

MDRA

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Planning - Environment - Development

Bruce Flower, Chairman and Members
Town of Wappinger Planning Board
20 Middlebush Road
Wappingers Falls, New York 12590

Re: CarMax Superstore; Tax Parcel #6156-02-664986
File Nos. 21-3439 and 22-4100

Dear Chairman Flower and Planning Board Members:

Matthew D. Rudikoff Associates, Inc. (**MDRA**) are local planning and environmental consultants working with Stenger, Diamond & Glass, LLP for adjoining and other property owners and businesses in connection with their concerns about the Carmax Superstore Applications before the Planning Board and the unnecessary potential impacts on them.

This letter is submitted in conjunction with our client's own correspondence to the Board and we address procedural, Zoning, SEQR environmental review issues, as well as Site Plan, SUP and zoning waiver request concerns. Perhaps, overall most importantly, we address sustainable commercial planning and community sensitive design. It is intended that this input will be of use to the Planning Board in evaluating the Carmax Applications and in making its various planning decisions.

As a matter of the Carmax Application having moved to a Public Hearing; a number of our comments below suggest that it would be early for a Public Hearing to have been convened. However, an early Public Hearing can be constructive when, the Hearing is kept open and the Applicant is afforded an opportunity of providing answers to questions or concerns raised by the Board, other agencies, and the public at a subsequent reconvened Public Hearing and within the Public Hearing Record.

The group of neighboring property owners and businesses on whose behalf these comments are submitted are successful and longstanding Route 9 Town of Wappinger investors and business proprietors in the immediate vicinity of the proposed Carmax. They include 3 restaurants, upscale clothing and other retailers in a stable upscale community oriented commercial Market Plaza and other uses and residences whose upscale and community oriented character is entitled to be maintained for the economic health of the businesses, the locale and the Town.

What the group clearly recognizes is that the proposed use is a permitted use. However, what is also clearly recognized is that the Town's Zoning Code provides the additional safeguards of Special Use Permit Standards and Lighting Ordinance Waiver threshold standards and criteria, which both authorizes and requires the Planning Board to determine that a harmonious neighborhood character and sustainable ambiance is protected when considering proposed projects.

The existing neighbors and their lower height fixtures and lighting levels, landscaping, commercial uses and ambiance can exist adjacent to the proposed project if Carmax fixtures, lighting levels and robust landscaping and large scale operational characteristics do not overwhelm the neighbors.

The neighboring commercial uses can share customers and be protected from a massive, industrial park scaled retail car facility, with lighting much taller than at the neighboring existing commercial facilities. Other potential impacts as discussed herein such as potential well water and other impacts must also be considered.

We have reviewed the Town documents available at the current Agenda - item listing including Applicant submittals, Town Consultant review letters, and Applicant responses and applicant submitted materials; and we make note of the following:

1. Landscaping

The March 1, 2023 Planning Consultant letter (Simpson) states that no landscape plans had been submitted or reviewed although the Simpson letter does include that Landscape Plan Sheets C-701 and 702 had been reviewed. The Landscape Design and materials selection is a crucial element of the proposed project for the Board to use in determining compatibility with Town law and objectives embodied in the Special Use Permit General Standards and in the Planning Board Lighting Ordinance Waiver criteria of maintaining community character.

The Planning Board is given explicit authority to judge qualitative community and sustainable neighborhood character. The public must be made aware of landscape plans and the community and neighborhood character discussions within the Board's deliberations, SEQR determination, and ongoing Public Hearing. Further, Town Zoning also authorizes the Planning Board, when considering proposed lighting plans stated by the Applicant to be required for security, to require other safety measures other than lighting such as berms, fencing and landscaping.

Please keep the Public Hearing open so that 'Landscape Plans' which Mr. Simpson's states in his March, 2023 letter should be included in "the Applicant's next submission" occurs - with the Public Hearing is still open.

2. Water

Neither Simpson as a SEQR issue, nor Planning Board Engineer (CPL) addressed water demand, quality and usage impacts. There was some interchange concerning aspects of the car wash water recycling system; but not whether there would be carwash waste water, what would its constituents be such as salt or if there will be other residual wastes from the recycling system. How potential wastes would be disposed of was not identified nor was the potential of there being a DCDOH required carbon filtration. The Applicant should be asked if other local car washes operate on well water satisfactorily and provide their locations

Further, there was not discussion of the actual DCDOH determined daily water demand from on-site well(s) and storage requirements; or any discussion of the on-site wells 'capacity; and, potential impact on neighboring off-site wells.

Despite prior water demand from previous land uses at this location and the seasonality of the

immediate prior land use; and in light of potential current weather drought-like conditions or ground water conditions, it should be considered that a 72 hour pump test and off-site wells testing occur to shed light on both current quantity and quality conditions.

For example, last summer, reportedly for the first time, the Green Fly wetland system went dry and had no discharge. I have been told that our clients are willing to volunteer to have their off-site wells monitored when such a test is performed during the SEQR review. In response to these conditions and concern, **MDRA's** clients' properties and businesses are having to run their pumps longer to achieve their historic operating water demand and are also setting up rain barrel collection systems to be used for their on-site irrigation demands.

The water testing and study to be conducted by the Applicant should assess recharge and yields of wells within ¼ mile of their site. Well water levels should also be tracked through one year of wet and dry conditions to understand existing groundwater environment.

The Applicant must also describe how they will manage operational oil, grease and car-wash waste waters, and including vehicle drippage in parking areas. All means of secondary containment should be used, and off-site disposal of anything that could impact groundwater quality should be required. Only sanitary wastewater should be discharged on site to septic systems.

3. Lighting - General

The Simpson letters did discuss various aspects of the proposed lighting plan including the Applicant's requests for waivers from the Town's Lighting Ordinance. Applicant responses to the Simpson letter and Applicant submitted materials were also reviewed by **MDRA**. Those comment responses and materials raised additional areas of concern and questions which need to be addressed by the Planning Board as discussed below.

Perhaps foremost is from Mr. Simpson Planning Board letter from November, 2022 regarding the requested Lighting Ordinance waivers and the overriding intent of the law and authority of the Planning Board in connection thereto; which stated that:

"The intent and purpose of this section is to "provide standards for outdoor lighting in order to maintain and protect the scenic and aesthetic character of the Town...and to enhance the Town's nighttime ambience and character". The Planning Board should consider potential impacts to aesthetics and community character when considering the requested waivers and the determination of significance."

The Simpson letters did not explicitly recommend that the waivers should "not be approved" because that kind of "direction" to a Planning Board is not recommended - as potentially being a "leading" of the Planning Board's decision making. However, by quoting the law and the asking of the relevant questions in the Simpson letter that inference is clear that the Planning Board has the authority and should apply a strict interpretation of the waiver and Special Use permit standards.

There are two (2) areas of comments on the subject of lighting. One (1) is the technical - addressing the overall plan and layout, fixture design, brightness, site security, off-site leakage,

etc. The 2nd area of comments is the impact on the surrounding commercial neighborhood character and sustainable harmonious community design.

3a. Lighting Technical Factors

On the technical side, according to the plan:

- The plan includes freestanding LED pole lights and LED wall mounted lights.
- The pole lights are 19 feet high (2-foot concrete support pedestal and 17 foot pole) as measured from the ground to the underside of the LED light fixture (higher if you measure to the top of the light fixture).
- The wall mounted lights are at a height of 13 feet – 4 inches as measured from the ground to the underside of the LED light fixture (again slightly higher if you measure to the top of the light fixture).
- All lights are noted as 3000 Kelvin color temperature which complies. However it is noted that an industry accepted standard (if other factors such as neighborhood sensitivities warrant it) that 2700 Kelvin is a frequently provided design.
- Light levels (lumens) reach zero (0.0) at or before the property line which is acceptable.
- The Applicant justifies the proposed industrial scaled pole heights which require waivers, as a means of achieving site security, appropriate coloration properties and reducing the number of fixtures required to achieve desired lighting. These are discussed more fully below in the section addressing both Illuminating Engineering Society (IES) recommended design standards and considerations, provided by the Applicant themselves; and required Town Ordinance standards regarding the importance of “**Community Responsive Design**”.

However, regarding proposed pole heights, it is noted that in the Applicant submitted materials is a graphic image depicting an average height person juxtaposed to various lighting fixtures which appears to be accidentally or purposefully distorted in its scaling of the person and the distance from the lighting fixture – which minimizes the appearance of the light fixture height. In the attached image at the end of this letter the figure depicting the person seems to be representing a 7’ or 8’ tall person making the light fixtures seem “less tall” and less like the highly industrialized storage yards perhaps more appropriate in large industrial parks or super shopping center developments. The depicted person must be scaled to the lighting fixture height.

- Additionally, the SEQR Determination of Significance, site plan and all approval documents should state that “**All light fixtures be dark-sky compliant, are fixed and full-cutoff and be oriented away from adjoining properties.**”
- Hours of lighting for each security zone should be specified, as well as the hours certain lights would be off or just shown to be needed security lighting. For example, is the heavily lighted Route 9 frontage required for security or more as an advertising “we are here” strategy?
- Use of motion sensors for security lighting should be specified.

- Use of dimmers indicated; should provide light analysis without and how the dimmers will be maintained at the levels stated – how is the town to be ensured.
- Waiver to permit an increased pole light height (from 15 to 19 feet) requires the Planning Board to determine, in addition to neighborhood compatibility, that such will achieve a “better site design or safety” – it is unclear how either would be achieved with higher light poles, particularly when the same level of lighting can be provided with the lower permitted 15-foot high poles. Use of the lower light poles may require additional poles but can be designed to maintain the same fixture appearance, same level of lumens across the site and the same light color (same Kelvin temperature). The benefit of the lower lights is they are less visible particularly from off-site, neighboring properties. The taller the light the more visible it is. The higher height only reduces the number of lights needed to cover the lot.
- It is our understanding that the Planning Board has requested that the Applicant submit a lighting plan with Code compliant 15’ tall fixtures which has not been submitted as of yet.
- Regarding Applicant’s development costs, lower, Zoning Ordinance compliant pole heights would require a greater number of fixtures. The greater development cost factor may be a greater consideration as a national corporate “standard home office” development cost control objective than the stated security / color impact reasons; and certainly more important than “Community Responsive Design “ and Carmax’s much touted Carmax Corporate Responsibility Report stating what great neighbors Carmax will be in the community.

3b. **Lighting - Community Impact Factors**

Osborne Hill Road reflected light change the neighborhood.

The Applicant submitted the Illuminating Engineering Society’s – lighting industry planning and design guidelines IES-G – 1, in response to Town lighting comments and in support of the proposed lighting plan and lighting waivers. IES G – 1 makes specific recommendations about employing “Community Responsive Designs” for facility planning and lighting design. For example, where security is a stated rationale for the proposed Lighting Plan, the industry standards contained in IES G - 1 states, that in order to achieve a safe and “Community Responsive Design” that :

- “security zone hot spots” be identified;
- areas that can have lower lighting requirements be identified;
- areas that can benefit from a fixed dimming schedule be identified; and,
- that non-lighting security measures be identified such as berms, landscaping or fences be explored.
- Does light leakage at the property lines take into account light and glare reflected from auto windshield or reflective trims?

IES G – 1 recommends that, in connection with security concern - based requests for or lighting plan and waiver approvals that a “detailed Physical Security Assessment” should be performed as the basis and back up for proposed site lighting and site design.

The Planning Board should direct the Applicant, as part of the Carmax SEQR review to undertake and provide to the Planning Board a Site Security Assessment to establish if satisfactory Carmax operating conditions can be maintained while lighting impacts to the very community that Carmax will be selling its cars to is as minimally impacted AS IS PRACTICABLE.

IES G – 1 also discusses: Community Responsive Design as a matter of good business and site planning suggesting that measures to make planned lighted facilities more in keeping with the character of their locales and having a Community Responsive Design Assessment can accomplish that and explore alternatives to a simple “one size fits all” approach.

4. Conclusions and Follow Up Factors and Recommendations

- It is recommended that the Planning Board keep the Public Hearing open and for the Applicant to respond to Planning Board and public review comments which can then be commented on at a reconvened Public Hearing in connection with the Planning Board’s SEQR determinations, waiver request reviews and Site Plan and SUP decision making.
- It is recommended that Landscape Plans, as directed by the Simpson Planning Board letter which identifies how the Carmax facility landscaping design can maintain and enhance neighborhood character and the existing commercial uses be included in their next submittal.
- It is recommended that the Applicant prepare and submit to the Planning Board a detailed Site Security Assessment as recommended by IES G – 1, which document was included in Applicant submitted materials. The Assessment should point out opportunities for fine tuning the lighting plan and operational schedule to make it less impactful to and more compatible with the existing neighborhood scale, commercial uses character.
- It is recommended that the Applicant be directed to prepare a detailed Community Responsive Design Assessment exploring opportunities for the proposed project to be more in keeping with the existing character of the locale and in keeping with IES G – 1 discussions and with the Carmax Corporate Responsibility Report Section on, establishing strong Community Partnerships.
- The Planning Board requested submission of the as of right 15’ tall fixture lighting plan , not yet provided by the Applicant be provided.
- It is urged that the Planning Board use its authority to strictly and literally apply the SUP standards, the Lighting Ordinance waiver standards and its SEQR determinations to have the Carmax design maximize compatibility and neighborliness, modifying its intensity of operations and in joining the Town of Wappinger Route 9 / Osborne Hill Road commercial community.

Sincerely,
MATTHEW D. RUDIKOFF ASSOCIATES, INC.

Matthew D. Rudikoff

Matthew D. Rudikoff, President
ENC.

Graphic Juxtaposing Person Height and Lighting Fixture Height:

