



City of Palo Alto

City Council Staff Report

(ID # 11380)

Report Type: Consent Calendar

Meeting Date: 6/22/2020

Summary Title: 1700 & 1730 Embarcadero Rd: Appeal of Director's Decision

Title: QUASI-JUDICIAL. 1700-1730 Embarcadero Road [20APL-00002 and 19PLN-00291]: Appeal of Director's Approval of a Major Architectural Review to Address the Following Outstanding Issues for a Previously Approved Auto Dealership Project: Color, Landscaping, Parapets, Lighting, Transportation Demand Management Plan, County Airport Land Use Commission Review; and Floor Area Ratio. Environmental Assessment: Addendum to an Initial Study/Mitigated Negative Declaration That was Adopted for the Project on June 24, 2019. Zoning District: CS(D)(AD)

From: City Manager

Lead Department: Planning and Development Services

Recommendation

Staff recommends that Council adopt the attached Record of Land Use Action¹ denying the appeal upholding the Planning and Development Services (PDS) Director's approval of an Architectural Review application and confirming the proposed project as consistent with the Council-adopted Initial Study/Mitigated Negative Declaration pursuant to the California Environmental Quality Act.²

Background

On June 24, 2019³, the City Council conditionally approved applications for two new automobile dealerships at the subject property.⁴ As a condition of approval, the City Council directed the applicant re-apply for a new architectural review application to address unresolved issues

¹ See Attachment A

² Environmental documents are available online at <https://www.cityofpaloalto.org/news/displaynews.asp?NewsID=4367>

³ June 24, 2019 City Council Staff Report: <https://www.cityofpaloalto.org/civicax/filebank/documents/72062>

⁴ Council-approved Record of Land Use Decision is available online at: <https://www.cityofpaloalto.org/news/displaynews.asp?NewsID=4367>

related to compliance with the Bayside Master Plan (building colors and materials) and other minor details.⁵

Consistent with that direction, a new application was filed and reviewed at two public hearings by the Architectural Review Board;⁶ the Board recommended project approval to the Director or Planning and Development Services. The application was approved on May 4, 2020 and appealed on May 20th.

The appeal statement⁷ provides the reason for the appeal which is specifically limited to the adjoining property owner's concern regarding noise emanating from the carwash enclosure. The appellant cites concerns about the noise analysis prepared in 2019 for the dealership and suggests the facility would not be able to operate in compliance with the noise ordinance. The resulting noise, the appellant asserts, would be disruptive to the quiet professional office work environment for occupants of the building on the adjacent property.

As explained below, this appeal is not relevant to the action taken on May 4th and represents a request to change project related details that the City Council previously approved.

Discussion

The appellant's objection to the carwash is a topic that was raised during the Council's June 24, 2019 public hearing.⁸ As part of the Site and Design and Architectural Review applications, the City Council reviewed the placement of the carwash and asked questions about noise generated by the carwash and reviewed documents that included noise mitigation measures and conditions of approval to address noise-related concerns. When approving the project last year, the City Council did not include any additional conditions regarding the carwash or noise.

The application that was subsequently filed, and is the subject of this appeal, is not related to the placement or noise generated by the carwash – as these aspects were already approved by Council. The current architectural review application responds to the Council direction for

⁵ The June 24, 2019 City Council action detail the Co:

<https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?t=52228.36&BlobID=72794>

⁶ December 19, 2019, ARB Staff Report (<https://tinyurl.com/12-19-2019-ARB-Report>) and minutes (<https://tinyurl.com/12-19-2019-ARB-Minutes>); March 5, 2020 ARB report (<https://tinyurl.com/03-05-2020-ARB-Report>) and minutes (<https://tinyurl.com/03-05-2020-ARB-Minutes>)

⁷ See Attachment B

⁸ June 24, 2019 Council Minutes:

<https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?t=71135.72&BlobID=72709>

changes to the building colors, materials, landscaping, lighting and other fine details that were unresolved at time of approval. Overall building mass, layout and circulation were approved last year.

Given that the appellant's only objection to the project, as included in the appeal statement, is limited to the carwash placement and noise, staff finds the appeal not relevant to the subject application. Accordingly, staff is recommending that the City Council decline the appeal, upholding the director's approval. If pulled off Consent Calendar by three or more Councilmembers, however, the item would be scheduled for a public hearing in August.

Regardless of the apparent lack of standing for the appeal, it remains that operation of the carwash must comply with the mitigation measures imposed through the environmental review process and Council-adopted conditions of approval. Staff will measure the operational noise of the carwash following construction and prevent its use if it fails to meet City noise requirements.

Stakeholder Engagement

Staff has been in contact with the applicant and the appellant in an effort to help address the noise related concerns. At the time this report was written, the appellant was preparing their own noise study to document their concerns. If, through neighbor negotiations, there is an opportunity to satisfy the concerns of both parties, staff will help facilitate resolution in a manner that is consistent with the Council-approved findings and plans.

Policy Implications

There are no significant policy implications associated with the recommendation in this report.

Resource Impacts

The recommendation in this report has no significant fiscal or budget impact.

Environmental Review

An initial study and mitigated negative declaration were previously prepared in accordance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the City's environmental regulations; and, the City Council adopted those environmental findings on June 24, 2019. The project refinements associated with the subject application are sufficiently addressed in the previous environmental analysis and, therefore, no additional analysis is necessary.

Attachments:

Attachment A: Draft Record of Land Use Action for Phase 2 (Details)

Attachment B: Appeal Letter

Attachment C: Project Plans & Environmental Documentation

ACTION NO. 2020-_____

**RECORD OF THE COUNCIL OF THE CITY OF PALO ALTO LAND USE ACTION
FOR 1700 & 1730 EMBARCADERO ROAD: ARCHITECTURAL REVIEW
[19PLN-00291]**

On _____, 2020, the Council of the City of Palo Alto approved the Architectural Review application for the demolition of an existing 18,000 square foot vacant restaurant building and a 15,700 Square foot Audi service building and construction of two new automobile dealerships on two separate parcels located in the CS(D)(AD) zoning districts, making the following findings, determinations and declarations:

SECTION 1. Background.

A. On June 24, 2019, following a public hearing, the City Council adopted Resolutions and adopting the Initial Study/Mitigated Negative Declaration and Mitigation, Monitoring and Reporting Program and approving Site and Design Review of the Project, and Introduced an Ordinance Re-zoning the site. As part of this approval, the Record of Land Use Action required that the applicant submit a subsequent Architectural Review application to address several outstanding items (color, landscaping, parapets, lighting, Transportation Demand Management plan, County Airport Land Use Commission review, and floor area ratio reconciliation).

B. Lyle Hutson on behalf of Holman Automotive Group, Inc, property owner, has requested the City's approval of a development project to allow for the demolition of existing structures and the construction of a two-story automobile dealership with two separate brands and submitted an application to address the certain outstanding issues ("The Project").

C. The project site includes two parcels (APN 008-03-084 [2.54 acres] & APN 008-03-066 [2.28 acres]) totaling 4.82 acres in size. The site is currently developed with an existing single-story 17,942 square foot vacant restaurant and a 22,429 square foot automobile dealership. 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 Site and Design (D) and Automobile Dealership (AD) combining districts.

The project includes the demolition of existing on-site structures with the exception of the Audi Showroom building and the construction of two new two-story automobile dealership with service facilities, structured parking and a detached car wash building. The application addressed color, landscaping, parapets, lighting, Transportation Demand Management plan, County Airport Land Use Commission review, and floor area ratio reconciliation.

D. Following staff review, the Architectural Review Board (ARB) reviewed and recommended approval of the Project on March 5, 2020. The ARB's recommendations are contained in CMR 11076 and the attachments to it.

E. On May 4, 2020, the Director of Planning and Development Services tentatively approved the project.

F. On May 20, 2020, Gemma Lim, on behalf of Jin Pi representing the property at 2479 East Bayshore filed an appeal.

G. On June 22, 2020, the City Council reviewed the appeal and voted to uphold the Director’s decision and deny the appeal subject to the conditions set forth in Section 4 of this Record of Land Use Action.

SECTION 2. Environmental Review. The City as the lead agency for the Project has determined that the project is covered by the previous Initial Study and Mitigated Negative Declaration prepared for the prior application (File No. 18PLN-00186) adopted on June 24, 2019. The Mitigated Negative Declaration identifies that the project would create significant impacts to the following topics: Biological resources, cultural resources, geology and soils and transportation/traffic. Each significant impact can be reduced to less than significant with the implementation of mitigation measures. This project is a result of fulfilling a condition of approval to address specific issues of the originally approved project. None of the proposed revisions to the project create any new impacts beyond those identified. Therefore, no new analysis is necessary and an Addendum documents the minor changes.

SECTION 3. Architectural Review Findings

The design and architecture of the proposed improvements, as conditioned, complies with the Findings for Architectural Review as required in Chapter 18.76 of the PAMC.

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:

Land Use and Community Design Element	
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	The project proposes two automobile dealerships located at Embarcadero Road northeast of Bayshore Freeway.

<p>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.</p>	
<p>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.</p>	<p>The project is surrounded by established urban uses and is designed to be consistent with the surrounding structures. A portion of the project is adjacent to the Baylands area and is designed to be compatible with the open space area.</p>
<p>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.</p>	<p>The project provides a multi-use path that would facilitate pedestrian and bicycle users. This path closes a gap in the city’s planned bicycle network.</p>
<p>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.</p>	<p>The project includes updates the pedestrian and bicycle circulation adjacent to the subject property. Proposed plantings are generally drought-tolerant. Trees along Bayshore Road will be consistent with the utility easement requirements and some are regionally indigenous and are drought tolerant.</p>
<p>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.</p>	<p>The project proposes a multi-use pathway that will close the gap in the City’s planned bicycle network and provide a safer alternative for cyclists.</p>
<p>Policy L-5.4 Maintain the East Bayshore and San Antonio Road/Bayshore Corridor areas as diverse business and light industrial districts.</p>	<p>The project maintains an automobile dealership and adds another automobile dealership. These will continue the vitality of the district.</p>
<p>Policy L-6.1 Promote high-quality design and site planning that is compatible with surrounding development and public spaces.</p>	<p>Project includes a variety of materials such as stucco, metal, glass, and green screens. All of which complement the surrounding buildings in the area. The Bayshore Road elevation is consistent in material and</p>

	design providing visual interest.
Policy L-6.3 Encourage bird-friendly design.	Bird friendly glass is included in the project design.
Policy L-6.6 Design buildings to complement streets and public spaces; to promote personal safety, public health and wellbeing; and to enhance a sense of community safety.	The design of the buildings are sensitive to the streetscape, its surroundings and are consistent with the Baylands Master Plan design guidelines with the buildings having a horizontal design, stepped massing, large overhangs and curved walls.
Policy L-9.2 Encourage development that creatively integrates parking into the project, including by locating it behind buildings or underground wherever possible, or by providing for shared use of parking areas. Encourage other alternatives to surface parking lots that minimize the amount of land devoted to parking while still maintaining safe streets, street trees, a vibrant local economy and sufficient parking to meet demand.	The project includes very little surface parking and most parking is located within a unique above-ground parking lift structure.
Transportation Element	
Comprehensive Plan Goal/Policy	Consistency
<p>Program T-1.2.3: Formalize TDM requirements by ordinance and require new developments above a certain size threshold to prepare and implement a TDM Plan to meet specific performance standards. Require regular monitoring/reporting and provide for enforcement with meaningful penalties for non-compliance. The ordinance should also:</p> <ul style="list-style-type: none"> ➤ Establish a list of effective TDM measures that include transit promotion, prepaid transit passes, commuter checks, car sharing, carpooling, parking cash-out, bicycle lockers and showers, shuttles to Caltrain, requiring TMA membership and education and outreach to support the use of these modes. ... ➤ Establish a mechanism to monitor the success of TDM measures and track the cumulative reduction of peak hour motor vehicle trips. TDM measures should at a minimum achieve the following reduction in peak hour motor vehicle trips, with a focus on single-occupant vehicle trips. Reductions should be based on the rates included in the Institute of Transportation 	The project submitted a TDM (November 27, 2019) for consideration by the City.

<p>Engineers' Trip Generation Manual for the appropriate land use category and size:</p> <ul style="list-style-type: none"> - 20 percent reduction 	
<p>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.]</p>	<p>The project provides a multi-use path that will improve the pedestrian and bicycle circulation within the area, consistent with the goals of the Bicycle & Pedestrian Transportation Plan.</p>
<p>Policy T-5.6 Strongly encourage the use of below-grade or structured parking, and explore mechanized parking instead of surface parking for new developments of all types while minimizing negative impacts including on groundwater and landscaping where feasible.</p>	<p>The project provides structured parking integrated into the building. This is atypical for automobile dealerships. The site includes very little surface parking.</p>

2. The project has a unified and coherent design, that:

- a. creates an internal sense of order and 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 because the project provides specific design details such as matte color finishes, frosted glass parapets, green screens, changes in elevation planes and landscaping that create appropriate transitions and sense of mass that complements its surrounding environment. The project's proposed lighting plan will not adversely affect the adjacent Baylands during business operations. The lighting plan also demonstrates that during off-business hours, the lighting intensity would be reduced by 50% in certain areas. The project is consistent with the 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 includes a multi-use path that provides a connection in the Baylands area. The path will include a rest area.

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

The project includes improved design elements such as matte finish color, frosted glass parapets to limit light pollution, and green screens to provide transitions to the Baylands and break up building mass. The Bayshore Road elevation includes a continuous and cohesive design.

3. Massing and Setbacks

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

The project includes improved design elements that help with minimizing mass along Embarcadero and Bayshore Road.

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 does not abut lower scale residential development.

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 a multi-use path at the perimeter of the project site along the streets.

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 parking in above ground parking structures. There is some surface level parking available to customers.

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 project is consistent with surrounding development patterns with large setbacks.

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.

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 proposes a contemporary design using metal, stucco, glass and green screens. Colors are consistent with the retailer's brand and complements the Baylands and surrounding buildings using a matte finish. Overall, the colors are softer than the typical Mercedes / Audi Brand, which integrates better with the Baylands. Materials are integrated into a building design that minimizes mass and provides transitions with surrounding development. Visual interest is maintained along both Embarcadero Road and Bayshore Road with the use of changes in planes along elevations and use of different types of materials. The rear of the buildings provide the appropriate transition from urban to natural with the use of green screen walls and plantings. The detached car wash is screened with tall plantings to reduce visual impacts from adjacent properties.

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.).

The project proposes a design that includes an internal merchandise stacking system that reduces the building's footprint. This reduces the need for a large surface parking area. The project proposes a multi-use path that provides a connection for bicyclists in the Baylands area. This also creates the necessary buffer between the street and the project site.

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.

Throughout the building and along the elevations, the landscape materials of the project take advantage of site constraints. The site includes an overhead utility easement where only trees with limited height are allowed. Given the constraints of the overhead utility easement, the plants chosen have the canopy and variation that would provide the appropriate contrast and visual interest along Bayshore Road. The project's landscape palette includes the appropriate amount of indigenous drought tolerate plants. The building's facades are covered in green screens where it interfaces with the Baylands. The project also includes off-site tree plants to provide better screening between the Audi building and the Baylands. Additional trees were added onsite between the Mercedes Benz building and Bayshore Road. Overall, substantial new native plantings will integrate with the Baylands. Given the space constraints and the sensitivity of the placement of the car wash building, the use of non-native plantings for the purposes of screening outweighs using native plants.

6. The project incorporates design principles that achieve sustainability in areas related to

energy efficiency, water conservation, building materials, landscaping, and site planning.

Per the City of Palo Alto planning goals, the project incorporates design principles that achieve sustainability in areas related to energy efficiency, water conservation, building materials, landscaping, and site planning.

The systems proposed for the building will be designed to meet to energy performance criteria of California Title 24 for Mechanical, Lighting, and Building Envelope. The project includes a checklist for non-residential CalGreen and Tier 2 requirements such as electric vehicle charging and parking spaces; water efficiency; energy reach and material conservation and resource efficiency.

SECTION 4. Architectural Review Granted

Architectural Review is granted by the City Council under Palo Alto Municipal Code Section 18.77.070 for application 19PLN-00291, subject to the conditions of approval in Section 5 of the Record.

SECTION 5. Conditions of Approval.

Planning Division

- 1) CONFORMANCE WITH PLANS. Construction and development shall conform to the approved plans entitled, "Mercedes Benz/Audi of Palo Alto, February 5, 2020" stamped as received by the City on February 6, 2020 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. The Record of Land Use Action including all Department conditions of approval for the project shall be printed on the plans submitted for building permits:
 - a. RELOCATION OF TREE: The owner or designee shall demonstrate the relocation of the fruitless olive tree in front of the generator enclosure of the Mercedes Benz building to the adjacent landscape finger area between the enclosure wall where the California Mountain Liliac plants are located and the Chaste Trees on plans prior to the issuance of building permits.
 - b. LOUVER DETAIL: The owner or designee shall indicate on the plans prior to issuance of a building permit that the exterior louvers detail is called out on each applicable elevation and included in the 'Exterior Finishes' table with the GL-2 finish.
 - c. FLOOR AREA REVISIONS: The owner or designee shall demonstrate on the building permit plans for review by the Director of Planning & Development Services or designee the following:
 - i. First Floor – MB: Change the breakroom amenity area (434 square feet) for the

service department from “dealership floor area” to “excluded floor area” pursuant to Palo Alto Municipal Code (PAMC 18.04.030(65)(B)(v). The breakroom at a minimum shall include a microwave, refrigerator, sink/garbage disposer, vending machine, and seating.

ii. Second Floor – MB: Change the breakroom amenity area (403 square feet) for the sales/admin department from “dealership floor area” to “excluded floor area” pursuant to PAMC 18.04.030(65)(B)(v). The breakroom at a minimum shall include a microwave, refrigerator, sink/garbage disposer, vending machine, and seating.

iii. Second Floor – MB: Change the cantilevered portion of the mechanical lift over the first floor dealership/showroom area (660 square feet) facing the Bayshore Road elevation from “excluded floor area” to “dealership floor area”.

iv. These changes shall be reflected in the overall floor area ratio for the project in a summary table within the project plans.

- 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) COUNTY AVIGATION EASEMENT: The owner or designee shall fulfill the requirement of the avigation easement dedicated to the City of Palo Alto on behalf of the applicant as required by the County of Santa Clara Airport Land Use Commission prior to the issuance of a building permit.
- 6) PROJECT EXPIRATION: The project approval shall be valid for through June 24, 2021 (*consistent with Record of Land Use Action 2019-09*). In these unprecedented times, City Council has approved an automatic extension until the Shelter-in-Place Order is lifted, plus an additional 180 days. In the event a building permit(s), if applicable, is not secured for the project within the time limit specified above, the ARB approval shall expire and be of no further force or effect. Application for extension of this entitlement may be made prior to the one year expiration.
- 7) 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.
- 8) DEVELOPMENT IMPACT FEES: Estimated Development Impact Fees (\$3,834,694.42) plus the applicable public art fee, per PAMC 16.61.040, shall be paid prior to the issuance of the related building permit.

- 9) **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.
- 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 sahsing@m-group.us to schedule this inspection.

Transportation

- 11) Vehicle stop line at driveways shall be eight (8) feet behind the multi-use path. Add stop signs at each exit with signage indicating the multi-use path crossing. Applicant to work with City staff on exit signage text/graphics during building permit review. Installation shall occur prior to occupancy.
- 12) The curb ramp at Embarcadero Road/East Bayshore Road shall be the full width of the multi-use path not including any side flares. The ramp shall connect seamless to the multi-use path with no obstructions. Installation shall occur prior to occupancy.

Public Works Urban Forestry

- 13) **PLAN CHANGES.** Revisions and/or changes to plans before or during construction shall be reviewed and responded to by the (a) project site arborist, or (b) landscape architect with written letter of acceptance before submitting the revision to the Building Department for review by Planning, PW or Urban Forestry.
- 14) **TREE DAMAGE.** Tree Damage, Injury Mitigation and Inspections apply to Contractor. Reporting, injury mitigation measures and arborist inspection schedule (1-5) apply pursuant to TTM, 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 the course of construction, pursuant to Title 8 of the Palo Alto Municipal Code, and city Tree Technical Manual, Section 2.25.

- 15) 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.
- 16) 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.
- 17) 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, then Table 2-1, Trenching and Tunneling Distance, shall be printed on the final plans to be implemented by Contractor.
- 18) PLAN SET REQUIREMENTS. The final Plans submitted for building permit shall include the following information and notes on relevant plan sheets:
- a. SHEET T-1, BUILDING PERMIT. The building permit plan set will include the City's full-sized, Sheet T-1 (Tree Protection-it's Part of the Plan!), available on the Development Center website at <http://www.cityofpaloalto.org/civicax/filebank/documents/31783>. The Applicant shall complete and sign the Tree Disclosure Statement and recognize the Project Arborist Tree Activity Inspection Schedule. Monthly reporting to Urban Forestry/Contractor is mandatory. (Insp. #1: applies to all projects; with tree preservation report: Insp. #1-7 applies)
 - b. The Tree Preservation Report (TPR). All sheets of the Applicant's TPR approved by the City for full implementation by Contractor, shall be printed on numbered Sheet T-1 (T-2, T-3, etc) and added to the sheet index.
 - c. Plans to show protective tree fencing. The Plan Set (esp. site, demolition, grading & drainage, foundation, irrigation, tree disposition, utility sheets, etc.) must delineate/show the correct configuration of Type I, Type II or Type III fencing around each Regulated Tree, using a bold dashed line enclosing the Tree Protection Zone (Standard Dwg. #605, Sheet T-1; City Tree Technical Manual, Section 6.35-Site Plans); or by using the Project Arborist's unique diagram for each Tree Protection Zone enclosure.
- 19) STREET TREES. Prior to issuance of a building permit, the applicant or designee shall demonstrate that any street trees proposed for removal are replaced one-for-one with at least 24" box size and shall be drought tolerant. The applicant shall incorporate the street tree replacements into the overall replacement quantities and update the planting schedule accordingly.
- 20) TREE PROTECTION COMPLIANCE. The owner and contractor shall implement all protection and inspection schedule measures, design recommendations and construction scheduling as stated in the TPR & Sheet T-1, and is subject to code compliance action pursuant to PAMC 8.10.080. The required protective fencing shall remain in place until final landscaping and inspection of the project.

Project arborist approval must be obtained and documented in the monthly activity report sent to the City. The mandatory Contractor and Arborist Monthly Tree Activity Report shall be sent monthly to the City (pwps@cityofpaloalto.org) beginning with the initial verification approval, using the template in the Tree Technical Manual, Addendum 11.

SECTION 8. Term of Approval.

Architectural Review. In the event actual construction of the project is not commenced by June 24, 2021 plus 180 days, the approval shall expire and be of no further force or effect, pursuant to Palo Alto Municipal Code Section 18.77.090.

PASSED:
AYES:
NOES:
ABSENT:
ABSTENTIONS:

ATTEST:

APPROVED:

City Clerk

Director of Planning & Development Services

APPROVED AS TO FORM:

Senior Asst. City Attorney

PLANS AND DRAWINGS REFERENCED:

1. Those plans prepared by YSM Design entitled "Mercedes Benz/Audi of Palo Alto", consisting of 149 pages, dated November 6, 2019 with revisions, and received on February 5, 2020.



CITY OF PALO ALTO
 Office of the City Clerk
**APPEAL FROM THE DECISION OF DIRECTOR OF
 PLANNING & DEVELOPMENT SERVICES***

For appeals of final decisions on Architectural Review Board and Home Improvement Exception applications (rendered after public hearing), this appeal form shall be completed and submitted by appellant within fourteen days from date of the Director's decision. Appeals of final decisions on Individual Review applications (rendered after public hearing) must be submitted within ten days of the Director's decision. Complete form, the current fee and a letter stating reasons for the appeal shall be submitted to front desk staff of the Planning Division, 5th floor, City Hall, 250 Hamilton Avenue, *except* for 9/80 Fridays when City Hall is closed, when these items shall be submitted to Planning staff at the Development Center, 285 Hamilton Avenue (glass storefront across from City Hall on the corner of Bryant and Hamilton).

* Director of Planning includes his designees, which are Planning Managers or the Chief Planning Official

Appeal Application No. _____ Receipt No. _____
 Name of Appellant Jin Pi Phone (650) 492.7989
 Address 2479 East Bayshore Road, Suite 135
 City Palo Alto ZIP 94303

LOCATION OF PROPERTY SUBJECT TO APPEAL:
 Street Address 1700 & 1730 Embarcadero Road Palo Alto CA 94303
 Name of Property Owner (if other than appellant) Holman Embarcadero Real Estate LLC
 Property Owner's Address 17800 SE Mill Plain Blvd #190
 City Vancouver State WA ZIP 98683-7588

The decision of the Director of Planning & Development Services dated May 4, 2020
 whereby the application 19PLN-00291 by Holman Automotive Group, Inc.
 (file number) (original project applicant)
 was approved with conditions, is hereby appealed for the reasons stated in the attached letter (in duplicate)
 (~~approved~~/denied)

Date: 5/19/2020 Signature of Appellant 

PLANNING COMMISSION RECOMMENDATION TO THE CITY COUNCIL (TO BE FILLED OUT BY STAFF):

Date _____ Approved _____ Denied _____
 Remarks and/or Conditions:

CITY COUNCIL DECISION (TO BE FILLED OUT BY STAFF):

Date _____ Approved _____ Denied _____
 Remarks and/or Conditions:

SUBMITTAL REQUIREMENTS SATISFIED:

1. Letter stating reasons for appeal _____ Received by: _____
2. Fee (currently \$595.00) _____ Received by: _____

Gwin Property Inc.
2479 E. Bayshore Road
Palo Alto, CA 94303
May 19, 2020

City of Palo Alto
Planning Division
5th floor, City Hall
250 Hamilton Avenue
Palo Alto, CA 94301

Via Email Only to:
Vinhloc.Nguyen@CityofPaloAlto.org
Jodie.Gerhardt@CityofPaloAlto.org
Alicia.Spotwood@CityofPaloAlto.org
sahsing@m-group.us

Re: Letter Stating Reasons for Appeal of the Project at 1700 and 1730 Embarcadero Road, Palo Alto (19PLN-00291)

Dear Director of Planning and Development Services:

This letter is submitted by Gwin Property Inc. (“Gwin”), the adjoining landowner of the project at 1700 and 1730 Embarcadero Road, Palo Alto (19PLN-00291, hereinafter “Project”). Gwin is the owner of an office building complex addressed at 2479 E. Bayshore Road, Palo Alto (“Building”). Gwin adjoins the Project at the northeast and northwest corner of Gwin’s lot.

Gwin’s Building occupants are professionals such as law firms, accounting firms, and technology companies. A quiet professional working environment is essential for our Building occupants. Our objection to the Project approval is limited to the planned car wash structure that is on the border of the Project adjacent to Gwin’s northeast parking lot. Specifically, the car wash structure will emit excessive noise that is injurious to health and interferes with quiet and comfortable enjoyment of the Building.¹

According to the noise study submitted by the applicant prepared by Helix Environmental Planning (“Noise Report”): “The loudest single source is the air-blast drying systems (blower) just inside the car wash exit. The blower units to be used at the project’s car wash are a Broadway Equipment Company 45 horsepower assembly. The manufacturer’s data sheet indicates that the blowers would generate a noise level of 83.0 dBA at a distance of 30 feet from the car wash tunnel exit, and a noise level of 79.1 dBA at a distance of 30 feet from the car wash tunnel entrance, with the car wash tunnel doors open.”

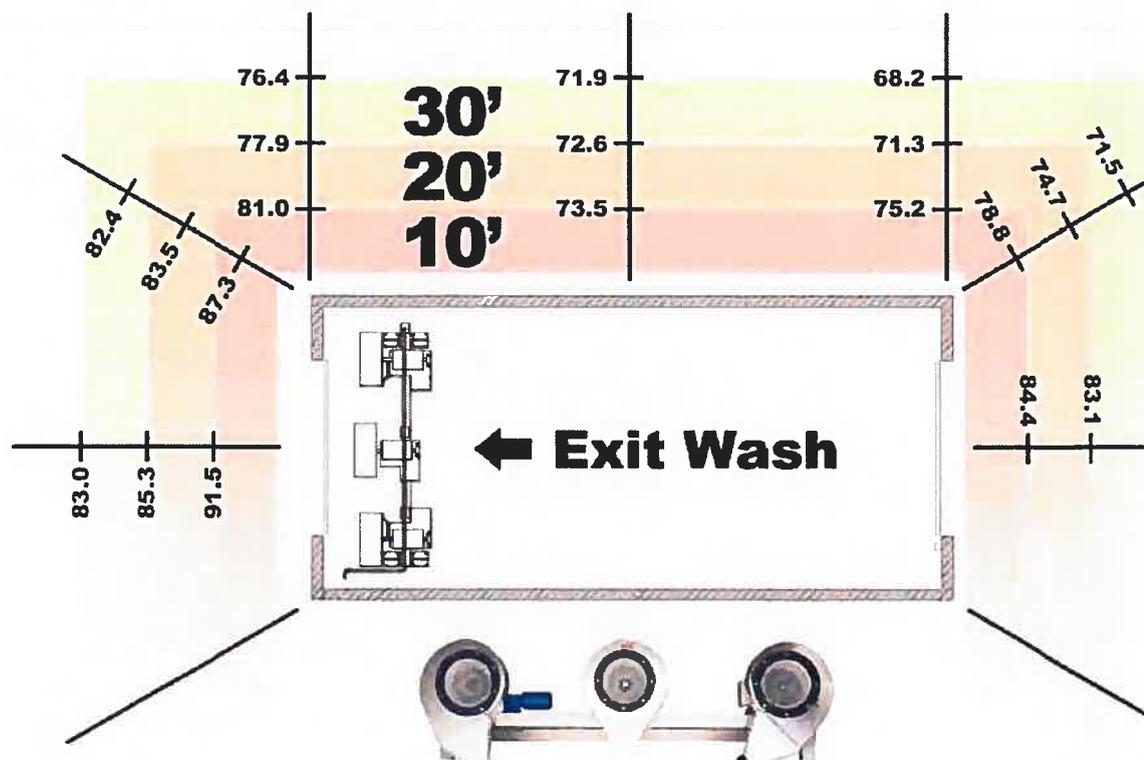
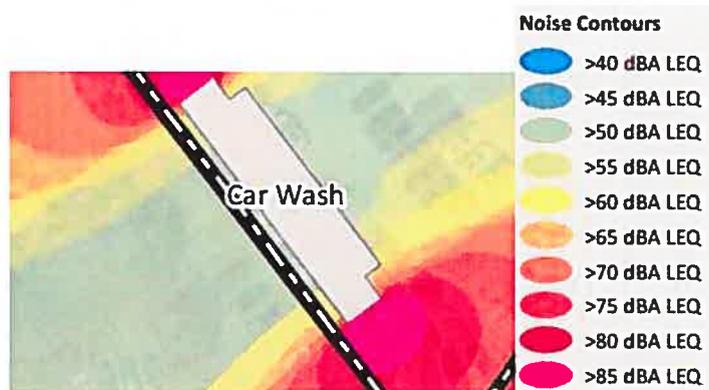
While the Noise Report proposes a mitigating measure involving an automated door, the projected 49.8 dBA with the doors closed is measured at the *south corner of the Project’s property, rather than along Gwin’s property border*. Even with the doors closed, there would be substantial noise along the property line adjoining Gwin. Further, the noise contours in the Noise Report

¹ While we also believe that the car wash structure will create excessive dirt and debris, our primary concern is the noise level.

labeled as Figure 4 and Figure 5 conflict with the manufacturer's data sheet attached to the Noise Report as Appendix C.

In sum, the Noise Report is unreliable because:

- (1) It does not address noise levels at the property line adjoining Gwin in Table 6.
- (2) Figures 4 and 5 showing noise contours are incorrect.
 - a. The noise contour in Figure 4 (door open) indicates that the noise level is 50 dBA adjacent to the side wall of the car wash ("Adjacent Side Wall Area"). This contradicts the manufacturer's measurement which is 71.9 dBA to 73.5 dBA. This is a significant difference of more than 20 dBA which is under reported with identical conditions. See Appendix C to Noise Report.

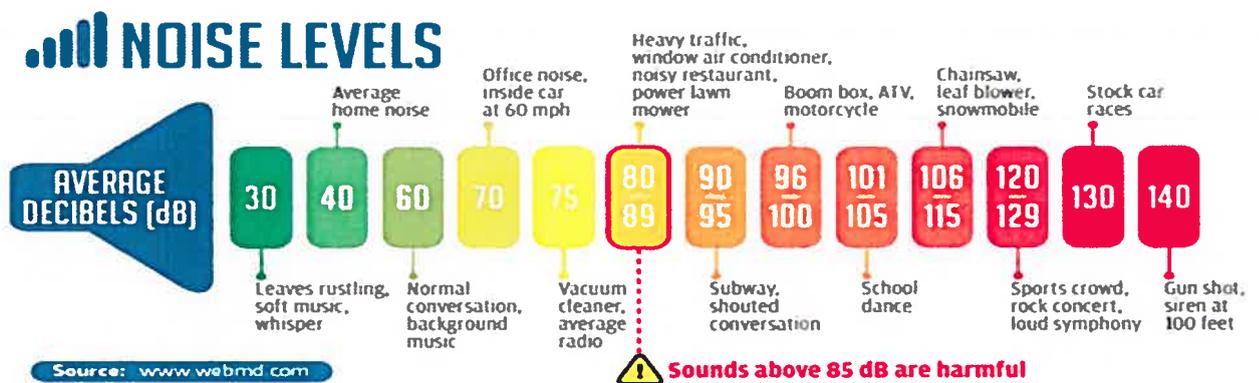


- b. Similarly, the noise contour in Figure 5 (closed doors) shows no detectable/less than 40 dBA of noise at the Adjacent Side Wall Area which is erroneous:



Given these issues in the Noise Report, the proposed mitigating measure and claimed result of 49.8 dBA (which is below ambient) from closed doors is unrealistic. Considering these discrepancies, it is unlikely that the applicant can comply with PAMC 9.10.040's restriction that noise level not exceed 8 decibels above the local ambient.

Put simply, if the blowers are on during a car wash, you can hear it loud and clear. To provide some perspective, the blower's noise level² is equivalent to a power lawn mower and is harmful to hearing:



Similar to the above, Cal/OSHA sets the action level or exposure ceiling at 85 decibels for hearing conservation. See 8 California Code of Regulations § 5097. Cars will be parked merely a few feet away from the car wash structure—noise exposure at that distance will be significantly higher than 83 decibels and will likely be deleterious. In addition to interfering with quiet enjoyment of a professional building, the car wash may be a source of personal injury liability.

While our primary preference would be the removal of the car wash structure from the Project in its entirety, we are willing to accept as a compromise installation of a sound insulating wall along the northeast border adjoining the properties. The wall may be built with a solid wood

² Appendix C of the Noise Report lists 91.5 decibels as highest measured.

frame with rigid insulation in between, or a metal frame with rigid insulation in between and coated with stucco finish. The wall should be of sufficient thickness and height to insulate noise pollution to a two-story office building based on reports from qualified acoustic engineers.

Thank you for your anticipated serious consideration of the concerns raised in this letter.

Respectfully submitted,

A handwritten signature in blue ink, consisting of several loops and a final upward stroke, positioned above a horizontal line.

Jin Pi

Attachment F

Project Plans & Environmental Documents

During Shelter-in-Place, project plans and environmental review documents (IS/MND, response to comments, and MMRP) are only available online.

Directions to review project plans & environmental documents online:

1. Go to: bit.ly/PAPendingprojects
2. Scroll to find “1700 & 1730 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/displaynews.asp?NewsID=4367>