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MEMORANDUM

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

Date: April 16, 2026

Subject: **Performance Auto – Special Permit and Amended Site Plan**
Tax Lots 6157-02-598726

As requested, we reviewed the application of Aura Realty Corp, (the “Applicant”) for Amended Site Plan Approvals.

The Property

The subject property is known as Tax Lot 6157-02-598726 on the Town of Wappinger Tax Assessment Maps. The property is located at 1401 Route 9. The subject property is 1.01 acres in size. The property is in the Highway Business (HB) zoning district (the “Subject Property” or “Site”).

The Proposal

The Applicant is proposing the reconfiguration and expansion of the parking lot from 50 spaces to 100 parking spaces (the “Project” or “Proposed Action”).

Submission

The Applicant has submitted an Application for Site Plan Approval dated 10/20/25; a Full Environmental assessment Form dated 3/13/26; a narrative dated 10/20/25 prepared by Mark Day; a comment response memo dated 3/16/26; and a plan (3 pages) general titled Aura Realty Group dated 8/4/2025, last revised 3/16/26.

REVIEW COMMENTS

1. Site History.

- a. In 2002, the Site received Subdivision, Site Plan, and Special Permit approval. At that time, the Site was two tax lots which were combined. The northern lot was an existing, non-conforming motor vehicle sales establishment and approval was granted for the current 1-acre site (where §240-67 of the Zoning Law requires 3 acres for motor vehicle sales) on the basis that the proposal was considered to be a reduction in the non-conforming nature of the existing use pursuant to §240-16(F) of

the Zoning Law. At that time, the Project was approved to have 50 vehicles on Site, with 25% impervious cover and 25.36% landscaped open space.

- b. In the 2002 Approval, a number of existing issues with the motor vehicle sales establishment were identified in the site plan review performed by the Planning Board and by the Dutchess County Department of Planning , including “...overall lighting levels, visibility of vehicles displayed and stored on site, and inadequate landscaping, particularly in the parking areas.”
- c. The 2002 Approval Resolution states that, “in acknowledgement of the Applicant's stated plan for a second phase of the project which would entail significant changes to the configuration and layout of the site, the Planning Board allowed the Applicant to forgo the remedying of the aforementioned issues at the present time, with the exception of lighting, with the understanding that such issues will be addressed and remedied to the satisfaction of the Planning Board at such time that the Applicant submits an application for the Phase II site plan.”

The 2002 Approval Resolution goes on to state that, “in order to ensure that the Applicant returns to the Planning Board with a Phase II proposal and that existing outstanding issues are addressed and remedied within a reasonable timeframe, the Planning Board set a 24-month deadline for the Resolution of Subdivision, Special Permit and Site Development Plan Approval, after which deadline the approval expires if the Applicant has not returned with a proposed Phase II site plan.”

Based on our review of the Town files, it does not appear that these issues were addressed within the allotted time frame outlined in the 2002 Approval Resolution. There was an additional site plan amendment application in 2011 that dealt with the demolition of a building and the erection of a new, prefabricated building. The 2011 site plan does not appear to address these issues or propose any changes to the site beyond the replacement of an existing building with the steel frame garage. The existing conditions survey submitted as part of the current application shows these issues have not been addressed and have increased in severity. The Proposed Action shows an increase of vehicles on Site from 50 to 70 and a reduction in the 2002 landscaping plan from 25.6% to 19% of landscaped open space.

2. Section 240-67 Motor Vehicle Sales Establishment Special Permit

- a. The minimum lot area of Motor Vehicle Sales Establishment is 3 acres. The Property is 1.01 acres in size and was approved by Town Board resolution on April 26, 2002 pursuant to 240-16(F) of the Zoning Code of Wappinger which permits the Town Board to issue a special permit for the improvement of the dimensional nonconformity.
- b. The minimum parking requirement for Motor Vehicle Sales Establishment is 10 visitor spaces, plus 2 spaces for every 3 employees. The plans show 12 visitor spaces and

10 flex spaces. The 2002 Site Plan - the most recent site plan regarding parking layout - shows 4 employee parking spaces and 13 visitor parking spaces. The Planning Board does not have the ability to waive the employee and visitor parking requirements of §240-67 and deviation from this requirement would require a variance.

- i. The Applicant should clarify the number of employees on Site and provide a parking calculation.
 - ii. The south-western most parking space, labeled as Flex Space, does not appear dimensionally complete. The Applicant should address this.
 - iii. Chapter 240-67 Note B. states that there are 10 visitor and 12 flex paces while the plans show 12 visitor and 10 flex spaces. This should be corrected.
- c. The maximum vehicles per acre is 70 for Motor Vehicle Sales Establishment (§240-67(D)). This includes employee/customer parking, display, inventory, and repair. The Applicant is proposing 70 total spaces on the 1- acre lot, increasing from 50 total spaces approved in 2002. The 70 vehicle maximum prescribed in §240-67(D) cannot be exceeded and this density of vehicles per acre can be granted by the Planning Board only if the Planning Board finds that the site can accommodate such densities without resulting in adverse visual impact; the site characteristics to be evaluated in this regard include but are not limited to the size and shape of the lot, the size and shape of the building, existing and proposed vegetation and the site's topography. The Site is exposed to both Route 9 and Sergeant Palmateer due to topography and a lack of vegetation. The buildings are not positioned to screen the parking areas from the Site frontages. The Applicant has provided no narrative basis or visual impact analysis to support their request. The Applicant is proposing decorative plantings but no landscape screening.

The Proposed Action includes 8 boxwoods proposed to be planted 15 feet apart along approximately half the Site frontage of Route 9 and 7 34-gallon concrete planters of perennial flowers are proposed between the proposed inventory spaces and display spaces on the asphalt mound. No planting is proposed along the frontage of Sergeant Palmateer. Areas of landscaping along Sergeant Palmateer on the 2002 approved site plan have been replaced with parking areas. Due to the proposed species, spacing, and topography, the plantings proposed along Route 9 and in the concrete planters in the interior of the Site would be considered more ornamental than effective vegetation screening. The Applicant has proposed a phasing plan for landscaping and lighting which will be discussed further in comment 5 of this memo.

- d. The density of vehicles parked, stored, or displayed along the Site frontage is 1 vehicle per 40 feet of frontage for Motor Vehicle Sales Establishment (§240-67(D)). The Bulk Table lists the site frontage as being 559 ($559 / 40 = 13.9$). In these

instances, as a fraction of a vehicle is not possible, the Planning Board and Zoning Administrator have historically rounded down, which would result in 13 vehicles. The Site Plan shows 14 spaces identified as Display Car, however, some of these are 60 feet or more from the property line and would not be considered “along the Site frontage”. The plans should show a setback line of 20 feet from the Site frontage, as has been the interpretation of §240-67(D) by the Planning Board and Zoning Administrator in the past, to clearly show the density of vehicles parked, stored, or displayed along the Site frontage.

The 1 vehicle per 40 ft vehicle maximum prescribed in §240-67(D) cannot be exceeded and this density of vehicles can be granted by the Planning Board only if the Planning Board finds that the Site can accommodate such densities without resulting in adverse visual impact; the site characteristics to be evaluated in this regard include but are not limited to the size and shape of the lot, the size and shape of the building, existing and proposed vegetation and the site's topography. The Planning Board shall also have the authority to require berming and/or substantial year-round vegetative screening along the site's frontage(s) where the Board deems that a sufficient display of vehicles is achieved. The Site is exposed to both Route 9 and Sergeant Palmateer due to topography and a lack of vegetation.

3. Traffic, Parking, & Circulation.

- a. The plans show an asphalt mound with 10 Display Car spaces. It is our understanding that this area was paved in 2017 without site plan and special permit approvals and that a stop work order and violations were issued by the Town. The Applicant is now proposing to formalize this work, however, the access drive to this mound is outside the Project Site in the Sergeant Palmateer Way ROW.
- b. The Applicant should add at least one Do Not Enter sign with the proposed pavement marking to restrict vehicles entering from the southern Sergeant Palmateer driveway from using the one-way westbound section north of the showroom building. Per MUTCD Section 3B.20, pavement markings should be used to supplement signage.
- c. The Applicant should add Do Not Enter signs to restrict vehicles coming from the southern portion of the site from using the one-way southbound/eastbound drive aisles around the garage building.
- d. The plans should include turning templates for delivery trucks and fire trucks as they may not be accessing and exiting the Site at the same points as the auto-hauler and garbage truck templates provided.
- e. Applicant should remove garbage truck from the car hauler maneuvering template for clarity

- f. Applicant should show double yellow centerline on Sergeant Palmateer Way and lane striping/center median on Route 9 on all vehicle maneuvering templates.
 - g. Plan Sheet 3 shows a car hauler entering the site using the Route 9 driveway and exiting from the southern Sergeant Palmateer Way driveway – Applicant should indicate where the car hauler will unload in this instance
4. Wetlands.

- a. The plans show Town, NYSDEC, and ACOE regulated wetlands on the adjacent property to the north. The Town wetland buffer and 100-year flood plain also extend into the Site. There are 13 parking spaces located within the Town wetland buffer as well as a portion of the steel frame garage.

The plans have been revised to eliminate the proposed remediation of the gravel and asphalt in the wetland buffer. The plans now state that use of the existing gravel and dirt parking areas are to be abandoned and left to be reclaimed by nature but do not address the future status of the asphalt areas. It is our understanding that these changes were made without site plan and special permit approval and are outside the Project Site and on an adjacent parcel. With these areas proposed to remain in place with no physical or visual partition, it maintains the existing enforcement issue of these areas being used for vehicle storage in violation.

- b. The Applicant has initiated contact with the New York State Department of Environmental Conservation and have added notes to the plans referencing emails received from Jon Piasecki of the NYSDEC but these correspondence have not been provided with the submission. The Applicant should forward all correspondence with the NYSDEC to the Planning Board for the record.

5. Landscaping & Lighting.

- a. The Table of Dimensional Regulations shows that the proposed impervious surface is 81% where 75% is the permitted maximum and the proposed landscaped open space is 19% where 25% is the required minimum. The plans identify this with an asterisk. The plans should be revised to note what the asterisk represents. Typically, an asterisk would identify a pre-existing non-conformance or a previously granted approval; however, that would not be the case for these two requirements. The approved plans in 2002 show 25.36% landscaped open space provided and the 2011 plan shows 16% landscaped open space as an existing condition. The 2002 plan shows 25% impervious surface coverage and the 2011 plan shows 34% impervious surface coverage. It does not appear that a variance for landscaped area or impervious cover was ever granted for the Site; therefore, as proposed, the Project would require variances.

- b. Site Plan Modification note 4 states that the applicant seeks to modify the site in two phases, under two separate applications. The first would be what is described in this memo and is included on the plans, the second would be a separate application for the purposes of improving the frontages with landscaping and documenting the lighting that has been modified without site plan and special permit approvals to devise code compliance. This is not a phasing plan, as when the Planning Board reviews and approves a phasing plan the purpose of it is to engineer and review all of the components once, and the Applicant then has the opportunity to conduct later phases at their own discretion without returning for Planning Board approval. The Planning Board is being asked to consider vehicle density by acreage and along frontage with respect to §240-67(D) without detail on what future landscaping and lighting plans would be and without assurances that the Applicant would return to conduct that Application. Therefore, we recommend that the Planning Board consider the provisions of §240-67(D) with consideration only to the lighting and landscaping proposed on the plans
 - c. No lighting plan has been provided and no information on the existing lighting is provided apart from the location of some of the lighting poles. The locations of wall mounted lights should be included in the plans as well as a photometric plan showing the footcandles of the existing Site lighting.
 - i. The 2002 Approval state that a number of existing issues with the motor vehicle sales establishment were identified in the site plan review performed by the Planning Board and by the Dutchess County Department of Planning , including "...overall lighting levels, visibility of vehicles displayed and stored on site, and inadequate landscaping, particularly in the parking areas." The Applicant agreed at that time to return to address these issues and it does not appear that this was done.
6. Curbing and Delineation.
- a. The plans should be revised to show the location and a detail of the existing and proposed curbing for the parking areas. Per Section 240-96, off-street parking areas are required to be curbed.
 - b. The existing asphalt and gravel parking areas on adjacent parcels were created by the Applicant without site plan and special permit approvals and have been used for parking by the Applicant. They are now proposed to remain but be abandoned. Some form of physical delineation is recommended to indicate the edge of the parking area.
7. Refuse Enclosure. The refuse enclosure has been moved since the most recent approved site plan on which it was shown. The Applicant should provide a detail of the refuse enclosure and turning templates showing garbage truck access to the refuse enclosure.

8. Variations.

- a. There are a number of existing variations for the Site identified on the 2002 and 2011 site plans. These variations and their status should be listed on the proposed plans.
 - b. The EAF form indicated the Application is applying for variations. The Applicant should clarify for the Planning Board what variations are being proposed.
9. SEQRA. The Application is considered to be an Unlisted Action with respect to SEQRA. The Town Planning Board should consider if they would like to pursue a coordinated or uncoordinated review of the Application.

If you have any questions with respect to the above, please let us know.

Malcolm Simpson, AICP
Planner

cc:
Kyle Barnett, Esq.
Barbara Roberti
Christian Paggi, PE.