

CONDITIONAL USE RESOLUTION NO. CON2002 -00054

WHEREAS, Ernie Doyan (Applicant/Owner), pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), request a Conditional Use to allow Outdoor Vehicle and Equipment Sales on 0.48 acres zoned "LC" Limited Commercial described as:

Lots 98, 100, 102, 104, 106, and 108 on Lawrence Avenue (now Broadway Avenue), English's 7th Addition to Wichita, Sedgwick County, Kansas. Generally located south of Funston and west of Broadway (1801 S. Broadway).

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 January 23, 2003, 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 permit a Conditional Use to allow Outdoor Vehicle and Equipment Sales on 0.48 acres zoned "LC" Limited Commercial described as:

Lots 98, 100, 102, 104, 106, and 108 on Lawrence Avenue (now Broadway Avenue), English's 7th Addition to Wichita, Sedgwick County, Kansas. Generally located south of Funston and west of Broadway (1801 S. Broadway).

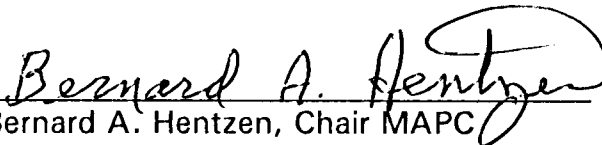
subject to the following conditions:

1. All requirements of Section III.D.6.x. of the Unified Zoning Code shall be met.
2. The subject property shall not be used as a vehicle storage yard.
3. The southern-most access drive to Broadway and the existing access drive to Funston shall be permanently closed, and the applicant shall provide a guarantee for closure of these drives in a form suitable to the City Engineer within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable. The applicant shall dedicate by separate instrument complete access control except for two openings along the property's Broadway frontage within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable.

4. Parking spaces for employees and customers shall be marked and designated for employees and customers and shall not be used for display of vehicles for sale, unless the vehicle is driven by an employee. The vehicle sales lot shall not be used in conjunction with any use not directly related to such a business unless sufficient parking spaces for such business is provided per a site plan approved by the Planning Director.
5. A landscaped street yard and landscape buffer shall be provided and maintained on the property that shall comply with all requirements of the Landscape Ordinance except that a partial waiver of the landscape requirements to permit the landscaped street yard to be located behind the building wall line may be permitted by the Planning Director.
6. A minimum 6-foot high solid screening fence shall be provided along the west property line, except that within 20 feet of the right-of-way line for Funston, the fence height shall be reduced to 3 feet.
7. A revised site plan reflecting the conditions of approval (including Section III.D.6.x. of the Unified Zoning Code) and illustrating the location of light poles, including height not to exceed 14 feet, and trash receptacle, including screening method, shall be submitted for approval by the Planning Director within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable.
8. The site shall be developed in general conformance with the approved site plan and landscape plan. All improvements shown on the approved site plan and landscape plan shall be completed within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
9. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
10. 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 23rd DAY of JANUARY, 2003. This resolution shall become effective on the fifteenth day after the date last noted above unless the matter is forwarded to the Governing Body for final action under the provisions of Section V-D.6. When any one or more of the exceptions listed in Section V-D.6 exist, this resolution with its conditions of approval shall be considered a recommendation of the MAPC to the Governing Body which shall then have final authority to approve, approve with conditions or modifications, or deny the Conditional Use application.

METROPOLITAN AREA PLANNING COMMISSION


Bernard A. Hentzen, Chair MAPC

ATTEST:


Dale Miller, Secretary

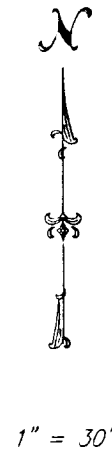
SITE PLAN

1801 S. BROADWAY






WICHITA, KANSAS

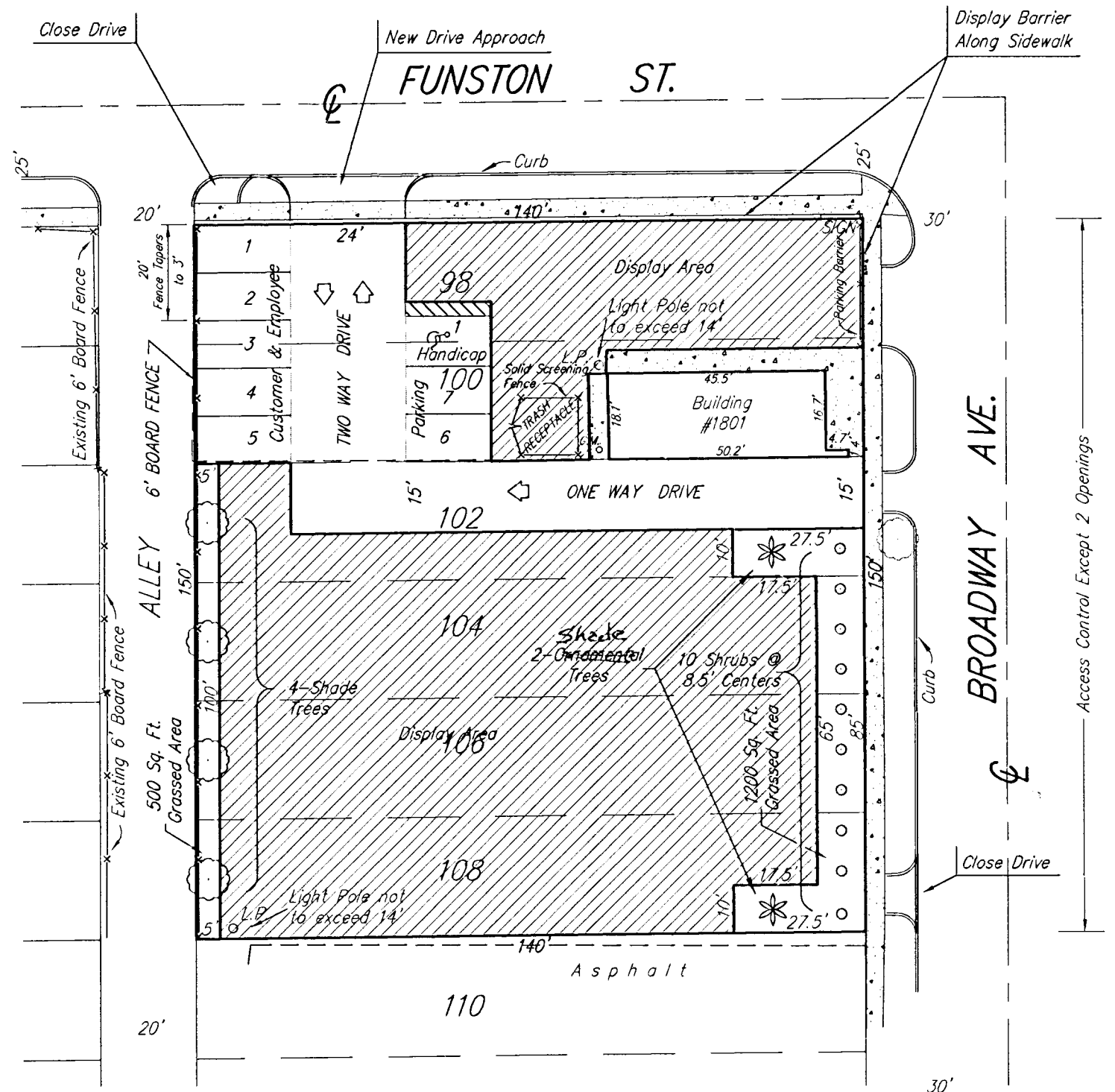
Legal Description:

Lots 98, 100, 102, 104, 106 and 108 on Lawrence Avenue now Broadway Avenue, English's 7th Addition to Wichita, Sedgwick County, Kansas.



LEGEND

-  Shade Tree
-  shade
-  Ornamental Tree
-  Shrubs
-  Display Area



CON 2002-00054
SITE PLAN

APPROVED 2-6-03 BY 

PROJECT NO. 02KK01136 G



Savoy Company, P.A.
 Land Surveyors

535 S. Emporia, Suite 104, Wichita, KS 67202

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REV: 31 JAN 03
 REV: 6 JAN 03
 27 NOV 02



STAFF REPORT
MAPC January 23, 2003

CASE NUMBER: CON2002-00054

APPLICANT/AGENT: Ernie Doyan (Owner/Applicant); Ferris Consulting c/o Greg Ferris (Agent)

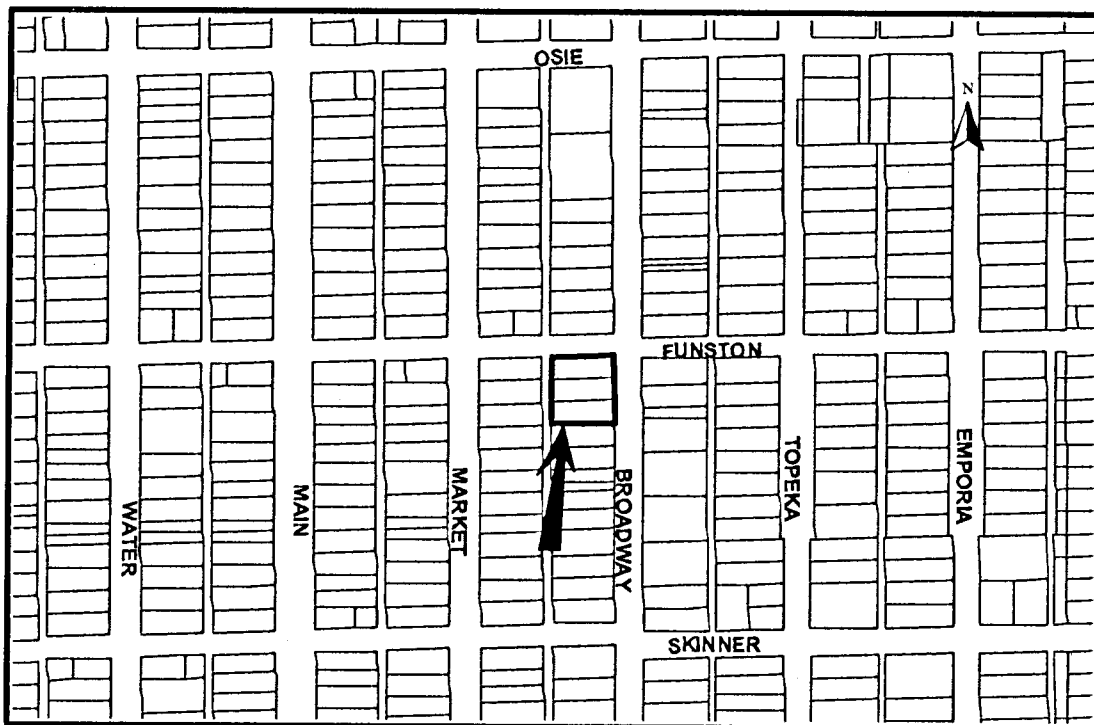
REQUEST: Conditional Use for Outdoor Vehicle and Equipment Sales

CURRENT ZONING: "LC" Limited Commercial

SITE SIZE: 0.48 acres

LOCATION: South of Funston and west of Broadway (1801 S. Broadway)

PROPOSED USE: Vehicle Sales Lot



BACKGROUND: The applicant is requesting a Conditional Use to allow outdoor vehicle and equipment sales on a 0.48 acre platted tract located south of Funston and west of Broadway (1801 S. Broadway). The subject property is zoned "LC" Limited Commercial. The northern portion of the subject property is developed with a vacant restaurant building. The southern portion of the subject property is vacant and formerly was developed with two single-family residences that recently have been razed. Outdoor vehicle and equipment sales may be permitted with a Conditional Use in the "LC" Limited Commercial zoning district.

The character of the neighborhood is that of mixed-use development consisting of single-family and multi-family residential development and various commercial uses, including numerous vehicle sales lots along the Broadway corridor. The zoning of the properties to the north, south, and east is "LC" Limited Commercial, and the zoning of the properties to the west is "TF-3" Two-Family. The property across Funston to the north is developed with a single-family residence. The property to the south is developed with a restaurant. The properties to the east across Broadway are developed with single-family residences. The properties to the west across the alley also are developed with single-family residences.

The applicant has submitted a site plan showing the proposed use of the subject property as a vehicle sales lot. The site plan shows a 900 square foot sales/office building and 13,850 square feet of vehicle display area. The site plan shows eight employee/customer parking spaces, which exceeds the Unified Zoning Code parking requirement by three spaces. The site plan shows a landscaped street yard along Broadway that conforms to size requirements of the Landscape Ordinance; however, due to the substandard setback for the building on the site, a portion of the landscaped street yard must be behind the wall line of the building, which will require a partial landscape waiver by the Planning Director. Also, the two trees shown in the landscape street yard are ornamental trees, which does not meet the two shade trees or four ornamental trees required by the Landscape Ordinance. The site plan shows landscape buffering along the east property line that meets the requirements of the Landscape Ordinance. Since the properties across the alley to the west already have screening fences, the site plan proposes to defer the screening requirement for the vehicle sales lot along the west property line. The site plan shows 30 feet of half-street right-of-way for Broadway, which is 30 feet less than the 60-feet of half-street right-of-way required by the Subdivision Regulations for arterial streets. The site plan shows that the southern-most drive on Broadway will be permanently closed and the northern-most drive on Broadway will be closed with a barrier. The site plan shows that the existing drive on Funston will be closed and replaced with a new two-way approach. No vehicular access will be provided from the site to the unpaved alley. The site plan does not show the proposed location or height of light poles, nor does it show the proposed location and screening method for a trash receptacle.

CASE HISTORY: The subject property is platted as part of English's 7th Addition, which was recorded on November 25, 1885.

ADJACENT ZONING AND LAND USE:

NORTH:	"LC"	Single-family
SOUTH:	"LC"	Restaurant
EAST:	"LC"	Single family
WEST:	"TF-3"	Single-family

PUBLIC SERVICES: This subject property has access to Broadway, a four-lane arterial with current traffic volumes of approximately 11,000 vehicles per day, and Funston, a local street. The 2030 Transportation Plan estimates that traffic volumes on Broadway will remain approximately 11,000 vehicles per day. The proposed development would generate less than 100 trips in the peak hour; therefore, the City's Access Management Policy indicates that the applicant does not need to prepare a traffic impact analysis. Municipal water and sewer services are currently provided to this site.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend 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 Commercial Locational Guidelines also 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.

RECOMMENDATION: Based upon information available prior to the public hearing, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. All requirements of Section III.D.6.x. (attached) of the Unified Zoning Code shall be met.
2. The applicant shall submit by separate instrument a contingent dedication of 30 additional feet of street right-of-way along the property's Broadway frontage within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable.
3. The southern-most access drive to Broadway and the existing access drive to Funston shall be permanently closed, and the applicant shall provide a guarantee for closure of these drives in a form suitable to the City Engineer within 60 days

of approval of the Conditional Use by the MAPC or governing body, as applicable. The northern-most drive to Broadway shall be closed with a barrier or gate as long as the property is operated as a vehicle sale lot. The applicant shall dedicate by separate instrument complete access control except for two openings along the property's Broadway frontage within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable.

4. Parking spaces for employees and customers shall be marked and designated for employees and customers and shall not be used for display of vehicles for sale, unless the vehicle is driven by an employee. The vehicle sales lot shall not be used in conjunction with any use not directly related to such a business unless sufficient parking spaces for such business(es) are provided per a site plan approved by the Planning Director.
5. A landscaped street yard and landscape buffer shall be provided and maintained on the property that shall comply with all requirements of the Landscape Ordinance except that a partial waiver of the landscape requirements to permit the landscaped street yard to be located behind the building wall line may be permitted by the Planning Director.
6. A revised site plan reflecting the conditions of approval (including Section III.D.6.x. of the Unified Zoning Code) and illustrating the location of light poles, including height not to exceed 14 feet, and trash receptacle, including screening method, shall be submitted for approval by the Planning Director within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable.
7. The site shall be developed in general conformance with the approved site plan and landscape plan. All improvements shown on the approved site plan and landscape plan shall be completed within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
8. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
9. 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 character of the neighborhood is that of mixed-use development consisting of single-family and multi-family residential development and various commercial uses including

vehicle sales. Most of the property along Broadway is zoned "LC" Limited Commercial, with residential zoning limited to areas along the streets east and west of Broadway. The proposed vehicle sales lot is consistent with the zoning, uses, and character of the area.

2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LC" Limited Commercial. The property is apparently suitable for commercial uses to which it has been restricted; however, vehicle sales is an established use in the area and can be suitable for the subject property if developed according to the recommended conditions of approval.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the recommended conditions of approval that would limit lighting, noise, and display area practices from adversely impacting nearby property.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend 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. This site is located along Broadway, and the recommended conditions of approval have provisions which limit noise, lighting, and other adverse impacts. 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, 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. This site is located along Broadway in an area where auto-related commercial uses already exist.
5. Impact of the proposed development on community facilities: The use of this property should have limited impact on community facilities if the recommended additional street right-of-way and access controls are provided along Broadway. Not providing the recommended additional street right-of-way and access controls may hinder the City's ability to provide a roadway that is of sufficient capacity for future traffic volumes.