

ATTACHMENT A

FINDINGS AND CONDITIONS

SEPTEMBER 8, 2016

[Text that has been revised or added from the June 9, 2016, ZAB Findings and Conditions is indicated in bold text.]

2777 Shattuck Avenue/2747 Adeline Street

Use Permit #ZP2015-0102 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.

PERMITS REQUIRED

- Use Permit to establish an automobile sales use of greater than 5,000 square feet and with associated outdoor activities in the C-SA Zone District, under Berkeley Municipal Code (BMC) Section 23E.52.030;
- Use Permit to construct more than 3,000 square feet of new floor area, under BMC Section 23E.52.050;
- Use Permit for outdoor sales and/or display at 2747 Adeline Street, under BMC Section 23E.52.030; and
- Administrative Use Permit for outdoor vehicle display along Stuart Street between Shattuck Avenue and Adeline Street, under Section 23E.52.070.F

CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15301 (“Existing Facilities”), **Section 15303 (“New Construction or Conversion of Small Structure”)** and **Section 15332 (“Infill Development Projects”)** of the CEQA Guidelines.
2. Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project will not involve grading, excavation or structural development on an active hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project will not affect any historical resource.

GENERAL NON-DETRIMENT FINDINGS

1. Pursuant to Berkeley Municipal Code Section 23B.32.040, the City finds that the proposed project, under the circumstances of the particular case existing at the time at which the application is granted, will not be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City, for the reasons outlined below. (These findings are applicable to the Use Permits requested to

establish an automobile sales use of greater than 5,000 square feet and with associated outdoor activities, construct more than 3,000 square feet of new floor area, and for outdoor sales and/or display. They are also applicable to the Administrative Use Permit for outdoor vehicle display along Stuart Street between Shattuck Avenue and Adeline Street.)

- A. The project will be compatible with the use of surrounding commercial development on the South Shattuck and Adeline corridors. Commercial properties surrounding the site in the C-SA District include restaurants, self-storage, auto sales, medical offices, and retail uses.
- B. The project will not substantially change the physical appearance of the existing building and will be compatible in terms of design and visual character. Aside from the proposed 4,427 square-foot addition at the back of the building, which will not be visible from a public right-of-way, the building's massing will remain the same. The building's façade also will remain substantially the same and alterations to the façade will be limited to portions that were already modified in the past. These alterations include enlarging an existing door opening to 19'10" to allow for vehicle entry and exist, installing a roll-up gate at that opening, removing an existing awning and set of storefront windows, and new paint and signage. The iconic tower will remain at the building's entrance. In addition, the building's height will remain the same, within the range of two-to-five story development on nearby properties.
- C. The project will not adversely affect circulation in the neighborhood. Additional vehicle trips will not substantially increase traffic on Shattuck Avenue or residential side streets. All intersections will continue to operate at Level of Service (LOS) **C** or better during peak hours, except that the intersection of Shattuck Avenue and Stuart Street will continue to operate at unacceptable LOS **F** during both morning and afternoon peak hours. However, because the project will add fewer than 10 net trips to the most congested direction of travel at this intersection during peak hours this impacts is found to be less than significant. The proposed driveway design off Shattuck Avenue provide a safe environment for pedestrians and cars. In addition, the project will meet C-SA District requirements for the number of off-street parking spaces while preserving existing off-street parking approved under prior use permits.
- D. The project will be consistent with general development standards in the C-SA District, and it will not increase the building height or reduce the building setbacks relative to the existing structure. The proposed 4,427 square-foot addition at the back of the building will incrementally increase existing shadows cast by the building. However, this addition will not extend farther eastward toward residences than existing rear walls on adjacent parts of the building. Therefore, the project will not result in substantial additional shading of residences or obstruction of their light or air, relative to existing conditions.
- E. Light, glare, and noise from the proposed auto sales use will not be detrimental to those residing and working in the neighborhood. Conditions of Approvals **12**, **13**, **17** and **18** will be implemented to limit detriment.

2. Compatibility with Purposes of the C-SA District:

Pursuant to BMC Section 23E.52.090.B, the City finds that the proposed project will be compatible with the purposes of the C-SA District as described below. The purposes of the C-SA District include: provide locations for both community-serving and regional-serving businesses; provide an area of neighborhood and lower intensity community Commercial Uses, serving as a transition between the Downtown area and the neighborhood-serving area south of Ashby Avenue; encourage the location of a wide variety of community-

oriented retail goods and services; encourage residential development for persons who desire both the convenience of location and more open space than is available in the Downtown; encourage development and amenities that support pedestrian-oriented uses; encourage appropriate mixed-use development (retail/ office/ residential) on appropriate sites in the District; and increase the opportunities for the establishment of businesses which are owned and operated by local residents.

- A. The project will enable Berkeley Honda, a local and regional-serving business, to remain within the C-SA District in a new location. While auto dealerships are not appropriate in all parcels in the C-SA District, the proposed relocated auto sales use will occur within the District's Dealership Overlay Area on the South Shattuck corridor. It is a lower intensity commercial use that provides a transition between Downtown and south of Ashby.
- B. As described in Findings 1.A. and 1.B., above, the project will be compatible in design and character with the District. The area to the east and southeast of the project site is in the Restricted Two-family Residential District (R-2), with residences that are one to four stories in height. The project will not change the building's existing height and will not substantially alter the existing façade on Shattuck Avenue or the building's massing. The renovated building also will not alter existing nonconforming rear setbacks adjacent to residences on Ward and Stuart streets. In addition, the DRC gave a favorable recommendation to the ZAB at its April 21, 2016, meeting. The proposed use will be focused on Shattuck Avenue, away from adjacent residential uses, and be similar to and compatible with the adjacent uses and uses in the vicinity. In addition, implementation of the project will not result in impacts to traffic or pedestrian circulation or noise.

3. Other Required Findings:

Pursuant to BMC Section 23E.52.090.B, the City finds that the proposed auto sales use will be compatible with the purposes of the C-SA District (as discussed in Finding 2 above). The project also will be compatible in design and character with the District and adjacent residential neighborhoods, as detailed in Finding 1. Additionally, the relocation of Honda's auto dealership to the project site within the South Shattuck corridor will not result in the domination of one type of commercial/retail use in any one area of the District. Surrounding uses on the Shattuck and Adeline corridors include a diverse mixture of commercial and residential uses: a restaurant to the north; a publishing business, café, and multi-unit residential complex to the west; and medical offices to the south.

Pursuant to BMC Section 23E.52.090.E, the City finds that the inclusion of vehicle display/storage on the Stuart Street frontage of 2747 Adeline will be not be detrimental. This area is currently used as a parking lot. The current land use across Stuart Street in this area is commercial (Walgreens), and the back-side of the building faces Stuart Street. The auto dealership will be down-sizing from its previous permanent location on Parker Street at Shattuck Avenue, which had a 44,000 square-foot building and 16,000 square-foot lot, to a 23,510 square-foot space and 11,619 square-foot lot on the project site.

STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

The following conditions, as well as all other applicable provisions of the Zoning Ordinance, apply to this Permit:

1. Conditions Shall be Printed on Plans

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions.' *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

2. Applicant Responsible for Compliance with Conditions

The applicant shall ensure compliance with all of the following conditions, including submittal to the project planner of required approval signatures at the times specified. Failure to comply with any condition may result in construction being stopped, issuance of a citation, and/or modification or revocation of the Use Permit.

3. Uses Approved Deemed to Exclude Other Uses (Section 23B.56.010)

- A. This Permit authorizes only those uses and activities actually proposed in the application, and excludes other uses and activities.
- B. Except as expressly specified herein, this Permit terminates all other uses at the location subject to it.

4. Modification of Permits (Section 23B.56.020)

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Zoning Officer, except that the Zoning Officer may approve changes that do not expand, intensify, or substantially change the use or building.

5. Plans and Representations Become Conditions (Section 23B.56.030)

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

6. Subject to All Applicable Laws and Regulations (Section 23B.56.040)

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building and Safety Division, Public Works Department and other affected City divisions and departments.

7. Exercised Permit for Use Survives Vacancy of Property (Section 23B.56.080)

Once a Permit for a use is exercised and the use is established, that use is legally recognized, even if the property becomes vacant, except as set forth in Standard Condition #8, below.

8. Exercise and Lapse of Permits (Section 23B.56.100)

- A. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
- B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- C. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

9. Indemnification Agreement

The applicant shall hold the City of Berkeley and its officers harmless in the event of any legal action related to the granting of this Permit, shall cooperate with the City in defense of such action, and shall indemnify the City for any award of damages or attorney's fees that may result.

IV. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING OFFICER

Pursuant to BMC 23B.32.040.D, the Zoning Adjustments Board attaches the following additional conditions to this Permit:

Prior to Submittal of Any Building Permit:

- 10. Vehicle Operations Plan. A single plan or plan sheet that includes the following: how driveway users will be alerted to the shift in access/egress conditions; a.m. and p.m. vehicle circulation within 2777 Shattuck Avenue; location and design of visible and audible driveway alarm for pedestrian safety; and, location of new vehicle and parts delivery along with estimated frequency and time of day. The plan shall also identify operating measures and operating procedures to ensure that the service use is managed so that access to the site does not result in traffic congestion due to double parking in a traffic lane, or to impede transit, pedestrian or bicycle movements in the right-of-way.
- 11. Shattuck Avenue Circulation. Northbound and southbound lane dimensions on Shattuck Avenue, between Ward and Stuart Streets, shall be reviewed to determine whether restriping could better accommodate southbound through traffic, AC Transit buses in particular, to continue around any southbound Project left turners into the proposed new Project driveway. The applicant's traffic engineer shall evaluate the situation and prepare a dimensioned and scaled drawing for City review and consideration. If the City Traffic Engineer concurs with the findings, then the applicant shall include these plans, with documentation of the City Traffic Engineer approval, with their building permit documents.
- 12. Street Tree. The spacing, species and maintenance plan for the street tree proposed on Stuart Street, east of the access to parking lot, shall be set forth by the City Forester, as facilitated by the project applicant.
- 13. Landscape Plan. A Landscape Plan shall be prepared submitted with the Building Permits which includes viable planting plans for both the project site and the planting strips along

Ward Street, Stuart Street, Shattuck Avenue, and Adeline Street. Planting on the public right of way is subject to the review and approval of City Public Works.

14. Outdoor Amplification. Building plans shall indicate that no outdoor amplification will be used on-site, consistent with standards in Berkeley Municipal Code Section 23E.52.070.F for new and relocated auto sales uses.
15. Light and Glare. Building plans shall show that any exterior light fixtures will not exceed 20 feet in height, will use light cutoffs to control light spillover onto adjacent properties and urban sky glow, and will be low-energy consistent with the City's goals for energy efficiency. Exterior light fixtures also shall achieve uniform light coverage and shall minimize glare.
16. Project Liaison. The applicant shall provide the project planner with the name and telephone number of the individual empowered to manage complaints generated from the project. The individual's name, telephone number, and responsibility for the project shall be posted at the project site for the duration of the project in a location easily visible to the public. The individual shall record all complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis.

Project Liaison _____
Name Phone #

17. Construction Noise Reduction Program. The applicant shall develop a site specific noise reduction program prepared by a qualified acoustical consultant to reduce construction noise impacts to the maximum extent feasible, subject to review and approval of the Zoning Officer. The noise reduction program shall include the time limits for construction listed above, as measures needed to ensure that construction complies with BMC Section 13.40.070. The noise reduction program should include, but shall not be limited to, the following available controls to reduce construction noise levels as low as practical:
 - Construction equipment should be well maintained and used judiciously to be as quiet as practical.
 - Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
 - Utilize "quiet" models of air compressors and other stationary noise sources where technology exists. Select hydraulically or electrically powered equipment and avoid pneumatically powered equipment where feasible.
 - Locate stationary noise-generating equipment as far as possible from sensitive receptors when adjoining construction sites. Construct temporary noise barriers or partial enclosures to acoustically shield such equipment where feasible.
 - Prohibit unnecessary idling of internal combustion engines.
 - If impact pile driving is required, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
 - Construct solid plywood fences around construction sites adjacent to operational business, residences or other noise-sensitive land uses where the noise control plan analysis determines that a barrier would be effective at reducing noise.
 - Erect temporary noise control blanket barriers, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and

quickly erected.

- Route construction related traffic along major roadways and away from sensitive receptors where feasible.

18. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 2120 Milvia, 3rd Floor or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:

A. Environmental Site Assessments:

- 1) Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13) that is not more than 6 months old.
- 2) Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
- 3) If the Phase I is over 6 months old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.

B. Soil and Groundwater Management Plan:

- 1) A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.
- 2) The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
- 3) TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.

C. Building Materials Survey:

- 1) Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality

Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.

D. Hazardous Materials Business Plan:

- 1) A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 shall be submitted electronically at <http://cers.calepa.ca.gov/> within 30 days if on-site hazardous materials exceed BMC 15.20.040. HMBP requirement can be found at <http://ci.berkeley.ca.us/hmr/>

19. Noise. The three existing windows on the southern (Stuart Street) elevation shall be modified to include a secondary acoustically-rated window assembly on the interior side of the building.

20. Noise and Air Quality. The proposed rooftop-mounted exhaust ventilation blower shall be installed closer to Shattuck Avenue and away from residential uses to the east. The exact location shall be shown on the building permit application with a statement from a qualified acoustical engineer confirming the operation of the exhaust system will be below City thresholds.

21. Noise. The project shall include a clear acoustic separation for the entire length of the eastern wall – the sheet rock wall that surrounds the parts department and for the concrete masonry unit (CMU) wall that is independent. The CMU wall could be re-sheet rocked on the inside with an acoustic detailing where it connects with the ceiling.

22. Parking. Four parking spaces, designated for Honda customers or employees (in opposed to auto display/storage) shall be added to the 2747 Adeline Street parcel, for a total of eight parking spaces. The related calculations of space designated for display/storage on Adeline Street and total auto display/storage shall be updated.

During Construction:

23. Construction Hours. Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and 4:00 PM on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.

24. Transportation Construction Plan. The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:

- Alterations, closures, or blockages to sidewalks or pedestrian paths
- Alterations, closures, or blockages to vehicle travel lanes (including bicycle lanes)
- Storage of building materials, dumpsters, debris anywhere in the public ROW
- Provision of exclusive contractor parking on-street relevant
- Significant truck activity.

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, 3rd floor, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

Contact the Permit Service Center (PSC) at 2120 Milvia Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

- 25. Stormwater Requirements.** The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:
- A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.
 - B. Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
 - C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
 - D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.
 - E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
 - F. All on-site storm drain inlets/catch basins **must** be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.
 - G. All private or public projects that create and/or replace 10,000 square feet or more of impervious surface must comply with Provision C.3 of the Alameda County NPDES permit and must incorporate stormwater controls to enhance water quality. Permit submittals shall include a Stormwater Requirement Checklist and detailed information showing how the proposed project will meet Provision C.3 stormwater requirements, including a) Site design measures to reduce impervious surfaces, promote infiltration, and reduce water quality impacts; b) Source Control Measures to keep pollutants out of stormwater runoff; c) Stormwater treatment measures that are hydraulically sized to remove pollutants from stormwater; d) an O & M (Operations and Maintenance)

- agreement for all stormwater treatment devices and installations; and e) Engineering calculations for all stormwater devices (both mechanical and biological).
- H. All on-site storm drain inlets must be labeled “No Dumping – Drains to Bay” or equivalent using methods approved by the City.
- I. Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
- J. All loading areas must be designated to minimize “run-on” or runoff from the area. Accumulated waste water that may contribute to the pollution of stormwater must be drained to the sanitary sewer or intercepted and pretreated prior to discharge to the storm drain system. The property owner shall ensure that BMPs are implemented to prevent potential stormwater pollution. These BMPs shall include, but are not limited to, a regular program of sweeping, litter control and spill cleanup.
- K. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
- L. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.

26. Public Works - Implement BAAQMD-Recommended Measures during Construction. For all proposed projects, BAAQMD recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified visible emissions evaluator.
- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action

within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

27. Public Works. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.
28. Public Works. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
29. Public Works. The project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The project sponsor shall comply with all City ordinances regarding construction and grading.
30. Public Works. Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
31. Public Works. The removal or obstruction of any fire hydrant shall require the submission of a plan to the City's Public Works Department for the relocation of the fire hydrant during construction.
32. Public Works. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.

Prior to Final Inspection or Issuance of Occupancy Permit:

33. Compliance with Conditions. The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit. Occupancy is subject to verification of compliance with these Conditions of Approval.
34. Compliance with Approved Plan. The project shall conform to the plans and statements in the Use Permit. All landscape, site and architectural improvements shall be completed per the attached approved drawings received **August 31, 2016**, except as modified by conditions of approval.
35. Noise. Between the Temporary Certificate of Occupancy and the Final Certificate of Occupancy, when the service area and sales area are both in operation, a qualified acoustical engineer shall take noise measurements consistent with professional practice along the eastern property line, in close proximity to the adjacent residential uses. Measurements shall be compared to the City of Berkeley requirements and documented in a memorandum submitted to the City of Berkeley Planning Department.

36. Traffic Circulation. Approximately 6 to 8 months after the Temporary Certificate of Occupancy is issued, when the service area and sales area are both in operation, a circulation study shall be conducted by a qualified traffic engineer, at the expense of the project applicant. The scope and methodology of the circulation study shall be reviewed and approved by the City Traffic Engineer. The Study should include observations during a.m. and p.m. peak periods on weekdays and a Saturday between 12:00 noon and 2:00 p.m. Observations should focus on difficulties or conflicts associated with southbound left turns into the Honda service area. If safety, delay or delay issues are observed with this turning movement, alternative site access (right-in, right-out at service entrance) shall be analyzed. The study shall be submitted to the City Traffic Engineer for review and approval.

If the City Traffic Engineer determines that recommendations or street improvements, based on the applicant's consultant's analysis or the City's interpretation of that analysis, are appropriate, the applicant shall pay for said improvements. Said improvements are to be designed by the applicant, paid for by the applicant, focused on the issues laid out in this COA, and installed within three (3) months of the City Traffic Engineer notifying the applicant (via email or letter) of determination.

At All Times:

37. Design Review. Signage and any other exterior modifications, including but not limited to landscaping and lighting, shall be subject to Design Review approval.

38. Drainage Patterns. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.

39. Transit Subsidy Condition. The applicant shall reimburse employees the maximum non-taxable cost of commuting to and from work on public transportation (e.g., monthly passes) if they so commute, and a notice informing employees of the availability of such subsidy shall be permanently displayed in the employee area as per BMC Chapter 9.88.

40. Hours of Operation. Modified Use Permit #A1937 requires the Ward Street parking lot to be "chained" by 8:00 p.m. (but signed to state lot closes at 7:00 p.m.) Monday through Saturday and closed all day Sunday. The Honda project includes 9 parking spaces in the Ward Street parking lot and as such, the Honda hours of operation shall be limited as follows:

Sales:

Monday through Friday: 7:00 a.m. to 7:00 p.m.

Saturday: 8:00 a.m. to 7:00 p.m.

Sunday: 10:00 a.m. to 6:00 p.m.

Service:

Monday through Friday: 7:30 a.m. to 6:00 p.m.

Saturday: 8:00 a.m. to 6:00 p.m.

Sunday: closed

- 41. Location of Test Drives.** No test driving of vehicles for sale or vehicles being serviced shall be permitted on Ward or Stuart Streets. Test drives shall be limited to Shattuck Avenue and Adeline Street and down towards the freeway.
- 42. Subject to Review.** This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.
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