

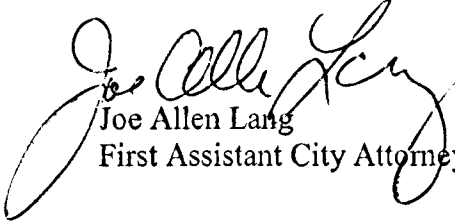


DEPARTMENT OF LAW
INTEROFFICE MEMORANDUM

TO: Marvin Krout, Director of Planning
FROM: Joe Allen Lang, First Assistant City Attorney
SUBJECT: Fansler v City of Wichita (99C2842) CU-521
DATE: February 9, 2000

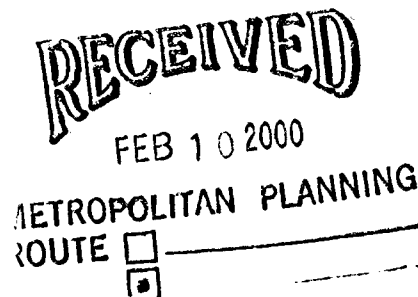
Enclosed is a copy of the Journal Entry of Judgment reflecting the Court's order in the appeal of the Council's decision on CU-521. By this order, the Court approves the application for the conditional use, subject to the conditions recommended by the MAPC, which are set forth in this order. This Journal Entry should be filed with this application and reflects the authority by which the conditional use is granted.

I am returning your original records in this case and closing our file. Please let us know if there are any questions.

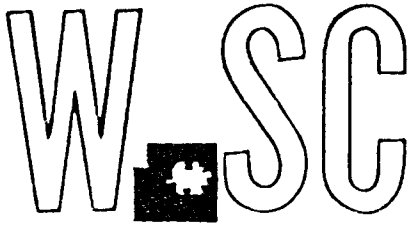

Joe Allen Lang
First Assistant City Attorney

JAL:dat

cc: Gary E. Rebenstorf, Director of Law



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

August 24, 1999

FILE COPY

David L. Fansler
841 N. West Street
Wichita, KS 67203

RE: CU-521 – Conditional Use to permit vehicle sales on property generally located at the west side of West Street 260 feet north of Murdock.

Dear Ladies and Gentlemen:

On August 24, 1999, the City Council considered the above-referenced request. The action of the Council was to DENY the request.

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

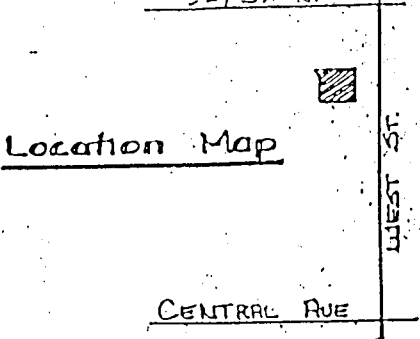
Sincerely,

A handwritten signature in cursive script, appearing to read 'Donna Goltry', is written over the typed name.

Donna Goltry
Senior Planner, AICP

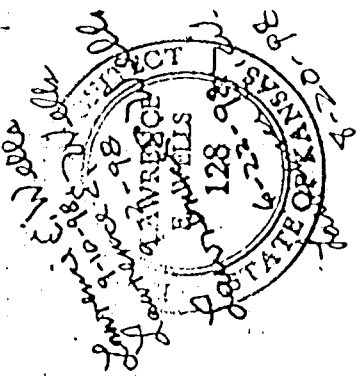
Cc: Lorrie A. Carpenter, 841 N. West, Wichita, KS 67203
Henry H. Blasé, 2302 N. hood, Wichita, KS 67204
Kurt Schroder, Office of Central Inspection
Paul Hays, Office of Central Inspection
Randy Sparkman, Office of Central Inspection

Location Map



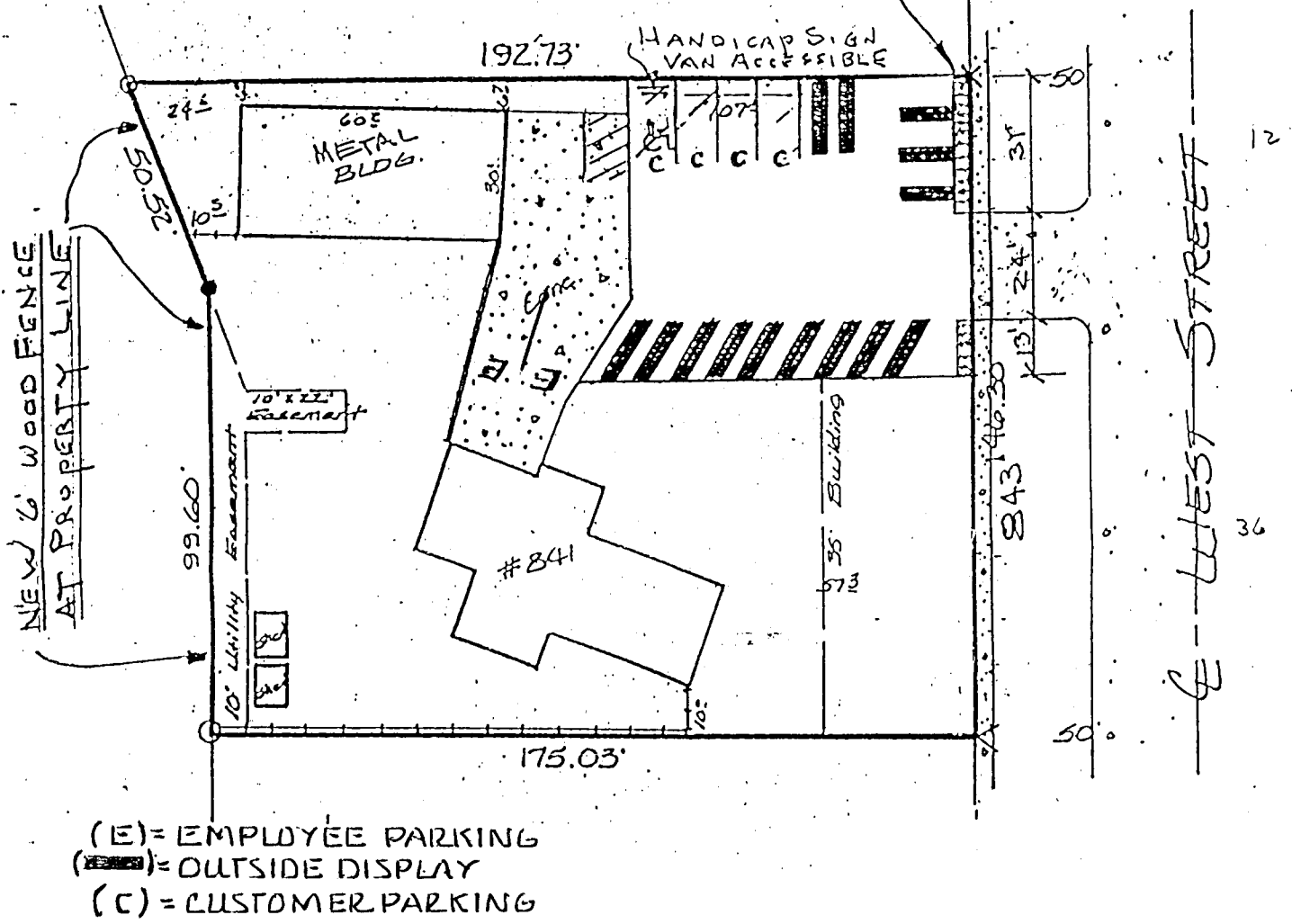
LEGAL:

FANSLER ADDIT



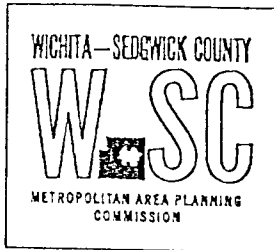
- X = miscel. A
- < = Unisized <
- O = 1/2" Iron pipe
- = 5/8" Rebar w/ cap
- = 3/4" Iron pipe
- = Board fence

SCALE: 1" = 40'



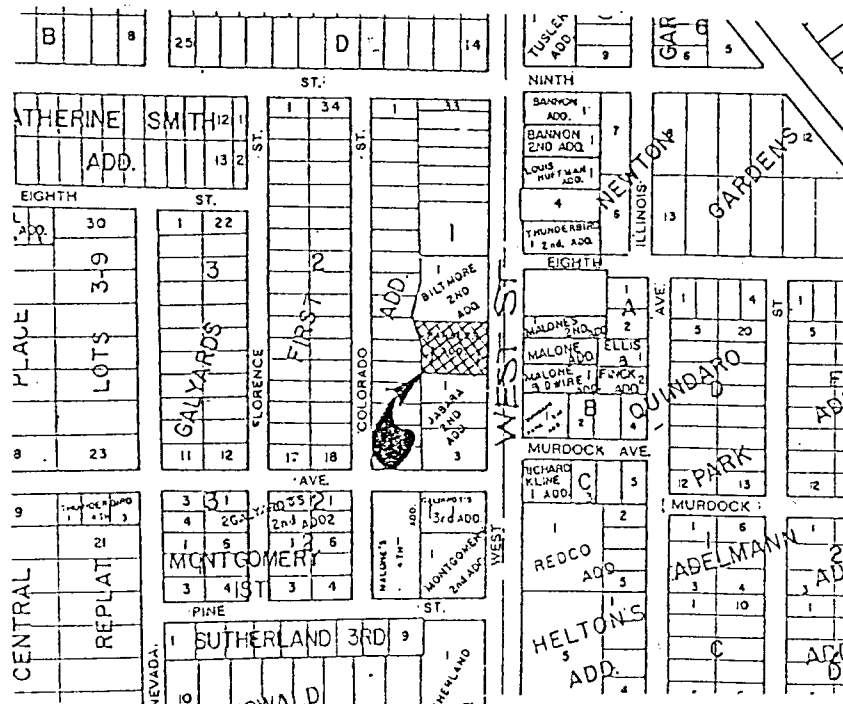
Site Plan

5-17-99
REVISED SITE PLAN TO SHOW
OUTSIDE DISPLAY, CUSTOMER
& EMPLOYEE PARKING

AGENDA ITEM NO. 7**STAFF REPORT**

MAPC May 13, 1999

CPO(6) May 12, 1999

CASE NUMBER: CU-521APPLICANT/AGENT: David L. Fansler & Lorrie A. Carpenter (owners); Henry H. Blase (agent)REQUEST: Conditional Use to permit vehicle salesCURRENT ZONING: "LC" Limited CommercialSITE SIZE: 0.598 acresLOCATION: West side of West Street 260 feet north of Murdock

BACKGROUND: The applicant is requesting a Conditional Use to allow vehicle sales on a 0.598 acre property located on the west side of West Street approximately 260 feet north of Murdock Boulevard. This platted tract is zoned "LC" Limited Commercial. The sale of vehicle and equipment with outside display/storage requires a Conditional Use within the "LC" Limited Commercial Zoning District.

The applicant currently operates a vehicle sales operation inside a garage. The garage was originally permitted as a residential structure associated with the house located on the southern part of the lot. After constructing the garage, the applicant sought to convert the occupancy permit from residential to commercial in order to sell used cars, and has installed an asphalt parking lot in the front portion of the lot. As part of the rezoning to "LC" granted in 1993, the applicant indicated he intended to sell used cars. He was advised that this required a special use permit from the Board of Zoning Appeals, and the staff report noted "Staff's support of light commercial zoning at this location should not be interpreted as support for outdoor car sales. Because an application for a use exception has not been made, staff has not evaluated the appropriateness of car sales at this location" (Staff Report, September 9, 1993). The process has been changed and now requires a Conditional Use. The applicant is seeking a Conditional Use for vehicle sales in order to place up to 14 cars for sale on the asphalt parking area in front of the garage.

The Unified Zoning Code requires auto businesses to provide customer parking at the rate of two spaces for the first 10,000 square feet and one space per each additional 10,000 square feet of lot area used for vehicle sales, display, or storage purposes and one space per 500 square feet of building area. The site plan shows approximately 858 square feet for vehicle sales, display and storage, which would require a total of two spaces. The building (1,800 square feet) would require four additional parking spaces, for a total of six parking spaces. The site plan shows only four spaces.

There are small-scale commercial uses located along this block of West Street between Murdock and 9th Street. The mix includes free-standing structures, a small commercial center, and several houses used for commercial purposes, as well as the residence on this site and one other house located to the northeast of the application area still used as residences. The range of commercial uses include: restaurants, alternations shops, insurance offices, personal care services, and auto parts and repair, etc., with most being neighborhood-serving retail uses. There is no other outdoor storage in this block, or in any portion of West Street north of Central.* An apartment complex, Westview Apartments, is located directly across the street to the east. Residential properties are

* The only outdoor vehicle sales businesses on West Street between Kellogg and 21st Street are the Dent Clinic and K & N Kawasaki between 2nd and 3rd, and a car lot on the northeast corner of Douglas. The general intensity of commercial uses is highest near Kellogg and tapers off to the north. The segment between Central and 9th is a mix of small scale commercial and occasional residential, but with no outdoor storage. The segment north of 9th is residential/office except at commercial corners.

located west of this site facing onto Colorado Street and adjoining the rear property line. This is a well-maintained residential block of single family residences.

CASE HISTORY: The property was platted May 24, 1994 as Fansler Addition, and is a re-plat of a portion of Galyards First Addition (1955). It was rezoned from "AA" One-Family and "B" Multi Family to "LC" Limited Commercial on October 12, 1993.

ADJACENT ZONING AND LAND USE:

NORTH:	"LC" Limited Commercial; "B" Multi Family (this property was rezoned "LC" contingent upon platting, which has not been finalized)	Commercial uses
SOUTH:	"LC" Limited Commercial;	Commercial uses
EAST:	"LC" Limited Commercial; "B" Multi Family	Apartments, commercial uses
WEST:	"SF-6" Single Family	Single family residences

PUBLIC SERVICES: This site has access to West Street, a five lane arterial. The existing traffic volumes were 18,439 (ADTs) in 1997. The 2020 Transportation Plan estimates these volumes will remain stable. Municipal services are available to serve this site. The property has access limited to one opening per the plat for Fansler Addition.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for commercial uses. The commercial locational guidelines of the Plan recommend that commercial uses not located in planned centers, including auto-related 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 uses.

RECOMMENDATION: Staff does not feel vehicle sales is an appropriate use at this location because there are no other vehicle sales lots in the immediate vicinity, and due to the outside storage associated with vehicle sales, which is not permitted for other "LC" zoned properties along West. The nearest vehicle sales lots are 0.7 mile south of the application area. The approval of this request could also establish the precedent of vehicle sales along West north of Central that does not conform to the Comprehensive Plan.

Based upon information available prior to the MAPC, planning staff recommends this request be denied. However, if the Planning Commission believes this is an appropriate use staff recommends approval be subject to the following conditions;

1. No more than 12 vehicles can be for sale on this sales lot at any one time.

2. This property shall be developed in accordance with a revised site plan that shows the required 6 parking spaces for employees and customers. The site plan shall also designate which spaces shall be used for customer and employee parking and which spaces will be for the display of vehicles. The required customer and employee parking shall not be used for any display of vehicles.
3. 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.
4. 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.
6. Only those signs permitted in the "LC" zoning 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.
7. No sound projecting devices or loudspeakers shall be used on-site.
8. There shall be no use of elevated platforms for the display of vehicles.
9. The applicant shall comply with landscape street yard requirements and parking lot screening of any required parking spaces along West Street.
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 site has commercial developments located to the north, the south and to the northeast and southeast, which are zoned "LC" but are not permitted outside storage. Some of these uses are housed within residences converted to commercial or office use. An apartment complex is located across West Street from the application area on "LC" zoning. The site is located in the interior of the block. All the property west of the site is single family residential. The nearest outside auto display lots are 0.7 mile away.

2. Extent to which removal of the restrictions will detrimentally affect nearby property: This general area is characterized by mostly small neighborhood retail uses and residential nearby. The outdoor storage involved with the vehicle and equipment rental business is not compatible with the uses found in this general location.
3. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Comprehensive Plan recommends auto related uses 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 the uses. The application area is not along the CBD fringe, Kellogg, nor are any other similar uses found in the general vicinity. Therefore, this request does not correspond to the Comprehensive Plan. The approval of this request could possibly allow for additional vehicle sales operations to be located along West Street to the north or south of this site.
4. The suitability of the subject property for the uses to which it has been restricted: The tenant is currently operating an indoor car sales business at this location. Other retail uses would also be appropriate at this location.
5. Impact of the proposed development on community facilities: The use of this property should have limited impact on the community facilities.