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**STAFF REPORT**

**March 6, 2018**

**(10)**

**CASE NO:** 6091-P-21

**APPLICANT:** John W. Woodruff  
9600 N. Polo Drive  
Kansas City, MO 64153

**AGENT:** Randall D. Crawford  
5950 N Oak, Suite 202  
Kansas City, MO 64118

**LOCATION:** 9600 N Polo Drive

**AREA:** 2.45 acres

**ZONING:** B3-3

**REQUEST:** To consider an amendment to a previously approved development plan in District B3-3 (Community Business dash 3) to allow an existing boat structure to remain.

**SURROUNDING LAND USE:** **North:** commercial, office, hotel/motel  
**East:** office, parking, vacant/undeveloped  
**South:** hotel/motel, vacant/undeveloped, commercial  
**West:** hotel/motel, commercial

**LAND USE PLAN:** The area plan for this subject site is the KCI Area Plan. The land use plan recommends commercial land uses at this location. The proposed use is consistent with that of the future land use plan.

**MAJOR STREET PLAN:** Highway I-29, categorized as other in the Major Street Plan, runs to the west of the subject site.

**PREVIOUS CASES:**  
**Case No. 6091-GP-1** – Ordinance 61702, passed November 24, 1987, rezoned about 43 acres from District GP-2 (general transient retail business) to District GP-3 (regional business) with a development plan for 360 acres.  
**Case No. 6091-GP-8** – Ordinance 990579, passed May 27, 1999, amended an existing development plan in District GP-3 (regional business), by removing about 10.4 acres from the plan near Tiffany Springs Parkway and thereby leaving about 307.9 acres (**Current Approved Development Plan**)

**Case No. 6091-A-18** – At its regularly scheduled meeting on July 8, 2014, the Board of Zoning Adjustment UPHELD the Director of City Planning and Development’s decision that “This property is being used for outdoor storage (of a boat) in a district zoned B3-3. Outdoor storage is first allowed in districts zoned B-4.”

**UPDATE:**

After meeting internally, staff has determined the following:

1. The court concurred the boat is outdoor storage.
2. In order for it to be outdoor display it would need to meet the definition of outdoor display. The property owner has applied for a development plan to allow outdoor display. The definition of outdoor display is below:

**88-435-02-A. CLASS A OUTDOOR DISPLAY**

**1. DEFINED**

Class A outdoor displays are areas outside of a completely enclosed building or structure used to display goods for sale to the general public as part of and subordinate to retail sales or similar business establishment. This includes but is not limited to garden supplies, building supplies, and plant materials.

**EXISTING CONDITIONS:**

The site is developed with a single story pad site restaurant and surface parking lot. The restaurant has been under construction for renovations since at least 2013. The site backs up to I-29 and direct site access is provided from N Polo Drive. A boat has been stored on the site since 2013. Ground was disturbed to create a mound upon which the boat sits. The boat is approximately 10 feet from the property line of the highway.



**PLAN REVIEW AND ANALYSIS:**

The applicant’s proposal is to allow the existing boat structure to remain as a tool storage

building. The applicant was cited for outdoor storage of a boat. The citation was as follows: "This property is being used for outdoor storage (of a boat) in a district zoned B3-3. Outdoor storage is first allowed in districts zoned B4." This citation was appealed to the Board of Zoning Adjustment and the Missouri Court of Appeals, both of which agreed with the City's citation.

The boat structure, per the City and court's assessment, has been determined to be outdoor storage. The city assesses that it may be considered outdoor display in comparison to similar displays in the area. Similar displays have been approved through amendments to development plans in the general area. Those displays are associated with the overall purpose of the businesses. A car dealership on the west side of I-29 has a vehicle display with a fountain. A truck museum on the east side of I-29 and north of this site has a display pad with a truck parked atop. Both displays are significantly setback from the highway. If approved, the boat shall be relocated further from the highway.



The displays in the area advertise materials associated with the business or establishment on site. The boat structure is not immediately associated with the business on site. The applicant has stated the restaurant, once opened, will be a seafood restaurant. A boat may be associated with the capturing of the seafood served; however, the business is not immediately associated with boats.

Staff asserts the boat should be removed since the boat cannot be considered a storage shed, outdoor storage is not allowed in district B3, nor is the boat directly associated with the goods and services sold within the on-site establishment.

Additionally, a sign was installed in front of the boat structure in 2015. The sign has not been installed in accordance with the site plan and shall be installed correctly. The sign plan labeled the boat as an existing tool shed which is incorrect and must be amended. Additionally the area surrounding the sign was to be backfilled to cover the base. Both items must be addressed before the sign permit can be finalized.

**APPROVAL CRITERIA FOR SITE PLANS:**

In order to be approved, a development plan, project plan, or site plan must comply with all of the following criteria:

**88-516-05-A.** The plan must comply with all standards of this zoning and development code and all other applicable city ordinances and policies, (Note: this provision is not intended to

prohibit an applicant from seeking a variance or other form of relief authorized under this zoning and development code or other applicable ordinances, when authorized.)  
*The plan is not in compliance with the zoning and development code.*

**88-516-05-B.** The proposed use must be allowed in the district in which it is located.  
*The display is allowed in the zoning district – outdoor storage is not. Display should be associated with the goods and services for sale within the principal structure.*

**88-516-05-C.** Vehicular ingress and egress to and from the site, and circulation within the site, must provide for safe, efficient and convenient movement of traffic not only within the site but on adjacent roadways.  
*The ingress and egress and internal configuration will not change.*

**88-516-05-D.** The plan must provide for safe, efficient, and convenient non-motorized travel opportunities, being pedestrian and bicycle movement, on the subject site.  
*Non-motorized transportation on site will not change.*

**88-516-05-E.** The plan must provide for adequate utilities based on City standards for the particular development proposed.  
*The site is served by existing utilities.*

**88-516-05-F.** The location, orientation, and architectural features, including design and material, of buildings and other structures on the site must be designed to be compatible with adjacent properties.  
*The boat structure should be setback at least 100 feet from the edge of the highway to be compatible with other display in the area.*

**88-516-05-G.** Landscaping, berms, fences and/or walls must be provided to buffer the site from undesirable views, noises, lighting or other off-site negative influences and to buffer adjacent properties from negative influences that may be created by the plan.  
*No landscaping is proposed.*

**88-516-05-H.** The design of streets, drives, and parking areas within the project should result in a minimum of area devoted to asphalt or other impervious surfaces consistent with the needs of the project and city code requirements.  
*Vehicular use areas on site will not change.*

**88-516-05-I.** The plan must identify trees to be removed and trees to be preserved during the development of the subject property with the goal of saving trees that are not required to be removed for the development of the property.  
*No trees will be removed.*

Staff cannot support this proposal for the following reasons:

- a. The applicant has stated the boat is a tool shed. A tool shed is considered an accessory structure per the Zoning and Development Code. An accessory structure is defined as "A structure that is subordinate in area, extent, and purpose to the principal use and building on the zoning lot and that is customarily used in conjunction with a permitted

accessory use." The applicant has not provided evidence that the boat structure is being used as a tool shed is staff confident that the boat structure could be retrofitted for use as a tool shed.

- b. Outdoor displays at the car dealership and truck museum feature items associated with the principal business. Amending the development plan to allow for this outdoor display is the closest option to legalize the boat. A boat is not a product for sale at the restaurant and thus stating this is outdoor display for the principal use is a stretch.
- c. The boat was cited as outdoor storage. The City and the courts determined the boat is outdoor storage. Accessory outdoor storage is first allowed in District B4. District B4 is not supported by the area plan. If the site were successfully rezoned to B4 the boat structure would be required to do the following per 88-305-13:
  - a. Screened and fenced in accordance with 88-425-09-B.
  - b. The boat could not remain in the current location. Accessory outdoor storage may not be closer to the right-of-way than the principal building. The boat structure would also be required to be 20 feet from all property lines.
  - c. The area on which the boat would be stored must be paved.

## **RECOMMENDATION**

Staff recommends **DENIAL** of said project to the City Plan Commission. The following conditions are provided if the City Plan Commission so chooses to approve this application.

1. That the plan be revised as follows:
  - a. Structure shall be relocated to be at least 100 feet from west property line (property line abutting highway).
  - b. Existing mound shall be leveled.
  - c. Earth shall not be manipulated to allow boat to sit higher than adjacent ground.
  - d. Install sign in accordance with the sign permit issued on August 5, 2015.
  - e. Restaurant or business associated with structure shall open within ninety days of approval. If the business is not open within that time period the structure shall be removed.
  - f. The structure shall be placed on a concrete pad.
  - g. Structure shall be sealed to prevent further decay.
2. If the business closes the boat structure shall be removed.
3. All approved plan corrections shall be executed on site prior to issuance of any Certificate of Occupancy.
4. A trail easement shall be granted to the City prior to consideration by City Council. Contact Wes Minder, [wes.minder@kcmo.org](mailto:wes.minder@kcmo.org).

Respectfully submitted,



Ashley Winchell  
Lead Planner