



# REPORT TO COUNCIL

## City of Sacramento

# 5

915 I Street, Sacramento, CA 95814-2671  
www. CityofSacramento.org

PUBLIC HEARING  
October 6, 2005

Honorable Mayor and  
Members of the City Council

**Subject: Applicant's Appeal of Dean's Auto Sales (P05-033)**

**Location/Council District:** 1099 El Camino Avenue, North Sacramento. APN: 265-0324-015 Council District 2

**Recommendation:**

Planning Commission and staff recommend that the City Council take the following action: 1) Adopt the Resolution denying the appeal of Planning Commission's decision denying the special permit for the development of a used auto sales facility on 0.13± acres in the General Commercial (C-2) zone.

**Contacts:** Kenny Wan, Associate Planner, 808-2222; Jeanne Corcoran, Senior Planner, 808-5317

**Presenters:** Kenny Wan, Associate Planner

**Department:** Development Services Department

**Division:** Planning

**Organization No:** 4875

**Summary:**

The project is located at 1099 El Camino Avenue between Auburn Boulevard and Del Paso Boulevard. The applicant sought approval of a Special Permit to construct a used car lot and a small sales office on 0.13± vacant acres in the General Commercial (C-2) zone. The project design was approved by the Design Review Board in October, 2003; however, the special use permit was denied by the Planning Commission in July, 2005. The applicant filed an appeal of the Planning Commission decision, and staff continues to recommend denial of the project to City Council. Staff believes that the proposed use is not consistent with the City's General Plan, North Sacramento Community Plan and the Commercial Corridor Revitalization Policies, will negatively impact the viability of the already blighted commercial corridor and will not promote commercial and pedestrian activity along the corridor.



**Committee/Commission Action:**

On July 14, 2005, the Planning Commission denied the Special Permit to construct the used car lot and the sales office on 0.13± vacant acres in the General Commercial (C-2) zone. The Planning Commission voted seven ayes and zero noes to deny the proposed project.

**Background Information:**

The applicant is proposing to legalize the current use of an existing 0.13± acres lot for used auto sale facility. The site is undeveloped, no built structure, but is parked with used automobiles (Attachment 3 - Site Photos). The project is in the North Sacramento Design Review District and it received Design Review Board approval on October 15, 2003 for the design of the facility. Up to that time, auto-related uses were allowed by right in the General Commercial (C-2) zone. The City later approved the Commercial Corridor Revitalization Ordinance on October 21, 2003 that requires a special permit for all auto-related uses. In addition, all non-residential development in the C-2 Zone that requires a discretionary entitlement are required to be consistent with the Neighborhood Commercial Corridor Design Principles. Staff recommended denial of this project to the Planning Commission based on the project inconsistency.

On November 4, 2004, the City filed a complaint for abatement of a public nuisance against Dean's Auto Sales. The City Attorney's Office has provided a brief synopsis of the court's action (Attachment 4).

**Financial Considerations:**

This project has no fiscal considerations.

**Environmental Considerations:**

The Environmental Services Manager has determined that this project, as proposed, is exempt from the requirements of the California Environmental Quality Act under Section 15301, 15332.

**Policy Considerations:**

1. General Plan – Commercial Revitalization Policy:

The City adopted the Commercial Revitalization Policy providing guidelines to revitalize marginal commercial strips and avoid uses that do not add to the viability of the corridor. Specifically, the policy identified auto-related uses, such as auto sales, tire sales, RV sales or storage, as incompatible to the revitalization goals. Staff believes that this proposal would not strengthen the viability of El Camino Avenue because it does not add to the variety of the goods and services in this marginal strip and does not encourage new patronage and new businesses. The project would not support the General Plan Policy of 1) Maintain and strengthen viable shopping districts throughout

the City; 2) Promote the rehabilitation and revitalization of existing commercial centers; and 3) Strengthen viable strip commercial development and discourage existing marginal strips from being extended.

## 2. North Sacramento Community Plan (NSCP):

The North Sacramento Community Plan designates El Camino Avenue as one of the four blighted major commercial strips in the community plan. The Plan called for actions to revitalize and modernize the district to attract community shopping facilities. Staff believes that approval of the auto sale business will not strengthen the viability of the blighted corridor because auto-oriented uses typically do not generate many pedestrian activities and will not generate many new job opportunities nor provide daily needs of the residents. The project is contradictory to the NSCP goals and visions.

## 3. Neighborhood Commercial Corridor Design Principles:

One of the design principles of the Neighborhood Commercial Corridor Design guidelines mentions that *"Projects located in areas near major intersections, transit stations, or activity centers, such as high activity businesses, are areas referred to as nodes. At these locations designs should support the higher density, pedestrian and transit friendly goals that are appropriate for these areas (Page 9)."* Staff believes an auto sale lot is not compatible with this effort toward commercial development. The project is very low in density, does not encourage pedestrian activities and will contribute to an elongated strip of repetitive, one-dimensional retail streetscape. Approving the use will hinder better use in this "Node" location, slow down mixed use development along the corridor, and fail to create a "sense of place" in this street corner. It is inconsistent with the Design Principles.

## 4. Smart Growth Principles:

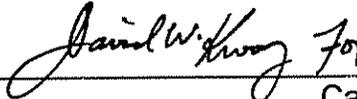
City Council adopted a set of Smart Growth Principles in December 2001 in order to encourage development patterns that are sustainable and balanced in terms of economic objectives, social goals, and use of environmental / natural resources. The proposed project is located close to the Swanston light rail station and is within the proposed Swanston Station Transit Village Plan area. An auto sales use is not transit supportive and is inconsistent with the Smart Growth Principles.

## 5. Strategic Plan Implementation:

The recommended action does not conform to the City of Sacramento Strategic Plan; specifically the project is not consistent with the goal to enhance and preserve neighborhoods by directing healthy development to existing developed areas.

**Emerging Small Business Development (ESBD):**

No goods or services are being purchased under this report.

Respectfully Submitted by:   
Carol Shearly  
Interim Planning Director, Planning Division

Recommendation Approved:

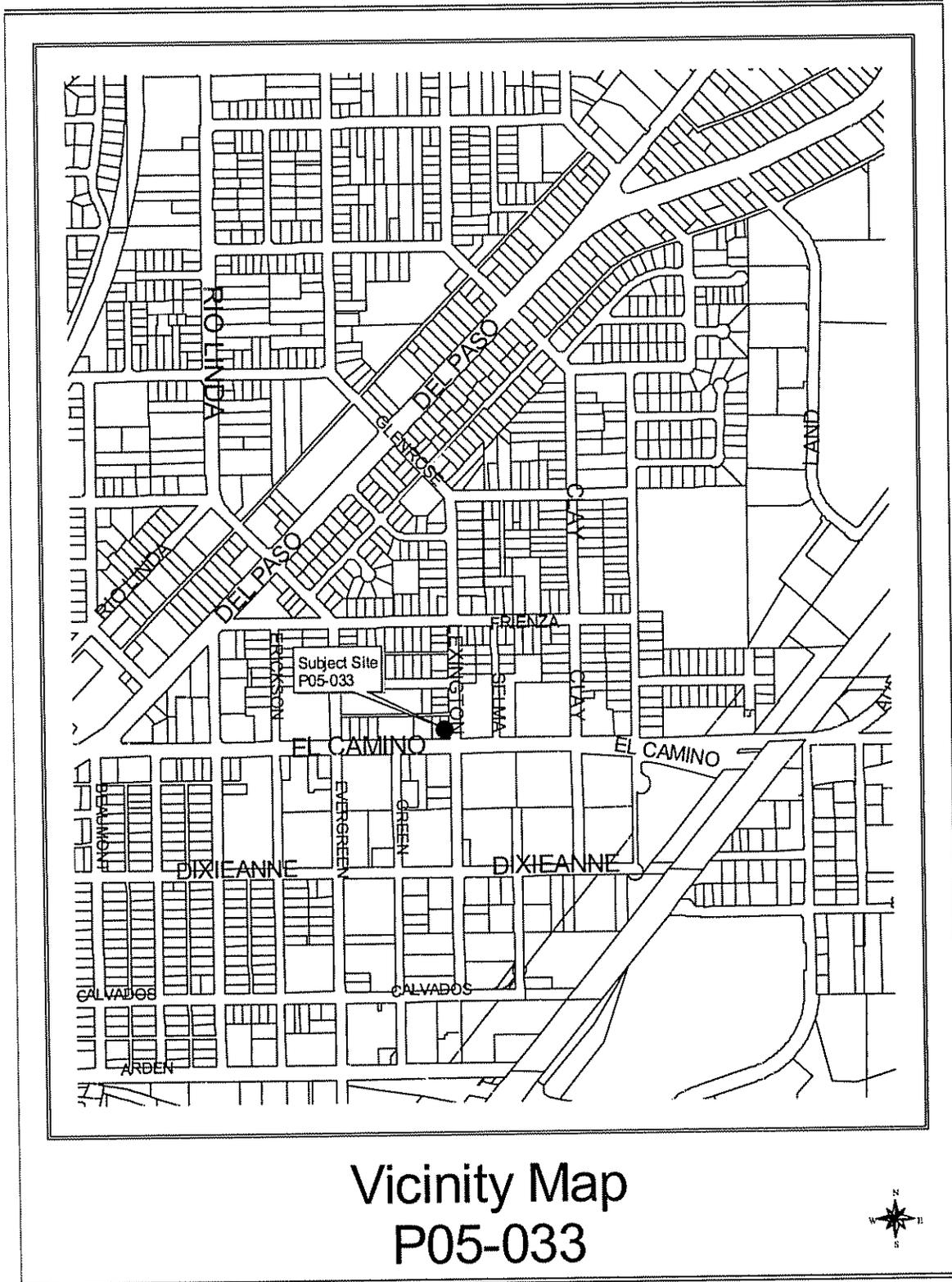


ROBERT P. THOMAS  
City Manager

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Attachment 1 – Vicinity Map



Attachment 2 – City Planning Commission Voting Record

**CITY PLANNING COMMISSION  
HEARING ITEM**

**CPC AGENDA DATE: July 14, 2005**

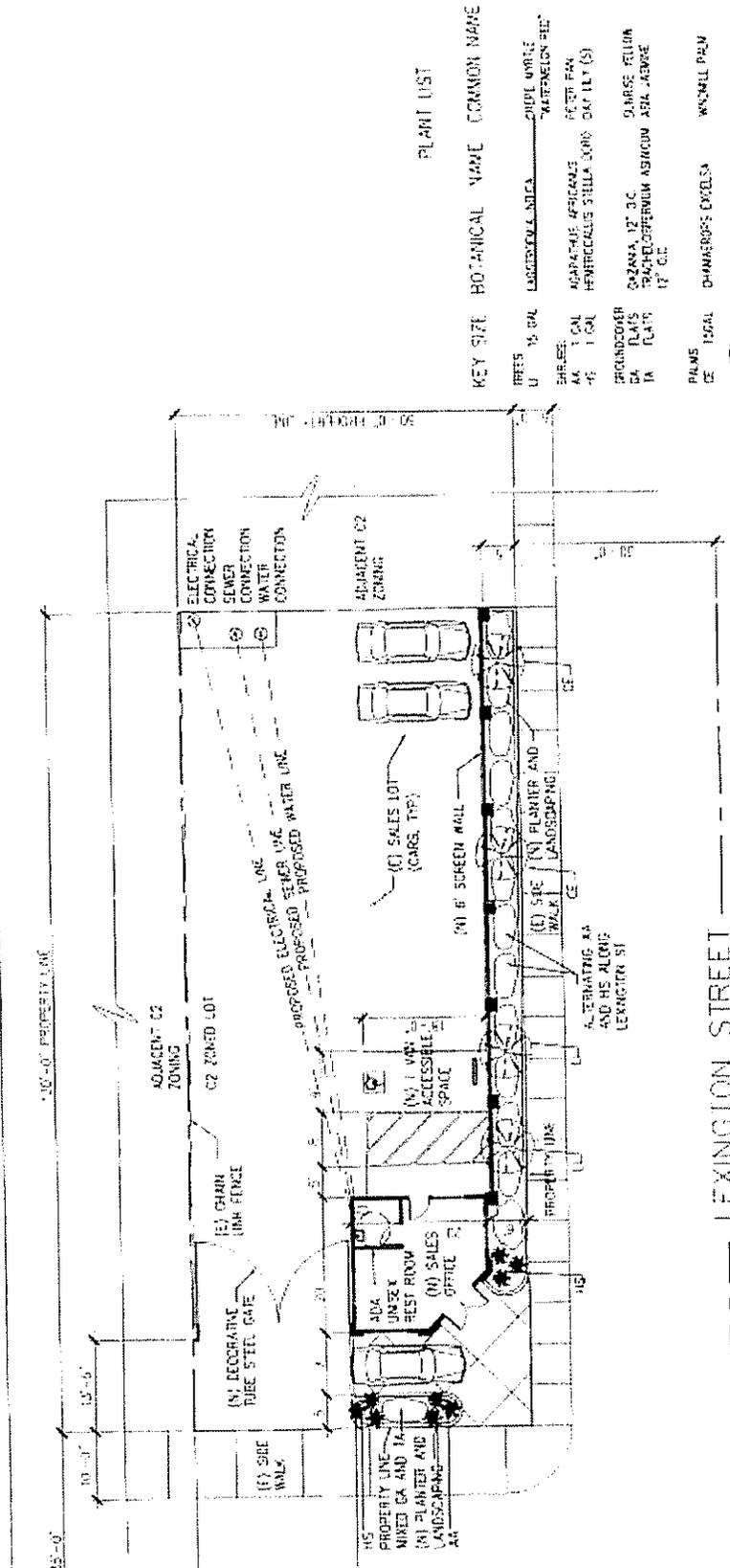
Item No.	Project No.	Title/Location	Action: Approved/Denied
7	P05-033	Dean's Auto Sales located at 1099 El Camino Avenue, North Sacramento	<i>Denied</i>
<b>ACTION</b>			

**VOTE OF THE PLANNING COMMISSION:**

COMMISSIONER	MOTION 1			MOTION 2			ABSTAIN
	Yes	No	M/S	Yes	No	M/S	
Bacchini							
Banes							
Boyd	<i>S</i>						
Notestine							
Taylor-Carroll							
Vallencia	<i>M</i>						
Wasserman							
Woo							
Yee							

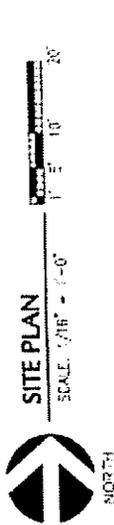
\*\*\*\* List "Proponents" and Opponents" on reverse side of this page\*\*\*\*

Exhibit A- Site Plan



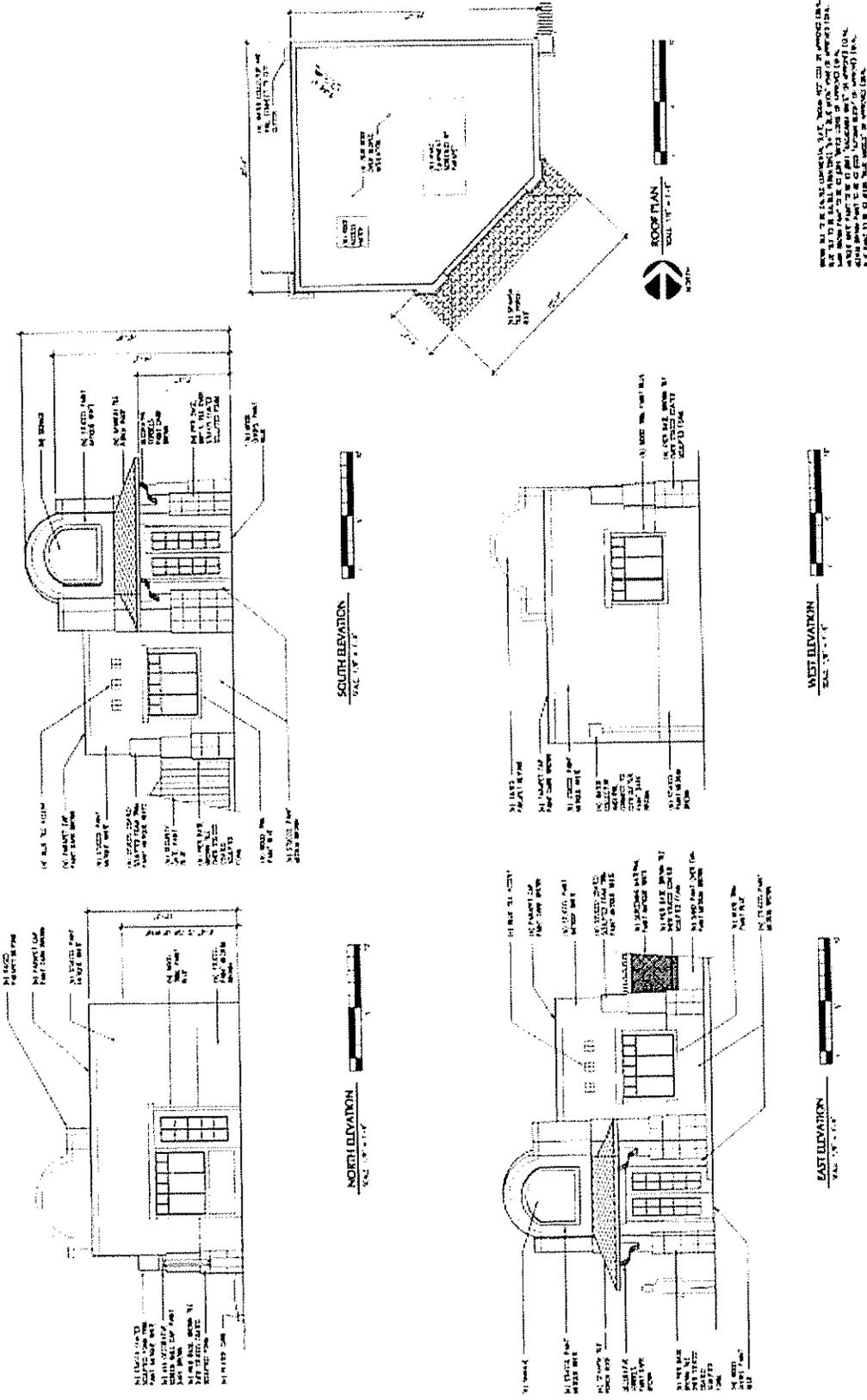
PLANT LIST

KEY	SIZE	BOTANICAL NAME	COMMON NAME
U	1/2 GAL	LAGERHOLMIA LUTICA	SHRUB URUBLE "KATFELSON BEE"
SR	1 GAL	AGAPATHAE AFRICANUS	PETEE PAN
AA	1 GAL	HEMERICALLIS STELLA 3000	DAY LILY (S)
PR	1 GAL	PRINCANDORER	DAZANA 12" JC
DA	1 GAL	PLATS	DARSE YELLOW
IA	1 GAL	TRACHEOPERUM ASIATICUM	ADA JASMINE
17	1 GAL		
CE	15 GAL	CHAMEROPS DICELOS	WAXPALL PALM



PLANTS SHALL BE OBTAINED BY AN APPROVED BAY IRRIGATION SYSTEM

Exhibit B- Building Elevations



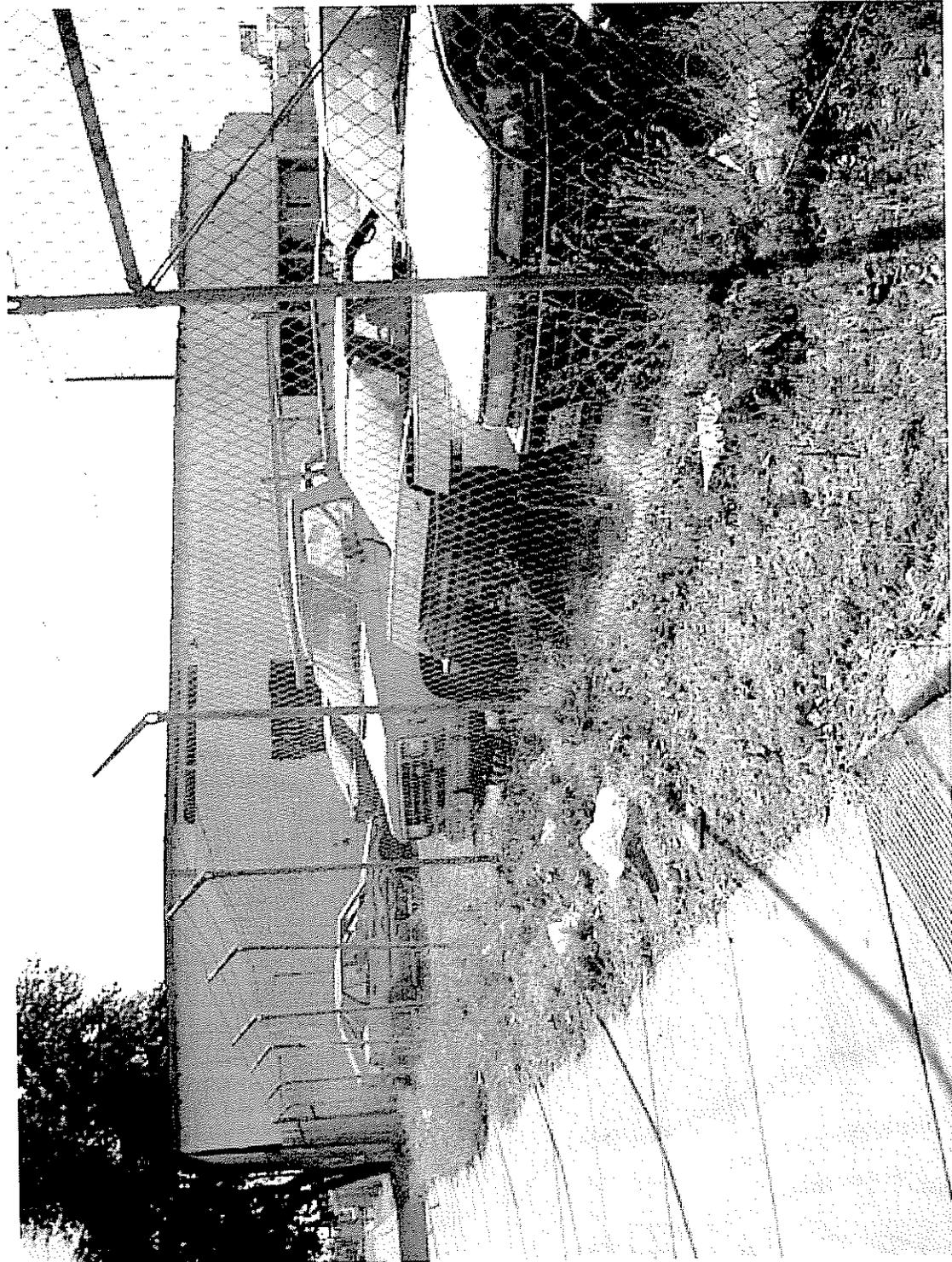
NOT DRAWN TO SCALE. DIMENSIONS SHOWN ON THIS DRAWING ARE APPROXIMATE. ALL DIMENSIONS SHALL BE AS SHOWN UNLESS OTHERWISE NOTED. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING ALL DIMENSIONS AND MATERIALS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY MATERIALS AND SUPPLIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY LABORERS AND SUBCONTRACTORS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY EQUIPMENT AND TOOLS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY TRANSPORTATION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INSURANCE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY BONDS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY REFERENCES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY REFERENCES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY REFERENCES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY REFERENCES.



Attachment 3 a – Photographs of the site  
(On Lexington, looking west)



Attachment 3 b – Photographs of the site  
(On El Camino, looking northwest)



Attachment 3 c- Photographs of the site  
(On El Camino, looking Northeast)



## MEMORANDUM

Date: September 16, 2005  
To: City Council  
From: Kenny Wan, Associate Planner

**SUBJECT:** Dean's Auto Sale (P05-033) Court's Action Synopsis

The following information was provided by the City Attorney's Office in order to provide information on the court actions regarding this project.

On October 14, 2004, Babak Tabarsi, d.b.a. Dean's Auto Sales, filed a petition for writ of mandate against the City, Sacramento Superior Court case number 04CS01385. On June 6, 2005, Babak Tabarsi dismissed his petition for writ of mandate .

The City filed its complaint for abatement of a public nuisance against Bahaedinn, Farideh and Babak Tabarsi, d.b.a. Dean's Auto Sales, on November 5, 2004, case number 04AS04518. On or about August 3, 2005, Bahaedinn and Farideh Tabarsi filed a cross-complaint against the City in this action. The cross-complaint sought injunctive and declaratory relief. The gravamen of the cross-complaint was that the hearing examiner wrongfully upheld the order of abatement and fines because Tabarsi's plans had been approved before the adoption of the ordinance requiring the special use permit and the requirements of the ordinance should not have applied to them. The City filed a demurrer to the cross-complaint on the grounds that the statute of limitations for filing the action had run and the court lacked jurisdiction over the matter because the Tabarsi's sole means for relief was to file a petition for writ of mandate. On September 1, 2005, the court sustained the City's demurrer to the cross-complaint without leave to amend.

## RESOLUTION NO.

Adopted by the Sacramento City Council

Date

**A RESOLUTION ADOPTING THE NOTICE OF DECISION AND FINDINGS OF FACT DENYING THE APPEAL OF THE PLANNING COMMISSION'S DECISION TO DENY THE SPECIAL PERMIT FOR AN AUTO SALES FACILITY ALSO KNOWN AS DEAN'S AUTO SALES LOCATED AT 1099 EL CAMINO AVENUE, IN NORTH SACRAMENTO. (P05-033) (APN: 265-0324-015)**

### BACKGROUND

- A. On July 14, 2005, the City Planning Commission denied the requested entitlement to develop an auto sales facility on 0.13± vacant acres in the General Commercial (C-2) zone within the North Sacramento Community Plan Area; and
- B. On July 21, 2005 the decision of the City Planning Commission denying the entitlement was appealed by the Applicant; and
- C. On October 6, 2005, the City Council heard and considered evidence in the above-mentioned matter.

### **BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:**

- Section 1. At the regular meeting of October 6, 2005, the City Council heard and considered evidence in the above entitled matter. Based on verbal and documentary evidence at said hearing, the City Council took the following actions for the location listed above:
- A. Denied the Applicant's Appeal and denied the Special Permit to develop an auto sales facility on 0.13± vacant acres in the General Commercial (C-2) zone within the North Sacramento Community Plan Area.

These actions were made based upon the following findings of fact and subject to the following conditions:

### **FINDINGS OF FACT**

- B. Special Permit: The Special Permit to develop an auto sales facility on 0.13± vacant acres in the General Commercial (C-2) zone within the North Sacramento Community Plan Area is hereby **denied** based upon the following findings of fact:

1. The project is not based upon sound principles of land use in that the use is pedestrian unfriendly and does not promote vital commercial activity along the corridor.
2. The project will be detrimental to the public health, safety and welfare in that the project will likely slow down the commercial corridor revitalization process.
3. The project is inconsistent with the City General Plan, North Sacramento Community Plan, Zoning Ordinance as well as the Neighborhood Commercial Corridor Design Principles.