



Wichita-Sedgwick County Metropolitan Area Planning Department

November 6, 2015

PHR Investments, Inc.
c/o Howard Ricketts
2401 N. High Point Circle,
Wichita, KS, 67205

REFERENCE: CON2015-00033 – City Conditional Use request for outdoor car sales on LC Limited Commercial zoned property generally located north of Central Avenue on the northeast corner of Elm & West Streets (762 N. West Street).

Dear Applicant:

At its regular meeting on November 5, 2015, 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 following conditions of a Conditional Use:

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 site has no building for any automotive service or repair work, none shall be conducted on the site. 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 include a parking barrier, such as a heavy rail type, being installed along the west and south property lines of the site where it abuts the Central Avenue and Elm Street right-of-way, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-way, including the sidewalks. A six-eight foot wooden fence shall be erected on the east property line of the site.

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4. No display or parking allowed on the north grass area of the site. The two trees located on the north side of the site in the grass area shall remain as shall the tree located along in the West Street right-of-way and the two trees located along the Elm Street right-of-way.
5. 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, within 45 days of approval by the MAPC or the City Council. The site plan will include, but not be limited to, internal circulation that will remain open at all time to allow access and connection to the Elm Street and Central Avenue driveways, a six-eight foot tall solid wooden fence along the east property line and parking barriers along the west and south property line. The site will be developed according to the revised site plan. No car sales will be allowed until the revised site plan is approved.
6. 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. No Animated signs. All other signage will be per the “LC” zoning district.
7. 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.
8. No outdoor amplification system shall be permitted.
9. 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.
10. All trash receptacles, shall have solid 6-foot screening around it. The gate shall be of similar materials as the screening.
11. 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.
12. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
13. 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.

NOTICE: The public hearing on planning items is conducted by the MAPC under provisions of State Law. Adopted policy is that the City Council will not take additional testimony on zoning related applications and other issues for which the MAPC has held a public hearing. However, interested parties

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may file a written statement with the City Clerk by 5:00 p.m. on the Wednesday preceding this meeting, providing new facts on the issue or alleging an unfair hearing. The Council will determine from such statements whether to return the issue to the MAPC for reconsideration or to reverse their recommendation.

Property owners may also file written protest petitions on zoning related items heard by the MAPC. 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 within 200 feet of the property for which the application was filed, and must be submitted to the City Clerk within 14 days of the conclusion of the MAPC hearing by November 19, 2015, at 5 PM. Such petitions may cause the application to be disapproved, if the land area encompassed by the protesting owners exceeds 20% of the land area within 200 feet of the perimeter of the application area, unless the Council overrides such a protest and approves the application by a vote of six (6) of its members.

If there are no valid protest petitions filed against the requested CON2015-00033, the recommendation of the MAPC is final. If valid protests petitions are filed against the requested Conditional Use, your application will be forwarded to the December 8, 2015, City Council meeting as a non-consent item for final action. This meetings will be at 9 AM, 1st Floor City Hall, 455 N Main Street.

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,


Bill Longnecker
Senior Planner

BL: mc

Copies to: Orchard Park NA, c/o Debbie Signman, 714 N Flora, Wichita, KS, 67212

Sunflower NA, c/o Everett Pangle, 530 Leonine, Wichita, KS, 67213

LaPlacity Park NA, c/o Greg Boyaijian, 3325 W. 9th St, Wichita, KS, 67203

Janet Miller, WCC VI, Mail Stop 1-13

Martha Sanchez, CL, Mail Stop 1-135

CONDITIONAL USE RESOLUTION NO. CON2015-00033

WHEREAS, PHR Investments Inc., c/o Howard Ricketts (owner); 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”, specifically a used car sales business located within the LC Limited Commercial (“LC”) zoned approximately 0.34-aces, described as:

Lot 1, Block A, McLain Addition Wichita, Sedgwick County, Kansas, generally located north of Central Avenue, on the northeast corner of Elm and West Streets.

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 November 5, 2015, 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 allow a Conditional Use for “outdoor vehicle and equipment sales”, specifically a used car sales business located within the LC Limited Commercial (“LC”) zoned western portion of the approximately 0.34-aces, described as:

Lot 1, Block A, McLain Addition Wichita, Sedgwick County, Kansas, generally located north of Central Avenue, on the northeast corner of Elm and West Streets.

Approved subject to 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 site has no building for any automotive service or repair work, none shall be conducted on the site. 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 include a parking barrier, such as a heavy rail type, being installed along the west and south property lines of the site where it abuts the Central Avenue and Elm Street right-of-way, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-way, including the sidewalks. A six-eight foot wooden fence shall be erected on the east property line of the site.

4. No display or parking allowed on the north grass area of the site. The two trees located on the north side of the site in the grass area shall remain as shall the tree located along in the West Street right-of-way and the two trees located along the Elm Street right-of-way.
5. 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, within 45 days of approval by the MAPC or the City Council. The site plan will include, but not be limited to, internal circulation that will remain open at all time to allow access and connection to the Elm Street and Central Avenue driveways, a six-eight foot tall solid wooden fence along the east property line and parking barriers along the west and south property line. The site will be developed according to the revised site plan. No car sales will be allowed until the revised site plan is approved.
6. 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. No Animated signs. All other signagel will be per the Limited Commercial zoning district.
7. 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.
8. No outdoor amplification system shall be permitted.
9. 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.
10. All trash receptacles, shall have solid 6-foot screening around it. The gate shall be of similar materials as the screening.
11. 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.
12. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
13. 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 19th day of November 2015.

METROPOLITAN AREA PLANNING COMMISSION

Carol Chapman Neugent
Carol Chapman Neugent, Chair MAPC

ATTEST:

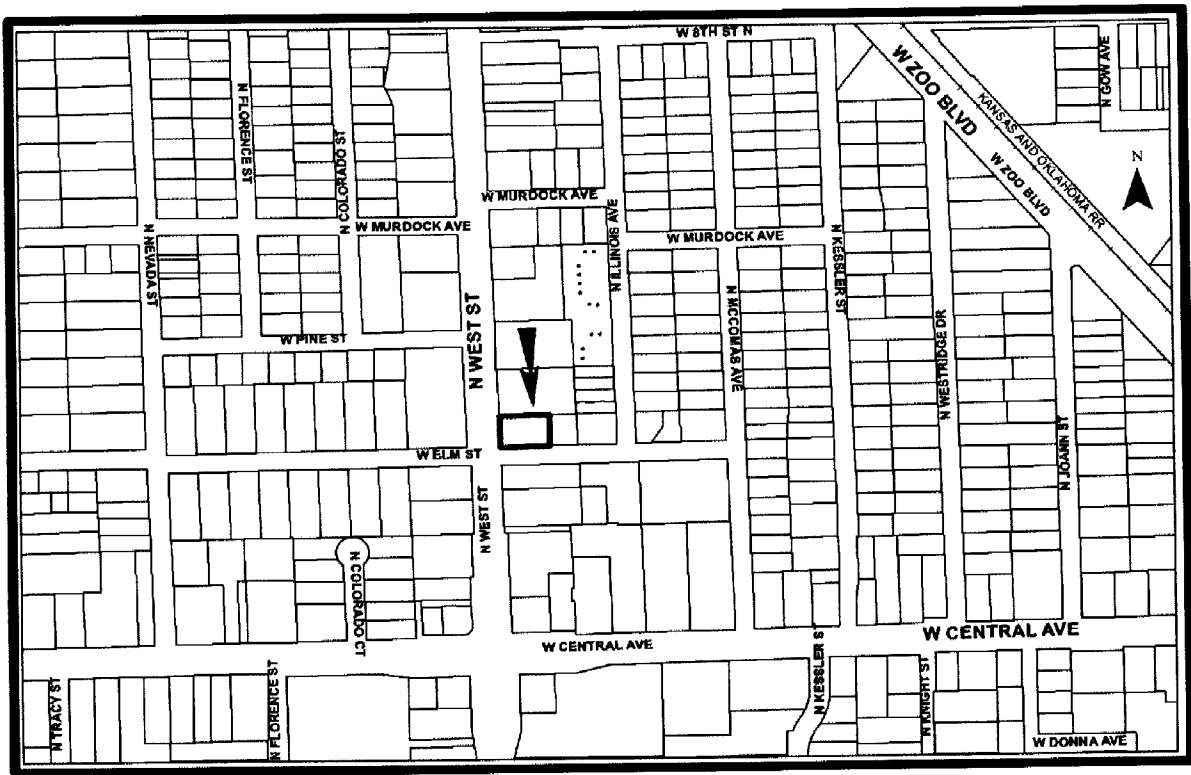
Dale Miller
Dale Miller, Secretary



STAFF REPORT

MAPC November 5, 2015
DAB VI November 2, 2015

- CASE NUMBER:** CON2015-00033
- OWNER/APPLICANT:** PHR Investments Inc., c/o Howard Ricketts (owner)
- REQUEST:** Conditional Use for Outdoor Vehicle and Equipment Sales
- CURRENT ZONING:** LC Limited Commercial
- SITE SIZE:** Approximately 0.34-acres
- LOCATION:** North of Central Avenue, on the northeast corner of Elm and West Streets (762 N. West Street – WCC #VI)
- PROPOSED USE:** Sale of pre-owned vehicles



BACKGROUND: The applicant is requesting a Conditional Use to allow car and light truck and motor outdoor sales on the LC Limited Commercial zoned Lot 1, excluding the east 82 feet, Block A, McLain Addition. 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 site is located at the northeast corner of Elm and West Streets. The 0.34-acre site was once developed as a small bank (built 1974) with drive-thru service. The site is currently vacant.

Between Kellogg Street/US Highway 54 (US 54) on the south end and Zoo Boulevard on the north end property with West Street frontage is almost completely developed with small commercial businesses. These businesses include regional and local convenience stores, national and regional grocery stores, national and local fast food restaurants, national and local sit down restaurants (some providing alcohol), a large local commercial shopping center, small commercial strips, small stand-alone retail and office, car repair (including one with a body shop), banks with drive-thru services, an almost equal number of payday loan offices, a few pawn shops, and two used car sales lots. The largest development in the area is the exception to this mostly local commercial development, the Towne West Mall, located two-blocks west of West Street located up against the Interstate Highway 235 (IH 235) - US 54 interchange. North of Central Avenue the businesses are noticeably smaller and are open fewer hours than the businesses located south of Central Avenue. Two small 24-hour businesses operate north of Central Avenue, a local Mexican restaurant and a local (regional?) convenience store.

The immediate neighborhood begins with a LC zoned one-story payday loans building (built in 1966, looks like an old Pizza Inn) abutting the north side of the site with LC zoned one-story siding and widows sales office (built 1980) and a one-story commercial strip (built 1968) housing a restaurant and retail located further north. A GO General Office zoned 2-1/2 story small apartment building (built 1981) abuts the east side of the site. A TF-3 Two-Family Residential and SF-5 Single-Family Residential zoned neighborhood of mostly single-family residences and some duplexes (built late 1970s – mid 1980s) are located east, adjacent to the site. Development located south of the site, across Elm Street, include LC zoned one-story auto parts, a one-story Walgreens Drug store (built 2000), a one-story bank with a drive-thru (built 1972) and over three-acres of undeveloped GO zoned land. Development located west of the site, across West Street, include LC zoned one-story commercial strips (built 1967, 1973), a one-story bank with a drive-thru service (built 1994, 2007), a one-story flower shop (built 1955, 1998), an auto repair shop (built 1955, 1986) and a payday loans (built 1960). All of these nonresidential developments are local commercial types of uses.

There nearest outdoor car sales lots appear to be the two dealerships (CON2002-0005 and 2011-00038) located about four blocks south of the site on West Street between Douglas Avenue and 3rd Street and a recently approved car sales lot, associated with an existing auto repair business (CON2014-00034), located west of the Central Avenue – Zoo Boulevard intersection. The MAPC has recommended that buildings that had been used in the past for automobile activities, such as vehicle repair garages, be considered as possible sites for car sales. If the request is approved it would be the first car sales lot located north of Central Avenue. If the request is approved it is possibly the second time a building designed as a bank with drive-thru services became a stand-alone car sales lot.

The applicant has provided a site plan that shows the building, the canopy of the drive-thru service, the two existing drives onto Central Avenue and Elm Street, sidewalks, proposed parking and display areas, an existing pole sign, proposed parking barriers, a fenced trash receptacle, a grass area with two existing trees and Westar utilities. The site plan shows a display area blocking circulation between the site's Elm Street and Central Avenue driveways, this obstruction will have to be removed for internal circulation to provide unobstructed two points of ingress-egress. The site is almost entirely paved and as such there appears to be little opportunity for landscaping.

CASE HISTORY: The site is platted as Lot 1, Block A, McLain Addition, which was recorded with the Register of Deeds December 8, 1971. The site was annexed into the city sometime between 1951-1960.

ADJACENT ZONING AND LAND USE:

NORTH: LC	Payday loans, office, commercial strip, auto repair
SOUTH: LC, GO	Auto parts store, drug store, bank with drive-thru, undeveloped land
EAST: GO, TF-3, SF-5	Small apartment, duplexes, single-family residences
WEST: LC	Small commercial strips, small retail, bank, auto repair, payday loans

PUBLIC SERVICES: The subject property has access to West Street, a four-lane arterial street with a center turn-lane and Elm Street, a paved two-lane 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 UZC allows consideration of outdoor car sales on LC zoned lots as a Conditional Use on a site by site basis.

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 West Street, a four-lane arterial, with a center turn-lane. The site’s access onto the residential Elm Street provided the needed access for the former bank’s drive-thru service. The site’s Elm Street drive lines up with the LC zoned auto parts’ drive, located south of the site, across Elm Street. The conditions attached to a Conditional Use can address site design issues, including, but not limited to the required solid screening along the site’s east side. 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. As mentioned the closest car sales lots are located about four blocks south (and south of Central Avenue) of the site on West Street between Douglas Avenue and 3rd Street and a recently approved car sales lot (associated with auto repair), CON2014-00034, located west of the Central Avenue – Zoo Boulevard intersection. Approval would allow the first car sales lot located north of Central 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. Consideration of a Conditional Use to allow car sales as accessory to a bank’s services to its customers is not uncommon. However, converting a site that was previously used as a bank with drive-thru service to a stand-alone car sales lot seems to be rare. The applicant’s proposal is not entirely out of character for this section of West Street, from Douglas Avenue to Central Avenue, but it will establish the first car sales lot located a block north of Central Avenue; CON2001-00020, car sales located on the southeast corner of West Street and Zoo Boulevard was denied. The applicant’s proposal allows another opportunity for the 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 West Street as there are car sales lots are located about four blocks south of the site on West Street between Douglas Avenue and 3rd Street and a recently approved car sales lot (associated

with auto repair), CON2014-00034, located west of the Central Avenue – Zoo Boulevard intersection. However, if approved it would establish the first car sales lot located a block north of Central Avenue on West Street. This is a tough call but, 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 site has no building for any automotive service or repair work, none shall be conducted on the site. 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 include a parking barrier, such as a heavy rail type, being installed along the west and south property lines of the site where it abuts the Central Avenue and Elm Street right-of-way, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-way, including the sidewalks. A six-eight foot wooden fence shall be erected on the east property line of the site.
4. No display or parking allowed on the north grass area of the site. The two trees located on the north side of the site in the grass area shall remain as shall the tree located along in the West Street right-of-way and the two trees located along the Elm Street right-of-way.
5. 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, within 45 days of approval by the MAPC or the City Council. The site plan will include, but not be limited to, internal circulation that will remain open at all time to allow access and connection to the Elm Street and Central Avenue driveways, a six-eight foot tall solid wooden fence along the east property line and parking barriers along the west and south property line. The site will be developed according to the revised site plan. No car sales will be allowed until the revised site plan is approved.
6. 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.
7. 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.
8. No outdoor amplification system shall be permitted.
9. 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.
10. All trash receptacles, shall have solid 6-foot screening around it. The gate shall be of similar materials as the screening.

11. 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.
12. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
13. 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 immediate neighborhood begins with a LC zoned one-story payday loans building (built in 1966, looks like an old Pizza Inn) abutting the north side of the site with LC zoned one-story siding and widows sales office (built 1980) and a one-story commercial strip (built 1968) housing a restaurant and retail located further north. A GO General Office zoned 2-1/2 story small apartment building (built 1981) abuts the east side of the site. A TF-3 Two-Family Residential and SF-5 Single-Family Residential zoned neighborhood of mostly single-family residences and some duplexes (built late 1970s – mid 1980s) are located east, adjacent to the site. Development located south of the site, across Elm Street, include LC zoned one-story auto parts, a one-story Walgreens Drug store (built 2000), a one-story bank with a drive-thru (built 1972) and over three-acres of undeveloped GO zoned land. Development located west of the site, across West Street, include LC zoned one-story commercial strips (built 1967, 1973), one-story bank with a drive-thru (built 1994, 2007), a one-story flower shop (built 1955, 1998), auto repair (built 1955, 1986) and a payday loans (built 1960). All of these nonresidential developments are local commercial type of uses.

There nearest outdoor car sales lots appear to be the two dealerships (CON2002-0005 and 2011-00038) located about four blocks south of the site on West Street between Douglas Avenue and 3rd Street and a recently approved car sales lot, associated with an existing auto repair business (CON2014-00034), located west of the Central Avenue – Zoo Boulevard intersection. The MAPC has recommended that buildings that had been used in the past for automobile activities, such as vehicle repair garages, be considered as possible sites for car sales. If the request is approved it would be the first car sales lot located north of Central Avenue. If the request is approved it would possibly be the second time a building designed as a bank with drive-thru services became a stand-alone car sales lot.

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 bank with drive-thru service.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of CON2015-00033 could encourage the application for more Conditional Use request for car sales on other properties on this section of West Street that are currently used for auto repair, payday loans or pawn shops. The result of such requests being approved would be a more auto focused commercial activity on this section of West Street, although on a physical scale not be out of character with the current local commercial activity; both sit down and fast food restaurants, offices, small commercial strips, grocery stores, a drug store, payday loan businesses, several pawn shops, etc. 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 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. If approved the request would not introduce a new use to the section of West Street as there are car sales lots located about four blocks south of the site on West Street between Douglas Avenue and 3rd Street and a recently approved car sales lot (associated with auto repair), CON2014-00034, located west of the Central Avenue – Zoo Boulevard intersection. However, if the request is approved it would be the first car sales lot located north of Central Avenue. There is no adopted neighborhood plan that would specifically discourage a car sales lot on this site. The Conditional Use proposal allows another opportunity for the site to be occupied.
5. Impact on Community Facilities: All public facilities are available. Existing road facilities are adequate.

