ATTACHMENT C:

July 24, 2013 – Staff Report to the Planning Commission

PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

DATE: JULY 24, 2013

TO: PLANNING COMMISSION

FROM: DAVID REYES, DEPUTY DIRECTOR OF PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

SUBJECT: DEVELOPMENT AGREEMENT BETWEEN THE NORTON SIMON ART FOUNDATION AND THE CITY OF PASADENA TO MAINTAIN EXISTING LAND USE REGULATIONS FOR PROPERTY AT 267-337 W. COLORADO BOULEVARD AND 55-77 N. ST. JOHN AVENUE (RUSNAK-PASADENA AUTOMOBILE DEALERSHIPS PROPERTY)

RECOMMENDATION:

It is recommended that the **Planning Commission** recommend to the City Council:

1. Find this proposed Development Agreement is exempt from the California Environmental Quality Act (CEQA) under State CEQA Guidelines Section 15061 (the "General Rule") because entering into the Development Agreement does not have the potential for causing a significant effect on the environment; and

2. Find that:
    a. The proposed development agreement is in the best interest of the City;
    b. The proposed development agreement is in conformance with the goals, policies and objectives of the General Plan and the purpose and intent of any applicable specific plan, and the Zoning Code;
    c. The proposed development agreement would not be detrimental to the health, safety and general welfare of persons residing in the immediate area, nor be detrimental or injurious to property or persons in the general neighborhood or to the general welfare of the residents of the City; and
    d. The proposed development agreement is consistent with the provisions of California Government Code Sections 65864 through 65869.5.

3. Approve a Development Agreement between the Norton Simon Art Foundation and the City of Pasadena to maintain current planning and zoning codes, rules and regulations including the General Plan and West Gateway Specific Plan for property at 267-337 W. Colorado Boulevard and 557-77 N. St. John Avenue (Rusnak-Pasadena Automobile Dealerships property).

BACKGROUND:

In August 2012, the Norton Simon Art Foundation submitted an application for a development agreement with the City of Pasadena for property at 267-337 W. Colorado Boulevard and 55-77 N. St. John Avenue. The subject property is currently occupied by a luxury brand automobile dealership (Rusnak-Pasadena Automobile Dealerships). Per the agreement, the applicant would pursue negotiating a long-term lease extension of the luxury brand automobile dealership. In return the applicant would preserve its right to develop the property in the future in accordance with the City's current planning and zoning codes, rules and regulations. This includes the 2004 General Plan and 1998 West Gateway Specific Plan. Early termination of the agreement would occur if the properties were no longer occupied by a luxury brand automobile dealership. In no event would the agreement continue for more than 23 years from the original effective date.

No new project or modifications to the property are proposed at this time. The Planning Commission is the recommending authority for Development Agreements and the City Council is the final decision maker.

<u>April 10, 2013 Planning Commission Meeting</u>

This item was presented to the Planning Commission on April 10, 2013. Staff made a presentation and representatives from the Norton Simon Art Foundation spoke. No persons from the public spoke on the item. The original staff report is attached for reference (see Attachment C), which includes a detailed summary of the proposed agreement.

The Commissioners stated the Norton Simon Art Museum was a highly valued institution and the Rusnak-Pasadena Automobile Dealership was a very important business in the community. Overall, they felt it was important for the City to help maintain existing automobile dealerships. However, they also raised concerns about the proposed agreement. Some Commissioners stated the agreement was for too long of a period. There was also concern an approval would create a precedent and encourage other property owners to propose similar agreements. Finally, others felt the proposed agreement did not present enough of a public benefit and therefore was not in the best interest of the City or community. Commissioners also requested additional clarification on Transfer of Development Rights (TDRs).

Two motions were made at the Planning Commission meeting:

- The first motion proposed to modify the length of the agreement to the following: "If the current lease is not extended beyond the existing three years, the development rights under the West Gateway Specific Plan are not extended. If the lease is extended between four and ten years, the development rights under the West Gateway Specific Plan are extended for two years." This motion failed with a 4-4 vote.

- The second motion called to reject the development agreement as presented by staff (i.e. recommend disapproval to the City Council). This motion also failed with a 4-4 vote.

Per the Zoning Code, the Planning Commission is to recommend approval, recommend approval with conditions or recommend disapproval of development agreements to the City Council. The City Attorney recommended the Commission continue to discuss the item until one of the actions outlined above could occur or continue the item to a future meeting to allow additional time for staff to work with the applicant.

The Commission voted 7-1 to continue the item to May 22, 2013 when the full Commission would be present. The applicant was unable to attend the May 22, 2013 meeting, and the Commission continued the item to a date uncertain. The item was subsequently re-noticed for a July 24, 2013 meeting.

Follow-Up Staff Discussions with the Applicant

Since April 10, 2013, staff has had numerous discussions with the applicant to address the concerns raised by the Commission. This includes the length of the agreement, whether a precedent would be set for other property owners to propose similar agreements and the level of public benefits provided by the agreement.

The applicant shared that reducing the length of the agreement was not a viable option. According to the applicant, the additional length of the agreement is needed to incentivize the dealership to make needed investments on the property. Therefore, the proposed agreement does not include any changes to its length. Staff also continues to find the terms of the proposed agreement highly unique. It would be difficult for another property owner and business to make the same arguments to support a similar agreement. If another agreement is proposed for a property in Pasadena, it would be reviewed separately through a series of public hearings before the Planning Commission and City Council.

With regards to the public benefits provided by the agreement, staff continues to find the proposed agreement is in the best interest of the City. The dealership generates significant revenues to the city, through sales taxes and other taxes and revenues. In fact, the dealership is among the top ten percent of revenue generators of businesses in the City. Furthermore, as a luxury brand dealership, it attracts a large portion of its customers from outside Pasadena, making it a regional draw.

Clarification on Transfer of Development Rights (TDRs)

The West Gateway Specific Plan includes a provision that allows a transfer of development rights (TDR), where one property can transfer a portion or all of its additional FAR of 0.4 to another property. This Specific Plan is the only area in the City that has TDR provisions. An application for a TDR is reviewed and approved by the Zoning Administrator and is appealable to the Board of Zoning Appeals.

The proposed agreement would maintain the list of permitted uses, maximum FAR and development standards as outlined in the Specific Plan and Zoning Code. However, if the TDR provisions were to be removed for properties within the Specific Plan area at some time in the future, the subject property would also not be able to utilize TDRs. This is because none of the other properties in the Specific Plan would be able to transfer square footage from their property to the subject property.

At the April 10, 2013 meeting, staff stated it would add specific language to the agreement that TDRs would not apply to the subject property if that right was removed from the West Gateway Specific Plan or Zoning Code. This language has been added under "#1 Definitions, a: Applicable Rules" (see Attachment B).

Staff recommends no other changes to the findings or agreement.

ENVIRONMENTAL REVIEW:

The implementation of the development agreement has been determined to be categorically exempt from the California Environmental Quality Act (CEQA) in accordance with Title 14, Chapter 3, Section 15061, ("General Rule") of the CEQA Guidelines. Section 15061 (b)(3) sets forth CEQA's general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, such as entering into the Development Agreement, may have a significant effect on the environment, the activity is not subject to CEQA. The proposed Development Agreement does not propose any changes to the property's existing structures or its use as a luxury brand automobile dealership, and instead is targeted at maintaining the status quo. If a proposal for a new project moves forward at some point in the future, the City would consider whether additional environmental analysis must be done, and would complete such analysis at the more appropriate time if and when a specific project is proposed.

Respectfully Submitted,

David Reyes
Deputy Director of Planning & Community Development Department

Prepared by:

Jason C. Mikaelian, AICP
Senior Planner

Attachments:

Attachment A – Findings
Attachment B – Draft Development Agreement
Attachment C – April 10, 2013 Planning Commission Staff Report and Attachments

ATTACHMENT D:

April 10, 2013 – Staff Report to the Planning Commission

PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT

DATE: APRIL 10, 2013

TO: PLANNING COMMISSION

FROM: VINCENT P. BERTONI, AICP, DIRECTOR OF PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

SUBJECT: DEVELOPMENT AGREEMENT BETWEEN THE NORTON SIMON ART FOUNDATION AND THE CITY OF PASADENA TO MAINTAIN EXISTING LAND USE REGULATIONS FOR PROPERTY AT 267-337 W. COLORADO BOULEVARD AND 55-77 N. ST. JOHN AVENUE (RUSNAK-PASADENA AUTOMOBILE DEALERSHIPS PROPERTY)

RECOMMENDATION:

It is recommended that the **Planning Commission** recommend to the City Council:

1. Find this proposed Development Agreement is exempt from the California Environmental Quality Act (CEQA) under State CEQA Guidelines Section 15061 (the "General Rule") because entering into the Development Agreement does not have the potential for causing a significant effect on the environment; and

2. Find that:
   a. The proposed development agreement is in the best interest of the City;
   b. The proposed development agreement is in conformance with the goals, policies and objectives of the General Plan and the purpose and intent of any applicable specific plan, and the Zoning Code;
   c. The proposed development agreement would not be detrimental to the health, safety and general welfare of persons residing in the immediate area, nor be detrimental or injurious to property or persons in the general neighborhood or to the general welfare of the residents of the City; and
   d. The proposed development agreement is consistent with the provisions of California Government Code Sections 65864 through 65869.5.

3. Approve a Development Agreement between the Norton Simon Art Foundation and the City of Pasadena to maintain current planning and zoning codes, rules and regulations including the General Plan and West Gateway Specific Plan for property at 267-337 W. Colorado Boulevard and 557-77 N. St. John Avenue (Rusnak-Pasadena Automobile Dealerships property).

EXECUTIVE SUMMARY:

In August 2012, the Norton Simon Art Foundation submitted an application for a development agreement with the City of Pasadena for property at 267-337 W. Colorado Boulevard and 55-77 N. St. John Avenue. The subject property is currently occupied by a luxury brand automobile dealership (Rusnak-Pasadena Automobile Dealerships). Per the agreement, the applicant would pursue negotiating a long-term lease extension of the dealership. In return the applicant would preserve its right to develop the property in the future in accordance with the City's current planning and zoning codes, rules and regulations. This includes the current 2004 General Plan and 1998 West Gateway Specific Plan. The full text of the proposed agreement can be found in Attachment B of this staff report.

No new project or modifications to the property are proposed at this time.

The State of California Government Code and Pasadena's Zoning Code include provisions for development agreements, which are contracts between local government entities and applicants (usually a property owner or developer). Such agreements provide assurances for applicants to maintain the right to develop subject to the rules and regulations in effect at the time of the approval. These rights are subject to certain conditions and for a specified amount of time. In exchange, applicants typically provide public amenities, negotiated fees and/or other benefits. However, development agreements cannot be used to allow a use that would not be permitted by the Zoning Code, nor can it constitute a rezoning of the property or permit a variance to a specific standard.

This staff report includes a background discussion on the existing property, an overview of the proposed agreement and a summary of existing planning and zoning rules. Staff has reviewed the proposed agreement and finds that it is in the best interest of the City, the applicant and community. All three will enjoy benefits from the implementation of the agreement. Safeguards have also been placed to terminate the agreement if the applicant is unable to secure a new lease or extend the existing lease. The proposed agreement is also subject to annual reviews to ensure the applicant continues to comply with the terms and conditions of the agreement.

BACKGROUND:

Existing Property

The subject property is made up of three adjoining parcels and is bounded by the 134-Freeway to the north, St. John Avenue to the east and West Colorado Boulevard to the south. Combined, the three parcels have an area of 248,783 square feet or 5.7 acres. The property is located in the West Gateway Specific Plan area and is zoned WGSP-1C (West Gateway Specific Plan, The Colorado Boulevard area). The property is owned by the Norton Simon Art Foundation and is occupied by a luxury brand automobile dealership (the Rusnak-Pasadena Automobile Dealerships). Automobile dealerships are permitted "by right" in the WGSP-1C zoning district.

Adjacent uses include freeway right-of-ways to the north and east, the Norton Simon Museum to the west and commercial uses to the south. Further to the east on the other side of the freeway right-of-way is Old Pasadena and the Central District. West Colorado Boulevard is one of the primary east-west arterials in the City and is nearly 100 feet wide along the property's frontage.

North St. John Avenue is a one-way southbound street. The intersection of W. Colorado Boulevard and N. St. John Avenue is signalized.

The automobile dealership on the subject property currently sells the following brands: Audi, Bentley, Jaguar, Porsche, Rolls-Royce and Maserati. A total of nine buildings (clustered in four building areas) occupy the property with a combined floor area square footage of 132,995 square feet. These buildings are mostly one story and are devoted to showroom space, auto repair bays and offices. There are also multiple surface parking lots devoted to vehicle display areas and customer parking. Four of the buildings on the site (275-337 W. Colorado Boulevard) are historically significant and make up the West Colorado Street Historic Auto Row. These buildings are all automobile showrooms constructed in the late 1910s and 1920s. Each building is constructed in a Period Revival style with high-style automobile showrooms at the street and attached service garages behind.

<u>Proposed Development Agreement</u>

After numerous discussions with the City, the Norton Simon Art Foundation submitted the application for a development agreement in August 2012. The City and applicant continued to work together over the next several months to finalize the draft agreement and begin the public review process. The full text of the proposed agreement can be found in Attachment B of this staff report. As previously stated, the property is currently leased for use as a luxury automobile dealership, which is a significant revenue generator for the City. No new project or modifications to the property are proposed at this time. In addition, the City is also not aware of any discussion of the current dealership closing or relocating to another community.

Per the agreement, the applicant would pursue negotiating a long-term lease extension of the dealership, and in return the applicant would preserve its right to develop the subject property in the future in accordance with the City's current planning and zoning codes. This includes the current 2004 General Plan and 1998 West Gateway Specific Plan.

Terms of Agreement

The current lease for the dealership is set to expire at the end of 2015. Per the proposed agreement, the applicant would use good faith efforts to maintain a luxury brand dealership on the property and extend the existing lease or negotiate a new lease for an additional 15 years. The terms of the agreement would end early if the applicant is unable to secure a new lease or an extension of the existing lease, or a negotiated lease was to terminate early. If one of these were to happen, the agreement also includes "grace periods" for the agreement to remain in effect for a reasonable period of time. This is to allow the applicant enough time to propose a new project. The length of the grace period is on a sliding scale depending on how long the dealership operated before the lease was terminated.

If the current three years remaining on the lease were to expire and the dealership was to cease operation, the agreement would terminate after two additional years. If a new lease or lease extension was secured but terminated in less than five years, then the agreement would terminate equal to the number of years of the new lease or lease extension remained in effect (with a minimum of two additional years and maximum of five additional years). If a new lease or lease extension was secured and maintained for five or more years, then the agreement would terminate after five additional years. However, in no event would the agreement continue for more than 23 years from the original effective date (i.e. 3 years for the existing lease plus a 15 year lease extension or new lease plus a 5 year grace period equals 23 years). If a lease were to extend beyond 15 years, the maximum length of the total agreement would still be 23 years.

In addition, the use must be maintained as a luxury brand automobile dealership. Transitioning to another use - even a general brand automobile dealership - would result in early termination of the agreement. The table below gives a summary of different scenarios of how long the agreement would remain in effect:

Length of total lease from effective date of agreement:	**Number of additional years of the agreement:**	**Total length of Agreement:**
3 years (length of existing lease)	2 years	5 years
4 to 5 years	2 years	6 to 7 years
6 years	3 years	9 years
7 years	4 years	11 years
8 to 18 years	5 years	13 to 23 years

Other Considerations

While existing zoning regulations would be maintained under the proposed agreement, the applicant would be subject to changes in the provisions of the City's building, mechanical, plumbing and electrical regulations. In addition, the applicant would still be subject to any changes by applicable California or federal laws or regulations. Furthermore, the applicant would still be subject to any increase in developer fees and processing fees imposed by the City. Finally, other existing and future City requirements not related to the rules or regulations outlined in the General Plan, Zoning Code or Specific Plan would still apply to the property and any future project on the property. These include requirements related to historic preservation, tree preservation, affordable housing and design review.

Under the agreement, the applicant would defend, at its own expense, any court action or proceeding challenging the agreement. The applicant would also hold the City harmless from any liabilities or claims that may arise from the agreement.

Annual Reviews

Per the City's Zoning Code, the proposed agreement is also subject to publicly noticed annual reviews for the full term of the agreement. The agreement identifies the review authority as the Director of Planning and Community Development. The purpose of the review is to determine whether the applicant has complied in good faith with the terms and conditions of the agreement. If it is determined that the applicant has complied in good faith, then no further action is required. However, if the opposite is found, the director may recommend to the City Council that it order the agreement to be terminated or modified.

<u>The General Plan and West Gateway Specific Plan</u>

The 2004 General Plan Land Use Diagram designates the subject property as Specific Plan and part of the West Gateway Specific Plan area. The proposed agreement would maintain the existing rules and regulations outlined in the General Plan and Specific Plan including the list of permitted uses, maximum floor area ratio (FAR) and development standards. The current development standards of the Specific Plan are also adopted as part of the City's Zoning Code.

The West Gateway Specific Plan was adopted by the City Council in July 1998. Its main boundaries include the 134 Freeway to the north, the 710 Freeway extension to the east, Del Mar Boulevard to the south and Orange Grove Boulevard to the West. The subject property is located in the "1C - Colorado Boulevard" sub-area. The Specific Plan includes guidelines and strategies to encourage more intense development along Colorado Boulevard and St. John Avenue and lower intensities south of Green Street and along Orange Grove Boulevard. The plan also encourages applicants to use the City's Planned Development (PD) process for larger projects to allow the flexibility needed to respond to market demands.

Additional goals outlined in the Specific Plan for the subject property and surrounding area along Colorado Boulevard include:
- Maintain the high standards of design quality for this major entry into the City from the west;
- Preserve the existing character of this commercial district by enhancing existing open spaces, and requiring generous setbacks;
- Regulate the scale of development in a commercial district which is seen by a national and international audience on New Year's Day; and
- Relate the scale of development in the district to that of the surrounding area and the Central Business District.

Permitted Uses

The Specific Plan states the area along Colorado Boulevard should protect, support and preserve Old Pasadena by allowing complementary uses. However, it should not be developed as a westward expansion of Old Pasadena's boundaries. A broad mix of uses are encouraged, including mixed-use, business, community-serving and neighborhood-serving uses. Specifically, permitted uses for the subject property include:
- Auto sales
- Institutional uses (e.g. cultural institutions, schools)
- Restaurants and food sales
- Banks and financial services
- Business professional offices
- Personal services (e.g. dry cleaners, hair salons)
- Senior housing and senior continuing care/assistive care
- Mixed-use and multi-family residential up to 48 units per acre

Development Standards

As of December 31, 2012, the remaining development capacity (or caps) for the West Gateway Specific Plan was 407,000 square feet of non-residential uses and no remaining housing units (these numbers factor constructed, approved and pending projects). Square footage can also be converted to housing units at a rate of 800 square feet per housing unit. The Specific Plan calculates the maximum FAR of a property differently compared to other areas of the City. The maximum square footage permitted on a property includes the square footage of all existing buildings on the site and an additional FAR of 0.4. This formula was established to allow for equal distribution of the caps established for the Specific Plan. Existing buildings can be demolished and the square footage reconstructed on-site without impacting FAR (buildings of historic significance would still be subject to the City's Historic Preservation Ordinance).

For the subject property, the maximum square footage would be calculated as follows:

Subject Property	Maximum sf	Equivalent FAR
Existing building square footages	132,995 sf	0.54 FAR
Net new building construction (based on subject property of 248,783 sf, or 5.7 acres)	99,513 sf	0.40 FAR
TOTAL maximum	**232,508 sf**	**0.94 FAR**

In addition, the Specific Plan also includes a provision that allows a transfer of development rights (TDR), where one property can transfer a portion or all of its additional FAR of 0.4 to another property. The West Gateway Specific Plan is the only area in the City that has TDR provisions. An application for a TDR is reviewed and approved by the Zoning Administrator and is appealable to the Board of Zoning Appeals.

Other development standards outlined in the Specific Plan for the subject property include the following:

Topic Area:	Development Standards:
Residential Density:	• Urban housing standards • 48 units/acre (or 274 units for the 5.7 acre property) • Minimum lot area per unit: 910 sf
Height:	• 40 foot limit for first 150 feet from Colorado Boulevard • 85 foot limit for rest of property
Setbacks:	• Minimum 20 feet along Colorado Boulevard (for parade viewing) • No other setback requirements
Lot Coverage:	• Does not apply
Landscaping, parking and signs	• As required by applicable Zoning Code Chapters; standards would be same as other commercial properties

As discussed above, the proposed agreement would maintain the list of permitted uses, maximum FAR and development standards. However, if the TDR provisions were to be removed for properties within the Specific Plan area at some time in the future, the subject property would also not be able to utilize TDRs. This is because none of the other properties in the Specific Plan would be able to transfer square footage from their property to the subject property. Also, if future rules or regulations permitted greater levels of development (e.g. a higher FAR, greater building height, etc.), the subject property would still be held to comply with existing standards. Therefore, a project would not be able to create a "hybrid" of current and future standards.

Current General Plan Update

In 2009, the City began the process of updating the General Plan Land Use and Mobility Elements. Thousands of residents, business people and community groups have participated throughout the outreach process. The draft plan has already been reviewed by the Planning Commission and other City Commissions and is currently being reviewed by the City Council. Staff anticipates completion of the plan's environmental review and final adoption by mid-2014.

The draft plan which was presented to City Commissions did not call for significant changes to the West Gateway Specific Plan area. The draft land use map shows an FAR of up to 1.0, which is consistent to the 0.94 currently allowed on the subject property (before TDRs). The draft plan also calls for a variety of commercial land uses along Colorado Boulevard that would complement the Central District. However, housing or mixed-use with housing was not shown as a preferred land use on the subject property. Development standards such as height and setbacks would not be identified until the Specific Plan is updated. At the citywide level, one of the major policy topic areas was economic development. This includes the need to support existing businesses and major revenue producers, which is consistent with preserving the dealership use.

When the draft plan was reviewed by the Planning Commission earlier this year, their recommendation to the City Council included repealing the West Gateway Specific Plan and replacing it with standard zoning designations. There was also some discussion to remove the TDR provisions, but that was not included in their recommendation.

Development Agreement Procedures

Chapter 17.66 of the Zoning Code outlines the procedures and requirements for the review, approval and amendment of development agreements. The State of California Government Code also has specific sections that address development agreements. They identify the minimum contents of an agreement, noticing and public hearing requirements, procedures for amendments and cancellations and periodic reviews. The contents of an agreement must include the duration, permitted uses, densities or intensity of use. It can also include other development standards and conditions of approval. The proposed agreement has been reviewed by the City Attorney and complies with all State and City requirements.

Agreements go to the Planning Commission as the recommending body and the City Council for a final decision. Both meetings are noticed as public hearings and include a newspaper notice, notices mailed to all property owners within 500 feet and multiple on-site postings.

ANALYSIS:

Staff has reviewed the proposed agreement and finds it is in the best interest of the City, applicant and community. All three will enjoy benefits from the implementation of the agreement. In addition, safeguards have been placed to terminate the agreement if the applicant is unable to secure a new lease or extend the existing lease for the dealership. The City will also conduct annual reviews to ensure the applicant is complying with the agreement and is negotiating a long term lease in good faith.

The dealership generates significant revenues to the City, through sales taxes and other taxes and revenues. In fact, the dealership is among the top ten percent of revenue generators of businesses in the City. Furthermore, as a luxury brand dealership, it attracts a large portion of its customers from outside Pasadena, making it a regional draw.

The agreement also eliminates uncertainty in the planning process and provides for the potential orderly future development of the property. The lack of certainty can result in a waste of resources, escalate the cost of housing and other development and discourage investment and a commitment to comprehensive planning. Developing the property in accordance with existing policies, rules and regulations and subject to conditions of approval may strengthen the planning process, encourage private participation in comprehensive planning, and reduce the economic cost of development.

FINDINGS:

The Zoning Code (Chapter 17.66) requires that prior to the approval of a development agreement the following findings must be made:

1. The proposed development agreement is in the best interest of the City;

2. The proposed development agreement is in conformance with the goals, policies and objectives of the General Plan and the purpose and intent of any applicable specific plan, and the Zoning Code;

3. The proposed development agreement would not be detrimental to the health, safety and general welfare of persons residing in the immediate area, nor be detrimental or injurious to property or persons in the general neighborhood or to the general welfare of the residents of the City; and

4. The proposed development agreement is consistent with the provisions of California Government Code Sections 65864 through 65869.5. *(these Code sections outline requirements related to the contents of agreements, the applicability of an agreement and on the public hearing and approval process.)*

The rationale for the findings in support for Planning Commission consideration are found in Attachment A of this staff report.

ENVIRONMENTAL REVIEW:

The implementation of the development agreement has been determined to be categorically exempt from the California Environmental Quality Act (CEQA) in accordance with Title 14, Chapter 3, Section 15061, ("General Rule") of the CEQA Guidelines.
Section 15061 (b)(3) sets forth CEQA's general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question, such as entering into the Development Agreement, may have a significant effect on the environment, the activity is not subject to CEQA. The proposed Development Agreement does not propose any changes to the property's existing structures or its use as a luxury brand automobile dealership, and instead is targeted at maintaining the status quo. If a proposal for a new project moves forward at some point in the future, the City would consider whether additional environmental analysis must be done, and would complete such analysis at the more appropriate time if and when a specific project is proposed.

Respectfully Submitted,

for

Vincent P. Bertoni, AICP
Director of Planning & Community Development Department

Prepared by:

Jason C. Mikaelian, AICP
Senior Planner

Reviewed by:

David Reyes
Principal Planner

Attachments:

Attachment A – Findings
Attachment B – Draft Development Agreement