



Wichita-Sedgwick County Metropolitan Area Planning Department

January 17, 2017

Habib Nasiri
9434 N Parkmont
Wichita, KS, 67207

Mohsen Etezazi
1046 S Oliver
Wichita, KS, 67218

RE: CON2016-00058 – City Conditional Use request for outdoor vehicle sales on LC Limited Commercial zoned property generally located north of East Pawnee Avenue on the east side of South Oliver Avenue (District III)

Dear Applicants:

At its regular meeting on December 15, 2016, the Wichita - Sedgwick County Metropolitan Area Planning Commission (MAPC) considered the above captioned request. The action of the MAPC was to **APPROVE** the request subject to the conditions on the attached resolution.

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 316-268-4421.

Sincerely,

Scott Knebel, AICP

Attachments
Resolution
Site Plan

SK: mc

cc: James Clendenin, WCC III, Mail Stop 1-13

CONDITIONAL USE RESOLUTION NO. CON2016-00058

WHEREAS, Mohsen Etezazi (owner) and Habib Nasiri (applicant); pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requests a Conditional Use for “Outdoor Vehicle and Equipment Sales,” on approximately 0.52-acres zoned LC Limited Commercial, described as:

The South 100 feet of the North 300 feet of Reserve A, McAdam Acres Addition, Wichita, Sedgwick County, Kansas, generally located north of Pawnee and east of Oliver (2234 S. Oliver).

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 December 15, 2016, 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 MAPC that this application be approved to allow “Outdoor Vehicle and Equipment Sales,” on approximately 0.52-acres zoned LC Limited Commercial, described as:

The South 100 feet of the North 300 feet of Reserve A, McAdam Acres Addition, Wichita, Sedgwick County, Kansas, generally located north of Pawnee and east of Oliver (2234 S. Oliver).


Approved subject to the following conditions:

1. The Conditional Use shall be limited to the sales of cars and pick-up (light) trucks. No sale or rental of trailers, boats, motorcycles/scooters, recreational vehicles or trucks larger than pick-ups are permitted. All conditions of the Unified Zoning Code, Section III-D.6.x, outdoor vehicle and equipment sales shall be in effect.
2. Because the UZC’s definition of “vehicle repair limited” does not allow the outside repair or maintenance services of vehicles none shall be conducted on the site, unless a building is provided for this activity; UZC. Art.II, Sec.II-B.14.i. No outside storage of salvaged vehicles or vehicles waiting for repair shall be permitted in association with this use. No outside storage of parts, including tires, oil containers or any similar type of receptacles for new or used petroleum products.
3. All improvements to the property must be finished before car sales is permitted. Those improvements shall include, but not limited to, clearly marked customer and employee parking and the display area, proposed lighting and a solid fenced trash receptacle area.
4. The applicant shall submit a revised site plan for review and approval by the Planning Director, prior to the selling of any cars or light trucks, prior to car sales is permitted. The site plan will include, but not be limited to, internal circulation that will remain open at all time to allow access, the existing solid wooden fence along the east property line, parking barriers along the west property line, any existing or proposed signs, existing or proposed lighting, and fenced trash receptacle. The site will be developed according to the revised site plan.
5. 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. All other signage will be per the LC zoning district.

6. There shall be no use of elevated platforms for the display of vehicles. All parking areas, areas where vehicles are displayed for sale must be on a concrete, asphalt or an approved all weather surface.
7. No outdoor amplification system shall be permitted.
8. 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 14-feet, including the base, and directed onto the site and away from the residential development north and east of the site.
9. All trash receptacles, shall have solid 6-foot screening around it. The gate shall be of similar materials as the screening.
10. No selling of cars and pick-up (light) trucks shall be allowed until all permits have been acquired and all improvements to the site have been made.
11. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
12. 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 15th day of December 2016.

METROPOLITAN AREA PLANNING COMMISSION



David W. Foster , Chair MAPC

ATTEST:



Dale Miller, Secretary



STAFF REPORT
MAPC December 15, 2016
DAB III December 7, 2016

CASE NUMBER: CON2016-00058

OWNER/APPLICANT: Mohsen Etezazi (owner) and Habib Nasiri (applicant)

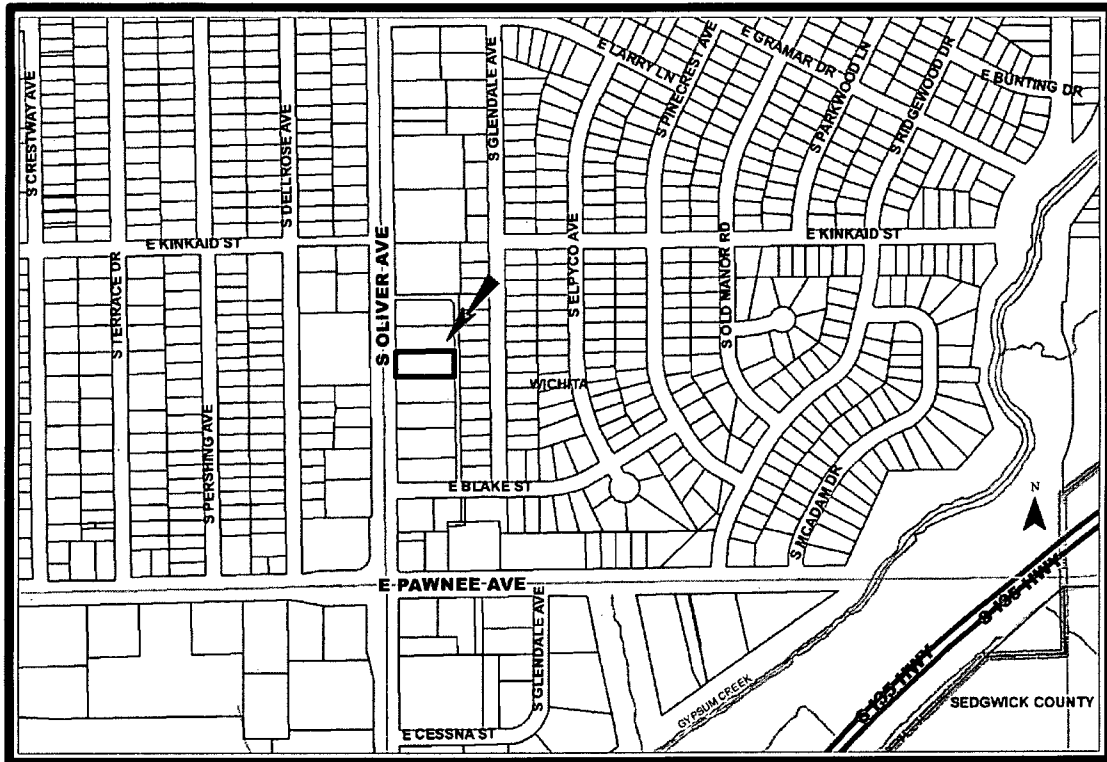
REQUEST: Conditional Use for Outdoor Vehicle and Equipment Sales

CURRENT ZONING: LC Limited Commercial

SITE SIZE: Approximately 0.52-acres

LOCATION: North of East Pawnee Avenue on the east side of South Oliver Avenue (2234 S. Oliver Ave.)

PROPOSED USE: Sale of pre-owned vehicles



BACKGROUND: The applicant is requesting a Conditional Use to allow car and light truck outdoor sales on the LC Limited Commercial (“LC”) zoned platted property located north of East Pawnee Avenue on the east side of South Oliver Avenue. Per the Unified Zoning Code (UZC, Sec.III-D.6.x), outdoor vehicle and equipment sales may be permitted after consideration and approval of a Conditional Use on a site by site basis in the LC zoning district. The 0.52-acre site was once developed as a small fitness center (built 1969) with a roofed drop-off area located by the entrance. The site is currently vacant.

The area the site is located in is developed with small LC zoned businesses located along Oliver Avenue and Pawnee Avenue that include a liquor store (built 1982), a small nightclub (CON2013-00015, built 1977, 2005), a pawn shop (built 1971, 1950), a Mexican restaurant and grocery store (built 1963), an auto repair garage (built 1976) and a commercial strip building (built 2006). Two small LC zoned two-story apartments (built 1979, 1974) abut the north and south sides of the subject site. There is a vacant Sonic fast food restaurant (built 1973) located north of north abutting apartments. An LC zoned church is located west of the site, across Oliver Avenue. SF-5 Single-Family Residential (“SF-5”) zoned single-family residences (built 1900, 1941) a SF-5 zoned church and a LC zoned church are other developments located west of the site across Oliver Avenue. TF-3 Two-Family Residential (“TF-3”) zoned single-family residences (mostly built 1940s-1950s) abut the east side of the site.

There nearest outdoor used car sales lots (CU-419) is located a half of a block south of the site, on the southeast corner of the Pawnee – Oliver Avenues intersection. South of this site there are several more outdoor used car sales lots, plus a pawn shop that sells cars. If the request is approved it would be the first car sales lot located north of Pawnee Avenue on Oliver Avenue.

The applicant has provided an aerial that shows the building, the canopy of the drop-off area, an existing drives onto Oliver Avenue, and the existing parking. The applicant needs to provide a site plan that shows, but is not limited to, customer and employee parking, the display area, any existing or proposed signs, required parking barriers, existing or proposed lighting, the existing wooden fence, and fenced trash receptacle. The site is entirely paved and as such there appears to be little opportunity for landscaping.

CASE HISTORY: The site is platted as the south 100 feet of the north 300 feet of Reserve A, McAdam Acres Addition, which was recorded with the Register of Deeds July 5, 1951.

DAB III considered this request at their December 7, 2016, meeting. There were no protests at the DAB meeting. DAB III approved the request 7-0.

ADJACENT ZONING AND LAND USE:

NORTH: LC, SF-5, GO	Apartments, vacant fast food restaurant, single-family residences
SOUTH: LC	Apartment, restaurant-grocery store, nightclub, liquor store
EAST: TF-3	Single-family residences
WEST: LC, SF-5, TF-3	Pawn shop, churches, single-family residences

PUBLIC SERVICES: The subject property has direct access onto Oliver Avenue, a paved four-lane arterial street. Municipal water and sewer services and all other utilities are currently provided to the subject property.

CONFORMANCE TO PLANS/POLICIES: The “2015-2035 Community Investments Plan” (Plan) identifies this site as appropriate for “residential.” The residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality.

The site’s LC zoning is a fit for the Plan’s “local commercial” category. The site’s building is a commercial structure. 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 UZC allows consideration of outdoor car sales on LC zoned lots as a Conditional Use on a site by site basis.

The Plan's locational criteria is comprised of three key elements: development pattern, land use compatibility and design. Development in the area north of Pawnee Avenue has LC zoned small commercial businesses and two small apartment buildings located along Oliver Avenue. There is also a vacant Sonic fast food restaurant and what may be another vacant building located north of a small pawn shop. These LC developments along Oliver Avenue end up abutting SF-5 zoned single-family residences located along Oliver Avenue. SF-5 and TF-3 Two-Family Residential zoned residences are abut the back of the development along Oliver Avenue. The most intense use in this area is a small nightclub; Magoos, CON2013-00015.

The Locational Guidelines of the Comprehensive Plan recommend that outdoor sales uses should be located along highway corridors or in areas where the uses have been established. A used car sales lot is located a half a block south of the site on the southeast corner of Oliver and Pawnee Avenues. South of this site there are several more outdoor used car sales lots, plus a pawn shop that sells cars. The area does have an established pattern of outdoor sales. However, if the request is approved it would be the first car sales lot located north of Pawnee Avenue on Oliver Avenue.

In the past the MAPC has identified smaller car sales lots as being more of a local commercial use in their nature, as opposed to the cluster of larger new car sales lots located primarily along Kellogg Avenue, Broadway Avenue or more recently along arterial intersections located in the northeast and northwest parts of the City, all which are more regional in their cliental draw. The applicant's proposal is not entirely out of character for this section of Oliver Avenue. The applicant's proposal allows another opportunity for the vacant site to be occupied.

RECOMMENDATION: The site mostly conforms to the MAPC's identifying smaller car sales lots as being more of a local commercial use in their nature. If approved the request would not introduce a new use to the section of Oliver Avenue as there are car sales lots located south of the site beginning a half of a block south of the site. However, if approved it would establish the first car sales lot located a block north Pawnee Avenue on Oliver Street. Based on the information available prior to the public hearing, MAPD staff recommends the application be **APPROVED**, with the following conditions:

1. The Conditional Use shall be limited to the sales of cars and pick-up (light) trucks on Lot 1, excluding the east 82 feet, Block A, McLain Addition. No sale or rental of trailers, boats, motorcycles/scooters, recreational vehicles or trucks larger than pick-ups are permitted. All conditions of the Unified Zoning Code, Section III-D.6.x, outdoor vehicle and equipment sales shall be in effect.
2. Because the UZC's definition of "vehicle repair limited" does not allow the outside repair or maintenance services of vehicles none shall be conducted on the site, unless a building is provided for this activity; UZC. Art.II, Sec.II-B.14.i. No outside storage of salvaged vehicles or vehicles waiting for repair shall be permitted in association with this use. No outside storage of parts, including tires, oil containers or any similar type of receptacles for new or used petroleum products.
3. All improvements to the property must be finished before car sales is permitted. Those improvements shall include, but not limited to, clearly marked customer and employee parking and the display area, proposed lighting and a solid fenced trash receptacle area.

4. The applicant shall submit a revised site plan for review and approval by the Planning Director, prior to the selling of any cars or light trucks, prior to car sales is permitted. The site plan will include, but not be limited to, internal circulation that will remain open at all time to allow access, the existing solid wooden fence along the east property line, parking barriers along the west property line, any existing or proposed signs, existing or proposed lighting, and fenced trash receptacle. The site will be developed according to the revised site plan.
5. 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. All other signage will be per the LC zoning district.
6. There shall be no use of elevated platforms for the display of vehicles. All parking areas, areas where vehicles are displayed for sale must be on a concrete, asphalt or an approved all weather surface.
7. No outdoor amplification system shall be permitted.
8. 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 14-feet, including the base, and directed onto the site and away from the residential development north and east of the site.
9. All trash receptacles, shall have solid 6-foot screening around it. The gate shall be of similar materials as the screening.
10. No selling of cars and pick-up (light) trucks shall be allowed until all permits have been acquired and all improvements to the site have been made.
11. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
12. 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 area the site is located in is developed with small LC zoned businesses located along Oliver Avenue and Pawnee Avenue that include a liquor store (built 1982), a small nightclub (CON2013-00015, built 1977, 2005), a pawn shop (built 1971, 1950), a Mexican restaurant and grocery store (built 1963), an auto repair garage (built 1976) and a commercial strip building (built 2006). Two small LC zoned two-story apartments (built 1979, 1974) abut the north and south sides of the subject site. There is a vacant Sonic fast food restaurant (built 1973) located north of north abutting apartments. An LC zoned church is located west of the site, across Oliver Avenue. SF-5 Single-Family Residential ("SF-5") zoned single-family residences (built 1900, 1941) a SF-5 zoned church and a LC zoned church are other developments located west of the site across Oliver Avenue. TF-3 Two-Family Residential ("TF-3") zoned single-family residences (mostly built 1940s-1950s) abut the east side of the site.

There nearest outdoor used car sales lots (CU-419) is located a half of a block south of the site, on

the southeast corner of the Pawnee – Oliver Avenues intersection. South of this site there are several more outdoor used car sales lots, plus a pawn shop that sells cars. If the request is approved it would be the first car sales lot located north of Pawnee Avenue on Oliver Avenue.

2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned LC. The property is suitable for the commercial uses to which it has been restricted, including its past use as a fitness center.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval could encourage the application for more Conditional Use request for car sales on other properties on this section of Oliver Avenue. The result of such requests being approved would be a more auto focused commercial activity on this section of Oliver Avenue, although on a physical scale they would not be out of character with the area's current local commercial activity; a liquor store, a small nightclub, a pawn shop, a small Mexican restaurant and grocery store, an auto repair garage and a commercial strip building. The conditions of the Conditional Use are intended to minimize the negative impact of car sales on this site. Approval would at least have the currently vacant property occupied.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The "2030 Wichita Functional Land Use Guide of the Comprehensive Plan" (Plan) identifies this site as appropriate for "residential." The residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality.

The site's LC zoning is a fit for the Plan's "local commercial" category. The site's building is a commercial structure. 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 UZC allows consideration of outdoor car sales on LC zoned lots as a Conditional Use on a site by site basis.

The Plan's locational criteria is comprised of three key elements: development pattern, land use compatibility and design. Development in the area north of Pawnee Avenue has LC zoned small commercial businesses and two small apartment buildings located along Oliver Avenue. There is also a vacant Sonic fast food restaurant and what may be another vacant building located north of a small pawn shop. These LC developments along Oliver Avenue end up abutting SF-5 zoned single-family residences located along Oliver Avenue. SF-5 and TF-3 Two-Family Residential zoned residences are abut the back of the development along Oliver Avenue. The most intense use in this area is a small nightclub; Magoos, CON2013-00015.

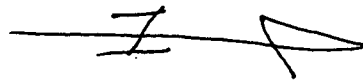
The Locational Guidelines of the Comprehensive Plan recommend that outdoor sales uses should be located along highway corridors or in areas where the uses have been established. A used car sales lot is located a half a block south of the site on the southeast corner of Oliver and Pawnee Avenues. South of this site there are several more outdoor used car sales lots, plus a pawn shop that sales cars. The area does have an established pattern of outdoor sales. However, if the request is approved it would be the first car sales lot located north of Pawnee Avenue on Oliver Avenue.

In the past the MAPC has identified smaller car sales lots as being more of a local commercial use in their nature, as opposed to the cluster of larger new car sales lots located primarily along Kellogg Avenue, Broadway Avenue or more recently along arterial intersections located in the northeast and northwest parts of the City, all which are more regional in their cliental draw. The applicant's proposal is not entirely out of character for this section of Oliver Avenue. The

applicant's proposal allows another opportunity for the vacant site to be occupied.

5. Impact on Community Facilities: All public facilities are available. Existing road facilities are adequate.

Oliver



SITE PLAN

APPROVED ~~MAPC~~/WCC BY 1/17/17 *[Signature]*

South

North

