



MARION COUNTY COURTHOUSE

MARION COUNTY, KANSAS  
**PLANNING COMMISSION/BOARD OF ZONING APPEALS**

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**STAFF REPORT**

August 11, 2016

**TO:** Marion County Planning Commission/Board of Zoning Appeals

**FROM:** Emma Tajchman, Director of Planning and Zoning

**SUBJECT:** PC-16-03 – Request for a Conditional Use Permit to operate a salvage yard on property zoned “SR” Suburban Residential District commonly known as 2867 Highway 77, Lincolnvile, KS

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This is the request of Gavin Shields, agent, on behalf of James and Linda Green, owner, requesting a Conditional Use Permit to operate a salvage yard on property zoned “SR” Suburban Residential District in part of the South Half of the Northwest Quarter of Section 12, Township 18 South, Range 4 East of the 6<sup>th</sup> P.M., beginning 63.70’ West of the Northeast corner, then Southwesterly 370.40’, then Southeasterly 527.79’, then Northeasterly 366.53’ to the West line of the US 77 Highway right of way, then Northwesterly 524.29’ to the point of beginning less right of way, containing 4.42 acres.

**BACKGROUND**

Mr. Shields has submitted documentation explaining his desire to establish a salvage operation at the above listed location. Mr. Shields believes this operation would be best suited at this location and would serve as an asset to the community. Under the Marion County Zoning Regulations, a Conditional Use Permit is required to authorize the placement of a salvage yard operation; primarily in order to address the appropriateness of the specific location and the associated impact. The salvage yard is anticipated to cover approximately 1 acre of land, with the remaining 3 acres used for residential purposes. The site plan shows the entrance from 1<sup>st</sup> Street in Lincolnvile.

**REQUIREMENTS OF REGULATIONS**

The Marion County Zoning Regulations has two specific sections that deal with submittal requirements for a Conditional Use Permit request. The standards for submittal of a Development Plan are outlined in Article 12. A site plan has been submitted showing the proposed salvage yard. Development and construction of the salvage yard was initiated prior to application submittal and it is believed the current layout is, essentially, the extent of the “improvements” for the salvage

yard which the applicant desires to make. Therefore, the submitted site plan shows the salvage yard, as close as possible, to the extent it is intended to be ultimately operated.

Article 24 of the Marion County Zoning Regulations outlines the factors to be considered for a Conditional Use Permit are. The Marion County Planning Commission is to makes its recommendation on the request for a Conditional Use using those factors as guidelines. The factors, and staff comments where appropriate, are as follows:

A. *Whether approval of the Conditional Use would be consistent with the intent and purpose of these Regulations;*

Salvage yards/junkyards are recognize within regulations as being permitted once the applicant/owner is granted a Conditional Use Permit. As required by the Regulations, a significant amount of detail must be presented by the applicant, which has been done. However, staff believes the “spirit and intent” of the Zoning Regulations is to manage all change in use of property by evaluating said changes based on the proposed land use in relationship with all other surrounding land uses, as noted below. In short, the decisions are to be based on the proposed land use and whether the location is appropriate for that use. Staff does not feel that the proposed use is suitable for this location and, therefore, would not be consistent with the “spirit and intent” or purpose of the Zoning Regulations.

B. *Whether the location of the proposed use is compatible to other land uses in the surrounding neighborhood;*

As stated above, staff does not feel the proposed salvage yard/junk yard is compatible with the neighborhood at this location. The majority of surrounding properties are residential in nature; particularly those within the City of Lincolnville. Staff is not opposed to the land use per se...but strongly believes the proposed use would be better suited in an area of lower population density and removed from any of the cities or villages.

C. *Whether the proposed use places an undue burden on the existing transportation and service facilities in the area affected and, if so, whether such additional transportation and service facilities can be provided;*

The proposed location relies primarily on the street system of the City of Lincolnville. These are intended to serve the residential needs of the residents and property owners in the area and are not designed or intended to be subject to regular travel by heavy equipment. Therefore, staff believes the use WOULD place an undue burden on the existing transportation system, particularly in the City of Lincolnville.

D. *Whether the proposed use is made necessary or desirable because of changed or changing conditions in the area affected;*

Staff does not believe this is applicable.



- E. *The length of time the subject property has remained vacant or undeveloped as zoned; provided, the use of land for agricultural purposes shall be considered as viable use of the land and not be considered as allowing the land to be vacant or undeveloped;*

Staff does not believe this is applicable.

- F. *Whether the applicant's property is suitable for the proposed use;*

Staff does not believe this is applicable.

- G. *The recommendations of permanent or professional staff;*

See below.

- H. *Whether the proposed Conditional Use would be in conformance to and further enhance the implementation of the Comprehensive Plan;*

The Comprehensive Plan encourages development and growth and, while not specifically naming this type of land use, identifies the purpose of the promotion of development to be evaluated through the prism of the land use regulations so as to consider the rights of surrounding landowners to enjoy the use of their property and not be burdened with the negative effects of land uses incompatible with a proposed new land use. Based on items addressed in this report, staff feels this particular application deviates from the spirit of the plan.

- I. *Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed on the applicant by not upgrading the value of the property by approving the proposed Conditional Use;*

Staff believes there is little gain to the public with the current proposal. There are benefits associated with salvage operations and staff recognizes the need for these businesses at appropriate locations. But staff does not feel this is an appropriate location. The fact this location relies heavily on access from the residential city streets for the heavy truck traffic would significantly be detrimental to the City of Lincolnville and the residential neighborhood in the immediate area. The proposed use does not involve buildings or uses that will add much to the tax base, so little “gain” to the public will incur from the use beyond the value of the property that already exists. As such, staff strongly believes this factor supports a denial.

- J. *Whether the proposed Conditional Use, if it complies with all the conditions upon which the approval is made contingent (as authorized in Article 24 of these Regulations), will not adversely affect the property in the area affected; and,*

Staff does not believe sufficient conditions and requirements can be provided to mitigate the negative impacts of this use at this location.

In addition to all the other issues already mentioned herein, the applicant addressed disposal of hazardous waste and materials within the development plan; however, there is still risk of mishandling or mishap. No emergency plan was included with the application. Hours of operation were not addressed by the applicant. The placement of an operation of this nature within a residential area would create noise concerns and should require strict conformance to established business hours.

Additionally, the applicant proposes to use "salvage truck trailers" placed on their side as "screening" along 1<sup>st</sup> Street. In the opinion of staff, this is very inappropriate for "screening" purposes and offensive as well. If this is ultimately approved, very specific language is encouraged to specify what is acceptable as screening, which is required by the Zoning Regulations, such as privacy fencing or other screening materials...but not what is proposed.

*K. Such other factors as may be relevant from the facts and evidence presented in the application.*

Nothing more is being said by staff regarding materials provided with the application.

**Staff Recommendation:**

Based on the reasoning and issues discussed above, staff recommends this application be denied.

**Suggested Motion:**

I move that Case No. PC-16-03, the request of Gavin Shields, agent, on behalf of James and Linda Green, owner, requesting a Conditional Use Permit to operate a salvage yard on property zoned "SR" Suburban Residential District at 2867 Highway 77, Lincolnville, be denied for the reasons stated in the staff report and as heard at this public hearing.