



Wichita-Sedgwick County Metropolitan Area Planning Department

May 11, 2010

Gary Hartman
522 N Bay Country
Wichita, KS 67235

RE: CON2010-00013 - City Conditional Use to permit vehicle and equipment sales at the southeast corner of 47th Street South and Seneca Street.

Dear Ladies and Gentlemen:

At its regular meeting on April 15, 2010, the Wichita - Sedgwick County Metropolitan Area Planning Commission considered the above captioned request. The action of the MAPC was to Approve the request, subject to the conditions on the attached resolution.

If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bill Longnecker'.

Bill Longnecker
Senior Planner
Current Plans Division

WL:mc
Attachment

Copies to: Vaughn Fox, PO Box 16283, Wichita, KS 67216
Van Tarr, 4911 S. Meridian, Wichita, KS, 67217
Riverside Township, Dale V Kuhn, 6051 Southeast Blvd, Derby, KS 67037
WCC IV, Paul Gray, Mail Stop 1-13
N.A. IV, Kelli Glassman, Mail Stop 1-135
Julianne Kallman, Engineering, Mail Stop 1-71
Greg Ferris, PO Box 573, Wichita, KS, 67201
Kurt Schroeder, Office of Central Inspection, Mail Stop 1-72
J. R. Cox, Office of Central Inspection, Mail Stop 1-72
Paul Hays, Office of Central Inspection, Mail Stop 1-72

from adversely impacting surrounding residential areas. The site has access to 47th Street South, an arterial, but the current, cramped development of the site makes the implementation of design features difficult. Additionally, the Commercial Locational Guidelines of the Comprehensive Plan recommend that commercially-generated traffic should not feed directly onto local residential streets. The site's location meets this criteria.

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. There are no other car sales lots in the area; the nearest (legal) ones are located, further east of the site off of Broadway Avenue. The site's office-sales building has bay doors and was listed by the appraiser's office as an auto repair garage. If approved, the applicants' request would be the first car sales lot in the area. Approval of this request could trigger the auto repair site, located across 47th from the site, to apply for a Conditional Use for Outdoor Vehicle and Equipment Sales.

In the past the MAPC has identified smaller car sales lots as being more of a local retail establishment in their nature, as opposed to the cluster of larger car sales lots located primarily along Kellogg Avenue and Broadway Avenue, which are more regional in their nature. The MAPC has also recommended that buildings that had in the past been used for automobile activities, such as gas stations or auto repair garages, be considered as possible sites for car sales.

The site is within the South Wichita/Haysville Area Plan (adopted 2002), which identifies issues and goals within the area. Issues in the Plan included the infrastructure, image and community relationships, property maintenance, housing, services, existing and future commercial development, parks and recreation and education and schools. Property maintenance on the site is less than on the adjacent properties, but possible ROW dedication make investment in the site problematic. The most recent development in the area (1980-1997) has been a convenience store, a car wash and a Sonic fast food restaurant, all of which have improved the appearance of the area. Additional ROW was acquired from these properties, which conforms to the Plan's goal of widening of 47th from K-15 to West Street, to at least five-lanes, with streetscaping. Because there are no car sales lots in the 47th Street South – Seneca Street area, the Plan does not specifically address them in this area, but instead refers to them being phased out of the Broadway area, contrary to the already noted intent of the Commercial Locational Guidelines.

5. Impact on Community Facilities: All public facilities are available, but there is a need for an additional, dedication of ROW on both the site's 47th Street South and Seneca Street frontage.

However if the MAPC supports this request, based on their past support of using buildings that had in the past been used for automobile activities, such as gas stations or auto repair garages, be considered as possible sites for car sales. Staff recommends the following conditions:

1. Obtain all permits and inspection as required by OCI. All development will be per City Code including landscaping, code compliance and any other applicable standards.
2. In addition to uses permitted in the "LC" Limited Commercial district, the site shall be limited to the sales of cars and light trucks, as long as it continues to operate as a vehicle repair, limited garage. No sale or rental of trailers, motorcycles or scooters, vehicles or trucks larger than pickups are permitted.
3. No automotive service or repair work shall be done on the site unless it is entirely within a building. No body or fender work shall be permitted without first obtaining "GC" General Commercial zoning.
4. The applicant shall submit a revised site plan for review and approval by the Planning Director, prior to the issuance of a building permit, per City Standards, within 6 months of approval by the MAPC or the City Council. The site will be developed according to the revised site plan.
5. The applicant shall install and maintain landscaping in accordance with the landscape plan submitted with the revised site plan, within six months of approval by the MAPC or the City Council. The landscaping plan will be reviewed and approved by the Planning Director, prior to issuance of any permits. The applicant will remove all asphalt needed to come into compliance with the Landscape Ordinance and to ensure that development does not encroach into right-of-way.
6. A parking barrier, such as a heavy rail type, 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.
7. 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.
8. There shall be no use of elevated platforms for the display of vehicles. All vehicles for sale or for repair must be on a concrete, asphalt or an approved all weather surface.
9. No outdoor amplification system shall be permitted.
10. No outside storage of salvaged vehicles or vehicles waiting for repair shall be

permitted in association with this use. Outside storage of parts, including tires, associated with the car repair, limited, operation shall be within a 6-foot solid screened area.

11. 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 12 feet, including the base, and directed onto the site and away from the residential development abutting the west side of the site.
12. All trash receptacles, oil containers or any similar type of receptacles for new or used petroleum products or trash shall have solid 6-foot screening around it. The gate shall be of similar materials as the screening.
13. The entrances shall be reviewed and approved by the Traffic Engineer. This must be provided to the City, prior to the Conditional Use being finalized. The applicant shall guarantee the closure of all but the approved entrances according to City standards.
14. Contingent dedication by separate instrument 20 feet of right-of-way along the site's 47th Street South frontage. Contingent dedication by separate instrument 10 feet of right-of-way along the site's Seneca Street frontage. This must be provided to the City, prior to the Conditional Use being finalized.
15. All improvements shall be completed within 6 months of the approval of the Conditional Use by the MAPC or the City Council. No selling of cars shall be allowed until all permits have been acquired and all improvements to the site have been made.
16. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
17. 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.

CON 2010-13 Item # 7

REVISED SITE PLAN

CARPORT TO BE REMOVED BY SELLER

Landscaping

Landscaping

Vehicle Display

NEW PAVING

CROSS ACCESS

15' FIRE LANE vehicle Display

779.89 SALES
1,344.76

462.87 OFFICE

919.11

Building

Building 373.52

NEW 22' DRIVE

NOT PART OF THIS APPLICATION

CUSTOMER and EMPLOYEE PARKING

SITE PLAN

APPROVED 6-25-14 BY D.M.L.
REVISED FOR NEW CONSTRUCTION

SITE PLAN
REVISED 4-13-10

4802 S. SENECA

CON 2010-00013

S. Seneca St.

N

M.H.

CONDITIONAL USE RESOLUTION NO. CON2010-00013

WHEREAS, Gary Hartman and Glenna Hartman (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 on approximately 0.66-acres acres zoned LC Limited Commercial ("LC") described as:

A tract beginning at the Northwest corner of the Northwest Quarter of Section 20, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence East 289.05 feet; thence South 160.5 feet; thence West 289.05 feet; thence North 160.5 feet to the place of beginning, except the North 40 feet for road, and except the West 40 feet for road, and except a tract described as beginning at a point 75.00 feet East and 40.00 feet South of the Northwest corner of said Section 20; thence Southwesterly to a point 65.00 feet South and 50.00 feet East of the Northwest corner of said Section; thence South 95.5 feet parallel to the West line of said Northwest Quarter; thence West 20.00 feet; thence North 120.5 feet; thence East to the point of beginning; generally located on the southeast corner of Seneca Avenue and 47th Street South, Wichita, Sedgwick County, Kansas.

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 April 15, 2010, 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 on approximately 0.66-acres acres zoned LC Limited Commercial ("LC") described as:

A tract beginning at the Northwest corner of the Northwest Quarter of Section 20, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence East 289.05 feet; thence South 160.5 feet; thence West 289.05 feet; thence North 160.5 feet to the place of beginning, except the North 40 feet for road, and except the West 40 feet for road, and except a tract described as beginning at a point 75.00 feet East and 40.00 feet South of the Northwest corner of said Section 20; thence Southwesterly to a point 65.00 feet South and 50.00 feet East of the Northwest corner of said Section; thence South 95.5 feet parallel to the West line of said Northwest Quarter; thence West 20.00 feet; thence North 120.5 feet; thence East to the point of beginning; generally located on the southeast corner of Seneca Avenue and 47th Street South, Wichita, Sedgwick County, Kansas.

Approved subject to the following conditions:

1. Obtain all permits and inspection as required by OCI. All development will be per City Code including landscaping, code compliance and any other applicable standards.
2. In addition to uses permitted in the "LC" Limited Commercial district, the site shall be limited to the sales of cars and light trucks, as long as it continues to operate as a vehicle repair, limited garage. No sale or rental of trailers, motorcycles or scooters, vehicles or trucks larger than

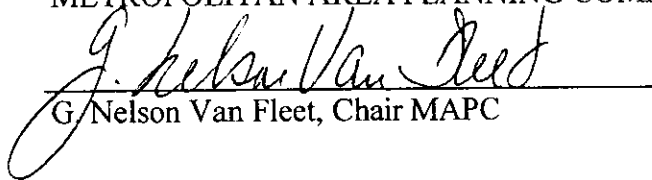
pickups are permitted.

3. No automotive service or repair work shall be done on the site unless it is entirely within a building. No body or fender work shall be permitted without first obtaining "GC" General Commercial zoning.
4. The applicant shall submit a revised site plan for review and approval by the Planning Director, prior to the issuance of a building permit, per City Standards, within one-year of approval by the MAPC or the City Council. The site will be developed according to the revised site plan.
5. The applicant shall install and maintain landscaping in accordance with the landscape plan submitted with the revised site plan, within one-year of approval by the MAPC or the City Council. The landscaping plan will be reviewed and approved by the Planning Director, prior to issuance of any permits. The applicant will remove all asphalt needed to come into compliance with the Landscape Ordinance and to ensure that development does not encroach into right-of-way.
6. A parking barrier, such as a heavy rail type, 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.
7. 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.
8. There shall be no use of elevated platforms for the display of vehicles. All vehicles for sale or for repair must be on a concrete, asphalt or an approved all weather surface.
9. No outdoor amplification system shall be permitted.
10. No outside storage of salvaged vehicles or vehicles waiting for repair shall be permitted in association with this use. Outside storage of parts, including tires, associated with the car repair, limited, operation shall be within a 6-foot solid screened area.
11. 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 12 feet, including the base, and directed onto the site and away from the residential development abutting the west side of the site.
12. All trash receptacles, oil containers or any similar type of receptacles for new or used petroleum products or trash shall have solid 6-foot screening around it. The gate shall be of similar materials as the screening.
13. The entrances shall be reviewed and approved by the Traffic Engineer. This must be provided to the City, prior to the Conditional Use being finalized. The applicant shall guarantee the closure of all but the approved entrances according to City standards.

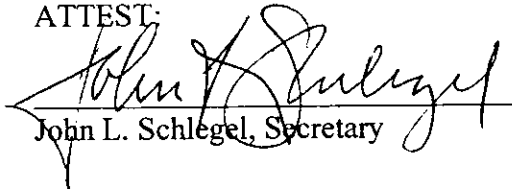
14. All improvements shall be completed within one-year of the approval of the Conditional Use by the MAPC or the City Council. No selling of cars shall be allowed until all permits have been acquired and all improvements to the site have been made.
15. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
16. 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 1st Day of April, 2010

METROPOLITAN AREA PLANNING COMMISSION


G. Nelson Van Fleet, Chair MAPC

ATTEST:


John L. Schlegel, Secretary

STAFF REPORT

MAPC April 15, 2010

DAB IV April 7, 2010

CASE NUMBER: CON2010-00013

OWNER/AGENT: Gary and Glenna Hartman (owners) Van W. Tarr (agent)

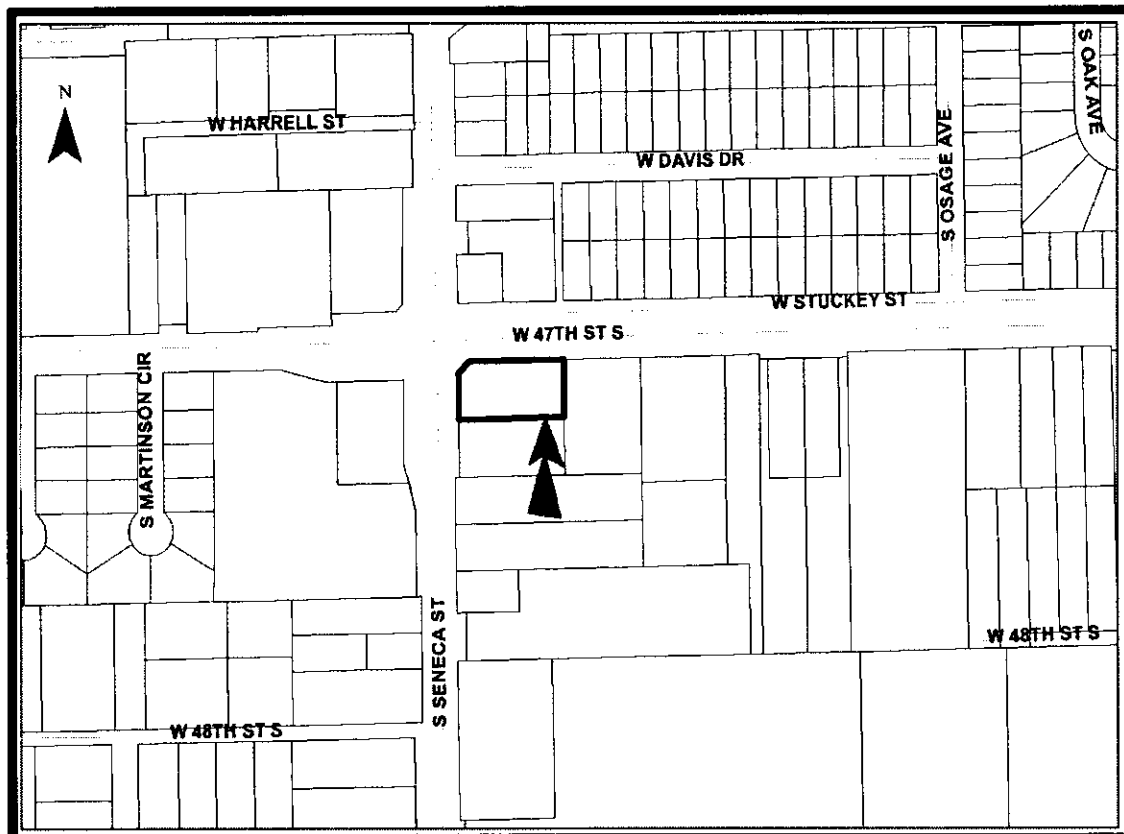
REQUEST: Conditional Use for Outdoor Vehicle and Equipment Sales

CURRENT ZONING: LC Limited Commercial ("LC")

SITE SIZE: Approximately 0.66-acres

LOCATION: Southeast corner of Seneca Avenue and 47th Street South

PROPOSED USE: Sale of vehicles



BACKGROUND: The applicants are requesting a Conditional Use to allow outdoor vehicle and equipment sales on the 0.66-acre unplatted LC Limited Commercial ("LC") tract. Per the Unified Zoning Code (UZC, Art.III, Sec.III-D, 6(x)), outdoor vehicle and equipment sales may be permitted with a Conditional Use in the LC zoning district. The site and its buildings appear to be vacant.

The site plan shows a sales office (built 1952), two other buildings, a carport (noted as to be removed by seller), vehicle display area (six spaces), customer parking (two parking spaces), employee parking (four parking spaces), future unmarked (complete dimensions not given) customer parking, two drives onto 47th Street South and what may be proposed landscaping in the 47th Street South right-of-way (ROW). The site plan also shows cross access through the abutting eastern neighbor's property.

The office-sales building has bay doors and was listed by the appraiser's office as an auto repair garage. Per the UZC Art IV, Sec IV-A, "Off-Street Parking Standards," the 1,344.76-square foot office-sales building would trigger the need for three parking spaces, while the other two buildings' total of 1,343.12-square feet would trigger the need for another three parking spaces. The UZC also requires two parking spaces for the first 10,000-square feet of lot area used for sales, display or storage purposes, plus one parking space for each 10,000-square feet of lot area used for sales, display or storage purposes thereafter; the applicant has not given that square footage. Dimensions on the vehicle display parking spaces are not given, however the site plan shows most of the display area to be 32.5 feet deep and if the straight-in (versus angled) display spaces are 18 feet deep, the applicant would have 14.5 feet left for vehicle circulation; Fire prefers a 15 foot minimum distance for their emergency service vehicles. Parking in the LC zoning district can be in setbacks, except for that portion of the setback required for landscaping. The site plan shows future customer parking to be within the LC setback, and what appears to be landscaping in the 47th ROW. Parking needed for the site at this time is unresolved. Public Works would have to approve landscaping in the 47th ROW, and may require a minor street permit, which carries an annual fee.

Cross lot access through a property not owned by the applicants would require both the applicant and the other owner to provide a cross lot access easement. The proposed cross lot access is not paved, and would have to be paved per City Standards. The current location of the site's two drives appears not to meet the current Subdivision Standard of 200 feet between drives. The site has 40 feet of half street 47th ROW, while the other three corners of the intersection have 75 feet and 80 feet of half-street 47th ROW. The site has 50 feet of half-street Seneca ROW, while the adjacent western property has 75 feet of half-street Seneca ROW. The Traffic Engineer is requiring dedication of additional ROW, which would probably require redevelopment of the site, as at least one building, the proposed vehicle display area, vehicle circulation, future parking and any future landscaping would be removed.

The larger area is a mix of LC and SF-5 Single-Family Residential ("SF-5") zoning. The LC zoning is located along the 47th Street South – Seneca Street intersection. The property abutting the south side of the site is zoned LC and consists of an unimproved

partially screened (mostly old metal fence) storage area and a single-family residence (no built date); all owned by the applicants and shown by the appraiser as being part of the site. A small LC zoned free standing retail store (1959) and field are located south of the just mentioned development. The eastern abutting property is zoned LC, and is developed as an office-warehouse (1962) and a field. Property located west of the site, across Seneca is zoned LC, and is developed as a convenience store (1980), a car wash (1990) and a field. Property located northwest of the site, across the Seneca – 47th Street intersection is developed as a Sonic fast food restaurant (1997) and a field. Property located northeast of the site, across the Seneca – 47th Street intersection is developed as an auto repair garage (1952), a restaurant (1968) and SF-5 zoned single-family residences (mid 1950s). There are not any other car sales lots in the area, with the nearest (legal) ones located, further east of the site off of Broadway Avenue. Approval of this request could trigger the auto repair site, located across 47th from the site, to apply for a Conditional Use for Outdoor Vehicle and Equipment Sales.

CASE HISTORY: The subject property is an unplatted tract. The area the site is located in was annexed into Wichita between 1971 and 1980.

ADJACENT ZONING AND LAND USE:

NORTH:	LC, SF-5	Sonic fast food restaurant, a field, auto repair garage, a restaurant, single-family residences
SOUTH:	LC	Unimproved storage area, single-family residence, free standing small retail store, field
EAST:	LC	office-warehouse, a field
WEST:	LC	Convenience store, a car wash, a field

PUBLIC SERVICES: The site has two drives onto 47th Street South, a four-lane arterial street, with a center turn lane. As shown on the site plan it does not have access onto Seneca Street a four-lane arterial street, with a center turn lane, although the applicants' abutting south property does have access to Seneca. The site has 40 feet of half-street 47th ROW, while the other three corners of the intersection have 75 feet and 80 feet of half-street 47th ROW. The site has 50 feet of half-street Seneca ROW, while the adjacent western property has 75 feet of half-street Seneca ROW. The Traffic Engineer is requiring contingent dedication of additional ROW, which would probably require redevelopment of the site, as at least one building, the proposed vehicle display area, vehicle circulation, future parking and any future landscaping would be removed. Municipal water and sewer services are currently provided to the subject property; easement was acquired when the City provided sewer to the area.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies this site as appropriate for "Local Commercial" development. The "Local Commercial" category includes commercial, office and personal service uses that do not have a regional draw. The site's LC zoning is appropriate for this category. 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 site has access to 47th Street South, an arterial, but the current, cramped development of the site makes the implementation of design features difficult. Additionally, the Commercial Locational Guidelines of the Comprehensive Plan recommend that commercially-generated traffic should not feed directly onto local residential streets. The site's location meets this criteria.

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. There are no other car sales lots in the area; the nearest (legal) ones are located, further east of the site off of Broadway Avenue. The site's office-sales building has bay doors and was listed by the appraiser's office as an auto repair garage. If approved, the applicants' request would be the first car sales lot in the area. Approval of this request could trigger the auto repair site, located across 47th from the site, to apply for a Conditional Use for Outdoor Vehicle and Equipment Sales.

In the past the MAPC has identified smaller car sales lots as being more of a local retail establishment in their nature, as opposed to the cluster of larger car sales lots located primarily along Kellogg Avenue and Broadway Avenue, which are more regional in their nature. The MAPC has also recommended that buildings that had in the past been used for automobile activities, such as gas stations or auto repair garages, be considered as possible sites for car sales.

The site is within the South Wichita/Haysville Area Plan (adopted 2002), which identifies issues and goals within the area. Issues in the Plan included: the infrastructure, image and community relationships, property maintenance, housing, services, existing and future commercial development, parks and recreation and education and schools. Property maintenance on the site is less than on the adjacent properties, but possible ROW dedication make investment in the site problematic. The most recent development in the area (1980-1997) has been a convenience store, a car wash and a Sonic fast food restaurant, all of which have improved the appearance of the area. Additional ROW was acquired from these properties, which conforms to the Plan's goal of widening of 47th from K-15 to West Street, to at least five-lanes, with streetscaping. Because there are no car sales lots in the 47th Street South – Seneca Street area, the Plan does not specifically address them in this area, but instead refers to them being phased out of the Broadway area, contrary to the already noted intent of the Commercial Locational Guidelines.

RECOMMENDATION: Approving the applicant's request for car sales does not match the development patterns of this area along 47th Street South and Seneca, as the nearest (legal) car sales are located further east, along Broadway Avenue/old Highway 81. Commercial development in the area consist of the more recently built convenience store, a car wash and a Sonic fast food restaurant mixing with older small free standing retail, a restaurant, an auto repair garage, an office warehouse and undeveloped fields.

If approved, the applicant's request would be the first car sales lot in the area. Approval of this request could trigger the auto repair site, located across 47th from the site, to apply for a Conditional Use for Outdoor Vehicle and Equipment Sales. Based on the information available prior to the public hearing, MAPD staff recommends the application be DENIED.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area is a mix of LC and SF-5 Single-Family Residential ("SF-5") zoning. The LC zoning is located along the 47th Street South – Seneca Street intersection. The property abutting the south side of the site is zoned LC and consist of an unimproved partially screened (mostly old metal) storage area and a single-family residence (no built date); all owned by the applicants. A small LC zoned free standing retail store (1959) and field is located south of the just mentioned development. The eastern abutting property is zoned LC and is developed as an office-warehouse (1962) and a field. Property located west of the site, across Seneca is zoned LC and is developed as a convenience store (1980), a car wash (1990) and a field. Property located northwest of the site, across the Seneca – 47th intersection Street is developed as a Sonic fast food restaurant (1997) and a field. Property located northeast of the site, across the Seneca – 47th Street intersection is developed as an auto repair garage (1952), a restaurant (1968) and SF-5 zoned single-family residences (mid 1950s). There are no other car sales lots in the area, with the nearest (legal) ones located, further east of the site off of Broadway Avenue.
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. Those uses include being used as an auto repair garage, a past use on the site.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The applicants' site is over developed for its size and is less maintained than other commercial properties in the area. As presented the site has no room for landscaping, less than the minimum required for emergency service circulation and the outright or contingent dedication of ROW would only make the site smaller. ROW dedication also makes investment in the site problematic
4. Conformance of the requested change to adopted or recognized Plans/Policies: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies this site as appropriate for "Local Commercial" development. The "Local Commercial" category includes commercial, office and personal service uses that do not have a regional draw. The site's LC zoning is appropriate for this category. 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