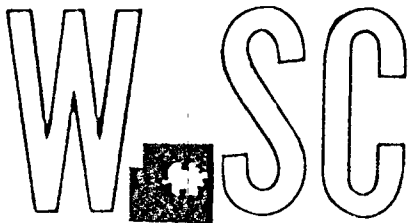


WICHITA — SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4421
FAX (316) 268-4390

FILE COPY

May 21, 1999

Bio-Brothers
128 S. Dellrose
Wichita, KS 67218

REVISED LETTER

RE: CU-500 - Conditional Use to permit vehicle sales at property currently zoned "LC" Limited Commercial, generally located southeast corner of Harry Street and Rock Road.

Dear Sirs:

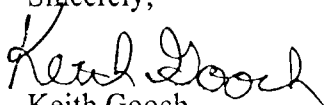
1. The applicant shall submit four copies of the landscape plan approved by the Wichita City Council to the Planning Department. Landscaping shall be professionally maintained and that the shrubs and trees will be care for, and replaced if necessary.
2. Initial signage and any significant sign changes will be presented to the MAPD for approval prior to permitting.
3. The exterior of the buildings will be repainted in a neutral color (s).
4. All automobiles displayed for retail sale will be of the standard and quality as is currently available at the new car dealership in Winfield, Kansas, and that automobiles which are trade-ins and cannot be warranted will not be held for retail sale.
5. No trailers will be held for rental.
6. The conditional use will terminate if Winfield Motor Company ceases operation at this location or has a change of control within the motor company.



7. The applicant shall submit to the MAPC for review and approval a site plan which shall indicate: which areas are for vehicle display versus storage, code required number of parking spaces for employees and customers, location of buildings and access points. Required customer and employee parking shall not be used for any display of vehicles.
8. All parking, storage and display areas shall be paved with concrete, asphalt or asphaltic concrete. Parking barriers shall be installed along all perimeter boundaries adjacent to street, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-way.
9. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to vehicle sales. Any automotive service or repair work conducted on the site shall be entirely within a building. No body or fender work shall be done on the premises without first obtaining "GC" General Commercial zoning.
10. 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 used.
11. No sound projecting devices or loudspeakers shall be used on-site.
12. The applicant shall remove the existing canopy over the old gas islands, prior to an occupancy permit being issued.
13. The approval of the Conditional Use shall be for a 3 year time period beginning on * **May 4, 1999.***
14. There shall be no use of elevated platforms for the display of vehicles.
15. The applicant shall guarantee the closure of the northern most entrance to Rock Road.
16. Any violation of the conditions of approval shall render the Conditional Use permit null and void.

If you have any further questions concerning this matter, please contact the Planning Department office at 268-4421.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith Gooch". The signature is fluid and cursive, with the first name "Keith" and last name "Gooch" clearly distinguishable.

Keith Gooch

Senior Planner

KG/rs

Cc: Robert W. Kaplan, 430 N. Market, Wichita, KS 67202
Kurt Schroeder, Office of Central Inspection
Paul Hays, Office of Central Inspection
Randy Sparkman, Office of Central Inspection
J.R. Cox, Office of Central Inspection

NW COR.
NW 1/4 SEC.
32, T27S, R2E

HARRY STREET

180' DEED

ROCK ROAD

Capitol Pears (2)

Cranberry Cobnecaster
(12)

R/W AS
PER PLAT

R/W AS PER
DESCRIPTION

CONCRETE PADS

Lockup 7/10

75' DEED

75' DEED

75' DEED

275' DEED

275' DEED

300' DEED

105' PLAT & DEED

SIGN

CONCRETE PAD

51

CANOPY

CONCRETE PAD

ONE STORY
FRAME BUILDING
(Total Station)

ONE STORY
CONCRETE BLOCK
(Automotive Shop)

35' BUILDING
SETBACK

15' UTILITY
EASEMENT

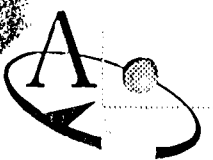
20' DRAINAGE
EASEMENT

105' DEED

115' PLAT

ENCROACHMENT
AS PER SPECIAL
EXCEPTION 13

CONCRETE
VACUME STAND



AUSTIN ENGINEERING SERVICES P.A.

254 S. Laura, Suite 210 Wichita, KS 67211
316/262-1281 fax: 316/262-6773

STAFF REPORT

CPO 2, 12/14/98

MAPC, 1/14/99

CASE NUMBER: CU-500

APPLICANT/AGENT: Bio-Brothers/ Larry Raber, owner/applicant; Robert W. Kaplan, agent

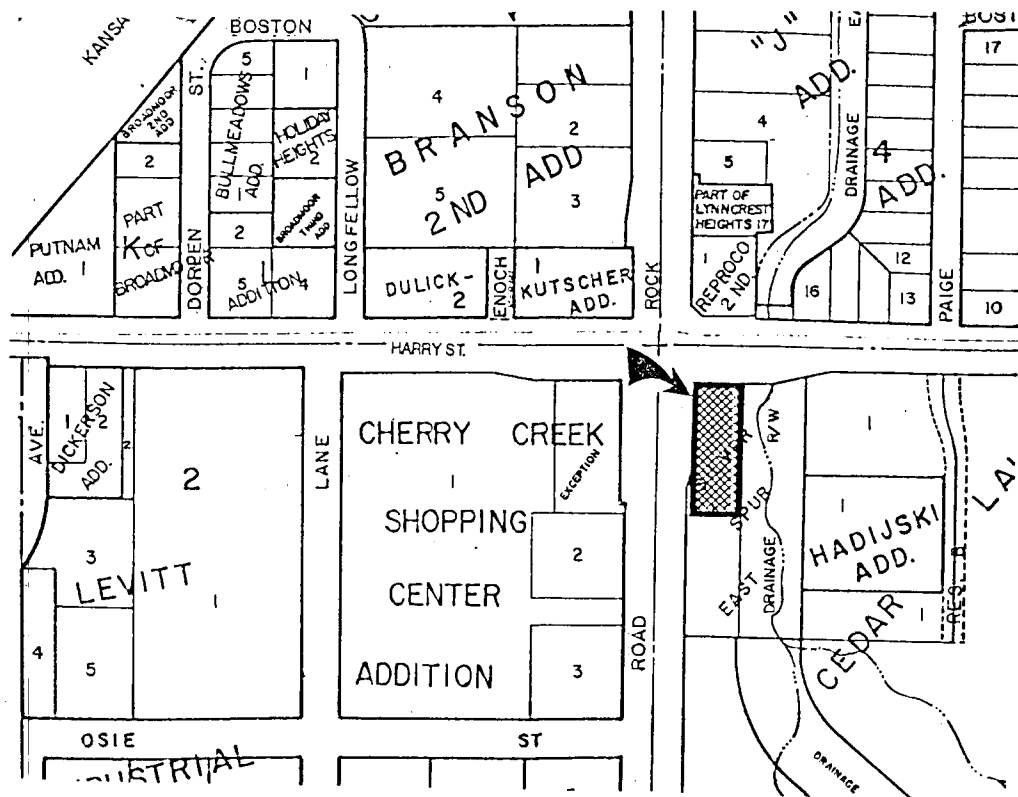
REQUEST: Conditional use to permit auto sales

CURRENT ZONING: "LC", Limited Commercial

SITE SIZE: .7 acre

LOCATION: Southeast corner of Harry Street and Rock Road

PROPOSED USE: Auto sales lot



BACKGROUND: The applicants request a Conditional Use to permit automobile sales on a .7 acre site zoned "LC", Limited Commercial. The site is approximately the north one-half of Lot 1, Silver Springs East Addition. The plat has complete access control along both streets for the first 40 feet of the lot from the intersection of both Harry and Rock. Currently, there are two access points on Rock Road and one on Harry, adjacent to the application area. The plat also depicts a 35 foot building setback along the north and west property lines. A vacant gas station and muffler repair shop are currently located on the property today.

Land adjoining the application area is zoned "LC", Limited Commercial and developed with a variety of retail / convenience sales and service uses, such as a commercial retail center, gasoline and convenience store and fast food. There is also an office use located east of the site on "GO", General Office zoning. A drainage ditch is located just east of the application area.

Outdoor vehicle and equipment sales in the "LC" district is subject to six conditions: 1. The site is to be contiguous to a major street; 2. If the site is contiguous to residential zoning districts, visual screening is required; 3. Storage and display areas must be paved; 4. Lighting standards must be met (cut-off luminaries shall be employed and lights are not to be mounted at a height exceeding one-half the distance from neighboring lots) and no string-type lights shall be permitted; 5. Compatibility noise standards must be met (no sound system capable of being heard on residentially zoned land within 500 feet of the site is permitted) and 6. No repair work is allowed except in an enclosed building, and no body or fender work is allowed at any time. The code requires auto businesses to provide customer parking at the rate of two spaces for the first 10,000 square feet of lot area used for vehicle sales, display or storage purposes and one space per each 10,000 square feet of lot area uses for sales, display or storage purposes.

At the time this report was being prepared, the applicant was out of town. Therefore, the applicant's agent was unable to provide staff with any details regarding the number of cars to be displayed, square footage of buildings or number of employees. That information will be available at the MAPC hearing. Conditional Uses must be accompanied by approved site plans. A survey of existing site features was submitted, but not anything that qualifies as a site plan.

CASE HISTORY: The site was platted as the Silver Spur East Addition in 1997. BZA 11-75, BZA 9-79 and V-0946. BZA 11-75 approved an use exception to permit the establishment of a trailer rental agency (U-Haul). Conditions of approval for BZA 11-75 limited trailer sales to: a 15 x 40 foot area, a maximum of six trailers, 6x12 foot trailer is the largest trailer permitted to be displayed, display area to be paved, no signs could project over the right-of-way, lights were to be

shielded, and no outside loudspeakers were to be utilized. BZA 9-79 permitted a car wash. V-0946 vacated a portion of a platted building setback.

ADJACENT ZONING AND LAND USE:

NORTH: "LC", Limited Commercial and "B" Multiple-family Residential; service station and apartments
SOUTH: "LC", Limited Commercial; strip retail / office center
EAST: "LC", Limited Commercial and "GO", General Office; apartments
WEST: "LC", Limited Commercial; retail shopping center

PUBLIC SERVICES: Harry is designated by the 2020 Transportation Plan as a 5-lane arterial. Rock Road is designated as a 6-7 lane arterial by the same Transportation Plan. At the intersection of these two streets, north-bound Rock Road is currently developed with a left-turn lane, two through lanes and a right turn lane. At this intersection, Rock carries 27,244 average daily trips at this intersection. East-bound Harry is currently developed with two through lanes. At this intersection, Harry currently carries 24,211 average daily trips. The 2020 Transportation Plan projects average daily traffic on Harry to increase to 29,888, with Rock projected to increase to 30,212.

CONFORMANCE TO PLANS/POLICIES: The Comprehensive Plan recommends that auto-related uses should be guided to areas where these uses already exist (e.g. Kellogg corridor or the Central Business District) or to other appropriate areas where traffic patterns, surrounding land uses and utilities can support such uses. The Plan also identifies "major roadways", including Rock Road, for which special attention should be given to the visual appearance of the street and adjoining land uses.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED since there are not any other vehicle sales lots in the immediate vicinity, and due to the outside storage associated with vehicle sales, which is not permitted in other "LC" zoned properties at this intersection.

However, if the Planning Commission believes this is an appropriate use, staff recommends approval be subject to the following conditions:

1. The applicant shall submit to the MAPC for review and approval a site plan which shall indicate: which areas are for vehicle display versus storage, code required number of parking spaces for employees and customers, location of buildings and access points. Required customer and employee parking shall not be used for any display of vehicles.

2. All parking, storage and display areas shall be paved with concrete, asphalt or asphaltic concrete. Parking barriers 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.
3. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to vehicle sales. Any automotive service or repair work conducted on the site shall be entirely within a building. No body or fender work shall be done on the premises without first obtaining "GC" General Commercial zoning.
4. 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 used.
5. No sound projecting devices or loudspeakers shall be used on-site.
6. There shall be no use of elevated platforms for the display of vehicles.
7. Any violation of the conditions of approval shall render the Conditional Use permit null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The application area is zoned "LC", Limited Commercial. The "LC" district does not permit auto sales without a Conditional Use permit. The site has commercial or office developments located on all sides which are zoned "LC" or "GO", General Office. These two districts do not permit outside storage as a use "by-right". The intersection of Harry and Rock is developed predominantly with lower intensity, small scale retail and service commercial uses. A car sales lot would not be consistent with the character and type of uses located at this intersection.
2. The suitability of the subject property for the uses to which it has been restricted. The "LC" district permits a wide range of retail sales and less intense uses. It seems plausible that a use could be found for this site that is permitted by the current zoning. Harry and Rock Road carry a high enough volume of traffic, the site has three existing access points and is of a sufficient size to be able to accommodate most smaller scale retail sales uses, office or neighborhood oriented service tenants.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Outdoor storage and display of vehicles is not consistent with the type of development existing at this intersection. Approval of this request will most likely open other sites near this intersection for additional vehicle sales lots and other "heavier" commercial uses. The Rock Road corridor is deserving of some level of protection against outside display and storage uses, otherwise it will take on a South Broadway appearance.
4. Length of time the property has remained vacant as zoned. The site was an active gas station approximately two years ago.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Comprehensive Plan recommends auto related uses to be located along 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 uses. The Plan also recommends special attention to the visual quality of key major roadways, and Rock Road is identified as one of these roadways. The proposed use does not match these criteria.
6. Impact of the proposed development on community facilities: Municipal services are available to serve this site, and the proposed use should not generate any more traffic than other permitted commercial uses.