

CONDITIONAL USE RESOLUTION NO. CON2010-00051

WHEREAS, Rodrick and Chris Hamilton (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 to allow outdoor vehicle sales on 0.4 acres zoned LC Limited Commercial (“LC”) described as:

All of Lot 14, and Lot 15, EXCEPT that part described as beginning at the Southwest corner thereof; thence Northeasterly along the Southerly line of said Lot 15, 150 feet to the Southeast corner of said Lot 15; thence Northwesterly along the front line of said Lot 15, 2.92 fee; thence Southwesterly parallel with the Southerly line of said Lot 15, 65 feet; thence Southwesterly 85 feet, more or less, to the point of beginning; all in Block B, Washington Heights, Wichita, Sedgwick County, Kansas, generally located midway between I-35 and 31st Street South, on the west side of George Washington Boulevard.

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 December 16, 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 sales on 0.4 acres zoned LC Limited Commercial (“LC”) described as:

All of Lot 14, and Lot 15, EXCEPT that part described as beginning at the Southwest corner thereof; thence Northeasterly along the Southerly line of said Lot 15, 150 feet to the Southeast corner of said Lot 15; thence Northwesterly along the front line of said Lot 15, 2.92 fee; thence Southwesterly parallel with the Southerly line of said Lot 15, 65 feet; thence Southwesterly 85 feet, more or less, to the point of beginning; all in Block B, Washington Heights, Wichita, Sedgwick County, Kansas, generally located midway between I-35 and 31st Street South, on the west side of George Washington Boulevard.

Approved subject to the following conditions:

1. The proposed use must conform to the standards of Airport Hazard Zone A and approval by the designated representative of the McConnell Adjacent Critical Area of Interest (AOI).
2. The site shall be limited to the sales of cars and light trucks. No sale or rental of trailers, motorcycles or scooters, vehicles or trucks larger than pickups are permitted.
3. Any automotive service or repair work conducted on the site shall be 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 selling of any cars or light trucks, within one month of approval by the MAPC or the City Council. The site plan shall include, but not be limited to, internal circulation that will

remain open at all times and demonstrates that the site meets the parking standards for the approved car sales lot, setbacks, access points, landscaping, screening and other applicable development standards. The site shall be developed according to the revised/approved site plan.

5. The applicant shall install and maintain landscaping in accordance with a revised landscape plan. Installation of the landscaping shall begin within the nearest planting season. The plan shall include what plants will be planted and how many and what size the plants are, with the intent complying with the *Landscape Ordinance*. The landscape plan will also state how the plants will be cared for and that they will be replaced if they die, within the nearest planting season. The landscaping plan will be reviewed and approved by the Planning Department, prior to issuance of any permits/selling of cars and light trucks.
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. All other signage shall be per the LC Limited Commercial zoning district.
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 or asphalt 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 car repair, limited, shall be within a six-foot solid screened area with a solid latching gate.
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 15-feet and directed onto the site and away from the residential development north and west 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 six-foot screening around it. The gate shall be of similar materials as the screening.
13. No selling of cars shall be allowed until all permits have been acquired and all improvements to the site have been made, with the exception of landscaping which must be in place within the nearest planting season.
14. The site shall be developed within one year and operated in compliance with all federal, state, and local rules and regulations.
15. 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 _____ Day of _____ 2011.

METROPOLITAN AREA PLANNING COMMISSION

Debra Miller Stevens, Chair MAPC

ATTEST:

John L. Schlegel, Secretary



AGENDA ITEM NO. _____

STAFF REPORT

MAPC December 16, 2010

CASE NUMBER: CON2010-00051

APPLICANT/OWNER: Roderick and Chris Hamilton

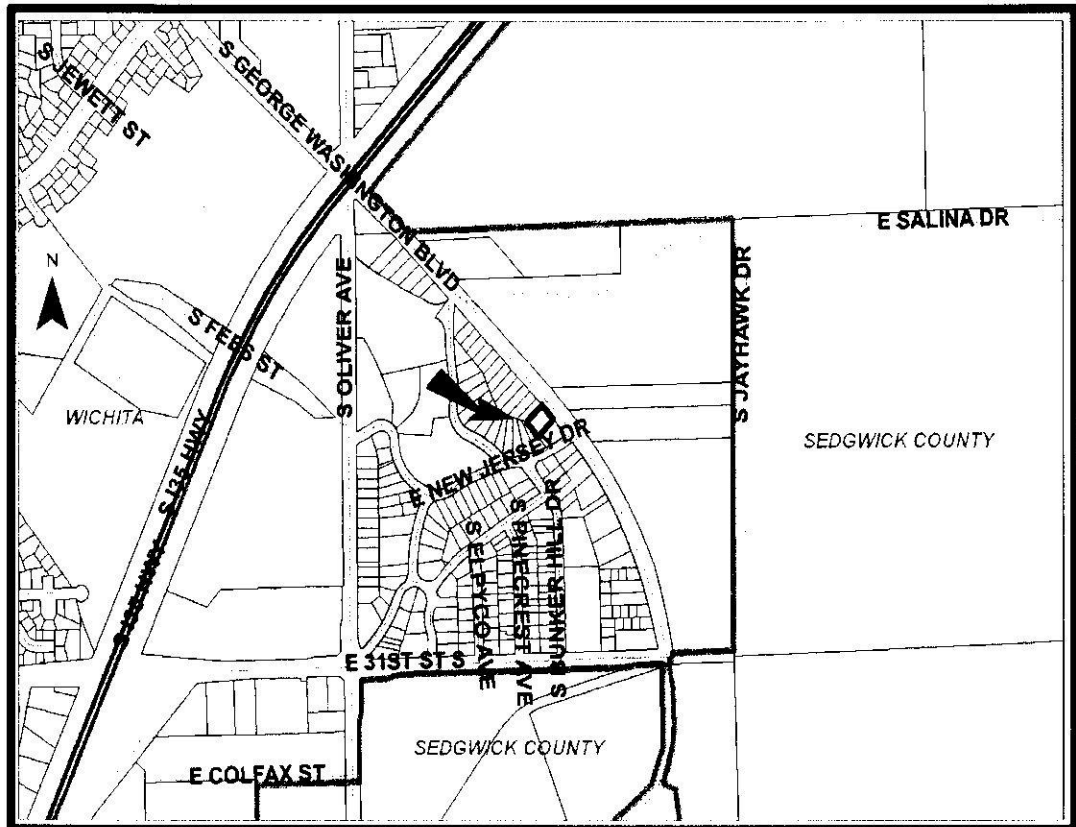
REQUEST: Outdoor vehicle sales

CURRENT ZONING: LC Limited Commercial ("LC")

SITE SIZE: Approximately 0.4 acres

LOCATION: Generally located midway between I-35 and 31st Street South, on the west side of George Washington Boulevard. (WCC #III)

PROPOSED USE: Outdoor car sales



BACKGROUND: The applicants propose outdoor car sales on the LC Limited Commercial (“LC”) zoned, platted, 0.4-acre property. The Unified Zoning Code (UZC) permits consideration of outdoor vehicle/car sales as a Conditional Use in the LC zoning district. Geozone has the site listed as being an automobile service garage, which is permitted by right in the LC zoning district, as long as auto body repair and painting are not done on the site. Auto body repair and painting is first permitted in the GC General Commercial (“GC”) zoning district. The site is currently developed with several buildings used as office and service garages, with the garages’ bay doors opening onto an area where numerous (15+) automobiles are parked. There is a chain link fence around the cars and buildings. A site plan has been submitted with the application.

The area around the site is dominated by McConnell Air Force Base, which is located east of the site, across George Washington Boulevard. McConnell has its own zoning district, AFB Air Force Base District (“AFB”), which is to accommodate the use of lands owned by the US government for the operation of air force bases. The AFB zoning district is compatible with the “Major Institution” designation of the “Wichita – Sedgwick County Comprehensive Plan.” The AFB zoning district permits by right all residential, public and civic, commercial, industrial and agricultural uses. The site is located in an Airport Hazard Zone A. An Airport Hazard Zone is defined as “...an area of land or water where man-made structures, trees or use of land can obstruct the airspace required for the flight of aircraft landing and taking off at any airport, as regulated by Appendix H of Sedgwick County Code and Chapter 28.08 of the Code of the City of Wichita.” Buildings located on land covered by the Zone A designation are limited to 25 feet in height, unless a more detailed review is conducted and an increased height is approved. The area is also located within the McConnell AOI Adjacent Critical Area of Interest (“AOI”). The AOI was entered on November 9, 2010, as a “Memorandum of Understanding” between McConnell, Sedgwick County, and the cities of Wichita and Derby. ‘Municipal Responsibility’ a., of the Memorandum requires notification to the designated representative of McConnell 30 days prior to the official public hearing notice of any amendment to the zoning regulations or to the comprehensive plan that impact the AOI. The application for this Conditional Use was received November 8, 2010, one day prior to the AOI’s effective date of November 9, 2010. Notification of the Conditional Use was sent to the US Government office, located at 2930 S George Washington Boulevard, Wichita, 20 days prior to the public hearing. Planning will contact the designated representative of McConnell, prior to the MAPC meeting for McConnell’s assessment of the Conditional Use request.

Other development in the area includes LC and B Multi-Family Residential (“B”) zoned duplexes located west of the site. LC zoned apartments are located north of the site and a LC zoned single-family residence and fraternal organizations are located south of the site. There are three outdoor car sales lots and a Pawn Shop selling cars (and other equipment) located less than a ½-mile to a mile north-northwest of the site on Oliver Avenue, south of Harry Street.

CASE HISTORY: The site is Lot 14 and a portion of Lot 15, all in Block B, the Washington Heights Addition, which was recorded with the Sedgwick County Register of Deeds January 6, 1936. The Office of Central Inspection (OCI) gave notice to the applicants for illegal car sales on this site (15+ cars) and advised them that a Conditional Use was required for outdoor car sales at this site. OCI also noted that the applicants have a permit for indoor display/car sales (2006) at

a different address, 2901 S George Washington Boulevard, than the current subject site's address of 2955 S George Washington Boulevard. Indoor display/car sales are permitted by right in the LC zoning district.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Two-story apartments
SOUTH:	LC	Single-family residence, fraternal organizations
EAST:	AFB	McConnell Air Force base complex/US government
WEST:	LC, B	Duplexes

PUBLIC SERVICES: George Washington Boulevard is a paved, two-lane minor arterial road, with no curb and bar ditches at this location. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this area as appropriate for “local commercial.” 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 site has been used for auto repair.

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 George Washington Boulevard, a two-lane minor arterial. The conditions attached to the Conditional Use can address site design issues, including landscaping, screening, and paving. The Commercial Locational Guidelines also recommend that auto-related commercial uses should be guided to clusters in areas such as the 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 there are three outdoor car sales lots and a Pawn Shop selling cars (and other equipment) located less than a ½-mile to a mile north-northwest of the site on Oliver Avenue from the subject site. However this site appears to be the first proposed outdoor car sales lot located in such close proximity, across George Washington Boulevard, to McConnell. OCI has noted that the applicants have a permit for indoor display/car sales (2006) at a different address than the subject site, but at a site/address in the immediate area and located across from McConnell.

In the past the MAPC has identified smaller car sales lots as being more of a local commercial 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 cliental draw. The MAPC has also recommended that buildings that had in the past been used for automobile activities, such as vehicle repair garages, be considered as possible sites for car sales. The applicant's proposal to use buildings outdoor auto sales that have been used for auto repair, limited conforms to what the MAPC has recommended for this type of site/use in the past.

It appears that the proposed outdoor car sales would not be in violation of the AFB zoning district, or the Airport Hazard Zone A. The proposed use's conformation to the AOI is pending on comment from McConnell.

RECOMMENDATION: The site conforms to the MAPC's past recommendations of locating smaller car sales lots within sites that had previously been used or continue to be used for auto related businesses. Permitting outdoor car sales at this site would not introduce a new use to the area, as there are three outdoor car sales lots plus a Pawn Shop selling cars (and other equipment) located less than a ½-mile to a mile north-northwest of the site on Oliver Avenue. However this site appears to be the first outdoor car sales lot located in such close proximity, across George Washington Boulevard, to McConnell; the proposed use's conformation to the AOI is pending on comment from McConnell. The proposed Conditional Use could bring improvements to the site that will include additional landscaping of the site, paving and screening. Based on the information available prior to the public hearing, MAPD staff recommends the application be **APPROVED**, subject to the following conditions:

1. The proposed use must conform to the standards of Airport Hazard Zone A and approval by the designated representative of the McConnell Adjacent Critical Area of Interest (AOI).
2. The site shall be limited to the sales of cars and light trucks. No sale or rental of trailers, motorcycles or scooters, vehicles or trucks larger than pickups are permitted.
3. Any automotive service or repair work conducted on the site shall be 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 selling of any cars or light trucks, within one month of approval by the MAPC or the City Council. The site plan shall include, but not be limited to, internal circulation that will remain open at all times and demonstrates that the site meets the parking standards for the approved car sales lot, setbacks, access points, landscaping, screening and other applicable development standards. The site shall be developed according to the revised/approved site plan.
5. The applicant shall install and maintain landscaping in accordance with a revised landscape plan. Installation of the landscaping shall begin within the nearest planting season. The plan shall include what plants will be planted and how many and what size the plants are, with the intent complying with the *Landscape Ordinance*. The landscape plan will also state how the plants will be cared for and that they will be replaced if they die, within the nearest planting season. The landscaping plan will be reviewed and approved by the Planning Department, prior to issuance of any permits/selling of cars and light trucks.
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. All other signage shall be per the LC Limited Commercial zoning district.
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 or asphalt 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 car repair, limited, shall be within a six-foot solid screened area with a solid latching gate.
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 15-feet and directed onto the site and away from the residential development north and west 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 six-foot screening around it. The gate shall be of similar materials as the screening.
13. No selling of cars shall be allowed until all permits have been acquired and all improvements to the site have been made, with the exception of landscaping which must be in place within the nearest planting season.
14. The site shall be developed within one year and operated in compliance with all federal, state, and local rules and regulations.
15. 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:

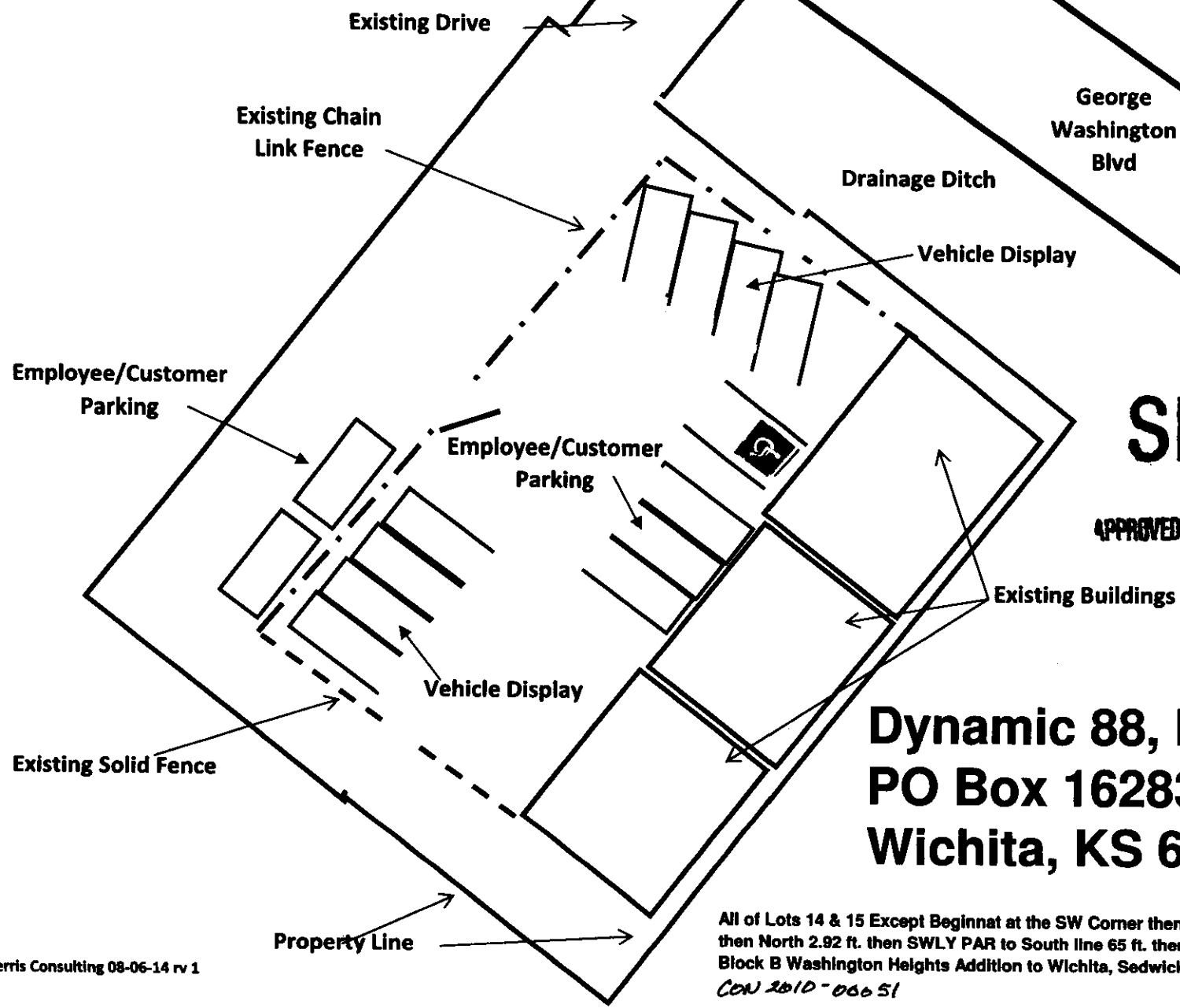
1. The zoning, uses and character of the neighborhood: Development in the area includes LC and B Multi-Family Residential ("B") zoned duplexes located west of the site. LC zoned apartments are located north of the site and a LC zoned single-family residence and fraternal organizations are located south of the site. There are three outdoor car sales lots and a Pawn Shop selling cars (and other equipment) located less than a ½-mile to a mile north-northwest of the site on Oliver Avenue, south of Harry Street. McConnell Air

Force Base is the dominant development in the area. McConnell is a critical component of the Sedgwick County economy and an essential base of operations for our County's security.

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 suitable for the commercial uses to which it has been restricted, including its previous use as limited auto repair, within the standards of the Airport Hazard Zone A and the McConnell Adjacent Critical Area of Interest (AOI).
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Outdoor auto sales on the site when developed with the suggest conditions of the Conditional Use, will have a minimum of negative effect on the area and improve the property, with the application of additional screening, landscaping, screening, paving and the other conditions on the site.
4. Conformance of the requested change to adopted or recognized Plans/Policies: 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 George Washington Boulevard, a two-lane minor arterial. The conditions attached to a Conditional Use can address site design issues, including landscaping, screening, and paving. 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 there are three outdoor car sales lots and a Pawn Shop selling cars (and other equipment) located less than a ½-mile to a mile north-northwest of the site on Oliver Avenue. However this site appears to be the first proposed outdoor car sales lot located in such close proximity, across George Washington Boulevard, to McConnell; the proposed use's conformation to the AOI is pending on comment from McConnell. OCI has noted that the applicants have a permit for indoor display/car sales (2006) at a different address than the subject site, but at a site/address in the immediate area and across from McConnell.
5. Impact on Community Facilities: All public facilities are available. Existing road facilities are adequate.

Site Plan

2955 S George Washington Blvd



SITE PLAN

APPROVED 8-29-14 BY DM

Dynamic 88, Inc.
PO Box 16283
Wichita, KS 67216

All of Lots 14 & 15 Except Beginnat at the SW Corner then NELY 150 ft. to SE Corner then North 2.92 ft. then SWLY PAR to South line 65 ft. then SWLY 85 ft. to Beginning Block B Washington Heights Addition to Wichita, Sedwick Co., Kansas
CON 2010-06651