

**CONSENT CALENDAR ITEM A
Meeting of October 10, 2017**

Planning Department Memorandum to Planning Board

Subject: Amended Site Plan Approval – CarMax Auto Superstore – 415 Maine Mall Road

INTRODUCTION

CarMax Auto Superstore Inc. is requesting an amendment to a previously approved site plan and special exception approval of the CarMax automobile sales facility located at 415 Maine Mall Road. The applicant is proposing to relocate an approved above ground fuel storage tank to an underground fuel storage tank, per Section 8-4.14 and the local fire department. The site has not changed any further. The property is further identified as Assessor's Map 74, Lots 9, located within the Central and Regional Commercial District (CCR).

Public hearing notices were mailed on September 29, 2017, to the 14 property owners within 500 feet of the proposed project, the applicant and were sent via email to the Conservation Commission, Planning Board, and City Council. However, unless any persons attend the Planning Board meeting for this item and wish to testify, the minor nature of the propose site modifications qualify the application for being considered by the Planning Board as a Consent Calendar item (i.e., no public hearing).

This site plan submission will be reviewed under Chapter 27, Article XIV Site Plan Review, and in compliance with Article VII Central & Regional Commercial District (CCR).

SUBMISSION CHRONOLOGY

Original site plan approval: December 13, 2016

Amended site plan application submitted: September 19, 2017

Application complete for review: September 19, 2017

PROJECT DATA

Zoning:	Central & Regional Commercial District (CCR)
Land Area:	5.68 acres
Existing Land Use:	Automobile sales
Proposed Land Use:	To install an underground fuel storage tank instead of an above ground tank as originally approved.

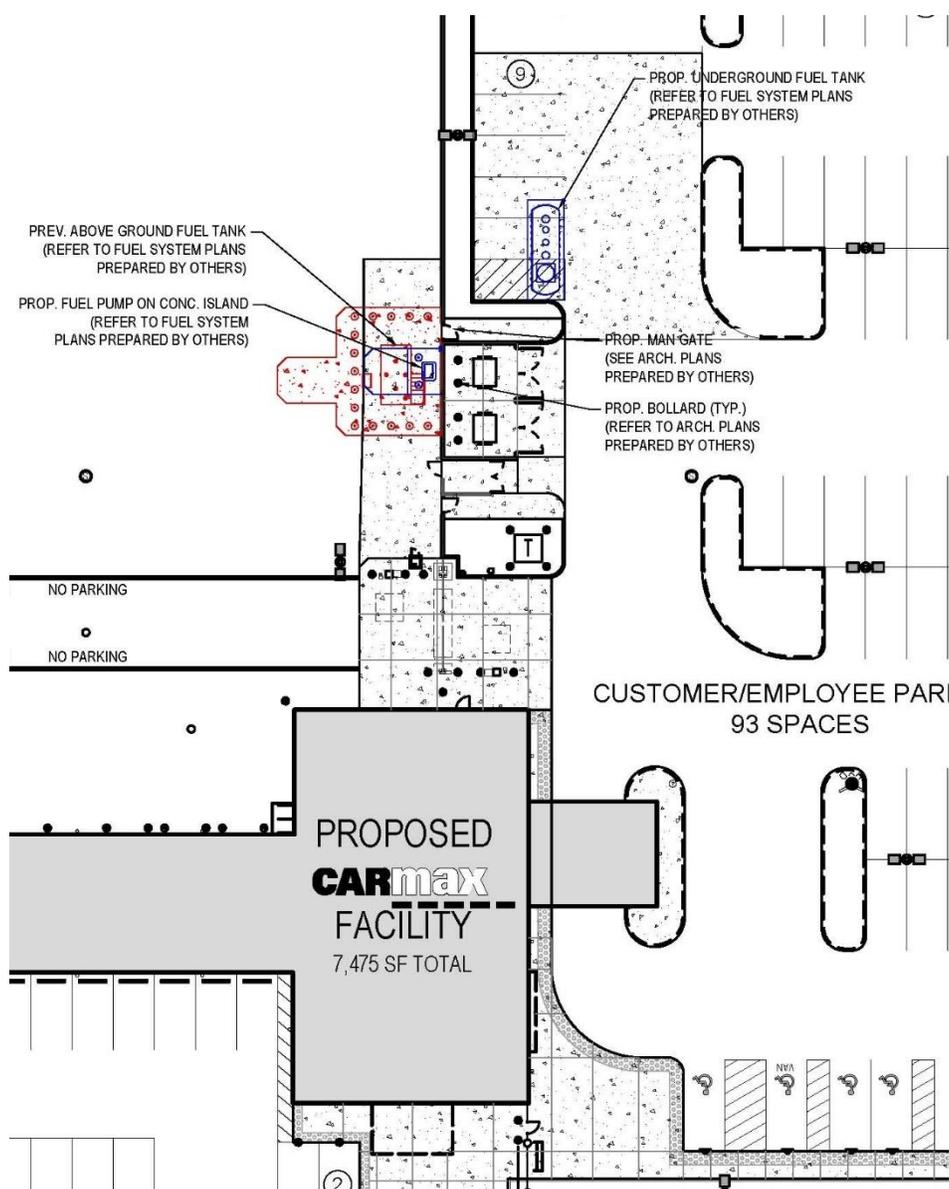
PROPOSED SITE MODIFICATION

After the original approval by the Planning Board last December, the South Portland Fire Department determined that an above ground fuel storage tank as CarMax had planned to use in connection with its automobile sales operation was not allowed according to Chapter 8 of the South Portland Code of Ordinances:

Sec. 8-4.14 Districts in Which Storage of Flammable Liquids in Outside Aboveground Tanks Prohibited.

- (a) Storage of flammable liquids in outside aboveground tanks is prohibited in the following zoning districts: Zoning districts Residential District (A), Residential District (AA), Residential District (G), Rural Residential District (RF), Village Residential (VR), Transitional Residential (RT), Limited Business (LB), Village Commercial (VC), Village Commercial-Willard (VCW), Suburban Commercial (CS), General Commercial (CG), Professional Office District (PO), Transitional Central & Regional Commercial (CCRT), **Central and Regional Commercial (CCR)**, Shipyard (S), Conditional Residential (A-1), Conditional Shipyard (S-1), Conditional Residential (G-1), Conditional Residential (G-2), Conditional Residential & Limited Commercial Use (G-3) and Conditional Armory Zone (CAZ) as shown on the "Official Zoning Map of the City of South Portland" dated September 8, 2010, as may be amended from time to time, certified by the attested or conformed signature of the City Clerk.

In response, CarMax returned the above ground tank it had acquired and submitted an amended site plan application in order to obtain approval to install an underground tank. The difference in the original and approved plan is depicted below:



CONSULTING ENGINEER REVIEW

The peer review consulting engineer, Dan Riley of Sebago Technics, had no concerns or comments regarding the proposed changes to the site plan (email to Tex Haeuser of 10-4-17).

FIRE DEPARTMENT REVIEW

Acting Deputy Fire Chief Michael Williams provided a letter to Steve Puleo of 9-27-17 that raises no objections to the proposed underground tank installation while detailing the NFPA, BOCA, and other codes and requirements that will have to be met (see attached).

DEP REGISTRATION

CarMax has provided evidence of having submitted the necessary DEP underground tank registration documents in the form of a 9-1-17 letter from John Dunlap, Division of Petroleum Management:

This letter is to acknowledge the Department's receipt of your registration materials on September 1, 2017 for either a new tank and piping or the replacement of ancillary equipment at the CarMax, South Portland, Maine. Maine Statute dictates that the installation may take place ten (10) business days following Department notification *Oil Storage Facilities and Groundwater Protection*, 38 M.R.S. § 563(1)(A) (2011). This installation may begin on September 15, 2017. Have a copy of your registration and display this letter in a prominent place during the construction or replacement activities.

RECOMMENDATION

Based on the technical review of information submitted by the applicant from September 19, 2017, through September 28, 2017, and drawings from August 2, 2017, through September 6, 2017, staff recommends the following action for the Board:

AMENDED SITE PLAN APPROVAL

I move to approve the amended site plan application of CarMax Auto Superstore, Inc., submitted on September 19, 2017 and revised through September 28, 2017, and drawings from August 2, 2017, through September 6, 2017, to substitute an underground fuel storage tank for an above ground tank and related fuel system improvements with the following conditions:

CONDITIONS

1. Planning Board Regulation #5, standard condition of approval: This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. No project, plan or development previously approved by the Planning Board may be altered or modified without securing prior approval of the Planning Board in the form of an amended approval; provided, however, that, if at any time it becomes necessary or desirable to make modifications to the project, plan or development, the Planning Director may approve modifications determined by the Planning Director to be de minimis in that they (i) do not amount to a waiver or substantial alteration of any condition or requirement set by the Planning Board; (ii) do not affect any approval standard; (iii) meet all applicable ordinances and laws; (iv) are reviewed and approved by all appropriate City staff and consultants; and (v) do not involve any change to lot lines. De minimis changes include only the modifications listed in Section 24-27 of the Subdivision Ordinance and Section 27-140 of the Zoning Ordinance.
2. Except for the amendments approved as part of this amended site plan approval, all other elements and requirements, including conditions of approval, from the December 13, 2016 Findings of Fact remain in effect.



Planning Director
10/5/2017

Attachments:

1. Approval letter and Findings of Fact from the original December 13, 2016 approval.
2. Fire Department letter of 9-27-17.