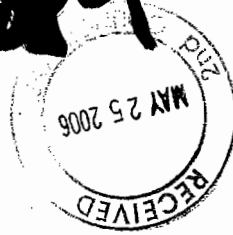


# STNC

LATHAM & WATKINS LLP



633 West Fifth Street, Suite 4000  
Los Angeles, California 90071-2007  
Tel: (213) 485-1234 Fax: (213) 891-8763  
www.lw.com

FIRM / AFFILIATE OFFICES

Brussels	New York
Chicago	Northern Virginia
Frankfurt	Orange County
Hamburg	Paris
Hong Kong	San Diego
London	San Francisco
Los Angeles	Shanghai
Milan	Silicon Valley
Moscow	Singapore
Munich	Tokyo
New Jersey	Washington, D.C.

May 24, 2006

Mr. Daniel Scott  
Department of City Planning  
Community Planning Bureau  
6262 Van Nuys Boulevard  
Suite 351  
Van Nuys, California 91401

Re: Home Depot's Proposed Reuse of the Existing Structure at 8040 Foothill Boulevard

Dear Mr. Scott:

We are writing to follow up on our meeting on May 4, 2006, regarding the tenant improvements proposed for the reuse of the above-referenced former Kmart store. As we discussed, the reuse proposal does not add any square footage to the existing building, and as we indicated, we believe that the proposed tenant improvement plans do not constitute a discretionary project under the Foothill Boulevard Corridor Specific Plan ("Specific Plan"). We know that as a matter of public policy, the City of Los Angeles (the "City") does not engage in discriminatory enforcement of its zoning laws to transform otherwise ministerial permits into discretionary approvals. In the City, which is already experiencing shortages of Planning staff and extensive backlogs in applications for discretionary approvals, thousands of tenant improvement applications are filed each year. Such improvements enhance the economy of our City by providing investments in our communities, including bringing older buildings up to newer codes as provided in this application. Such goals could not be served if tenant improvement applications like this one are considered discretionary permits.

We are also confident that the Planning Department, like the Department of Building and Safety, will provide an objective response to the community's requests regarding this project, and will treat this decision consistently with the interpretations that both departments generally provide as to similar issues and that the Planning Department has provided for other projects under the Foothill Boulevard Corridor Specific Plan. Moreover, when the Specific Plan was adopted, materials provided by the City made clear that this plan did not transform tenant improvements into discretionary approvals (see the Question and Answer form, included as Attachment A). Attached are some examples we provided of other recent improvements to existing buildings (similar to or more intensive in scope than the Home Depot reuse proposal) within the Specific Plan area that were not deemed to be discretionary (see Attachment B).

Home Depot relied upon the letter the Planning Department provided in August 2005, and on its meetings with the Department of Building and Safety, to prepare a set of tenant

LATHAM & WATKINS LLP

improvement plans that it believes do not constitute a "Project." Home Depot submitted these plans in February 2006. Though we repeatedly requested to meet with the Planning Department to explain the plans, our discussion on May 4th was the first time such an opportunity was provided to Home Depot since our submittal of the plans earlier this year. We appreciate your time and that of your colleagues.

Based on our discussion on May 4th, Home Depot has made some changes to the tenant improvement plans. We believe that these changes further support the conclusion that the proposed reuse of the existing structure does not constitute a "Project" under the Specific Plan. Although we believe that the plans, as originally submitted, do not constitute a project, Home Depot nevertheless incorporated many of the suggested changes raised at the meeting into the revised plan set. These plans were resubmitted to the Department of Building and Safety on ~~May 23, 2006, for final review.~~ A summary of the changes reflected in the resubmitted plans is provided below, and a copy of the revised plans is enclosed for your review.

1. Existing Roll-Up Doors Maintained. The existing roll-up doors on the west side of the building will be maintained in their current configuration. The prior set of plans proposed filling in six of the ten existing doorways with masonry. This masonry work has been removed from the revised set of plans, accordingly, the existing door areas will remain.
2. Air Conditioning Units Deleted from the Plans. The installation of new air conditioning units has been deleted from the revised plans.
3. Exterior Concrete Slab Repairs Deleted. The prior set of plans included repair work that was proposed for the concrete slab on the exterior of the westerly and northerly sides of the existing building. Because this would replace the existing condition with similar work, and does not constitute a change in the appearance, we had anticipated based upon your prior letter that this item would not transform the application into a discretionary approval. Based upon our discussion at the meeting, however, the proposed exterior concrete slab work has been removed from the revised plans.
4. Parking Lot Work Deleted. The prior set of plans proposed resurfacing and repair of the existing parking lot. Because this would replace the existing condition with similar work, and improves but does not constitute a change in the existing exterior, we had also anticipated that parking lot improvements would not transform the application into a discretionary approval. Based upon our discussion at the meeting, however, the proposed parking lot work has been deleted from the revised set of plans.
5. Garden Center Fence Height Maintained. The prior set of plans proposed to replace the existing 12-foot-high fence with a 20-foot-high fence in the Garden Center. Based on our discussion at the meeting, the revised plans show a 12-foot-high fence in the same location as the existing fence.
6. Auto Center Area Remains Unchanged. The revised plans do not propose any improvements or changes to the area of the existing retail building that was previously used as an auto repair center.

LATHAM & WATKINS LLP

7. Necessary Work to Comply with Title 24 Access Requirements Remain. Pursuant to California law (Building Code, Title 24 of the California Code of Regulations), Home Depot is required to provide certain ramps and other accessibility features. Accordingly, this work, which was included in the prior plans, remains in the revised plan set. This work is primarily interior and is required under applicable law in order to provide improved accessibility for the disabled. We are not aware of any precedent in which the City has deemed adding an exterior ramp as a disabled access improvement to transform an otherwise ministerial improvement into a discretionary approval.

As described above and shown on the enclosed plans, Home Depot's proposal to reuse the existing retail structure requires only ministerial approvals and does not require any discretionary review by the City. We appreciate your attention to this matter. Please feel free to ~~contact us with any questions.~~

---

Truly yours,

*Cindy Starrett*  
per

Cindy Starrett  
of LATHAM & WATKINS LLP

cc: Councilmember Wendy Greuel  
Mr. Dale Thrush  
Mr. Robert Duenas  
Mr. Lincoln Lee  
Francis Park, Esq.  
Patricia Tegart, Esq.

ATTACHMENT A

---

*General Work*

*What if I plan to do general work on my building such as repair or general maintenance?*

Point 1: Projects are not regulated by the proposal, if they are only doing general work. Please look at the definitions of Project and Major Project found in Section 4 (Pages 5 and 6). \* In any case, the Community would like you to follow the intent of the proposal in the use of construction materials and design of your building. A simple review procedure (i.e., optional design review) was created to help you in preparing your plans (Page 43). For suggestions on construction materials and design, read Section 5.A (Pages 9 and 10).

Go To Information Table: No. 2

*Do nothing*

~~*What if I plan to do nothing (i.e., leave the property as is)?*~~

Point 1: The proposal has two requirements even, if you do nothing. One, requirement is to make changes to your landscape within 2 years to create scenic streets with trees. Two, it requires that abandoned buildings and lots be screened in order to decrease the visual blight in the community.

Go To Information Table: No. 2

*Signs*

*What if I plan to change my commercial sign?*

Point 1: Several types of signs are prohibited. Please look at the list in Section 8.A.1 (Page 30).

Point 2: Several types of signs must meet provisions of the proposal (e.g., size, location, etc), but are exempt from design review. Please look at Section 8.A.2 (Page 31).

Point 3: All other signs must comply with the proposal and must receive design review by Planning Staff. Please look at Sections 8 A.3 through 8.A.16 (Pages 32 to 39).

Go To Information Table: No. 2

*Minor Work*

*What if I plan to do minor work such as interior remodeling or exterior facade changes to the building?*

Point 1: Projects involving interior remodeling are not regulated by the proposal, unless the remodeling is extensive enough to be defined as a Major Project. Please look at the definition for Major Project in Section 4 (Page 5).

\* All page references are to the proposal dated March 23, 1993

**Marquee Sign.** A sign attached to or constructed on a marquee.

**Neighborhood Retail.** Retail sale of goods needed by residents and employees in the area on a regular basis, including: art gallery, art supplies, athletic/sporting goods, bakery, books and/or cards, bicycle sales and repairs, clock or watch sales and repairs, jewelry stores, computer sales and repair, stationery and office supply stores, drug stores, fabrics and dry goods, florist, food and grocery stores including supermarkets, delicatessens, hardware, household goods and small appliances, infant and children's clothing, photographic equipment and repairs, toys, and other similar retail items as determined by the Director or his/her designee.

---

**Neighborhood Services.** Services used by residents and employees in the area on a regular basis, including: barber shops, beauty parlors, blueprinting, copy and print shops, child care facilities, clubs and lodges, bridge clubs, fraternal and religious associations, dressmaking, dry cleaners, financial services, laundries and laundromats, locksmiths, opticians, physicians, photographers, shoe repair, tailor and other similar services as determined by the Director or his/her designee.

**Open Storage.** The covered or uncovered ground level portion of a business operation which is not completely enclosed within a building or structure and is used to store items for purchase or repair, or is used for tools of trade. The term does not apply to nurseries, flower stores, auto sales or other uses as determined by the Director or his/her designee.

**Personal Services.** Services offered to the public related to home, health, or family such as dry cleaners, shoe repair, pharmacy and the like, but not including financial-oriented services.

**Project.** The construction, erection, structural alteration of, or addition to, any building or structure, including architectural projections attached to the exterior walls or roof structures, which requires the issuance of a building permit or a change of use permit on a lot located in whole or in part within the Specific Plan area. A Project does not include interior remodeling of a building which does not increase the floor area, or single-family dwellings.

**Sandwich Sign.** A portable sign consisting of two sign faces, which connect at the top and extend outward at the bottom of the sign.

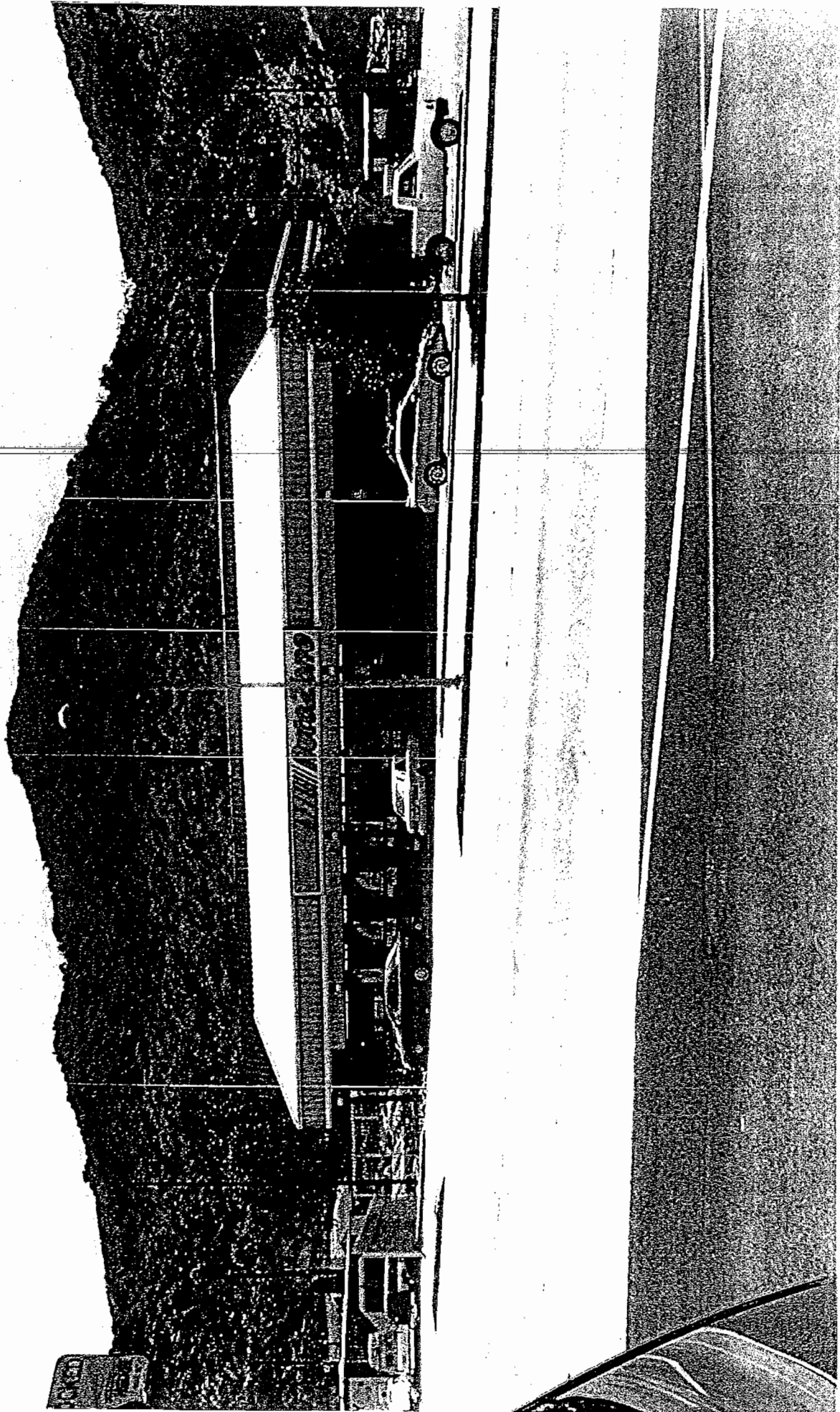
**Significant Project.** New buildings or structures or a Project in which the aggregate value of the work in any twelve month period exceeds 50 percent of the replacement value of the existing building. The valuation shall be determined by the Department of Building and Safety.

**Target Areas.** Four subproject areas as identified on the numbered shaded areas of Map No. 3 of this Specific Plan, representing locations where residential development is allowed in commercial zones.

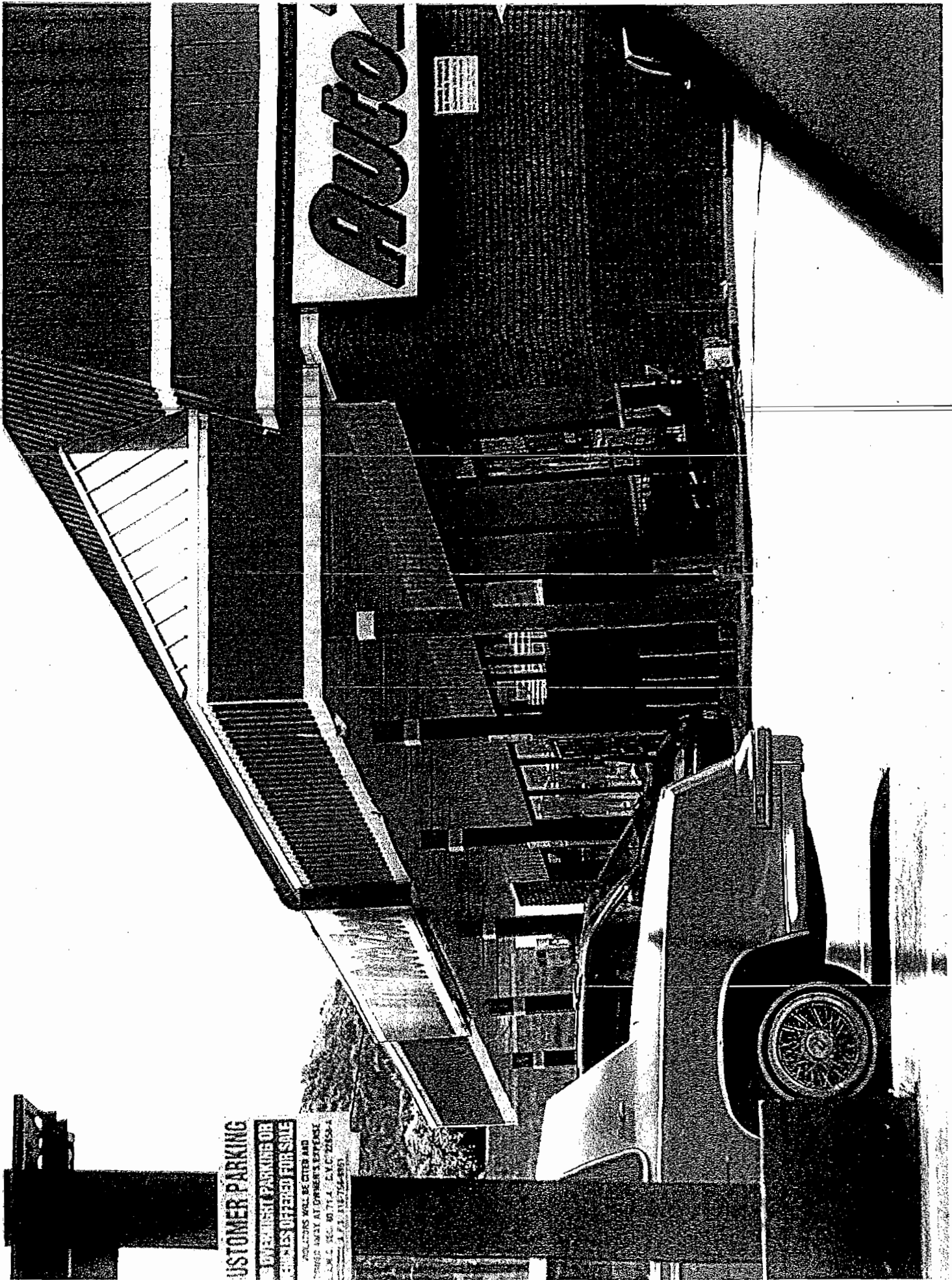
## ATTACHMENT B

### **Improvements to Existing Buildings Within the Foothill Boulevard Corridor Specific Plan Area that Were Not Deemed Discretionary**

- Auto Zone located at 7448 Foothill Boulevard (in Target Area No. 3) made extensive improvement to the existing building and to the exterior of the site, including signage. See attached photographs.
  - World Gym located at 6658 Foothill Boulevard (in Target Area No. 4) changed uses from retail to a health club, and made extensive improvements including signage and tearing out the entire roof. See attached photographs.
-



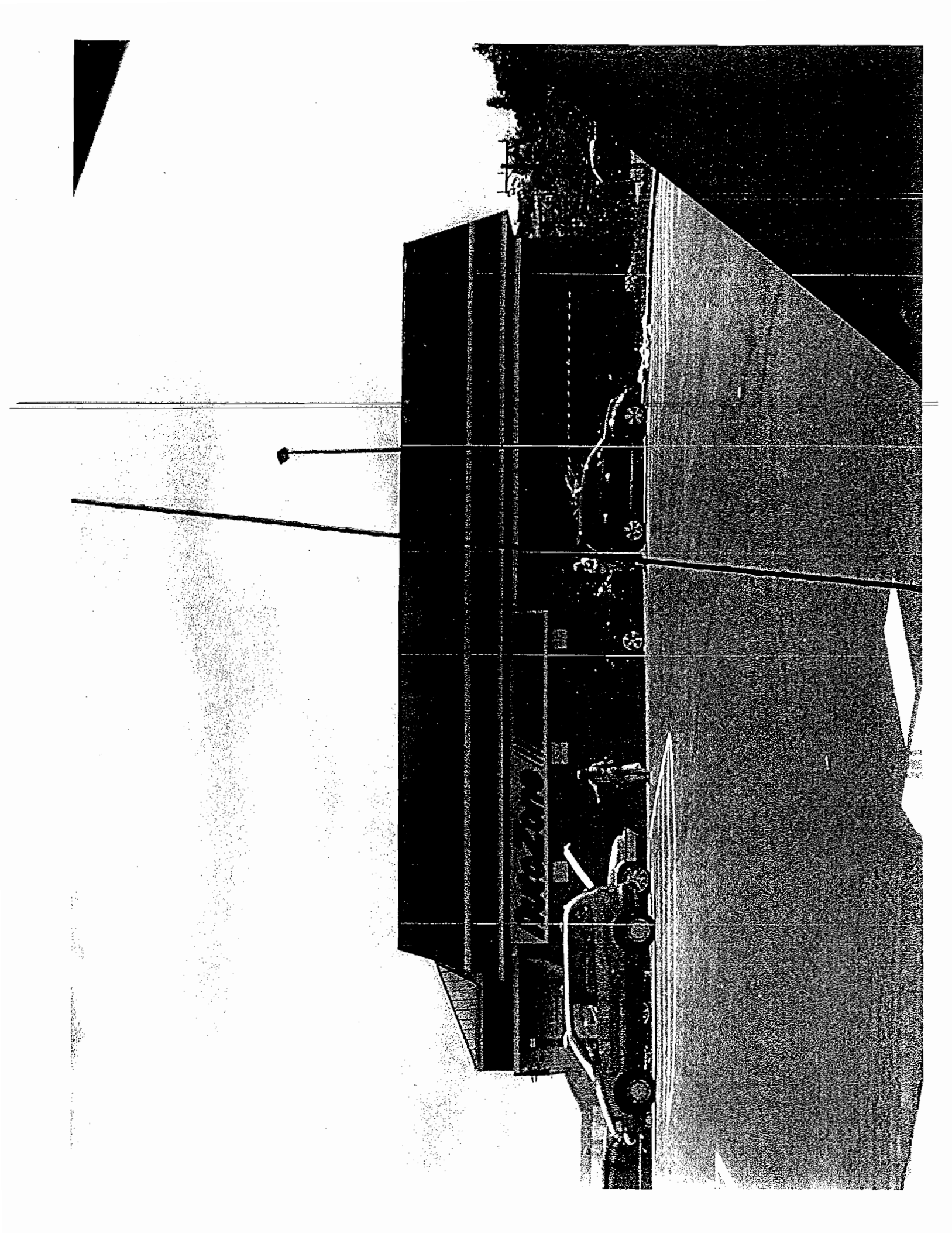


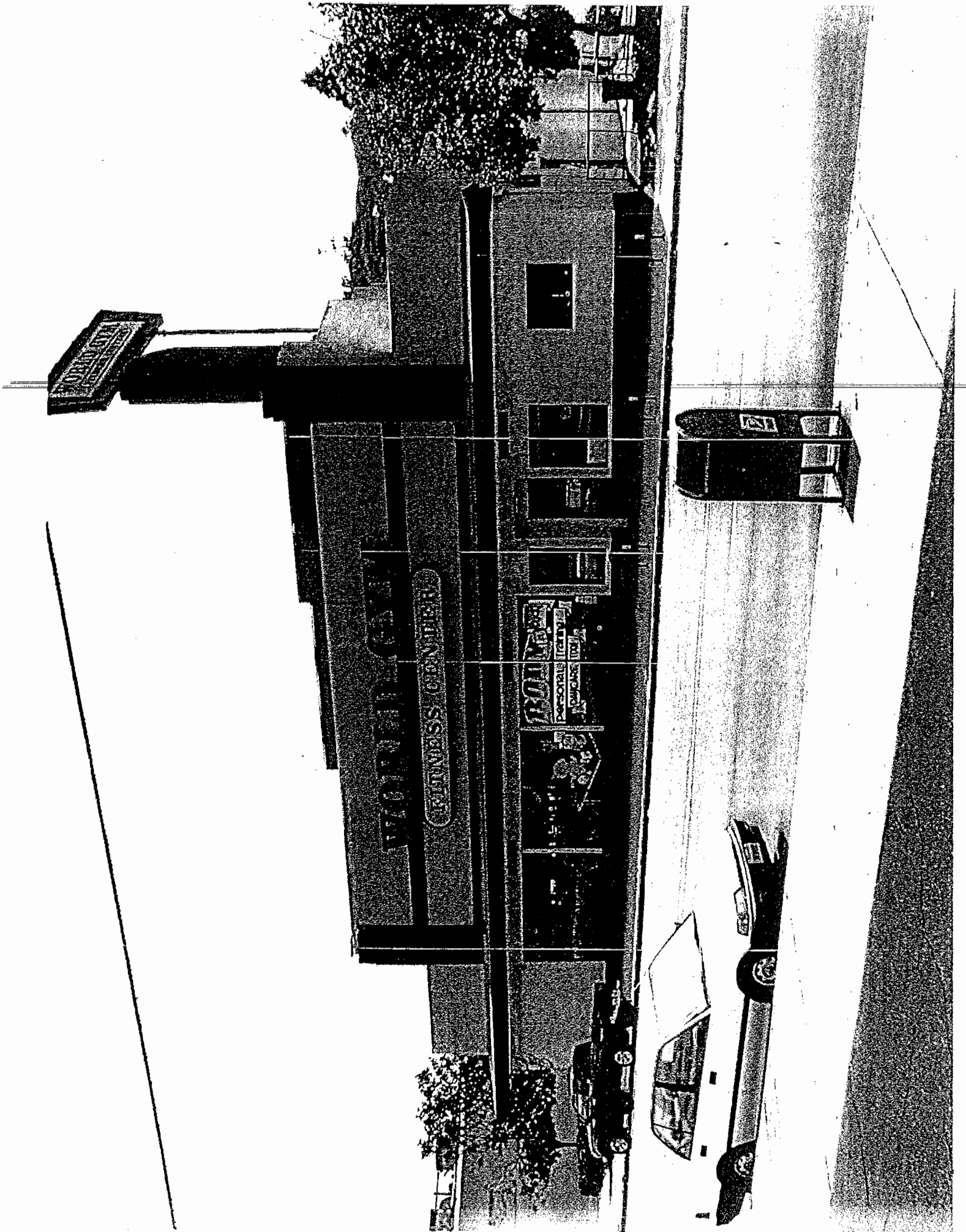


**Auto**

**CUSTOMER PARKING OR  
OVERNIGHT PARKING OR  
TRUCKS OFFERED FOR SALE**

ADULTS ONLY BE SEEN AND  
HEARD AT ALL TIMES EXTENSIVE  
SERVICE DEPARTMENT  
A.C. SEC. 8077.1, 8140, 8150-81

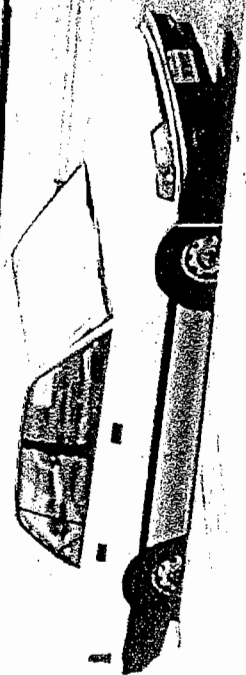


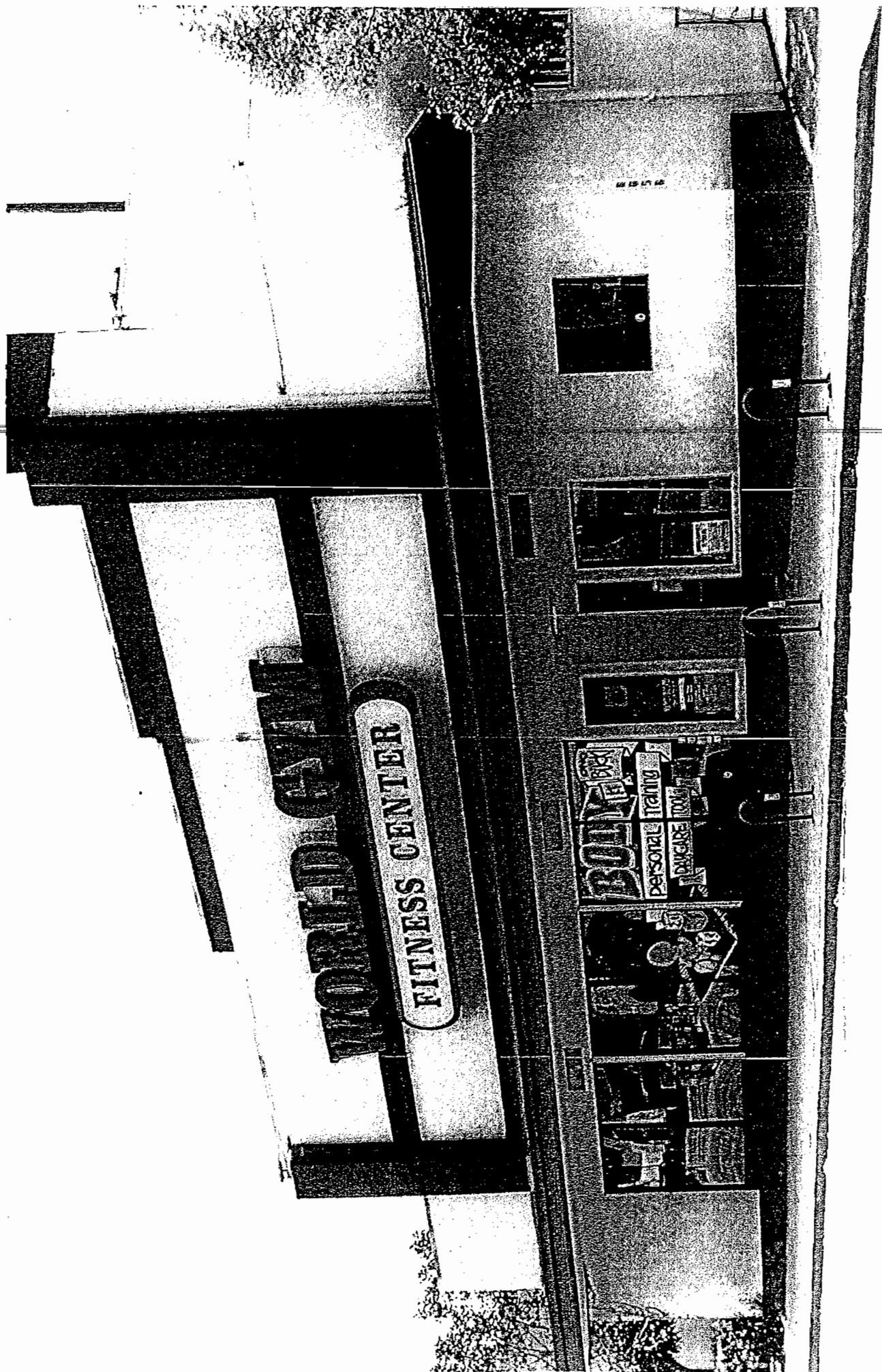


PUBBLICITY

WORLD'S  
PERSONALITY

PERSONALITY  
PERSONALITY  
PERSONALITY





**WORLD GYM**

**FITNESS CENTER**

**BOILER ROOM**

**PERSONAL TRAINING**

**BOILER ROOM**

WORLD EXHIBIT CENTER

WORLD EXHIBIT CENTER

