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RESOLUTION NO. 18-00

A RESOLUTION AUTHORIZING A CONDITIONAL USE TO ALLOW VEHICLE SALES, OUTDOOR, ON 1.1 ACRES ZONED "LC" LIMITED COMMERCIAL ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C AS ADOPTED BY RESOLUTION NO. 178-1997.

BE IT RESOLVED BY THE GOVERNING BODY OF SEDGWICK COUNTY, KANSAS.

SECTION I. 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-C of the Wichita Sedgwick County Unified Zoning Code, a Conditional Use to allow vehicle sales, outdoor, on 1.1 acres zoned "LC" Limited Commercial, legally described below:

Case No. CU-559

A Conditional Use Permit to allow an vehicle sales, outdoor, on 1.1 acres zoned "LC" Limited Commercial located on the south side of 29th Street North, approximately 1/3 mile west of 183rd Street West, described as:

Beginning 407' East of the Northwest Corner of the NE/4, Thence South 205', Thence East 200', Thence North 205', Thence West to Beginning, Except the East 20', Section 5, Township 27 South, Range 2 West, Sedgwick County, Kansas.

SUBJECT TO THE FOLLOWING CONDITIONS:

1. The application area shall be developed in substantial conformance with the site plan attached hereto and made a part of this application. The required customer and employee parking shall not be used for any display of vehicles.
2. 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

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not directly related to such a business. 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 one free-standing sign shall be permitted, not to exceed the size of 36 square feet and not to exceed ten feet in height. 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 parking lot light poles shall have cut-off fixtures which direct light away from nearby residential areas. Light poles must be limited to a maximum height of 14 feet.
8. A landscape street yard consisting of three shade trees of 2" caliper each, or equivalent, shall be provided along 29th Street North. A buffer of one tree for every 40 feet shall be provided south of the display area between the proposed use and the school located to the east and along the south property line.
9. Hours of operation shall be limited to 8 am to 8 p.m.
10. Any violation of the conditions of approval shall render the Conditional Use permit null and void.

SECTION II. That upon the taking effect of this Resolution, the notation of such zone change shall be entered in the official zoning atlas on file in the Office of the County Zoning Administrator and in the Office of the Wichita-Sedgwick County Metropolitan Area Planning Department.

SECTION III. That this Resolution shall take effect and be in force from and after its adoption and publication in the official county paper.

Commissioners present and voting were:

BETSY GWIN	<u>aye</u>
BILL HANCOCK	<u>aye</u>
THOMAS G. WINTERS	<u>aye</u>
CAROLYN McGINN	<u>aye</u>
BEN SCIORTINO	<u>aye</u>

DATED this 9th day of February, 2000.

BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS

Thomas G. Winters
THOMAS G. WINTERS, Chairman

ATTEST:

James Alford
JAMES ALFORD
County Clerk

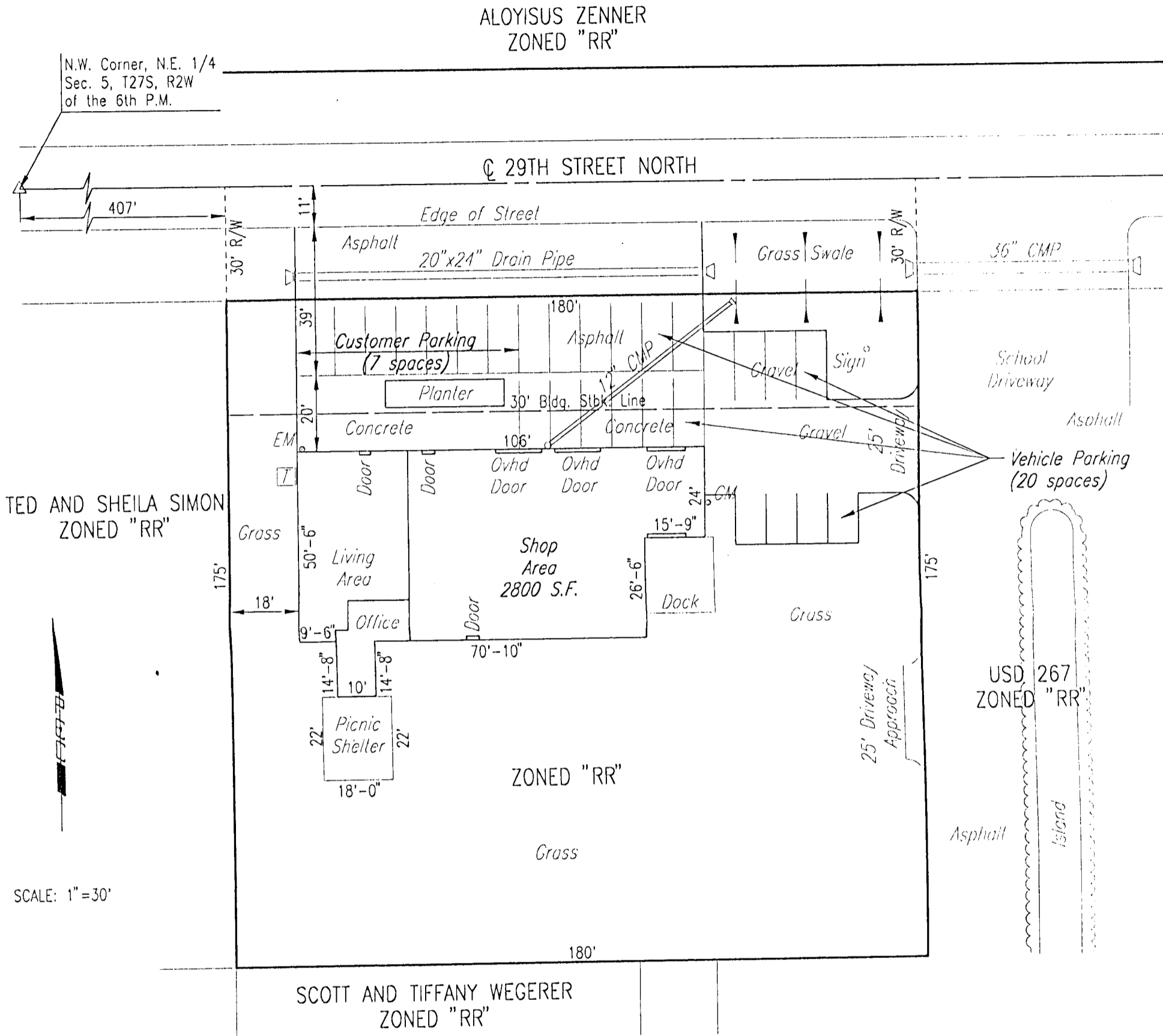


APPROVED AS TO FORM ONLY:

Richard Euson
RICH EUSON
County Counselor

LEGAL DESCRIPTION:

BEGINNING AT A POINT 407 FEET EAST OF THE N.W. CORNER OF THE N.E. 1/4 SEC. 5, T27S,R2W;
 THENCE SOUTH 205 FEET; THENCE EAST 200 FEET; THENCE NORTH 205 FEET; THENCE WEST TO
 THE POINT OF BEGINNING EXCEPT THE EAST 20 FEET AND EXCEPT THE NORTH 30 FEET FOR
 RIGHT OF WAY.



*CONDITIONAL USE PLAN FOR OUTDOOR VEHICLE STORAGE
 19051 W. 29TH ST.
 COLWICH, KS*

*OWNER: WILLIS AND REGINA CARLIN
 ENGINEER: PROFESSIONAL ENGINEERING CONSULTANTS, P.A.*

STAFF REPORT
MAPC January 13, 2000

CASE NUMBER: CU-559 & SCZ-0799

APPLICANT/AGENT: Eugene A. Stockemer (owner), Willis J. Carlin and Regina R. Carlin, Gerelyn A. Carlin (contract purchasers)

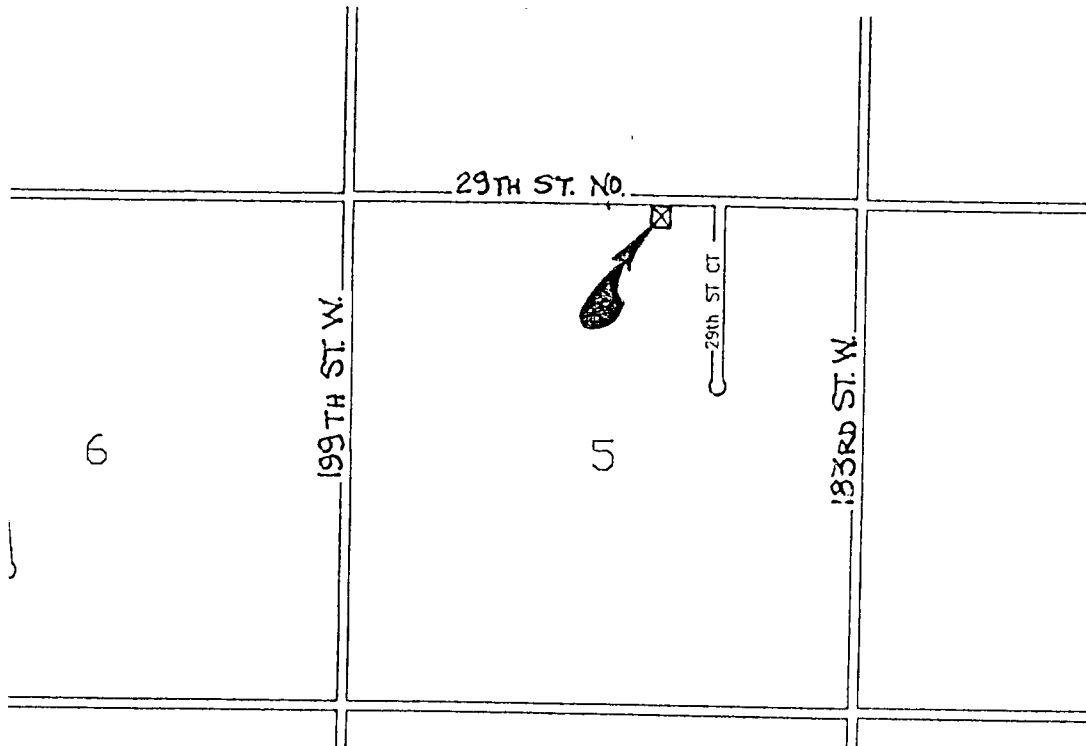
REQUEST: Zone change to "LC" Limited Commercial and Conditional Use to allow vehicle sales, outdoor

CURRENT ZONING: "RR" Rural Residential

SITE SIZE: 1.1 acres

LOCATION: On the south side of 29th Street North approximately 1/3 mile west of 183rd Street West

PROPOSED USE: Vehicle sales, outdoor



BACKGROUND: The applicant is requesting that a 1.1 acre tract of property zoned "RR" Rural Residential be rezoned "LC" Limited Commercial and that a "Conditional Use" for vehicle sales, outdoor, be approved for the site. The application area is located in the community of St. Mark, along the south side of 29th Street North between 183rd Street West and 199th Street West.

The property is unique in that it is occupied by an old commercial structure that has been used as a public garage to serve the St. Mark community since the 1930s. The western portion of the structure is a residence. The lot has been used for vehicle sales during the past few years, although it was not zoned to allow this use.

The surrounding property is zoned "RR" Rural Residential. It is developed as a small rural community, with houses clustered along 29th Street North and to the south. A public elementary school is across a driveway to the east from the application area and St. Mark Church is located to the west.

One of the unique characteristics of the community is the relatively narrow right-of-way of 30 feet from centerline rather than the standard 50 feet from centerline for rural arterial roads. Setbacks are small, with the buildings being located close to the pavement. However, there have been two cases in proximity to the application area where a 50-foot right-of-way from centerline was followed. The first was a requested variance for a reduction in setback to 45 feet (County Board of Zoning Appeals 11-90). The request was granted for a reduction to 50 feet instead of 45 feet in order to allow for future expansion of the road. The second case was the dedication of 50 feet of half-width right-of-way along 29th Street North by Clasen Addition. Because the prevailing setbacks along 29th in St. Mark's are narrow, it is unlikely that 29th will be widened until a significant amount of urban expansion occurs in the vicinity. Therefore, staff would request that the applicant make a contingent dedication of 20 feet in the event the widening is undertaken in the future.

The existing building is large in comparison to typical small car lots. Generally the amount of parking required for customers and employees would be a smaller ratio than that based on a 2,800 square-foot building. A reduction of parking requirements by 25 percent could be requested by administrative adjustment and would reduce the number of customer/employee spaces from eight to six. Any further reduction would require County BZA approval. The applicant has indicated that the number of customer spaces needed would not be anticipated to exceed two or three at a time. The normal range of cars on the lot would be between two to eleven cars for sale, and they would be parked along the northeast corner of the site. Since the site plan provides for display of up to 20 cars, plus seven customer spaces, the applicant has not felt the need to request a reduction in required parking.

However, the location of the customer parking spaces is viewed as an issue on the current site plan. The parking spaces are located directly off 29th Street North. As

long as the right-of-way remains at 30 feet in half-width, there is room for the cars to back around before reentering 29th. If the additional 20 feet for right-of-way were needed, there would not be sufficient area for turning around and the customer parking would need to be located, most likely along the eastern side of the building.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR" Rural Residential	Residences, farm
EAST:	"RR" Rural Residential	Elementary school
SOUTH:	"RR" Rural Residential	Residences
WEST:	"RR" Rural Residential	Residences

PUBLIC SERVICES: The site has access to 29th Street North, a two-lane rural arterial road, with relatively low volume of traffic. Traffic counts are 800 ADTS for the eastern leg of 29th and 500 ADTs for the western leg, with traffic peaks during church or school dismissal. The property is beyond the urban service boundary for sanitary sewer and relies on private sewage disposal. Rural water is available, but is not being used by the site.

CONFORMANCE TO PLANS/POLICIES: The "Sedgwick County Development Guide" of the Comprehensive Plan identifies this property as "agricultural," but identifies St. Mark as a rural community with undefined boundaries. It does not qualify as a "Small City" since it is unincorporated. According to the "Sedgwick County Development Guide, basic convenience and service-oriented commercial activity to serve rural residents and highway users would be permitted at appropriate locations.

RECOMMENDATION: The historic use of the property for commercial purposes blends with the nature of small rural communities serving basic convenience and service-oriented activities. However, the transition to vehicle sales, outdoor, typically is a use with a more urban flavor, and would be located in the 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 such uses. In order to reconcile the two conflicting locational guidelines, the character of the use should remain small and blend in with its surrounding area. Based on these conditions and the information available prior to the public hearing, Staff recommends the application be APPROVED, subject to platting within one year and contingent dedication of 20 feet for right-of-way along 29th Street North, and subject to the following conditions:

1. The application area shall be developed in substantial conformance with the site plan attached hereto and made a part of this application. The required customer and employee parking shall not be used for any display of vehicles. In the event the

contingent dedication is required, the site plan would need to be amended to relocate the customer parking.

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 such a business. 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 one free-standing sign shall be permitted, not to exceed the size of 36 square feet and not to exceed ten feet in height. 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 parking lot light poles shall have cut-off fixtures which direct light away from nearby residential areas. Light poles must be limited to a maximum height of 14 feet.
8. A landscape street yard consisting of three shade trees of 2" caliper each, or equivalent, shall be provided along 29th Street North. A buffer of one tree for every 40 feet shall be provided south of the display area between the proposed use and the school located to the east and along the south property line.
9. Hours of operation shall be limited to 8 am to 8 pm.
10. 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 zoning of the surrounding area is "RR" Rural Residential. The character of the rural community is that of a scattering of houses, an elementary school and a church.
2. The suitability of the subject property for the uses to which it has been restricted: The property has been used as a public garage for many years; more

recently as vehicle sales, outdoor. However, the proposed "Conditional Use" expands the extent of the non-conformity from a few cars displayed to up to 20 cars.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The "Conditional Use" could generate demand for similar requests in the area. Additional car lots in such a small community would not be in character with its rural flavor and would be expected to detrimentally affect nearby properties by pressure for commercial use more in character to urban areas.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The requested change in zoning classification is in conformance with the "Sedgwick County Development Guide," so long as the scale of the operation remains small and of a rural community-serving character.
5. Impact of the proposed development on community facilities: The projected impact on community facilities is minimal, and would be less than operation of a public garage due to potential sewage disposal requirements of that type of use.