

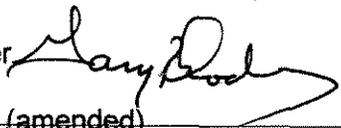
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TOWN OF ACTON

Building Department

INTERDEPARTMENTAL COMMUNICATION

To: Board of Selectmen Date: March 8, 2007

From: Garry A. Rhodes, Building Commissioner 

Subject: Site Plan Special Permit # 02/19/03-388 (amended)  
Autoplex Realty 60 Powdermill Road (Foster)

The main purpose of this amendment is to increase the number of new vehicle parking on site. I do not agree with the "Zoning Analysis" as shown on the plan dated February 17, 2007. The parking analysis indicated 16 parking spaces are required however; I have determined 18 spaces are required. The difference between the "Zoning Analysis" and my determination is the net floor area used to calculate the number of parking spaces. AS&E calculated the net floor area as 2357 square feet and I find the correct area is closer to 3600 square feet. I am therefore determining the correct number of parking spaces required is 18. I would reconsider my calculation if the Architect of record calculates the net floor area.

The Engineering Department pointed out the two parking spaces to the west side of the entrance driveway has less than 24 feet maneuvering aisle. The Acton Zoning Bylaw (AZBL) § 6.5 provides that the width of a maneuvering aisle must be 24'. Those two spaces cannot be counted to meet the minimum number of spaces. The plan should be revised accordingly.

I am concerned about the continued use of the required parking spaces for new vehicle display. Mr. Bertolami defends this action by saying these are employee vehicles. The fact remains those vehicles are for sale. Customers must park haphazardly and thereby limiting emergency vehicle access. It would be helpful if the Board clarify this issue. The plan as provided shows as many as 5 new vehicles stored in one line without a way to get them out.

The Engineering Department pointed out the width of the access driveway is 27'. AZBL § 6.7.3 provides that;

- *Each LOT may have one ACCESS driveway through its FRONTAGE which shall be 24 feet wide, unless, in the opinion of the Special Permit Granting Authority (if the parking area is related to a permitted USE for which a site plan or other special permit is required) or the Building Commissioner (for other parking areas), a wider and/or greater number of ACCESS driveways is necessary to provide adequate area for safe vehicular turning movements and circulation.*

The Board has not been provided with any information that the wider driveway is necessary for safe vehicular turning movements and circulation. I would recommend the driveway be reduced unless the applicant provides the necessary information.

The AZBL § 6.9.6.2 provides that a common driveway be provided between sites. When this site was originally developed Mr. Bertolami pointed out that the adjoining property was a Ford Rent-a-car and the two uses were rivals. On March 1<sup>st</sup> I was notified that Mr. Bertolami applied for a new Class I license for Suzuki Rent-A-Car on the adjoining property. Both make of vehicles are the

same therefore, the Town Planner and I recommend the common driveway be constructed at this time.

The applicant is proposing to change the landscape area on the west side of the lot to a 6' wide planting strip and 12' wide crushed stone snow storage area. The AZBL § 6.7.6 requires a 10' wide perimeter landscape strip not 6' as proposed. I am concerned the crushed stone will encourage the area to be used as vehicle storage. I would recommend the entire area remain landscaped or the engineer justify the need to use stone.

The plan as proposed will create a very congested and in my opinion an unworkable site. When Mr. Bertolami originally proposed this development I questioned him on the viability of a 19 vehicle ~~new car dealership. He assured me that was all he needed. Now he is requesting 27 new~~ vehicles where in fact including the "employee new vehicles" it is a lot more than that. Now that Acton Ford Rent-A-Car is no longer at 56 Powdermill Road I believe Mr. Bertolami should rethink his operation. He has applied for a new Class I license for Acton Suzuki Rent-A-Car for 56 Powdermill Road. It is my opinion Mr. Bertolami should join the 56 and 60 Powdermill Road under one Site Plan. With a few improvements such as better defining the wide open entrance at 56 Powdermill Road it would be a more efficient operation and an asset to the town.

I have attached the plans and comments provided by the Engineering Department for the Board's consideration. I have also attached the decision and amended decision.

In addition to the above Mr. Bertolami has requested the \$5,000 cash security held as part of the first amendment be released.

TOWN OF ACTON  
NOTICE OF HEARING

The Acton Board of Selectmen will hold a public hearing on March 12 at 7:35 P.M. in the Faulkner Hearing Room, Town Hall on the application of Autoplex Realty LLC, under Section 10.4 of the Zoning Bylaw for approval of a revised Site Plan Special Permit to make changes to an 7,440 square foot vehicle dealership and associated parking located at 60 Powder Mill Road, Acton.

The application and accompanying plans may be inspected at the Town Hall during normal business hours.

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WALTER FOSTER  
ANDREW D. MAGEE  
F. DORE' HUNTER  
PETER ASHTON  
LAUREN ROSENZWEIG  
BOARD OF SELECTMEN

TOWN OF ACTON  
472 Main Street  
Acton, Massachusetts, 01720  
Telephone (978) 264-9628  
Fax (978) 264-9630

Engineering Department

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**INTERDEPARTMENTAL COMMUNICATION**

**To:** Don P. Johnson, Town Manager

**Date:** March 7, 2007

**From:** Engineering Department

**Subject** Site Plan Special Permit #02/19/03-388-Autoplex Realty LLC-60 Powder Mill Road

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We have reviewed the amended site plan for 60 Powder Mill Road dated February 17, 2007 and have the following comments.

1. According to the Zoning Analysis Table on the site plan, the change in the amount of impervious area on the site is minor and should not impact the drainage system on the site.
2. The engineer should add a note on the plans to describe the emergency slide gates that were required in the 2 catch basins on the site.
3. The engineer should also label the type of Stormceptors that were installed on the site.
4. We recommend that the engineer show the existing grading of the impervious area and the rim grades of the catch basins to ensure the runoff from the pavement is diverted into these drainage structures.
5. We recommend that the engineer submit volume calculations and plans to demonstrate that the site was constructed in accordance with Board of Appeals Decision #01-18. We want to be sure that the fill within the natural flood storage area is not greater than the 1,190 cubic feet as approved by the Board of Appeals. We also want to confirm that the compensatory flood storage has been provided on the site.
6. We noted that the maneuvering aisle for the 2 parking spaces in front of the building doorway is less than the required 24 foot width due to the wall projections surrounding the entranceway.
7. We also noted the distance between the front property line and the edge of the impervious area surrounding the catch basin in front of the building is less than the required 30-foot setback (Board of Appeals Decision #01-17 & 02-01).
8. The existing access driveway is shown 27 feet wide and the originally approved site plan only shows the access to be 24 feet wide.
9. There is a dashed line shown on the plans that is about 10 feet from and running parallel to the edge of the conservation restriction. The engineer needs to label this line on the plan to clarify the reasoning or intent of this dashed line.

10. The engineer needs to show the location of the proposed dumpster and the associated screening on the plans. The original location of the dumpster shown on the prior site plan will obstruct the walkway that is proposed behind the existing building.
11. The engineer should add a typical detail of the proposed sidewalk behind the existing building on the plans. The typical detail should indicate the typical cross-section as well as the maximum allowable grades cross slopes, etc... to ensure that the sidewalk is constructed to meet the design requirements from the Architectural Access Board.
12. The prior site plan showed a roof recharge trench (5 feet wide by a minimum of 6-inches deep) along the entire backside of the building. The engineer will need to show on the plans a replacement area for the roof recharge in conjunction with the proposed sidewalk.

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Cc: Garry Rhodes, Building Commissioner

# ACTON NATURAL RESOURCES DEPARTMENT

## INTERDEPARTMENTAL COMMUNICATION

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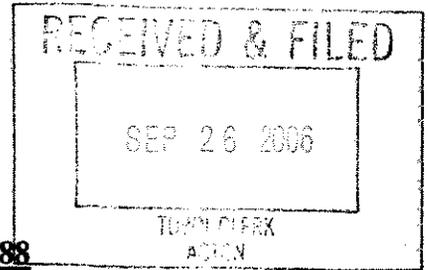
**To:** Garry Rhodes, Building Commissioner **Date:** February 26, 2007  
**From:** Tom Tidman, Director   
**Subject:** 60 Powdermill Road, DEP File No. 85-962

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On January 3, 2007 Autoplex II, LLC filed a Notice of Intent (NOI) with the Acton Conservation Commission. The NOI filing included the construction of a five-foot wide bituminous concrete walkway around the rear of the building. The proposed walkway connects to an existing walkway running along the west side of the building, runs around the rear of the building and terminates adjacent to the show room on the east side of the structure. In addition to the walkway installation, the Commission requested the following:

- 1) erosion observed at the rear retaining wall (northwest corner) be stabilized and replace a section of missing fence;
- 2) a permanent four-foot metal fence be installed at the northeast corner of the building with a five-foot wide opening to the proposed walkway.

The Commission closed the hearing on February 21, 2007, issuing an Order of Conditions approving the project; DEP File No. 85-962.



**TOWN OF ACTON**  
**BOARD OF SELECTMEN**

**SITE PLAN SPECIAL PERMIT #02/19/03-388**

**60 POWDERMILL, ACTON, MASSACHUSETTS**

**AMENDMENT OF DECISION**

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By letter dated August 14, 2006, Acton Survey & Engineering, Inc., on behalf of the Applicant Autoplex Realty LLC has requested certain modifications to Site Plan Special Permit No. 02/19/03-388 (the "Permit").

Section 5.12 of the Board of Selectmen's Rules and Regulations for said Plan Special Permits provides the following procedures for amending a Site Plan Special Permit:

A previously granted Permit may be amended by written request to the Board or on the Board's own motion. The Board shall determine whether any request for further alterations to a site constitutes a minor amendment or if such request should be considered a new Application requiring a public hearing. The Board may amend a Permit without a new public hearing provided it finds that the amendment is not significant to the public interest and is consistent with the purpose and intent of the Bylaw ....

Pursuant to Section 5.12, the Board considered this request at a duly noticed public meeting on September 11 and 25, 2006.

**Facts**

The Board makes the following findings of fact with respect to these requested amendments:

1. By Decision dated June 23, 2003, recorded in the Town Clerk's office on June 24, 2003, the Board of Selectmen issued the Permit subject to certain required plan modifications, conditions and limitations.

2. Among other things, the Permit required the Applicant to provide for "25 parking spaces marked with signs indicating customer or employee parking only" (§ 2.1.1). The Permit provided that there "shall be no further development of this site without written consent of the Board of Selectmen as outlined within the Acton Zoning Bylaw" (§ 4.2). The Permit further provided that (§ 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 plans shall be certified by a Mass. Registered Land Surveyor.

3. On November 18, 2005, Acton Survey & Engineering, Inc., on behalf of the Applicant requested certain modifications to the Permit.

4. Pursuant to Section 5.12 of the Board of Selectmen's Rules and Regulations for said Plan Special Permits, at a duly noticed public meeting on December 19, 2005, the Board of Selectmen considered the Applicant's requests for modification set forth in Acton Survey's November 18, 2005 letter. The Applicant's principal, Leo Bertolami, attended the meeting, presented the Applicant's request to the Board, and was present for the Board's action on the Applicant's request.

5. The minutes of the Board's December 19, 2005 meeting reflect that the Board unanimously voted to approve the Applicant's requested modifications to the Approved Site Plans, subject to the express condition that the fencing on the north side shall be set back 5 feet from the building and fencing on the north east shall be set back a distance of 1.5 feet from the Conservation Restriction.<sup>1</sup>

6. The Applicant has reportedly completed construction on the project. However, based on the Building Commissioner's inspection of the property on September 5, 2006, the following aspects of the work do not conform to the Permit as modified by the Board of Selectmen on December 19, 2005:

- The fence to the north of the building does not conform to the Board's condition of December 19, 2005 for a 5 foot setback from the building.
- The fence to the northeast that does not conform to the Board's condition of December 19, 2005 for a 1.5 foot setback from the boundary of Conservation Restriction.
- Exterior lighting has not been approved or installed as per Finding 1.5 of the Decision
- The Plan provides for vertical curbing around the parking lot and slope granite curbing at the entrance. None of the vertical or sloped curbing has been installed according to the plan.
- The Plan provides for customer/employee signs. None of the signs has been installed.

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<sup>1</sup> The tape recording of the Board's meeting confirms that Selectman Magee moved, Selectman Hunter seconded, and the Board voted unanimously to accept site plan as presented, with the modification that the fencing on the northern side of the building, on the north side of the parking lot, follow the building at a 5 foot offset from the building and that the fencing at the northeast side of the subject site be placed at a distance of one and a half feet off the conservation restriction line.

- The landscaping has not been completed according to the approved Plan.
- 58'+/- of guardrail has not been installed along the westerly retaining wall as shown on the approved Plan.
- The final layer of parking lot pavement has not been completed.

7. Accordingly, the project has not been built in compliance with the Permit as amended, and the Applicant's engineer cannot comply with the requirement to submit "an as-built plan... certifying that the project was built according to the approved documents" (Permit § 3.1).

8. By letter dated August 14, 2006, Acton Survey & Engineering, Inc., on behalf of the Applicant, the Applicant has therefore requested after-the-fact modifications to the Permit as previously amended as shown on the following plans prepared by Acton Survey & Engineering, Inc. for the 60 Powdermill Road project:

Name of Plan	Date
Red-Lined Landscape Plan	June 1, 2006
Site Plan – Showing Red Line Revisions	November 16, 2005
Site Plan – Showing Re Line Revisions Option 1	December 12, 2005
Easement Plan	June 2003

9. The Red-Lined Landscape Plan dated June 1, 2006 shows a fence to the north of the building that does not conform to the Board's condition of December 19, 2005 for a 5 foot setback from the building.

10. The Red-Lined Landscape Plan dated June 1, 2006 shows a fence to the northeast that does not conform to the Board's condition of December 19, 2005 for a 1.5 foot setback from the boundary of Conservation Restriction.

11. The Conservation Restriction referenced above was granted by the Applicant to the Town by instrument dated July 13, 2004, recorded in the Middlesex South Registry of Deeds at Book 44333, Page 447.

12. At the time the Conservation Restriction was granted, the Applicant represented that the Applicant would be refinancing all outstanding mortgages on the property including the following:

- Mortgage to Citizens Bank of Massachusetts, as successor to Community National Bank of Hudson, Massachusetts recorded in the Middlesex South Registry of Deeds at Book 41471, Page 149 and Book 41471, Page 157.
- Mortgage to Middlesex Savings Bank of Natick, Massachusetts, recorded in the Middlesex South District Registry of Deeds at Book 20202, Page 201.

13. However, the Applicant has apparently never refinanced the mortgages, and the Applicant has never provided a fully executed Subordination, Non-Disturbance and Attornment Agreement pursuant to which the aforesaid mortgagees agree that (a) the mortgages shall be subject to the foregoing Conservation Restriction, (b) the covenants in the Conservation Restriction shall have the same force and effect as though executed and recorded before the grant of the aforesaid mortgages, and (c) the mortgages shall be subordinate to the Conservation Restriction.

14. At a site visit on September 25, 2006, among the Applicant and his attorney, and Town Counsel and representatives of the Town, a framework for resolving outstanding issues concerning the project was discussed and is set forth in the conditions below.

### Decision and Conditions

Based on the foregoing facts, the Board renders the following decision with respect to the amendments requested by letter dated August 14, 2006, by Acton Survey & Engineering, Inc., on behalf of the Applicant:

1. The Applicant has provided no persuasive justification as to why the improvements were installed in a manner that does not conform to the Permit and the Board's condition of December 19, 2005, of which the Applicant was personally aware based on his attendance at the December 19, 2005 meeting.
2. Except as set forth in the next condition, on or before January 25, 2007 (or such further time as the Board may for good cause allow), the Applicant shall relocate the fence currently installed to the north and northeast of the building so that it is made to conform to the fence line shown on the plan entitled "Conceptual Plan A, 60 Powder Mill Road," prepared by Acton Survey & Engineers, Inc., dated January 2002, revised 11/19/02 (General Revision). For clarity, the portion of the fence is to be relocated from its existing position to the location highlighted in yellow on a copy of the Conceptual Plan A attached hereto. The Applicant shall, at the same time, restore the area beyond the relocated fence to the natural, pre-existing condition prior to the development of the area in connection with this project.
3. Condition 2 shall not apply if, on or before January 25, 2007, the Applicant shall have applied to and obtained the permission of the Acton Conservation Commission, in the form of an Order of Conditions under the Wetlands Protection Act and Acton Wetlands Protection Bylaw, to maintain the area as currently fenced to the north and northeast of the building. If such permission is obtained, the fence may remain in its current position and need not be relocated under Condition 2. Otherwise Condition 2 shall control.

4. To ensure that the Applicant abides by Condition 2 hereof, the Applicant shall, prior to occupancy or use of any new building on the site, post with the Town pursuant to Section 1.6 of the Board's Site Plan Special Permit Regulations cash in the amount of \$5,000. Said amount shall be forfeited to the Town in the event that the Applicant does not achieve timely compliance with Condition 2 hereof. In the event the Applicant does achieve timely compliance with Condition 2 or in the event Condition 2 does not apply by virtue of compliance with Condition 3, said amount shall be returned to the Applicant.

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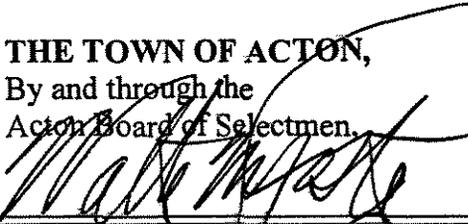
5. Prior to occupancy or use of any new building constituting a part of the project, the work shall be made to conform to the Permit as modified by the conditions set forth below.
6. Prior to occupancy or use of any new building on the site, the Applicant shall cause to be installed a fence (of the same height and type as currently existing to the north and northeast of the building) from the right rear corner of the building, parallel to the parking lot pavement line, to the existing diagonal fence, approximately as shown in blue on the copy of the Conceptual Plan A attached hereto. Said fence may have one gate, up to 4' wide. There shall be no snow storage and no parking or storage of vehicles or equipment beyond (to the north of) this fence.
7. Further without limitation, exterior lighting shall be installed as per Finding 1.5 of the Decision.
8. Further without limitation, vertical curbing around the parking lot and slope granite curbing at the entrance shall be installed.
9. Further without limitation, the required customer/employee signs shall be installed.
10. Further without limitation, the landscaping shall be completed according to the approved Plan.
11. Further without limitation, 58'+/- of guardrail shall be installed along the westerly retaining wall as shown on the approved Plan.
12. Further without limitation, the final layer of parking lot pavement shall be completed.
13. Prior to occupancy or use of any new building constituting a part of the project, the Applicant shall execute and shall cause all mortgagees with any outstanding recorded interest in the property covered by the Conservations Restriction to execute, and the Applicant shall deliver to the

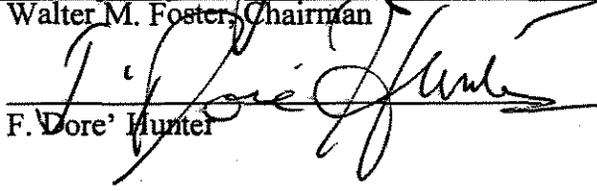
Building Commissioner a fully executed Subordination, Non-Disturbance and Attornment Agreement (in a form reasonably acceptable to counsel for the Applicant, the Town and the Mortgagee(s)) pursuant to which each such mortgagee shall agree that (a) its mortgage(s) shall be subject to the foregoing Conservation Restriction, (b) the covenants in the Conservation Restriction shall have the same force and effect as though executed and recorded before the grant of the aforesaid mortgages, and (c) its mortgage(s) shall be subordinate to the Conservation Restriction.

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14. Prior to occupancy or use of any new building constituting a part of the project, the Applicant shall deliver to the Building Commissioner an as built plan from the Applicant's engineer of record certifying that the project has been built in accordance with the Permit as amended by the Board's vote of December 19, 2005 and as set forth herein. 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 plans shall be certified by a Mass. Registered Land Surveyor.
15. Upon completion of the work required by the foregoing conditions, upon the delivery to the Building Commissioner the fully executed Subordination, Non-Disturbance and Attornment Agreement, and upon delivery to the Building Commissioner of the required as built plan, and upon compliance with all applicable laws, bylaws, rules and regulations, the Building Commissioner may issue an occupancy permit for the project.
16. All other relief requested by the Applicant shall be and hereby is denied.

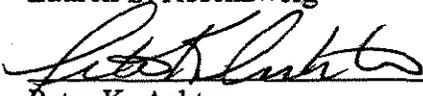
17. Except to the extent specifically modified as set forth herein, the Permit shall remain in full force and effect.

**THE TOWN OF ACTON,**  
By and through the  
Acton Board of Selectmen.

  
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Walter M. Foster, Chairman

  
\_\_\_\_\_  
F. Dore Hunter

\_\_\_\_\_  
Lauren S. Rosenzweig

  
\_\_\_\_\_  
Peter K. Ashton

\_\_\_\_\_  
Andrew D. Magee

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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.

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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.

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- 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.

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**4.0 Limitations**

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

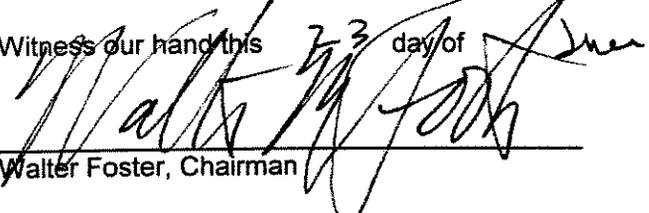
- 4.1 This permit applies only to the site, which is the subject of this petition. All construction shall be conducted in accordance with the terms of this permit and shall be limited to the improvements shown on the Plan.
- 4.2 There shall be no further development of this site without written consent 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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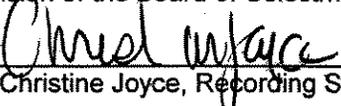
5.0 **Appeals**

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 23 day of June, 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

June 24 2003  
\_\_\_\_\_  
Date filed with Town Clerk

  
\_\_\_\_\_  
Edward J. Ellis, Town Clerk

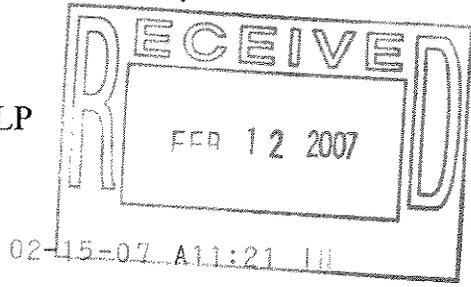
TO WHOM IT MAY CONCERN: This is to certify that the 20 day appeal period on the Decision of Autoplex Realty LLC. has passed and there have been no appeals made to this office.

\_\_\_\_\_  
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

✓ Bruce NY 2/11/07  
BoS Mail 02-16-07



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JOHN P. CARR  
SHANNON MICHAUD

OF COUNSEL  
—  
JAMES W. MURPHY  
WAYNE H. SCOTT

February 13, 2007

Via Email & First Class Mail

Garry A. Rhodes, Building Commissioner  
Town of Acton  
472 Main Street  
Acton, MA 01720

**Re: Bertolami; 60 Powder Mill Road, Acton, MA**

Dear Garry:

At the Selectmen's meeting on Monday evening, February 12, 2007, the Selectmen took the following action:

**50 Powder Mill Road:**

First, with respect to the Department's recommendation that a non-display license issue for 54 Powder Mill Road, after some discussion, the Selectmen declined to take action. According to our testimony, there is no lot known as 54 Powder Mill Road on the Assessor's Map. According to our records, Lot 50 Powder Mill Road consists of buildings and .83 acres. I am attaching a copy of the most recent tax bill for the lot. The Board wants to be certain as to where the non-display automobiles will be located. We stated that we would follow up with you and inquire as to where you believe 54 Powder Mill Road is located for purposes of the non-display license.

We indicated to the Board that we would be seeking a determination from the ZBA with respect to whether the property has status for parking on the Lot as a pre-existing, nonconforming use. We will send that appeal under separate cover.

Garry A. Rhodes, Building Commissioner  
Town of Acton  
February 14, 2007  
Page 2

**60 Powder Mill Road:**

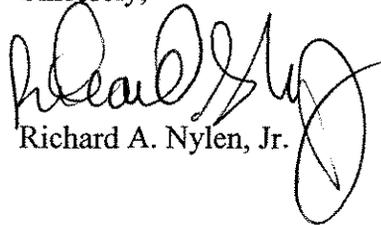
With regard to 60 Powder Mill Road, the Board voted to schedule a public hearing on March 12, 2007 on our request to amend the Special Permit to reconfigure and re-designate a different number of spaces for customers/employees and display.

In addition, at our request, the Board voted to allow the Applicant to re-designate the number of automobiles and to bring more display automobiles onto the property during the next thirty (30) days provided that the total number does not exceed 45 automobiles. In the next thirty (30) days we will provide support for the amendment. The Selectmen's vote was only for thirty (30) days up until the date of the public hearing through March 12, 2007.

Please contact me if you have any questions.

Thank you for your assistance.

Sincerely,



Richard A. Nylan, Jr.

RAN/kad  
Enclosure

cc: Mr. Leo Bertolami  
Mr. Mark Donahoe  
Stephen D. Anderson, Esq.  
Don P. Johnson, Town Manager

**FISCAL YEAR 2007 PROPERTY TAX BILL**

Based on assessments as of January 1, 2006, your Property Tax Bill for the Fiscal Year beginning July 1, 2006 and ending June 30, 2007 on the parcel of Real Estate and/or Personal Property described below:

**COMMONWEALTH OF MASSACHUSETTS  
TOWN OF ACTON**

DATE OF MAILING	BILL NUMBER
12/31/2006	006179-3

This form approved by the Commissioner of Revenue

CLASS RATE	RESID. 1	OPEN SP. 2	COMM. 3	INDUST. 4	PROPERTY VALUES		SPECIAL ASSESSMENTS	BILLING SUMMARY	
					DESCRIPTION	CLASS VALUE		TYPE	AMOUNT
	14.62	14.62	14.62	14.62					
Interest at the rate of 14% per annum will accrue on overdue payments from the due date until payment is made.					FULL VALUE	674,600	CPA	147.94	1st Quarter Bill 1,565.03
PROPERTY DESCRIPTION					TAXABLE VALUE	674,600			2nd Quarter Bill 1,565.02
Location: 50 POWDER MILL RD Parcel ID: J3-49 Acreage: 0.830ac Class: 330 Book-Page: 41471-146					John Murray III				3rd Quarter Bill 3,440.28
									Tax Paid to Date 3,130.05
									BALANCE NOW DUE
									BY 02/01/2007 3,440.28
									<b>PAID</b>
									FEB 1 2007
									<b>TOWN OF ACTON!</b>
									Q3 CPA 50.85
									Q3 REAL
									PROP. TAX 3389
									Q3 TOTAL DUE 3440.28

ASSESSED  
OWNER  
AS OF  
JAN. 1, 2006

**AUTOPLEX REALTY LLC  
6 PROCTOR STREET  
ACTON, MA 01720**

**TAXPAYER'S COPY - RETAIN FOR YOUR RECORDS**

16100180750034 00000061796 0003440286

MAKE CHECK PAYABLE TO: TOWN OF ACTON AND RETURN BOTTOM PORTION IN ENVELOPE PROVIDED, OR MAIL TO: 412 MAIN ST. ACTON, MA 01720

DETACH

DETACH