

**TO: JAMES L. APP, CITY MANAGER**

**FROM: ED GALLAGHER, COMMUNITY DEVELOPMENT DIRECTOR**

**SUBJECT: APPEAL OF CONDITIONAL USE PERMIT 11-002 (SMITH)**

**DATE: JULY 5, 2011**

**Needs:** For the City Council to consider an appeal of the Planning Commission's decision to deny Conditional Use Permit 11-002, proposing to establish a used car sales lot on the site located at 201 Spring Street.

**Facts:**

1. The City received an application for Conditional Use Permit (CUP) 11-002 proposing to establish a used car sales lot on the site located at 201 Spring Street.
2. In order to approve the CUP, the decision maker must find that the proposed used car sales lot would be consistent with policies and standards in the Uptown/Town Center Specific Plan and the Gateway Design Standards and ultimately that the proposed use would not be detrimental to the City's efforts to revitalize the downtown.
3. The Planning Commission reviewed the project at their hearing on May 10, 2011 (see Attachment 1, May 10<sup>th</sup> Planning Commission Staff Report). The Commission was unable to make the required findings of consistency with the recently adopted Uptown/Town Center Specific Plan and denied the permit (Resolution 11-012, Attachment 2) making the following finding:  
  
*By allowing the use, the Planning Commission finds that the proposed Used Car Sales Lot would be detrimental to the City's efforts to revitalize the downtown, since it would not be consistent with policies and standards in the Uptown/Town Center Specific Plan or the Gateway Design Standards.*
4. On May 25, 2011, the City received an application requesting an appeal of the Commission's decision (see letter, Attachment 1). The appeal was filed within the required 15 day time period from the Commission's action on May 10, 2011.

## **Analysis**

### **And**

**Conclusion:** The vision, policies, and intent of the Uptown/Town Centre Specific Plan (UT/TC SP) provisions do not support this type of land use in the South Downtown Area of Spring Street. Used car lots are therefore prohibited by the recently adopted Uptown/Town Centre Specific Plan zoning matrix.

Additionally, the proposed used car sales lot is not consistent with the intent of the City's Gateway Design Standards for the Central Gateway - Area B, South Spring Street, since the guidelines suggests this area enhance pedestrian facilities to support mixed-use residential and/or commercial buildings oriented toward the street.

Since the project is not consistent with the UT/TC SP and the Gateway Design Standards the Council will be unable to make the necessary findings to approve the CUP.

It is important to note that there are other suitable locations within the City that can accommodate used car sales lots that would not be inconsistent with City policies. Furthermore, the former use of 2235 Spring Street as a new and used car lot would open up the potential of the applicants to locate in this north of downtown site as a continued non-conforming use.

## **Policy**

**Reference:** Paso Robles Municipal Code, Uptown/Town Centre Specific Plan, Gateway Design Guidelines, Economic Strategy

## **Fiscal**

**Impact:** None.

- Options:**
- A. Deny the Appeal, upholding the Planning Commission's action on May 10, 2011 denying Conditional Use Permit 11-002, based on Used Car Sales Lots at the proposed location, being inconsistent with The Uptown/Town Centre Specific Plan and City Policies;
  - B. Amend, modify or reject the above options.

## **Attachments:**

1. Applicant's Letter requesting Appeal
2. May 10<sup>th</sup> Planning Commission Staff Report
3. Resolution 11-012 PC Resolution Denying the CUP
4. Draft CC Resolution denying Appeal

MAY 25 2011

Engineering Division

Ian Smith

1185 MONTEREY ST SAN LUIS OBISPO, CA 93401 - SMITHMOTORGROUP@GMAIL.COM - 805.215.5192

Planning Division  
City of Paso Robles  
1000 Spring Street  
Paso Robles, CA 93446

To the Planning Commission,

Having recently been denied a Conditional Use Permit 11-002 for the project location, 201 Spring St, I would like to file an appeal respectfully based on the following grounds:

Although the Planning Commission did not find a used car lot to be in compliance with three of the five findings, I believe that through site improvements, we can find a way to reach common ground that is beneficial to the city's plans to revitalize this area of town. As most of my sales are sourced from online, the need for my property to proclaim "used car sales" to the public isn't necessary. While most used car sales lots are considered unattractive by city standards, one that specializes in upscale, luxury cars could be different and attractive.

I am currently working with designers to create site improvements through building and landscape that make 201 Spring Street look less like the typical car sales lot, and more like an upscale professional store, one that could easily translate as "high end boutique" to the public. Such a property would be in compliance with the General Plan as well as the city's efforts to "revitalize downtown." Although many used car sales lots do not seem compliant with a pedestrian friendly district, an upscale lot attracts customers and window shoppers much the same way a clothing boutique or jewelry store does downtown. Pedestrians like to look at luxury and high end sports cars, hence the popularity of car shows and museums.


I look forward to meeting with you again to further discuss these plans in hopes of reaching an agreement that is favorable for both the city and our business. With gross sales expected around \$15,000,000 a year, this opportunity should not be so easily dismissed.

Respectfully,



Ian Smith  
Smith Motorgroup

**Attachment 1**  
Applicant Letter  
CUP 11-002  
(Smith)

TO: HONORABLE CHAIRMAN AND PLANNING COMMISSION  
FROM: RON WHISENAND, COMMUNITY DEVELOPMENT DIRECTOR   
SUBJECT: CONDITIONAL USE PERMIT 11-002  
(SMITH USED CAR LOT)

DATE: MAY 10, 2011

Needs: For the Planning Commission to consider a request filed by Brent Ian Smith, to establish a Used Car Sales Lot on an existing developed site.

- Facts:
1. The site is located at 201 Spring Street, which was most recently occupied by Home Town Nursery (See Vicinity Map, Attachment 1).
  2. The site is currently zoned C2-PD (Highway Commercial, Planned Development Overlay) and has a Community Commercial Service (CC) General Plan Land Use designation.
  3. Table 21.16.200.F.2, land use matrix, allows used vehicle sales in the C2 zone, with the approval of a Conditional Use Permit (CUP).
  4. The City Council approved the Uptown/Town Center Specific Plan (UP/TC SP) on May 3, 2011. The policies of the UP/TC SP are in effect. The plan policies pertaining to this location (South Spring Street area) do not support this type of use at this location. Additionally, the use list of the UP/TC SP does not allow used vehicle sales in the TC-2 zone, although the zoning provisions (which include the Use List) will not become effective until June 16, 2011.
  5. While this item is being considered by the Planning Commission prior to the Specific Plan zoning provisions taking "effect", the Commission must find that the proposed use is consistent with the policies of the Specific Plan.
  6. It is important to note that in addition to the Specific Plan, other policy documents, such as the City's General Plan, Gateway Design Standards, and Economic Strategy are not supportive of a "used car lot" use at this key "gateway" into the downtown.
  7. The Development Review Committee (DRC) reviewed this project at their meeting on April 25, 2011. Based on the policies mentioned above, the DRC was concerned with the proposed use. No action was taken by the DRC, and forwarded discussion of the matter to the Planning Commission.
  8. This application is Categorically Exempt (Class 32) from environmental review per Section 15332 of the State's Guidelines to Implement the California Environmental Quality Act.

**Attachment 2**  
May 10, 2011 PC Staff Report  
CUP 11-002  
(Smith)

Analysis  
and

Conclusions: In order for the Planning Commission to approve a Conditional Use Permit, the following findings must be made:

1. The Planning Commission finds that the establishment, maintenance or operation of the use will not be detrimental to the health, safety, morals, comfort, convenience and general welfare of the persons residing or working in the vicinity of the proposed use.
2. The Planning Commission finds that the proposed use will not be injurious or detrimental to property and improvements in the area or to the general welfare of the City because it shall comply with all applicable zoning, building and municipal codes.
3. By allowing the use, the Planning Commission finds that the proposed use would be consistent with the Commercial Service (CS) General Plan Land Use Category; and
4. By allowing the use, the Planning Commission finds that the proposed use would not be detrimental to the City's efforts to revitalize the downtown.

The application would not be consistent with the findings #2, #3 and #4 above. For example:

The business would not be consistent with applicable zoning, building and municipal codes since the zoning regulations in the UP/TC SP, Table 5.3-1 (Sec. 5.3) does not permit used vehicles sales lots in the TC-2 zone. The use would therefore not be consistent with the zoning code provisions which are part of the municipal code or the Uptown/Town Center Specific Plan.

The business would not be consistent with applicable General Plan policies in the Land Use Element, specifically Policy LU-2D, intended to "...maintain and create livable, vibrant neighborhoods and districts with attractive streetscapes, pedestrian friendly settings and a recognizable and high quality design aesthetic." This use would not contribute to creating a vibrant district or pedestrian friendly setting. Additionally, the CC land use category is intended to provide community products and services consistent with the downtown that would reduce vehicle miles traveled. Used car sales lots do not encourage lively atmosphere's and pedestrian oriented settings.

The business would not be consistent with the City's efforts to revitalize the downtown since the Uptown/Town Center Specific Plan does not allow used vehicle sales in the TC-2 zone, it would be contrary to the Specific Plan. Chapter 2 of the Specific Plan (Sec. 2.1.5, South of Downtown) provides a "vision" specifically for this area along Spring Street. It states, "Spring Street will be developed with buildings appropriate to a

major thoroughfare, but with a strong pedestrian orientation and focus on defining Spring Street as an important public space." Furthermore the section describes that future development should be characterized by "...infilling vacant lots, parking lots, and properties not currently occupied by a building of historical significance with mixed-use and/or flex buildings to transform South Downtown into a pedestrian-oriented mixed-use neighborhood with a well-defined public realm and strong sense of place". An "auto-oriented" used car sales lot does not fit the vision intended for the "South of Downtown", Spring Street area.

This use will be contrary to these policies and intent for future development and redevelopment of this area of the Uptown/Town Center Specific Plan. Therefore, the proposed use would not be consistent with Specific Plan, which encourages pedestrian oriented uses, and would not be consistent with the City's efforts to revitalize the downtown. Additionally, Chapter 5 of the UT/TC SP does not permit used car lots in the TC-2 zone.

In accordance with the Gateway Guidelines, the site is a "Central Gateway" and is included in Gateway - Area B, South Spring Street. The essence of the central gateway is "the quick transition from the environment of the highway to environment of the town". Additionally, auto sales tend to be a highway-oriented use. The Guidelines suggests that central gateways enhance pedestrian facilities to support mixed-use residential and/or commercial buildings oriented to the street.

Over the years, as Spring Street has transitioned from being the State Highway, to the main street through the City, many of the highway oriented uses such as car lots, motels and gas stations have relocated to other highway-oriented areas, such as Highway 101 and Highway 46. Plans such as the Specific Plan and the Gateway Guidelines suggest that the Spring Street corridor (at least at the Gateways and within the TC zones) is not the appropriate place for "highway oriented" uses, such as used vehicle sales.

The Planning Commission should discuss this matter and determine if the proposed use would be consistent with the policies within the Gateway and Uptown/Town Center Specific Plan and if this would be an appropriate use at the proposed location.

- Policy Reference: Uptown/Town Center Specific Plan, Gateway Design Standards, Land Use Element of the General Plan, and Economic Strategy.
- Fiscal Impact: None
- Options: After consideration of any public testimony, the Planning Commission should consider the following options:
- a. Adopt the attached resolution denying Conditional Use Permit 11-002, based on the proposed use not being consistent with the policies

outlined in the Uptown/Town Center Specific Plan and Gateway Guidelines

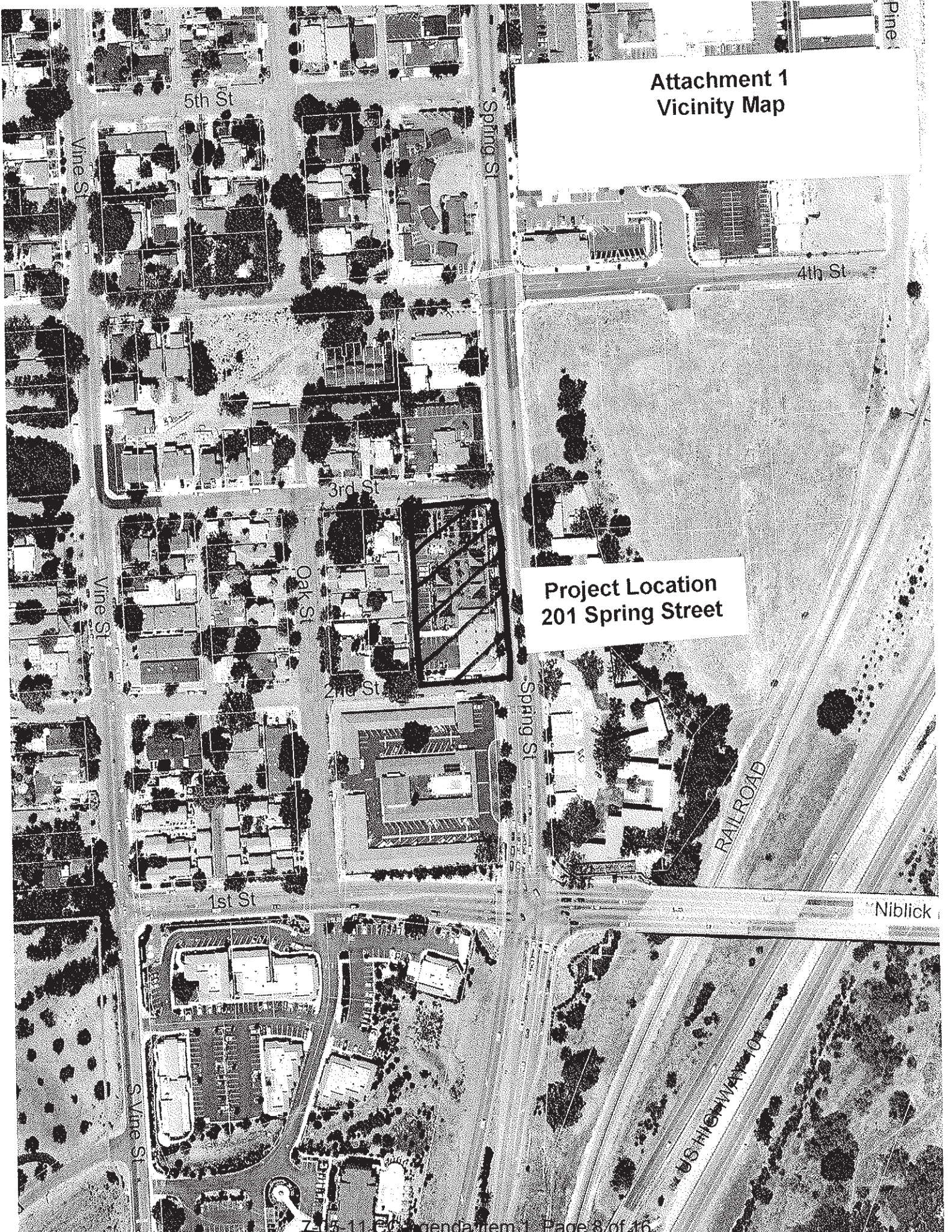
- b. Amend, modify or alter the above noted options.

Attachments:

1. Vicinity Map
2. Site Plan and Elevations
3. Resolution denying CUP 11-002
4. Newspaper notice and mail affidavits

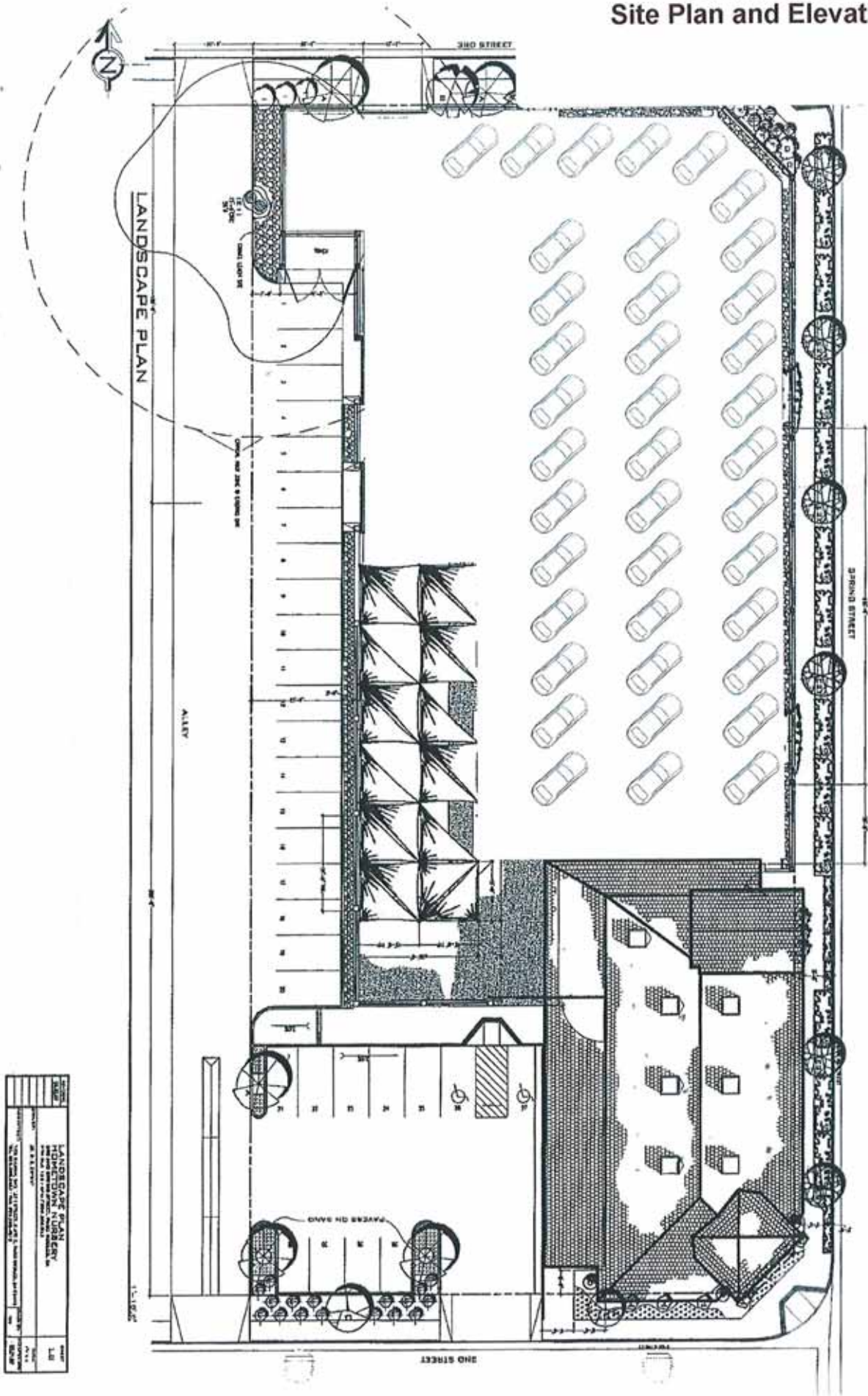
**Attachment 1  
Vicinity Map**

**Project Location  
201 Spring Street**

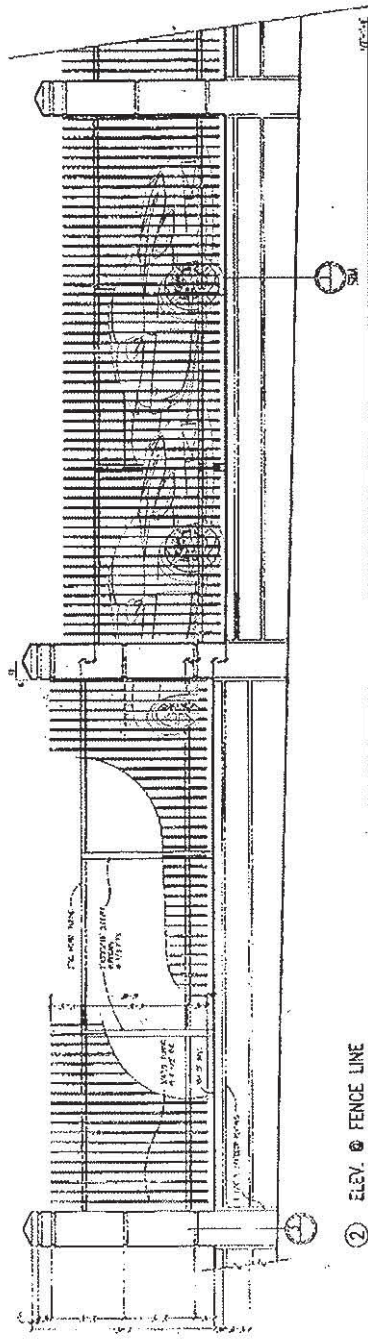
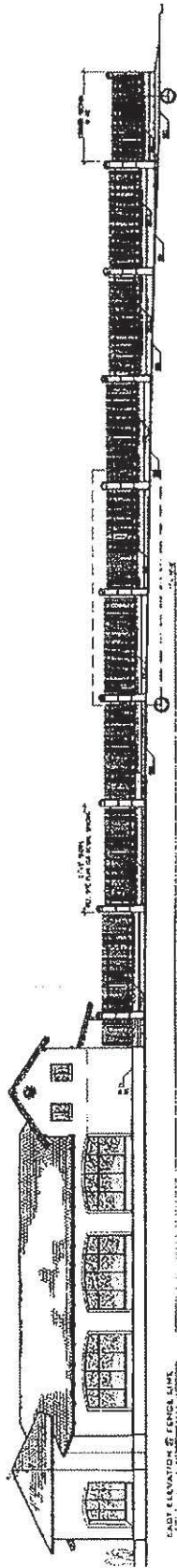




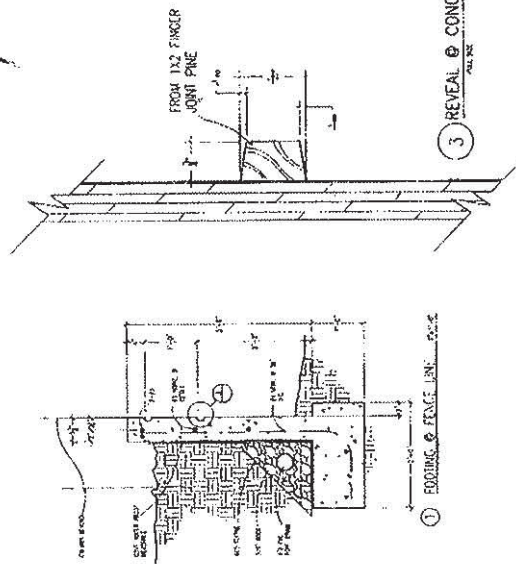
Attachment 2  
Site Plan and Elevations



NO.	DATE	DESCRIPTION
1	11/11/11	LANDSCAPE PLAN
2	11/11/11	REVISIONS
3	11/11/11	REVISIONS
4	11/11/11	REVISIONS
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② ELEV. OF FENCE LINE



① FOOTING OF FENCE LINE

③ REVEAL OF CONC. FOOTING

NO.	DATE	REVISION
1	10/10/11	ISSUED FOR PERMIT
2	10/10/11	REVISED PER COMMENTS
3	10/10/11	REVISED PER COMMENTS
4	10/10/11	REVISED PER COMMENTS
5	10/10/11	REVISED PER COMMENTS
6	10/10/11	REVISED PER COMMENTS
7	10/10/11	REVISED PER COMMENTS
8	10/10/11	REVISED PER COMMENTS
9	10/10/11	REVISED PER COMMENTS
10	10/10/11	REVISED PER COMMENTS

RESOLUTION NO. 11-012

A RESOLUTION OF THE PLANNING COMMISSION  
OF THE CITY OF EL PASO DE ROBLES  
TO DENY CONDITIONAL USE PERMIT 11-002  
(SMITH USED CAR LOT SALES)  
APN: 009-286-015

WHEREAS, Brent Ian Smith, has filed a Conditional Use Permit (CUP) application to establish a Used Car Sales Lot at 201 Spring Street; and

WHEREAS, the Zoning Code requires approval of a CUP to establish a Used Car Sales Lot; and

WHEREAS, policies and standards of the Uptown/Town Center Specific Plan (UT/TC SP) apply to this project location; and

WHEREAS, the vision, policies, and intent of the UT/TC SP provisions do not support this type of "auto-oriented" land use in the South Downtown Area of Spring Street, which specifically state, "Spring Street will be developed with buildings appropriate to a major thoroughfare, but with a strong pedestrian orientation and focus on defining Spring Street as an important public space." In addition, the Plan characterizes future development of South Spring Street by, "...infilling vacant lots, parking lots, and properties not currently occupied by a building of historical significance with mixed-use and/or flex buildings to transform South Downtown into a pedestrian-oriented mixed-use neighborhood with a well-defined public realm and strong sense of place."; and

WHEREAS, the proposed Used Car Sales Lot is not consistent with the intent of the City's Gateway Design Standards for the Central Gateway - Area B, South Spring Street, since the guidelines suggests this area enhance pedestrian facilities to support mixed-use residential and/or commercial buildings oriented toward the street; and

WHEREAS, the project is not consistent with the UT/TC SP or the Gateway Design Standards and would therefore be detrimental to the City's efforts to revitalize the downtown; and

WHEREAS, the project is not consistent with the intent of General Plan policy LU-2D since it would not contribute to creating a vibrant district or pedestrian friendly setting; and

WHEREAS, there are other suitable locations within the City that can accommodate Used Car Sales Lots that would not be inconsistent with City policies; and

WHEREAS, a public hearing was conducted by the Planning Commission on May 10, 2011, to consider the facts as presented in the staff report prepared for this project, and to accept public testimony regarding this Conditional Use Permit request; and

WHEREAS, this application is Categorically Exempt from environmental review per Section 15332, infill, of the State's Guidelines to Implement CEQA; and

WHEREAS, based upon the facts and analysis presented in the staff report and public testimony received, the Planning Commission makes the following finding:

By allowing the use, the Planning Commission finds that the proposed Used Car Sales Lot would be detrimental to the City's efforts to revitalize the downtown, since it would not be consistent with policies and standards in the Uptown/Town Center Specific Plan or the Gateway Design Standards.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of El Paso de Robles does hereby deny Conditional Use Permit 11-002.

PASSED AND ADOPTED THIS 10<sup>th</sup> day of May, 2011 by the following Roll Call Vote:

AYES: Commissioners Barth, Treach, Garcia, Peterson, Holstein, Vanderlip and Chair Gregory

NOES: None

ABSENT: None

ABSTAIN: None



STEVE GREGORY, CHAIRMAN

ATTEST:



RON WHISENAND, SECRETARY OF THE PLANNING COMMISSION

RESOLUTION NO. 11-xxx

A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF EL PASO DE ROBLES  
TO DENY THE APPEAL OF  
CONDITIONAL USE PERMIT 11-002  
(SMITH USED CAR LOT SALES)  
APN: 009-286-015

WHEREAS, the Planning Commission on May 10, 2011, on a 7-0 vote, adopted Resolution 11-012, and as a result denied Conditional Use Permit 11-002; and

WHEREAS, CUP 11-002 was a request by Brent Ian Smith to establish a Used Car Sales Lot at 201 Spring Street; and

WHEREAS, on May 25, 2011, Mr. Smith filed an appeal of the Planning Commission's decision; and

WHEREAS, policies and standards of the Uptown/Town Center Specific Plan (UT/TC SP) apply to this project location; and

WHEREAS, the vision, policies, and intent of the UT/TC SP provisions do not support this type of "auto-oriented" land use in the South Downtown Area of Spring Street, which specifically state, "Spring Street will be developed with buildings appropriate to a major thoroughfare, but with a strong pedestrian orientation and focus on defining Spring Street as an important public space." In addition, the Plan characterizes future development of South Spring Street by, "...infilling vacant lots, parking lots, and properties not currently occupied by a building of historical significance with mixed-use and/or flex buildings to transform South Downtown into a pedestrian-oriented mixed-use neighborhood with a well-defined public realm and strong sense of place."; and

WHEREAS, Used Car Sales Lots are prohibited within the Town Center 2 zoning district (TC-2); and

WHEREAS, the proposed Used Car Sales Lot is not consistent with the intent of the City's Gateway Design Standards for the Central Gateway - Area B, South Spring Street, since the guidelines suggests this area enhance pedestrian facilities to support mixed-use residential and/or commercial buildings oriented toward the street; and

WHEREAS, the project is not consistent with the UT/TC SP or the Gateway Design Standards and would therefore be detrimental to the City's efforts to revitalize the downtown; and

WHEREAS, the project is not consistent with the intent of General Plan policy LU-2D since it would not contribute to creating a vibrant district or pedestrian friendly setting; and

WHEREAS, there are other suitable locations within the City that can accommodate Used Car Sales Lots that would not be inconsistent with City policies; and

WHEREAS, a public hearing was conducted by the City Council on July 5, 2011, to consider the facts as presented in the staff report prepared for this project, and to accept public testimony regarding this Conditional Use Permit request; and

WHEREAS, this application is Categorical Exempt from environmental review per Section 15332, infill, of the State's Guidelines to Implement CEQA; and

WHEREAS, based upon the facts and analysis presented in the staff report and public testimony received, the City Council makes the following finding:

By allowing the use, the City Council finds that the proposed Used Car Sales Lot would be detrimental to the City's efforts to revitalize the downtown, since it would not be consistent with policies and standards in the Uptown/Town Center Specific Plan or the Gateway Design Standards.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of El Paso de Robles does hereby deny the appeal of Conditional Use Permit 11-002.

PASSED AND ADOPTED by the City Council of the City of El Paso de Robles this 5<sup>th</sup> day of July 2011 by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

ATTEST:

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Duane Picanco, Mayor

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Caryn Jackson, Deputy City Clerk

**AFFIDAVIT**  
**OF MAIL NOTICES**  
**PLANNING COMMISSION/CITY COUNCIL PROJECT NOTICING**

I, Theresa Variano, employee of the City of El Paso de Robles, California, do hereby certify that the mail notices have been processed as required for Conditional Use Permit 11-002 - Appeal (Brent Ian Smith) on this 15th day of June, 2011.

City of El Paso de Robles  
Community Development Department  
Planning Division

Signed:   
Theresa Variano

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PROOF OF PUBLICATION

LEGAL NEWSPAPER NOTICES

PLANNING COMMISSION/CITY COUNCIL  
PROJECT NOTICING

Newspaper: Tribune

Date of  
Publication: June 20, 2011

Hearing  
Date: July 5, 2011  
(City Council)

Project: Conditional Use Permit 11-002 – Appeal  
(Brent Ian Smith)

I, Theresa Variano, employee of the Community  
Development Department, Planning Division, of the City  
of El Paso de Robles, do hereby certify that this notice is  
a true copy of a published legal newspaper notice for the  
above named project.

Signed:   
Theresa Variano

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**NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that the City Council of the City of El Paso de Robles will hold a Public Hearing to consider an appeal of the Planning Commission's decision on May 10, 2011 to deny Conditional Use Permit 11-002. The appeal was filed by Brent Ian Smith, regarding his request to establish a used car lot at 201 Spring Street, APN: 009-286-015.

This hearing will take place in the City Hall/Library Conference Room, 1000 Spring Street, Paso Robles, California, at the hour of 7:30 PM on Tuesday, July 5, 2011, at which time all interested parties may appear and be heard.

This application is Categorically Exempt from environmental review per Section 15301 of the State's Guidelines to implement the California Environmental Quality Act (CEQA).

Comments on the proposed Conditional Use Permit may be mailed to the Community Development Department, 1000 Spring Street, Paso Robles, CA 93446 provided that such comments are received prior to the time of the hearing.

If you challenge the Conditional Use Permit application in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council at, or prior to, the public hearing.

Darren Nash, Associate Planner  
June 20, 2011 6946504