIAL. 1700 Embarcadero Road [21PLN-00191]: Recommendation on Applicant's Request for Approval of a Site and Design Review, Design Enhancement Exception, Variance and Off-Street Loading Space Modification to Allow the Demolition of a Vacant Restaurant and Construction of a two-Story 31,000 Square Foot Automobile Dealership. Environmental Assessment: Addendum to a Mitigated Negative Declaration. Zoning District: CS(D)(AD) Service Commercial (Site & Design Review / Automobile Dealership Combining Districts). For More Information Contact the Project Planner Sheldon S. Ah Sing at sheldon.ahsing@cityofpaloalto.org

From: Jonathan Lait

Recommendation

Staff recommends the Planning and Transportation Commission (PTC) take the following action(s):

1. Recommend approval to the City Council of the draft Record of Land Use Action (RLUA) approving the request for Site and Design Review and a Design Enhancement Exception based on findings and subject to conditions of approval.

Report Summary

The applicant proposes a new two-story automobile dealership that replaces a vacant one-story restaurant on a 2.54-acre property at the intersection of East Bayshore Road and Embarcadero Road. The project requires Site and Design review for approval since the project is located on the property with a Site and Design Combining District (D) being within the Baylands area. The project will be reviewed by the Architectural Review Board (ARB) for compliance with the architectural review findings and context-based design criteria. As designed, the project meets

the applicable zoning requirements. The Commission is encouraged to review the balance between providing the bicycle path and the removal of mature street trees.

Draft findings and conditions are included in the draft RLUA (Attachment B to this report), including special project-related conditions concerning lighting. The Commission may continue the project or forward a recommendation to the City Council based on the draft findings and conditions in the RLUA, or as modified by the Commission.

Background

Project Information

Owner:	SC RE Palo Alto, LLC (Eric Iversen)
Architect:	SPARC + Architecture Studios
Representative:	Eric Iversen/Swickard Auto Group
Legal Counsel:	None

Property Information

Address:	1700 Embarcadero Road
Neighborhood:	Baylands
Lot Dimensions & Area:	180 feet along Embarcadero Road and ~550 feet deep (2.54 acres)
Housing Inventory Site:	No
Located w/in a Plume:	No
Protected/Heritage Trees:	Yes, Street trees
Historic Resource(s):	No, built circa 1968 (see historic resource evaluation)

Existing Improvement(s):	15,207 square feet and one story
Existing Land Use(s):	Vacant restaurant
Adjacent Land Uses & Zoning:	North: ROLM (Offices) West: ROLM (Medical offices) East: CS(D)(AD) (Car Dealership) South: ROLM (Offices)
Special Setbacks:	None

Aerial View of Property:



Source: CNES/Airbus, Maxar, Planeet.com, USGS, USDA, Google (4-2018)

Land Use Designation & Applicable Plans/Guidelines

Zoning Designation:	CS(D)(AD) Service Commercial (Site & Design Review/Automobile Dealership Combining Districts)
Comp. Plan Designation:	Service Commercial
Context-Based Design:	Yes
Downtown Urban Design:	Not Applicable
SOFA II CAP:	Not Applicable
Baylands Master Plan:	Yes
ECR Guidelines ('76 / '02):	Not Applicable
Proximity to Residential Uses or Districts (150'):	Not Applicable
Located w/in AIA (Airport Influence Area):	Yes

Prior City Reviews & Action

City Council:	See Attachment D for prior City Council action
PTC:	See Attachment D for prior PTC action

HRB:	None
ARB:	February 4, 2021 ¹ (Preliminary Review for current applicant) June 16, 2022 (1 st Formal Hearing) ² See Attachment D for prior ARB action

Prior Development Proposals

The site was a Planned Community zone until the Council adopted a rezoning of the site to the CS(D) zone in 2009. A hotel project was approved in 2013 for the site, but its entitlement expired in 2015. The first proposal for an automobile dealership on the site occurred in 2015. The first proposed dealership was a 62,000-square-foot building that was 50 feet in height. Council determined it was not compatible with the surroundings and directed the application back to the ARB for changes and further review.

Thereafter the site was sold, and a subsequent application was submitted in 2018 by a different applicant. This second proposed dealership included the adjacent 2.28-acre Audi property (1730 Embarcadero). The entire project including both properties totaled 104,000 square feet of automobile dealership/showroom space for two brands. The 1700 Embarcadero Road portion of the site equated to 54,628 square feet in floor area and ranged in height from 36 to 43 feet.

The Council adopted development standards changes prior to the submittal of the application that exempted the service area drive portions of the building. The proposal also included a 300-vehicle automated storage system and roof deck parking. The buildings appeared large; however, significant floor area portions of the building were exempted consistent with the zoning code.

Council approved the 2018 project, including the Design Enhancement Exception (DEE) for setbacks, and adopted the zone change to include the AD combining district. This project also included a multi-use pathway around the frontage of the property. Lastly, Council directed the second project to return to the ARB to address specific architectural concerns.

In 2019, the same applicant submitted an Architectural Review application, to address Council's direction. The changes focused on colors, materials, and landscaping. Ultimately, these issues were addressed, and the Director of Planning and Development Services approved the proposed changes to the second project. An appeal of this approval in 2020 objected to the placement of the car wash facility next to office use. Council upheld the Director's approval of the project with the understanding that sufficient conditions were already in place to limit noise impacts. The implementation of the car wash would have followed the mitigation measures established by the adopted Mitigated Negative Declaration (MND) for the project and the

¹ February 4, 2021 ARB Meeting Staff Report: <https://www.cityofpaloalto.org/files/assets/public/planning-and-development-services/file-migration/bc/arb/2021-agendas/arb-2.4-agenda-packet.pdf#page=43>

² June 16, 2022 ARB Meeting Staff Report: <https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/architectural-review-board/2022/arb-06.16.2022-1700-embarcadero-rd.pdf>

standards contained within Palo Alto Municipal Code (PAMC) Section 9.10.040. The 2018 applicant sold the property (including the Audi dealership property) in the summer of 2020 and the current owner submitted a new proposal for 1700 Embarcadero Road (i.e. excluding the Audi dealership property), which is the basis of this staff report.

Project Description

Site Description

The project site (site) consists of a single parcel (2.54 acres). The site is located on the southeast corner of Embarcadero Road and East Bayshore Road (see location map, Attachment A). The site has a Comprehensive Plan land use designation of Service Commercial and identifies the site as within the “East Bayshore Employment Center.” Zoning for the site is Commercial Service (CS) with Site and Design Review (D) and Automobile Dealership (AD) combining districts. The site is located within the City’s Baylands Master Plan (Privately Owned Lands) and is subject to its design guidelines. The applicant also owns the adjacent Audi dealership.

A portion of the site is developed with a single-story commercial building with 15,207 square feet of floor area built in 1968, formerly the Ming’s Restaurant, and a large surface parking lot. Prior evaluation of the site determined that the building is not considered historic. The existing architecture of the building is characteristic of mid-century modern architecture with some roof elements reminiscent of an Asian style, the cuisine of the former restaurant.

The site includes an 80-foot-wide easement area along East Bayshore Road to accommodate overhead high-voltage electric transmission lines parallel to road, and a sub-surface storm drain line. Surface improvements such as landscaping, driveways, and parking, are allowed within the easement; however, there are restrictions on the height of any new improvements, including trees. Mature Chinese Elm trees are located under the high-voltage electric transmission lines.



Source: SPARC+, 2022

Figure 1: Current East Bayshore Streetscape with mature Elm trees

Proposal

The applicant proposes to demolish the existing building and surface parking lot. In its place, the applicant would construct a new two-story Mercedes-Benz automobile dealership building. Access to the site will include two-way driveways from East Bayshore and Embarcadero Road. Customer, employee, inventory, and display parking will be located along the west, south and eastern portions of the property in a tandem parking configuration. An existing driveway connection between the subject property and the Audi dealership would remain.

The Mercedes dealership would include 31,195 square feet of space for a showroom, sales and administrative offices, vehicle servicing areas, parts storage, car wash and recycling/solid waste enclosure areas. The 4,499 square foot covered service drive would be exempted under the Palo Alto Municipal Code (PAMC) section 18.30(F)(a)(3)(b) from floor area calculations. The total floor area represents a 0.28:1 Floor Area Ratio (FAR) where up to 0.6:1 FAR is permitted.

A single-lane automated car wash facility would be located along the south elevation of the building towards the rear. A single vehicle display pad is proposed to be located adjacent to the utility tower at the front corner of the property.

Requested Entitlements, Findings and Purview:

The following discretionary applications are being requested and subject to PTC purview:

- **Site and Design:** The process for evaluating this type of application is set forth in PAMC 18.30(G). Site and design is intended to provide a review process for development in environmentally and ecologically sensitive areas, including established community areas which may be sensitive to negative aesthetic factors, excessive noise, increased traffic or other disruptions, in order to assure that use and development will be harmonious with other uses in the general vicinity, will be compatible with environmental and ecological objectives, and will be in accord with the Palo Alto Comprehensive Plan. If recommended for approval, the project requires review before the ARB before the project is forwarded to the City Council for final action of all requested entitlements. Site and Design applications are evaluated to specific findings. All findings must be made in the affirmative to approve the project. The findings to approve a site and design application are provided in Attachment B (RLUA).

Additionally, the project also requires approval for the following, which is not subject to PTC review:³

- **Design Enhancement Exception (DEE):** The process for evaluating this type of application is set forth in PAMC 18.76.050. DEE applications are typically reviewed by the ARB and recommendations are forwarded to the Planning & Development Services Director for action within five business days of the ARB's recommendation. For this project, the recommendation will be forwarded to the City Council. All findings must be made in the affirmative to approve the project. DEE requests are evaluated against specific findings.

³ The DEE request is for deviation from setbacks and the variance request is for deviation from parking lot shading summarized later in this report.

Failure to make any single finding requires project redesign or denial. The findings to approve a DEE application are provided in Attachment B (ROLUA).

- Variance: The process for evaluating this type of application is set forth in PAMC 18.76.030. Variance applications are typically reviewed by the Planning & Development Services Director. For this project, the recommendation will be forwarded to the City Council. All findings must be made in the affirmative to approve the project. Variances are evaluated against specific findings. Failure to make any single finding requires project redesign or denial. The findings to approve a variance application are provided in Attachment B (ROLUA).

Analysis⁴

Neighborhood Setting and Character

The project is located within the Baylands Master Plan Area, however, in an area designated as “Privately Owned Lands.” This is an urbanized built-out area that includes office buildings and automobile dealerships. No portion of the site directly abuts the Baylands preservation area, and the building is not likely visible from the nearby Renzel Trail since it would be shielded by existing trees.

The vicinity around the project site includes two different zoning districts. Each of the zoning districts have different development standards, however, the allowable FAR is 0.4:1 for ROLM and 0.6:1 for the automobile dealerships. The area with the ROLM district is characterized by two story buildings surrounded by parking lots with large street-facing setbacks. Pacific Gas & Electric’s (PG&E) easement along East Bayshore includes tall towers carrying high voltage transmission electric lines. One tower is located on the property at the Embarcadero Road and East Bayshore Road intersection. Other easements for underground utilities are also in the same area.

Relationship with the Audi Site (1730 Embarcadero)

The 2.28-acre Audi site adjacent to the subject property has been an automobile dealership since the early 1970s. Renovations and small expansions to the site have occurred over time with the most recent significant addition occurring in 2016 for a new showroom. The 2016 approved project included improvements to the rear of the property with updated landscaping and lighting and other ancillary improvements to support the dealership.

Those improvements were deferred until after a certificate of occupancy was granted to the showroom building. The property owner at the time put up a performance bond for the completion of those improvements, acknowledging that a bigger encompassing project would likely occupy the space of the improvements and was prudent to complete it all at the same

⁴ The information provided in this section is based on analysis prepared by the report author prior to the public hearing. Planning and Transportation Commission in its review of the administrative record and based on public testimony may reach a different conclusion from that presented in this report and may choose to take an alternative action from the recommended action.

time. Both properties are under the same ownership. As noted previously, this larger second project (2018) was never constructed.

The current owner of the properties has applied for a minor architectural permit for the lighting and is in the process to apply for a minor architectural permit for the landscaping to complete the previously approved entitlements for the site. However, it appears the owner may have put more attention and resources into the subject property and not into the Audi site improvements. There is a driveway connection between the two properties, and it is expected that both properties would share certain facilities such as the trash enclosure and other dealership functions as necessary. Staff would like to see the Audi improvements completed prior to the commencement of the subject property improvements.

Consistency with the Comprehensive Plan, Area Plans, and Guidelines⁵

The Comprehensive Plan includes Goals, Policies, and Programs that guide the physical form of the City. The Comprehensive Plan provides the basis for the City's development regulations and is used by City staff to regulate building and development and make recommendations on projects. Further, Site and Design Review Finding (d) requires the design to be consistent and compatible with applicable elements of the Palo Alto Comprehensive Plan.

The Comprehensive Plan land use designation for the project site is Service Commercial. This includes facilities that provide citywide and regional services and rely on customers arriving by car. These uses do not necessarily benefit from being in high-volume pedestrian areas such as shopping centers or Downtown. Typical uses include auto services and dealerships, motels, lumberyards, appliance stores, and restaurants, including fast service types. In almost all cases, these uses require good automobile and service access so that customers can safely load and unload without impeding traffic. In some locations, residential and mixed-use projects may be appropriate in this land use category. Examples of Service Commercial areas include San Antonio Road, El Camino Real, and Embarcadero Road northeast of the Bayshore Freeway. Nonresidential FARs will range up to 0.4:1. Consistent with the Comprehensive Plan's encouragement of housing near transit centers, higher-density multi-family housing may be allowed in specific locations.

On balance, the project is consistent with the policies in the Comprehensive Plan and therefore fulfills the goals of the Plan as well. A detailed review of the project's consistency with the Comprehensive Plan is provided in Attachment B (RLUA).

Baylands Master Plan - Private Lands Policies

Since the project is located within the Baylands, the following are policies from the master plan that affect the site:

⁵ The Palo Alto Comprehensive Plan is available online:
<http://www.cityofpaloalto.org/gov/topics/projects/landuse/compplan.asp>

- Be sure any future development is consistent with the Comprehensive Plan and continues to receive extensive design review utilizing the Site and Design Review Process and the Site Assessment and Design Guidelines Palo Alto Nature Preserve.

Site Assessment and Design Guidelines
The Site Assessment and Design Guidelines for the Palo Alto Baylands Nature Preserve, developed in 2005, are intended to be used when designing or reviewing projects located in any part of the Baylands—including projects on privately-owned land. Conformance with these Guidelines will help to ensure compatibility with the special aesthetic qualities and environmental conditions unique to the Baylands.

General Design Principles
The following design principles are suggested to reflect and preserve the Baylands' unique landscape character and have been used to review this application.

Table 1: Consistency with the General Design Principals

Principal	Consistency
Use only muted, natural colors.	Choose materials and finishes that will weather without degrading: The proposed building would be clad in metal panels and cement plaster system with charcoal, shades of green, platinum and silver accents. Glass would be high performance, insulated, low-e glazing that is bird safe.
Preserve the horizon line with low and horizontal elements.	The building would be 26 feet to the parapet and 36'-0" in height for the sign element. The building's mass is articulated and appears to have a horizontal orientation.
Mount fences, enclosures, and identity signs low to the ground.	The project includes some general details on signs, however, no application for a sign permit has been submitted. When a sign application is submitted, staff will ensure the any approved signs are low lying, and that all wall signs are located below the roof line so as not to puncture the horizon line.
Reduce the size and mounting heights of regulatory signs.	Signs are proposed for deferral. Based on submittal, appear to exceed maximum size for wall signs.
Design for practicality.	The proposed dealership with an integrated sales and service is efficient.

During the June 2022 ARB meeting, the ARB recommended that the applicant consider modifications and revisions so that the project would be consistent with the Design Guidelines. The applicant responded by incorporating shades of green for the stucco elevations facing the Baylands, and increasing the wood paneling through the service drive. To further address any

potential views from the Baylands to the site, the applicant proposes to plant twelve native trees in the Baylands adjacent to the 1730 Embarcadero Road and the neighboring office building.

Zoning Compliance⁶

Staff performed a detailed review of the proposed project's consistency with applicable zoning standards. A summary table is provided in Attachment C. The proposed project complies with all applicable codes or is seeking through the requested permits permission to deviate from certain code standards, in a manner that is consistent with the Zoning Ordinance.

Setbacks

The CS zoning development standards require a 0-10-foot setback along the street and a "build-to-line" setback of 50% of the front setback and 33% of the street side setback. The build-to setback is typically found along commercial corridors such as El Camino Real. In the context of the project, this site is one of two properties zoned CS district surrounded by properties zoned ROLM and a non-residential PC.

Because of the easement along East Bayshore Road, the proposed building has a large setback and therefore, the applicant requests to deviate from the "build-to-line" setback along East Bayshore Road and Embarcadero Road. These setbacks are consistent with surrounding development, except for the Audi showroom, which is closer to the street.

All other dealership proposals have been able to make the findings for approval of the Design Enhancement Exception. Attachment B provides the findings for this request.

Parking Lot Shading

PAMC 18.54 (Parking Facility Design Standards) includes landscaping requirements for parking lots. One of the requirements pertains to tree canopies that result in 50% shading of parking lot surface areas within 15 years. The ARB stressed that the applicant should meet the parking shading requirements and offered preference towards meeting the requirements with vegetation.

The applicant responded with a plan that increases the overall shade coverage to 41% despite the removal of trees along the frontage to accommodate the multi-use path. As mentioned previously, prior automobile dealership proposals on this site have struggled to meet this standard but accomplished it. Parking lot areas include parking spaces and drive aisles. Automobile dealerships typically have larger parking lot areas that include customer and employee parking as well as inventory to be sold. Prior proposals for this site included parking structures and automated parking solutions that consolidated inventory and employee parking leaving a smaller footprint for customer parking at the perimeter of the dealership.

⁶ The Palo Alto Zoning Code is available online: http://www.amlegal.com/codes/client/palo-alto_ca

As mentioned previously, the East Bayshore Road and Embarcadero Road frontage is encumbered by several underground and overground easements including PG&E and City infrastructure. The easements account for over 26% of the property area. These easements restrict the placement of structures and vegetation. Due to the special circumstances of these easements and the shape of the lot, the applicant requests a variance from the parking lot shading requirements.

Variance requests are governed by PAMC Section 18.76.030 and may be requested:

- to allow for a site with special physical constraints, resulting from natural or built features, to be used in ways like other sites in the same vicinity and zoning district; and
- to provide a way to grant relief when strict application of the zoning regulations would subject development of a site to substantial hardships, constraints, or practical difficulties that do not normally arise on other sites in the same vicinity and zoning district.

In the case of the subject property, the proposed use, which is allowed under the zoning code cannot be established because of the easements. This is also further compounded by the shape of the lot being a trapezoid, narrowing along Embarcadero Road causing an inefficient footprint for the building. The neighboring Audi and Honda dealerships do not have the same physical limitations as the subject site. The project demonstrates that the parking lot shading requirement can be met for the remainder of the parking areas except for the portions encumbered by the PG&E easements.

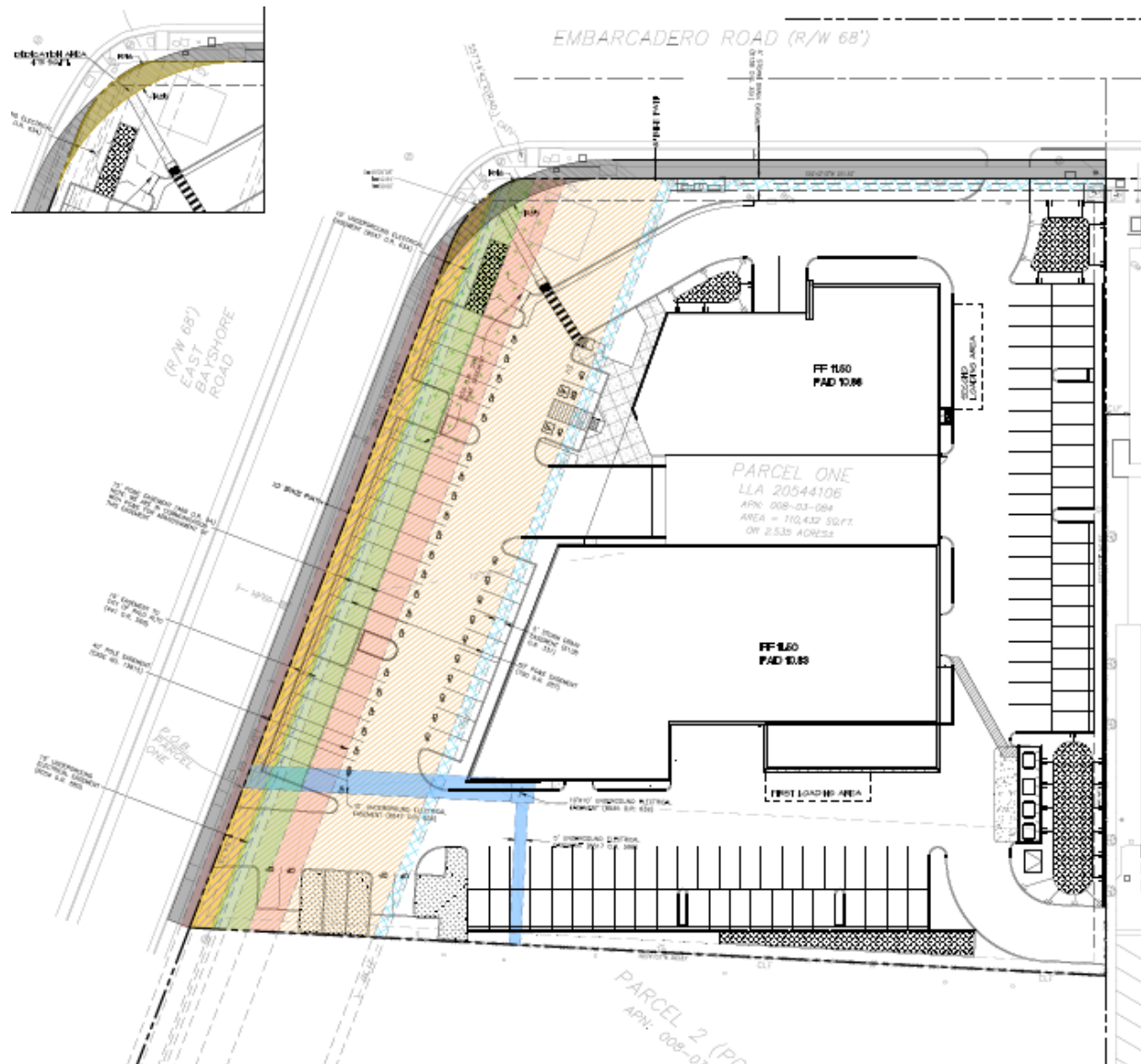


Figure 2: Exhibit Showing Easements

Multi-Modal Access & Parking

The site will have one driveway entrance on East Bayshore Road and one driveway entrance on Embarcadero Road with a continuous driveway around the building. This driveway will also provide access for the solid waste/recycling pick up located at the rear of the property. Onsite directional signs will guide customers around the site.

Bicycle Facilities

No bicycle lanes are currently provided along the street frontage of the site. The bicycle facilities near the site include a Class I multi-use trail, a Class II striped lane bike lane, and Class III shared bike route. The Renzel Trail extends between Faber Place and the Adobe Creek Loop Trail and runs parallel to Bayshore Road. It connects the Adobe Creek Loop Trail with the San

Francisquito Creek Trail through bike lanes on Embarcadero Road and Geng Road and bike routes on Faber Place. It is part of the Baylands trail system that traverses through the Baylands open spaces area of Palo Alto.

As part of the project, a bicycle path will be constructed along Bayshore and Embarcadero Road. Consistent with the City's Bicycle and Pedestrian Transportation Plan, the existing bicycle lanes on Geng Road connect to the Bay Trail. The proposed bicycle path would provide a safe connection where one does not exist currently. In front of the project will include a rest area for cyclists with benches.

To accommodate this path, 11 trees are proposed for removal. Only one of these trees is considered "protected" pursuant to Palo Alto Municipal Code (PAMC) Chapter 8.10.020. Twenty new trees (Bigleaf Maple, Valley Oak, Coast Live Oak and Western Red Bud) are proposed along the street frontage. One existing Chinese elm tree will remain.

Transportation Study

The potential transportation impacts of the project were evaluated in accordance with the standards and policies set forth by the City. The project's transportation study includes a vehicle miles travelled (VMT) impact analysis in accordance with the California Environmental Quality Act (CEQA) Guidelines and the City's VMT policy. The study also evaluates potential transportation effects of the project in accordance with the standards and methodologies set forth by the City and the Santa Clara Valley Transportation Authority (VTA). The study summarizes that the project would not have any significant transportation impacts.

Vehicular Parking

Required parking for the project is met with surface parking. The project provides sufficient parking to meet the City's required parking for dealership. Short-term bicycle parking is also provided onsite in accordance with the PAMC (See Attachment F).

Lighting

The project is one property removed from being adjacent to the Baylands Preserve and the inhabitants of the Baylands are sensitive to lighting caused by development. Intense lighting is typically associated with automobile dealerships. According to the project's photometric exhibits, the proposed lighting does not spill over to the adjacent parcels. However, the project does include intense lighting along Embarcadero Road and East Bayshore Road. Staff recommends a condition of approval to reduce the lighting intensity along the streets, as well as to have the lights dimmed or shut off during the nighttime hours.

Consistency with Application Findings

The project is subject to a few applications as described previously. Each application requires the City Council to make findings for any approval. Specifically, the PTC will forward a recommendation on the Site and Design Review and the Zone Change requests. The findings are included in Attachment B (ROLUA). The project is consistent with these findings with conditions of approval proposed.

Environmental Review

The subject project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The project site was the subject of a prior application that was covered by *1700-1730 Embarcadero Road Auto Dealership Project Initial Study-Mitigated Negative Declaration (IS-MND)* (State Clearinghouse #2018072009) adopted in May 2019.⁷

In accordance with Section 15164 of the CEQA Guidelines, a lead agency (Palo Alto) must prepare an addendum to a previously certified EIR or adopted negative declaration if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR or negative declaration have occurred. Under Section 15162(a), where an EIR or negative declaration has been certified for a project, no subsequent EIR or negative declaration shall be prepared for the project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, that there are substantial changes in the project or circumstances or substantially important new information that will cause the project to have significant new impacts or substantially increase previously identified significant impacts.

The addendum for the proposed project was prepared in accordance with relevant provisions of CEQA and the CEQA Guidelines. It describes the proposed revisions to the project and compares the revised project's impacts to those identified in the *1700-1730 Embarcadero Road Auto Dealership Project IS-MND*. The analysis demonstrates that the revised project does not require the preparation of a subsequent or supplemental IS-MND.

Public Notification, Outreach & Comments

The Palo Alto Municipal Code requires notice of this public hearing be published in a local paper and mailed to owners and occupants of property within 600 feet of the subject property at least ten days in advance. Notice of a public hearing for this project was published in the *Daily Post* on October 15, 2022, which is 11 days in advance of the meeting. Postcard mailing occurred on October 14, 2022, which is 12 in advance of the meeting.

Public Comments

As of the writing of this report, no project-related, public comments were received.

Alternative Actions

In addition to the recommended action, the Architectural Review Board may:

1. Approve the project with modified findings or conditions;
2. Continue the project to a date (un)certain; or

⁷ 1700-1730 Embarcadero Road Auto Dealership Project IS-MND: <https://www.cityofpaloalto.org/News-Articles/Planning-and-Development-Services/1700-1730-Embarcadero-Road-18PLN-0018619PLN-00291>

3. Recommend project denial based on revised findings.

Report Author & Contact Information

Sheldon S. Ah Sing, AICP, Principal Planner
(650) 838-2821

Sheldon.ahsing@cityofpaloalto.org

PTC⁸ Liaison & Contact Information

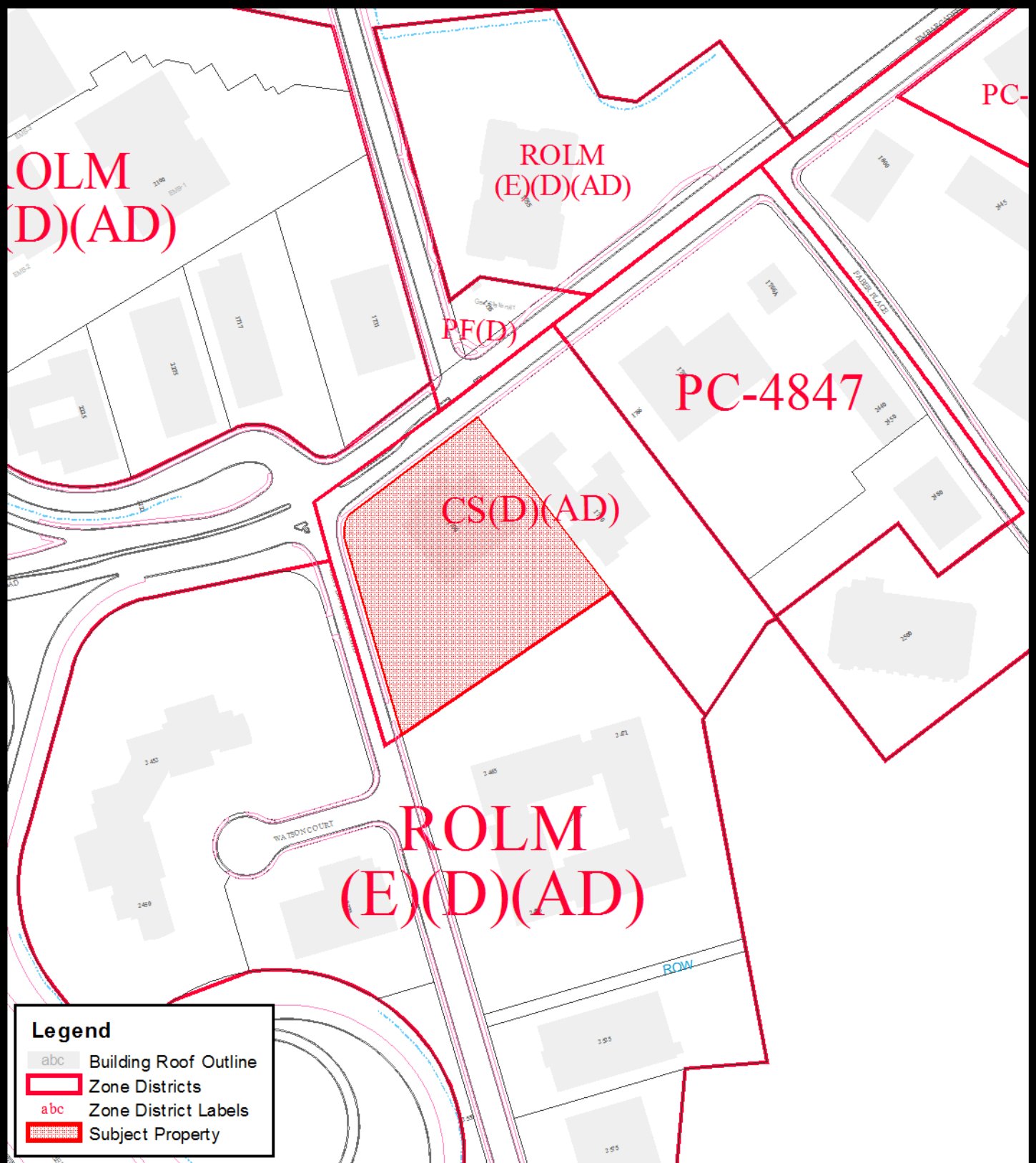
Amy French, Chief Planning Official
(650) 329-2336

amy.french@cityofpaloalto.org

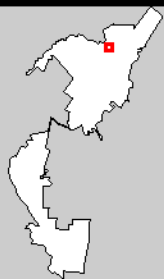
Attachments:

- Attachment A: Location Map (PDF)
- Attachment B: Draft Record of Land Use Action (DOCX)
- Attachment C: Zoning Comparison Table (DOCX)
- Attachment D: Prior Hearing Actions (DOCX)
- Attachment E: Applicant's Project Description Letter (PDF)
- Attachment F: Project Plans and Environmental Review (DOCX)

⁸ Emails may be sent directly to the PTC using the following address: planning.commission@cityofpaloalto.org



The City of
Palo Alto



Location Map 1700 Embarcadero Road

This map is a product of the
City of Palo Alto GIS



0' 213'

ACTION NO. 2022-____**RECORD OF THE COUNCIL OF THE CITY OF PALO ALTO LAND USE ACTION
FOR 1700 EMBARCADERO ROAD: SITE AND DESIGN REVIEW, DESIGN
ENHANCEMENT EXCEPTION, VARIANCE (21PLN-00191)**

On _____, 2022, the City Council of the City of Palo Alto approved a Site and Design Review and a Design Enhancement Exception to allow the demolition of an existing 15,207 square foot vacant restaurant building and the construction of a two-story 31,195 square foot Mercedes Benz automobile dealership. In approving the application, the Council makes the following findings, determinations, and declarations:

SECTION 1. Background. The City Council of the City of Palo Alto ("City Council") finds, determines, and declares as follows:

A. Eric Iverson on behalf of Swickard Auto Group, Inc, property owner, has requested the City's approval of a development project that includes Site and Design Review and Design Enhancement Exception to allow for the demolition of existing structures and the construction of a two-story automobile dealership ("The Project").

B. The project site includes a single parcel (APN 008-03-084) of 2.54 acres in size. The site is currently developed with an existing single-story 15,207 square-foot vacant restaurant. The site contains and is accessible to existing utilities. The site includes an 80-foot utility easement along East Bayshore Road. The site is designated on the Comprehensive Plan land use map as Service Commercial and is located within the Service Commercial (CS) zoning district with Automobile Dealership (AD) and Site and Design (D) combining districts.

The project includes the demolition of the existing on-site structure and the construction of a new two-story automobile dealership with service facilities including an attached automated car wash.

C. The Planning and Transportation Commission (Commission) reviewed and recommended approval of the Project on October 26, 2022. The Commission's recommendations are contained in CMR#14824 and the attachments to it.

The Architectural Review Board (ARB) reviewed and recommended approval of the Project on November 3, 2022.

D. On December 5, 2022, the City Council held a duly noticed public hearing, at which evidence was presented and all persons were afforded an opportunity to be heard in accordance with the Palo Alto Municipal Code and the Council's Policies and Procedures.

SECTION 2. Environmental Review. The City as the lead agency for the Project has determined that the project is subject to environmental review under provisions of the California

Environmental Quality Act (CEQA) under Guideline section 15070, Decision to Prepare a Negative or Mitigated Negative Declaration. An Initial Study/Mitigated Negative Declaration was prepared in January 2019 for a project (18PLN-0189) and identified potentially significant impacts with the implementation of the project. Those impacts can be reduced to a level of less than significant with the incorporation of mitigation measures. On the basis of the whole record before it, there is no substantial evidence that the project will have significant effects on the environment and the mitigated negative declaration reflects the lead agency's independent judgment and analysis. The City of Palo Alto Planning and Development Services Department is the custodian of these documents. The Negative Declaration was made available for public review beginning March 15, 2019, through April 22, 2019. The City Council adopted the Mitigated Negative Declaration on June 24, 2022, incorporating the Mitigation and Monitoring Reporting Program.

It was determined that the current project (21PLN-00191) does not present the circumstances pursuant to CEQA Guidelines 15162 to warrant the completion of a subsequent Mitigated Negative Declaration or an Environmental Impact Report and therefore an Addendum to the previously adopted Mitigated Negative Declaration suffices. Pursuant to CEQA Guidelines 15164 the addendum need not be circulated, however, the addendum shall be considered with the adopted Mitigated Negative Declaration.

The City Council hereby approves the Addendum to the Mitigated Negative Declaration and incorporates the Mitigation and Monitoring Report attached as Exhibit 1 into the Record of Land Use.

SECTION 3. Site and Design Review objectives.

The design and architecture of the proposed improvements, as conditioned, comply with the Site and Design Objectives as required in Chapter 18.30.060(G) of the PAMC.

A. *Objective (a): To ensure construction and operation of the use in a manner that will be orderly, harmonious, and compatible with existing or potential uses of adjoining or nearby sites.*

The project includes sufficient façade articulation and material changes along Embarcadero Road and East Bayshore Road. A variety of glass, metal, and stucco materials with muted and darker colors will make the building complement the surrounding. As conditioned, the project will include a logistics plan to coordinate construction activity and limit disruptions to neighboring properties. Currently, two other automobile dealerships operate in the area. The project is designed to have necessary deliveries and parking occur onsite so that no spillover of activity to the streets or neighboring properties is anticipated. As conditioned, the lighting of the project will not spill over to adjoining areas.

B. *Objective (b): To ensure the desirability of investment, or the conduct of business, research, or educational activities, or other authorized occupations, in the same or adjacent areas.*

The project proposes a business that is allowed in the zoning district and is an established business type in the area. The design of the project complements the other surrounding buildings and does not detract from the use of the Baylands recreational area. A component of the project includes the construction of a bicycle path that would provide a safe connection between the existing bicycle lanes and the Bay Trail.

C. Objective (c): To ensure that sound principles of environmental design and ecological balance shall be observed.

The project is consistent with the Baylands design guidelines. Lighting is designed and conditioned to not shine onto the adjacent properties. Windows are designed to avoid bird strikes. The project will implement green building measures as required by the Palo Alto Municipal Code. The existing building will be deconstructed to the highest level feasible to recycle as many of the materials as possible. The proposed dealership maintains a low profile and clean lines so as not to impose the surrounding building and area. the proposed building has a full-height landscaped wall feature that wraps around the southwest corner of the building and full-height window panels to let natural light in to further promote sound principles of environmental design and ecological balance. It utilizes reclaimed wood siding to minimize the use of natural resources.

D. Objective (d): To ensure that the use will be in accord with the Palo Alto Comprehensive Plan.

The project is consistent with the following Comprehensive Plan Goals and Policies:

Service Commercial: Facilities providing citywide and regional services and relying on customers arriving by car. These uses do not necessarily benefit from being in high-volume pedestrian areas such as shopping centers or Downtown. Typical uses include auto services and dealerships, motels, lumberyards, appliance stores, and restaurants, including fast service types. In almost all cases, these uses require good automobile and service access so that customers can safely load and unload without impeding traffic. In some locations, residential and mixed-use projects may be appropriate in this land use category. Examples of Service Commercial areas include San Antonio Road, El Camino Real, and Embarcadero Road northeast of the Bayshore Freeway. Non-residential FARs will range up to 0.4. Consistent with the Comprehensive Plan's encouragement of housing near transit centers, higher-density multi-family housing may be allowed in specific locations.

Policy L-1.3. Infill development in the urban service area should be compatible with its surroundings and the overall scale and character of the city to ensure a compact, efficient development pattern.

Policy L-5.1. Foster compact Employment Districts developed in a way that facilitates transit, pedestrian and bicycle travel. Provide mixed uses to reduce the number of auto trips.

Policy L-5.2. Provide landscaping, trees, sidewalks, pedestrian path, and connections to the citywide bikeway system within Employment Districts. Pursue opportunities to include sidewalks, paths, low water use landscaping, recycled water, and trees, and remove grass turf in renovation and expansion projects.

Policy L-5.3. Design paths and sidewalks to be attractive and comfortable and consistent with the character of the area where they are located.

Policy L-5.4. Maintain the East Bayshore and San Antonio Road/Bayshore Corridor areas as diverse business and light industrial districts.

Policy L-6.1. Promote high-quality design and site planning that is compatible with surrounding development and public spaces.

Policy L-6.3. Encourage bird-friendly design.

Policy L-6.6. Design buildings to complement streets and public spaces; promote personal safety, public health, and well-being; and enhance a sense of community safety.

Policy T-1.17. Require new office, commercial and multi-family residential developments to provide improvements that improve bicycle and pedestrian connectivity as called for in the 2012 Palo Alto Bicycle + Pedestrian Transportation Plan.

SECTION 4. Architectural Review Findings.

1. *The design is consistent with applicable provisions of the Palo Alto Comprehensive Plan, Zoning Code, coordinated area plans (including compatibility requirements), and any relevant design guides.*

This finding can be made in the affirmative because the project is consistent with the following Comprehensive Plan goals and policies:

Comprehensive Plan Goal/Policy	Consistency
Service Commercial: Facilities providing citywide and regional services and relying on customers arriving by car. These uses do not necessarily benefit from being in high volume pedestrian areas such as shopping centers or Downtown. Typical uses include auto services and dealerships, motels, lumberyards, appliance stores and restaurants, including fast service types. In almost all cases, these uses require good automobile and service access so that customers can safely load and unload without impeding traffic. In some locations, residential and mixed-use projects may be appropriate in this land use category. Examples of Service Commercial areas include San Antonio Road, El Camino Real and Embarcadero Road northeast of the Bayshore Freeway. Non-residential FARs will range up to 0.4. Consistent with the Comprehensive Plan's encouragement of housing near transit centers, higher density multi-family housing may be allowed in specific locations.	The project proposes a new Mercedes Benz automobile dealership. The project is consistent with the uses described in the Service Commercial land use designation.
Policy L-1.3: Infill development in the urban service area should be compatible with its surroundings and the overall scale and character of the city to ensure a compact, efficient development pattern.	The project is on land that already has development and is consistent with the surrounding development pattern, including larger buildings and larger street setbacks.

Comprehensive Plan Goal/Policy	Consistency
Policy L-5.2 Provide landscaping, trees, sidewalks, pedestrian path and connections to the citywide bikeway system within Employment Districts. Pursue opportunities to include sidewalks, paths, low water use landscaping, recycled water and trees and remove grass turf in renovation and expansion projects.	A bicycle path will be constructed along East Bayshore Road and Embarcadero Road. Consistent with the City's Bicycle and Pedestrian Transportation Plan, the existing bicycle lanes on Geng Road connect to the Bay Trail. The proposed bicycle path would provide a safe connection where one does not exist currently. In front of the project will include a rest area for cyclists with benches.
Policy L-5.3. Design paths and sidewalks to be attractive and comfortable and consistent with the character of the area where they are located.	The bicycle path will be designed to fit with the character of the surroundings and include a rest area.
Policy L-5.4. Maintain the East Bayshore and San Antonio Road/Bayshore Corridor areas as diverse business and light industrial districts.	The former restaurant will be demolished, and, in its place, a new automobile dealership will operate, which will complement the diverse businesses within the district.
Policy L-6.1. Promote high-quality design and site planning that is compatible with surrounding development and public spaces.	The project uses a variety of materials such as stucco, metal, and glass. These materials use muted and darker colors in a way that is consistent with the surrounding uses and the Baylands Design Guidelines. The 80-foot utility easement along East Bayshore limits the site in design and landscaping, however, these materials complement a design that includes variegated facades. The project's design provides the appropriate transitions between the site and adjacent buildings. As conditioned, the project will have the appropriate transition to the Baylands.
Policy L-6.3. Encourage bird-friendly design.	The project includes bird-safe glazing for windows.
Policy L-6.6. Design buildings to complement streets and public spaces; promote personal safety, public health, and well-being, and enhance a sense of community safety.	Frontages for the project include East Bayshore Road and Embarcadero Road. Both frontages include building facades that provide interest using materials, colors, and elevations that include visual relief. Along Embarcadero Road includes a bicycle rest area for uses of the bicycle path.

Comprehensive Plan Goal/Policy	Consistency
Policy T-1.17. Require new office, commercial and multi-family residential developments to provide improvements that improve bicycle and pedestrian connectivity as called for in the 2012 Palo Alto Bicycle + Pedestrian Transportation Plan.	As proposed, the project will implement a bicycle path along the street frontages. The proposed bicycle path would provide a safe connection where one does not exist currently. This would connect with the overall city bicycle system and the greater Baylands bicycle network. A bicycle rest area is included along the Embarcadero Road frontage.

The use complements the existing automobile dealerships along Embarcadero Road and is a permitted use within the land use district. The project includes a bicycle path along East Bayshore Road and Embarcadero Road that would provide a connection between the existing bicycle lanes and the Bay Trail system. The project includes a typical automobile dealership design with its inventory and customer parking surrounding the dealership building. The project applicant proposes to deviate from the “build-to-line” setback requirement for East Bayshore Road and Embarcadero Road and the tree shade canopy requirements for parking facilities through the Design Enhancement Exception and Variance process.

2. *The project has a unified and coherent design, that:*
 - a. *creates an internal sense of order and a desirable environment for occupants, visitors, and the general community,*
 - b. *preserves, respects and integrates existing natural features that contribute positively to the site and the historic character including historic resources of the area when relevant,*
 - c. *is consistent with the context-based design criteria of the applicable zone district,*
 - d. *provides harmonious transitions in scale, mass, and character to adjacent land uses and land use designations,*
 - e. *enhances living conditions on the site (if it includes residential uses) and in adjacent residential areas.*

This finding can be made in the affirmative. The project includes two driveways (one from East Bayshore Road and one from Embarcadero Road). Vehicular access is provided around the perimeter of the site, allowing for trash pick-up, deliveries, and general access around the property. The driveway in front of the showroom creates a better overall circulation pattern because instead of vehicles being forced onto the roadway, vehicles being serviced or displayed can be moved onsite without ever leaving the site. The design of the buildings conveys they are automobile dealerships and do not appear to portray a different type of use. The entries to the sites are distinctive and attractive with landscaping that is appropriate to the Baylands as well as consistent with the design of the buildings. While the street trees along East Bayshore Road are being removed for the bicycle path, the bicycle path provides a separate connection from the street to other areas within the City’s bicycle network. Additional trees will be planted to replace those removed. While the rear of the site is not abutting the Baylands, the applicant proposes 12 native trees in the Baylands along the boundary of the adjacent parcels to enhance visual screening. The site’s large setbacks are consistent with the surrounding development

pattern and these setbacks help with the streetscape perception of the massing of the buildings.

The project is consistent with the following context-based design criteria:

1. Pedestrian and Bicycle Environment

The design of new projects shall promote pedestrian walkability, a bicycle-friendly environment, and connectivity through design elements

The project will provide a new bicycle path along the street frontages. This will include a rest area for cyclists with benches. The bicycle path will separate the bicyclists from the street lanes for added safety and reduction in conflict points.

2. Street Building Facades

Street facades shall be designed to provide a strong relationship with the sidewalk and the street (s), to create an environment that supports and encourages pedestrian activity through design elements

A request of the project is to have an exception from the “build-to-line” setback along Embarcadero and East Bayshore. Both frontages are impacted by an 80-foot utility easement parallel with East Bayshore that prohibits any building placement or structure/vegetation over 15 feet within the easement area. The area is categorized by large street setbacks. The proposed project’s setbacks are consistent with the surrounding. The design of the building includes a façade with visual interest and the use of a variety of materials with dark and muted colors.

A bicycle path will be constructed along East Bayshore and Embarcadero Road. Consistent with the City’s Bicycle and Pedestrian Transportation Plan, the existing bicycle lanes on Geng Road connect to the Bay Trail. The proposed bicycle path would provide a safe connection where one does not exist currently. In front of the project will include a rest area for cyclists with benches.

3. Massing and Setbacks

Buildings shall be designed to minimize massing and conform to proper setbacks

The project meets the required setbacks or seeks relief from the setbacks to comply with easement requirements and to be consistent with the surrounding properties. Relief is sought for the “build-to-line” setback along Embarcadero Road and given the opportunities and constraints of the site, adherence to the requirement does not create a better project layout. Additionally, the project includes varied materials such as metal, stucco, glass with contrasting colors providing visual interest. The two-story building is horizontally oriented consistent with the Baylands’ design guidelines.

4. Low Density Residential Transitions

Where new projects are built abutting existing lower scale residential development, care shall be taken to respect the scale and privacy of neighboring properties

The project is not adjacent to any residential areas.

5. Project Open Space

Private and public open space shall be provided so that it is usable for the residents and visitors of the site

The project includes an outdoor area on the ground floor facing East Bayshore Road as well as in front of the building along Embarcadero Road. In addition, the project provides a new bicycle path along the streets and a rest area with benches.

6. Parking Design

Parking shall be accommodated but shall not be allowed to overwhelm the character of the project or detract from the pedestrian environment

The project includes a typical design for automobile dealerships with its inventory and customer parking surrounding the dealership building. The parking is mostly arranged in tandem configuration.

7. Large Multi-Acre Sites

Large sites (over one acre) shall be designed so that street, block, and building patterns are consistent with those of the surrounding neighborhood

The proposed setbacks for the project are consistent with other large sites within the vicinity. The setbacks for the surrounding buildings are large and the buildings are spread out over the site.

8. Sustainability and Green Building Design

Project design and materials to achieve sustainability and green building design should be incorporated into the project

The project will be consistent with the City's Green Building Ordinance and be consistent with Cal Green Tier 2.

3. *The design is of high aesthetic quality, using high quality, integrated materials, and appropriate construction techniques, and incorporating textures, colors, and other details that are compatible with and enhance the surrounding area.*

The project includes a single building using muted and complementary colors in conjunction with the execution of the mixture of metal, stucco, and glass applied to a façade with variegated elevations that enhance the building and complements the surrounding.

4. *The design is functional, allowing for ease and safety of pedestrian and bicycle traffic and providing for elements that support the building's necessary operations (e.g. convenient vehicle access to property and utilities, appropriate arrangement, and amount of open space, and integrated signage, if applicable, etc.).*

With an automobile dealership, it is expected that vehicles will be entering and exiting the site providing potential conflicts with pedestrians and cyclists. The site is adjacent to the Baylands, which is a large and popular recreational area. The project includes the construction of a new bicycle path

along East Bayshore Road and Embarcadero Road. The bicycle path will separate pedestrians and cyclists from the street adding a level of safety and improving sight awareness for users of potential conflict areas such as the driveways. Onsite circulation is provided along the perimeter of the site and includes two loading spaces. Landscaping is provided along the perimeter of the site as well as along the buildings. The location of the 80-foot utility easement limits the amount and the type of landscaping that can be provided along East Bayshore Road and affects a small portion of Embarcadero Road frontage at the intersection where the electric transmission tower is located.

5. *The landscape design complements and enhances the building design and its surroundings, is appropriate to the site's functions, and utilizes to the extent practical, regional indigenous drought-resistant plant material capable of providing desirable habitat that can be appropriately maintained.*

Landscaping is provided along the perimeter of the site as well as along the buildings. The landscape palette uses drought-tolerant and regional species. The location of the 80-foot utility easement limits the amount and the type of landscaping that can be provided along East Bayshore Road and affects a small portion of Embarcadero Road at the intersection where the electric transmission tower is located. Vegetation can be no taller than 15 feet within these areas. The landscaping palette embraces the Baylands and many of the plants were chose because they were on the Santa Clara Valley Water District approved plant list, bay-friendly rated plant list and other plants from the Santa Clara Valley Urban Runoff Pollution Prevention Program. Specifically, the plants that directly interface with the Baylands are only native species and are complementary of the Baylands, including Oak, Buckeye, Blue Elderberry, California Sagebrush, and Toyon.

6. *The project incorporates design principles that achieve sustainability in areas related to energy efficiency, water conservation, building materials, landscaping, and site planning.*

The project is consistent with the City's Green Building ordinance and will comply with Cal Green Tier 2 requirements. Some examples include:

- Electric vehicle parking
- Cool roof
- Water reduction
- Recycled content

SECTION 5. Design Enhancement Exception Findings

1. *There are exceptional or extraordinary circumstances or conditions applicable to the property or site improvements involved that do not apply generally to property in the same zone district.*

The applicant requests a Design Enhancement Exception from the 'build-to-setback' for buildings on site along East Bayshore Road and Embarcadero Road because of the location of the easements.

The subject property includes an 80-foot-wide utility easement with development constraints below

and above ground along East Bayshore Road. The purpose of the easement is to allow for the conveyance of high-voltage electric power and stormwater for the region and for the City. Pacific Gas & Electric holds rights to the easement as well as the City. An electric transmission tower is located near the corner of the property. This easement precludes the placement of any building and any structure height to 15 feet.

East Bayshore Road

Adhering to the “build-to-line” setback requirements is not possible for East Bayshore Road.

Embarcadero Road

Based on the “build-to-line” requirement along Embarcadero Road, the project would need at least 126 feet of the building to be set near the property line. The site has an approximate 252-foot frontage along Embarcadero Road and therefore would require at least 126 lineal feet of the building to be placed between zero and 10 feet of the property line. The utility easement along East Bayshore causes the building edge to be located approximately 65 feet from the corner of the property at Embarcadero Road and East Bayshore Road because of the shape of the property. The remaining distance between the easement edge and the north property line is 189 feet and that leaves enough distance to meet the requirement.

As mentioned previously, it is expected that the primary entrance for customers will be from Embarcadero Road. A driveway cannot be located too close to the intersection and therefore the proposed location is the farthest from the intersection and a safe distance from the existing adjacent Audi driveway. The proposed driveway location creates efficiencies for the site because the driveway entry allows for efficient circulation for service trucks such as for recycling and waste pick up. Some of the required parking for the project is located within the utility easement along East Bayshore Road. The driveway in front of the showroom creates a better overall circulation pattern because instead of vehicles being forced onto the roadway, vehicles being serviced or displayed can be moved onsite without ever leaving the site.

2. *The granting of the application will enhance the appearance of the site or structure, or improve the neighborhood character of the project and preserve an existing or proposed architectural style, in a manner that would not otherwise be accomplished through strict application of the minimum requirements of this title (Zoning) and the architectural review findings set forth in Section 18.76.020(d).*

The easements preclude any building to be placed within the easement area. Additionally, no structures such as light fixtures 15 feet can be placed within the easement area. In recent years, Pacific Gas & Electric due to experiences with wildfires have become more restrictive on the placement of vegetation near their transmission facilities, requiring trees to be shorter than 15 feet.

The building is designed with visually interesting facades and materials to complement other development within the area. The project proposes plantings of trees were feasible and appropriate including around the perimeter of the site.

3. *The exception is related to a minor architectural feature or site improvement that will not be detrimental or injurious to property or improvements in the vicinity and will not be*

detrimental to the public health, safety, general welfare, or convenience.

The surrounding development includes large street setbacks, so the exception will not create consistency or compatibility issues with the neighboring properties. Trees and other plantings will occur at the perimeter of the site and within the easement and bicycle path area where feasible.

SECTION 6. Variance Findings

1. *Because of special circumstances applicable to the subject property, including (but not limited to) size, shape, topography, location, or surroundings, the strict application of the requirements and regulations prescribed in this title substantially deprives such property of privileges enjoyed by other property in the vicinity and in the same zoning district as the subject property. Special circumstances that are expressly excluded from consideration are:*

A. The personal circumstances of the property owner, and

B. Any changes in the size or shape of the subject property made by the property owner or his predecessors in interest while the property was subject to the same zoning designation.

The applicant requests a variance from PAMC 18.54 (Parking Lot Shading) requirements due to the shape of the subject property and the location of easements that preclude the planting of vegetation meeting the requirements of the zoning code. In the case of the subject property, the proposed use, which is allowed under the zoning code cannot be established because of the easements. This is also further compounded by the shape of the lot being a trapezoid, narrowing along Embarcadero Road causing an inefficient footprint for the building and function of the site as an automobile dealership. The neighboring Audi and Honda dealerships do not have the same physical limitations as the subject site. The project demonstrates that the parking lot shading requirement can be met for the remainder of the parking areas except for the portions encumbered by easements.

The subject property is trapezoidal with its narrow dimension occurring along Embarcadero Road. A tall high-voltage transmission tower is located at the corner of the property at East Bayshore Road and Embarcadero Road. Easements on the subject property represent 26% of the property area. The subject property includes easements (overhead, surface, and sub-surface) that preclude buildings from locating within the easement area. The easement has limitations on minor structures such as light fixtures and vegetation. In recent years, Pacific Gas & Electric due to experiences with wildfires have become more restrictive on vegetation near their transmission facilities, requiring trees to be shorter than 15 feet. In comparison, the other two automobile dealerships on the same block are standard-shaped lots. The other two automobile dealership properties do not have the same impediments.

The project includes a parking lot within the easement area that includes both customer parking and inventory for sale as exterior display models. It is also not possible to plant trees that would support a large enough canopy to provide shading of the surface parking lot within the easement. Additionally, the project includes a bicycle path along East Bayshore Road and Embarcadero Road, which necessitates the elimination of existing mature street trees. The project proposes trees that will fit the requirements prescribed for the easement. The project also proposes to plant 12 trees off-site within the Baylands.

Automobile dealerships typically function either with a larger building footprint with inventory stored

within the building envelope or as a smaller building footprint with inventory stored uncovered in surface parking lots on site. This project is the latter, which by design is a smaller-massed building that is more compatible with the Baylands and its surroundings. Prior automobile dealership proposals on this site have been the former, which have pushed compatibility thresholds. The project includes both customer and inventory parking in tandem configuration. Parking lot landscape standards are met for landscaping around the perimeter of the parking areas and the required landscape islands. Trees have been planted to the extent feasible and consistent with easement restrictions. Another constraint of the site is its trapezoid shape. The narrow side of the property includes the easement, further compounding the ability to site a building, meet setbacks, avoid easements, meet stormwater regulations, and provide efficient circulation that would allow the automobile dealership to function.

The project includes a perimeter driveway to allow for circulation for fire department access around the buildings. The driveway also serves as an important circulation component for the site's operations, keeping vehicles off the street. The 80-foot utility easement precludes the planting of trees with canopies significant enough to meet the City's shading requirements. The addition of the bicycle path along East Bayshore and Embarcadero also takes out an area that could be used to plant trees that would provide shading in these parking/driveway areas.

The project includes 41% canopy shading for the entire site, where 50% is required. Without the limitations discussed, the project would be able to meet the requirement. The project demonstrates meeting the requirement on portions of the parking areas not encumbered by the easements.

There is recognition of the importance of both the bicycle path and the City's urban forest canopy. However, given the limitations of the utility easement and the need for a bicycle connection in a location within the Baylands, the development of the bicycle path outweighs the tree canopy requirement. The building's design along East Bayshore Road is of high-quality making up for the loss of tree canopies. The project provides replacement trees onsite as well as off-site within the Baylands.

2. *The granting of the application shall not affect substantial compliance with the regulations or constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and in the same zoning district as the subject property, and*

The project will comply with other development standards except for the 'build-to-setbacks' because of the easement restrictions and modifications to one of the two required on-site loading spaces. The granting of the variance would not be considered a grant of special privileges since other automobile dealerships can function without hardship from a physical constraint such as the subject site.

3. *The granting of the application is consistent with the Palo Alto Comprehensive Plan and the purposes of this title (Zoning), and*

The project is consistent with the Palo Alto Comprehensive Plan as discussed in Section 4 of this record of land use action and the use is consistent with the purposes of the zoning code.

4. *The granting of the application will not be detrimental or injurious to property or improvements in the vicinity, will not be detrimental to the public health, safety, general welfare, or convenience.*

The granting of the variance would not negatively affect public health, safety, general welfare, or convenience or be detrimental to the property or improvements in the vicinity in that the project proposes to construct a multi-use pathway eliminating a gap in the city's bicycle network, and providing a safe connection to the Baylands. The project also provides additional trees and plantings offsite in the Baylands that would create shading and additional habitat for animals.

SECTION 7. Conditions of approval

PLANNING DIVISION

1. CONFORMANCE WITH PLANS. Construction and development shall conform to the approved plans entitled, "Mercedes Benz of Palo Alto," stamped as received by the City on July 20, 2022 (revised August 10, 2022) on file with the Planning Department, 250 Hamilton Avenue, Palo Alto, California except as modified by these conditions of approval.
2. BUILDING PERMIT. Apply for a building permit and meet any and all conditions of the Planning, Fire, Public Works, and Building Departments.
3. BUILDING PERMIT PLAN SET. All Department conditions of approval for the project shall be printed on the plans submitted for the building permit.
4. PROJECT MODIFICATIONS: All modifications to the approved project shall be submitted for review and approval prior to construction. If during the Building Permit review and construction phase, the project is modified by the applicant, it is the responsibility of the applicant to contact the Planning Division/project planner directly to obtain approval of the project modification. It is the applicant's responsibility to highlight any proposed changes to the project and to bring it to the project planner's attention.
5. PROJECT EXPIRATION. The project approval shall automatically expire after two years from the original date of approval, if within such two-year period, the proposed use of the site or the construction of buildings has not commenced pursuant to and in accordance with the provisions of the permit or approval. Application for a one-year extension of this entitlement may be made prior to the expiration. (PAMC 18.77.090(a)).
6. INDEMNITY: To the extent permitted by law, the Applicant shall indemnify and hold harmless the City, its City Council, its officers, employees, and agents (the "indemnified parties") from and against any claim, action, or proceeding brought by a third party against the indemnified parties and the applicant to attack, set aside or void, any permit or approval authorized hereby for the Project, including (without limitation) reimbursing the City for its actual attorneys' fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its own choice.
7. DEVELOPMENT IMPACT FEES: Development Impact Fees, currently estimated in the amount of \$1,368,305.87 shall be paid prior to the issuance of the related building permit.

8. **IMPACT FEE 90-DAY PROTEST PERIOD.** California Government Code Section 66020 provides that a project applicant who desires to protest the fees, dedications, reservations, or other exactions imposed on a development project must initiate the protest at the time the development project is approved or conditionally approved or within ninety (90) days after the date that fees, dedications, reservations or exactions are imposed on the Project. Additionally, procedural requirements for protesting these development fees, dedications, reservations, and exactions are set forth in Government Code Section 66020. IF YOU FAIL TO INITIATE A PROTEST WITHIN THE 90-DAY PERIOD OR FOLLOW THE PROTEST PROCEDURES DESCRIBED IN GOVERNMENT CODE SECTION 66020, YOU WILL BE BARRED FROM CHALLENGING THE VALIDITY OR REASONABLENESS OF THE FEES, DEDICATIONS, RESERVATIONS, AND EXACTIONS. If these requirements constitute fees, taxes, assessments, dedications, reservations, or other exactions as specified in Government Code Sections 66020(a) or 66021, this is to provide notification that, as of the date of this notice, the 90-day period has begun in which you may protest these requirements. This matter is subject to the California Code of Civil Procedures (CCP) Section 1094.5; the time by which judicial review must be sought is governed by CCP Section 1094.6.
9. **MITIGATION MONITORING AND REPORTING PROGRAM.** The Mitigation Monitoring and Reporting Program (MMRP) associated with the project and attached here as Exhibit 1 is incorporated by reference and all mitigation measures shall be implemented as described in said document. Prior to requesting issuance of any related demolition and/or construction permits, the applicant shall meet with the Project Planner to review and ensure compliance with the MMRP, subject to the satisfaction of the Director of Planning and Development Services.
10. **FINAL INSPECTION:** A Planning Division Final inspection will be required to determine substantial compliance with the approved plans prior to the scheduling of a Building Division final. Any revisions during the building process must be approved by Planning, including but not limited to; materials, landscaping and hard surface locations. Contact your Project Planner, Sheldon S. Ah Sing at Sheldon.ahsing@cityofpaloalto.org to schedule this inspection.
11. **BIRDS.** The owner or designee shall evaluate migratory patterns affecting the site prior to submittal of a building permit and if any trees are found to be recurring nesting sites, ensure the installation of replacement nesting facilities with replacement mature trees.
12. **LIGHTING.** The owner or designee shall ensure that light does not spill over the property lines from the project. The owner or designee prior to building permit issuance provide information to the satisfaction of the City that light levels do not exceed the current lighting levels of surrounding properties. One strategy could be that lighting levels shall be reduced during the nighttime period to security levels (between 10 pm and dawn or periods when the businesses are not in operation).
13. **SIGNS.** The owner or designee shall apply for approval of signs proposed for the site in accordance with PAMC 16.20.020. Based on the submitted set of plans, the northwest elevation of the building exceeds its allowance of sign area for wall signs. The owner or designee shall consider reducing the size of the signs to comply. Additional consideration shall be made to include protruding elements to the freestanding signs for the Mercedes Benz logo so that the sign is not flat.

14. AUDI IMPROVEMENTS. The owner or designee shall demonstrate the completeness of work on any outstanding improvements for the Audi Dealership (1730 Embarcadero) prior to the Planning final inspection for the 1700 Embarcadero project.

BUILDING DEPARTMENT

15. The owner or designee at the submittal of a building permit shall:
- a. Demonstrate that electric vehicle parking counts comply with PAMC 16.14.430;
 - b. Demonstrate that electric vehicle accessible parking complies with CBC 11B, similar to regular accessible parking;
 - c. Demonstrate an accessible route from the public sidewalk/bus stop to the building entrance; and
 - d. Contact the Building Department for building permit submittal requirements

PUBLIC WORKS ENGINEERING DEPARTMENT

PUBLIC WORKS APPLICATIONS, FORMS, AND DOCUMENTS. The applicant shall be advised that all forms, applications, and informational documents related to Public Works Engineering conditions can be found at the following link:

<https://www.cityofpaloalto.org/Departments/Public-Works/Engineering-Services/Forms-and-Permits>

16. GRADING PERMIT. A Grading Permit is required per PAMC Chapter 16.28. The permit application and all applicable documents (see Section H of application) shall be submitted to Public Works Engineering. ADVISORY -- A grading permit only authorizes grading and storm drain improvements; therefore, the following note shall be included on each grading permit plan sheet: "THIS GRADING PERMIT WILL ONLY AUTHORIZE GENERAL GRADING AND INSTALLATION OF THE STORM DRAIN SYSTEM. OTHER BUILDING AND UTILITY IMPROVEMENTS ARE SHOWN FOR REFERENCE INFORMATION ONLY AND ARE SUBJECT TO SEPARATE BUILDING PERMIT APPROVAL."
17. GEOTECHNICAL ENGINEER STATEMENT. The grading plans shall include the following statement signed and sealed by the Geotechnical Engineer of Record: "THIS PLAN HAS BEEN REVIEWED AND FOUND TO BE IN GENERAL CONFORMANCE WITH THE INTENT AND PURPOSE OF THE GEOTECHNICAL REPORT."
18. RETAINING WALLS. The grading plan shall clearly indicate all site retaining walls needed along the project to accommodate the fill. These walls shall be located completely onsite, and at a minimum five feet from the existing street trees to be protected.
19. STORM DRAIN EASEMENT. The developer shall relocate the existing 21-inch storm drain line, away from the proposed foundation, and a new 10-foot wide (minimum) storm drain easement shall be dedicated to the City.
20. FLOOD ZONE. This project is in a Federal Emergency Management Agency (FEMA) Special Flood Hazard Area and shall comply with the requirements in Palo Alto Municipal Code Chapter 16.52 and the California Residential Code Section 322 (CRC 322).

21. **CONDITIONAL LETTER OF MAP REVISION (CLOMR-F).** Evidence that this document has been executed shall be provided prior to building permit issuance.
22. **OUTSIDE AGENCY APPROVAL.** Developer shall provide documentation that shows approval from the owner(s) of any easements that are affected by the project, including any easements that are to be abandoned.
23. **STREETWORK PERMIT.** The applicant shall obtain a Streetwork Permit from the Department of Public Works for all offsite and public improvements.
24. **ENCROACHMENT PERMIT.** Prior to any work in the public right-of-way, the applicant shall obtain an encroachment permit from the Public Works Department for any work that encroaches onto the City right-of-way.
25. **LOGISTICS PLAN.** A construction logistics plan shall be provided addressing all impacts to the public and including, at a minimum: work hours, noticing of affected businesses, construction signage, dust control, noise control, storm water pollution prevention, job trailer, contractors' parking, truck routes, staging, concrete pours, crane lifts, scaffolding, materials storage, pedestrian safety, and traffic control. All truck routes shall conform to the City of Palo Alto's Trucks and Truck Route Ordinance, Chapter 10.48, and the route map, which outlines truck routes available throughout the City of Palo Alto.
26. **STORM WATER POLLUTION PREVENTION PLAN (SWPPP).** The proposed development will disturb more than one acre of land. Accordingly, the applicant will be required to comply with the State of California's General Permit for Storm Water Discharges Associated with Construction Activity. This entails filing a Notice of Intent to Comply (NOI), paying a filing fee, and preparing and implementing a site-specific storm water pollution prevention plan (SWPPP) that addresses both construction-stage and post-construction BMP's for storm water quality protection.
27. **STORMWATER POLLUTION PREVENTION.** All improvement plan sets shall include the "Pollution Prevention – It's Part of the Plan" sheet.
28. **C.3 THIRD-PARTY CERTIFICATION.** Applicant shall provide certification from a qualified third-party reviewer that the proposed permanent storm water pollution prevention measures comply with the requirements of Provision C.3 and PAMC Chapter 16.11. The third-party reviewer shall provide the following documents to Public Works prior to building permit approval:
 - a. Stamped and signed C.3 data form (September 2019 version) from SCVURPPP. https://scvurppp.org/wp-content/uploads/2019/10/SCVURPPP_C3_Data_Form_September2019_fillable_final_9-24-19.pdf
 - b. Final stamped and signed letter confirming which documents were reviewed and that the project complies with Provision C.3 and PAMC 16.11.
29. **C.3 STORMWATER AGREEMENT.** The applicant shall enter into a Stormwater Maintenance Agreement with the City to guarantee the ongoing maintenance of the permanent storm water

pollution prevention measures. The City will inspect the treatment measures yearly and charge an inspection fee. The agreement shall be executed by the applicant team prior to building permit approval.

Note: Any revisions to the C.3 stormwater pollution prevention measures that are necessary to facilitate installation of said measures will be addressed in the agreement and the accompanying exhibits, executed by the City, and recorded with the County.

30. C.3 FINAL THIRD-PARTY CERTIFICATION PRIOR TO OCCUPANCY. Within 45 days of the installation of the required storm water treatment measures and prior to the issuance of an occupancy permit for the building, the third-party reviewer shall submit to the City a certification verifying that all the permanent storm water pollution prevention measures were installed in accordance with the approved plans.
31. PAVEMENT RESTORATION. The applicant shall restore the pavement along the entire project frontage, curb-to-curb, by performing a 3.5" grind and overlay. The exact restoration limits will be determined once the resulting road condition is known following completion of heavy construction activities and utility lateral installations, at minimum the extent will be the project frontage.
32. IMPERVIOUS SURFACE AREA. The project will be creating or replacing 500 square feet or more of impervious surface. Accordingly, the applicant shall provide calculations of the existing and proposed impervious surface areas with the building permit application. The Impervious Area Worksheet for Land Developments form and instructions are available at the Development Center or on our website. To determine the impervious surface area that is being disturbed, provide the quantity on the site plan.
33. PRIOR TO PUBLIC WORKS FINAL/ACCEPTANCE.
 - a. STORM DRAIN LOGO -- The applicant is required to paint "No Dumping/Flows to Matadero Creek" in blue on a white background adjacent to all onsite storm drain inlets. The name of the creek to which the proposed development drains can be obtained from Public Works Engineering. Stencils of the logo are available from the Public Works Environmental Compliance Division, which may be contacted at (650) 329-2598. Include the instruction to paint the logos on the construction grading and drainage plan.
 - b. RECORD DRAWINGS -- At the conclusion of the project applicant shall provide digital as-built/record drawings of all improvements constructed in the public right-of-way or easements in which the City owns an interest.
34. DEDICATION EASEMENT. The owner or designee shall record an easement for dedication as indicated on the project plans prior to issuance of building permits to the satisfaction of the Director of Public Works or designee.

PUBLIC ART

35. IN-LIEU FEE. If the owner or designee chooses to pay to the public art fund in-lieu of commissioning art on site, the funds must be received prior to the issuance of a building permit (See Condition #7).

TRANSPORTATION

36. EAST BAYSHORE ROAD / EMBARCADERO ROAD INTERSECTION. The existing pedestrian crossings are non-Americans with Disabilities Act (ADA) compliant at East Bayshore Road/ Embarcadero Road intersection. As part of the multi-use path construction, the owner or designee shall construct ADA compliant pedestrian crossings and ramps at the East Bayshore Road/ Embarcadero Road intersection. Pedestrian crossings and ramps shall meet the California Manual on Uniform Traffic Control Devices (CA MUTCD) requirements. The owner or designee shall submit the site plan for Office of Transportation approval before or during the building permit application.
37. MULTI-USE PATH. The owner or designee shall demonstrate that the multi-use path width is a minimum of 10 feet in width along the property frontage.
38. BICYCLE RACKS. The owner or designee shall provide inverted-U bicycle racks instead of 'wave' style bicycle racks.

WATER QUALITY

39. POLYCHLORINATED BIPHENYLS (PCBs). Since the project triggers PCBs, sampling as identified on the "PCBs Planning Application Form," then the project shall conduct representative sampling of PCBs concentration in accordance with the "Protocol for Evaluating Priority PCBs-Containing Materials before Building Demolition (2018)." The PCBs Application Package and other resources are outlined at <http://www.cityofpaloalto.org/pcbdemoprogram>.
- If the representative sample results or records DO NOT indicate PCB concentrations ≥ 50 ppm in one or more "priority materials," then the screening assessment is complete. Applicant submits screening form and the supporting sampling documentation with the demolition permit application. No additional action is required.
 - If the representative sample results or records DO indicate PCBs concentrations ≥ 50 ppm in one or more "priority materials," then the screening assessment is complete, but the Applicant MUST also contact applicable State and Federal Agencies to meet further requirements. Applicant submits screening form and the supporting sampling documentation with the demolition permit application and must contacts the State and Federal Agencies as indicated on Page 3 of the "PCBs Screening Assessment Form."

IMPORTANT: ADVANCED APPROVAL FROM THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (USEPA) OR OTHER STATE AGENCIES MAY BE REQUIRED PRIOR TO BUILDING DEMOLITION. IT IS RECOMMENEDED THAT APPLICANTS BEGIN THE PCBs ASSESSMENT WELL IN ADVANCE OF APPLYING FOR DEMOLITION PERMIT AS THE PROCESS CAN TAKE BETWEEN 1-3 MONTHS.

40. STORMWATER TREATMENT MEASURES. The following applies to the project:
- All Bay Area Municipal Regional Stormwater Permit requirements shall be followed.
 - Refer to the Santa Clara Valley Urban Runoff Pollution Prevention Program C.3 Handbook (download here: http://scvurppp-w2k.com/c3_handbook.shtml) for details.
 - For all C.3 features, vendor specifications regarding installation and maintenance should be followed and provided to city staff. Copies must be submitted to Pam Boyle Rodriguez at pamela.boyledrrodriguez@cityofpaloalto.org. Add this bullet as a note to the building plans.
 - Staff from Stormwater Program (Watershed Protection Division) may be present during installation of stormwater treatment measures. Contact Pam Boyle Rodriguez, Stormwater Program Manager, at (650) 329-2421 before installation. Add this bullet as a note to building

plans on Stormwater Treatment (C.3) Plan.

ZERO WASTE

Deconstruction and Construction Materials Management Requirements.

41. **REQUIRED DECONSTRUCTION.** In conformance with PAMC 5.24, deconstruction and source separation are required for all residential and commercial projects where structures are being completely removed, demolition is no longer allowed. Deconstruction takes longer than traditional demolition, it is important to plan ahead.
42. **SALVAGE SURVEY FOR REUSE.** A Salvage Survey is required for deconstruction permit applications. The survey shall be conducted by a City approved reuse vendor. The survey submittal shall include an itemized list of materials that are salvageable for reuse from the project. The applicant shall source separate and deliver materials for reuse. Certification is required indicating that all materials identified in the survey are properly salvaged.
43. **SOURCE SEPARATION FOR RECYCLING.** The applicant shall source separate deconstruction materials into specific categories for recycling. Additional staging areas for source separated materials will need to be considered. All materials shall be delivered to one of the City approved materials recovery facilities listed in Green Halo, all records shall be uploaded to www.greenhalosystems.com.
For more information, refer to www.cityofpaloalto.org/deconstruction.

PUBLIC WORKS URBAN FORESTRY

44. **TREE DAMAGE.** Tree Damage, Injury Mitigation and Inspections apply to Contractor. Reporting, injury mitigation measures and arborist inspection schedule (1-5) apply pursuant to Tree Technical Manual, Section 2.20-2.30. Contractor shall be responsible for the repair or replacement of any publicly owned or protected trees that are damaged during construction, pursuant to Title 8 of the Palo Alto Municipal Code, and city Tree Technical Manual, Section 2.25.
45. **GENERAL.** The following general tree preservation measures apply to all trees to be retained: No storage of material, topsoil, vehicles, or equipment shall be permitted within the tree enclosure area. The ground under and around the tree canopy area shall not be altered. Trees to be retained shall be irrigated, aerated, and maintained as necessary to ensure survival.
46. **EXCAVATION RESTRICTIONS APPLY (TTM, Sec. 2.20 C & D).** Any approved grading, digging, or trenching beneath a tree canopy shall be performed using 'air-spade' method as a preference, with manual hand shovel as a backup. For utility trenching, including sewer line, roots exposed with diameter of 1.5 inches and greater shall remain intact and not be damaged. If directional boring method is used to tunnel beneath roots, Trenching and Tunneling Distance, shall be printed on the final plans to be implemented by Contractor.
47. **TREE PROTECTION VERIFICATION.** Prior to any site work verification from the contractor that the required protective fencing is in place shall be submitted to the Urban Forestry Section. The fencing shall contain required warning sign and remain in place until final inspection of the project.

SECTION 8. Term of Approval.

1. Site and Design Approval. In the event actual construction of the project is not commenced within two years of the date of council approval, the approval shall expire and be of no further force or effect, pursuant to Palo Alto Municipal Code Section 18.82.080.

2. Design Enhancement Exceptions. The time limits for any Design Enhancement Exceptions shall be the same as the time limits for the accompanying design review approval.

3. Variance. The time limits for any Variance shall be the same as the time limits for the accompanying design review approval.

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

APPROVED:

City Clerk

Director of Planning and Development Services

APPROVED AS TO FORM:

Assistant City Attorney

PLANS AND DRAWINGS REFERENCED:

1. Those plans prepared by SPARC + titled "Mercedes Benz of Palo Alto", consisting of 87 pages, dated July 15, 2022, and received July 21, 2022 (revised August 10, 2022).

Exhibit 1 Mitigation Monitoring and Reporting Program

The mitigation monitoring table lists those mitigation measures that would be included as conditions of approval for the project. To ensure that the mitigation measures are properly implemented, a monitoring program has been devised which identifies the timing and responsibility for monitoring each measure.

Environmental Impact	Mitigation Measure	Responsible for Implementation	Timing of Compliance	Oversight of Implementation
BIOLOGICAL RESOURCES				
BIO-2: Nesting Bird Surveys and Avoidance	Construction of the project, shall be prohibited during the general avian nesting season (February 1 – August 31), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist, as approved by the City of Palo Alto, to conduct a preconstruction nesting bird survey of adjacent street trees to determine the presence/absence, location, and activity status of any active nests. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the MBTA and CFGC, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation clearance and structure demolition. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed within the buffer areas until a qualified biologist has determined that the nest is no longer active (i.e., the nestlings have fledged and are no longer reliant on the nest). No ground disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and February 1.	Applicant or designee/Construction contractor	Prior to and during construction	CPA Planning Department
CULTURAL RESOURCES				
CR-1: Resource Recovery Procedures.	In the event that archaeological or paleontological resources are unearthed during project construction, all earth-disturbing work in the vicinity of the find shall be temporarily suspended or redirected until an archaeologist or paleontologist has evaluated the nature and significance of the find. If the discovery	Applicant or designee/Construction contractor	During construction	CPA Planning Department

Environmental Impact	Mitigation Measure	Responsible for Implementation	Timing of Compliance	Oversight of Implementation
	proves to be significant under CEQA, additional work such as preservation in place, archaeological data recovery, and/or paleontological salvage shall occur as required by the archeologist or paleontologist in coordination with City staff and descendants and/or stakeholder groups, as warranted. After the find has been appropriately treated, depending on the nature of the discovery, work in the area may resume. A Native American representative shall be retained to monitor mitigation work associated with Native American cultural material.			
CR-2: Human Remains Recovery Procedures	If human remains are unearthed, State Health and Safety Code Section 7050.5 requires that no further disturbance shall occur until the County Coroner has made the necessary findings as to the origin and disposition pursuant to the Public Resources Code Section 5097.98. If the remains are determined to be of Native American descent, the coroner has 24 hours to notify the Native American Heritage Commission.	Applicant or designee/Construction contractor	During construction	CPA Planning Department
TCR-1: Unanticipated Discovery of Tribal Cultural Resources	In the event that cultural resources of Native American origin are identified during construction, all earth disturbing work within the vicinity of the find must be temporarily suspended or redirected until an archaeologist has evaluated the nature and significance of the find and an appropriate Native American representative, based on the nature of the find, is consulted. If the City determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with state guidelines and in consultation with Native American groups. The plan would include avoidance of the resource or, if avoidance of the resource is infeasible, the plan would outline the appropriate treatment of the resource in coordination with the archeologist and the appropriate Native American tribal representative.	Applicant or designee/Construction contractor	During construction	CPA Planning Department
GEOLOGY AND SOILS				
GEO-1: Geotechnical Design Considerations	The recommendations included in the 2015 Geotechnical Investigation conducted by Romig Engineers, Inc. (Appendix C) related to soil engineering shall be incorporated into the proposed project grading and building plans. The recommendations are related to:	Applicant or designee	Prior to building permit	CPA Planning Department

Environmental Impact	Mitigation Measure	Responsible for Implementation	Timing of Compliance	Oversight of Implementation
	<ul style="list-style-type: none"> ◆ Foundation design; ◆ Surface improvements; ◆ Slabs-on-grade; ◆ Retaining walls; ◆ Vehicle pavements; and, ◆ Earthwork. 			
TRIBAL CULTURAL RESOURCES				
TCR-1: Unanticipated Discovery of Tribal Cultural Resources	In the event that cultural resources of Native American origin are identified during construction, all earth disturbing work within the vicinity of the find must be temporarily suspended or redirected until an archaeologist has evaluated the nature and significance of the find and an appropriate Native American representative, based on the nature of the find, is consulted. If the City determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with state guidelines and in consultation with Native American groups. The plan would include avoidance of the resource or, if avoidance of the resource is infeasible, the plan would outline the appropriate treatment of the resource in coordination with the archeologist and the appropriate Native American tribal representative.	Applicant or designee / Construction Contractor	During Construction	CPA Planning Department

ATTACHMENT C
ZONING COMPARISON TABLE
1700 Embarcadero Road, 21PLN-00191

Table 1: COMPARISON WITH CHAPTER 18.16 (CS DISTRICT) and CHAPTER 18.30(F) (AD Combining District) Exclusively Non-residential Development Standards			
Regulation	Required	Existing	Proposed
Minimum Site Area, width and depth	None	2.54 acres	2.54 acres
Minimum Front Yard	0-10 feet to create an 8-12 foot effective sidewalk width ^{(1), (2), (8)}	37 feet	45'-6"
Rear Yard	None	154 feet	68'-8"
Interior Side Yard	None	52 feet	66'-8"
Street Side Yard	None	87 feet	89'-3"
Min. yard for lot lines abutting or opposite residential districts or residential PC districts	10 feet ⁽²⁾	Not applicable	Not applicable
Build-to-lines	50% of frontage built to setback on Embarcadero Road 33% of side street built to setback on Bayshore Road ⁽⁷⁾	Not applicable	No Build-To proposed
Max. Site Coverage	None	11% (12,207 sf)	33% (35,694 sf)
Max. Building Height	50 ft	33'-6"	26 feet to parapet 36 feet to sign element
Max. Floor Area Ratio (FAR)	0.4:1 (44,173 sf) 18.30(F)(a)(1) 0.2:1 Additional FAR for Automobile Dealership Showrooms on the first floor. 0.6:1 (66,259 sf) 18.30(F)(a)(2) Exclude service drives (PAMC) 18.30(F).050(a)(3)(b)	0.14:1 (15,207 sf)	1 st floor: 25,099* sf 2 nd floor: 5,715 sf Trash enclosure: 381 sf Showroom/Dealership /Service: 0.29:1 (31,195 sf)* *Includes 4,097 sf showroom **Excludes 4,499 sf service drive

(1) No parking or loading space, whether required or optional, shall be located in the first 10 feet adjoining the street property line of any required yard.

(2) Any minimum front, street side, or interior yard shall be planted and maintained as a landscaped screen excluding areas required for access to the site. A solid wall or fence between 5 and 8 feet in height shall be constructed along any common interior lot line.

(6) The initial height and slope shall be identical to those of the most restrictive residential zone abutting the site line in question.

(7) 25 foot driveway access permitted regardless of frontage, build-to requirement does not apply to CC district.

**Table 2: COMPARISON WITH CHAPTER 18.16 (CS DISTRICT) and CHAPTER 18.30(F) (AD Combining District)
continued**

Exclusively Non-residential Development Standards

Topic	Requirement	Proposed
Hours of Operation (18.16.040 (b))	Businesses with activities any time between the hours of 10:00 p.m. and 6:00 a.m. shall be required to obtain a conditional use permit. The director may apply conditions of approval as are deemed necessary to assure compatibility with the nearby residentially zoned property	Compliant
Outdoor Sales and Storage (18.16.060 (h))	<p>(3) In the CS district, outdoor sales and display of merchandise, and outdoor eating areas operated incidental to permitted eating and drinking services shall be permitted subject to the following regulations:</p> <p>(A) Outdoor sales and display shall not occupy a total site area exceeding the gross building floor area on the site, except as authorized by a conditional use permit.</p> <p>(B) Areas used for outdoor sales and display of motor vehicles, boats, campers, camp trailers, trailers, trailer coaches, house cars, or similar conveyances shall meet the minimum design standards applicable to off street parking facilities with respect to paving, grading, drainage, access to public streets and alleys, safety and protective features, lighting, landscaping, and screening.</p> <p>(C) Exterior storage shall be prohibited, unless screened by a solid wall or fence of between 5 and 8 feet in height.</p>	Not Applicable because the site is subject to the AD combining district
Outdoor Sales and Storage (18.30(F).050(c))	<p>(c) Outdoor Sales and Storage</p> <p>Outdoor sales and display of automobiles and merchandise shall be permitted subject to the following regulations:</p> <p>(1) Two automobile display pads shall be permitted in the required setback area, including landscaped areas, adjacent to a public right-of-way. A single automobile display pad shall be no higher than eight feet, measured to the highest point of the automobile on the display pad, and the surface of the display pad area shall be no larger than 175 square feet.</p> <p>(2) Areas for outdoor sales and display of motor vehicles, other than automobile display pads, shall meet the minimum design standards applicable to off-street parking facilities with respect to paving, grading, drainage, safety and protective features, lighting, and screening. Striping for parking stalls shall not be required for auto display and storage areas.</p> <p>(3) Exterior storage shall be screened by a solid wall or fence of between five and eight feet in height.</p>	Compliant

Recycling Storage (18.16.060 (i))	All new development, including approved modifications that add thirty percent or more floor area to existing uses, shall provide adequate and accessible interior areas or exterior enclosures for the storage of recyclable materials in appropriate containers. The design, construction and accessibility of recycling areas and enclosures shall be subject to approval by the architectural review board, in accordance with design guidelines adopted by that board and approved by the city council pursuant to Section 18.76.020.	Recycling is at the rear portion of the site.
Employee Showers (18.16.060 (j))	Retail Services requires one (1) shower for 25,000-49,999 sf	Not applicable to Automobile Dealerships
Office Use Restrictions (18.16.050)	Total floor area of permitted office uses on a lot shall not exceed 25% of the lot area, provided a lot is permitted between 2,500 and 5,000 sf of office use. The maximum size may be increased with a CUP issued by the Director.	Not applicable

18.16.080 Performance Standards. All development in the CS district shall comply with the performance criteria outlined in [Chapter 18.23](#) of the Zoning Ordinance, including all mixed use development

18.16.090 Context-Based Design Criteria. As further described in a separate attachment, development in a commercial district shall be responsible to its context and compatible with adjacent development and shall promote the establishment of pedestrian oriented design.

Table 3: CONFORMANCE WITH CHAPTER 18.52 (Off-Street Parking and Loading) for Automobile Dealerships*			
Type	Required	Existing	Proposed
Vehicle Parking	Outdoor vehicle display $3,078/500 = 6.16$ spaces Automobile Dealership $30,814/400 = 77.03$ spaces Total: 83 spaces	161 spaces	85 spaces
Bicycle Parking	1 per 10 employees (100% short term)	None	4 spaces (40 employees)
Loading Space	2 loading spaces for 30,000 - 69,999 sf	None	2 spaces**

* On-site employee amenity space is exempted from the parking requirements

** Requires Director's modification to required dimensions

**Table 4: CONFORMANCE WITH CHAPTER 18.54 (Parking Facility Design Standards)
for Automobile Dealerships***

Regulation	Required	Proposed
Tree Canopy and Sizes	Landscaping within surface parking areas shall include tree plantings designed to result in 50 percent shading of parking lot surface areas within 15 years. Trees required to meet any section of this title shall be a minimum fifteen gallon size, and at least twenty-five percent (25%) shall be twenty-four-inch box or larger. Fifty percent (50%) of shrubs shall be a minimum of five-gallon size. Provided, in the Site and Design Review (D) combining district, the minimum plant size requirements set forth in this section may be decreased, as set forth in Chapter 18.30(G) .	22,456 SF canopy area / 54,899 SF drivable area 41%
Perimeter Landscaping	Each unenclosed parking facility shall provide a perimeter landscaped strip at least five feet wide between and adjacent to a line defining the exterior boundary of the parking area and the nearest adjacent property line, not separated by a building.	Complies
Interior Landscaping – Amount Required	Interior landscaping is required within the parking facility between the perimeter landscaped area and the edge of pavement adjacent to any building on the site. Each unenclosed parking facility shall provide a minimum of interior landscaping. Size of parking facility: >30,000 = min. 10% landscaping Parking facility = 54,899 SF = min 5,473 SF landscaping	Complies 22,332 SF

Attachment D: Actions from prior Hearings

City Council:

20PLN-00002, June 22, 2020 Appeal

<https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?BlobID=77228>

Upheld approval decision for 19PLN-00291

18PLN-00186, June 24, 2019:

<https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?BlobID=72062>

Approval of project – Return to ARB for certain items (see 19PLN-00291)

15PLN-00394, June 6, 2016:

<http://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?BlobID=52594>

Was reviewed by ARB six times in 2015/2016; Reviewed by PTC on April 27, 2016; then referred back to ARB by Council, at which time the applicant withdrew the application.

PTC:

18PLN-00186, March 27, 2019:

<https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?BlobID=70015>

Recommend approval to City Council

ARB:

21PLN-00191, June 16, 2022 1st Formal:

<https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/architectural-review-board/2022/arb-06.16.2022-1700-embarcadero-rd.pdf>

Continue to a date uncertain

19PLN-00291, March 5, 2020 2nd Formal:

<https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?BlobID=75555>

Recommend approval to Director

December 19, 2019 1st Formal:

<https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?BlobID=74447>

Continue

18PLN-00186, June 6, 2019 3rd Formal:

<http://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?BlobID=71733>

Continue to date uncertain (no recommendation to City Council)

April 4, 2019 2nd Formal:

<http://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?BlobID=70111>

Continue

September 20, 2018 1st Formal:

<http://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?BlobID=66721>

Continue



SWICKARD AUTO GROUP

July 15, 2022

City of Palo Alto
Department of Planning & Development Services
250 Hamilton Avenue
Palo Alto, CA 94301

Re: Proposed Mercedes-Benz Dealership
Project Description & Justification
1700 Embarcadero Road
Palo Alto, CA 94303

To Whom It May Concern:

Swickard Auto Group appreciates the feedback received at the June 16, 2022, ARB meeting. In light of that feedback, we have had our architectural, engineering, and landscape professionals revise the proposal to address as many of the concerns as possible. The gist of the project remains the same; to de-construct the former Ming's Restaurant building and construct a new predominantly one-story Mercedes-Benz dealership including a sales and service facility at 1700 Embarcadero Road. On site improvements are proposed to include customer and employee parking spaces, inventory storage spaces, landscaping, a driveway connection to the adjacent existing Audi dealership, solar canopies, and a dumpster enclosure. The small scale of the building proposed with the project is specifically designed to serve the surrounding community. An offsite multi-use path has been added to the proposal to replace an existing sidewalk and solar canopies have been added to the shade a portion of the parking lot between the existing Audi dealership and the proposed Mercedes-Benz building. Revised plans are to be found in the link sent to the City and hard copies of plans can be provided as requested. A synopsis of the changes found on the revised plans is as follows:

- A. A multi-use path is now proposed along Embarcadero and East Bayshore to replace an existing concrete sidewalk and trees. This multi-use path requires the dedication of 473 square feet of right-of-way as shown on Exhibit 2. It also results in a loss of 11 trees which provide 794 square feet shade cover for the parking and vehicle storage areas.



 SWICKARD AUTO GROUP

As previously discussed, we remain extremely concerned about the safety of such a multi-use path due to the conflicts with the vehicular driveways to the site and the adjacency of the path to vehicular traffic. Our preference and recommendation remains to preserve the existing sidewalk and street trees and for the City of Palo Alto to construct on-street bike lanes within the current right-of-way.

- B. The proposed shade cover over the proposed asphalt has been increased to 23,535 square feet. The total asphalt area on the lot is 56,892 square feet; however, 16,202 square feet of that area is within the PGE high voltage electricity easement where the planting of new canopy trees is prohibited. Subtracting the PGE easement area leaves 40,690 square feet of asphalt with 23,535 square feet of cover which represents a 58% shade coverage level which exceeds the 50% level of the code. Additionally, 6,870 square feet of solar canopy is proposed between the Mercedes-Benz and Audi buildings. Of that amount, an additional 3,824 square feet of parking lot coverage or a total of 67% of shade coverage over the non-PGE area. The PGE high voltage transmission easement meets the definition of a unique circumstance that negatively impacts the site and therefore meets the criteria of a variance. We are requesting a variance to the permit the shade level as proposed on the resubmitted plans.
- C. In addition to the additional trees provided to meet the shading requirements, two species of trees were changed to meet the requests of the ARB. The non-native Ginkgo Biloba trees were changed to native Western Redbud and the California Buckeye was changed to Valley Oak. Additionally, while the site does not border the Baylands, an additional planting area consisting of 12 trees and 14 evergreen shrubs is proposed on Baylands to screen the proposed building as well as the existing neighboring office building.
- D. The service drive roll-up doors have been removed and it is now an open-air service drive.
- E. The reclaimed wood siding is now shown on both sides of the service drive. Additional elevations and perspective drawings are included to graphically show such.
- F. On the rear elevation of the building, the black corrugated panel system has been greatly reduced to minimally wrap the corner. The rear of the building is now painted 3 shades of grey-green to match typical native vegetation. The color of the roof top screens has been revised to a matching grey-green. A graphic rendering showing the existing and proposed view of the Mercedes-Benz building from the trail in the Baylands shows that



SWICKARD AUTO GROUP

even without the new landscaping, the view of the proposed building is 99% blocked by existing vegetation.

- G. The customer parking spaces have been better identified on the plans and are labeled “CP”. There is customer parking on both sides of the service drive to accommodate both sales and service customers.
- H. The bicycle rack has been revised to a type that allows the front and rear wheels to be locked to it as well as the frame of the bike.
- I. Additional landscaping was included near the showroom glass to further limit bird strikes. While a UV glass is proposed to limit such strikes, the actual manufacturer of the glass has not been determined at this time due to global supply issues. The glass manufacturer will be chosen based on availability closer to construction time. Adding vinyl dots to the glass was deemed unfeasible due to the nature of the use of the building as a vehicular showroom.
- J. Three additional ideas from the ARB were evaluated but deemed not feasible to be part of this project. One idea was to move the building toward the existing Audi building. Moving the building that direction would result in the loss of the landscaping along that side of the building and/or the loss of the solar canopies. It would also reduce the size of the water quality sediment ponds located on that side of site. Those areas are not able to be reduced due to code requirements. A second idea was to reduce the vehicle storage along East Bayshore to relocate the bike path behind the existing landscaping. That layout would result in a significant taking of property and create a project that is not feasible to be built. Approximately 20 to 25 vehicle spaces would be lost. Any loss in parking would jeopardize the loss of code required and/or manufacturer required onsite vehicle storage spaces. The third idea was to create a green roof over part or all of the building. While a green roof would help accomplish the goal of reducing the heat island effect, it also limits the opportunity for future solar to be mounted on the roof. The building is being built with the ability to add rooftop solar in the future. With an unknown future of what climate change will bring, we believe having the option of solar on the roof is critical to limit consumption of fossil fuels on site. To limit the heat island effect, the building will have a white roof which has a surface temp of 80 degrees cooler than a black roof and additional landscaping was added to the lot.



SWICKARD AUTO GROUP

We believe the revised proposed project Site and Design further complies with the following objectives from 18.82.060 PAMC:

- a. To ensure construction and operation of the use in a manner that will be orderly, harmonious, and compatible with existing or potential uses of adjoining or nearby sites.

The proposed Mercedes-Benz dealership will be consistent with the surrounding uses. Professional offices are to the north and south of the project site. Medical offices are located across Bayshore to the west of the dealership. The local Audi and Honda dealership are located to the east of the proposed site. This proposed dealership will further extend the dealerships to the East, continuing and further comingling the automobile dealership uses in the area, providing an efficient area for the surrounding community.

- b. To ensure the desirability of investment, or the conduct of business, research, or educational activities or other authorized occupations, in the same or adjacent areas.

The proposed Mercedes-Benz dealership will further the desirability of investment by replacing a dilapidated restaurant building with a modern, environmentally sensitive automobile dealership. This will provide further consistency with the surrounding uses as it will continue the row of automobile dealerships to the east of the site while raising the bar for environmentally sensitive design. By developing such a facility, Swickard Auto Group hopes to further stimulate the area for future investment and redevelopment.

- c. To ensure that sound principles of environmental design and ecological balance shall be observed.

The proposed Mercedes-Benz dealership utilizes sound principles of environmental design and ecological balance by designing a building that is harmonious to the natural environment and surrounding area. The existing building will be de-constructed to the highest level feasible to recycle as many of the materials as possible. The proposed dealership maintains a low profile and clean lines so as not to impose the surrounding building and area. The proposed building also uses natural earth tone colors and natural materials. In addition, the proposed building has a full height landscaped wall feature that wraps around the southwest corner of the building and full height window panels to let natural light in to further promote sound principles of environmental design and ecological balance. It utilizes reclaimed wood siding to minimize the use of natural resources. Solar canopies are proposed between the Mercedes-Benz building and the existing Audi building to minimize dependence on fossil fuels. The roof structure will be built to support additional solar panels.



SWICKARD AUTO GROUP

d. To ensure that the use will be in accord with the Palo Alto Comprehensive Plan.

The proposed Mercedes-Benz automobile dealership use is consistent with the Palo Alto Comprehensive Plan. The proposed development continues the automobile dealership uses to the East of the site and is consistent with the uses described in the Service Commercial land use designation. The project is on land that already has development and is consistent with the surrounding development pattern, including larger buildings and larger street setbacks.

Sincerely,



Eric Iversen
Director of Real Estate and Facilities
Swickard Auto Group
541.301.2748

Project Plans

In order to reduce paper consumption, a limited number of hard copy project plans are provided to Board members for their review. The same plans are available to the public, at all hours of the day, via the following online resources.

Environmental Document

An Addendum to the Mitigated Negative Declaration has been prepared for this project.

Directions to review Project plans and environmental documents online:

1. Go to: bit.ly/PApendingprojects
2. Scroll down to find “1700 Embarcadero Road” and click the address link
3. On this project-specific webpage you will find a link to the project plans and other important information

Direct Link to Project Webpage:

<https://www.cityofpaloalto.org/News-Articles/Planning-and-Development-Services/1700-Embarcadero-21PLN-00191>

Materials Boards:

Prior to the hearing, color and material boards will be available to view in the display case outside of City Hall, on the exterior elevator near the corner of Hamilton Ave. and Bryant St. For closer examination, this same board will be brought to chambers during the ARB hearing.