

## GENERAL INFORMATION

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| Applicant:                       | Waler Real Estate IV, LLC (Owner)<br>Walser Toyota (User)  |
| Location:                        | 4401 American Boulevard West   |
| Request:                         | Change in Condition in Case #PL2021-42 related to interim parking and storage of motor vehicles associated with a Class I motor vehicle sales facility use   |
| Existing Land Use and Zoning:    | Motor vehicle sales, Class I; zoned Freeway Office and Service (Planned Development) (C-1(PD))   |
| Surrounding Land Use and Zoning: | North – Interstate Highway 494; public right-of-way<br>South – Single-family residential dwellings; zoned R-1<br>East – Hotel and restaurant; zoned CS-0.5(PD)<br>West – Office and multiple-family residential apartments; zoned CS-0.5 and R-4(PD) |
| Comprehensive Plan Designation:  | Regional Commercial (RC)   |

## HISTORY

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|----------------------|--|
| City Council Action: | 06/07/2021 – Approved a Comprehensive Plan Amendment to reguide a portion of 4217 American Boulevard West from Community Commercial to Regional Commercial, Rezoning a portion of 4217 American Boulevard West from CS-0.5(PD) to C-1(PD), Preliminary and Final Development Plans for an approximately 122,000 square foot motor vehicle sales (Class I and II) and office building with a three-story parking ramp, and Preliminary and Final Plat to combine two parcels into one parcel (Case #PL2021-42). |
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## CHRONOLOGY

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| Planning Commission | 03/17/2022 – Public hearing held, recommended approval (Vote: 5-0) |
| City Council        | 3/28/2022 – Consent Business agenda                                |

## DEADLINE FOR AGENCY ACTION

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|-----------------------------|--|
| Application Date:           | 02/18/2022   |
| 60 Days:                    | 04/19/2022   |
| 120 Days:                   | 06/18/2022   |
| <b>Applicable Deadline:</b> | <b>04/19/2022</b>                                  |
| Newspaper Notification:     | Confirmed (03/03/2022 Sun Current – 10 day notice) |
| Direct Mail Notification:   | Confirmed (500-foot buffer – 10 day notice)        |

## STAFF CONTACT

Nick Johnson, Planner  
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## PROPOSAL

On June 7, 2021, the City Council approved Preliminary and Final Development Plans for a new three-story, approximately 122,000 square-foot motor vehicle dealership and office building with a three-story parking ramp located at 4401 American Boulevard West (Case #PL2021-42), replacing the existing Walser Toyota dealership. The Council action was subject to multiple conditions of approval. Condition of Approval #33 of the approved Final Development Plans pertains to using the three-story parking ramp to park and store motor vehicles. The precise language of Condition of Approval #33 is as follows:

33. Ongoing The interim use for up to two years of Lot 1, Block 1, France 494 4th Addition, as it may be replatted, for motor vehicle sales, including accessory parking and storage whether on the surface or in a structured facility along with the City's issuance of a certificate of occupancy ("CO") for Phase I ("Parking Structure") shall be contingent on 1) issuance of a full building permit for a dealership/office building consistent with plans approved in Case File #2021-42 and 2) receipt of proof of a deposit on major structural elements for the dealership/office building. Permanent use of Lot 1, Block 1, France 494 4th Addition, as it may be replatted, for motor vehicle sales, including accessory parking and storage, is allowed only after issuance of a certificate of occupancy ("CO") for a dealership/office building consistent with plans approved in Case File #PL2021-42. The Community Development Director may, at her reasonable discretion, extend the interim use period beyond two years in the event of unforeseen circumstances provided substantial progress is being made on the construction of the dealership/office building.

The project is to be completed in the following three phases: 1) parking ramp, 2) dealership/office building, and 3) demolition of the existing dealership and final site/parking improvements.

Constructing the parking structure in the first phase of development allows for motor vehicle inventory to be relocated into the ramp, allowing for construction of subsequent phases with reduced disruption to business operations. The three-story parking ramp is currently under construction and anticipated to be completed in April or May of 2022. To facilitate the use and occupancy of the three-story parking ramp upon its completion, Walser Toyota requests that Condition of Approval #33 of Case #PL2021-42 be revised as follows, with the modified language underlined for clarity:

33. Ongoing The interim use for up to two years of Lot 1, Block 1, France 494 4th Addition, as it may be replatted, for motor vehicle sales, including accessory parking and storage whether on the surface or in a structured facility along with the City's issuance of a certificate of occupancy ("CO") for Phase I ("Parking Structure") shall be contingent on 1) issuance of a piling and foundation permit for a dealership/office building consistent with plans approved in Case File #2021-42; ~~and~~ 2) receipt of proof of a deposit on major structural elements for the dealership/office building; and 3) continued interim use upon issuance of a full building permit for a dealership/office building by August 1, 2022. Permanent use of Lot 1, Block 1, France 494 4th Addition, as it may be replatted, for motor vehicle sales, including accessory parking and storage, is allowed only after issuance of a certificate of occupancy ("CO") for a dealership/office building consistent with plans approved in Case File #PL2021-42. The Community Development Director may, at her reasonable discretion, extend the interim use period beyond two years in the event of unforeseen circumstances provided substantial progress is being made on the construction of the dealership/office building.

In supporting the need for the request, the applicant notes design work for the dealership/office building has been delayed due to significant changes stemming from an inability to source specific structural materials due to the pandemic. More specifically, the structural design of the building has been modified to utilize concrete structural elements as opposed to steel. The structural design change has resulted in a delay in submitting the full building permit for City review. Walser Toyota does not anticipate submitting the full building permit until mid-April, which is the approximate completion date for the parking ramp. To keep the existing construction schedule on track, it is necessary to start pile-driving and foundation work on the dealership building in late April. Pile-driving and foundation work will disturb a large portion of the central portion of the site, which is currently occupied by motor vehicle inventory. Allowing these vehicles to be moved to the new parking structure allows the pile-driving and foundation work to proceed while the City reviews the full building permit. As part of their Change in Condition request, Walser is committing to obtaining the full building permit prior to August 1, 2022 at the latest.

## ANALYSIS

The approval of the Final Development Plans in Case #PL2021-42 included a performance schedule (Condition of Approval #33) that established the terms of use for the three-story parking ramp in light of the construction phasing of the project. The performance schedule was adopted to incentivize and ensure timely completion of the three-story motor vehicle dealership and office building. The City is interested in requiring motor vehicle sales uses to provide commensurate amounts of building area in relation to outdoor automobile storage. The City Code establishes a minimum floor area ratio (FAR) of 0.4 for new and expanded motor vehicle sales uses (see Section 21.302.01(j) of the City Code). In addition to satisfying the FAR Code requirement, the performance schedule was also informed by the development history of the site and past expansions of the motor vehicle sales use. Construction of the full auto dealership and office building as shown was necessary to demonstrate a public benefit for the reguinding and rezoning of 4217 American Boulevard West (former Joe Senser's restaurant site) considering the site history. The attached staff report from Case #PL2021-42 explains the background and basis for the performance schedule and agreement in greater detail.

The applicant's design team has provided consistent and timely updates throughout their design process. The challenging conditions associated with the pandemic construction environment from a cost and material sourcing standpoint were communicated to staff on other large construction projects. The factors of an inability to obtain certain materials in a timely manner and escalating costs are in some ways unprecedented in recent construction cycles. These challenges mirror those reported not just in the Twin Cities, but in other markets across the United States. Staff has evaluated the basis for the requested change to the performance or project milestone schedule and finds merit in the request. As such, staff supports the proposed change to Condition of Approval #33 in Case #PL2021-42 as presented in the subject application. Pursuing the piling and footing permit for the dealership represents earnest momentum and progress toward project construction, and establishing a deadline of August 1, 2022 to obtain the full building permit provides assurance the project will continue to move forward at an acceptable pace. Overall, the proposed condition language as presented still effectively addresses the City's goals with respect to ensuring the construction of the dealership/office building proceeds in a timely manner.

To memorialize the conditions of approval for the planned development, as well as the associated performance milestones, the applicant entered into a site development agreement dated August 30, 2021 with the City. The agreement includes exhibits with the existing conditions of approval (Exhibit B) and a schedule of project milestones (Exhibit C) that reflect the performance requirements of the existing Condition of Approval #33 in Case #PL2021-42. As a result, an amendment to the existing site development agreement is necessary to reflect the revised language of Condition of Approval #33 as presented in the subject application. Staff is recommending a condition of approval that the site development agreement be amended and recorded prior to the occupancy of the three-story parking ramp. Requiring the amended agreement be recorded prior to occupancy of the parking structure ensures completion of the task in a timely manner.

**Status of Enforcement Orders**

The property is not subject to any open enforcement orders.

**Public Correspondence**

As of the publication date of the staff report, staff has not received any correspondence from the public.

**Planning Commission Review**

The Planning Commission held a public hearing on March 17, 2022. No one spoke at the hearing except for the applicant's representative. Following a limited discussion, the Planning Commission unanimously voted to recommend approval of the application (Vote: 5-0). A more complete summary of the meeting can be reviewed in the attached Planning Commission meeting minutes.

**FINDINGS**

There are no explicit findings required to be made for a Change in Condition application. However, the required findings of the approved Final Development Plan in Case #PL2021-42 were reviewed to ensure continued compliance in light of the proposed revision to Condition of Approval #33. Following evaluation, staff finds the proposed Change in Condition does not present any conflicts to the approved Final Development Plan findings made in Case #PL2021-42.

**RECOMMENDATION**

Planning Commission and staff recommend approval through the following motion:

Motion made by \_\_\_\_\_, seconded by \_\_\_\_\_, in Case #PL2022-31, I move to adopt a resolution approving a Change in Condition of Approval #33 in Case #PL2021-42 related to interim parking and storage of motor vehicles accessory to a class I motor vehicle sales facility use located at 4401 American Boulevard West.

## **RECOMMENDED CONDITIONS OF APPROVAL**

**Case #PL2022-31**

**Project Description:** Change of Condition in Case #PL2021-42 to modify condition of approval #33 related to interim parking and storage of motor vehicles accessory to a class I motor vehicle sales facility use.

**Address:** 4401 American Boulevard West

The following conditions of approval are arranged according to when they must be satisfied. In addition to conditions of approval, the use and improvements must also comply with all applicable local, state, and federal codes. Codes to which the applicant should pay particular attention are included below.

1. Prior to C/O      A revised or amended site development agreement for Case #PL2021-42 must be recorded prior to occupancy of the three-story parking ramp.