

Attachment C

REPORT OF PLANNING HEARING OFFICER ACTION

Adam Stranieri, Planner III, Hearing Officer

Bradley Wylam, Planner I, Assisting

August 17, 2022

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| ITEM NO: 1 | |
| | DISTRICT 1 |
| SUBJECT: | |
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| Application #: | PHO-5-22--Z-14-05-1 |
| Location: | Approximately 1,000 feet south of the southeast corner of 7th Avenue and Happy Valley Road |
| Zoning: | A-1 DVAO |
| Acreage: | 39.55 |
| Request: | <ol style="list-style-type: none">1) Modification of Stipulation 1 regarding general conformance with the site plans date stamped August 31, 2007 (PHO-1-07) and December 16, 2020 (PHO-3-20).2) Deletion of Stipulation 2 (PHO-1-07) regarding a master architectural theme.3) Modification of Stipulation 2 (PHO-3-20) and Stipulation 3 (PHO-1-07) regarding landscape setbacks along 7th Avenue and Misty Willow Lane.4) Deletion of Stipulation 5 regarding C-2 landscaping standards within parking lots (PHO-1-07).5) Modification of Stipulation 7 (PHO-1-07) regarding disclosure of Deer Valley Airport and Goodrich Universal Propulsion Company.6) Modification of Stipulation 7 (PHO-3-20) regarding right-of-way for Misty Willow Lane.7) Deletion of Stipulation 10 regarding a bus bay on Happy Valley Road (PHO-1-07 and PHO-3-20).8) Technical correction to Stipulation 4 (PHO-1-07). |
| Applicant: | Michael S. Buschbacher II |
| Owner: | DIDSTRAW LLC, et al. |
| Representative: | Michael S. Buschbacher II |

ACTIONS:

Planning Hearing Officer Recommendation: The Planning Hearing Officer recommended approval with a modification and additional stipulations.

Village Planning Committee (VPC) Recommendation: The Deer Valley Village Planning Committee heard this request on August 11, 2022 and recommended approval with a modification by a vote of 11-0.

DISCUSSION:

Michael Buschbacher, representative with Earl & Curley P.C., introduced the subject site and surrounding uses. He stated that the proposed conceptual site plan depicts three warehouse/ distribution buildings that total approximately 491,000 square feet. He provided a summary of PHO-1-07—Z-14-05-1 and PHO-3-20—Z-14-05-1, which created the two approval letters active on the subject site. He stated that this PHO hearing would combine and update those stipulations to be relevant to the proposed project and create a single approval letter for the subject site. He stated that a stipulation recommended by the Street Transportation Department regarding funding for traffic signals at 7th Avenue and Alameda Road may not necessitate a traffic light and he would request that this be modified to allow further review regarding traffic control at that intersection.

Adam Stranieri, Planning Hearing Officer, provided an overview of PHO-1-07—Z-14-05-1 and PHO-3-20—Z-14-05-1 and the impact each approval letter has on the subject site. He provided an overview of the Street Transportation Department recommendation, stated that he has spoken with staff regarding recommended stipulations, and recommended approval of the stipulations as provided by staff. He recommended approval with a modification to provide standard language for Stipulation 1 regarding general conformance with the site plan. He noted that the proposed conceptual site plan is compatible in scale and intensity with existing and planned development in the surrounding area. He recommended approval of the deletion of Stipulation 2 (PHO-1-07) and noted that the stipulation was previously deleted during PHO-3-20 and would provide consistency. He recommended approval of the modification of Stipulation 2 (PHO-3-20) and Stipulation 3 (PHO-1-07) and noted that this modification would change the name of Misty Willow Lane to Alameda Road, as requested by the Street Transportation Department. He recommended approval of the deletion of Stipulation 5 (PHO-1-07) to provide consistency with the prior approval in PHO-3-20. He recommended approval of the modification of Stipulation 7 (PHO-1-07) regarding disclosure of the Deer Valley Airport and Goodrich Universal Propulsion Company and noted that the modification will provide consistency with PHO-3-20 by splitting the stipulation into two separate stipulations. He recommended approval of the modification of Stipulation 7 (PHO-3-20) change the name of Misty Willow Lane to Alameda Road and noted that this stipulation was introduced in PHO-3-20 and is recommended to remain. He recommended approval of the deletion of Stipulation 10 regarding a bus bay on Happy Valley Road and noted that the bus bay is located off-site to the current request.

FINDINGS:

- 1) The subject property of this request includes approximately 39.55 gross acres, located within the southern portion of the subject property in the original rezoning case. Following the original rezoning case, PHO-1-07—

Z-14-05 modified stipulations for the entire subject property. These stipulations apply to most of the subject property of this request. PHO-3-20—Z-14-05 modified stipulations for an approximately 24.07 gross acre site located in the southeast portion of the site. These stipulations apply in this area only. Therefore, the applicant's request includes modifications to the approval letters for both PHO-1-07—Z-14-05 and PHO-3-20—Z-14-05. The following PHO recommendation coordinates the recommended modifications, deletions, and additional stipulations in both letters so that the result is the same in both cases and can be represented by a single approval letter under Case No. PHO-5-22—Z-14-05.

- 2) The request to modify Stipulation 1 (PHO-1-07 and PHO-3-20) regarding general conformance is recommended to be approved with a modification to provide more standard language. The stipulated site plan in PHO-1-07 consisted of a plat that depicted 22 parcels ranging from 0.85 to 2.08 acres. No specific development proposal was included for buildings on individual parcels. The subject property of PHO-1-07 did not develop and remains vacant. The stipulated site plan in PHO-3-20 depicted a medical marijuana cultivation and infusion facility on the westernmost portion of the site, which is excluded from the current request. The remaining property on this site plan did not depict any proposed development and remains vacant. The proposed conceptual site plan in the current request depicts three warehouse/distribution buildings on the site. The proposal is compatible in scale and intensity with existing and planned development in the surrounding area.
- 3) The request to delete Stipulation 2 (PHO-1-07) regarding a master architectural theme is recommended to be approved. The original subject property in Z-14-05 is no longer developing as a unified project and there are disparate development plans for various areas within the original case area. Additionally, this stipulation is not present in PHO-3-20 and the request will provide consistency.
- 4) The request to modify Stipulation 2 (PHO-3-20) and Stipulation 3 (PHO-1-07) regarding landscape setbacks along 7th Avenue and Misty Willow Lane is recommended to be approved. The modifications only update the name of Misty Willow Lane to Alameda Road, per the request of the Street Transportation Department.
- 5) The request to delete Stipulation 5 (PHO-1-07) regarding C-2 landscaping standards within parking lots is recommended to be approved for consistency with the prior approval in PHO-3-20.
- 6) The request to modify Stipulation 7 (PHO-1-07) regarding disclosure of Deer Valley Airport and Goodrich Universal Propulsion Company and add

a new stipulation (PHO-1-07) regarding Goodrich Universal Propulsion Company is recommended for approval. The request will provide consistency with the prior approval in PHO-3-20.

- 7) The request to modify Stipulation 7 (PHO-3-20) regarding right-of-way for Misty Willow Lane and add this text as a new stipulation in PHO-1-07 is recommended for approval. The request will provide consistency and update the reference to Misty Willow Lane to Alameda Road, per the request of the Street Transportation Department.
- 8) The request to delete Stipulation 10 regarding a bus bay on Happy Valley Road (PHO-1-07 and PHO-3-20) is recommended to be approved as this location is off-site to the current request.
- 9) The Street Transportation Department recommends three additional stipulations. These stipulations are recommended for inclusion. The first requires the developer to perfect the existing 55-foot right-of-way easement for the east half of 7th Avenue. The development's adjacent frontage along 7th Avenue is provided via right-of-way easement. With the development of this property, the developer will be required to dedicate fee title ROW ("perfect") this easement as part of their development. The second requires the developer to provide funds in escrow for two traffic signals. As required by the by the approved Traffic Impact Study for this development, the developer will be responsible for funding 25% of the traffic signals at 7th Avenue and Alameda and 7th Avenue and Happy Valley Road. The third requires the developer to construct a minimum 5-foot-wide detached sidewalk along 7th Avenue. The existing right-of-way pattern along 7th Avenue requires dedication and improvements as required by Cross-Section D-Section of the Street Classification Map. D-Section Roadways require a minimum 5-foot-wide detached sidewalk separated by an 11-foot-wide landscape strip located between the back of curb and sidewalk.

STIPULATIONS:

Stipulations: PHO-1-07—Z-14-05-1

PHO recommended legislative edit of stipulations applicable to that portion of the site subject to PHO-1-07—Z-14-05-1.

| GENERAL CONFORMANCE | |
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| 1. | That THE development shall be in general conformance to WITH the site plan date stamped JULY 7, 2022 August 31, 2007 , as MODIFIED BY THE |

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| | FOLLOWING STIPULATIONS AND approved or modified by the PLANNING AND Development Services Department. |
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| 2. | That a master architectural theme, that unifies the landscaping and building materials for all development, shall be approved concurrent with preliminary site plan approval for the first phase of development as approved by the Development Services Department. |
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| 2. 3. | That An average 20-foot (minimum 10-foot) landscape setback shall be provided REQUIRED along 7th Avenue and Misty Willow Lane and an average 10-foot (minimum 5-foot) landscape setback shall be REQUIRED provided along ALAMEDA ROAD AND all internal streets, as approved by the PLANNING AND Development Services Department. |
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| TRAILS | |
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| 3. 4. | That The applicant shall provide two pedestrian access points to the regional trail system located adjacent to the CAP Canal via the two public streets adjacent to the canal, as approved by the PLANNING AND Development Services Department. |
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| LANDSCAPING | |
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| 5. | That landscaping shall be provided within parking lots per C-2 zoning district standards (Section 701.d), as approved by the Development Services Department. |
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| ARCHEOLOGICAL | |
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| 4. 6. | That The subject site has the potential to contain archaeological resources. That The applicant shall submit an archaeological survey for review and approval by the City Archaeologist (602) 495-0901 prior to preliminary approval. |
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| NOTIFICATION | |
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| 5. 7. | That, At such time as the sale of any parcel, the property owner shall record documents that disclose to purchasers or occupants of property within the development(s) the existence and operational characteristics of Deer Valley Airport and Goodrich Universal Propulsion Company. The form and content of such documents shall be reviewed by the City Attorney. |
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| 6. | THE PROPERTY OWNER SHALL RECORD DOCUMENTS THAT DISCLOSE TO PROSPECTIVE PURCHASERS OF PROPERTY WITHIN THE DEVELOPMENT(S) THE NATURE OF ENVIRONMENTAL REMEDIATION ACTIVITIES AT THE FORMER SITE OF THE GOODRICH UNIVERSAL PROPULSION COMPANY. THE FORM AND CONTENT OF SUCH DOCUMENTS SHALL BE ACCORDING TO THE TEMPLATES AND INSTRUCTIONS PROVIDED WHICH HAVE BEEN REVIEWED AND APPROVED BY THE CITY ATTORNEY. |
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| STREETS AND TRANSPORTATION | |
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| 7. | THE DEVELOPER SHALL PERFECT THE EXISTING 55-FOOT RIGHT OF-WAY EASEMENT FOR THE EAST HALF OF 7TH AVENUE, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT. |
| | |
| 8. | THE DEVELOPER SHALL DEPOSIT FUNDS IN ESCROW TO THE STREET TRANSPORTATION DEPARTMENT THAT COVER 25% OF THE COST FOR A TRAFFIC SIGNAL AT 7TH AVENUE AND HAPPY VALLEY ROAD AND 25% OF THE COST FOR A TRAFFIC SIGNAL AT 7TH AVENUE AND ALAMEDA ROAD, PRIOR TO PRELIMINARY SITE PLAN APPROVAL. |
| | |
| 9. | THE DEVELOPER SHALL CONSTRUCT MINIMUM 5-FOOT-WIDE DETACHED SIDEWALKS ALONG 7TH AVENUE, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT. |
| | |
| 10. | THE DEVELOPER SHALL DEDICATE 40 FEET OF RIGHT-OF-WAY FOR THE NORTH HALF OF ALAMEDA ROAD, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT. |
| | |
| 11. 8. | That right-of-way totaling 70 feet shall be dedicated for the south half of Happy Valley Road. |
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| 12. 9. | That A 21-foot by 21-foot right-of-way triangle shall be dedicated at the southeast corner of 7th Avenue and Happy Valley Road. |
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| 10. | That sufficient right of way shall be dedicated to accommodate a bus bay on Happy Valley Road at 7th Avenue. |
| | |
| 13. 11. | That The developer shall construct all streets within and adjacent to the development with paving, curb, gutter, sidewalk, curb ramps, streetlights, median islands, landscaping, and other incidentals as per plans approved by the City. All improvements shall comply with all ADA accessibility standards. |

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| 14. 12. | That The applicant shall submit paving plans for all arterial streets within and adjacent to the development, to the Street Transportation Department for review and approval. |
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| 15. 13. | That The applicant shall complete and submit the Developer Project Information Form for the MAG Transportation Improvement Program to the Street Transportation Department. This form is a requirement of the EPA to meet clean air quality requirements. |
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Stipulations: PHO-3-20--Z-14-05-1

PHO recommended legislative edit of stipulations applicable to that portion of the site subject to PHO-3-20--Z-14-05-1:

| GENERAL CONFORMANCE | |
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| 1. | The development shall be in general conformance with the site plan date stamped JULY 7, 2022 December 16, 2020 , as MODIFIED BY THE FOLLOWING STIPULATIONS AND approved or modified by the Planning and Development Department. |
| | |
| 2. | An average 20-foot (minimum 10-foot) landscape setback shall be required along 7th Avenue and an average 10-foot (minimum 5-foot) landscape setback shall be required along ALAMEDA ROAD Misty Willow Lane and all internal streets, as approved by the Planning and Development Department. |
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| TRAILS | |
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| 3. | The applicant shall provide two pedestrian access points to the regional trail system located adjacent to the CAP Canal via the two public streets adjacent to the canal, as approved by the Planning and Development Department. |
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| ARCHAEOLOGICAL | |
| | |
| 4. | The subject site has the potential to contain archaeological resources. The applicant shall submit an archaeological survey for review and approval by the City Archaeologist (602) 495-0901 prior to preliminary approval. |
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| NOTIFICATION | |
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| 5. | At such time as the sale of any parcel, the property owner shall record documents that disclose to purchasers or occupants of property within the development(s) the existence and operational characteristics of Deer Valley Airport. The form and content of such documents shall be reviewed by the City Attorney. |
| | |
| 6. | The property owner shall record documents that disclose to prospective purchasers of property within the development(s) the nature of environmental remediation activities at the former site of the Goodrich Universal Propulsion Company. The form and content of such documents shall be according to the templates and instructions provided which have been reviewed and approved by the City Attorney. |
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| STREETS AND TRANSPORTATION | |
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| 7. | THE DEVELOPER SHALL PERFECT THE EXISTING 55-FOOT RIGHT OF-WAY EASEMENT FOR THE EAST HALF OF 7TH AVENUE, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT. |
| | |
| 8. | THE DEVELOPER SHALL DEPOSIT FUNDS IN ESCROW TO THE STREET TRANSPORTATION DEPARTMENT THAT COVER 25% OF THE COST FOR A TRAFFIC SIGNAL AT 7TH AVENUE AND HAPPY VALLEY ROAD AND 25% OF THE COST FOR A TRAFFIC SIGNAL AT 7TH AVENUE AND ALAMEDA ROAD, PRIOR TO PRELIMINARY SITE PLAN APPROVAL. |
| | |
| 9. | THE DEVELOPER SHALL CONSTRUCT MINIMUM 5-FOOT-WIDE DETACHED SIDEWALKS ALONG 7TH AVENUE, AS APPROVED BY THE PLANNING AND DEVELOPMENT DEPARTMENT. |
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| 10. 7. | The developer shall dedicate 40 feet of right-of-way for the north half of ALAMEDA ROAD Misty Willow Lane (Alameda Road alignment) , as approved by the Planning and Development Department. |
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| 11. 8. | Right-of-way totaling 70 feet shall be dedicated for the south half of Happy Valley Road. |
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| 12. 9. | A 21-foot by 21-foot right-of-way triangle shall be dedicated at the southeast corner of 7th Avenue and Happy Valley Road. |
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| 10. | Sufficient right-of-way shall be dedicated to accommodate a bus bay on Happy Valley Road at 7th Avenue. |
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| 13. 44. | The developer shall construct all streets within and adjacent to the development with paving, curb, gutter, sidewalk, curb ramps, streetlights, median islands, landscaping, and other incidentals as per plans approved by the City. All improvements shall comply with all ADA accessibility standards. |
| 14. 42. | The applicant shall submit paving plans for all arterial streets within and adjacent to the development, to the Street Transportation Department for review and approval. |
| 15. 43. | The applicant shall complete and submit the Developer Project Information Form for the MAG Transportation Improvement Program to the Street Transportation Department. This form is a requirement of the EPA to meet clean air quality requirements. |
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Final Stipulations: PHO-5-22—Z-14-05-1

Final stipulations reflecting the PHO recommended legislative edits of both PHO-1-07—Z-14-05-1 and PHO-1-07—Z-14-05-1, resulting in a single set of stipulations for PHO-5-22—Z-14-05-1. See Finding #1 for detailed information.

| GENERAL CONFORMANCE | |
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| 1. | The development shall be in general conformance with the site plan date stamped July 7, 2022, as modified by the following stipulations and approved by the Planning and Development Department. |
| 2. | An average 20-foot (minimum 10-foot) landscape setback shall be required along 7th Avenue and an average 10-foot (minimum 5-foot) landscape setback shall be required along Alameda Road and all internal streets, as approved by the Planning and Development Department. |
| TRAILS | |
| 3. | The applicant shall provide two pedestrian access points to the regional trail system located adjacent to the CAP Canal via the two public streets adjacent to the canal, as approved by the Planning and Development Department. |
| ARCHAEOLOGICAL | |
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| 4. | The subject site has the potential to contain archaeological resources. The applicant shall submit an archaeological survey for review and approval by the City Archaeologist (602) 495-0901 prior to preliminary approval. |
| | |
| NOTIFICATION | |
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| 5. | At such time as the sale of any parcel, the property owner shall record documents that disclose to purchasers or occupants of property within the development(s) the existence and operational characteristics of Deer Valley Airport. The form and content of such documents shall be reviewed by the City Attorney. |
| | |
| 6. | The property owner shall record documents that disclose to prospective purchasers of property within the development(s) the nature of environmental remediation activities at the former site of the Goodrich Universal Propulsion Company. The form and content of such documents shall be according to the templates and instructions provided which have been reviewed and approved by the City Attorney. |
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| STREETS AND TRANSPORTATION | |
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| 7. | The developer shall perfect the existing 55-foot right of-way easement for the east half of 7th Avenue, as approved by the Planning and Development Department. |
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| 8. | The developer shall deposit funds in escrow to the Street Transportation Department that cover 25% of the cost for a traffic signal at 7th Avenue and Happy Valley Road and 25% of the cost for a traffic signal at 7th Avenue and Alameda Road, prior to preliminary site plan approval. |
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| 9. | The developer shall construct minimum 5-foot-wide detached sidewalks along 7th Avenue, as approved by the Planning and Development Department. |
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| 10. | The developer shall dedicate 40 feet of right-of-way for the north half of Alameda Road, as approved by the Planning and Development Department. |
| | |
| 11. | Right-of-way totaling 70 feet shall be dedicated for the south half of Happy Valley Road. |
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| 12. | A 21-foot by 21-foot right-of-way triangle shall be dedicated at the southeast corner of 7th Avenue and Happy Valley Road. |
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| 13. | The developer shall construct all streets within and adjacent to the development with paving, curb, gutter, sidewalk, curb ramps, streetlights, median islands, landscaping, and other incidentals as per plans approved by the City. All improvements shall comply with all ADA accessibility standards. |
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| 14. | The applicant shall submit paving plans for all arterial streets within and adjacent to the development, to the Street Transportation Department for review and approval. |
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| 15. | The applicant shall complete and submit the Developer Project Information Form for the MAG Transportation Improvement Program to the Street Transportation Department. This form is a requirement of the EPA to meet clean air quality requirements. |
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