COUNCIL AGENDA: 10-24-06
ITEM: 11.3

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: 10/12/06

COUNCIL DISTRICT: 1
SNI AREA: Not Applicable

SUBJECT: PDC04-043 PLANNED DEVELOPMENT REZONING FROM A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO ALLOW AN APPROXIMATELY 170,000 SQUARE FOOT, FOUR-STORY STRUCTURE FOR A PARKING GARAGE AND AUTOMOBILE SERVICE CENTER USES AT AN EXISTING AUTOMOBILE DEALERSHIP ON A 5.77 GROSS ACRE SITE, LOCATED ON THE SOUTHWEST CORNER OF STEVENS CREEK BOULEVARD AND PALACE DRIVE (4500 STEVENS CREEK BOULEVARD).

RECOMMENDATION

The Planning Commission voted 7-0-0 to recommend that the City Council consider and adopt an ordinance to allow a four-story approximately 170,000 square foot structure for a parking garage and automobile service center at an existing automobile dealership on a 5.77 gross acres site, as recommended by Planning staff.

OUTCOME

If the City Council were to approve the rezoning of the site from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District, as recommended by the Planning Commission and the Director of Planning, a new 170,000 square foot, four-story structure for parking and a service center would be allowed on the 5.77 gross acre site. The project would conform to the General Plan designation of General Commercial.

BACKGROUND

On October 11, 2006, the Planning Commission held a public hearing to consider the proposed rezoning. Planning staff recommended the Planning Commission recommend to the City Council approval of the subject Planned Development Rezoning to allow a four-story approximately 170,000 square foot structure for a parking garage and automobile service center at an existing automobile dealership in conformance with the General Plan. Staff's recommendation included amended development standards, attached to the staff report to Planning Commission, which would supersede the development standards shown on the attached plans.

No public testimony was given.

Commissioner Zito expressed concern regarding the hours trucks would arrive to the site. He asked staff if the development standards would address hours of truck arrival. Staff indicated that as recommended the standards did not address arrival of trucks, but the Commission could recommend that the City Council amend the standards to do so. Staff also expressed that the Initial Study prepared for the project addressed the noise impacts of the operation of the structure, and found that the noise of the trucks would not be a significant impact to the adjacent residential units. Commissioner Zito explained that his concern was not regarding the noise, but rather the idling of the trucks off-site if they arrived before or after hours. He was concerned that the trucks would block traffic on the side streets. Staff explained that the dealership has been existing on the subject site for many years and the idling of trucks in the public street has never been a problem. There is ample room on-site for trucks to pull in.

The Planning Commission voted 7-0-0 to recommend approval of the Planned Development Rezoning to allow a four-story approximately 170,000 square foot structure for a parking garage and automobile service center at an existing automobile dealership per staff's recommendation.

ANALYSIS

The proposed project conforms to the policies and regulations of the General Plan, as well as addresses noise and parking issues, and is designed to be compatible to the neighboring uses, as noted in staff's report to the Planning Commission.

POLICY ALTERNATIVES

Not Applicable.

PUBLIC OUTREACH/INTEREST

- ☐ **Criteria 1**: Requires Council action on the use of public funds equal to $1 million or greater. **(Required: Website Posting)**
- ☐ **Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- ☐ **Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, staff followed Council Policy 6-30: Public Outreach Policy. A notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. The rezoning was also published in local newspapers; the Post Record and the San Jose Mercury News. This staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

COORDINATION

This project was coordinated with the Department of Public Works, Fire Department, Police Department, Environmental Services Department and the City Attorney.

FISCAL/POLICY ALIGNMENT

This project is consistent with applicable General Plan policies and City Council approved design guidelines as further discussed in attached staff report.

COST SUMMARY/IMPLICATIONS

Not applicable.

BUDGET REFERENCE

Not applicable.

CEQA

CEQA: MND (Mitigated Negative Declaration) File No. PDC04-043

JOSEPH HORWEDEL, SECRETARY
Planning Commission

For questions please contact Mike Enderby at 408-535-7800.

cc: Smythe European Partnership, 437 Whiskey Hill Road, Woodside, CA 94062

COUNCIL AGENDA: 10-24-06
ITEM: 11.3

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: October 6, 2006

TRANSMITTAL MEMO

COUNCIL DISTRICT: 1
SNI: N/A

SUBJECT: PDC04-043. LOCATED ON THE SOUTHWEST CORNER OF STEVENS CREEK BOULEVARD AND PALACE DRIVE (4500 STEVENS CREEK BLVD).

The Planning Commission will hear this project on October 11, 2006. The memorandum with Planning Commission recommendations will be submitted under different cover. We hope the submittal of this staff report is of assistance in your review of this project.

JOSEPH HORWEDEL, ACTING DIRECTOR
Planning, Building and Code Enforcement

For questions please contact Mike Enderby at (408) 535-7800.

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, Tower 3
San José, California 95113

STAFF REPORT

Hearing Date/Agenda Number
P.C. 10-11-06 Item No. 4b
C.C. 10-24-06

File Number
PDC04-043

Application Type
Planned Development Rezoning

Council District
1

Planning Area
West Valley

Assessor's Parcel Number(s)
296-38-012

PROJECT DESCRIPTION — Completed by: S. Martina Davis

Location: Southwest corner of Stevens Creek Boulevard and Palace Drive (4500 Stevens Creek Blvd.)

Gross Acreage: 5.77 Net Acreage: 5.77 Net Density: N/A

Existing Zoning: A(PD) Planned Development Existing Use: Car dealership, incidental auto service and detailing

Proposed Zoning: A(PD) Planned Development Proposed Use: Same with expanded garage and service facility

GENERAL PLAN — Completed by: SMD

Land Use/Transportation Diagram Designation
General Commercial

Project Conformance:
[x] Yes [ ] No
[ ] See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING — Completed by: SMD

North:	Commercial	City of Santa Clara
East:	Car Dealership (under construction)	CG Commercial General
South:	Multi-Family Dwellings	RM Multi Family Residential
West:	Car Dealership	CG Commercial General

ENVIRONMENTAL STATUS — Completed by: SMD

[ ] Environmental Impact Report Use of 2020 General Plan EIR
[X] Negative Declaration circulated on 9/7/06

[ ] Exempt
[ ] Environmental Review Incomplete

FILE HISTORY — Completed by: SMD

Annexation Title: Casa View No. 3 Date: December 18, 1959

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

[x] Approval
[ ] Approval with Conditions

Date: 10/3/06

Approved by: [signature]
[ ] Action
[x] Recommendation

OWNER/APPLICANT

Smythe European Partnership
437 Whiskey Hill Road
Woodside, CA 94062

PUBLIC AGENCY COMMENTS RECEIVED **Completed by: SMD**

Department of Public Works

See attached.

Other Departments and Agencies

NA

GENERAL CORRESPONDENCE

Letter from Brian Avery

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, Smythe European Partnership, is requesting a Planned Development Rezoning of the subject site from A(PD) Planned Development to A(PD) Planned Development to allow the addition of an approximately 170,000 square foot four story structure for an existing automobile dealership on a 5.77 gross acre site at the south west corner of Stevens Creek Boulevard and Palace Drive. Uses of the new structure would include ground floor auto service, a carwash, parts storage, and office. The upper floors would include area for automobile parking and storage.

Currently, the Smythe European car dealership occupies the subject site. The existing buildings include a 86,336 square foot four story parking structure with auto service on the first floor and vehicle storage on the roof, an 855 square foot detailing building, two parts and service buildings which total 51,380 square feet, and 19,555 square feet of office and showrooms. The new building is proposed at the south/east part of the site, which is currently occupied by a surface parking lot used for vehicle storage for the dealership.

The site is surrounded by multi family residences to the south, car dealerships to the east and west, and commercial uses across Stevens Creek Boulevard to the north in the City of Santa Clara.

GENERAL PLAN CONFORMANCE

The site is currently designated General Commercial on the San Jose 2020 General Plan Land Use/Transportation Diagram. The existing automobile retail uses are consistent with this designation. The General Commercial Designation specifies that uses that have both commercial and industrial characteristics, such as automobile lubrication and repair, may be permitted in the district provided that they comply with commercial development standards, do not adversely impact nearby residential neighborhoods, and are not located within pedestrian oriented or potentially pedestrian oriented retail strips. The proposed detailing and service uses are not an independent use; they are only allowed as incidental uses for the main auto dealership. If these were proposed as standalone uses they would not be allowed in this designation. Additionally, the subject location on Stevens Creek Boulevard is not designated a pedestrian oriented retail commercial strip, nor will it likely be granted this designation in the near future due to the prevalence of automobile oriented uses along the street.

ENVIRONMENTAL REVIEW

A Draft Negative Declaration was circulated for this project based on an Initial Study, which concluded that the project would not result in a significant environmental impact. Mitigation has been included in the project to ensure that the proposed development does not result in impacts relative to air quality and noise. A copy of the Mitigated Negative Declaration is attached to this report.

Traffic

A transportation impact analysis was conducted as a part of the environmental review of this project, which determined that this project will have a negligible impact to the level of service (LOS) to signalized intersections. Impacts to LOS intersections establish the threshold for which a determination is made whether or not a project has traffic impacts that constitute an environmental impact. Based on the information provided in the traffic impact analysis and the traffic analysis from Public Works, the project would have a negligible impact to the LOS of signalized intersections, therefore no mitigations are required for the traffic impacts of this project.

Noise

Noise impacts from project operation are discussed in depth in the Initial Study. It was determined based on the analysis that there will be no significant noise impacts as a result of normal, day to day operation of the existing dealership and of the proposed structure, therefore no mitigations are required to address the impacts from the project operation. The noise impact from the new carwash, service bays, and ramps will not exceed the allowed 55 decibels at residential property lines, if used during the normal operational day. Additional noise analysis will be required at the PD Permit stage to assess the impacts of the operation of the carwash, ramps and bridges, and service bays should the applicant wish to use those after the hours of use addressed in the Initial Study of 7:30 am to 6:30 pm. Limitations on hours of use would be conditioned as appropriate.

ANALYSIS

The analysis section of this report focuses on site parking and conformance to the Commercial Design Guidelines with respect to setbacks, site organization, and architecture.

The proposed use allowances and development standards have been structured to allow for automobile dealership and storage use with incidental auto service, repair and detailing, as well as commercial uses per the CG Commercial General Zoning District under certain circumstances. Should the car dealership be discontinued, the service, repair and detailing would not be allowed to operate as stand alone uses. These uses are allowed on the site under the currently approved PD Zoning.

Parking

One of the primary concerns of the neighborhood is the continuing problem of employees of the dealership parking in the neighborhood. Currently, the subject dealership employs approximately 250 people and provides 95 employee parking spaces on site. This Planned Development Rezoning would require 404 total non-inventory parking stalls. This number is based on the required number of stalls per Table 20-190 of the Zoning Ordinance, and the breakdown for arriving this number is included in the attached development standards. Similar to other recent approvals in this area for automobile dealerships, this facility will be

required to accommodate parking for all employees on the site. To the degree that the new car inventory expands, such vehicles may need to be parked at an approved off-site location. The attached development standards require that the applicant meet the minimum requirements per the Zoning Ordinance criteria, however, additional notes have been incorporated to state that "all employee parking, visitor parking, and service vehicle parking shall be accommodated on-site. Additional parking may be required at the Planned Development Permit stage to ensure that this parking can be adequately accommodated on-site. The Director of Planning, Building, and Code Enforcement maintains the discretion to require an increased number of parking spaces at any time, if an analysis determines that the provided number of spaces is inadequate." The additional parking will reduce the likelihood of the employees needing to park on the street in the adjacent neighborhoods. The employee spaces will be specifically noted on the plans in the Planned Development Permit stage, and will be marked on site to better monitor compliance.

Consistent with the Commercial Design Guidelines, the customer parking would also need to be accommodated on-site for the sales, service, and parts area. The locations of these spaces, along with those for employee and retail customer parking, are not designated as a part of this PD Zoning, but would be designated at the Planned Development Permit stage.

Conformance to Commercial Design Guidelines

Setbacks

The design guidelines recommend that the setback to residential street interfaces of buildings, parking, outdoor vehicle display, and vehicle storage should be a minimum of 25 feet. Separate guidelines state that "the setbacks of commercial buildings adjacent to higher density residential may be similar to the residential setback if the building scales are similar."

This project proposes the ramp and first floor of the new structure setback 12 feet from the Albany Drive property line, and the upper floors of the building to be setback approximately 33 feet from the Albany Drive property line. There would be no entrances to the first floor from Albany Drive. The ramp from the ground level to the second floor of the parking garage is not enclosed in the building, but a solid concrete wall would separate this ramp from the street to lessen the impacts of its adjacency to residential uses. The ramps up to the third, fourth and roof levels are proposed farther away from Albany Drive, near the center of the building, to reduce vehicle noise impacts to the adjacent residences. There is also a landscape buffer proposed along the Albany Drive frontage to reduce the visual and noise impacts of the proposed building to the residential neighbors.

While the proposed setbacks do not conform with the strict application of the Commercial Design Guidelines (CDGs), some project specific criteria support the reduced setback. The setbacks from residential uses recommended by the CDGs are partially based on ensuring privacy of the residential uses. Given that automobile parking and storage uses are proposed on the upper floors of the proposed structure, privacy of the nearby residential uses is not a significant issue. Other factors also contribute to the reduced setback being acceptable. The project proposes an approximate 12-foot setback from the southerly property line to the first and second floor ramp. Two additional feet of landscaping exist between the property line and the sidewalk, and staff is proposing that the existing trees within the 14-foot landscape strip be replaced by Redwood trees in 36-inch boxes. These tall trees would help to screen the proposed structure and reduce its apparent scale. Finally, various features, such as the internalization of the vehicle ramp above the second story, the screening of the vehicle storage areas, and the additional 21-foot setback for the upper floors, all help to reduce the impact of the proposed structure on the adjacent residential use.

Vehicle Off-Loading

The CDGs note that provisions should be made on-site for the off-street unloading of vehicles from carriers. Circulation, access points, buildings, storage areas, and landscaping should all be located to make unloading of vehicle carriers on residential streets or near residential properties a futile, if not impossible activity.

All loading and unloading of vehicles will take place on the site. The carrier trucks would enter the site from Palace Drive and proceed to the new structure for unloading. This will lessen the off-site noise impacts of this activity. Landscaping obstructs all but one vehicular access point to Albany Drive; this vehicular access is designated for emergency vehicles only. Staff will work with the applicant at the PD Permit stage to implement barriers which will only allow emergency vehicles to use this access point to the satisfaction of the Fire and Police departments. On site interior loading and unloading opportunities coupled with the lack of vehicular access from Albany Drive will discourage those activities from taking place on the street.

Site Organization

The CDGs recommend that low intensity activities such as surface new car storage should be located adjacent to any residential property lines.

The proposed uses adjacent to Albany Drive are service on the first floor and new vehicle storage on the upper floors and roof. The service bays are completely enclosed within the proposed building with no entrances or openings along the Albany Drive frontage. The analysis conducted as a part of the Initial Study for this project concluded that the noise levels from the daily operation of the service bays will have will not negatively impact the adjacent residences.

Circulation

The CDGs recommend that no vehicular or pedestrian access should be allowed at any point along a site perimeter adjacent to a residential street or residential properties.

As discussed above, there is one vehicle access point to the property from Albany Drive, which is designated for emergency vehicles only. Staff will work with the applicant at the PD Permit stage to include barriers that block vehicular access to the site but allow emergency vehicle access. Staff will work to prohibit pedestrian ingress/egress through the gate onto Albany Drive as this would discourage employees from parking in the adjacent neighborhoods. Further, no pedestrian walkways lead to the exit.

The CDGs also recommend that sufficient space should be provided for service drop-offs to prevent stacking on to a public street.

A substantial service drop-off area is provided near the Palace Drive street frontage that allows for cars to pull into the lot for service drop-offs. Two parking spaces are provided per service bay to allow for cars to be stored before and after they are serviced. Conditions of approval at the PD Permit stage would require that no vehicles being serviced at the subject site shall be parked in the public right of way.

Noise

The CDGs recommend that no potentially noisy activity, such as vehicle repair, cleaning, or testing, should be located near or oriented toward residential properties.

This project proposes expansion of service uses on the site, and the construction of a new carwash to replace an existing carwash on the site. These uses can be problematic from a noise standpoint when residences are nearby; however, measures have been taken in the project design to mitigate the potential incompatibility. All service and detailing uses would take place fully enclosed in buildings, and building entrances would be oriented away from the residential areas, which would lessen the potential outdoor noise generation. Development standards would require that the noise generated from the site be at a level no higher than 55 decibels at the residential property lines and 60 decibels at the commercial property lines. A comprehensive noise analysis of the proposed uses of the site was conducted in the environmental review stage which concluded the day to day operation of the dealership would not significantly impact the adjacent residences. This analysis did not address the impacts of the use of the site in the evening or night. Further analysis will be required at the PD Permit stage should the applicant wish to pursue operations of the uses outside the hours previously analyzed, which were 7:30 am to 6:30 pm.

Architecture

The CDGs recommend that screened storage areas should be provided for damaged vehicles awaiting repairs and for any vehicles requiring longer-term storage while awaiting repair. They also state that all storage areas should be screened from view from the public street and any adjacent residential area. No storage except new car storage should occur adjacent to a residential area.

Staff will work with the applicant at the PD permit stage to ensure that screening is provided on the proposed building to adequately shield the view of the automobile storage. The conceptual elevations show screening on the proposed parking structure. The ground level and the ramps to the second floor would be approximately 90 feet to the closest residential structure across Albany Drive. The upper levels of the garage are set back an additional 21 feet from the edge of the first and second floor ramps, thereby providing a setback of over 110 feet from the closest residential structure and helping to minimize their perceived mass. Further, mature Redwood trees would be required to be planted along the Albany Drive right-of-way in order to help screen the large garage structure.

PUBLIC OUTREACH

A neighborhood meeting was held on January 20, 2005 to solicit community feedback on the proposed project. Approximately 5 people attended. The neighbors were primarily concerned with employee parking, the aesthetics of the building, and noise.

A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site as well as published in the San José Post Record and the San José Mercury News. The Planning Commission Agenda is posted on the City of San José web site with copies of the staff report. Staff has been available to discuss the proposal with members of the public.

RECOMMENDATION

Planning staff recommends approval of the proposed zoning, with the incorporation of the attached revised development standards, for the following reasons:

1. The proposed rezoning is in conformance with the General Plan Land Use/Transportation Diagram designation of General Commercial.

2. The project furthers the goals and objectives of the City's commercial land use policies.

3. The proposed rezoning is compatible with existing and proposed uses on the adjacent and neighboring properties.

PERMITTED USES:

Those of the CG Commercial General Zoning District, as amended. Retail sales of passenger vehicles and incidental repair, cleaning, and storage of vehicles are permitted.

Special and Conditional uses of the CG Commercial General Zoning District require issuance of a Planned Development Permit.

BUILDING SETBACKS:

5'-0" min. from Palace Drive P.L.
12'-0" min. from Albany Drive P.L. (1st and 2nd floors)
33'-0" min. from Albany Drive P.L. (above 2nd floor)

BUILDING HEIGHT:

5 Stories, 50'-0" max. from highest site grade elevation

LOT SIZE:

5.77 ACRES (251,341.20 S.F.)

PARKING RATIOS:

Interior Showrooms
1 space per 350 s.f.
39,764 s.f. = 114 spaces required

Exterior Lot Display
1 space per 2,500 s.f.
8,149 s.f. = 4 spaces required

Service Bays
2 spaces per bay
143 bays = 286 spaces required

404 total non-inventory spaces are required, this includes parking for employees, visitors, and vehicles to be serviced

All employee parking, visitor parking, and service vehicle parking shall be accommodated on-site. Additional parking may be required at the Planned Development Permit stage to ensure that this parking can be adequately accommodated on-site. The Director of Planning, Building, and Code Enforcement maintains the discretion to require an increased number of parking spaces at any time, if an analysis determines that the provided number of spaces is inadequate.

PERFORMANCE STANDARDS:

Per Part 6 of Chapter 20.40 of the SJMC, as amended

ENVIRONMENTAL MITIGATION MEASURES:

Use of the car ramps and bridge, the car wash facility, and the service bays was evaluated for noise impacts based on hours of operation between 7:30 a.m. and 6:30 p.m. Use of these areas shall be limited to those hours unless (1) an additional noise analysis is provided to the Director of Planning, Building, and Code Enforcement and (2) the proposed change in hours is approved through a Planned Development Permit or Amendment.

AIR QUALITY MITIGATION MEASURES:

- Use dust-proof chutes for loading construction debris onto trucks.
- Apply water to control dust generation during demolition of structures and break-up of pavement.
- Water or cover stockpiles of debris, soil, sand and other materials that can be blown by the wind.
- Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction site.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Replant vegetation in disturbed areas as quickly as possible.
- Apply non-toxic soil stabilizers to inactive construction areas;
- Enclose, cover water twice daily, or apply not-toxic soil binders to exposed stockpiles (dirt, sand, etc,).

NOISE MITIGATION MEASURES:

- Limit construction to hours of 7:00 AM to 7:00 PM on Monday through Friday, with no noise generating construction activities on Saturdays, Sundays or holidays, including deliveries.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers which are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines should be strictly prohibited.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers' radios to the point where they are not audible at existing residences bordering the project site.
- Designate a "noise disturbance coordinator" who will be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented.
- Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the

construction schedule, no more than two weeks prior to the start of construction. (The contractor shall be responsible for designating a noise disturbance coordinator and posting the phone number and providing construction schedule notices).

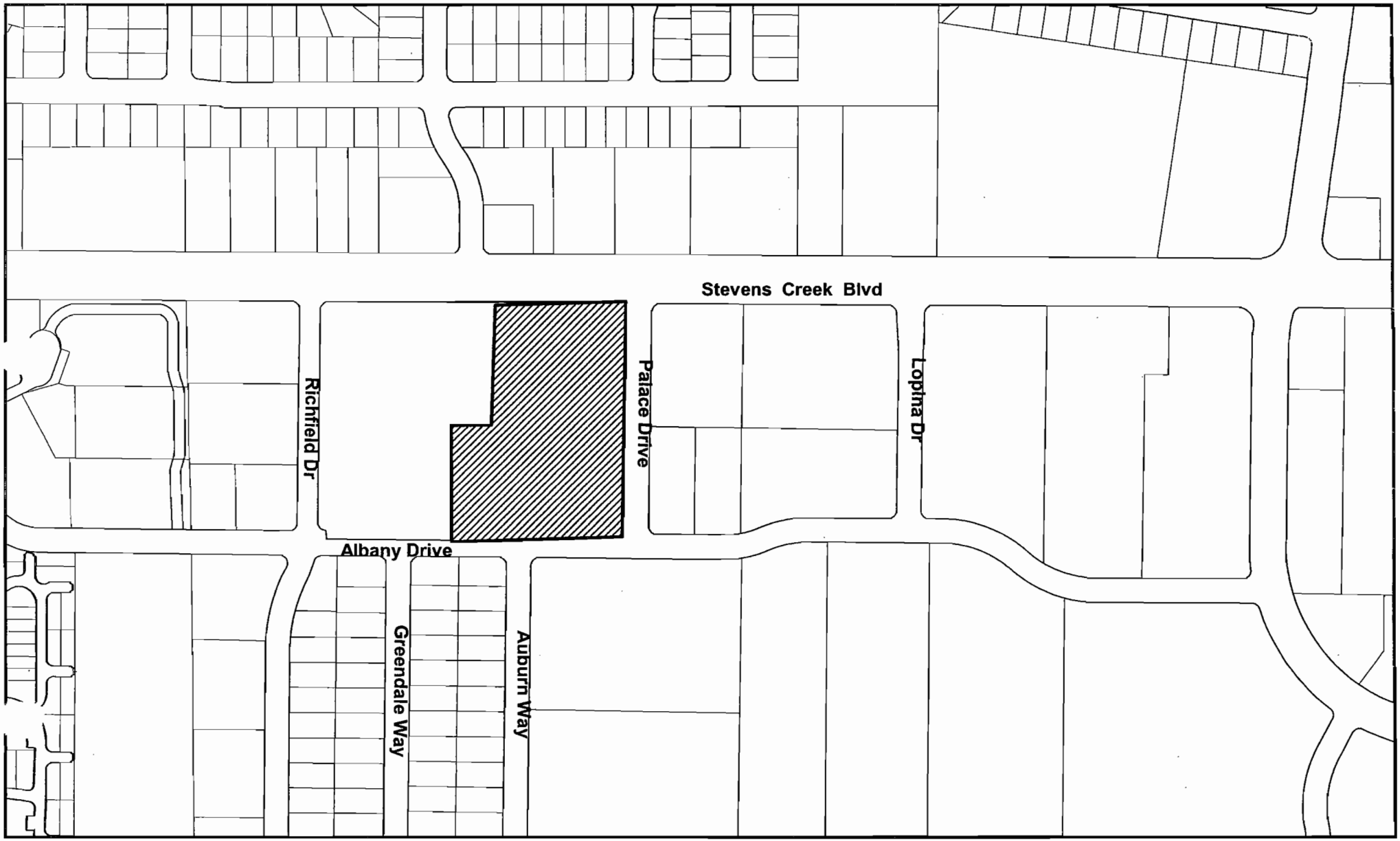
WATER POLLUTION CONTROL PLANT NOTE:

Pursuant to Part 2.75 of Chapter 15.12 of the San Jose Municipal Code, no vested right to a building permit shall accrue as the result of the granting of any land development approvals and applications when and if the City Manager makes a determination that the cumulative sewage treatment demand on the San Jose-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of the San Jose-Santa Clara Water Pollution Control to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approving authority.

NOTES:

Private infrastructure standards to meet or exceed public improvement standards

Changes to parking and/or vehicular circulation are subject to approval by the Director of Planning, Building, and Code Enforcement.



Scale: 1"=320'
Date: 04/30/2004

N

File No: PDC04-043

District: 1

Quad No: 81

CITY OF
SAN JOSE
CAPITAL OF SILICON VALLEY

Department of Planning, Building and Code Enforcement
JOSEPH HORWEDEL, ACTING DIRECTOR

DRAFT
MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Smythe European Vehicle Inventory Storage & Service Center Project

PROJECT FILE NUMBER: PDC04-043

PROJECT DESCRIPTION: Planned Development Rezoning and subsequent permits in order to allow the construction of a five-level building consisting of a 336-vehicle inventory storage structure with 25 vehicle service bays, a parts department, and car wash. The new building will be located in the southeast corner of the existing automobile dealership property. The proposed project will increase the vehicle inventory and number of service bays on-site. The new car wash and parts department at the dealership will replace an existing car wash and parts department at the dealership and service center. The proposed project will not introduce any new uses or operations at the project site.

PROJECT LOCATION & ASSESSORS PARCEL NO.: 4500 Stevens Creek Boulevard; APN No. 296-38-012; The project is located along Palace Drive between Albany drive and Stevens Creek Boulevard.

COUNCIL DISTRICT: 1

APPLICANT CONTACT INFORMATION:
John Kemnec
1137 N. McDowell Boulevard
Petaluma, CA 94954
(707) 765-1660
jkemnec@rhldesign.com

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

I. **AESTHETICS** – The project will not have a significant impact on this resource, therefore no mitigation is required.

II. **AGRICULTURE RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

III. **AIR QUALITY** – The BAAQMD has prepared a list of feasible construction dust control measures that can reduce construction impacts to a level that is less than significant. The City's Public Works project representative will ensure that the following construction practices will be included in all construction contract documents and plans and will be implemented by the contractor during all phases of construction on the project site:

- Use dust-proof chutes for loading construction debris onto trucks.
- Apply water to control dust generation during demolition of structures and break-up of pavement.
- Water or cover stockpiles of debris, soil, sand and other materials that can be blown by the wind.
- Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction site.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Replant vegetation in disturbed areas as quickly as possible.
- Apply non-toxic soil stabilizers to inactive construction areas;
- Enclose, cover water twice daily, or apply not-toxic soil binders to exposed stockpiles (dirt, sand, etc,).

IV. **BIOLOGICAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

V. **CULTURAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.

VI. **GEOLOGY AND SOILS** – The project will not have a significant impact on this resource, therefore no mitigation is required.

VII. **HAZARDS AND HAZARDOUS MATERIALS** – The project will not have a significant impact on this resource, therefore no mitigation is required.

VIII. **HYDROLOGY AND WATER QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.

IX. **LAND USE AND PLANNING** – The project will not have a significant impact on this resource, therefore no mitigation is required.

X. MINERAL RESOURCES – The project will not have a significant impact on this resource, therefore no mitigation is required.

XI. NOISE – The project includes the following mitigation measures, to reduce the potential construction noise disturbance to adjacent land uses to a less than significant level:

- Limit construction to hours of 7:00 AM to 7:00 PM on Monday through Friday, with no noise generating construction activities on Saturdays, Sundays or holidays, including deliveries.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers which are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines should be strictly prohibited.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers' radios to the point where they are not audible at existing residences bordering the project site.
- Designate a "noise disturbance coordinator" who will be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaints (e.g., starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented.
- Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule, no more than two weeks prior to the start of construction. (The contractor shall be responsible for designating a noise disturbance coordinator and posting the phone number and providing construction schedule notices).

XII. POPULATION AND HOUSING – The project will not have a significant impact on this resource, therefore no mitigation is required.

XIII. PUBLIC SERVICES – The project will not have a significant impact on this resource, therefore no mitigation is required.

XIV. RECREATION – The project will not have a significant impact on this resource, therefore no mitigation is required.

XV. TRANSPORTATION / TRAFFIC – The project will not have a significant impact on this resource, therefore no mitigation is required

XVI. .UTILITIES AND SERVICE SYSTEMS – The project will not have a significant impact on this resource, therefore no mitigation is required.

XVII. MANDATORY FINDINGS OF SIGNIFICANCE – The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no additional mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on September 26. 2006, any person may:

Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or

Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or

File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 200 East Santa Clara Street, San José CA 95113-1905 and include a $100 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Joseph Horwedel, Acting Director
Planning, Building and Code Enforcement

Circulated on: Sept 7 '06 _____
Deputy

Adopted on: _____ _____
Deputy

MND/JAC 8/26/05

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: Martina Davis
Planning and Building

FROM: Ebrahim Sohrabi
Public Works

SUBJECT: **FINAL RESPONSE TO DEVELOPMENT APPLICATION**

DATE: 08/18/06

PLANNING NO.:	PDC04-043
DESCRIPTION:	Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow up to 170,000 square feet for an existing automobile dealership on a 5.77 gross acre site.
LOCATION:	southwest corner of Stevens Creek Boulevard and Palace Drive
P.W. NUMBER:	3-03566

Public Works received the subject project on 06/15/06 and submits the following comments and requirements.

Project Conditions:

Public Works Clearance for Building Permit(s): Prior to the issuance of Building permits, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.

1. **Minor Improvement Permit**: The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.

2. **Transportation**: A traffic impact analysis has been performed for this project based on 78 AM and 70 PM peak hour trips. We conclude that the subject project will be in conformance with the City of San Jose Transportation Level of Service Policy (Council Policy 5-3) and a determination for a negative declaration can be made with respect to traffic impacts.

3. **Grading/Geology:**
   a) A grading permit is required prior to the issuance of a Public Works Clearance.
   b) If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading

permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.

c) Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.

d) A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit.

4. **Stormwater Runoff Pollution Control Measures**: This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges. Post-construction treatment control measures, shown on the project's Stormwater Control Plan, shall meet the numeric sizing design criteria specified in City Policy 6-29 or the project shall provide an Alternative Measure, where installation of post-construction treatment control measures are impracticable, subject to the approval of the Director of Planning, Building & Code Enforcement. **At PD stage, submit the following:**

a) **The project's Stormwater Control Plan showing the location and function of all post-construction treatment control measures, and all trees eligible for post-construction treatment control credits.**

b) **The numeric sizing calculations based on the Stormwater Control Plan, prepared by a qualified stormwater professional (civil engineer, licensed architect or landscape architect), used to determine runoff quantity and to design/select the post-construction treatment control measures.**

c) **Inspection and maintenance information on the post-construction treatment control measures.**

5. **Flood: Zone D.** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.

6. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.

7. **Street Improvements**:

a) Remove and replace broken or uplifted curb, gutter, and sidewalk (existing or damaged during construction) along project frontages.

b) Close the existing southerly driveway on Palace Drive.

c) Improvement of the public streets shall be to the satisfaction of the Director of Public Works.

d) Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.

8. **Sanitary**:
   a) Submit a sanitary sewer plan at the PD permit stage if construction of a new lateral is proposed.
   b) An Environmental Services Department permit is required for drainage into a sanitary sewer line for the car wash and service bays.

9. **Electrical**: Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.

10. **Street Trees**:
   a) Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings.
   b) Contact the City Arborist at (408) 277-2756 for the designated street tree.

11. **Referrals**: This project should be referred to the City of Santa Clara.

Please contact the Project Engineer, Ryan Do, at (408) 535-6897 if you have any questions.

Ebrahim Sohrabi
Senior Civil Engineer
Transportation and Development Services Division

BTD
ES:rd:kg
6000_22689468019.DOC

Brian Avery
Avery Construction
130 East Dana Street
Mountain View, CA 94041
(650) 961-8330 / avery18@pacbell.net

Martina Davis, Project Manager
Jean Hamilton, Acting Deputy Director
Lee Price, MMC, City Clerk
Honorable Members of the San Jose Planning Commission

September 26, 2006

Re. PDC04-043 Planned Development Rezoning to allow a 170,000 square feet Smythe Auto Garage

Dear Honorable Members of the Planning Commission and City Staff,

For 30 years, we have owned and operated the Brookdale Garden Apartments at 4400 Albany Drive, San Jose 95129. 250 residents live at this property which is across the street from the Smythe Dealership; moreover we have balconies, patios, bedrooms, and living rooms looking directly at the Smythe Dealership's car wash, service areas, and storage areas.

We have appeared numerous times over the years in front of neighborhood meetings, public meetings, meetings with Smythe, and City Hearings to battle the following Smythe intrusions upon our residential neighborhood in the following categories:

1. TRESPASSING: Smythe salesmen consistently use our parking lot to meet the company requirement that a salesman and test driver switching places offsite such as our rental office parking lot. (see example of photo presented at a previous City Council Meeting). Also, Smythe employees sometimes eat lunch on our lawns. (see photo).
2. PARKING THROUGHOUT NEIGHBORHOOD: Dozens and dozens of Smythe employees park in the residential neighborhoods, and we have both photos and video of this. They all walk in the back gate of the property, and if asked in an off-handed manner, the employees will admit that they are "asked", or "told" to park off-site because on-site space is for new cars. These cars will regularly take up all available street parking on Auburn and Albany Drives.
3. PARKING ILLEGALLY THROUGHOUT NEIGHBORHOOD: Smythe employees park in red zones, too close to stop signs, and in parking lots like ours. Why? Because the late arriving employees miss all the open spots in our neighborhood and don't want to park several blocks away,
4. CAR WASH NOISE 24 HOURS PER DAY: The incredibly loud car was operates 24 hours per day? 6 Managers have told us otherwise over the years, but the reality is that when a car transport truck arrives and is unloaded, the cars have to be washed before they are tucked away for display. We have had residents move out of our complex because of this, and we consider this a direct attack on our ability to conduct a business. The outdoor living on the balconies and patios is compromised by the commercial vacuum noise that is purposefully loud because of Smythe's desire to have a massive engine to provide the thrust for a rapid-drying process. We invite you to sit on a Brookdale patio or balcony at night and hear this noise.
5. OUTDOOR INTERCOM/MICROPHONE: The outdoor microphone rules are observed while the General Manager is on duty, but when he/she is absent, the microphone is used in the after-hours to track down employees. This sound is a stark example of a totally unnecessary intrusion of the operations of a business on a residential neighborhood.

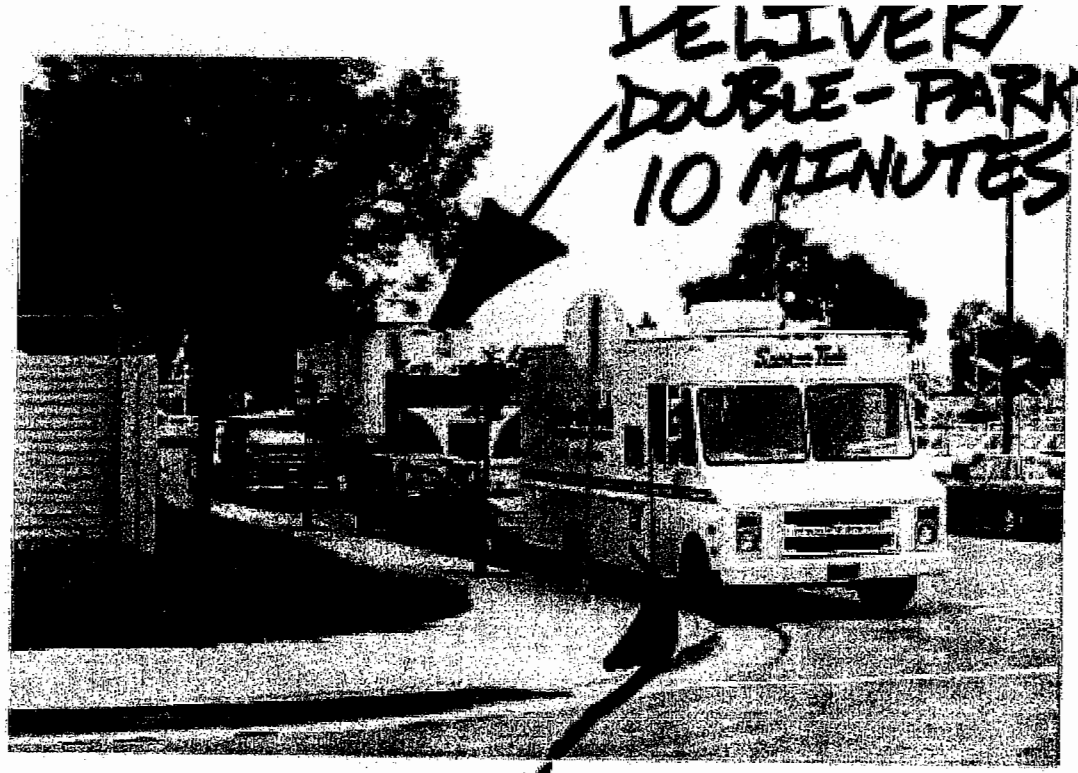
6. DRIVING IN RESIDENTIAL NEIGHBORHOOD: This includes test-driving with prospective purchasers of vehicles, mechanics testing vehicles, service trucks (Snap-On-Tool trucks for example), car transport trucks, tow trucks etc.
7. LANDSCAPE MANAGEMENT OF BUFFER AGAINST RESIDENTIAL NEIGHBORHOOD: Auto dealerships have a poor history of landscape management. This includes poor graffiti management, litter management, and awful maintenance of irrigation systems and landscape.

We offer the following input on the PDC04-043 Application:

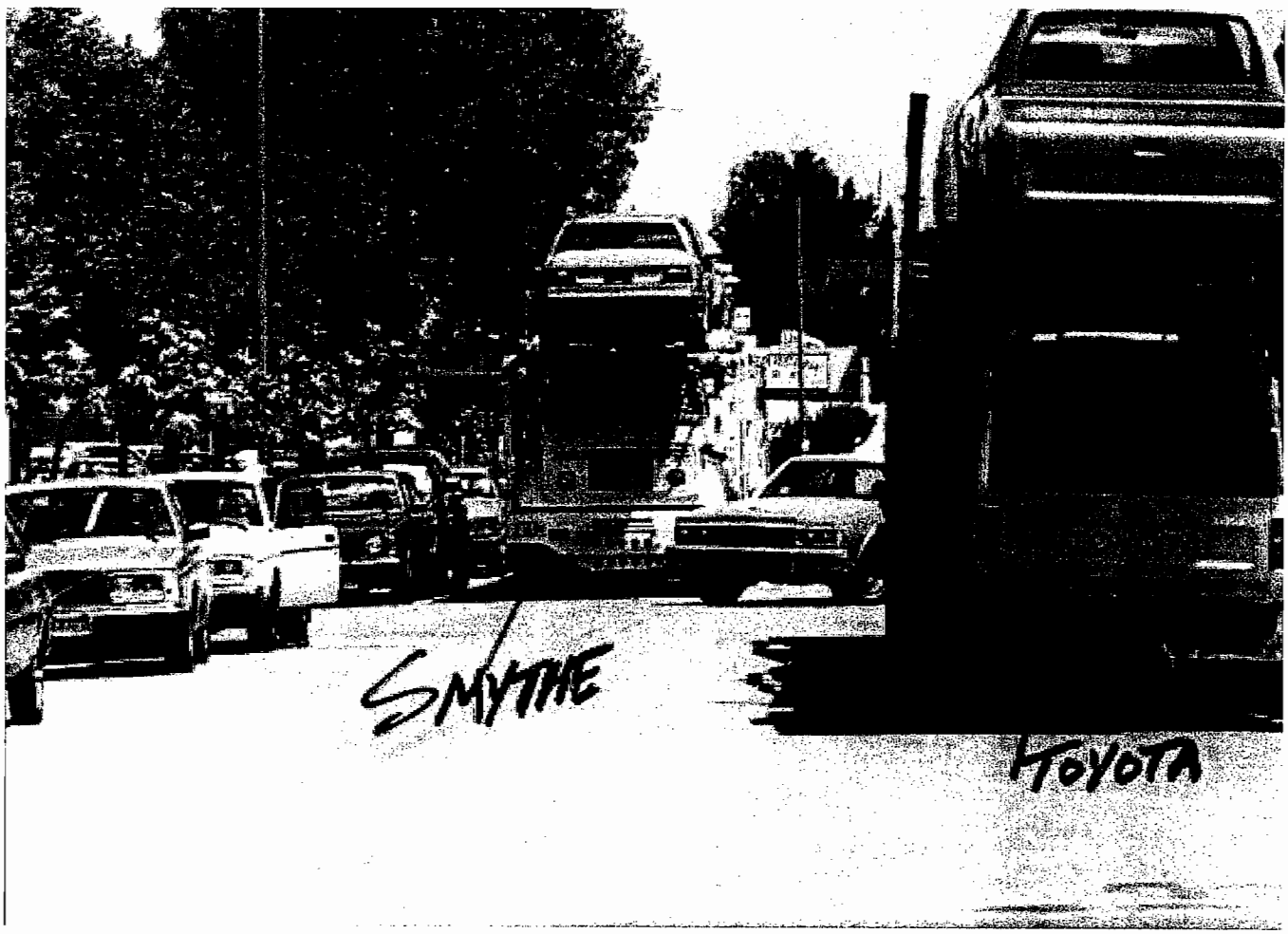
A. At least 120 on-site Employee Parking must be striped and labeled "Employee Parking Only" and the exact stalls must be designated on plans that are forwarded to the Code Enforcement Division. We implore you to add language that makes it clear that "these designated Employee Parking stalls shall be available at all times for inspection by San Jose Code Enforcement personnel."
B. The Car Wash and outdoor Intercom/Microphone must have agreed-upon hours of 8am-6pm Monday –Friday and 9am – 6pm on Saturday and the hours must be posted on a permanent sign next to each intercom/microphone location, and car wash location.
C. The Pedestrian& Emergency Vehicle Access entrance at the rear of the property (on Albany Drive) shall be closed off to traffic to prevent the horrendous history of using this area for car transport trucks, test driving into the neighborhood etc.
D. A landscape management contract with an unrelated third party company shall be required at all times.
E. Visually, we have a concern about the visual image of a 5 story concrete box from our patios and balconies across the street. We understand that the exact size of the designated Redwood trees shall be discussed at the Planned Development Stage; but we hope that the Planning Commission can send along a request for 36" or 48" box Redwood Trees to be considered behind the property on the deep landscape area facing our neighborhood. We will gladly donate to the upgraded size if this is necessary. We just can't wait 15 years to wait for tiny Redwoods to hopefully mature to provide the screening and buffer from the sound and sights of a 5 story auto operation and service center.

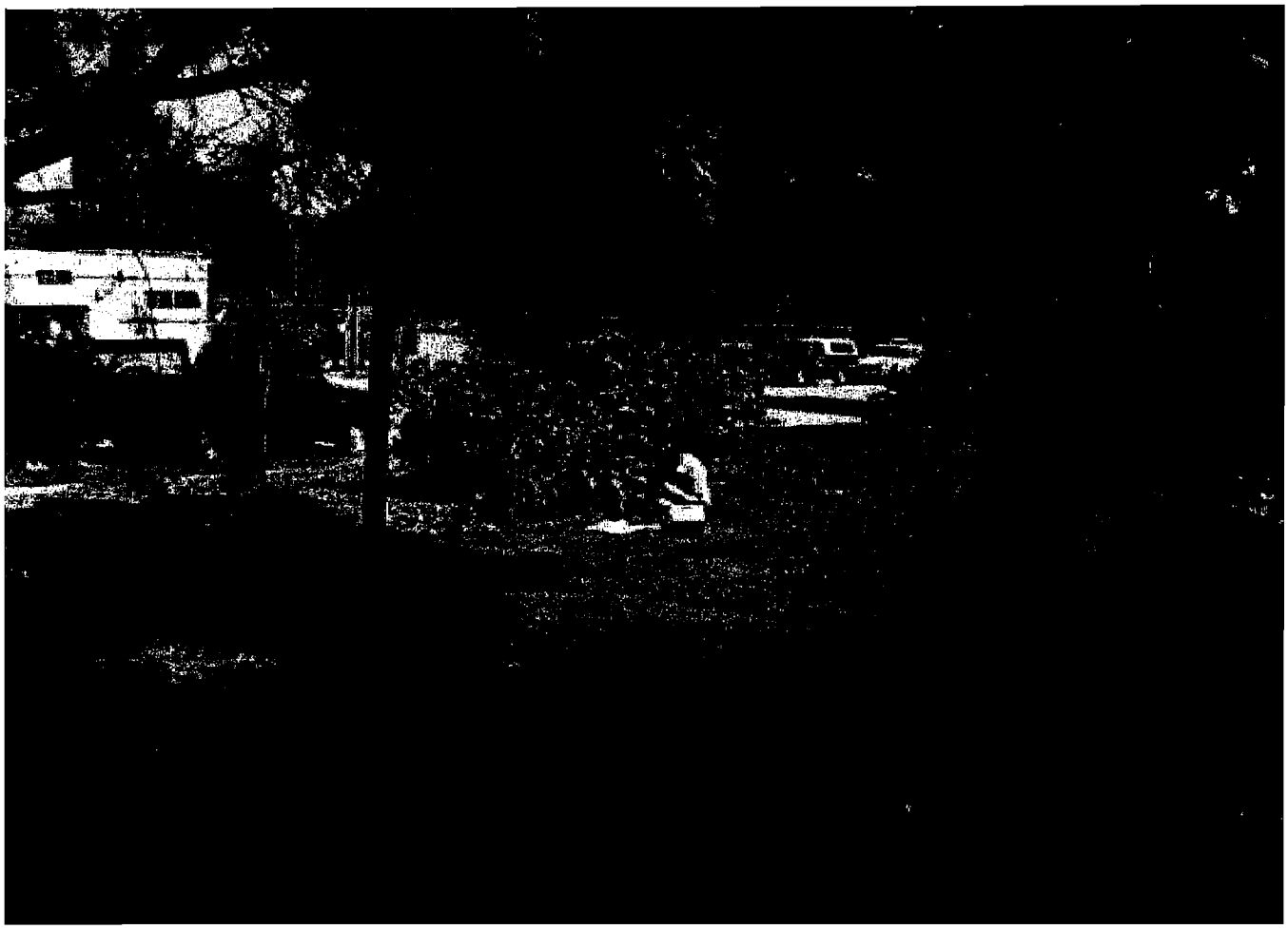
Sincerely,

Brian Avery
Managing General Partner
Brookdale Partnership
avery18@pacbell.net

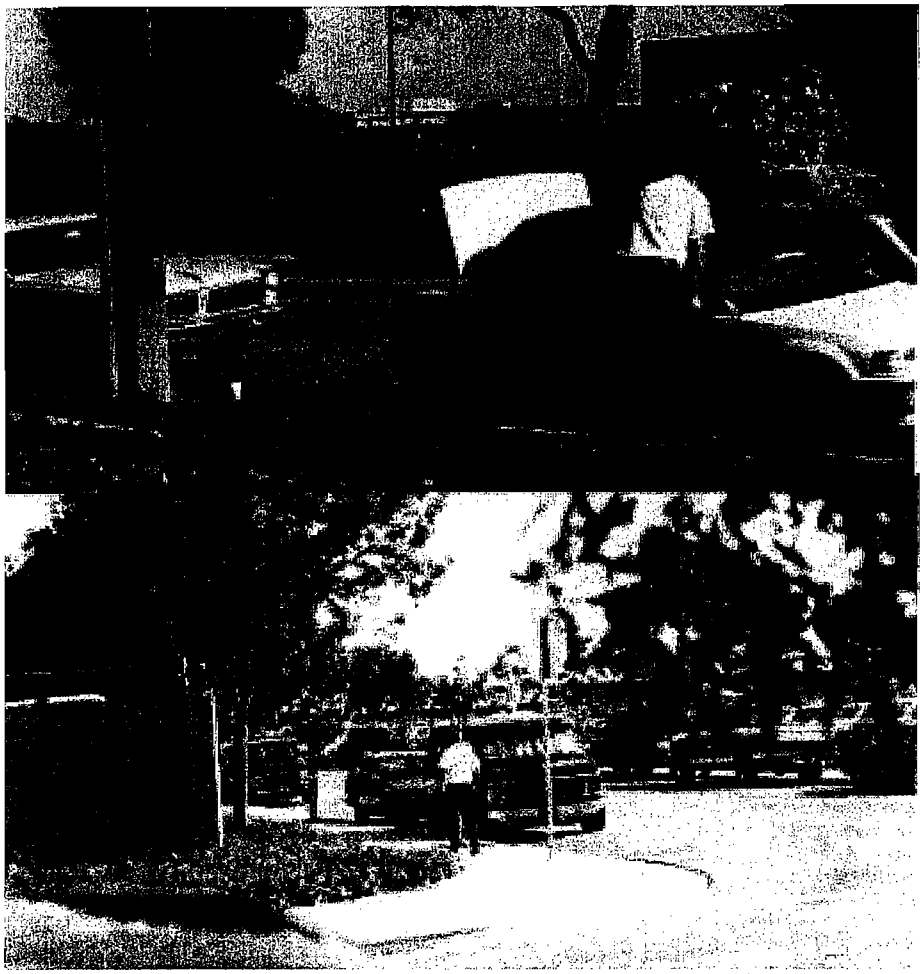


PARKED IN
RED ZONE: 1½ HRS IN.





Smythe Salesman Switching Places



OF MGMT. & STAFF PARKING VEHICLES ON ALBANY — (BOTH SIDES) 8 - 9 am