

CONDITIONAL USE RESOLUTION NO. CON2006-00023

WHEREAS, Dean Nguyen (applicant); Certified Engineering Design, c/o Harlan Foraker (agent) pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), request a Conditional Use to permit vehicle and equipment sales (outdoor) on ± 0.35 acres zoned LC Limited Commercial described as:

Lot 1, Voges VW Addition, Sedgwick County, Kansas.

WHEREAS, proper notice as required by the Unified Zoning Code and by the policy of the Metropolitan Area Planning Commission (hereinafter referred to as MAPC) has been given; and

WHEREAS, the MAPC did, at the meeting of June 1, 2006, consider said application; and

WHEREAS, the MAPC has authority to permit a Conditional Use, subject to any special conditions deemed appropriate in order to assure full compliance with the criteria of the Unified Zoning Code.

NOW, THEREFORE, BE IT RESOLVED by the Metropolitan Area Planning Commission that this application be approved to permit vehicle and equipment sales (outdoor) on ± 0.35 acres zoned LC Limited Commercial described as:

Lot 1, Voges VW Addition, Sedgwick County, Kansas.

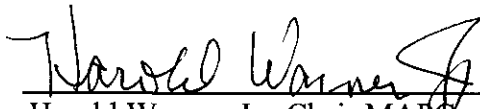
Subject to the following conditions:

1. In addition to uses permitted in the LC Limited Commercial district, the site shall be limited to the sales of cars and light trucks, only as long as it continues to operate as a vehicle repair, limited garage. No sale or rental of trailers, motorcycles or scooters, vehicles or trucks larger than pick ups are permitted.
2. The applicant shall comply with all provisions of Section III-D.6.x. of the Unified Zoning Code regarding supplementary use regulations of outdoor vehicle sales in the LC zoning district.
3. The applicant shall install and maintain landscaping in accordance with a landscape plan submitted with the revised site plan. The landscaping plan will be reviewed and approved by the Planning Director, prior to issuance of any permits or sales of vehicles.
4. No outside storage of salvaged vehicles or vehicles waiting for repair shall be permitted in association with this use. Outside storage of parts, including tires, associated with the car repair, limited, operation shall be within a 6-foot solid screened area.
5. All vehicles associated with the car sales lot shall be located in south of the existing garage/office building and shall be located entirely within the south 56 feet and west 57 feet Lot 1 Voges VW Addition. The site shall be limited to the display of no more than eight vehicles for sale at any given time.

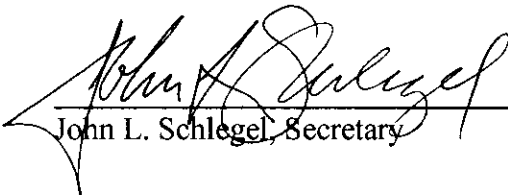
6. All customer parking will be confined to the portion of the site not occupied with the vehicle display area and shall be striped with at least 14 parking spaces, one of which must be accessible. No customer parking spaces shall block or encroach into the ingress/egress driveways.
7. The applicant shall dedicate by separate instrument access control closing one entrance, as approved by Traffic Engineering. The applicant shall guarantee the closure of all but the approved entrances according to City standards.
8. The applicant shall initiate the vacation of the utility easement adjacent to the north property line.
9. All improvements shall be completed within one year of the approval of the conditional use by the MAPC or the City Council. No vehicle sales shall be allowed until all permits have been acquired and all improvements to the site have been made.
10. The applicant shall submit a revised site plan for review and approval by the Planning Director, prior to the selling of any vehicles, within six months of approval by the MAPC or the City Council. The site plan will illustrate compliance with all approved conditions of the conditional use. The site will be developed according to the revised site plan.
11. 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.

Adopted this 1ST DAY of JUNE 2006. This resolution shall become effective on the fifteenth day after the date last noted above unless the matter is forwarded to the Governing Body for final action under the provisions of Section V-D.6. When any one or more of the exceptions listed in Section V-D.6 exist, this resolution with its conditions of approval shall be considered a recommendation of the MAPC to the Governing Body which shall then have final authority to approve, approve with conditions or modifications, or deny the Conditional Use application.

METROPOLITAN AREA PLANNING COMMISSION


Harold Warner, Jr., Chair MAPC

ATTEST:


John L. Schlegel, Secretary

STAFF REPORT

MAPC June 1, 2006
DAB III – June 7, 2006

CASE NUMBER: CON2006-00023

OWNER/APPLICANT: Dean Nguyen / Dean's Auto Repair

AGENT: Certified Engineering Design c/o Harlan Foraker

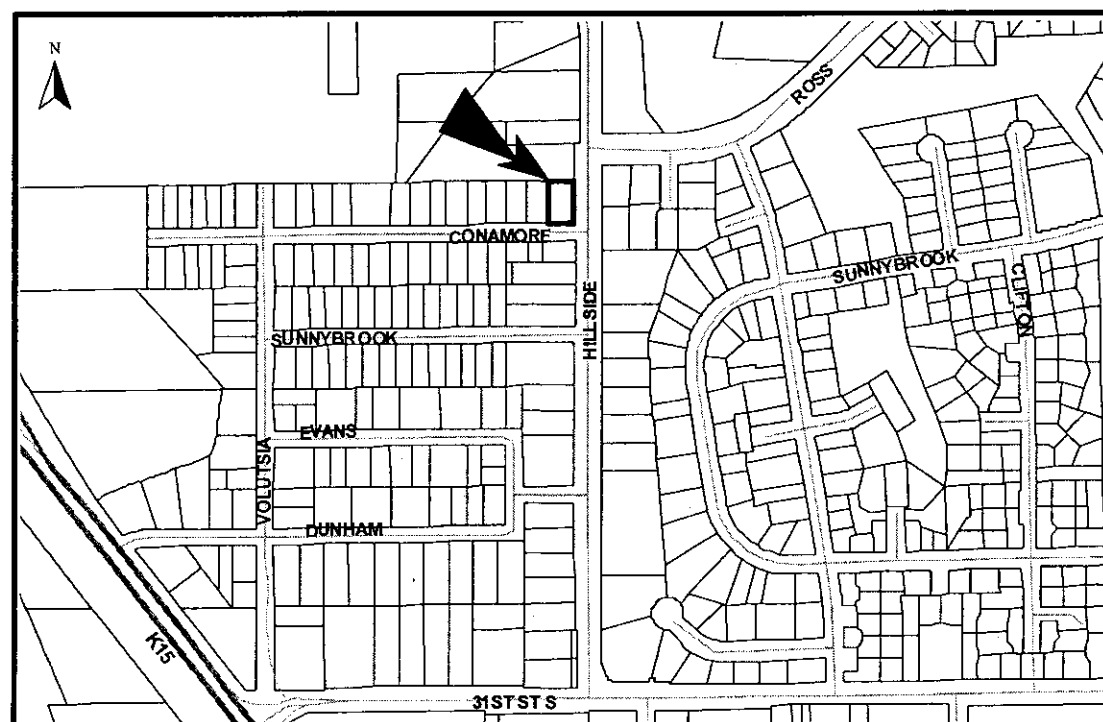
REQUEST: Conditional Use for Outdoor Vehicle and Equipment Sales

CURRENT ZONING: LC Limited Commercial

SITE SIZE: ± 0.35 acres

LOCATION: Northwest corner of Conamore Street and South Hillside Avenue (2885 South Hillside Avenue)

PROPOSED USE: Sale of pre-owned vehicles



BACKGROUND: The applicant is requesting a conditional use to allow outdoor vehicle and equipment sales on Lot 1, Voges VW Addition, which is zoned LC Limited Commercial. The site is located at the northwest corner of South Hillside Avenue and Conamore Street and is currently developed with a five-bay door garage/office, used for limited car and light truck repair. The applicant proposes to retain the site's limited vehicle repair garage, which is permitted by right, and sell pre-owned cars and light trucks. Per the Unified Zoning Code, outdoor vehicle and equipment sales may be permitted as a conditional use in the LC zoning district.

Development east and south of the site is predominately strip commercial and automotive repair uses on property zoned LC Limited Commercial. The property north of the site is zoned LI Limited Industrial and developed with a machine shop. The adjacent property to the west is occupied with a single-family residence and appropriately zoned SF-5 Single-family Residential.

The applicant's site plan shows the existing garage/office, originally built in 1955, with two existing drives onto Hillside Avenue and one onto Conamore Street. The City Traffic Engineer recommends closing one of the driveways, with the preference being the access onto Conamore Street, to be more compliant with current access management provisions. The site plan does not illustrate that the site is large enough to accommodate requested vehicle display area and enough parking to satisfy Unified Zoning Code requirements. Therefore, staff is recommending conditional use provisions to satisfy these code issues. Finally, the north portion of the existing building is constructed inside a 10-foot utility easement. Staff is recommending that approval be conditioned upon vacation of this easement.

CASE HISTORY: The site was originally platted as a portion of Lots 1 and 2 of Butlers 2nd Addition. The site was replatted as Lot 1 of Voges VW Addition, which was recorded with the Register of Deeds January 19, 1989. The Board of Zoning Appeals denied a use exception request for new and used car sales at this location on August 24, 1976 (BZA 27-76) citing this use as inappropriate for the area.

ADJACENT ZONING AND LAND USE:

NORTH:	LI	Machine shop
SOUTH:	LC	Strip retail; automotive repair
EAST:	LC	Strip retail; automotive repair
WEST:	SF-5	Single-family residential

PUBLIC SERVICES: The subject property has access to Hillside Avenue, a four-lane minor arterial street with a traffic count of approximately 8,000 vehicles daily. There is also one access point onto Conamore Street, which is a local residential street. Municipal water and sewer services and all other utilities are currently provided to the subject property.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies this site as appropriate for local commercial types of use. Medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants, personal service facilities and on a limited basis mini-storage warehouse and light manufacturing are examples of local commercial uses. All of these uses would be on a scale that would not have a significant regional draw.

The Commercial Locational Guidelines of the Comprehensive Plan recommends 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 site has direct access onto Central Avenue, a five-lane arterial. The conditions attached to a Conditional Use can address site design issues. 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 Avenue and Broadway Avenue, or 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.

In the past the MAPC has identified smaller car sales lots as being more of a local commercial establishment in their nature, as opposed to the cluster of larger car sales lots located primarily along Kellogg Avenue and Broadway Avenue, which are more regional in their clientele draw. The MAPC has also recommended that buildings that had in the past been used for automobile activities, such as vehicle repair garages, be considered as possible sites for car sales. The applicant's proposal is to continue to use the site for limited auto repair, while adding car sales on the site conforms to what the MAPC has recommended for this type of site in the past.

RECOMMENDATION: Based on the information available prior to the public hearing, MAPD staff recommends the application be APPROVED subject to the following conditions:

- A. In addition to uses permitted in the LC Limited Commercial district, the site shall be limited to the sales of cars and light trucks, only as long as it continues to operate as a vehicle repair, limited garage. No sale or rental of trailers, motorcycles or scooters, vehicles or trucks larger than pick ups are permitted.
- B. The applicant shall comply with all provisions of Section III-D.6.x. of the Unified Zoning Code regarding supplementary use regulations of outdoor vehicle sales in the LC zoning district.
- C. The applicant shall install and maintain landscaping in accordance with a landscape plan submitted with the revised site plan. The landscaping plan will be reviewed and approved by the Planning Director, prior to issuance of any permits or sales of vehicles.

- D. No outside storage of salvaged vehicles or vehicles waiting for repair shall be permitted in association with this use. Outside storage of parts, including tires, associated with the car repair, limited, operation shall be within a 6-foot solid screened area.
- E. All vehicles associated with the car sales lot shall be located in south of the existing garage/office building and shall be located entirely within the south 56 feet and west 57 feet Lot 1 Voges VW Addition. The site shall be limited to the display of no more than eight vehicles for sale at any given time.
- F. All customer parking will be confined to the portion of the site not occupied with the vehicle display area and shall be striped with at least 14 parking spaces, one of which must be accessible. No customer parking spaces shall block or encroach into the ingress/egress driveways.
- G. The applicant shall dedicate by separate instrument access control closing one entrance, as approved by Traffic Engineering. The applicant shall guarantee the closure of all but the approved entrances according to City standards.
- H. The applicant shall initiate the vacation of the utility easement adjacent to the north property line.
- I. All improvements shall be completed within one year of the approval of the conditional use by the MAPC or the City Council. No vehicle sales shall be allowed until all permits have been acquired and all improvements to the site have been made.
- J. The applicant shall submit a revised site plan for review and approval by the Planning Director, prior to the selling of any vehicles, within six months of approval by the MAPC or the City Council. The site plan will illustrate compliance with all approved conditions of the conditional use. The site will be developed according to the revised site plan.
- K. 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 predominately LC zoned local retail uses along both sides of Hillside Avenue. There are other car repair shops in the immediate area. There are no other car sales lots in the immediate 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 the commercial uses to which it has been restricted, including its current use as vehicle repair, limited.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Vehicle sales on a site this size when developed with the conditional use will have minimal negative impacts on the area and will likely improve the property, given the recommendation of additional access control, landscaping, screening, etc.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Commercial Locational Guidelines 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. A conditional use for a car sales lot on this site does not entirely meet the commercial locational criteria, but it does conform to the MAPC's past recommendations in regards to locating small car sales lots on sites that had previously been used or are still being used for car related businesses. There is no adopted neighborhood plan that would specifically discourage a car sales lot on this site. The conditional use conditions do represent an opportunity for encouraging investment and upgrading the property while allowing the applicant the opportunity to expand his business opportunities.
5. Impact on Community Facilities: All public facilities are available. Existing road facilities are adequate. Additional access controls will be an improvement to the area.

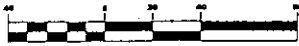


SITE PLAN

FOR A
CONDITIONAL USE REQUEST

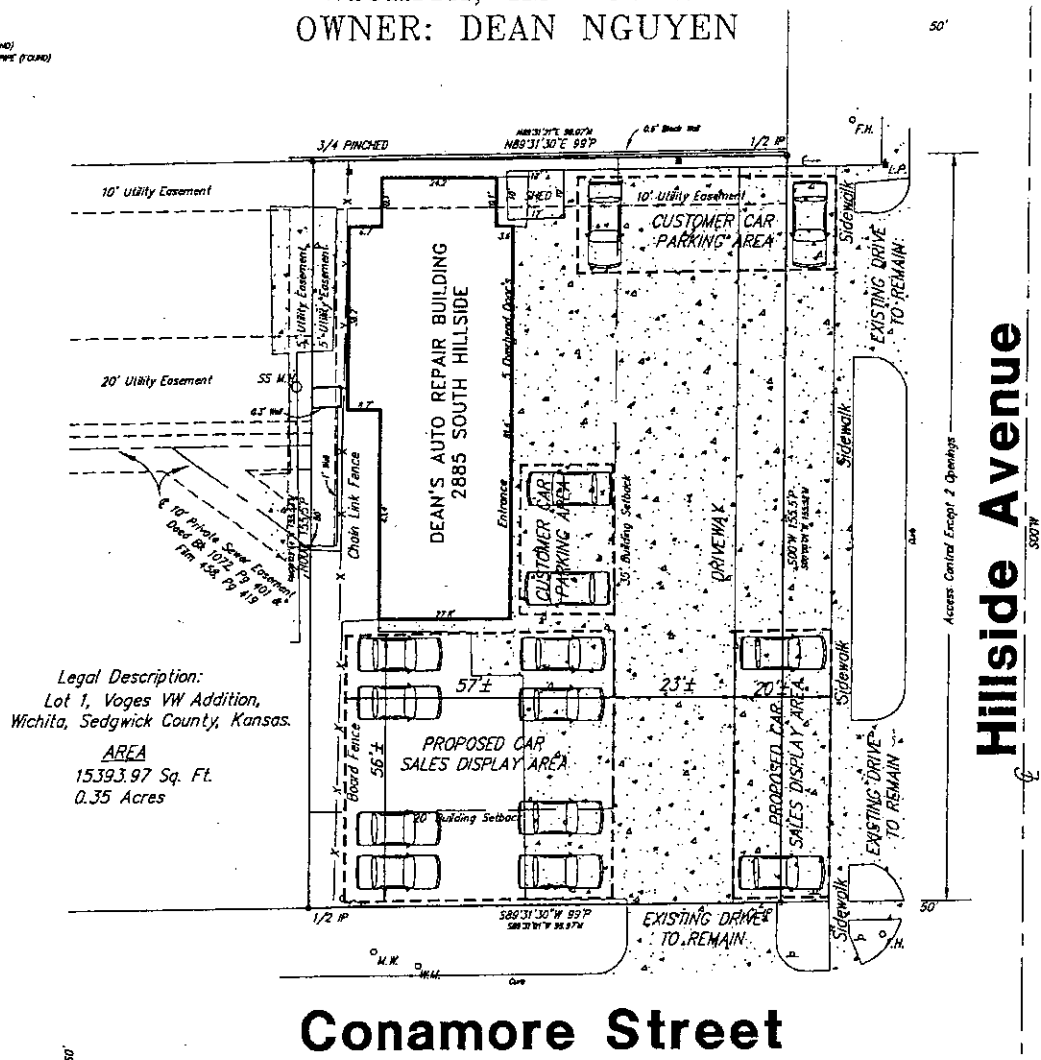
DEAN'S AUTO REPAIR
2885 SOUTH HILLSIDE
WICHITA, KS 67215
OWNER: DEAN NGUYEN

GRAPHIC SCALE



(IN FEET)
1 inch = 40 ft.

0-1/2" Ø 1/2" RICH PIPE (ROUND)
0-3/4" Ø 3/4" FINCHED RICH PIPE (ROUND)



Legal Description:
Lot 1, Voges VW Addition,
Wichita, Sedgwick County, Kansas.
AREA
15393.97 Sq. Ft.
0.35 Acres

LEGEND

- G = GAS MAIN
- W = WATER MAIN
- SS = SANITARY SEWER
- SMS = STORM WATER SEWER
- UGE = UNDER GROUND ELECTRIC
- UGT = UNDER GROUND TELEPHONE
- F.H. FIRE HYDRANT
- G.A. GUY ANCHOR
- G.M. GAS METER
- M.W. MONITOR WELL
- ★ L.P. POWER POLE W/LIGHT
- ★ POWER POLE
- SIGN
- W.M. WATER METER
- SS M.H. SANITARY SEWER MANHOLE

CONDITIONAL USE REQUEST PREPARED BY:			
CERTIFIED ENGINEERING DESIGN, P.A.			
CED	810 WEST DOUGLAS, SUITE C WICHITA, KANSAS 67203 PH: (316) 262-8808 FAX: (316) 262-1669	SHEET 1	
		TOTAL 1	

SURVEYED BY:



Savoy Company, P.A.
Land Surveyors

PH (316) 265-0005
FAX (316) 265-0275

535 S. Emporia, Suite 104, Wichita, KS 67202

www.savoyco.com

11 April 2005