



MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: July 13, 2011

APPLICATION: Conditional Use Permit NO. UP11-0011, Reactive Auto, LLC

APPLICATION
SUMMARY:

A request to operate auto dealership with indoor showroom in an existing 5,000 square foot multi-tenant industrial building.

LOCATION:

1840 Houret Ct. (APN: 086-41-011)

APPLICANT:

James Cusack, 425 Navaro Way, Unit 201, San Jose, CA 95134

OWNER:

John and Rachel R. Garcia Trustee Et Al, 11951 Hilltop Drive, Los Altos Hills, CA 94024

RECOMMENDATION: **Staff recommends that the Planning Commission: Adopt Resolution Number 11-027 approving the project subject to the conditions of approval.**

PROJECT DATA:

General Plan/

Zoning Designation:

Boulevard Very High Density Mixed Use / Mixed Use Very High Density with Transit Oriented Development and Site and Architectural Review Overlay District

Specific Plan:

Transit Area Specific Plan

CEQA Determination:

Categorically exempt from further environmental review pursuant to Section 15301, "Existing Facilities" of the California Environmental Quality Act (CEQA) guidelines.

PLANNER:

Cindy Hom, Assistant Planner

PJ:

2720

ATTACHMENTS:

- A. Resolution No. 11-027
- B. Project Plans
- C. Project Description Letter

LOCATION MAP



No scale



BACKGROUND

The Planning Commission granted site and architectural approval of an 18,820 square foot industrial building and associated site improvements in 1979. Subsequent approvals included site development permit approvals for installation of a freestanding sign and sign program in 1995.

On April 29, 2011, James Cusack with Reactive Auto, LLC submitted an application requesting to operate a 5,000 square auto dealership with an 820 square foot indoor showroom and 2,835 square foot car inventory storage area as well as office and support areas. The application is submitted pursuant to Milpitas Municipal Code (MMC) XI-10-6.02-1 (10) (Vehicle-related repair, sales, and service) which require Planning Commission review and approval of a conditional use permit for auto sales.

PROJECT DESCRIPTION

The project is located on a 1.22 acre parcel developed with a one story, 18,820 square industrial building and various site improvements. The project is zoned Mixed Use, Very High Density (MXD3) and is surrounded by other industrial, commercial, and automotive uses. The site is bounded by Montague Expressway to the south and industrial buildings to the west and north. A vicinity map of the subject site location is included on the previous page.

The applicant proposes to operate a 5,000 square foot auto dealership with an 820 square foot indoor showroom, a 2,835 square foot car inventory storage area, as well as office space and support areas. The proposed business concept would consist of internet based advertisement and “appointment only” system for sales. All vehicle displays storage of inventory will be conducted wholly within the building. The applicant does not propose any auto repair or installation of aftermarket parts.

Parking

The project site provides 25 parking spaces for the four tenants based on a parking ratio of 1 space per 753 square feet. Therefore, seven spaces were allocated to the subject tenant space. Based on the proposed floor plan, the proposal requires a total of eight parking spaces. Since the site includes a Transit Oriented Development overlay, parking requirements can be reduced up to twenty percent (20%). As such, the number of parking spaces with the TOD parking reduction is six (6) parking spaces. In summary, the project proposal meets the required amount of parking. A parking analysis is provided in the Table 1 below:

Table 1
Parking Analysis

Uses	# of Rooms/Square Footage	Parking Ratio	# of Spaces Required
1820 Houret (Precision Welding) Manufacturing	4,705	1/1,500	3
1830 Houret (Anova Microsystems) Office	941	1/350	3

Uses	# of Rooms/Square Footage	Parking Ratio	# of Spaces Required
Warehousing	3,764	1/1,500	3
1840 Houret (Encore Auto)	820	1/200	4
Showroom	2,835	1/1,500	2
Car Inventory Storage Area	396	1/240	2
Office /Lobby			
TOD 20% Reduction			-2
1850 Houret (Best Kitchen and Bath)			
Showroom	600	1/200	3
Manufacturing	4,106	1/1,500	3
Number of Parking Spaces Required			21
Number of Parking Spaces Provided			26

ADOPTED PLANS AND ORDINANCES CONSISTENCY

General Plan

The table below outlines the project’s consistency with applicable General Plan Guiding Principles and Implementing Policies:

Table 2
General Plan Consistency

Policy	Consistency Finding
<i>Implementing Policy 2.a-I-3: Encourage economic pursuits which will strengthen and promote development though stability and balance.</i>	Consistent. The proposed auto dealership encourages economic pursuits in that it provides for a new business that will contribute to the City’s sale tax revenue.

Zoning Ordinance

Auto Sales is a conditionally permitted use within the MXD3 Zoning District. In accordance with the standards for Mixed Use zoning districts, vehicle showroom and storage will be conducted wholly within the building. The proposed use, at the proposed location will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare and complies with development standards in terms of setbacks, height, and parking.

Transit Area Specific Plan

The project is located within the Transit Area Specific Plan area. The project does not trigger any Transit Area improvements because the project proposes to utilize the existing building with no exterior changes. Furthermore, the proposed auto sales do not requires 50% more off-street parking.

ENVIRONMENTAL REVIEW

The Planning Division conducted an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). Staff determined that the project is categorically exempt from further environmental review pursuant to Section 15301 for Existing Facilities within the CEQA guidelines. The project proposes to utilize an existing 5,000 square foot industrial space to operate an auto dealership that consists of an indoor showroom, vehicle inventory storage area, and offices.

PUBLIC COMMENT/OUTREACH

Staff publicly noticed the application in accordance with City and State law. As of the time of writing this report, there have been no inquiries from the public.

CONCLUSION

The proposed use at the proposed location is consistent with the Milpitas General Plan and Transit Area Specific Plan. The project conforms to the Zoning Ordinance and complies with the MXD3 and Parking Ordinance requirements. The auto sales store will add a complementary land use within the industrial complex and surrounding land uses. Based on the proposed operations, the project is not expected to generate any negative impacts.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission close the public hearing after hearing testimony and adopt Resolution No. 11-027 approving Conditional Use Permit No. UP11-0011, subject to the attached Resolution and Conditions of Approval.

Attachments:

- A. Resolution No. 11-027
- B. Project Plans
- C. Project Description Letter

RESOLUTION NO. 11-027

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. UP11-0011, REACTIVE AUTO LLC, TO ALLOW FOR THE OPERATION OF A 5,000 SQUARE AUTO DEALERSHIP LOCATED AT 1840 HOURET COURT.

WHEREAS, on April 29, 2011, an application was submitted by James Cusack, 425 Navaro Way, Unit 201, San Jose, CA 95134, to allow for the operations of a 5,000 square foot auto dealership with indoor showroom and offices. The property is located 1840 Houret Court (86-41-011); and

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project is categorically exempt from further environmental review pursuant to Section 15311, Class 11, (a) (Accessory Structures, On-premise Signs) of the California Environmental Quality Act (CEQA); and

WHEREAS, on July 13, 2011, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

NOW THEREFORE, the Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

Section 1: The recitals set forth above are true and correct and incorporated herein by reference.

Section 2: The project is categorically exempt per Section 15311, (Class 11) Accessory Structures of the California Environmental Quality Act. The project proposal entails the operations of a 5,000 square foot auto dealership with indoor showroom within an existing industrial building.

Section 3: The proposed use is consistent with the Milpitas General Plan in that it meets General Plan Policy 2.a-I-3 and encourages economic pursuits in that the proposed auto dealership opportunity for a new small business to establish and contribute to the City's sale tax revenue.

Section 4: The project is consistent with the Transit Area Specific Plan area in that the Mixed Use, Very High Density is intended to provide for land uses for residential, retail, and employment along Montague Boulevard. The project would provide a commercial retail use along the Montague corridor.

Section 5: The proposed use is consistent with the Milpitas Zoning Ordinance in that the proposed use meets all the requirements set forth by the Zoning Ordinance in that terms of land use and development standards. As proposed vehicles displays and inventory will be conducted

wholly within the building. Auto sales are conditionally permitted in the Mixed Use, Very High Density Zoning District. The project provides the required parking with existing on-site parking spaces.

Section 6: The proposed use will not be injurious or detrimental to property, improvements, general welfare or public health and safety in that the use and operations are compatible with adjacent commercial and industrial uses given the vehicle display and inventory are kept indoors and sales are done by appointments only.

Section 7: The Planning Commission of the City of Milpitas hereby approves Conditional Use Permit No. UP11-0011, subject to the above Findings, and Conditions of Approval attached hereto as Exhibit 1.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on July 13, 2011

Chair

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on July 13, 2011, and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Mark Tiernan				
Lawrence Ciardella				
Sudhir Mandal				
Gurdev Sandhu				
Steve Tao				
Noella Tabladillo				
Zeya Moshin				
John Luk				

EXHIBIT 1

CONDITIONS OF APPROVAL
Conditional Use Permit No. UP11-0011

A request to operate a 5,000 square foot auto dealership with indoor showroom at
1840 Houret Court (86-41-011)

General Conditions

1. The owner or designee shall develop the approved project in conformance with the approved plans and color and materials sample boards approved by the Planning Commission on July 13, 2011, in accordance with these Conditions of Approval.

Any deviation from the approved site plan, floor plans, elevations, materials, colors, landscape plan, or other approved submittal shall require that, prior to the issuance of building permits, the owner or designee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain approval of the Planning Commission, in accordance with the Zoning Ordinance. **(P)**

Conditional Use Permit No. UP11-0011 shall become null and void if the project is not commenced within two (2) years from the date of approval. Pursuant to Section 64.06(B) of the Zoning Ordinance of the City of Milpitas:

- a. Completes a foundation associated with the project; or
 - b. Dedicates any land or easement as required from the zoning action; or
 - c. Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.
2. Pursuant to Section 64.06(1), the owner or designee shall have the right to request an extension of Conditional Use Permit No. UP11-0011 if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. **(P)**
 3. Prior to the issuance of building permits, the owner or designee shall include within the four first pages of the working drawings for a plan check, a list of all conditions of approval imposed by the final approval of the project. **(P)**
 4. The use shall be conducted in accordance with all applicable local, state, and federal regulations.
 5. Vehicle displays and inventory storage shall be conducted wholly within the building. No outdoor display or storage of vehicles are permitted. **(P)**
 6. In order to assist the City of Milpitas in its efforts to receive direct distribution of the local tax on materials associated with the project, the California Sales and Use Tax (the "Local Tax") shall be allocated to the project site, to the extent reasonably possible. **(P)**

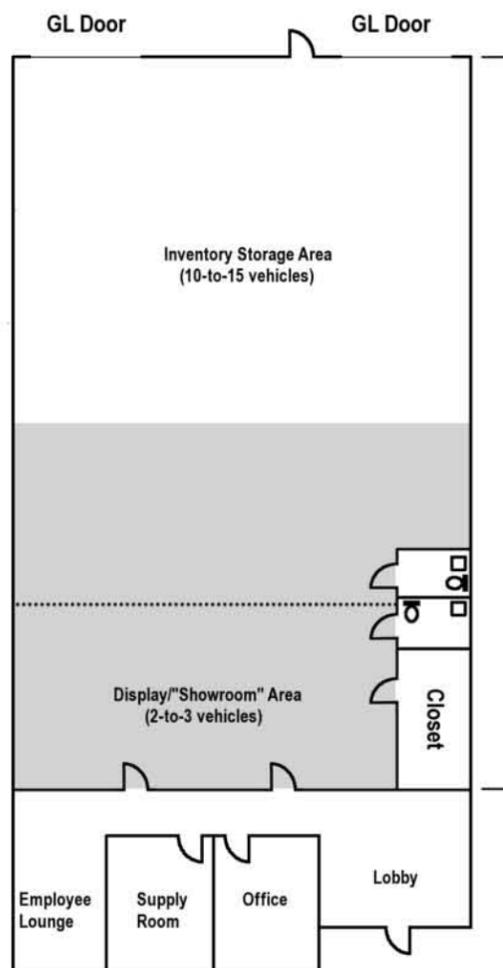
(P) = Planning

(B) = Building

(E) = Engineering

(F) = Fire Prevention

1840 Houret Court, Milpitas CA 95035: Conditional Use Permit Plans/Map June 3, 2011



FLOOR PLAN

Scale: 1" = 20' 0"

Summary	
Unit Total Floor Area (Approximate)	5000 Sq. Feet
Inventory Storage Area	2835 Sq. Feet
Display/Showroom Area	820 Sq. Feet
Office	150 Sq. Feet
Lobby	246 Sq. Feet
Supply Room	162 Sq. Feet
Employee Lounge	210 Sq. Feet

Terminology

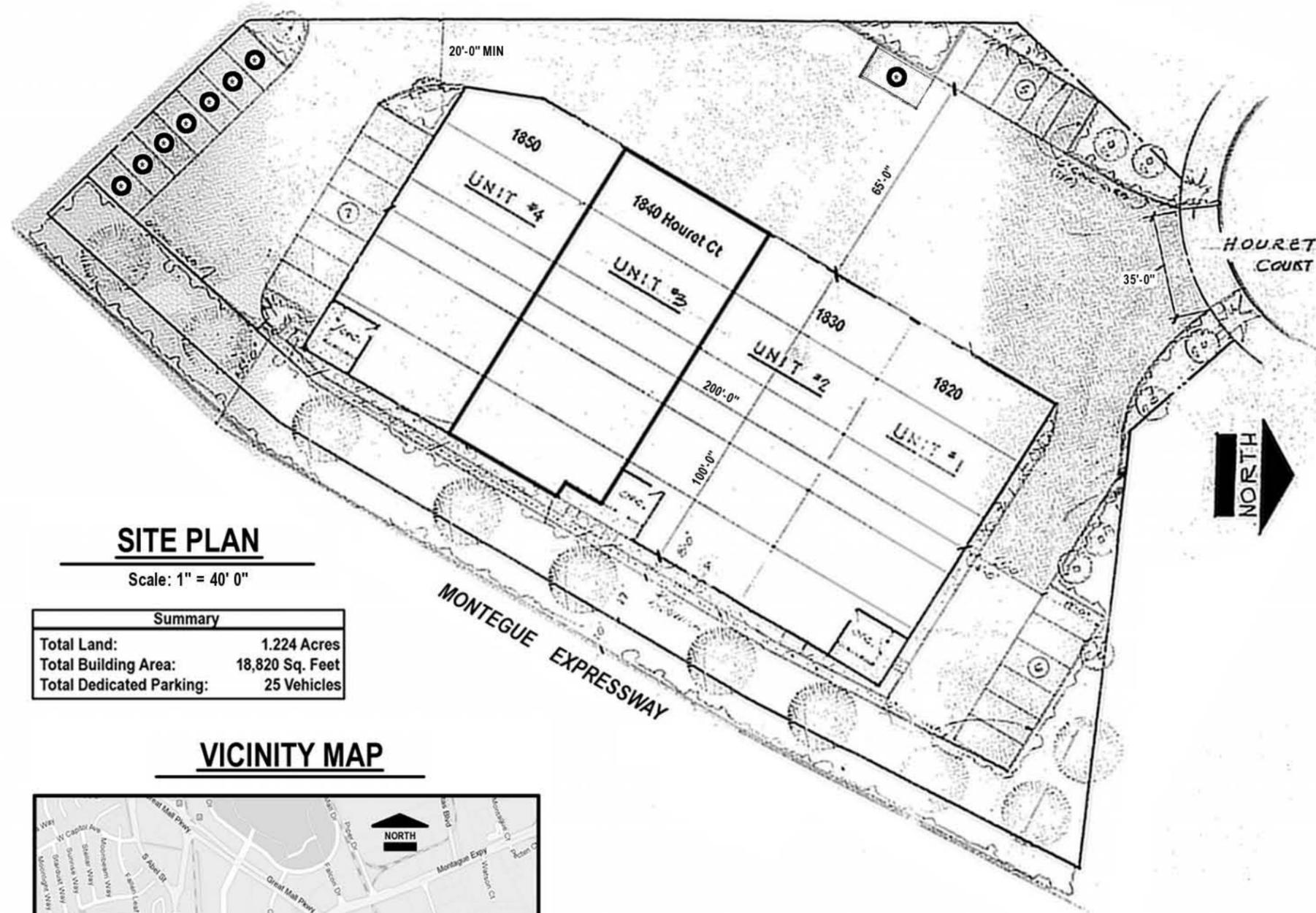
Inventory Storage Area: Floor space designated for cars in inventory, not on display
Display/Showroom Area: Floor space designated for cars in inventory, on display
Supply Room: Room designated for office/bus. supplies

- *Fire Sprinkled
 - *Sealed Concrete Floor
 - *Flourescent Lighting
 - *Distributed Power
 - *Skylights
 - *Restrooms
- Indicates epoxy floor
 Indicates stanchion barrier

Proposed Use

Internet based used passenger vehicle sales
 By appointment only structure
 Lower volume operation

Contact Information	
Reactive Auto, LLC c/o James Cusack 425 Navaro Way Unit 201 San Jose CA 95134 (408) 649-3217	Encore Auto c/o James Cusack 1840 Houret Court Milpitas CA 95035 (408) 649-3217

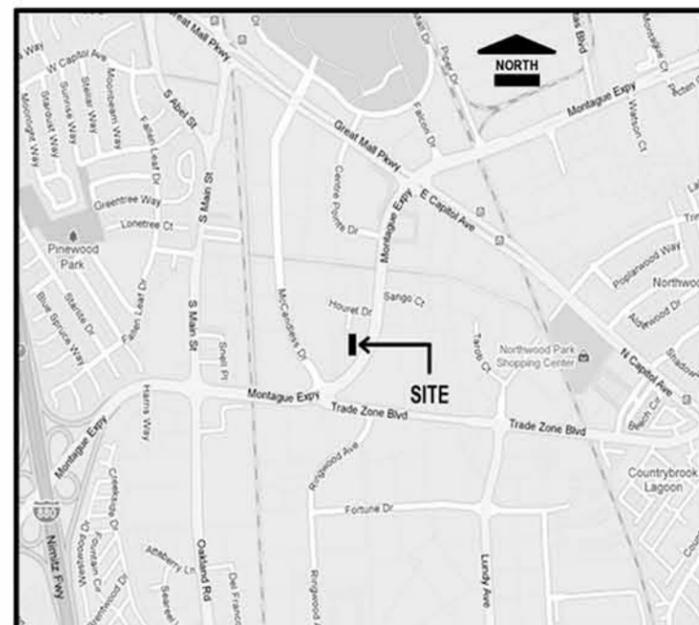


SITE PLAN

Scale: 1" = 40' 0"

Summary	
Total Land:	1.224 Acres
Total Building Area:	18,820 Sq. Feet
Total Dedicated Parking:	25 Vehicles

VICINITY MAP



Parking Information	
⊙	Indicates designated parking for 1840 Houret Court
	Section 53 parking code: Showroom - 1/200 GFA
	Office/Lobby - 1/240 GFA
	Storage - 1/1500 GFA
	1840 Houret Court: Showroom - 820 Sq/Ft = 4 spaces
	Office/Lobby - 396 Sq/Ft = 1 space
	Storage - 2835 Sq/Ft = 2 spaces
	Total Spaces Required: 7
	Total Spaces Assigned: 8

Letter of Explanation: Encore Auto

Encore Auto is the modern conceptualization of a smaller used car dealership.

The display/"showroom" area, as well as inventory stock, will be housed entirely indoors. This will eliminate the need for a large or crowded lot. Our main advertising venue will be the Internet. There will be no exposed advertisement banners or waving devices...only a cleanly manicured property with appropriate signage. Encore Auto will focus on gently used late model passenger vehicle sales. Post sale service or repair will be outsourced. Customers will have a more personalized experience afforded by an "appointment only" system in a contemporary environment. This approach will allow lower volume sales and yield moderate gains, securing a more stable entity.

Unlike Encore Auto's business model, the more traditional pathway of a small used auto dealership relies on "drive by" traffic and comes with the associated high costs of busy thoroughfare real estate. Although practical for established auto dealership to maintain this method, most startup used car dealerships do not possess the financial wherewithal to develop in this manner.

Even more important and key, the majority of current car shoppers start their vehicle search from home, on the worldwide web. The "old" way of shopping for a used car is becoming obsolete. It is now standard for people to browse, negotiate, and even purchase vehicles "online" without the countless hours of driving from dealership to dealership. Ignoring this critical fact, can inevitably "close the doors" of many startup used car dealers attempting to follow the more traditional business pathway.

Although the concept of an Internet based used auto dealership is becoming increasingly popular, many cities are met with challenges of evolving with associated business permits. I am positive in this pursuit, shown by many accounts and trends, that this newer business model will develop more in California cities.

In our stressed economic environment, efficient resource management has become more critical than ever before. Small business development is on a sharp decline nationwide. Developing smart and practical means to foster business growth is paramount. Your consideration for a Use Permit is sincerely appreciated.

Thank you,

James Cusack
Encore Auto
(408) 649-3217

Encore Auto Statement Summary

The vision of Encore Auto is to become a locally recognized smaller indoor used auto dealer known for high quality standards, honest practices, and modern concept. By relying on Internet traffic rather than actual road traffic, Encore Auto can better manage resources and decrease the need for high volume sales. This can only be realized, in part, by receiving a use permit to operate in a “mixed use” zone.

The proposed site (see plans) is an MXD3 zone positioned between two major highways (I-680/I-880) and has Montegue Expressway exposure. There are several automotive related businesses present on the business campus. These companies include three auto service/repair shops and a SMOG check station, adding to a “good fit” area for Encore Auto.

The Encore Auto business model concept is becoming more popular as a successful small business endeavor. It is being well received by many Bay Area cities. The Use Permit is a pivotal step in Encore Auto’s development and your consideration is very much appreciated.

Thank you,

James Cusack
Encore Auto
(408) 649-3217
james@reactiveauto.com