RESOLUTION No. 04-102

A RESOLUTION AUTHORIZING A CONDITIONAL USE FOR OUTDOOR VEHICLE AND EQUIPMENT SALES ON 1.05 ACRES ZONED "LC" LIMITED COMMERCIAL, LOCATED AT EAST OF THE RIDGE ROAD – KELLOGG INTERCHANGE, ON THE NORTH SIDE OF KELLOGG, ALONG THE KELLOGG FRONTAGE ROAD IN THE 6800 BLOCK OF WEST KELLOGG IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D, AS ADOPTED BY ORDINANCE NO. 44-975, AS AMENDED.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section V-D of the Wichita-Sedgwick County Unified Zoning Code, a Conditional Use to permit outdoor vehicle and equipment sales on 1.05 acres zoned "LC" Limited Commercial legally described below:

Case No. CON2003-00052

A Conditional Use Permit Outdoor Vehicle and Equipment Sales, on 1.05 acres zoned "LC" Limited Commercial described as:

> Lot 1, Clinton Addition to Wichita, Sedgwick County, Kansas, except: Beginning at the Southeast corner of said Lot; thence S 87 degrees 14' W along the South line to the West line of said Lot; thence N 01 degree 28' W, 28.5 feet along said West line; thence S 87 degrees 38' E, 95.3 feet; thence N 87 degrees 16' E to a point on the East line, 19.9 feet north of said Southeast corner; thence S 01 degree 28' E, 19.9 feet along said East line to the place of beginning. Generally located east of the Ridge Road – Kellogg Interchange, on the north side of Kellogg, along the Kellogg frontage road, in the 6800 block of West Kellogg.

SUBJECT TO THE FOLLOWING CONDITIONS:

1. All requirements of Article III, Section III.D.6.x. of the Unified Zoning Code shall be met.

2. In addition to uses permitted in the "LC" Limited Commercial district, the site shall be limited to the sales of cars and light trucks. No sale or rental of trailers, vehicles or trucks larger than pick ups. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business.

3. Any automotive service or repair work conducted on the site shall be entirely within a building. No body or fender work shall be permitted without first obtaining "GC" General Commercial zoning.

4. The two existing drives onto the Kellogg frontage street from site (Lot 1, Clinton Addition) closest to the intersection on the southwest corner of the site shall be closed, and the applicant shall provide a guarantee for closure of these drives in a form suitable to the City Engineer within 6 months of approval of the Conditional Use by the MAPC or governing body, as applicable, per the approval of the City Traffic Engineer.

5. The applicant shall dedicate by separate instrument complete access control except for one opening along the property's Kellogg frontage street and one opening onto the street/access easement on the site's west within 6 months of approval of the Conditional Use by the MAPC or governing body, as applicable.

6. Parking spaces for employees and customers shall be provided on the property as required by the UZC and in conformance with the standards established by the City Traffic Engineer. The parking spaces shall be marked and designated for employees and customers and shall not be used for display or storage of vehicles for sale, unless the vehicle is driven by an employee. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business unless additional parking spaces for such businesses are provided per a revised site plan approved by the Planning Director.

7. No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons.

8. No outside storage of salvaged vehicles or parts shall be permitted in association with this use.

9. A revised landscape plan shall be submitted showing a landscaped street yards and required landscaping, which shall be provided and maintained on the property as approved by the Planning Director within 6 months of approval of the Conditional Use by the MAPC or governing body, as applicable.

10. A revised site plan reflecting the conditions of approval (including Section III.D.6.x. of the Unified Zoning Code) shall be submitted for approval by the Planning Director within 6 months of approval of the Conditional Use by the MAPC or governing body, as applicable.

11. The site shall be developed in general conformance with the approved site plan and landscape plan. All improvements shown on the approved site plan and landscape plan shall be completed within one year of approval of the Conditional Use by the MAPC or governing body, as applicable. No sale of cars or trucks shall be allowed on the site until all conditions have been met.

12. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

SECTION 2. That upon the taking effect of this Resolution, the notation of such Conditional Use permit shall be shown on the "Official Zoning District Map" on file in the office of the Planning Director of the Wichita-Sedgwick County Metropolitan Area Planning Department.

SECTION 3. That this Resolution shall take effect and be in force from and after its adoption by the Governing Body.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, this date MAR - 2 2004



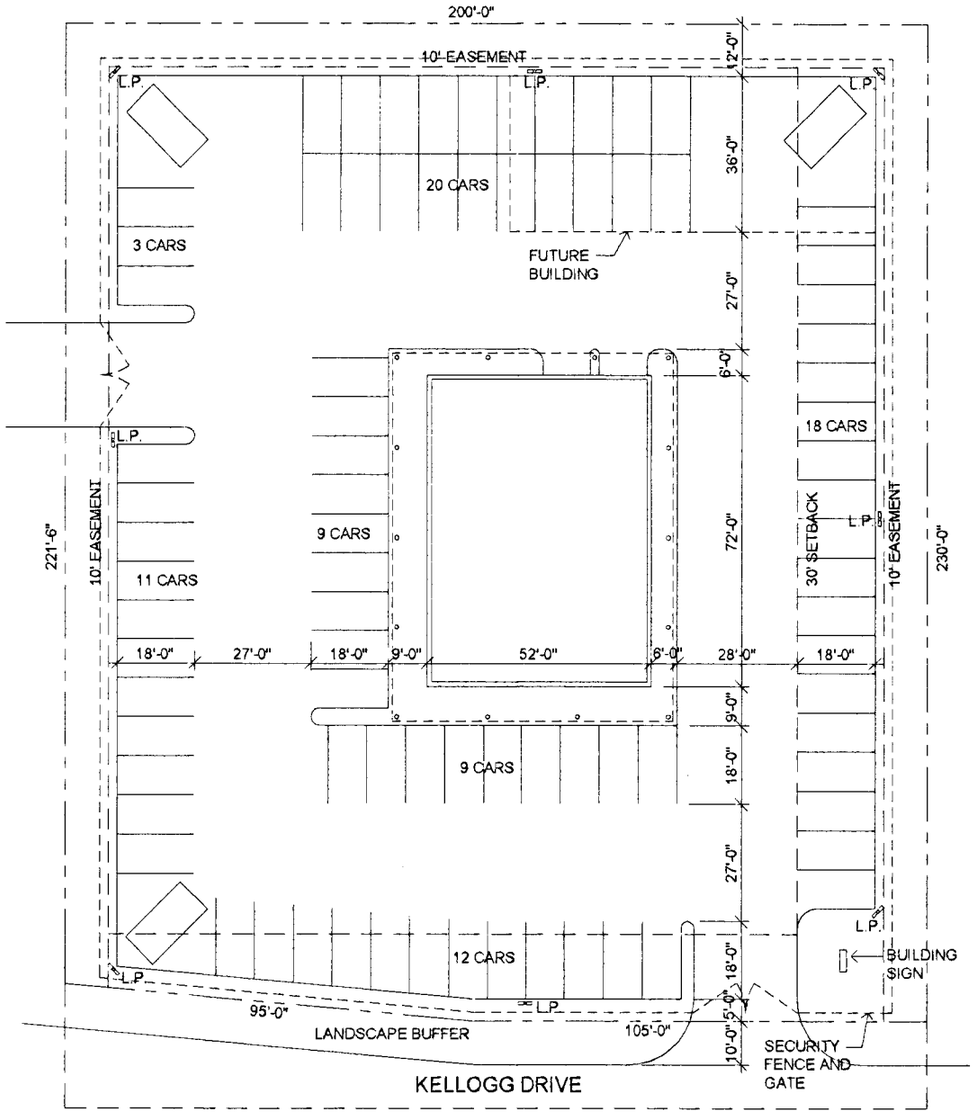
Carlos Mayans, Mayor

ATTEST:

for Patsy Ellis, Deputy
Karen Schofield, City Clerk

Approved as to form:

Gary E. Rebenstorf, City Attorney



SITE AREA:
45,600 SF
1.05 ACRES

SITE PLAN
0 20'

CON03-52

SPANGENBERG PHILLIPS
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121 N. Mead, Suite 201, Wichita, KS 67202
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WICHITA–SEDGWICK COUNTY
W-SC
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 7

STAFF REPORT

MAPC January 22, 2004

CASE NUMBER: CON2003-00052

APPLICANT/AGENT: Ronald D Ryan Living Trust c/o Ronald D Ryan
KE Miller Engineering, PA c/o Kirk Miller (Agent)

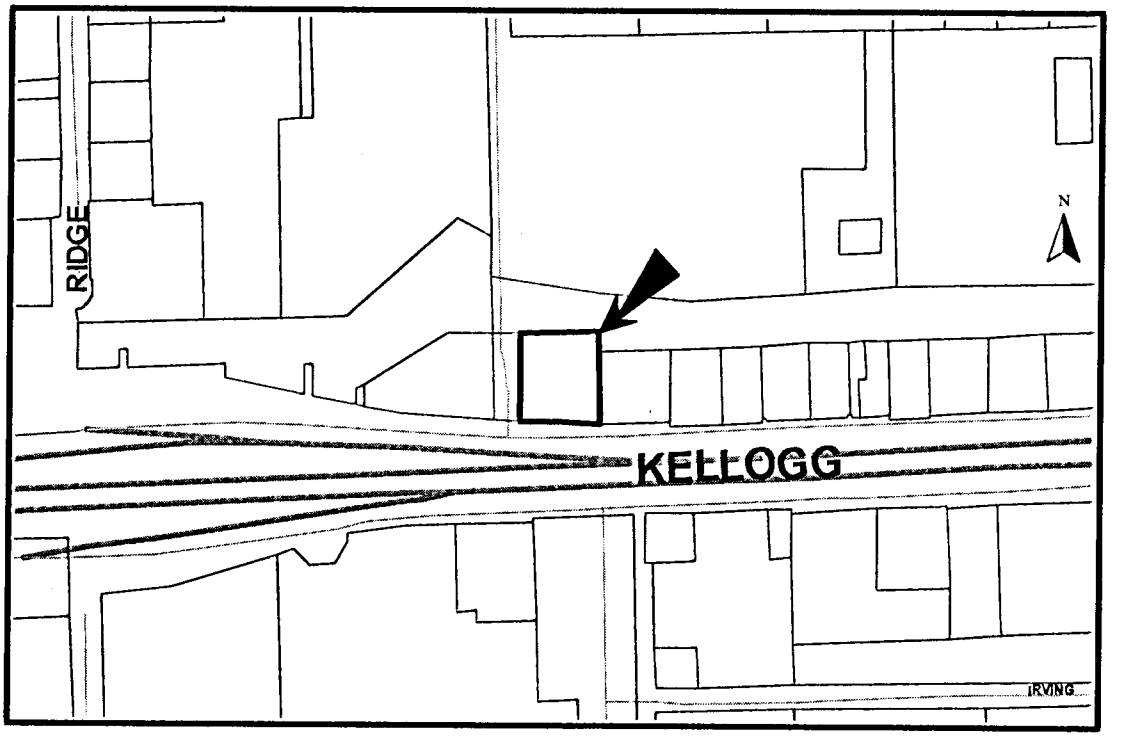
REQUEST: Conditional Use for Outdoor Vehicle and Equipment Sales

CURRENT ZONING: "LC" Limited Commercial

SITE SIZE: 1.05 acres

LOCATION: Generally located east of the Ridge Road – Kellogg Interchange, on the north side of Kellogg, along the Kellogg frontage road, in the 6800 block of West Kellogg

PROPOSED USE: Automobile Sales



BACKGROUND: The applicant is requesting a Conditional Use to allow outdoor vehicle and equipment sales on the west 1.05 acres of Lot 1, Clinton Addition. The subject property is located on the north side of Kellogg, along the Kellogg frontage street and is less than a ¼ mile east of the Kellogg – Ridge Road interchange. The subject property is zoned "LC" Limited Commercial. Outdoor vehicle and equipment sales may be permitted with a Conditional Use in the "LC" zoning district.

The site is currently vacant, with an asphalt parking lot sandwiching the footprint of the razed building that was on the site. The site currently has three driveways onto the Kellogg Avenue frontage road, which directs one-way traffic west to the Kellogg – Ridge Road interchange. The site also has one driveway onto the north-south access easement on its west side. This access easement also provides access for the large retail strip (CUP DP-151) located north of the site and the smaller retail/office building west of the site. There is a drainage between the site and the development north of the site.

The site plan the applicant has provided shows the site redeveloped with an approximately 3,744-square foot building with paved parking and display areas. The building has no specific use called out for it. The site plan does not identify parking for employees, customers or parking spaces for the disabled, as required by the code for vehicle sales. The site plan does identify pole lighting along the outside of the site as well as a security fence (type and materials not specified), gates and a landscape buffer located in the Kellogg frontage street right-of-way. The type and size of plants to be used in the landscape buffer are not identified. No landscaping is shown on the other 3 sides of the site or within the site's property lines, including the west street side, which is required. An unspecified sign is shown along the Kellogg frontage street side. No trash receptacle is shown on the site, if one is located on the site it must have solid screening around it. The site plan shows two of the three existing driveways onto the Kellogg frontage street closed. Any variance from Article III, Section III-D, 6.x of the UZC would require a waiver approved by the WCC. Any variance from the landscaping ordinance would require a waiver by the Planning Director.

Properties east of the site are zoned "LC" and are developed as a stand alone, single story office for a title company and a small strip building housing an insurance office, a financial advisory office, a travel agency and other office uses. These buildings were built in 1970 & 1975. The property west of the site is zoned "GC" General Commercial and developed with one building housing a party supplies store, a cell phone seller and a beauty/barber shop. The building was built in 1996. Properties north of the site are zoned "GC" with a CUP (DP-151) overlay and are developed as a large retail strip housing national and regional retail stores including, Best Buy, Office Max, Kohl's Michaels, TJ Max and other retail. The buildings in the strip were built in

1993, 1995 & 1996. Properties south of the site and across Kellogg are zoned "GC" with CUP (DP-27) over one "GC" site and an "LI" Limited Industrial site. These properties are developed as motels, restaurants and a car rental agency.

There are at least 13 existing car sales lot along this 4 mile stretch of Kellogg between the IH-235 Loop and 119th Street West; the site is located within this 4 mile stretch of Kellogg. The car sales lots are a mix of smaller independent dealerships and the larger franchised dealerships. An existing (Donavon) car sales lot is approximately ½ mile east of the proposed site.

CASE HISTORY: The Clinton Addition was recorded with the Register of Deeds December 16, 1968.

ADJACENT ZONING AND LAND USE:

NORTH:	"GC"	Large general retail strips
SOUTH:	"GC"	Motels, restaurants, retail
EAST:	"LC"	Small office
WEST:	"LC"	Office, retail, personal service

PUBLIC SERVICES: This subject property has three driveways onto the Kellogg Avenue frontage road, which directs one-way traffic west to the Kellogg – Ridge Road interchange, less than a ¼ mile from the site. Kellogg is a six-lane free way with current traffic volumes of approximately 65,000 vehicles per day. The 2030 Transportation Plan estimates that traffic volumes on Kellogg will be approximately 99,000 vehicles per day. This section of Kellogg is not projected as a part of a CIP, with this section of Kellogg being improved in 1996. Municipal water and sewer services are currently provided to this site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Commercial Locational Guidelines also recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. The proposed site meets all the locational criteria for a car sales lot.

RECOMMENDATION: Based upon information available prior to the public hearing, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. All requirements of Article III, Section III.D.6.x. of the Unified Zoning Code shall be met.

2. In addition to uses permitted in the "LC" Limited Commercial district, the site shall be limited to the sales of cars and light trucks. No sale or rental of trailers, vehicles or trucks larger than pick ups. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business.

3. Any automotive service or repair work conducted on the site shall be entirely within a building. No body or fender work shall be permitted without first obtaining "GC" General Commercial zoning.

4. The two existing drives onto the Kellogg frontage street from site (Lot 1, Clinton Addition) closest to the intersection on the southwest corner of the site shall be closed, and the applicant shall provide a guarantee for closure of these drives in a form suitable to the City Engineer within 6 months of approval of the Conditional Use by the MAPC or governing body, as applicable, per the approval of the City Traffic Engineer.

5. The applicant shall dedicate by separate instrument complete access control except for one opening along the property's Kellogg frontage street and one opening onto the street/access easement on the site's west within 6 months of approval of the Conditional Use by the MAPC or governing body, as applicable.

6. Parking spaces for employees and customers shall be provided on the property as required by the UZC and in conformance with the standards established by the City Traffic Engineer. The parking spaces shall be marked and designated for employees and customers and shall not be used for display or storage of vehicles for sale, unless the vehicle is driven by an employee. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business unless additional parking spaces for such businesses are provided per a revised site plan approved by the Planning Director.

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12. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the neighborhood is that of various commercial uses including car sales, national and regional retail and local retail and office. Most of the property along Kellogg is zoned "LC" Limited Commercial or "GC" General Commercial with or without CUP overlays and "LI" Limited Industrial. The proposed used car lot is consistent with the zoning, uses, and character of the area.

2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LC" Limited Commercial. The property is suitable for commercial uses to which it has been restricted; however, used car sales is an established use in the area and can be suitable for the subject property if developed according to the recommended conditions of approval.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the recommended conditions of approval which would limit signage, lighting, noise, and display area practices from adversely impacting nearby property.

4. Conformance of the requested change to adopted or recognized Plans/Policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. This site is located along Kellogg, and the recommended conditions of approval have provisions, which limit noise, lighting, and other adverse impacts. The Commercial Locational Guidelines also recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. This site is located along Kellogg in an area where auto-related commercial uses already exist.

5. Impact of the proposed development on community facilities: The use of this property should have limited impact on community facilities if the recommended access controls are provided along Kellogg. Not providing the recommended access controls will hinder the City's ability to provide a roadway that is of sufficient capacity to safely carry future traffic volumes.