



DEPT. OF COMMUNITY
DEVELOPMENT
PLANNING DIVISION
301 W. CHESTNUT
PHONE: (479) 621-1186
FAX: (479) 986-6896

BOARD OF ADJUSTMENT MEETING AGENDA

MAY 2, 2023

5:30 PM

DATE: MAY 2, 2023

LOCATION: CITY HALL, 301 W. CHESTNUT STREET

REGULAR SESSION: 5:30 PM

ONLINE VIEWING: [HTTPS://US02WEB.ZOOM.US/J/85674467182](https://us02web.zoom.us/j/85674467182)

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AGENDA

CALL TO ORDER:

ROLL CALL:

NEW BUSINESS:

1.

(VAR 23-23) A request by CarMax for a variance to allow a reduction of the minimum tree island requirement at ±17.49 acres S. Dixieland Rd in the C2-CU (Highway Commercial-Condominium Unit) zoning district.

- *STAFF: Zachery Birdsong*
- *REPRESENTED BY: Scott Dallam*

ACTION ON MINUTES:

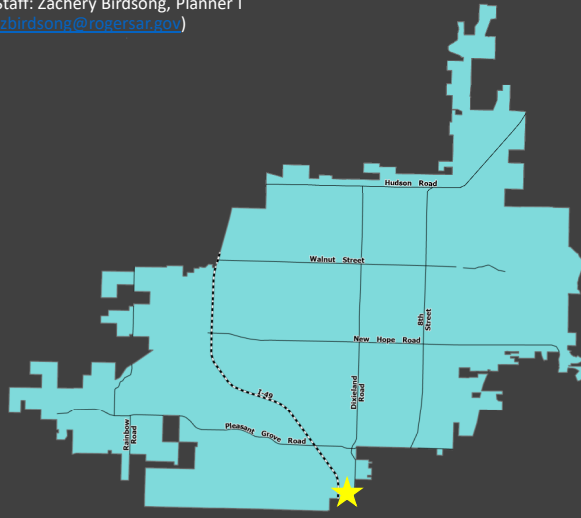
ADJOURN:



Variance CarMax

PLANNING

Staff: Zachery Birdsong, Planner I
(zbirdsong@rogersar.gov)



Vicinity Map

Location

East of I-49 and West of North Dixieland Rd.
bordering Lowell city limits

Nature of Request

To waive parking lot tree landscaping in car
sales/inventory and staging areas

Zoning

C-2 (Highway Commercial)

Proposed Use

Vehicle Sales

Representative

Scott Dallam, Centerpoint

Summary:

This project is a CarMax development for vehicle sales and is located just north of Lowell city limits in-between the interstate and North Dixieland Road.

Parcel: 02-18156-000

Zoning:

C-2 (Highway Commercial): The purpose of the Highway Commercial zone is “intended for commercial uses, which depend upon high visibility, generate high traffic volumes or cater to the traveling public. These characteristics dictate that this district be located along or at the intersections of arterial classification streets or along frontage roads adjacent to the interstate or other limited-access streets.

Sec. 14-709(a).

Growth Designation:

Commerce Corridor

Growth Designation Purpose:

To serve as an extension of the Uptown Regional Center in a way that provides for high-intensity development while respecting established residential and commercial patterns along the I-49 corridor. (CGM PAGE 1)

Growth Designation Character:

Interstate-adjacent areas intended for development that maximizes land use efficiency through vertical form, shared or hidden parking, horizontal or vertical mixed use, and judicious use of open space. Development should provide walkability and access to multi-modal transportation network. Goals include encouraging compact urban-style design, while discouraging suburban forms such as apartment complexes. (CGM PAGE 1)

Allowed Zoning Districts:

R-MF, U-NBT, R-O, C-2, C-4



Board of Adjustment

PLANNING

(e) Appeals; powers and duties. Sec. 14-724(e)(1)(a)(b)

(1) The Board of Adjustment shall hear the following appeals as provided by state law:

- a. Hear appeals from the decision of the Department of Community Development in respect to the enforcement and application of the zoning ordinance and the sign permitting provisions contained in Chapter 44, and may affirm or reverse, in whole or in part, said decision of the Department of Community Development; and
- b. Hear requests for variance from the literal provisions of the zoning ordinance in instances where strict enforcement of the zoning ordinance would cause undue hardship due to circumstances unique to the individual property under consideration, and grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning ordinance.

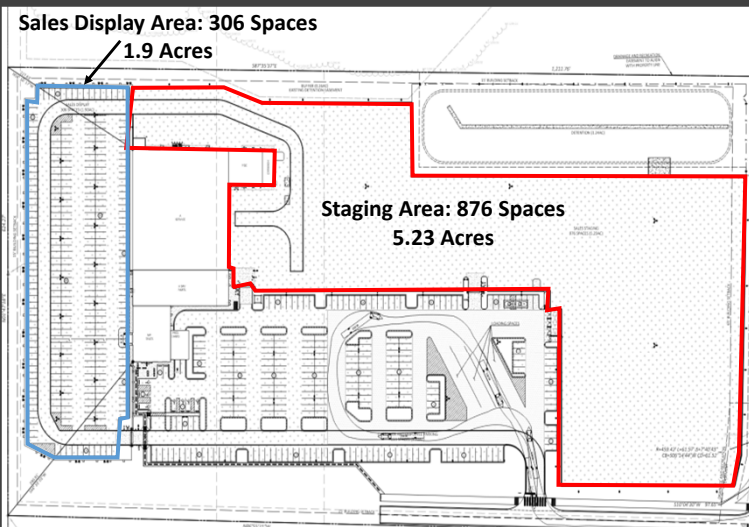
Board of Adjustment Duties Per Sec. 14-724(e)(1):

- a) Hear appeals from the decision of the Department of Community Development in respect to the enforcement and application of the zoning ordinance and the sign permitting provisions contained in Chapter 44, and may affirm or reverse, in whole or in part, said decision of the Department of Community Development; and
- b) Hear requests for variance from the literal provisions of the zoning ordinance in instances where strict enforcement of the zoning ordinance would cause undue hardship due to circumstances unique to the individual property under consideration, and grant such variances only when it is demonstrated that such action will be in keeping with the spirit and intent of the provisions of the zoning ordinance.



Variance CarMax

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Site Plan

Request

- To waive the large scale requirement from Sec. 14-256(14) mandating that parking lots shall be landscaped with narrow tree lawns or tree islands in the vehicle storage/sales display and staging areas.
- The portion outlined in red is the sales staging area totaling 5.23 acres and containing 876 spaces.
- The portion outlined in blue is the sales display area totaling 1.9 acres and containing 306 spaces.

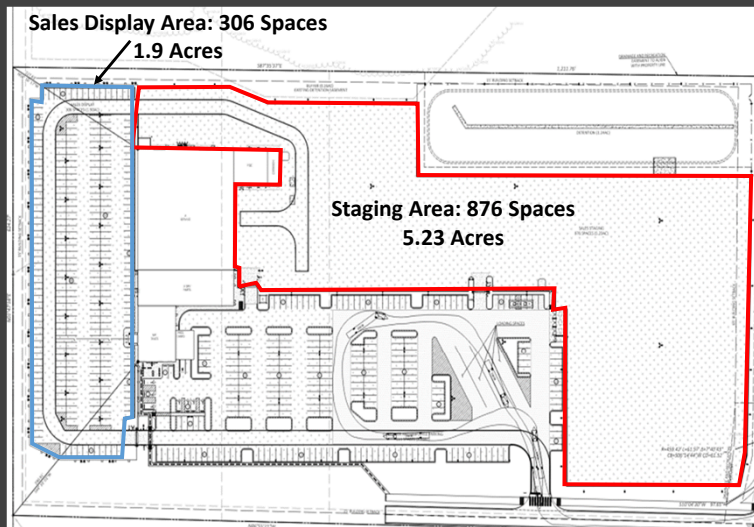
Request:

- The applicant is requesting to waive the large scale requirement mandating that parking lots with ten or more spaces be landscaped by either tree islands or narrow tree lawns. This request is for the vehicle staging/sales display areas only.
- The portion of the site plan outlined in red is the sales staging area containing 5.23 acres and 876 parking spaces.
- The portion of the site plan outlined in blue is the sales display area containing 1.9 acres and 306 parking spaces.



Variance CarMax

PLANNING



Site Plan

Stated Hardship

The applicant states that 1.47 acres of land will be dedicated to the city for Garrett Road, which decreases the usable area of the site.

Spirit and Intent

The applicant expressed that due to the areas in question being solely for inventory and storage of vehicle sales, this should allow some leniency from parking lot landscaping requirements.

Stated Hardship:

- The applicant references the 1.47 acres of land being dedicated to the city for Garrett Road as a hardship. They state that it decreases the usable area of the site. They also express that the sales and staging areas are not open to the public and are separated from customer parking by a fence.

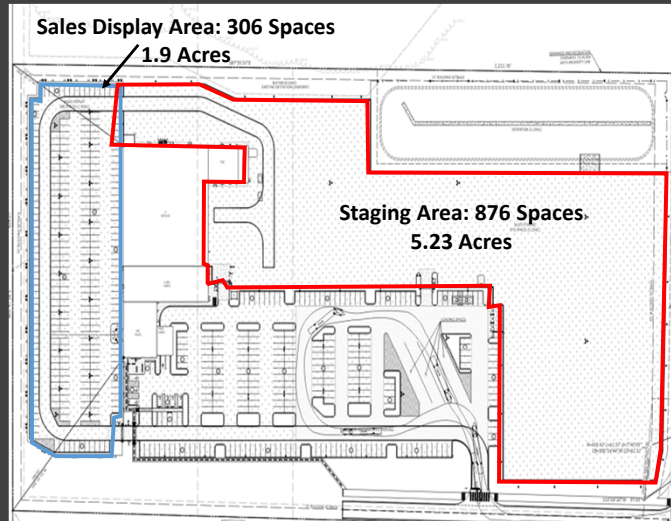
Spirit and Intent:

- The applicant expressed that some leniency from parking lot landscaping requirements should be attributed here due to the areas in question being solely for inventory and storage of vehicle sales rather than for customer parking.



Variance CarMax

PLANNING



Site Plan

Analysis

- Staff does not find the donation of land to the city for Garrett Road to be a hardship.
- The spirit and intent of this requirement is not intended specifically for customer parking lots but rather parking lots in general.
- The applicant has not demonstrated a valid hardship. They have also not shown how approval of this variance would be in keeping with the spirit and intent of the code being varied.

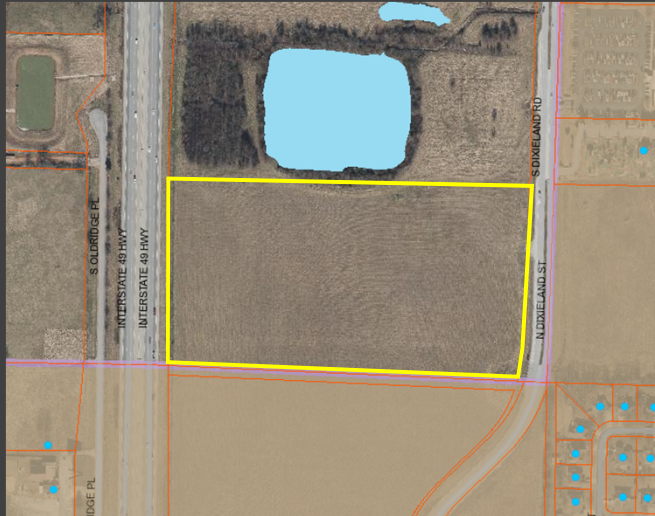
Analysis:

- The donation of land to the city for Garrett Road is a requirement by code, staff does not find this to be a hardship.
- The spirit and intent of this requirement is to mitigate the negative impacts that large parking lots create. Large contiguous parking lots affect water quality, stormwater management, air quality and create heat islands. Tree islands help mitigate these impacts.
- The applicant has not demonstrated a valid hardship and they have not shown how approval of this variance would be in keeping with the spirit and intent of the code being varied.



Variance CarMax

PLANNING



Aerial Map

Recommendation

- **DENY** variance from Sec. 14-256(14) waiving the requirement that parking lots containing ten or more spaces be landscaped for the vehicle sales and staging areas.

Recommendation:

- Staff recommends denial of the request.

MEMORANDUM

TO: John M. Pesek, Senior Staff Attorney
FROM: Bailey Crossett, Staff Attorney
DATE: March 21, 2023
RE: **Preliminary Report on CarMax Variance Request**

QUESTION PRESENTED

Does the requirement from Sec. 14-256(14), which mandates that parking lots containing ten or more spaces shall be landscaped with narrow tree lawns or tree islands, apply to CarMax's vehicle storage and sales display and staging areas?

SHORT ANSWER

Yes, the requirement in Sec. 14-256(14) mandating certain landscaping requirements in parking lots does apply to vehicle storage and sales display and staging areas.

DISCUSSION

As Zachery mentions in his overview, *Parking Lot Tree Islands/Greenspace*, the purpose of incorporating landscaping into large parking areas is much more than aesthetics. He states that impervious man-made surfaces generate two to six times more runoff than a natural surface and pipes, curbing, and gutters quicken the flow of that runoff. By mandating landscaping such as tree islands and greenspaces, the flow of runoff is lessened in both volume and speed. These greenspaces help filter out pollutants that negatively affect water quality. Large contiguous parking lots absorb more heat than natural surfaces, creating heat islands throughout the area. The overall temperature increases and retains heat, particularly in the summer.

The City of Rogers' Drainage Criteria Manual states that a site's drainage system is critical to protect adjacent streets and properties from flooding. *Drainage Criteria Manual p. 16*. Best Management Practices for new developments commonly include disconnecting impervious areas and utilizing grass buffer strips to assist stormwater drainage. *Drainage Criteria Manual p. 18*.

The requirement for parking lots containing ten or more spaces to be landscaped with tree islands or other greenspaces does was adopted to help stormwater runoff, pollution, and heat issues. A "parking lot" is defined as any area subject to wheeled traffic including access used for which the primary intended use is parking. Sec. 14-1. The definition, while vague, does not limit the use of a parking lot to travelers or customers who are using the space for parking. However, the City's Drainage Criteria Manual also discusses minimizing any "directly connected impervious areas" or DCIAs to reduce the quantity of runoff and the amount of pollutant wash-off. *Drainage Criteria Manual p. WQ-7*. The City requires new developments to incorporate specific design features. Developers must use one or more of the following water quality design principles: (1) minimize the amount of runoff; (2) maximize contact with grass and vegetated soil; (3) maximize holding and settling time; (4) design for small, frequent storms; (5) utilize BMPs in series where feasible; (6) incorporate both flood control and stormwater objectives in designs, where practical; and (7) provide special care for runoff from fueling areas and other areas having a high concentration of pollutants. *Drainage Criteria Manual p. WQ-7 and 8*. The use of the parking lot, whether for vehicle storage or for customer parking, does not affect the issues created by large contiguous parking lots, or DCIAs. The City's Drainage Criteria Manual is clear that the purpose of requiring tree islands and other greenspace to otherwise contiguous paved areas is to protect streets and adjacent properties from flooding. If the City were to allow CarMax to build a

contiguous impervious area with no greenspace it would be in direct contradiction with the City's Drainage Criteria Manual.

Additionally, the City has the authority to refuse to accept a large scale development plan if said plan would negatively impact the existing services, including utilities, streets, drainage systems or other municipal services, when taking into account density, scale of proposed development, the comprehensive growth plan, the master street plan, location and other qualities of the development. Sec. 14-230(c)(7). Even though the specific requirement of parking lot tree islands and greenspaces is vague in this context, the City has the authority to require a stormwater drainage plan that would not increase the volume and decrease the quality of the runoff to the extent that it would negatively impact streets and drainage systems.

CONCLUSION

It is in the best interests of the City to recommend denial of the variance request by CarMax to waive the requirements for tree islands in their contiguous parking lot. While the definition of a parking lot is vague in this context, the City's Drainage Criteria Manual extends the requirement to reduce runoff to all directly connected impervious areas. The requirements in the Drainage Criteria Manual are less specific than those in Sec. 14-256(14), however, they are still present. The City should recommend denial of the variance request.