

September 24, 2016

City Clerk  
2180 Milvia Street, 1st Floor,  
Berkeley, CA 94704

CITY CLERK:

This is an appeal to the Berkeley City Council of the September 8, 2016 decision (“Decision”) of the Zoning Adjustments Board to approve Use Permit #ZP2015-102 to establish a full service auto dealership, including auto sales, repair and maintenance, in an existing building; to construct a 4,427 square-foot addition to the building for auto access and service; and to use a portion of the existing 31-space surface parking lot at 2747 Adeline Street for dealership parking, car display, and inventory.

Notice of the Decision was mailed September 15, 2016, and this appeal is timely filed pursuant to Berkeley Municipal Code section 23B.32.050(C). The required fee is enclosed.

As detailed in the September 8, 2016 letter from attorneys for 2777 Shattuck Neighbors, the Decision violates numerous state and local laws, to the detriment of the neighbors and the Berkeley community at large. We appeal the Decision on multiple grounds, including but not limited to:

1. The project creates serious detriments to the health, safety, and comfort of persons residing, working, visiting, and doing business in the neighborhood, and to the owners and residents of adjacent and nearby properties.
2. This project should be rejected strictly as a matter of application of clear zoning code language. The project establishes a building that will function as a repair shop—a prohibited use for a building in the C-SA district. The Zoning Adjustments Board failed to apply the zoning code standard for determining whether this use is “ancillary” or “primary.”
3. The project requires full CEQA (California Environmental Quality Act) review. CEQA places a statutory burden on municipalities to analyze, disclose, and mitigate the harm from projects with significant environmental effects. This project does not meet the requirements for any categorical exemption, and even if it did, it would fall within exceptions to the exemption. The project will result in multiple potentially significant harms to the environment as defined by CEQA. Conditions of approval that may reduce project impacts cannot be used in the place of CEQA-required mitigation measures. If the Council does not

reject this project outright, it must, at a minimum, insist on full CEQA review prior to approval.

4. The project approval is an abuse of discretion because it is incompatible with numerous Berkeley land use policies adopted to promote the city's general welfare. The project conflicts with the purposes of the C-SA district and with long-standing community-created area plans promoting neighborhood-oriented, pedestrian-friendly development and reduced reliance on automobiles. The project is also incompatible with Berkeley's Climate Action Plan, the South Shattuck Strategic Plan, and could prevent implementation of important portions of the developing Adeline Corridor Plan.
5. The 20' mid-block repair entrance and special left-turn lane create unique traffic hazards to pedestrians and bicyclists which are not seriously addressed in the Decision. The left turn lane threatens the flow of traffic, and creates the potential for blocking the Adeline intersection, for disrupting AC Transit service, and for interfering with safe routes to schools. The physical dimensions of Shattuck Avenue at the project site do not permit mitigation of traffic flow without threatening the safety of bicyclists and pedestrians. The project worsens already-serious traffic issues on the narrow portion of Shattuck Avenue.
6. The project will adversely affect circulation in a neighborhood already suffering significant traffic problems.
7. The project noise study excludes a major source of noise from consideration, and is deficient in other ways.
8. The project fails to provide required off-street parking for customers and employees. The parking standard used by planning staff violates clear ordinance language requiring twice as much parking for a change of use.
9. The project erroneously allows auto service repair bays and driveways to count as off-street parking for employees and customers—a dangerous precedent with unknown future consequences as applicants seek to minimize their parking obligation to the detriment of neighborhoods.

A forthcoming letter from attorneys for 2777 Shattuck Neighbors will provide additional details regarding the legal inadequacies of the Decision.

Accordingly, we request that the Council reverse the Decision of the Zoning Adjustments Board approving Use Permit #ZP2015-102. At a minimum, the Council must rescind the approval and complete CEQA review.

We listed below own or lease property within 300 feet of the proposed project:

Sincerely,

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