

**MEETING DATE:** July 26, 2022

**STAFF:** Brian Harker, Planner

**PROJECT NAME:** Midwest Kustom Auto Group

**CASE NUMBERS/REQUEST:** Case 22-200-08 – Special Use Permit – Midwest Custom Automotive Group - 9304 E. US 40 Highway – A request by Courtland Thurman to establish a Special Use Permit to allow Automotive Sales.

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**APPLICANT/OWNER:** Cortland Thurman  
Midwest Kustom Auto Group

**PROPERTY ADDRESS:** 9304 E. US 40 Highway

**SURROUNDING ZONING/LAND USE:**

**North:** R-6 and R18/PUD...Blue Ridge Baptist Church  
**West:** C-2...medical device store and residence  
**East:** C-2 and R-6...insurance office and residence  
**South:** C-2...used car lot

**PUBLIC NOTICE:**

- Letters to adjoining property owners – July 8, 2022
- Public Notice published in the Independence Examiner – June 25, 2022
- Sign posted on property – July 8, 2022

**FURTHER ACTION:**

Following action by the Planning Commission, this rezoning request is scheduled for a first reading by the City Council on August 15, 2022 and the public hearing/second reading on September 6, 2022.

### RECOMMENDATION

Staff **does not** recommend the request for a Special Use Permit with the following reasons:

- 1) The US 40 Highway corridor already has too high a concentration of used car dealerships;
- 2) The applicant's narrative describes vehicle panel replacement, water-based painting and the restoration of inoperative vehicles that requires C-3 zoning to permit General automotive repair.
- 3) As this corridor is envisioned by the Comprehensive Plan to be residential, this property along with this corridor is currently concentrated with C-2 zonings that are suited for Limited automotive businesses.

However, if approved the following conditions

- 1) Provide a solid wood screen, behind the front building lines, for cars awaiting to be prepared;

- 2) Provide a landscaped, solid fenceline per Code for the adjacent residential buffer;
- 3) Provide more a detailed and complete landscaping/screening plan;
- 4) Repave the parking and driving surface;
- 5) Keep all required licensing up to date.

## PROJECT DESCRIPTION & BACKGROUND INFORMATION

**PROJECT DESCRIPTION:** Cortland Thurman requests a Special Use Permit to operate a used car dealership on the property located at 9304 E. US 40 Highway

<b>Current Zoning:</b>	C-2 (General Commercial) R-6 (Single-Family Residential)	<b>Proposed Special Use:</b>	Used Car Sales
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<b>Current Use:</b>	Light Automotive Repair	<b>Acreage:</b>	0.52-acres
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**Former Zoning:** Prior to 1965 – C-2 and R-1  
1980 – 2009 – C-2 and R-1b  
2009 – to today – C-2 and R-6

## PROPERTY HISTORY

In May 2021, the applicant, Cortland Thurman (prior to acquiring the property in March of this year), made application to both get a Special Use Permit to sell used cars and to rezone the property to C-3 (Service Commercial) to do heavy auto repair. Discussions concerned the history of operation at his Kansas City location, the layout of the site and the site plan, and the efforts to move the existing inoperable vehicles from this site to another. The incomplete details of the proposed site plan (how to accommodate screened cars awaiting repair, worker and customer parking, and landscaping) lead the Planning Commission to suggest that he do some additional planning with staff. Thus, the applicant pulled both cases and agreed to work with staff before coming back. The applicant did not reapply until after acquiring the property in March of this year. (Application was on May 11, 2022). In April, the Codes division started a case for vehicle screening and garbage that halted when the Special Use Permit process began. It was restarted in July as a case siting, temporary storage containers, nuisance vehicles, garbage and fence maintenance.

With the May application, Mr. Thurman only applied for a Special Use Permit to sell used cars. One of the latter narratives submitted mentions touch-up painting with water-based paints, metal fabrication and panel replacement at the service site. The property has been used for storing inoperable vehicles before being acquired by the applicant. The property has never had a business license for heavy automotive repair and there currently is not a business license for the site.

Given the above issues, an application for rezoning for heavier automotive repair should have been made as well. However, staff believes that neither automotive sales nor heavier automotive repair should be approved at this location. The site is well suited for light (or Limited)-automotive repair. But given the “tightness” of the paved surface area on the site, having an inadequate storage area for the cars to be prepared for sale and given the number of existing used car dealerships along the US 40 Highway corridor, staff does not recommend a Special Use Permit for Used (Specialty) Car Sales.

## **PHYSICAL CHARACTERISTICS OF PROPERTY**

The property is an existing developed lot with little green space. What little green space around it is largely what is provided by the very wide E. US 40 Highway right-of-way. Impervious surfaces dominate this property that is occupied by about 1/3-third building footprint and 2/3 thirds parking/driving surfaces. The paved surface east of and behind the building is fenced by a chain-link fence. The existing structure is brick and deeper than wide. Its rights-of-way facing front and back façades are narrower than the west and east sides. Garage doors line the south (front) façade facing US 40 Highway. Driveways provide access to both US 40 Highway and 39<sup>th</sup> Street. (although 39<sup>th</sup> Street is current blocked off by a locked gate).

## **CHARACTERISTICS OF THE AREA**

This section of US 40 Hwy corridor has many auto-related businesses, including used car dealerships. To the west at the intersection with Blue Ridge Cut-Off, is a concentration of retail and restaurant activity.

## **PROPOSAL:**

The applicant, Cortland Thurman, requests a Special Use Permit to operate a used car sales lot at 9304 E. 40 Highway. The property's structure previously was a two-tenant building (split into north and south halves) in which both existing businesses engaged in lighter automobile repair. The applicant requests a Special Use Permit to use the site for the sale of used (specialty) cars.

## **ANALYSIS**

### **Consistency with *Independence for All*, Strategic Plan:**

The application is within keeping with the Goal of, "Growth – Increase in economic prosperity."

### **Comprehensive Plan Guiding Land Use Principles:**

The City Comprehensive Plan recommends Residential Established Neighborhood uses for this site and area. The Guiding Principles state the need to, "Preserve the integrity of existing neighborhoods and facilitate the development of connected, mixed use neighborhoods where appropriate."

This property is also located in the area of the "40 Highway Corridor and Focus Area Plan." The plan states that, "The US 40 Highway Corridor (40 Highway Corridor) is one of six corridors selected for the Mid-America Regional Council's (MARC) Creating Sustainable Places (CSP) Initiative...The planning studies will provide recommendations to strengthen older neighborhoods and establish distinct districts that will stand the test of time and represent "great places" that support transit-oriented development."

A continued mix of residential and commercial uses are envisioned. No areas for Industrial type uses are identified in this vicinity. U.S. 40 Highway serves as a major east-west transportation corridor, supporting a variety of residential neighborhoods and businesses. The plan envisions incorporating "green" elements, more transit usage and promoting "complete streets" (those having multiple model uses within the rights-of-way).

### **Historic and Archeological Sites:**

There are no apparent historic/archeological issues with this property.

**Public Utilities:**

Water, sewer and electrical services are available to the properties.

**Permits and Site Improvements**

The applicant has indicated no construction activity will take place within the building. However, with the Special Use Permit, exterior improvements (required for the use to mitigate the impacts of the new use) will have to be provided. These include fixing the parking surface, marking parking spaces (including van-accessible handicapped spaces), providing landscaping where possible, and screening for adjacent residential to the Northeast.

**Parking and Driving Surfaces:**

The UDO Section 14-501 requires compliance with the parking and loading requirements given the new use established. As such, the parking and driving surfaces would need to be resurfaced. This will need to be done in a manner addressing the environmental concerns, zoning, and regulations enforced by Municipal Services and the City's environmental division.

**Environmental**

Chapter 20 of the City Code provides regulations regarding the mitigation of leaking fluids from vehicles stored outside awaiting or undergoing repair. The Municipal Services environmental division will also require approved plans to ensure the parking, loading and storage areas comply with Chapter 20 of the City Code.

**Landscape Buffering and Screening:**

Landscaping and screening would be required as a condition of approval. There is not currently landscaping and solid fencing in the residential buffer and the area of the lot where cars being prepared prior to sale.

**CIP Investments:**

There are no CIP investments related to this proposed use.

**REVIEW CRITERIA**

Recommendations and decisions on Special Use Permit applications must be based on consideration of all of the following criteria:

**1. Compatibility of the proposed use with the character of the neighborhood.**

*The site is already used for light automobile repair, used auto sales would not be more intrusive but add to the existing number of used auto sales lots.*

**2. The extent to which the proposed use is compatible with the adjacent zoning and uses.**

*The proposed use is compatible with the existing, nearby commercial uses (many auto related) along the US 40 Highway corridor, but heavier automotive repair is not compatible with the neighboring residential use.*

**3. The Impact of the proposed use on public facilities.**

*All public facilities are in place here.*

**4. The suitability of the property for the permitted uses to which it has been restricted under the applicable zoning district regulations.**

*The property is suited to continue its uses as lighter automotive repair.*

- 5. The extent to which the proposed use may injure or detrimentally affect the use of enjoyment of property in the area.**  
*The property does abut a residence to its northeast. Intensive storage and preparation activity could have some negative affects even if well screened.*
- 6. The extent to which the proposed use will create excessive stormwater runoff, air pollution, noise pollution or other environmental harm.**  
*The proposed use, because of no new impermeable surfaces, will not create new stormwater runoff; however, parked car in need of repair before sale could leak fluids.*
- 7. The extent to which there is a need for the use in the community.**  
*There are many businesses engaged in used vehicle sales in Independence.*
- 8. The ability of the applicant to satisfy any requirements applicable to the specific use imposed pursuant to this article.**  
*If approved with a Special Use Permit, the application could satisfy the requirements Section 14-406 of the Unified Development Ordinance if above-described approval conditions are met.*
- 9. The extent to which public facilities and services are available and adequate to meet the demand for facilities and services generated by the proposed use.**  
*This is a long existing commercial property, all public facilities in place and operational.*
- 10. Conformance of the proposed use to the comprehensive plan and other adopted plans and policies.**  
*The City Comprehensive Plan recommends Residential Established Neighborhood uses for this site and area; however, the vicinity has long been and will remain in commercial use for the foreseeable future.*
- 11. The extent to which the use will impact sustainability or revitalization of a given area.**  
*This Special Use Permit would not susport a more diverse retail mix away from auto-related businesses.*

## **EXHIBITS**

1. Applicant's Narrative
2. Narrative II
3. Narrative I
4. Application
5. Notification Letter
6. Notification Addresses
7. Mailing affidavit
8. Aerial site plan
9. Comp Plan Map
10. Zoning Map
11. Used Car Lot Location Map
12. Code Enforcement Case
13. Special Use Permit Review Criteria