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October 29, 2018

SENT VIA EMAIL

Shoshana O'Keefe, Acting Chair
City of Berkeley
Zoning Adjustments Board
1947 Center Street, Floor 2
Berkeley, CA 94704
ZAB@cityofberkeley.info

Shannon Allen, Co-Secretary
ShAllen@cityofberkeley.info

Greg Powell, Co-Secretary
GPowell@cityofberkeley.info

RE: Request for Continuation of Informational Meeting regarding Berkeley Honda Autocenter, located at 2777 Shattuck Avenue, Berkeley, California

Dear Zoning Adjustments Board:

We represent Berkeley Auto Group, LLC doing business as Berkeley Honda Autocenter ("Berkeley Honda"). Our client has hired us in connection with the second informational hearing scheduled as a result of communications to the city, largely from a subset of residents who opposed Berkeley Honda's relocation to 2777 Shattuck Avenue, but lost their appeal of the city's decision to grant Berkeley Honda's Use Permit.

We are writing to request the continuation of the hearing currently scheduled for December 13, 2018 for the following reasons:

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1. Berkeley Honda's Counsel Is Not Available on December 13, 2018.

Berkeley Honda was not informed of the first informational hearing that took place on June 28, 2018 until after the hearing took place, therefore, it could not appear and offer a response. It is clear from the hearing transcript, in which the Zoning Adjustments Board ("ZAB") members understandably express frustration that a representative from Berkeley Honda was not present, that the board members were not aware that Berkeley Honda was not notified of the hearing. Our client is also frustrated that Berkeley Honda knew nothing of the meeting, which prevented its representative, Tim Beinke from attending and answering ZAB's questions, as he has done at numerous other hearings before city officials. Our client has informed us a second informational hearing is scheduled for December 13, 2018. Due process requires that ZAB approach the next informational hearing with fresh eyes without holding over any bias from the June 28th hearing our client was not invited to attend.

Unfortunately, I am not available on December 13th to appear before ZAB with Tim Beinke, Berkeley Honda's agent. Our client must be provided an opportunity to respond with the assistance of counsel to the allegations of a vocal set of residents who have opposed Berkeley Honda's relocation from the beginning. No Agenda for December 13th has been issued by ZAB, therefore, a short continuance should not cause any inconvenience to the public.

2. A Continuance Would Allow for SEEDS Mediation Between Berkeley Honda and the Neighbors

We are in the process of obtaining and reviewing communications to the city regarding Berkeley Honda so that we may offer a thorough response. Berkeley Honda has made every effort to comply with its Use Permit, including cooperating with the city to promptly resolve any issue staff raised that related to the Use Permit. We believe the complainants are asking Berkeley Honda be held responsible for traffic and other conditions that are unrelated to or do not violate Berkeley Honda's Use Permit.

Mediation between Berkeley Honda, a staff member of Land Use and Planning, and the complainants will facilitate communication and resolution in a less adversarial manner. The SEEDS community mediation service exists for the express purpose of resolving land use disputes before they reach ZAB. Mediation will promote understanding of what Berkeley Honda is or is not required to do under its Use Permit and what actions are within Berkeley Honda's control as it relates to urban traffic conditions. A continuance will allow Berkeley Honda to pursue mediation and to prepare a presentation regarding its ongoing commitment to comply with terms of its Use Permit. Through mediation, we hope to avoid a situation where ZAB is put in the position of parsing the details of individual traffic incidents.

Please do not hesitate to contact his office to discuss this matter, including mine and my client's availability in mid to late January, 2019 for a continued hearing date.

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Sincerely,



Kenneth S. Katzoff

cc: Dee Williams-Ridley, City Manager (manager@cityofberkeley.info)
Farimah F. Brown, City Attorney (attorney@cityofberkeley.info)