

**PLANNING COMMISSION REPORT**  
**Regular Agenda – Public Hearing Item:**

PC Staff Report  
01/26/09

**ITEM NO. 2 SPECIAL USE PERMIT FOR CAR TOYS; 711 W 23<sup>RD</sup> STREET (SLD)**

**SUP-12-10-08:** Consider a Special Use Permit to allow *Light Equipment Repair* for Car Toys (stereo installation) at The Malls located at 711 West 23<sup>rd</sup> Street. Submitted by Murl Westheffer for Malls Investment Company, LLC, property owner of record.

**STAFF RECOMMENDATION:** Staff recommends approval of SUP-12-10-08, a Special Use Permit allow *Light Equipment Repair* for Car Toys (stereo installation) in the CN2 District located at 711 West 23<sup>rd</sup> Street, based upon the findings presented in the body of the staff report and subject to the following conditions:

1. Execution of a Site Plan Performance Agreement.
2. Provision of a revised site plan to include a note that all installation activities shall occur in the building.
3. Publication of an ordinance per Section 20-1306(j).

**Applicant's Reason for Request:** *To allow installation of car stereo and related items.*

**KEY POINTS**

- A variety of retail and office uses are allowed by right in the CN2 district.
- Proposed use will occupy space in rear of building with access from rear drive.
- The proposed installation activity is accessory to the retail operation.

**FACTORS TO CONSIDER**

- Procedural requirements of Section 20-1306; Special Use Permits.

**ASSOCIATED CASES/OTHER ACTION REQUIRED**

- SP-11-97-08; Site plan for change of use for retail portion of Car Toy; Unit 5
- SP-12-110-08; site plan for change of use for Budget Rent-A-Car; Unit 4
- Publication of a Special Use Permit ordinance per Section 20-1306(j).

**PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

None to date.

**GENERAL INFORMATION**

Current Zoning and Land Use: CN2 (Neighborhood Commercial Center) District; developed retail commercial center.

Surrounding Zoning and Land Use: CS (Commercial Strip) District to the north and northeast and west; existing commercial uses.

PRD [Pin Oak/Red Oak] (Planned Residential Development) District to the southwest; townhomes.

RM32 (Multi-Dwelling Residential) District to the south; an apartment complex.

RS7 (Single-Dwelling Residential) District to the southeast and east; single family homes.

### SITE SUMMARY

	<b>Existing</b>	<b>Proposed</b>	<b>Change</b>
Property Area (sq ft):	478,288 [10.98 ac]	478,288 [10.98 ac]	-
Total Impervious Area (sq ft):	479,368	479,368	-
Total Pervious Area (sq ft):	47,708	47,708	-
Land Use:	Retail Center	Addition of overhead to rear of Unit 4 for installation of car stereo's and other similar equipment	

### Summary of Special Use

The subject property is located on the southwest corner of Louisiana Street and W. 23<sup>rd</sup> Street within The Malls shopping center. The property is developed with a mix of retail uses. A portion of Unit 5 will be used for the installation activities of the business. The front portion of the unit was approved for the retail portion of the business (SP-11-97-08). The installation of stereo equipment in vehicles is classified as 'Light Equipment Repair' which is permitted in the CN2 District with the approval of a Special Use Permit.

### Site Plan Review:

There are no changes to the site plan previously approved for the retail portion of this business. An overhead door in the rear of the building was previously approved for Unit 5.

### Parking Summary

The retail business in Unit 5 was site planned in November 2008 as a 'Retail Sales, General' use. Parking required for this use is set at one parking space per 200 SF of building area. The total area of the suite is noted as 3,000 SF on the face of the site plan. A total of 15 off street parking spaces are required for this use. Building permit application documentation indicated that the total retail area occupies 1,729 SF and the service bay will occupy 1,149 SF of Unit 5. The parking requirement for 'Light Equipment Repair' is calculated as:

- 1 space per 500 SF of open sales area; plus
- 1 space per 500 SF of enclosed sales area; plus
- 2 spaces for each service bay.

This parking requirement assumes there will be vehicles sales associated with the repair activity such as a car dealership with both outdoor and indoor display areas. The proposed use will function as an accessory use to the retail activity. Staff applied the retail parking requirement to the use. Based on the total existing uses most recently approved for the shopping center, required off-street parking for the center is 506 spaces (per SP-12-110-08). A total of 521 spaces are provided for the center.

The Malls is composed of a mix of uses. The center was developed prior to the adoption of the 2006 Development Code and the parking requirements were calculated per the standards in the 1966 Zoning Ordinance. The 1966 Zoning Ordinance based the required parking on Net Square Feet.

Staff worked with the applicant to update the parking requirements for the center using the parking schedule in the Development Code.

A variance from the parking requirements was obtained from the Board of Zoning Appeals in May of 2001 to permit the Shopping Center to provide 500 parking spaces rather than the 560 required by the 1966 Zoning Ordinance to allow Westlake Hardware to reflect current conditions and accommodate a permanent seasonal sales display area north of the Hardware Store. The variance would permit a minimum of 500 parking spaces to be provided. No change in the parking lot design or vehicular circulation will result from this proposed application.

### **Review and Decision-Making Criteria (20-1306(i))**

#### **1. WHETHER THE PROPOSED USE COMPLIES WITH ALL APPLICABLE PROVISIONS OF THIS DEVELOPMENT CODE**

The proposed use is permitted in the CN2 (Neighborhood Commercial Center) District with a Special Use Permit. There are no "use standards" associated with this proposed use identified in Article 5 of the Development Code. A site plan was recently approved for the retail operation as a change of use for Car Toys (SP-11-97-08) and for Budget Rent-A-Car (SP-12-110-08).

**Staff Finding** – The proposed use is compliant with the provisions of the Development Code.

#### **2. WHETHER THE PROPOSED USE IS COMPATIBLE WITH ADJACENT USES IN TERMS OF SCALE, SITE DESIGN, AND OPERATING CHARACTERISTICS, INCLUDING HOURS OF OPERATION, TRAFFIC GENERATION, LIGHTING, NOISE, ODOR, DUST AND OTHER EXTERNAL IMPACTS**

The proposed use is similar to adjacent uses in terms of scale and operating characteristics. The proposed site design is not altered by the proposed use. The proposed installation activity will be conducted within the enclosed building. The space is limited and will not allow multiple bays.

**Staff Finding** – The proposed use is compatible with adjacent uses.

#### **3. WHETHER THE PROPOSED USE WILL CAUSE SUBSTANTIAL DIMINUTION IN VALUE OF OTHER PROEPRTY IN THE NEIGHBORHOOD IN WHICH IT IS TO BE LOCATED**

The subject property is part of larger commercial area. The activity will be located within an existing commercial building with multiple tenants. Access for the installation bay will be from the rear of the building thus will not interfere with the pedestrian access along the front of the building.

**Staff Finding** –The proposed use is not anticipated to cause a diminution in the value of surrounding property.

**4. WHETHER PUBLIC SAFETY, TRANSPORTATION AND UTILITY FACILITIES AND SERVICES WILL BE AVAILABLE TO SERVE THE SUBJECT PROPERTY WHILE MAINTAINING SUFFICIENT LEVELS OF SERVICE FOR EXISTING DEVELOPMENT**

The subject property is located within the City of Lawrence. Public sewer and water are available to the site.

**Staff Finding** –Public safety, transportation and utility services are currently available and a sufficient level of such services is available to support the proposed use.

**5. WHETHER ADEQUATE ASSURANCES OF CONTINUING MAINTENANCE HAVE BEEN PROVIDED**

**Staff Finding** –The site plan will function as the enforcement document to assure that maintenance and use of the property is consistent with the approval.

**6. WHETHER THE USE WILL CAUSE SIGNIFICANT ADVERSE IMPACTS ON THE NATURAL ENVIRONMENT**

The proposed use is located within a developed neighborhood retail area. Improvements to storm drainage were made in the summer of 2008 to address runoff and erosion along the west property line. No other changes or improvements have been identified for the property.

**Staff Finding** – The proposed use will not cause significant adverse impacts on the natural environment.

**7. WHETHER IT IS APPROPRIATE TO PLACE A TIME LIMIT ON THE PERIOD OF TIME THE PROPOSED USE IS TO BE ALLOWED BY SPECIAL USE PERMIT AND, IF SO WHAT THAT TIME PERIOD SHOULD BE.**

The use proposed is an accessory activity to the retail activity of the Car Toy business. Future uses that may occupy space within the building will require a revision to an approved site plan. As an accessory activity to the retail business a time limit is not seen as needed. Limitations on the approval should address concerns that installation activity shall not be conducted outdoors (in the parking lot).

**Staff Finding** – It is not appropriate to place a time limit on this type of Special Use given the nature of the use and the site improvements required to change the use or expand the use.

**Conclusion**

The proposed Special Use Permit site plan proposes to establish a bay for installation of after-market audio and electronic equipment in vehicles in the CN2 (Neighborhood Commercial Center) District. The proposed use will not result in any visible change to the public sides of the site. An overhead door will be added to the rear of the building for vehicular access. Adequate parking is provided on site.

During the review of this application staff noted that future changes to the site will require a fully updated site plan to document all existing conditions of the site. This information was conveyed to the applicant.