



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 18-120
Preliminary Plan No. 11985027A
Montgomery Auto Sales Park Lots 17 & 18
Date of Hearing: November 8, 2018

DEC 04 2018

RESOLUTION

WHEREAS, under Montgomery County Code Chapter 50, the Montgomery County Planning Board is authorized to review preliminary plan applications; and

WHEREAS, on June 14, 1985, the Planning Board, by Planning Board Opinion, approved Preliminary Plan No. 1-85027, creating one lot on 8.10 acres of land in the C3 zone, located on Automobile Boulevard, 240 feet SW of Briggs Chaney Road ("Subject Property"), in the Fairland/Colesville Policy Area and 1997 *Fairland Master Plan* ("Master Plan") area; and

WHEREAS, Subdivision Regulation Amendment 16-01, adopted by the Montgomery County Council on November 15, 2016 as Ordinance No. 18-19, replaced Chapter 50, Subdivision of Land in its entirety, effective February 13, 2017 ("Subdivision Regulations"); and

WHEREAS, Ordinance 18-19 provided that any preliminary plan application filed and certified as complete before the effective date of the Subdivision Regulations may, at the applicant's option, be reviewed under the Subdivision Regulations in effect when the application was submitted; and

WHEREAS, on September 8, 2014, Auto Sites 7 LLC ("Applicant") filed an application for approval of an amendment to the previously approved preliminary plan(s) for 155,000 square feet of automobile sales and service (excluding above-ground structured parking) in total with 85,000 square feet allotted to Lot 17 and 70,000 square feet allotted to Lot 18 on the Subject Property; and

WHEREAS, Applicant's application to amend the preliminary plan was designated Preliminary Plan No. 11985027A, Montgomery Auto Sales Park Lots 17 & 18 ("Preliminary Plan," "Amendment," or "Application"); and

WHEREAS, Applicant opted to have this Preliminary Plan reviewed under the Subdivision Regulations in effect on September 8, 2014; and

Approved as to
Legal Sufficiency

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and other governmental agencies, Staff issued a memorandum to the Planning Board, dated October 26, 2018, setting forth its analysis and recommendation for approval of the Application, subject to certain conditions ("Staff Report"); and

WHEREAS, on November 8, 2018, the Planning Board held a public hearing on the Application at which it heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on November 8, 2018, the Planning Board voted to approve the Application subject to certain conditions, on motion of Commissioner Cichy, seconded by Commissioner Patterson, with a vote of 4-0; Commissioners Anderson, Cichy, Fani-Gonzalez, and Patterson voting in favor, with Commissioner Dreyfuss being absent.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board APPROVES Preliminary Plan No. 11985027A for 155,000 square feet of automobile sales and service (excluding above-ground structured parking) in total with 85,000 square feet allotted to Lot 17 and 70,000 square feet allotted to Lot 18 by replacing all conditions in the Planning Board Opinion dated June 14, 1985 with the following conditions:¹

1. Approval under this Preliminary Plan is limited to a total of 155,000 square feet of automobile sales and service of which 85,000 square feet is allotted to Lot 17 (excluding above-ground structured parking) and 70,000 square feet is allotted to Lot 18.
2. The Applicant must comply with the conditions of approval for the Preliminary/Final Forest Conservation Plan, approved as part of Preliminary Plan 11985027A, subject to:
 - a. The Applicant must obtain M-NCPPC Office of General Counsel approval of a Certificate of Compliance agreement for the offsite forest planting requirement and record it in the Land Records prior to the start of any demolition, clearing or grading.
 - b. The Final Sediment and Erosion Control Plan must be consistent with the limits of disturbance as shown on the approved Preliminary/Final Forest Conservation Plan.
3. The Planning Board accepts the recommendations of the Montgomery County Department of Permitting Services ("MCDPS") – Water Resources Section in its stormwater management concept letter dated October 26, 2015 and April 2, 2018, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter,

¹ For the purpose of these conditions, the term "Applicant" shall also mean the developer, the owner or any successor(s) in interest to the terms of this approval.

which may be amended by MCDPS – Water Resources Section provided that the amendments do not conflict with other conditions of the Preliminary Plan Approval.

4. The Planning Board accepts the recommendations of the MCDPS, Fire Department Access and Water Supply Section in its letters dated June 7, 2018 (two separate letters for Lot 17 and Lot 18), and hereby incorporates them as conditions of approval. The Applicant must comply with each of the recommendations as set forth in the letter, which MCDPS may amend if the amendments do not conflict with other conditions of Preliminary Plan approval.

5. The Planning Board accepts the recommendations of the Montgomery County Department of Transportation (“MCDOT”) in its amended letter dated October 4, 2018, and hereby incorporates them as conditions of the Preliminary Plan approval. The Applicant must comply with each of the recommendations as set forth in the letter, which may be amended by MCDOT provided that the amendments do not conflict with other conditions of the Preliminary Plan approval.

6. Prior to issuance of access permits, the Applicant must satisfy the provisions for access and improvements as required by MCDOT.

7. The Certified Preliminary Plan must contain the following note:

“Unless specifically noted on this plan drawing or in the Planning Board conditions of approval, the building footprints, building heights, on-site parking, site circulation, and sidewalks shown on the Preliminary Plan are illustrative. The final locations of buildings, structures and hardscape will be determined at the time of Site Plan. Please refer to the zoning data table for development standards such as setbacks, building restriction lines, building height, and lot coverage for each lot. Other limitations for site development may also be included in the conditions of the Planning Board’s approval.”

8. No clearing, grading or recording of plats prior to signature set approval.

9. Final approval of the location of buildings, on-site parking, site circulation, sidewalks, and open spaces will be determined at site plan.

10. Prior to submission of any plat, Site Plan No. 820140140 and Site Plan No. 820140130 must be certified by M-NCPPC Staff.

11. All necessary easements must be shown on the Record Plat.

12. The Adequate Public Facility (APF) review for the preliminary plan will remain valid for one hundred and twenty (120) months from the date of mailing of the Planning Board resolution.

13. Prior to Certified Preliminary Plan remove references to "Ownership Lot(s)" from the Preliminary Plan sheets.

14. Prior to Certified Preliminary Plan, the Applicant must add required and proposed setbacks to the data table required by Section 59-C-4.362 of the Zoning Ordinance.

BE IT FURTHER RESOLVED that all other preliminary plan conditions of approval for this project remain valid, unchanged and in full force and effect.

BE IT FURTHER RESOLVED that having considered the recommendations and findings of its Staff as presented at the hearing and as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference (except as modified herein), and upon consideration of the entire record, the Planning Board FINDS, with the conditions of approval, that:

1. The Preliminary Plan substantially conforms to the Master Plan.

The 46-acre Montgomery Auto Sales Park is located within the Briggs Chaney portion of the 1997 *Fairland Master Plan*. The Master Plan notes the following about the Auto Park on page 65:

"The concept for an Auto Sales Park dates to the late 1960s, when changes to the Zoning Ordinance limited expansion of auto sales in central businesses districts. Auto sales businesses developed the one-stop automobile shopping area as a coordinated development in an attractive setting with green space. Although the auto-park concept is a successful sales tool, a number of problems have developed over the years. Private covenants were used to maintain the appearance of the Auto Park, but the covenants were extinguished by the affected parties in the 1980s. Since then, the green space has been used for parking and inventory storage and on-street parking is being used for car and truck storage".

The proposed automobile dealership will consist of a single building comprising 85,000 square feet on Lot 17. Showroom and offices will occupy the front portion of the building and the service area and six levels of parking will be located at the rear portion of the building. The proposed automobile and service facility will replace the existing automobile and service facility on Lot 17.

The existing, gravel-surfaced parking area on Lot 18 will be replaced with a paved, lighted and landscaped parking lot for inventory vehicle storage and will have modern stormwater management controls. This inventory storage facility is an interim condition. The Preliminary Plan proposes a second auto dealership in the future.

The Master Plan's goal for Auto Sales Park is to improve circulation and more clearly define the boundaries of the commercial area. The Master Plan clearly supports the continued land use of the Auto Sales Park as a whole. However, it seeks to "encourage the Auto Sales Park property owners to participate in efforts to make the south side of Briggs Chaney Road more attractive and compatible with opposite residential and retail uses including parking on green space along Briggs Chaney Road, US 29, and Automobile Boulevard." Site Plan, Lot 17 provides specific display areas and vehicle platforms to avoid parking in green areas. Furthermore, the proposed landscaping will help deter this from occurring. The Master Plan also encourages consolidation or sharing of parking, including the possibility of structured parking with a building height greater than 42 feet, if necessary, in order to meet inventory storage needs.

Site Plan, Lot 17 meets the guidance provided by the Master Plan by including 84-foot-tall structured parking/inventory facility to meet the needs of the dealership in terms of inventory management.

Because the Subject Property does not have frontage on Briggs Chaney Road, Site Plan Lot 17 can do very little to improve compatibility along Briggs Chaney Road. This Master Plan recommendation is aimed toward those properties fronting on Briggs Chaney Road rather than the Subject Property.

Therefore, the proposed redevelopment of Lots 17 and 18 as automotive sales land use is generally consistent with the *1997 Fairland Master Plan*.

2. Public facilities will be adequate to support and service the area of the approved subdivision.

Adequate Public Facilities Review (APF)

Local Area Transportation Review (LATR)

The proposed 155,000 square feet of automobile dealerships and service uses would generate the following number peak-hour trips during the weekday morning peak period (6:30 to 9:30 a.m.) and the evening peak period (4:00 to 7:00 p.m.):

Table 1: Peak-hour trips

Proposed Land Use	Square Feet	Weekday Peak-Hour Trips	
		Morning	Evening
Lot 17 - Preliminary Plan No. 11985027A & Site Plan No. 820140130			
Auto Repair/Service/Sales	85,000	163	223
Existing Land Uses on Lot 17 (Credit)			
Auto Repair/Service/Sales	21,800	42	57
Net Increase from Existing	+63,200	+121	+166
Lot 18 - Site Plan No. 820140140			
Auto Repair/Service/Sales	70,000	134	183
Net Increase from Existing	+70,000	+134	+183
Both Lots 17 & 18			
Total New: Auto Repair/Service/Sales	+133,200	+255	+349

The Applicant is required to submit a traffic study to satisfy the LATR test because the proposed land uses generate 30 or more total peak-hour trips within the weekday morning and evening peak periods. Based on the traffic study results, the capacity/Critical Lane Volume (CLV) values at the studied intersections are shown in the table below for the following traffic conditions:

1. **Existing:** The current traffic condition.
2. **Background:** The existing condition plus the trips generated from approved but un-built nearby developments.
3. **Total:** The background condition plus the additional site-generated trips based on proposed automobile repair/service/sales land uses on Lots 17 and 18.

Table 2: Critical Lane Volumes

Studied Intersection	Traffic Condition					
	Existing		Background		Future	
	AM	PM	AM	PM	AM	PM
Briggs Chaney Rd and US 29 (Columbia Pike) SB Ramps	574	599	608	611	624	616
Briggs Chaney Rd and US 29 (Columbia Pike) NB Ramps	846	911	922	1021	956	1,070
Briggs Chaney Rd & Outlet Drive	747	902	782	1,004	797	1,051
Briggs Chaney Rd & Automobile/Castle Blvd	762	873	801	985	812	1,042
Briggs Chaney Rd & ICC/MD 200 WB Off-Ramp	495	446	509	465	515	474
Briggs Chaney Rd & ICC EB Off-Ramp	379	416	382	430	382	436
Automobile Blvd NB &	441	543	685	876	806	1,042
Briggs Chaney Rd. and Gateshead Manor Way	653	719	686	757	691	760

As indicated in the table above, the calculated CLV values do not exceed the CLV standard of 1,475 for the Fairland/Colesville Policy Area, and, thus, the LATR test is satisfied.

Adequate Public Facility Validity Extension Request

The Planning Board approves an extended validity of the Adequate Public Facilities finding for 10 years (120 months) instead of the typical 5 years (60 months).

Under Section 50.4.3.J.5.iv, an Adequate Public Facilities finding shall be “for no less than 5 and no more than 10 years after the preliminary plan is approved, as determined by the Board when it approved the plan, for any plan approved after July 31, 2007, and before April 1, 2009, or after March 31, 2017.” As such, the Applicant’s request is for the maximum allowable time period under the Subdivision Regulations.

The Subdivision Regulation continues under Section 50.4.3.5.b:

“If an applicant requests a longer validity period than the minimum specified in 5.a, the applicant must submit a development schedule or phasing plan for completion of the project in the Board for its approval.”

- i. *At a minimum, the proposed development schedule or phasing plan must show the minimum percentage of the project that the applicant expects to complete in the first 5 or 7 years, where is the applicable minimum, after the preliminary plan is approved.*

The phasing plan indicates that Phase I will take approximately 5 years to complete. This includes the construction of half of the approved commercial square footage. This phase is the most intensive phase of the three, comprised of demolishing the existing automobile dealership in order to construct the new dealership and its service facility.

Table 3 – Adequate Public Facilities Phasing

Phase	Benchmark	Duration
Phase I	Construction of 50% of the total approved square footage on Lot 17 and Lot 18. The structured parking/vehicle inventory facility may be built in this phase.	60 months
Phase II	Approval of Site Plan amendment for Lot 18 for construction of addition to automobile dealership	36 months (96 months cumulative)
Phase III	Construction of 80% of total square footage approved for Lot 17 and Lot 18. The structured parking/vehicle inventory facility may be built in this phase.	12 months (10 years cumulative)

- ii. *To allow a validity period longer than the specified minimum, the Board must find that the size or complexity of the subdivision warrant the extended validity period and would not be adverse to the public interest. The Board must condition a validity period longer than the specified minimum on adherence to the proposed development schedule or phasing plan, and may impose other improvements or mitigation conditions if those conditions are needed to assure adequate levels of transportation or school service during the validity period.*

Upon reviewing the Applicant’s request for 10 years of APF validity, Staff recommends approval of the increased validity period as requested. The logistics of completing the final build out will require the Applicant to complete a series of steps in a specific order. First, the existing auto dealership must be demolished and a new dealership constructed on Lot 17 as well as the associated storage lot on Lot 18. Second, the structured parking/inventory facility must be constructed before the other auto dealership on Lot 18 can proceed in order to have a place to store auto inventory from the interim storage lot. Once the structured parking/inventory facility is constructed, the third and final step of gaining approval of a site plan amendment and construction of the second auto dealership can proceed. Because the auto dealership will remain open after the

initial construction, these steps have to occur sequentially rather than in parallel. Therefore, the APF increased validity period will allow enough time to complete all proposed development. This increase in APF validity is not adverse to the public interest.

Other Public Facilities and Services

Other public facilities and services are available and adequate to serve the proposed lots. The Subject Property is in the W-1 and S-1 water and sewer service categories, respectively, and will utilize public water and sewer.

The Application was reviewed by the MCDPS, Fire Department Access and Water Supply Section, and a Fire Access Plan was approved on June 7, 2018 (two separate letters for Lot 17 and Lot 18). Other utilities, public facilities and services, such as electric, telecommunications, police stations, firehouses and health services are currently operating within the standards set by the Subdivision Staging Policy in effect at that time that the Application was submitted. The Application is for a commercial land use which does not generate students. Therefore, a school facilities test does not apply.

3. The size, width, shape, and orientation of the approved lots are appropriate for the location of the subdivision, taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated.

Compliance with the Subdivision Regulations and Zoning Ordinance

This Application has been reviewed for compliance with the Montgomery County Code, Chapter 50, the Subdivision Regulations and meets all applicable sections. The size, shape, width and orientation of the lots are appropriate for the intended uses and conform with guidance in the local Master Plan.

4. The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code Chapter 22A.

The Subject Property is in compliance with all of the applicable requirements of the Forest Conservation Law. The Preliminary Plan includes a combined Preliminary/Final Forest Conservation Plan since the Preliminary Plan and Site Plans are being reviewed concurrently. The 8.10-acre Property is located in the Little Paint Branch watershed, which is classified by the State of Maryland as Use Class I waters. The NRI/FSD identified all of the environmental features on and adjacent to the Property, as further described in the *Environmental Guidelines for Environmental Management of Development in Montgomery County* (Environmental Guidelines).

There are no streams, wetlands, stream buffers, steep slopes, highly erodible soils, or existing mapped floodplain per the Federal Emergency Management Administration (FEMA), Montgomery County Department of Permitting Services or M-NCPPC sources.

The Property does not contain any forest or any trees greater than 24 inches Diameter at Breast Height (DBH). The Applicant submitted a combined Preliminary/Final Forest Conservation Plan as part of Preliminary Plan 11985027A and Site Plans 820140130 and 820140140. Since there is no existing forest on the Property, the Applications do not include any forest clearing or retention. The forest conservation worksheet includes a net tract area of 9.12 acres, which includes the 8.10 acre Property and 1.02 acres of offsite disturbed area. The lack of existing forest results in an afforestation planting requirement of 1.37 acres, which is proposed to be met at an offsite location.

5. *All stormwater management requirements shall be met as provided in Montgomery County Code Chapter 19, Article II, titled "Storm Water Management," Sections 19-20 through 19-35.*

The Preliminary Plan received an approved stormwater concept from the Montgomery County Department of Permitting Services, Water Resources Section on October 26, 2015 and reconfirmed on April 2, 2018. The Application will meet stormwater management goals through the use of bio swales, micro bioretention, permeable concrete, planter boxes, green roofs, and a waiver for the Montgomery Auto Park Regional Stormwater Management pond.

BE IT FURTHER RESOLVED that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is DEC 04 2018 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission on motion of Commissioner Fani-González, seconded by Commissioner Patterson, with Chair Anderson and Commissioners Fani-González, Cichy, and Patterson voting in favor, and Vice Chair Dreyfuss absent at its regular meeting held on Thursday, November 29, 2018, in Silver Spring, Maryland.



Casey Anderson, Chair
Montgomery County Planning Board