



MARION COUNTY COURTHOUSE

MARION COUNTY, KANSAS

## PLANNING COMMISSION/BOARD OF ZONING APPEALS

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### STAFF REPORT

May 17, 2018

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

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

**SUBJECT:** PC-18-03 – Request for a Conditional Use Permit to operate a scrap metal business on property zoned “RR” Rural Residential District commonly known as 2792 Mustang, Tampa, Kansas

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This is the request of Troy Hett, owner, requesting a Conditional Use Permit to operate a scrap metal business on property zoned “RR” Rural Residential District in the Northwest Quarter of Section 20, Township 18 South, Range 3 East of the 6<sup>th</sup> P.M., containing approximately 19.27 acres. A complete legal description is included with the application.

The applicant has submitted a letter of intent providing a general outline of his business at the above listed location. He has been in operation for several years, establishing a positive reputation throughout the area and growing the business. A permit was not sought prior to this application. The applicant believes this operation is well suited at this location and if approved, will continue to serve as an asset to the community. The applicant resides in a residential structure separate from the business at the same location. Under the Marion County Zoning Regulations, a Conditional Use Permit is required to authorize the placement of a scrap metal operation. For the purpose of this application, a scrap metal business is best described as a junkyard, which is a permitted use and is further defined in Article 1-104 as follows:

*128. JUNKYARD: An establishment which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of a motor vehicle graveyard. This term shall include salvage yards.*

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 letter of intent submitted with the application provides the basis for the development plan. Within the letter, the standard procedures for intake of inoperable vehicles and other scrap metal materials are noted. Storage, reuse, and/or disposal of hazardous materials, such as antifreeze, batteries, and gasoline, are detailed within the plan. An aerial image

included depicts the current state of the operation, which includes intact screening and an entrance from Mustang. This entrance serves both the residence and business on site. While not evident from aerials, a site visit confirmed that parts are sorted during intake as stated in the development plan. Tires are placed inside of vehicles so as not to hold water. Significant planning and thought is put into Hett's scrap metal recycling process.

In Article 24 of the Marion County Zoning Regulations, the factors to be considered for a Conditional Use Permit are listed. The Marion County Planning Commission may recommend approval of a Conditional Use, and the Governing Body may approve such Conditional Use, using the following factors as guidelines. Those 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;*

Junkyards are an approved use within the Marion County Zoning Regulations. The intent of the regulations is to protect the health, safety, and welfare of the public. Given the general location of the operation, staff believes the use is consistent with the intent and purpose of the regulations.

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

Staff feels that the use suits the area well. The majority of surrounding properties are agricultural in nature with very few residences. The applicant resides on the property in a dwelling separate from the business office, which is beneficial for security reasons.

*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 entrance to the business is shared with the residence on the property and enters onto Mustang, which is a maintained gravel road, and is one mile south of an improved road. Typically items purchased will be hauled by the applicant himself, which minimizes any additional traffic. Occasionally, items may be brought onsite by other means. When loads are sold, they are hauled as a large load. The frequency of loads sold is dependent upon market price of scrap metal. While understanding that additional use of the area roads is generated by the business, staff is of the opinion that any impact is outweighed by the benefit to the public.

*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;*

The property is sufficient in size and location for the proposed use. The structures on site have been modified or constructed to adequately serve the business. The shop is arranged to facilitate proper removal and handling of chemicals present. The west side of the property is fenced or screened. It is the opinion of staff that the property is well suited for the proposed use.

- 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, while also considering the rights of landowners' to use their land and the rights of surrounding landowners. Based on items addressed in this report, staff feels this application is consistent with 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;*

It is the opinion of staff that junkyards are necessary for the purpose of maintaining and managing scrap metal and other junk in the area. While operations of this nature may pose potential public health hazards, staff believes that the development plan submitted adequately mitigates the concerns. In addition to sufficient precautions, the location is also in an area that is sparsely populated and would be minimally impacted. Staff believes that the general public benefits from the continuation of the proposed use.

- 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 the property in the area will be adversely impacted by the proposed use.

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

See comments below.

**Staff Recommendation:**

Based on the evaluation of the above criteria, staff recommends this application be approved.

**Suggested Motion:**

I move that Case No. PC-18-03, the request of Troy Hett, owner, requesting a Conditional Use Permit to operate a scrap metal business on property zoned "RR" Rural Residential District at 2792 Mustang, Tampa, Kansas, be recommended for approval with the following conditions:

1. Strict adherence to the development plan of record.
2. Conformance with all applicable federal, state, and local regulations.
3. Maintain adequate screening along the scrap metal facility perimeter.