

September 17, 2024

Matthew M. Gordon
Mgordon@sgrwlaw.com
Direct Dial: (301) 634-3150

VIA ELECTRONIC SUBMISSION

Ms. Sandra Pereira
Montgomery County Planning Department
UpCounty Division, Regulatory Supervisor
2425 Reddie Drive
Wheaton, Maryland 20902

Re: *Revised* Statement of Justification for Montgomery Auto Sales Park Lots 17 & 18 –
Minor Amendment to Preliminary Plan No. 11985027B (the “Preliminary Plan”)

Dear Ms. Pereira:

On behalf of Auto Sites 7 LLC (the “Applicant”), we hereby submit this Preliminary Plan Amendment Application (the “Application”) for the properties located at 3110 and 3130 Automobile Boulevard, which is located immediately southeast of Briggs Chaney Road and Columbia Pike (MD Route 29) in the center of the loop road known as Automobile Boulevard within the Montgomery Auto Sales Park (the “Property”). As described in greater detail below, the Preliminary Plan contemplated redevelopment of both Lot 17 (3110 Automobile Blvd.) and Lot 18 (3130 Automobile Blvd.) with additional automotive sales, repair and service uses under the grandfathered C-3 Zone. Subsequently, the Applicant determined that it would proceed with redevelopment of Lot 18 (the southern lot, 3130 Automobile Blvd.) as an initial phase, and then subsequently redevelop Lot 17 as part of a later phase. As a result, the Applicant is proposing to modify the approved Adequate Public Facilities (“APF”) phasing schedule pursuant to Section 50-4.3.J.7.a of the Montgomery County Subdivision Regulations (the “Subdivision Regulations”).

The Property is presently improved with approximately 22,016 square feet of automotive sales, repair and service uses on Lot 17, and a partially paved parking lot on Lot 18. At the time of the Preliminary Plan approval in December of 2018, the Applicant planned on demolishing the existing improvements on Lot 17 to allow for a new automotive sales showroom and service facility with up to 85,000 square feet of gross floor area. As a subsequent phase, the Preliminary Plan authorized the filing of an amendment to Site Plan No. 820140140 (the “Lot 18 Site Plan”) to permit up to 70,000 square feet of automotive sales, repair and service uses. The approved APF phasing schedule is copied below:

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)

Due to delays arising out of the pandemic, changing market conditions, volatile capital markets and heightened construction costs, the Applicant opted to renovate the existing improvements on Lot 17 as permitted by Site Plan No. 819850290.¹ As a result, the Applicant is proposing to adjust the sequence of Phase 1 and 2, so that approval of the Site Plan amendment for Lot 18 is Phase 1. Site Plan No. 82014014A is being processed concurrently for Lot 18. In response to these external factors impairing implementation of development approvals throughout Montgomery County, the Montgomery County Council granted an automatic two (2) year extension to all APF validity periods through County Council Ordinance No. 19-12 (as part of Subdivision Regulation Amendment No. 20-01) dated July 28, 2020. Since the above-referenced APF phasing schedule was valid on July 28, 2020, each of the three phases have been extended by 2 years.

As provided in Section 50-4.2.F.2.c and Section 50-4.2.H.1.b of the Subdivision Regulations, the Planning Director is authorized to “approve a request to amend the validity period phasing schedule of an approved preliminary plan if the length of the total validity period of the preliminary plan is not extended” as a minor amendment. As illustrated by the amended APF phasing schedule, the Applicant is proposing to move Phase 2 up to occur as Phase I, but is not proposing to extend the length of the total validity period. The following modified APF phasing schedule illustrates the proposed revision:

¹ The Applicant is proposing to revoke Site Plan No. 820140130 concurrent with this Application since it is deferring its previous plan to redevelop Lot 17 with up to 85,000 square feet of automotive sales, service and repair uses until a later phase. In the interim, Lot 17 will continue to operate under the previously approved Site Plan No. 819850290.

Phase Number	Benchmark	Expiration Date per Planning Board Approval	Adjusted Expiration Date per County Council Extensions	Proposed Phase Expiration Date
1	Construction of 50% of total approved square footage on Lot 17 and 18. The structured parking facility/vehicle inventory facility may be built in this phase.	1/3/24	1/3/26	1/3/29 (becomes Phase 2)
2	Approval of Site Plan amendment for Lot 18 for construction of addition to automobile dealership.	1/3/27	1/3/29	1/3/26 (becomes Phase 1)
3	Construction of 80% of total square footage approved for Lot 17 and Lot 18. The structured parking facility/vehicle inventory facility may be built in this phase.	1/3/28	1/3/30	1/3/30 (remains Phase 3)

Ms. Sandra Pereira
September 17, 2024
Page 4

The original APF phasing schedule authorized a total validity period of ten years, and the Applicant's amended APF schedule is limited to the same ten years. As a result, the Application satisfies all required findings for approval by the Planning Director as a minor amendment. The specific changes proposed by the Application are as follows:

- Adjust interim Adequate Public Facilities phasing requirement without extending the total APF validity period.

Pursuant to the Plan Submittal Requirements for Major Plan Amendment Applications (signed by Ms. Pereira on March 14, 2024), we hereby submit the following plans and materials in support of the Application:

- Application Form
- Statement of Justification (this cover letter)
- Certificate of Compliance
- Notice List
- Draft Application Notice Letter
- Signage Information
- Amended Plans (black-and-white)
- Original Certified Plans and Resolution
- Checklist
- Traffic Impact Statement

Ms. Sandra Pereira
September 17, 2024
Page 5

Very truly yours,

**Selzer Gurvitch Rabin Wertheimer
& Polott, P.C.**

Matthew M. Gordon

cc: Patrick Butler, Chief, UpCounty Division
Brian Ryder
Steve Hoffman
Pat La Vay
Dylan Macro

3130 AUTOMOBILE BOULEVARD (MONTGOMERY AUTO SALES PARK)
SITE PLAN NO. 82014014A
JUSTIFICATION STATEMENT

I. INTRODUCTION

Auto Sites 7 LLC (the “Applicant”) is the owner and developer of the property located at 3130 Automobile Boulevard, which is located to the southeast of the Briggs Chaney Road and Automobile Boulevard intersection in the Montgomery Auto Sales Park (the “Property”). The Property consists of approximately 3.66 acres of tract area and is identified as Lot 18 of the Montgomery Auto Sales Park Subdivision recorded in the Land Records of Montgomery County, Maryland (the “Land Records”) at Plat No. 23582. The Applicant is also the owner of the abutting lot (Lot 17 on Record Plat No. 23582) to the north, which consists of approximately 4.44 acres of tract area (“Lot 17”). The Property is presently zoned GR-1.5, H-85 and is subject to the December 2023 Fairland and Briggs Chaney Master Plan (the “Master Plan”). The Master Plan recommends that the Property be rezoned to Commercial Residential (CR-2.0, C-1.5, R-1.5, H-85), which is presently being processed pursuant to Sectional Map Amendment No. H-150. As discussed below, the Applicant is processing this amendment to Site Plan No. 820140140 under the prior C-3 Zone pursuant to Section 7.7.1.B.3 of the Zoning Ordinance.¹

II. THE PROPERTY AND SURROUNDING AREA

The Property is improved with a partially paved gravel parking lot that is used for parking and storage of vehicles ancillary to the automotive sales and service uses on abutting Lot 17. The Property is surrounded on all sides by automotive sales and service uses with a mix of commercial and industrial zoning. The intersection of Briggs Chaney Road and Columbia Pike (MD 29) is located to the northwest, and the Intercounty Connector is located to the south. A mix of commercial and multi-family uses are located to the northeast, including Briggs Chaney Marketplace and the East County Regional Services Center. The recently adopted Master Plan notes that the Auto Sales Park constitutes one of three hubs within the plan boundaries where jobs are concentrated and contemplates a “near-term vision for the Auto Sales Park ... as a continued

¹ The Zoning Ordinance was substantially rewritten and adopted as amended on July 15, 2014, effective October 30, 2014, concurrent with the Countywide District Map Amendment which comprehensively rezoned the entire Property from the C-3 Zone to the GR Zone. The Site Plan being amended was approved under the grandfathered C-3 Zone.

regional auto sales and service destination” (Master Plan, pp. 22 and 114). As described in greater detail below, the Applicant’s proposal for the Property is entirely consistent with the Master Plan recommendations and grandfathered C-3 Zone.

III. THE PROJECT

The Applicant is submitting this application for site plan amendment approval (the “Site Plan” or “Application”) in accordance with Section 59-D-3.4 of the 2014 Montgomery County Zoning Ordinance (the “Prior Zoning Ordinance”) of the Montgomery County Code (the “County Code”). Concurrent with this Site Plan, the Applicant is processing a minor amendment to Preliminary Plan No. 11985027A (the “Preliminary Plan”) to modify the previous adequate public facilities phasing and effectuate a minor lot line adjustment (as described in greater detail below).

The Applicant is proposing to redevelop the Property with up to 35,000 square feet of automotive sales, service and repair uses, up to 47 surface parking spaces, green area and complementary streetscape improvements (the “Project”). The proposed automobile sales and service facility will have a maximum building height of 28 feet. The Project includes landscape improvements in the form of trees for shade in the parking lot and green areas in the streetscape, as well as lighting and decorative paving. The proposed trees provide shade for the required 25% of the parking lot area. The proposed landscape areas cover 9.9% of the total parking lot area, in excess of the 5% required to comply with the applicable standard.

IV. PRIOR DEVELOPMENT APPROVALS

The Property is subject to Preliminary Plan No. 119850270 and Site Plan No. 819850290, which were approved on June 6, 1985. These prior approvals were tied to former Lot 1, which was subsequently divided into Lots 17 and 18 by a minor subdivision record plat to denote a change in ownership on the northern half and southern half of the former Lot 14. The Preliminary Plan for the former Lot 14 was approved for 1,800 square feet of industrial and 20,000 square feet of retail center space with an APF validity that expired on July 16, 1997. The existing automobile dealership of 21,800 square feet was built in 1986 on what is now Lot 17 and surface parking was built on what is now Lot 18.

Subsequently, the Planning Board approved Preliminary Plan No. 11985027A, Site Plan No. 820140130 (the “Lot 17 Site Plan”), and Site Plan No. 820140140 (for this Property) in December

of 2018. These development applications permitted the Applicant to redevelop Lot 17 to allow for a new automotive sales showroom and service facility with up to 85,000 square feet of gross floor area. As a subsequent phase, the Preliminary Plan authorized the filing of an amendment to this Site Plan to permit up to 70,000 square feet of automotive sales, repair and service uses. Due to delays arising out of the pandemic, changing market conditions, volatile capital markets and heightened construction costs, the Applicant opted to renovate the existing improvements on Lot 17 as permitted by Site Plan No. 819850290 (in lieu of the redevelopment allowed by the Lot 17 Site Plan).² While the Applicant no longer intends to implement the Lot 17 Site Plan, it is proceeding with its previously contemplated redevelopment of the Property through the filing of this Application.

V. MASTER PLAN RECOMMENDATIONS

While the Prior Zoning Ordinance does not require a finding that the Application substantially conform to the Master Plan, the Project advances the recently adopted Master Plan's recommendations and goals as described below.

- *“In the interim, the near-term vision for the Auto Sales Park is as a continued regional auto sales and service destination that incorporates significant heat mitigation such as a greater degree of pervious surface, shade structures, landscaping, and tree canopy.”* (Master Plan, p. 114).

In coordination with M-NCPPC staff, the Applicant redesigned an original version of the Site Plan to incorporate required green area in a manner that is responsive to the Master Plan's environmental and urban heat island goals. The Site Plan also includes permeable paving which is consistent with this recommendation.

- *“Whenever most feasible, encourage property owners and tenants to consolidate uses and combine common activities between sites, such as storing inventory, parking for employees and customers, displaying vehicles, washing cars, collection of trash and recycling, and loading inventory.”* (Master Plan, p. 115).

² The Applicant is proposing to revoke Site Plan No. 820140130 concurrent with this Application since it has abandoned its previous plan to redevelop Lot 17 with up to 85,000 square feet of automotive sales, service and repair uses.

The Applicant owns and operates an automotive dealership on the abutting property to the north, and the redevelopment of this Property for a different dealership brand presents an opportunity for combination and coordination of various activities that occur between these two lots under common ownership.

- *Vehicle sales and service businesses should consider structured parking and/or the installation of pervious surfaces for vehicle storage to reduce impervious paving.* (Master Plan, p. 115).

The Application reduces the number of previously approved parking spaces for the Property by 295 spaces and incorporates permeable paving along a portion of the Automobile Boulevard frontage to reduce the extent of impervious cover. Market conditions do not support structured parking in the short-term and surface parking is sufficient for the 47 spaces proposed.

- *Shade structures and ornamental trees should be maintained and increased within the right-of-way of Automobile Boulevard and Briggs Chaney Road.* (Master Plan, p. 112).

The Project incorporates additional green areas along the Property's frontages to increase the extent of canopy cover within the Automobile Boulevard right-of-way. Street trees are proposed in the right-of-way to provide shade to sections of Automobile Boulevard that currently lack shade, in order to reduce heating of paved surfaces. Additional shrub plantings are proposed onsite to improve pedestrians' aesthetic experience.

VI. FINDINGS REQUIRED FOR APPROVAL OF THE SITE PLAN APPLICATION

As noted above, this Application is being processed under the prior C-3 Zone pursuant to Section 7.7.1.B.3 of the Zoning Ordinance. Section 59-D-3.4(c) of the Prior Zoning Ordinance establishes the required findings the Planning Board must make to approve this Application. As delineated below, the Project satisfies all required findings.

- (1) The site plan conforms to all non-illustrative elements of a development plan or diagrammatic plan, and all binding elements of a schematic development plan, certified by the Hearing Examiner under Section 59-D-1.64, or is consistent with an approved project plan for the optional method of development, if required, unless the Planning Board expressly modifies any element of the project plan;**

The Property is not subject to a development plan, diagrammatic plan, schematic development plan, or project plan. As a result, this finding is not applicable to the Site Plan.

(2) The site plan meets all of the requirements of the zone in which it is located, and where applicable conforms to an urban renewal plan approved under Chapter 56;

The Site Plan is being processed under the grandfathered C-3 (Highway Commercial) zone, which permits the following uses as of right: automobile sales (indoor and outdoor), automobile sales and service mall, and automobile parking lots. The Site Plan approval from 2018 contemplated all of these uses and the Application continues to propose such uses.³ As delineated on Site Plan Sheet No. C0.01, the Project satisfies all applicable development standards under the C-3 Zone. Section 59-C-4.367 of the Prior Zoning Ordinance sets out special regulations applicable to designated automobile-related uses. As discussed below, the Project complies with these regulations:

(a) Setbacks.

As detailed on the data table included with the Site Plan, the Project complies with all applicable setbacks. The Site Plan proposes an 11-foot setback from the abutting site to the north (Lot 17, also owned by the Applicant). Additionally, waste material, auto parts, refuse and motor vehicles are not proposed to be stored within any setback.

(b) Building Coverage.

As described on the Site Plan Sheet No. C0.01, the Project proposes a maximum building coverage of 22%, which is substantially less than the maximum permitted.

(c) Lighting. In order to prevent any objectionable glare on surrounding properties or streets, the exterior lighting plan that is submitted as part of the required site plan must indicate the height, number and types of lighting fixtures, and a diagram showing their light distribution characteristics.

The lighting plan proposes full-cutoff LED light fixtures at 20 feet above finish grade to illuminate the parking lot. A photometrics plan is included to demonstrate <0.5 footcandle light trespass on adjacent properties.

(d) Signs.

Subsequent to this Site Plan, the Applicant will obtain requisite sign permits from the Montgomery County Department of Permitting Services that conform with the applicable sign standards.

³ Both the current GR zoning and recommended CR zoning for the Property permit light vehicle sales (indoor and outdoor) and ancillary repair and service uses.

(3) The locations of buildings and structures, open spaces, landscaping, recreation facilities, and pedestrian and vehicular circulation systems are adequate, safe, and efficient;

The Site Plan provides a safe, efficient and well-integrated building, green area, landscaping, recreation facilities, and pedestrian and vehicular circulation. The Project includes two (2) curb cuts along Automobile Boulevard that will allow employees and customers to safely and efficiently access the Property. The Site Plan places the front of the automotive showroom closer to Automobile Boulevard to activate the street, which allows for many of the automobile storage and parking spaces to be provided to the side and rear of the building. The Project will allow for replacement of the underutilized gravel parking lot with additional automotive sales and service uses, green area, and streetscape improvements that enhance the Auto Park.

(4) Each structure and use is compatible with other uses and other site plans, and with existing and proposed adjacent development; and

The Project is compatible with existing and approved pending adjacent development as it will replace impervious cover (an under-utilized gravel parking lot) with automotive showroom and green area that is inviting and better activates Automobile Boulevard. The Site Plan substantially reduces the amount of parking spaces previously approved for the Property and incorporates permeable paving and green areas as envisioned by the Master Plan. The Project will also incorporate frontage improvements along Automobile Boulevard and expand on the important employment base in the Auto Park.

(5) The site plan meets all applicable requirements of Chapter 22A regarding forest conservation, Chapter 19 regarding water resource protection, and any other applicable law.

The Property does not have any existing forest, specimen trees or environmental buffers. Therefore, the Forest Conservation Plan does not propose any environmental impacts to sensitive or priority areas. A 0.53-acre afforestation requirement will be met in an off-site forest bank. If an off-site forest bank is not available at the time that the Application is approved, the afforestation requirement will be met via a fee in lieu payment. The Project will provide stormwater management onsite, where very little exists today. As such, the stormwater management facilities proposed in connection with the planned development will provide significant improvements to the treatment of stormwater runoff onsite using micro-bioretenion facilities and permeable paving to treat and manage onsite vehicular impervious surfaces to the maximum extent practicable, while meeting the overall treatment requirements for the Project. The stormwater management proposed

for the Project is in accordance with the Stormwater Management Act of 2007 and the 2000 Maryland Stormwater Design Manual to provide Environmental Site Design to the Maximum Extent Practicable (MEP).

Additional finding under Section 59-D-3.4(d)

Pursuant to Section 59-D-3.4(d) of the Prior Zoning Ordinance, “[t]he Planning Board must not approve the proposed site plan if it finds that the proposed development would not achieve a maximum of compatibility, safety, efficiency and attractiveness.” As described above, the Site Plan will allow for replacement of an under-utilized gravel parking lot with additional automobile sales and service uses, permeable paving, green area, and streetscape improvements that further the Master Plan’s short-term vision for the auto park. In this respect, the Site Plan is presumptively in the public interest and will result in a compatible, safe, efficient and attractive Project that enhances the Auto Park’s role “as a continued regional auto sales and service destination.” (Master Plan, p. 114).

VII. ADEQUATE PUBLIC FACILITIES

The Preliminary Plan includes adequate public facilities approval for up to 70,000 square feet of automotive sales, service and repair uses at the Property. Since the Project only proposes 33,400 square feet of gross floor area, the Site Plan is served by adequate transportation facilities as previously determined by the Preliminary Plan. Since the Project does not propose any residential uses, no finding for adequate school capacity is required. The Property is served by public water and sewer and is assigned WSSC categories W-1 and S-1. The existing water and sewer lines will be adequate to serve the additional development proposed by the Project. Dry utilities including electricity, gas, and telephone are also available to the Property. Last, appropriate emergency access measures will be developed providing adequate facilities for fire and rescue personnel to serve the Project.

VIII. CONCLUSION

The Applicant requests approval of the Site Plan to allow for development of an automobile sales and service facility at the Property. The Project will further the Master Plan’s interim vision for the Property and include additional green areas and streetscape improvements that enhance the

Auto Park. As described in Section VI above, the Site Plan satisfies all required findings that the Planning Board must make under Section 59-D-3.4 of the Prior Zoning Ordinance.

Respectfully submitted,

Selzer Gurvitch Rabin Wertheimer & Polott, P.C.

By: _____

Matthew M. Gordon
4416 East West Highway, Fourth Floor
Bethesda, Maryland 20814
(301) 634-3150
mgordon@sgrwlaw.com

Attorney for Applicant, Auto Sites 7 LLC