

**19. 2012SP-001-001**

BL2011-81 / PARDUE

**WHOLESALE, INC.**

Map 034-02, Parcel(s) 025

Council District 10 (Doug Pardue)

Staff Reviewer: Greg Johnson

A request to rezone from CS to SP-A zoning and for final site plan approval for property located at 1809 Gallatin Pike, approximately 250 feet north of Myatt Drive (4.93 acres), to permit automobile sales (used), automobile service, automobile repair, and all other uses permitted by the CS District, requested by Dale & Associates, applicant, Steve and Jenelle Brewster, owners.

**Staff Recommendation: DISAPPROVE**

**APPLICANT REQUEST - Permit automobile sales (used), automobile service, automobile repair, and all other uses permitted by CS district**

**Preliminary and Final SP** A request to rezone from Commercial Service (CS) to Specific Plan – Auto (SP-A) zoning and for final site plan approval for property located at 1809 Gallatin Pike, approximately 250 feet north of Myatt Drive (4.93 acres), to permit automobile sales (used), automobile service, automobile repair, and all other uses permitted by the CS District.

**Existing Zoning**

CS District - Commercial Service is intended for retail, consumer service, financial, restaurant, office, self-storage, light manufacturing and small warehouse uses.

**Proposed Zoning**

SP-A District - Specific Plan-Auto is a zoning District category that provides for additional flexibility of design, including the relationship of streets to buildings, to provide the ability to implement the specific details of the General Plan. This Specific Plan includes automobile uses.

**CRITICAL PLANNING GOALS** N/A

**MADISON COMMUNITY PLAN**

**Existing Policy**

**T5 Super Regional Center (T5 SR)** T5 SR policy is intended to enhance super regional centers, encouraging their redevelopment as intense mixed use areas that are intended to serve the Middle Tennessee region, with supporting land uses that create opportunities to live, work, and recreate. T5 Super Regional Centers are pedestrian friendly areas, generally located at the intersection of two arterial streets, and contain commercial, mixed use, residential and civic and public benefit land uses. T5 Super Regional Centers serve communities within a reasonable driving distance or a 5 to 10 minute walk. Intensity is generally placed within boundaries not exceeding ½ mile in diameter and transitional uses placed within boundaries not exceeding 1 mile in diameter measured from the prominent intersection.

**Consistent with Policy?** The T5 Super Regional Center (T5 SR) policy allows a variety of residential and non-residential development and emphasizes articulation of a street wall along public streets in order to create a strong pedestrian environment. Because of this intent, approval of the proposed SP should include improvement to the Gallatin Pike street frontage using a landscaped area to provide street articulation. In accordance with the T5 SR policy, Planning staff recommends the MUL zoning district for future development on the site. MUL is more consistent with the recommended land uses and building form of the T5 SR policy than the CS zoning district.

**PLAN DETAILS** In 2006, a Council bill removed most automobile-related uses from the list of uses permitted under the CS zoning classification. This SP request proposes to have used auto sales several other automobile-related uses added back to the uses permitted for the subject property.

**Existing conditions and site plan** The applicant intends to operate used car sales use on the subject property, which recently housed a car dealership. A site plan was submitted with the SP application showing the intent to reuse the existing site essentially under its current conditions. Most of the site is covered by paved surface for vehicle parking and display. The site includes several buildings for vehicle sales and related functions.

**Street frontage** The lack of proposed improvements to the Gallatin Pike street frontage is the basis for the disapproval recommendation from Planning staff. SP zoning districts for auto uses are reviewed with the intent to improve the street frontage of each district. The site's current frontage features a continuous driveway access

along its 322 foot Gallatin Pike frontage. A change in pavement color and a row of parking lot lamps are the only elements that signal a transition from the site to the public street.

The site is located adjacent to two other auto-related uses along Gallatin Pike, including another auto dealership. Outside of this small number of auto-related uses, all other businesses and properties along this stretch of Gallatin Pike include a landscaped area along the street frontage that provides distinct separation between the street and private property, while also serving the function of limiting driveway access to Gallatin Pike.

**Signage** An existing pole sign exists at the front of the property. The applicant intends to reuse this sign for the proposed business. Surrounding sites include pole signs of similar height and size. A condition of approval has been added to require removal of the sign if it fails to qualify for protection under the Zoning Code as a nonconforming sign. If the sign is removed, any new ground signs shall be limited to the height and sign size standards of the MUL zoning district.

#### **PUBLIC WORKS RECOMMENDATION**

1. The developer's final construction drawings shall comply with the design regulations established by the Department of Public Works. Final design may vary based on field conditions.
2. If any sidewalks are required to be constructed Public Works would require these improvements be constructed so that the proposed back of sidewalk be placed on the existing ROW on the north side and continue with the existing single white line along Gallatin Pike. Proposed sidewalks should be constructed as per ST-210. If sidewalks are constructed the driveway ramps will need to be reconstructed as ST-325.
3. Identify parking per metro code. Identify outdoor display area with curb barrier along Gallatin Pk.

**STAFF RECOMMENDATION** Staff recommends disapproval of the SP request. The design of the proposed auto use is not consistent with the design intent of the T4 SR land use policy to provide articulation of street frontage along Gallatin Pike.

#### **CONDITIONS**

1. The developer's final construction drawings shall comply with the design regulations established by the Department of Public Works.
2. The existing ground sign may be re-faced for the proposed auto use. If the existing ground sign fails to qualify for protection under the Zoning Code as a nonconforming sign, or is removed voluntarily, any new ground signs shall meet the requirements of the MUL zoning district.
3. This SP shall permit automobile sales (used), automobile service, and automobile repair in addition to all uses permitted by the CS zoning district.
4. The following note shall be added to the site plan: Auto related uses shall be consistent with the approved site plan. Minor modifications to the site plan may be approved by the Planning Commission including changes in use but shall be subject to the standards, regulations and requirements of the CS zoning district. Expansions of 25 percent of the total floor area of the originally approved final site plan or total redevelopment shall meet the standards, regulations and requirements for the MUL zoning district. Minor modifications may require a new final site plan and expansions of 25 percent of the total floor area of the approved site plan or total redevelopment shall require that a final site plan be approved by the Planning Commission.
5. A corrected copy of the preliminary SP plan incorporating the conditions of approval by Metro Council shall be provided to the Planning Department prior to the filing of any additional development applications for this property, and in any event no later than 120 days after the effective date of the enacting ordinance. The corrected copy provided to the Planning Department shall include printed copy of the preliminary SP plan and a single PDF that contains the plan and all related SP documents. If a corrected copy of the SP plan incorporating the conditions therein is not provided to the Planning Department within 120 days of the effective date of the enacting ordinance, then the corrected copy of the SP plan shall be presented to the Metro Council as an amendment to this SP ordinance prior to approval of any grading, clearing, grubbing, final site plan, or any other development application for the property.
6. Minor modifications to the preliminary SP plan may be approved by the Planning Commission or its designee based upon final architectural, engineering or site design and actual site conditions. All modifications shall be consistent with the principles and further the objectives of the approved plan. Modifications shall not be permitted, except through an ordinance approved by Metro Council that increase the permitted density or floor area, add uses not otherwise permitted, eliminate specific conditions or

requirements contained in the plan as adopted through this enacting ordinance, or add vehicular access points not currently present or approved.

7. The requirements of the Metro Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.
8. The SP final site plan as approved by the Planning Commission will be used to determine compliance, both in the issuance of permits for construction and field inspection. While minor changes may be allowed, significant deviation from the approved site plans may require reapproval by the Planning Commission and/or Metro Council.

Mr. Johnson presented the staff recommendation of disapproval to the Planning Commission.

Roy Dale, of Dale & Associates, representing the applicants, asked the Commission to consider approval of the application.

Tom White, representing the applicants, spoke in support of the application and asked that the Commission approve the project with the clarification that there be a 25% trigger for conditions to be mandated.

**Mr. Dalton moved and Mr. Clifton seconded the motion to close the public hearing. (10-0)**

Chairman McLean asked about the application's status through the Metro Council. Mr. Dale stated the application has received 2<sup>nd</sup> reading approval by Metro Council and required suspension of the rules with no objections.

Councilmember Claiborne clarified the bill has passed 2<sup>nd</sup> reading, but that it has not been through the committee process, and stated making an exception to a rule for this application opens the door for other applications to request an exception. Councilmember Claiborne stated he is undecided on whether to approve or disapprove.

Mr. Ponder asked staff for clarification regarding the auto SP district policy description.

Mr. Johnson discussed the definition and evolution of the auto SP district policy.

Mr. Ponder inquired about a knee wall as an alternative option to separation between lot and street. Mr. Bernhardt stated a knee wall or other separation might be consistent with and would not undermine the SP district policy. Mr. Bernhardt also stated a grassy separation would also be consistent with the SP and would allow postponing landscaping until a larger bit of work is completed.

Mr. Ponder asked Mr. Sloan if approval of this application would affect other businesses and set a precedent. Mr. Sloan stated it would not affect other auto dealerships unless they discontinued and later restarted their auto businesses but would set a precedent. Mr. Bernhardt, Mr. Sloan, and Chairman McLean discussed the definition of used car sales lots, new auto sales lots, and the timeframe for grandfathering in both types.

Ms. Cummings stated she is in favor of some type of separation between the street and the property, but does not want to set precedent by approving the applicant's request at this time. She spoke in favor of a grassy border along the property.

Mr. Clifton asked for clarification of staff suggestions. Mr. Johnson stated setting conditions of approval was not possible without proper streetscaping.

Mr. Clifton stated he is sympathetic to the applicant but that Metro Council set the policy and does not feel comfortable making exceptions to it.

Mr. Gee inquired about sidewalks along the property. Mr. Johnson explained sidewalks are not required at this time.

Mr. Gee cited parking spaces at the front of the property as one of the possible reasons for prior policy changes. Mr. Gee asked about the direction this application will take at the Metro Council.

Mr. Sloan and Mr. Bernhardt discussed the legislative path of the application, the addition of conditions to a recommendation, and how that might affect the legislative outcome at Council.

Mr. Gee asked Mr. White to clarify his previous statement of the Councilmember's intent with this bill at Council.

Mr. White stated he believed the bill will pass on the 3<sup>rd</sup> reading at Council based on discussion with the Councilmember. Mr. White also stated the applicant would agree to put in sidewalks and greenery at a 25% increase in square footage or at redevelopment point.

Mr. Haynes stated he feels the original policy may not examine larger lot auto dealerships, and spoke in favor of approving the application.

Mr. Dalton spoke in agreement with Mr. Haynes, stating he is open to minor exceptions and would like to find a solution so that the applicant can move forward with his proposal.

Mr. Adkins stated he is in favor of the application, that it is the same land use as previous, and is in agreement with the applicant's proposed 25% development suggestion.

Ms. LeQuire stated she is sympathetic to the applicant but is undecided about an exception, and questioned Public Works recommendation.

Mr. Bernhardt stated that retaining the history and policy of the SP district is consistent, but that some separation could be designed that would not limit display areas. Ms. LeQuire stated she would consider the auto SP district if a separating wall were put in place.

Mr. Hayes asked about the passing of the auto SP policy. Mr. Bernhardt clarified the rezoning is required in this case for used auto sales since the previous use was for new auto sales.

Mr. Sloan stated the SP policy is specific in defining auto lots, and because this application is changing uses, it is therefore affected by the new policy. Mr. Sloan and Mr. Bernhardt discussed the origin and basis of the statute.

Mr. McLean inquired about the types of separation possible. Mr. Bernhardt clarified types of separation consistent with the policy.

Mr. Cummings stated she is sympathetic to separation issues, and believes this is an opportunity to improve existing issues.

Mr. Dale stated he is in favor of some type of curb placement, and asked that these conditions be added to the 25% redevelopment point.

Mr. Ponder inquired about curb sizes. Mr. Dale stated curbs would be at least 18 inches in width, but that a wall would be on the right-of-way and his applicant would not be in favor.

Mr. Ponder asked for clarification on whether cars on the lot would be over the right-of-way. Mr. Dale stated this is the existing situation.

Mr. Haynes moved and Mr. Dalton seconded the motion to approve the application with a curb, not a knee wall.

Mr. Bernhardt clarified that this and the other conditions would apply at a 25% redevelopment point. Mr. McLean restated that the conditions would take affect at the 25% point.

Motion carried, (9-1). Clifton – opposed.

Approve with conditions and disapprove without conditions, including the following conditions:

1. That an extruded curb or other barrier shall be constructed along the front property line to provide a separation from the parked cars and the travel way and to allow a maximum of two access points onto Gallatin Pike, and
2. That, the expansion of 25 percent or more of total floor area of the originally approved site plan shall trigger the requirement for the construction of a sidewalk and the installation of a minimum 15 foot wide landscaped area along the front property line with a continuous row of shrubs and ornamental trees planted every 20 feet along its length and disapprove without all conditions of approval.

**Resolution No. RS2012-14**

**"BE IT RESOLVED** by The Metropolitan Planning Commission that 2012SP-001-001 is **APPROVED WITH CONDITIONS AND DISAPPROVE WITHOUT CONDITIONS. (9-1)**

**Conditions of Approval:**

1. The developer's final construction drawings shall comply with the design regulations established by the Department of Public Works.
2. The existing ground sign may be re-faced for the proposed auto use. If the existing ground sign fails to qualify for protection under the Zoning Code as a nonconforming sign, or is removed voluntarily, any new ground signs shall meet the requirements of the MUL zoning district.
3. This SP shall permit automobile sales (used), automobile service, and automobile repair in addition to all uses permitted by the CS zoning district.
4. The following note shall be added to the site plan: Auto related uses shall be consistent with the approved site plan. Minor modifications to the site plan may be approved by the Planning Commission including changes in use but shall be subject to the standards, regulations and requirements of the CS zoning district. Expansions of 25 percent of the total floor area of the originally approved final site plan or total redevelopment shall meet the standards, regulations and requirements for the MUL zoning district. Minor modifications may require a new final site plan and expansions of 25 percent of the total floor area of the approved site plan or total redevelopment shall require that a final site plan be approved by the Planning Commission.
5. A corrected copy of the preliminary SP plan incorporating the conditions of approval by Metro Council shall be provided to the Planning Department prior to the filing of any additional development applications for this property, and in any event no later than 120 days after the effective date of the enacting ordinance. The corrected copy provided to the Planning Department shall include printed copy of the preliminary SP plan and a single PDF that contains the plan and all related SP documents. If a corrected copy of the SP plan incorporating the conditions therein is not provided to the Planning Department within 120 days of the effective date of the enacting ordinance, then the corrected copy of the SP plan shall be presented to the Metro Council as an amendment to this SP ordinance prior to approval of any grading, clearing, grubbing, final site plan, or any other development application for the property.
6. Minor modifications to the preliminary SP plan may be approved by the Planning Commission or its designee based upon final architectural, engineering or site design and actual site conditions. All modifications shall be consistent with the principles and further the objectives of the approved plan. Modifications shall not be permitted, except through an ordinance approved by Metro Council that increase the permitted density or floor area, add uses not otherwise permitted, eliminate specific conditions or requirements contained in the plan as adopted through this enacting ordinance, or add vehicular access points not currently present or approved.
7. The requirements of the Metro Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.
8. The SP final site plan as approved by the Planning Commission will be used to determine compliance, both in the issuance of permits for construction and field inspection. While minor changes may be allowed, significant deviation from the approved site plans may require reapproval by the Planning Commission and/or Metro Council.
9. That an extruded curb or other barrier shall be constructed along the front property line to provide a separation from the parked cars and the travel way and to allow a maximum of two access points onto Gallatin Pike, and
10. That, the expansion of 25 percent or more of total floor area of the originally approved site plan shall trigger the requirement for the construction of a sidewalk and the installation of a minimum

15 foot wide landscaped area along the front property line with a continuous row of shrubs and ornamental trees planted every 20 feet along its length and disapprove without all conditions of approval.

**With the proposed conditions of approval, including the requirement for an extruded curb along the front property line and future streetscape improvements, the proposed SP will be consistent with the T5 Super Regional Center land use policy.”**

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