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MEMORANDUM

To: Bruce M. Flower, Chairman, and the Town of Wappinger Planning Board

Date: August 2, 2023

Subject: **CarMax Auto Superstore– Amended Site Plan and Special Permit**
Tax Lot 6156-02-664986

As requested, we have prepared the attached **Resolution of Site Development Plan and Special Permit** for your review and consideration.

We look forward to discussing this resolution with you at the Planning Board meeting.

Malcolm Simpson
Planner

Attachments

cc: James Horan, Esq.
Barbara Roberti
Jon Bodendorf, PE
Michael Sheehan

**RESOLUTION
TOWN OF WAPPINGER PLANNING BOARD**

RE: CARMAX AUTO SUPERSTORE– RESOLUTION OF SITE DEVELOPMENT PLAN AND SPECIAL PERMIT

At a regular meeting of the Planning Board of the Town of Wappinger, Dutchess County, New York, held at Town Hall, 20 Middlebush Road, Wappingers Falls, New York on the ____ day of _____, 2023 at 7:00 P.M.

The meeting was called to order by the Chairman Bruce M. Flower and the Planning Board member attendance was as follows:

Bruce M. Flower	_____
Robert Ceru	_____
Paul Freno	_____
Reinaldo Anjos	_____
Nicholas Maselli	_____
Markos Peratikos	_____
Lynne Versaci	_____

The following resolution was moved by _____ and seconded by _____.

WHEREAS, the Town of Wappinger Planning Board received an application from Caryn Mlodzianowski (the “Applicant”) for Site Development Plan and Special Permit Approvals to redevelop an existing 10,200 SF retail space and an existing 1,400 SF interior greenhouse into an auto sales establishment with a 9,040 retail component and associated car storage lots (the “Project” or “Proposed Action”); and

WHEREAS, the subject property is a 7.5-acre lot located at 1105-1115 Route 9, is designated as tax lot 6156-02-664986 on the Town of Wappinger tax maps and is located within the HB Highway Business District (the “Subject Property” or “Site”); and

WHEREAS, the Applicant has submitted for review an Application for Site Plan Approval form dated 3/1/22; an Application for Special Permit Approval form dated 3/1/22; a narrative prepared by Caryn Mlodzianowski dated 8/11/22; a comment response memo prepared by Caryn Mlodzianowski dated 3/24/23; A Full EAF form signed by K. Doulass Moyers dated 3/3/22; a 2 sheet lighting plan dated 2/11/22 and last revised 1/27/23; a lighting narrative prepared by Paul Mercier dated 9/30/22; a lighting references prepared by Paul Mercier dated 1/31/23; a waiver request form prepared by Bohler dated 8/3/22, last revised 2/3/23; a conceptual signage and elevations plan prepared by AGI last revised 7/22/22; a letter from the New York State Department of Environmental Conservation dated 1/4/23; an existing traffic data review prepared by GTS dated 5/16/23; a conceptual sidewalk

plan (2 sheets); and a site plan (20 sheets) generally entitled “Proposed Site Plan Documents for CarMax Auto Superstores, Inc. ” prepared by Bohler and dated 9/24/21 last revised 7/14/23:

1. Sheet C-101, “Cover Sheet”
2. Sheet C-102, “General Notes Sheet”
3. Sheet C-201, “Demolition Plan”
4. Sheet C-301, “Site Layout Plan”
5. Sheet C-401, “Grading and Drainage Plan”
6. Sheet C-501, “Utility Plan”
7. Sheet C-601, “Erosion and Sediment Control Plan”
8. Sheet C-602, “Erosion and Sediment Control Notes and Details”
9. Sheet C-701, “Landscape Plan”
10. Sheet C-702, “Landscape Notes and Details”
11. Sheet C-901, “Detail Sheet”
12. Sheet C-902, “Detail Sheet”
13. Sheet C-903, “Detail Sheet”
14. Sheet C-904, “Detail Sheet”
15. Sheet C-905, “Detail Sheet”
16. Sheet FS2.0, “Fuel Storage Tank Instillation Details”
17. Sheet FS2.1, “Fuel Storage Tank Sump Instillation Details”
18. Sheet FS3.0, “Fuel Storage System Misc. Details”
19. Sheet FS4.0, “Fuel Dispenser Instillation Details
20. Sheet FS5.0, “Automatic Tank Gauge Schematic and Notes”; and

WHEREAS, the Planning Board determined that the Proposed Action is an Unlisted Action with respect to the New York State Environmental Quality Review Act (SEQRA) and circulated their intent to serve as Lead Agency on 5/12/22; and

WHEREAS, after receiving no objection to the circulated letter declaring the Planning Boards intent to serve as Lead Agency dated 5/12/22, the Planning Board assumed the role of Lead Agency with respect to the New York State Environmental Quality Review Act; and

WHEREAS, in accordance with Sections 239-l and m of the New York State General Municipal Law, the Planning Board referred the subject application to the Dutchess County Department of Planning and Development (DCDPD); and

WHEREAS, the DCDPD responded to the above-mentioned referral in its letter of April 1, 2022, which provided a conditional recommendation that the Application be required to come into conformity with the Town of Wappinger lighting code, requiring a majority plus one of the full membership of the Board to act contrary to the recommendations; and

WHEREAS, the Applicant revised the proposed lighting plan to bring it in conformity with the Town Code and Dutchess County Department of Planning and Development comment, with the

exception of luminaire pole height, which is proposed to be 19 feet with integral louvers as mitigation to any light or glare trespass; and

WHEREAS, in accordance with Section 240-88 of the Town Zoning Law, the public hearing on the Amended Site Plan and Special Permit was held at the April 3, 2023, May 1, 2023, and June 19, 2023 Planning Board Meetings and at those times all those with intent were given the opportunity to speak; and

WHEREAS, the Planning Board granted the Application a waiver from the lighting code requirements at the June 19, 2023 Planning Board meeting, to allow for 19 foot tall lighting poles where a maximum of 15 foot light poles is required, under the condition that the lighting poles proposed shall include integral louvers to mitigate light and glare trespass; and

WHEREAS, the Planning Board granted the Application a waiver from the off-street parking code requirements at the June 19, 2023 Planning Board meeting, to allow for relief from the dimensional and landscaping requirements for off-street parking areas within the employee controlled automotive display and storage areas; and

WHEREAS, the Planning Board is familiar with the Site and all aspects of the Project and is satisfied that the Project will comply with the Zoning Law as well as other applicable laws and regulations subject to the conditions below.

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:

1. The Planning Board hereby adopts and incorporates as findings and determinations the recitations and statements set forth above as if fully set forth and resolved herein.
2. Pursuant to the State Environmental Quality Review Act regulations, the Planning Board hereby adopts a Negative Declaration on the grounds that the Proposed Action will not result in any significant adverse environmental impacts since the Site is currently developed and any construction and land disturbance associated with the redevelopment will be controlled and will be mitigated through proper drainage and erosion control.
3. The Planning Board hereby adopts this Resolution of Site Development Plan and Special Permit to redevelop an existing 10,200 SF retail space and an existing 1,400 SF interior greenhouse into an auto sales establishment with a 9,040 retail component and associated car storage lots as described above and as shown on the above drawing, in accordance with the provisions of Articles VII through XI of the Zoning Law subject to the following conditions:
 - a. The Planning Board Chairman shall endorse a copy of this resolution certifying its correctness. After it has been initially endorsed by the Chairman, the Owner and Applicant shall also sign a copy of this resolution acknowledging receipt of the resolution, and shall submit the signed copy to the Zoning Administrator for filing.

- b. The Owner of the Subject Property shall submit a copy of the current deed(s) to prove its ownership of said property.
- c. The Applicant shall submit a statement signed by the Town's Tax Collector that all taxes due on the Subject Property have been paid in full.
- d. The Applicant shall obtain all necessary "outside" agency approvals for the Project.
- e. The Applicant shall demonstrate compliance with the Town Engineer letter dated 3/30/23 to the satisfaction of the Town Engineer.
- f. Easements for the proposed sidewalk and utilities shall be provided to the satisfaction of the Planning Board Attorney and Engineer.

When all of the items set forth in Condition 3 above have been satisfied, nine (9) copies of the above referenced plans, revised as necessary, shall be submitted for endorsement by the Planning Board Chairman, certifying that the plans comply with the terms of this resolution, at which time, the Chairman shall also endorse this resolution in the space provided below, certifying that the Applicant has complied with said conditions of approval and that the issuance of a Building Permit is authorized for the improvements set forth in this Project. A PDF and a paper copy of the final signed plans shall be submitted to the Planning Board as part of the record. This submission shall include all supporting documentation verifying the sub-conditions set forth in Condition 2 have been met and this submission should include a narrative detailing what elements are included in this submission and in what way these elements address the sub-conditions set forth in Condition 2. This submission, including the narrative and all supporting documentation shall be submitted together at once.

- 4. In accordance with the Town's Schedule of Fees, the Applicant shall be responsible for the payment of all application review fees incurred by the Planning Board in the review of this Project which are in excess of the application review fees paid by the Applicant to-date. Such fees shall be paid within thirty (30) days of the notification to the Applicant that such fees are due. If such fees are not paid within this thirty (30) day period and an extension therefore has not been granted by the Planning Board, this Resolution shall be rendered null and void. Refunds of any remaining funds within the escrow account for the applications will only made in accordance with the provisions of Chapter 240 Attachment 6:1, Planning and Zoning Departments Fees and Escrow Funds.
- 5. In accordance with Article IX of the Zoning Law, unless otherwise extended by the Planning Board for good cause shown, this Site Development Plan Approval shall expire and become void one (1) year from the date of the adoption of this Resolution if an application for a Building Permit has not been made, or three (3) years from the date of the adoption of this Resolution if construction in conformance with the approved Site Development Plan has not been completed,

if the construction is not prosecuted with reasonable diligence, or if the premises has been substantially vacant or inactive for more than three (3) years.

6. In accordance with Article VII of the Zoning Law, unless otherwise extended by the Planning Board for good cause shown, the Special Use Permit Approvals shall expire and become void if the approved use of the Site shall cease for more than one (1) year for any reason, if Site Development Plan Approval expires, or if all required improvements are not maintained and all conditions and standards complied with throughout the duration of the approved use.

An application for extension of Site Development Plan Approval shall be made by the Applicant to the Planning Board prior to the expiration of the specific time period sought to be extended. The Planning Board may extend all time limits for good cause shown, if the Board deems such extension warranted.

7. If required by the Town Building Department, the Applicant shall provide an as-built survey of the subject property prior to the issuance of a Certificate of Occupancy or Certificate of Compliance, as applicable.
8. No Building Permit or Certificate of Compliance shall be issued for the Project except in accordance with the approved Site Development Plan. No further modifications to the Site shall be made without prior approval of the Planning Board. The Applicant must return for approval from the Planning Board if any changes to the endorsed plans and/or this resolution of approval are desired.
9. The continued validity of any Building Permit or Certificate of Occupancy issued in accordance with this Resolution of Site Development Plan Approval shall be subject to continued conformance with such Site Development Plan Approval.
10. The Applicant shall fund a post-approval escrow account in accordance with Section 122-16 of the Town Code.

The question of adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Bruce M. Flower	_____
Robert Ceru	_____
Paul Freno	_____
Reinaldo Anjos	_____
Nicholas Maselli	_____
Markos Peratikos	_____
Lynne Versaci	_____

The resolution is hereby duly declared adopted.

Dated: _____, 2023
Wappingers Falls, New York

Beatrice Ogunti, Secretary
Town of Wappinger Planning Board

Date

Caryn Mlodzianowski
Applicant

Date

The following endorsement hereby confirms that the Applicant has fulfilled all of the items in Condition 3 of this resolution and that the above mentioned drawings may be endorsed by the Planning Board Chairman.

Bruce M. Flower, Chairman
Town of Wappinger Planning Board

Date