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DECISION of the Board of Selectmen (hereinafter the Board) on the petition of Autoplex Realty LLC, (hereinafter the Petitioner) for the property located at 60 Powder Mill Road, Acton, Massachusetts. Said property is shown on Acton Town Atlas Map J-3 Parcel 49-1.

This Decision is in response to an application submitted to the Board on February 19, 2003 by the Petitioner for a Site Plan Special Permit under Section 10.4 of the Acton Zoning Bylaw (hereinafter the Bylaw) to construct an automobile dealership with a four bay service area.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order on May 19, 2003 at 7:15 PM in the Selectmen's Hearing Room at the Acton Town Hall. The hearing was allowed to open after the 65 days provided by law with a joint agreement of the Board and Applicant. Board members Walter Foster, Peter Ashton, F. Dore' Hunter, William Shupert III and Robert Johnson were present throughout the proceedings.

The record of the proceedings and submissions upon which this permit is based may be referred to in the Office of the Town Clerk, or the Office of the Board.

Exhibit I

A properly executed application for Site Plan approval received February 19, 2003, a booklet containing a certified abutters list, USE description, other permits, record plan, drainage calculations, earth removal calculations, water balance calculations, traffic study, letter dated May 7, 2003 to Mr. Johnson from Acton Survey & Engineering, Inc. and testing summary on "STEP"; five-sheet set of Engineered plans dated February 19, 2003, rev. 5/11/03. A landscape plan dated February 19, 2003, rev. 5/11/01 and a one sheet set of building plans dated 2/3/03.

Exhibit II

Interdepartmental Communication (IDC) from the Town Manager to the Town Staff requesting comments. The following IDC's were received:

1. Building Commissioner dated May 13, 2003
2. Town Planner dated April 3, 2003
3. Fire Chief dated March 24, 2003
4. Municipal Properties Director dated February 21, 2003
5. Engineering Administrator dated March 17, 2003
6. Health Director dated February 24, 2003
7. Transportation Advisory Committee dated March 24, 2003
8. Recreation Director dated March 6, 2003
9. Natural Resources Director dated April 16, 2003

Exhibit I is hereinafter referred to as the Plan

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1.0 Findings and Conclusions

Based upon its review of the exhibits and records of the proceedings, the Board found and concluded that:

- 1.1 The site is located in Powder Mill Zoning District and Zone 3 of the Groundwater Protection District and the USE is allowed in both the Powder Mill Zoning District and Zone 3.
- 1.2 The hearing was not held within 65 days of filing of the application. By written agreement of the Board and Applicant the hearing was scheduled for May 19, 2003.
- 1.3 The Bylaw section 10.4.3.4 requires sidewalks along the frontage if the Board determines it is necessary for safe movement of pedestrians and bicyclists. The Board finds that a sidewalk along the frontage is required and should be constructed.
- 1.4 The Plan only provides for 14 customer parking spaces. The Bylaw requires a total of 25 customer and employee parking spaces. The Plan should be revised to indicate the proper number of spaces including signage indicating the locations.
- 1.5 The Plan provides for the review of the outdoor lighting by the Outdoor Lighting Advisory Committee. Outdoor lighting is regulated by the Bylaw. All exterior lighting shall be approved by the Building Commissioner, not the Outdoor Lighting Advisory Committee, prior to installation.
- 1.6 The Plan provides for a Cape Cod curb around the parking area. The Board finds that parking is restricted to paved areas and vertical curbing will discourage display vehicles from being parked on the open space.
- 1.7 The Plan does not provide for an emergency slide gate. The Bylaw section 4.3.6.4 requires an emergency slide gate to help protect the groundwater in case of an accidental discharge.
- 1.8 The drainage system must be designed to comply with Bylaw section 4.3.6.3. Section 4.3.6.3 allows the Board as the Special Permit Granting Authority to approve an alternative design if the Board believes the intent is met. The applicant proposes to install "Cultec" infiltration chambers as an alternative design. Based on information provided the Board finds the chambers met the Mass Storm Water Policy and believes the intent of the Bylaw has been met.
- 1.9 The Applicant applied for and obtained a Special Permit to fill 1.7% of the volume of the flood plain. The Plan indicates the applicant proposes to fill almost 2%. The applicant must either refile with the Zoning Board of Appeals to increase the volume filled to 2% or decrease it accordingly.
- 1.10 The Plan provides for the drainage pipe to the Cultec chambers ending with a tee wrapped with filter cloth and not connected to the chambers. The Board finds the system will prematurely fail if not maintained. The drainage pipe shall be directly connected to the chamber.

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1.11 The Plan as herein modified:

- Will protect the neighborhood and the Town against seriously detrimental or offensive USES on the site and against adverse effects on the natural environment.
- Will provide for convenient and safe vehicular and pedestrian movement and that the locations of driveway openings are convenient and safe in relation to vehicular and pedestrian traffic circulation including emergency vehicles, on or adjoining the site.
- Will provide an adequate arrangement of parking and loading spaces in relation to the proposed USES of the premises.
- Will provide adequate methods of disposal of refuse or other wastes resulting from the USES permitted on the site.
- Is consistent with the Master Plan.
- Is in harmony with the purpose and intent of this Bylaw.
- Will not be detrimental or injurious to the neighborhood in which it is to take place.
- Is appropriate for the site and complies with all applicable requirements of this Bylaw.

Therefore, the Board voted to **GRANT** the requested Site Plan Special Permit subject to and with the benefit of the following Plan modifications, conditions and limitations.

2.0 Plan Modifications

Prior to the issuance of a Building Permit or the start of any construction on the site, the Petitioner shall cause the Plan to be revised to show the following additional, corrected or modified information. The Building Commissioner shall not permit any construction activity to begin on the site until and unless he finds that the Plan is revised to include the following additional, corrected or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Building Commissioner. Where approvals are required from persons other than the Building Commissioner, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Commissioner before the Commissioner shall issue any Building Permit or permit any construction on the site. The Petitioner shall submit five copies of the final plans as approved for construction by the Building Commissioner to the Building Commissioner prior to the issuance of a Building Permit.

- 2.1
- 1) Provide for 25 parking spaces marked with signs indicating customer or employee parking only.
 - 2) Provide for vertical curbing surrounding the parking lot.
 - 3) Remove the reference to the review by the Outdoor Lighting Advisory Committee.
 - 4) Add an emergency slide gate.
 - 5) Connect the drainage pipe directly to the Cultec chambers.

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3.0 Conditions

3.1 Prior to occupancy or use of any new building constituting a part of the project, an as-built plan shall be supplied by the engineer of record certifying that the project was built according to the approved documents. The as-built plan shall show all pavement, building and drainage structure locations above and below grade in their true relationship to lot lines, and include appropriate grades and elevations. In addition to the engineer of record, said plan shall be certified by a Mass. Registered Land Surveyor.

4.0 Limitations

The Authority granted to the Petitioner by this permit is limited as follows:

- 4.1 This permit applies only to the site, which is the subject of this petition. All construction shall be conducted in accordance with the terms of this permit and shall be limited to the improvements shown on the Plan.
- 4.2 There shall be no further development of this site without written consent of the Board of Selectmen as outlined within the Acton Zoning Bylaw.
- 4.3 This Decision applies only to the requested Site Plan Special Permit. Other permits or approvals required by the Acton Zoning Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this Decision.
- 4.4 No approval of any indicated signs or advertising devices is implied by this Decision.
- 4.5 The hauling of earth to and from the site shall be restricted to the hours between 9:00 AM and 4:00 PM Monday through Saturday.
- 4.6 The foregoing restrictions are stated for the purpose of emphasizing their importance but are not intended to be all-inclusive or to negate the remainder of the Acton Zoning Bylaw.
- 4.7 This Site Plan Special Permit shall lapse on June 23, 2005 unless work approved by this permit has commenced except for good cause. Any request for extensions shall be made at least thirty (30) days prior to expiration. The Board reserves the right to amend the permit by its own or at the request of the Petitioner with or without a new hearing.

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5.0 **Appeals**

Any person aggrieved by this Decision may appeal pursuant to the General Laws, Chapter 40A, Section 17 within 20 days after the filing of this Decision with the Acton Town Clerk.

Witness our hand this day of ,2003

Walter Foster, Chairman

I, Christine Joyce, hereby certify that this is a true copy of the Decision of the Board of Selectmen.

Christine Joyce, Recording Secretary

Date filed with Town Clerk

Edward J. Ellis, Town Clerk

TO WHOM IT MAY CONCERN: This is to certify that the 20 day appeal period on the Decision of Autoplex Realty LLC. has passed and there have been no appeals made to this office.

Date

Edward J Ellis, Town Clerk

- cc: Petitioner
- Building Commissioner
- Planning Board
- Engineering
- Conservation
- Director of Municipal Properties
- Board of Health
- Town Clerk
- Planning Boards - Concord, Littleton, Westford, Maynard, Carlisle, Boxboro, Stow, Sudbury