

Orr&Reno

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October 11, 2019

VIA HAND DELIVERY

The Honorable James Bouley, Mayor,
and Members of the Concord City Council
c/o The City of Concord
41 Green Street
Concord, NH 03301
Attn: Janice Bonenfant, City Clerk

Re: Motor Vehicle Storage & Display Zoning Ordinance Amendment

Dear Mayor Bouley and Members of the Concord City Council:

I am writing on behalf of Banks Chevrolet Cadillac Buick GMC and its real estate affiliate, Daval Realty Associates, L.P. (collectively, "Banks"), to propose an amendment to Article 28-5-19 of the Zoning Ordinance. Banks is one of Concord's oldest and most successful auto dealers. Banks employs more than 270 people and contributes to the City's economy in many ways. However, Article 28-5-19 as currently written impedes Banks's growth and success.

The issue is landscaping. Banks, like many businesses, understands that attractive perimeter landscaping is good for business. But despite the differences between parking lots and motor vehicle display areas, the City has stated that Article 28-5-19 requires strict application of Article 28-7-10, Parking Area Landscaping Standards, to all motor vehicle display areas. This application severely limits Banks's ability to store and display inventory. No one believes that the application of Article 28-5-19 in this manner makes any practical sense. Banks's proposed amendment solves this problem by balancing the needs of the auto dealers with the City's desire for attractive, street-facing landscaping.

As required under Article 28-10-2(a), this proposal contains a description of the proposed amendment; statement of the purpose and intent; statement of the effect on Concord's economy, environment, municipal services, municipal facilities, and neighborhoods; and contact information of the amendment's sponsors.

I. Description of the Proposed Amendment

The proposed amendment creates a separate landscape standard for motor vehicle display areas. The amendment clarifies the extent and quality of landscaping that is required for display

areas. It eliminates interior landscape islands that displace inventory and obstruct snow removal. It requires trees and perimeter landscaping similar to that required under Article 28-7-10(a), (b), and (d). Also, the proposed amendment clarifies that motor vehicle storage may be associated with motor vehicle display on an abutting property.

Current Article 28-5-19 - Motor Vehicle and Recreational Equipment Sales.

The outdoor display area for the sale or leasing of motor vehicles, recreational vehicles, and recreational equipment shall comply with the parking lot design standards for surfacing, drainage, landscaping, illumination and curbing in accordance with the provisions of Sections 28-7-7(g), Setbacks and Restrictions; 28-7-7(h), Surfacing and Drainage; 28-7-7(i), Curbing and Guardrails; 28-7-7(j), Illumination of Parking Areas; and 28-7-10, Parking Area Landscaping Standards, of this ordinance.

Proposed Article 28-5-19 - Motor Vehicle and Recreational Equipment Sales. (Added text is underlined; deleted text is ~~stricken~~).

The outdoor display area for the sale or leasing of motor vehicles, recreational vehicles, and recreational equipment shall comply with the parking lot design standards for surfacing, drainage, ~~landscaping~~, illumination and curbing in accordance with the provisions of Sections 28-7-7(g), Setbacks and Restrictions; 28-7-7(h), Surfacing and Drainage; 28-7-7(i), Curbing and Guardrails; and 28-7-7(j), Illumination of Parking, Areas; ~~and 28-7-10, Parking Area Landscaping Standards, of this ordinance.~~

(a) The outdoor display area for the sale or leasing of motor vehicles, recreational vehicles, and recreational equipment shall require a landscaped area of fifteen (15) feet in depth along the perimeter of the lot. Such landscaped area shall require at least one (1) live shade or ornamental tree every fifty (50) feet within each contiguous landscaped area. Such trees shall have a minimum trunk diameter of two and a half (2 ½) inches, measured twelve (12) inches above ground level.

(b) Motor vehicle storage may be permitted in conjunction with motor vehicle display if such storage is located on a lot for which motor vehicle sales is the principal use or on a lot abutting a lot for which motor vehicle sales is the principal use.

II. Purpose and Intent of Proposed Amendment

The purpose of the proposed amendment is to clarify the landscaping requirements in this zone while maintaining an aesthetic standard. Motor vehicle sales are a permitted use only in the CH district. The CH district includes Manchester Street, where most Concord auto dealers are

located. The auto industry requires extensive inventory storage on-site, and the City requires attractive perimeter landscaping along collector and arterial streets, like Manchester Street. The proposed amendment satisfies both interests because it allows auto dealers to flexibly display and store vehicles while requiring them to landscape the perimeter of their property.

III. Effect of Proposed Amendment on Concord's Economy, Environment, Municipal Services, Municipal Facilities, and Neighborhoods

The proposed amendment will enhance Concord's economy. All of Concord's auto dealers are subject to the same constraints currently imposed by the landscaping standards required under Article 28-5-19. If the landscaping requirements under the current ordinance were being strictly enforced, every auto dealer on Manchester Street—Nissan, Key Auto, Lovering Volvo, Kia—would have at least 10 feet of a perimeter buffer with one live shade or ornamental tree per every 1,000 square feet of parking area. If every auto dealer was required to comply with these requirements, then the area available for display and storage of inventory would be greatly reduced, in turn reducing sales.

The proposed amendment clarifies that auto dealers need to provide fifteen feet of perimeter landscaping and one tree per every 50 feet of contiguous landscaping. This standard will be easier for businesses to apply and for the City to enforce. It will create certainty for auto dealers. It will also allow the auto dealers to meet the current requirements of their franchisors and the auto industry, which requires significantly more on-site inventory than before. If Banks and the other auto dealers are able to sell more cars, then Concord's economy will improve.

The proposed amendment will not affect the natural environment. By requiring trees and a perimeter buffer, the proposed amendment will add green space, reduce impervious surface area as properties are brought up to compliance, and improve the aesthetics of inventory and display areas.

The proposed amendment will not affect municipal services or facilities. And, the landscape standard in the proposed amendment will be easier to enforce. There will be no artificial overlay of "parking space" dimensions on a motor vehicle display or storage area. When inspecting for compliance under the amended ordinance, inspectors will simply measure the width of the perimeter landscaping and the distance between the trees.

The proposed amendment will improve the appearance of the Manchester Street neighborhood. Currently Manchester Street has no property that complies with the landscape standards required under the current ordinance. Most properties with outdoor display or storage lack landscaping. Realistic landscaping requirements will provide incentives for auto dealers to improve their lots. The proposed amendment will impose achievable landscaping requirements that will improve the Manchester Street neighborhood aesthetics.

IV. Contact Information of Amendment Sponsors

This amendment is proposed by Daval Realty Associates, L.P., the real estate affiliate of Banks Chevrolet Cadillac Buick GMC, and the owner of property at 137 Manchester Street, in Concord (Map/Block/Lot 110/E 2/ 3), located in the CH district.

Property Owner:

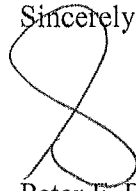
Name: Daval Realty Associates, L.P.
Address: 137 Manchester Street, Concord, NH 03301
Telephone: (603) 419-8000

Property Representative:

Name: Orr & Reno, P.A., Attn: Peter Burger, Esq.
Address: 45 South Main Street, P.O. Box 3550, Concord, NH 03302
Telephone: (603) 223-9104

We request that you refer this proposed amendment to the Planning Board in accordance with Article 28-10-3(a). We look forward to working with the City Staff to address this issue. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to be 'Peter F. Burger', written over a large, stylized number '8'.

Peter F. Burger

PFB/ljh

cc: Banks Chevrolet Cadillac Buick GMC
Craig Walker, Zoning Administrator
Carlos Baia, Deputy City Manager
Robert Carey, Esq.