



Wichita-Sedgwick County Metropolitan Area Planning Department

November 2, 2018

HMH Real Estate, LLC
5520 West 37th Street South
Wichita, KS 67215

Kaw Valley Engineering, Inc.
Attn: Levi Bond
200 North Emporia, Suite 100
Wichita, KS 67202

RE: CON2018-00037 - City request to approve a Conditional Use Permit to amend a previous conditional use permit and site plan for expanded outdoor storage at 10303 West Central Avenue

Dear Applicants:

At its regular meeting on **November 1, 2018**, the Wichita - Sedgwick County Metropolitan Area Planning Commission considered the above captioned request. The action of the MAPC was to **APPROVE** the request as recommended by staff by a vote of 6 to 5, with one abstention.

Property owners opposed to the application may file with the City Clerk a signed, written protest of the MAPC's recommendation. (Unsigned e-mails are not considered to be legal protests.) **To be effective, the protest must be filed by 5:00 p.m. on November 15, 2018.** In order to be considered a "valid" petition, the signatures must reflect the correct and entire ownership of the property, the property must be at least partially located within 200 feet of the property for which the application was filed, and must be submitted to the City Clerk by **November 15, 2018 at 5:00 p.m.**

If there is no formal protest filed on this case, the MAPC action will be considered final and a signed Resolution will be sent to you. If there is a formal protest, this application will be presented to the Wichita City Council on **Tuesday, December 4, 2018, beginning at 9:00 a.m.** The City Council meeting will be held in the City Council Chambers, First Floor, City Hall, 455 N. Main, Wichita, Kansas.

This is a reminder that the zoning notification signs should now be removed from the property. If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,

David L. Yearout, AICP
Principal Planner

Copies to: WCC V, Brian Frye, Mail Stop 1-13
Laura Rainwater, CSR V, Mail Stop 1-135
Paul Hays, OCI, Mailstop 1-72
Jeff Van Zandt, City Law, Mailstop 1-134
Julianne Kallman, Engineering, Mail Stop 1-71
Westlink, Attn: Carla Lee, 1367 N. Westlink, Wichita, KS 67212
Timbelakes, Attn: Charles Squire, 14909 E. Castle Dr. Wichita, KS 67230
Chris and Karen Putnam, 10211 Taylor Ave., Wichita, KS 67212
James Rush Sr. & Joyce A. Rush, 10241 W. Taylor Ave, Wichita, KS 6721

RESOLUTION No. 18-438

A RESOLUTION AMENDING CON2012-00003 AUTHORIZING VEHICLE AND EQUIPMENT SALES, OUTDOOR ON 1.05-ACRES ZONED LC LIMITED COMMERCIAL, GENERALLY LOCATED SOUTH OF WEST CENTRAL AVENUE AND EAST OF NORTH MAIZE ROAD AT 10303 WEST CENTRAL AVENUE, IN THE CITY OF WICHITA, SEDGWICK COUNTY, 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, SEDGWICK COUNTY, 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, for a Conditional Use Amendment to allow a Vehicle and Equipment Sales, Outdoor, on approximately 1.05-acres zoned LC Limited Commercial legally described below:

Case No. CON2018-00037

A Conditional Use Amendment to allow a Vehicle and Equipment Sales, Outdoor, on approximately 1.05-acres zoned LC Limited Commercial described as:

Lot 1, except the east 24 feet, Rush Fourth Addition, Wichita, Sedgwick County, Kansas, generally located south of West Central Avenue and east of North Maize Road at 10303 West Central Avenue.

SUBJECT TO THE FOLLOWING CONDITIONS:

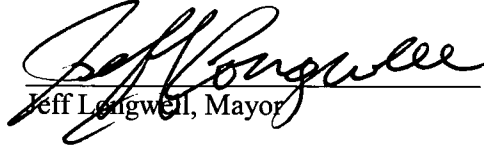
1. The entire site shall be developed and operated in conformance with the requirements of Section III-D.6(x) of the Unified Zoning Code, except as noted in the conditions of approval noted herein. This shall specifically require the complete paving with asphalt or concrete of the entire area designated for outdoor display of vehicles for sale or display.
2. Outdoor storage and vehicle storage yard, as defined by the Unified Zoning Code, shall not be permitted.
3. The site shall be required to meet the full storm water design standards applicable by Wichita City Code, including compliance with any improvements to manage storm water issues associated with the paving of the designated portion of the subject property.
4. All provisions associated with the conditions of CON2012-00003 shall remain in effect except as modified by this Conditional Use.
5. A revised site plan addressing the conditions of approval shall be submitted for review and approval by the Planning Director or his designee prior to the issuance of a certificate of occupancy, but no later than 30 days after approval of the Conditional Use.
6. 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 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.

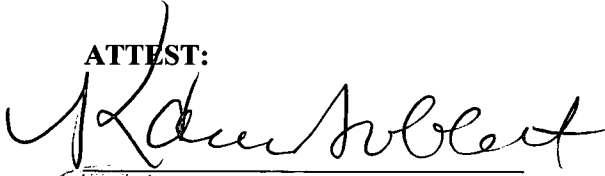
SECTION 3. That this Resolution shall take effect and be in force from and after its adoption by the Governing Body.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, this date

12/4/2018

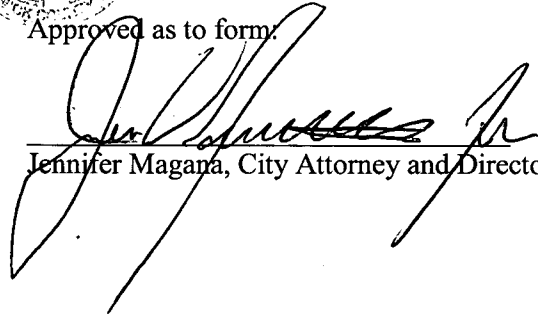

Jeff Longwell, Mayor

ATTEST:


Karen Sublett, City Clerk



Approved as to form:


Jennifer Magana, City Attorney and Director of Law



STAFF REPORT

MAPC - November 1, 2018
DAB V - November 5, 2018

CASE NUMBER: CON2018-00037

APPLICANT/AGENT: HMH Real Estate, LLC (Owner) / Kaw Valley Engineering – Levi Bond (Agent)

REQUEST: Conditional Use to allow modification of operations and provide additional outdoor storage

CURRENT ZONING: LC Limited Commercial

SITE SIZE: 1 acre

LOCATION: South side of West Central Avenue and east of Maize Road (10303 West Central)

PROPOSED USE: Expand outdoor storage and modify use



BACKGROUND: The applicant is requesting a amend the existing Conditional Use to allow outdoor vehicle and equipment sales on Lot 1, Except the East 24 feet, 2 of Rush 2nd Addition, which is currently, zoned LC Limited Commercial ("LC"). The site is located southeast of the intersection of West Central Avenue and North Maize Road. The subject site is developed with a three-bay door garage/retail/office, and was originally used for limited car and light truck service. The original business is no longer existing and the property is presently occupied by Hunter Rents, an equipment rental business, including large pieces of equipment such as tree stump grinders, skid loaders, trailers, and other miscellaneous items. The Unified Zoning Code (UZC) permits vehicle and equipment sales, outdoor, with a Conditional Use in the LC zoning district. Since the existing Conditional Use only allowed that use in association with vehicle repair and did not permit sale or rental of trailers or large vehicles, this amendment will address the modified use and a modified site plan.

The original site plan identified the existing garage/retail/office structure; provides one drive onto West Central Avenue; and identified proposed vehicle circulation, parking/display area and the area to be paved for the parking/display area. The improvements proposed were never constructed.

The CON2012-00003 was subject to the following conditions:

1. Obtain all permits and inspection as required by OCI. All development will be per City Code including landscaping, code compliance and any other applicable standards.
2. In addition to uses permitted by right in the "LC' Limited Commercial district, the site is permitted "vehicle and equipment sales, outdoor" as long as the sale of vehicles is associated with a legal vehicle repair use. The sale or rental of trailers and vehicles or trucks larger than pickups is not permitted.
3. No body or fender work shall be permitted without first obtaining "GC' General Commercial zoning.
4. The applicant shall submit a revised site plan for review and approval by the Planning Director, prior to the issuance of a building permit, per City Standards, within one year of approval by the MAPC or the City Council. The site will be developed according to the revised site plan.
5. The applicant shall install and maintain landscaping in accordance with the landscape plan submitted with the revised site plan, within one year of approval by the MAPC or the City Council. The landscaping plan will be submitted for review by the Planning Director, and approval of the landscape plan shall be obtained prior to the issuance of any permits. The applicant will remove any asphalt needed to come into compliance with the Landscape Ordinance and to ensure that development does not encroach into right-of-way.
6. A parking barrier, such as bumper blocks or a pipe railing shall be installed along all perimeter boundaries adjacent to streets except at driveway entrances or where fences are erected to ensure that parked vehicles do not encroach onto public right-of-way.

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. There shall be no use of elevated platforms for the display of vehicles. All vehicles for sale or for repair must be on a concrete, asphalt or an approved all weather surface.
9. No outdoor amplification system shall be permitted.
10. 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.
11. The lighting standards of Section IV-B.4 of the Unified Zoning Code shall be complied with. No string-type lighting shall be permitted. Outside pole lighting shall be no taller than 12 feet, including the base, and directed onto the site and away from the residential development abutting the west side of the site.
12. All trash receptacles, oil containers or any similar type of receptacles for new or used petroleum products or trash shall have solid 6-foot screening around it. The gate shall be of similar materials as the screening.
13. The entrances shall be reviewed and approved by the Traffic Engineer. This must be provided to the City, prior to the Conditional Use being finalized. The applicant shall guarantee the closure of all but the approved entrances according to City standards.
14. All improvements shall be completed within one year of the approval of the Conditional Use by the MAPC or the City Council. No selling of cars shall be allowed until all permits have been acquired and all improvements to the site have been made.
15. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
16. 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 applicant has provided a proposed site plan that proposes no new paved area for outdoor storage or display of the equipment for rent, but desires to screen a large area to the west and south of the existing building for storage of equipment associated with the new business. The apparent intent is to expand the outdoor display and storage of the equipment kept on premises within the screened area shown on the site plan. A fence is proposed, but no specifics are provided on what type of fencing. Outdoor storage and vehicle storage are not permitted uses in the LC Limited Commercial District. Only the equipment that can be displayed must be for sale or rent only.

The Unified Zoning Code specifies certain requirements for outdoor storage for vehicle and equipment sales in LC in Section III-D(x) as follows:

x. **Vehicle and Equipment Sales, Outdoor, in LC.** Outdoor Vehicle and Equipment Sales shall be subject to the following standards when located within the LC District.

- (1) Location shall be contiguous to a major street as designated in the *Transportation Plan* adopted by the Governing Bodies, and as amended from time to time.
- (2) Visual screening of areas adjacent to residential zoning districts shall be provided to protect adjacent properties from light, debris and noise and to preserve adjacent property values even when the change in use to Vehicle and Equipment Sales replaces a previous use that is of equal or greater intensity. In no case shall screening be less than that required by Sec. IV-B.1-3.
- (3) All parking, outdoor storage and display areas shall be paved with concrete, asphalt or asphaltic concrete or any comparable hard surfacing material. Parking barriers shall be installed along all perimeter boundaries abutting streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public street right-of-way.
- (4) The lighting shall be in compliance with the lighting requirements of Sec. IV-B.4. No string-type or search lighting shall be permitted.
- (5) The noise levels shall be in compliance with the compatibility noise standards of Sec. IV-C.6. Outdoor speakers and sound amplification systems shall not be permitted.
- (6) No repair work shall be conducted except in an enclosed building, and further provided that no body or fender work is done.
- (7) Only those signs permitted in the LC District shall be permitted on this site, except that no portable, flashing, moving or off-site Signs shall be permitted and no streamers, banners, pennants, pinwheels, commercial flags, bunting or similar devices shall be permitted.
- (8) There shall be no use of elevated platforms for the display of vehicles.

The property north of the site is zoned LC Limited Commercial ("LC") and developed with office uses. Property south of the site is zoned SF-5 Single-family Residential ("SF-5") and developed with a residence. Property west of the site is zoned LC and is developed with a telephone company office building. East of the site, the property is zoned LC and is developed with an apartment complex.

CASE HISTORY: The subject property is platted as part of the Rush Fourth Addition, which was recorded with the Register of Deeds June 22, 1979. The applicant was granted a Conditional Use, CON2012-00003, for vehicle and equipment sales, outdoor, as noted above.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Commercial Uses
SOUTH:	SF-5	Single-Family Residence
EAST:	LC	Apartments
WEST:	LC	Commercial Uses

PUBLIC SERVICES: The subject property has access to Central Avenue, a five-lane arterial at this location. Maize is a four-lane arterial at its intersection with Central Avenue. Municipal water and sewer services and all other utilities are currently provided to the subject property.

CONFORMANCE TO PLANS/POLICIES: The “Community Investments Plan 2015-2035” depicts this location as being generally “commercial”. This particular use would not be out of character with the spirit and intent of the plan’s acceptable uses for this location.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request for an ancillary parking lot be **APPROVED** subject to the following conditions:

1. The entire site shall be developed and operated in conformance with the requirements of Section III-D.6(x) of the Unified Zoning Code, except as noted in the conditions of approval noted herein. This shall specifically require the complete paving with asphalt or concrete of the entire area designated for outdoor display of vehicles for sale or display.
2. Outdoor storage and vehicle storage yard, as defined by the Unified Zoning Code, shall not be permitted.
3. The site shall be required to meet the full storm water design standards applicable by Wichita City Code, including compliance with any improvements to manage storm water issues associated with the paving of the designated portion of the subject property.
4. All provisions associated with the conditions of CON2012-00003 shall remain in effect.
5. A revised site plan addressing the conditions of approval shall be submitted for review and approval by the Planning Director or his designee prior to the issuance of a certificate of occupancy, but no later than 30 days after approval of the Conditional Use.
6. 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 the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The properties to the north, east and west are zoned LC, Limited Commercial (LC). Commercial uses are located to the north and west, with a multiple-family use to the east and separated by a masonry wall. SF-5 Single Family Residential (SF-5) zoning and single-family residential development is adjacent to the subject property on the south side, however a masonry wall exists to separate uses.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC Limited commercial and the use is consistent with the previous approved use, subject to the conditions outlined herein.
3. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The “Community Investments Plan 2015-2035” depicts this location as being generally “commercial”. This particular use would not be out of character with the spirit and intent of the plan’s acceptable uses for this location.

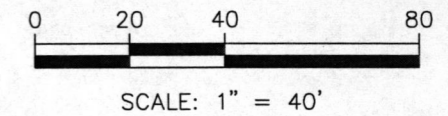
Attachments:

Proposed Site Plan
Previous Site Plan

SITE PLAN FOR CON 2018-00037
AN AMENDMENT TO CON 2012-00003

CONDITIONAL USE FOR VEHICLE AND
EQUIPMENT SALES, OUTDOOR

10303 W. CENTRAL



OFFICE SIZE

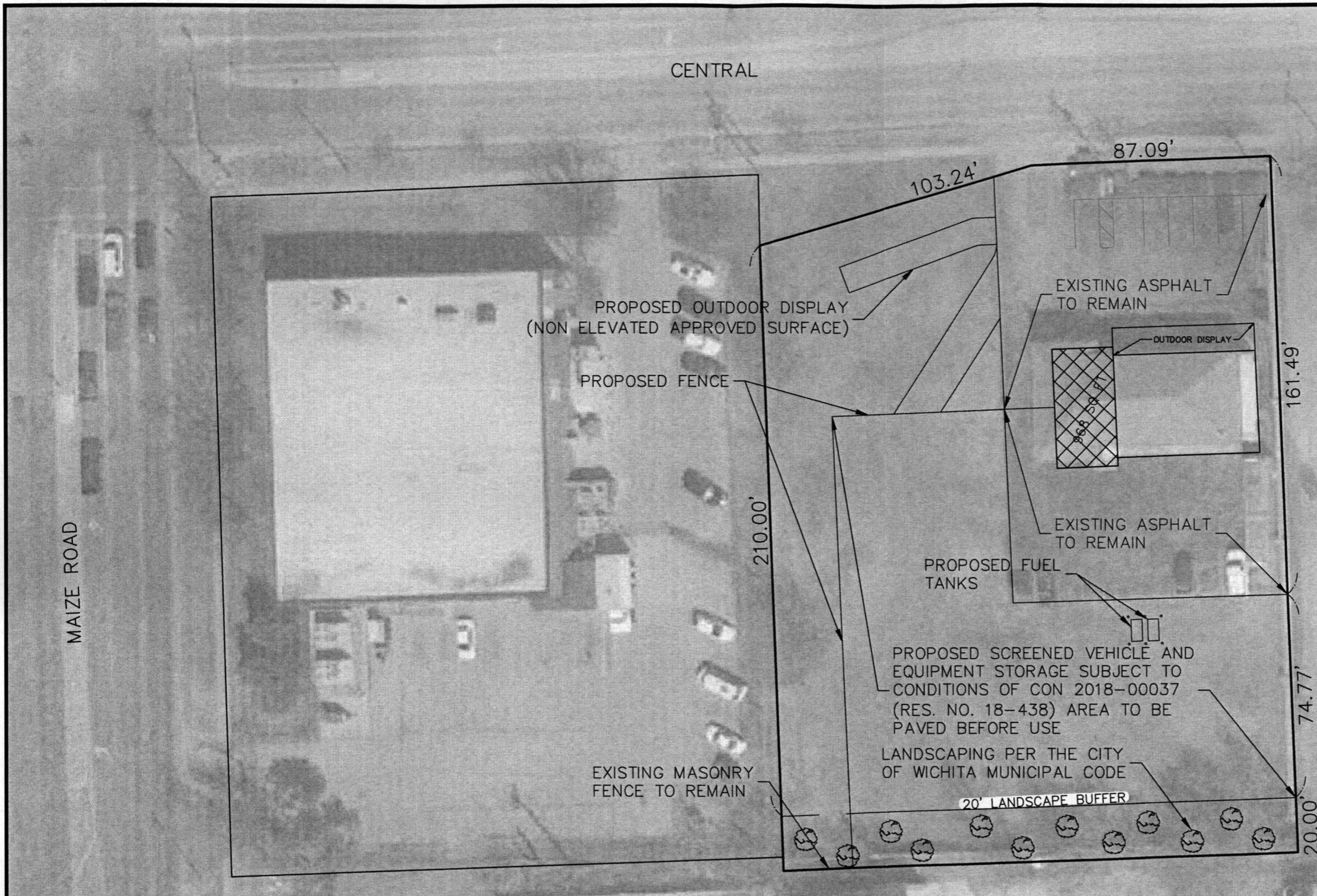
DISPLAY AREA SIZE = 1102 SQ. FT. +/-
OFFICE SIZE = 968 SQ. FT. +/-

CUSTOMER PARKING REQ'D:
1 PER 500 SQ. FT. OF OFFICE SPACE = 2 SPACES
2 PER FIRST 10,000 SQ. FT. OF DISPLAY AREA = 2 SPACES

TOTAL CUSTOMER PARKING REQ'D = 4 SPACES
TOTAL CUSTOMER PARKING EXISTING = 7 SPACES

SITE PLAN

APPROVED 12/4/18 BY *WCA*
CON 2018-37 *DLJ*



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KAW VALLEY ENGINEERING

2019-08-27
2019-08-27 CON AMEND