

PLANNING AND ZONING COMMISSION  
STAFF REPORT

June 16, 2016



**Conditional Use Permit case no. CU 16-06: South Texas Auto/Heeman Motor Company, Inc.**

**CASE DESCRIPTION:** request for approval of a Conditional Use Permit, to allow an auto sales business on property in a Retail District (C-2) zoning district

**LOCATION:** 101 South Texas Avenue at the southeast corner of South Texas Avenue and East 26<sup>th</sup> Street, occupying Lot 6R in Block 40 of the Bryan Original Townsite

**EXISTING LAND USE:** vacant retail building and parking lot

**APPLICANT(S):** South Texas Auto/Heemann Motor Company Inc.

**STAFF CONTACT:** Stephanie Doland, Staff Planner

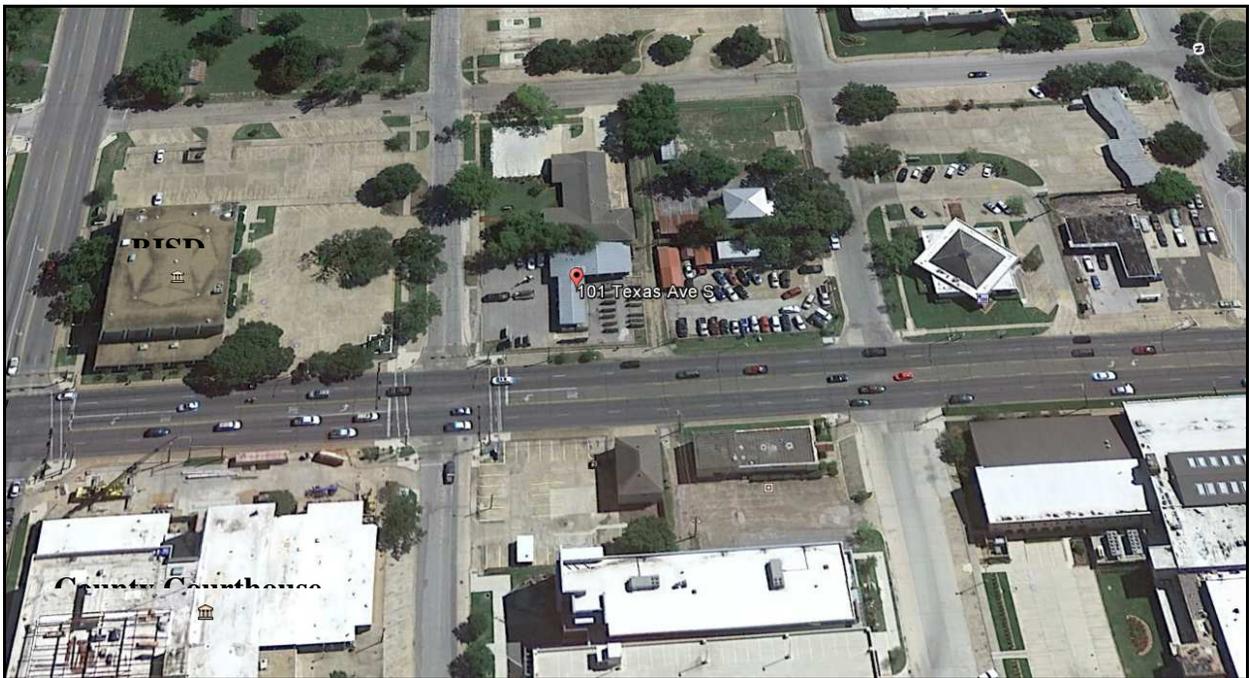
**SUMMARY RECOMMENDATION:** Staff recommends **denying** this request.



**2015 AERIAL PHOTOGRAPH:**



**GOOGLE IMAGE:**



## **BACKGROUND:**

The subject tract is comprised of 0.3421 acres of land located at the southeast intersection of South Texas Avenue and East 26<sup>th</sup> Street and currently addressed as 101 South Texas Avenue. Adjacent land uses are, an automobile sales business to the south, a law office to the east, the Bryan ISD administration building across East 26<sup>th</sup> Street, and the Brazos County Court House across South Texas Avenue. The west edge of the property lies along the 100-foot wide right-of-way of South Texas Avenue.

The applicant, South Texas Auto/Heeman Motor Co., is requesting approval of a Conditional Use Permit, to allow the operation of an automobile sales business on the subject property. The applicant intends to utilize the existing 1,200 square foot building as the sales office and the 1,000+ square feet carport for merchandise display. There are 12 existing off-street parking spaces currently located on the property. The site plan submitted for review to the Site Development Review Committee as part of this application shows the creation of 2 additional spaces. With the additional 2 spaces, 7 off-street parking spaces are proposed to be utilized for customer parking and the remaining 5 spaces and area under the carport are intended for display of automobiles.

The subject property was originally developed in the mid-1900s for retail use. Since that time, the site has been utilized as a convenience store, an automobile sales store, and, most recently, a granite store. In 1989, when the City of Bryan adopted zoning regulations, the property was designated Retail District (C-2). At the time the Zoning Ordinance was adopted, the site was utilized by an automobile sales business and, even though such uses require Conditional Use Permit in C-2 zoning districts, the use was considered a legally non-conforming (grandfathered) use at the time and allowed to continue to operate. The legally non-conforming status for the use of auto-related businesses on the property was lost when the property was no longer used for such a use for a period of more than 12 months.

The C-2 zoning classification is intended to provide development opportunities for various types of general retail trade, business, and service uses. The district allows shopping areas or uses which are generally compatible near or adjacent to, but not usually directly in, residential neighborhoods.

The purpose of the conditional use permit process is to identify those uses which might be appropriate within a zoning district but, due to either their location, function, or operation, could have a potentially harmful impact on adjacent properties or the surrounding area; and to provide for a procedure whereby such uses might be permitted by further restricting or conditioning them so as to mitigate or eliminate such adverse impacts.

In May 2016, the applicant, a new tenant at this location, applied for a Certificate of Occupancy for an auto-related business on the subject property. At the time the request was made, the applicant was unaware that the use of automobile sales at this location requires prior approval of a Conditional Use Permit by the Planning and Zoning Commission. On May 17, 2016 the City of Bryan received the request for the Conditional Use Permit, to allow automobile sales on the subject property. The site plan accompanying the request includes multiple improvements to the site to bring the site up to current standards, including, removal of both curb cuts along Texas Avenue, narrowing the driveway on East 26<sup>th</sup> Street, installing curb and gutter to the gated entrance, and additional parking striping.

The site plan also shows an existing pipe fence which is located in the public right-of-way for Texas Avenue. The Municipal Maintenance Agreement between TXDOT and the City of Bryan, signed in June 2002, requires the City to assist in removal of existing encroachments within TXDOT right-of-way.

A landscaping plan was also submitted. That plan, however does not meet all applicable standards of Chapter 62 – Land and Site Development, required for site plans.

APPLICATION SUPPLEMENT:

# Conditional Use Permit Supplement E



CITY OF BRYAN  
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Minimum Requirements:

- 15 Folded copies of Site Plan

Please list the reasons for this conditional use permit request:

1. This property will be used for displaying 25-30 used vehicles for sale.
2. Property was a used vehicle sales lot for over 30 previous years.
3. No mechanical repairs will be made on premises.
4. Bay areas will be used as vehicle showroom.
5. No plans for remodeling, modifications, or removal to current structures are planned.
6. Business will be owned by former A&M student with future generations planning to attend A&M.
7. Joe Heemann is an independent car dealer in San Antonio & has been there for over 7 yrs with 2 locations during which has never been cited for any infractions by Texas Motor Vehicles Dept.
8. We believe we can attract customers from a 15 county area bringing economic gain to Bryan.



**View from Texas Avenue facing northeast**



**View from Texas Avenue facing southeast**



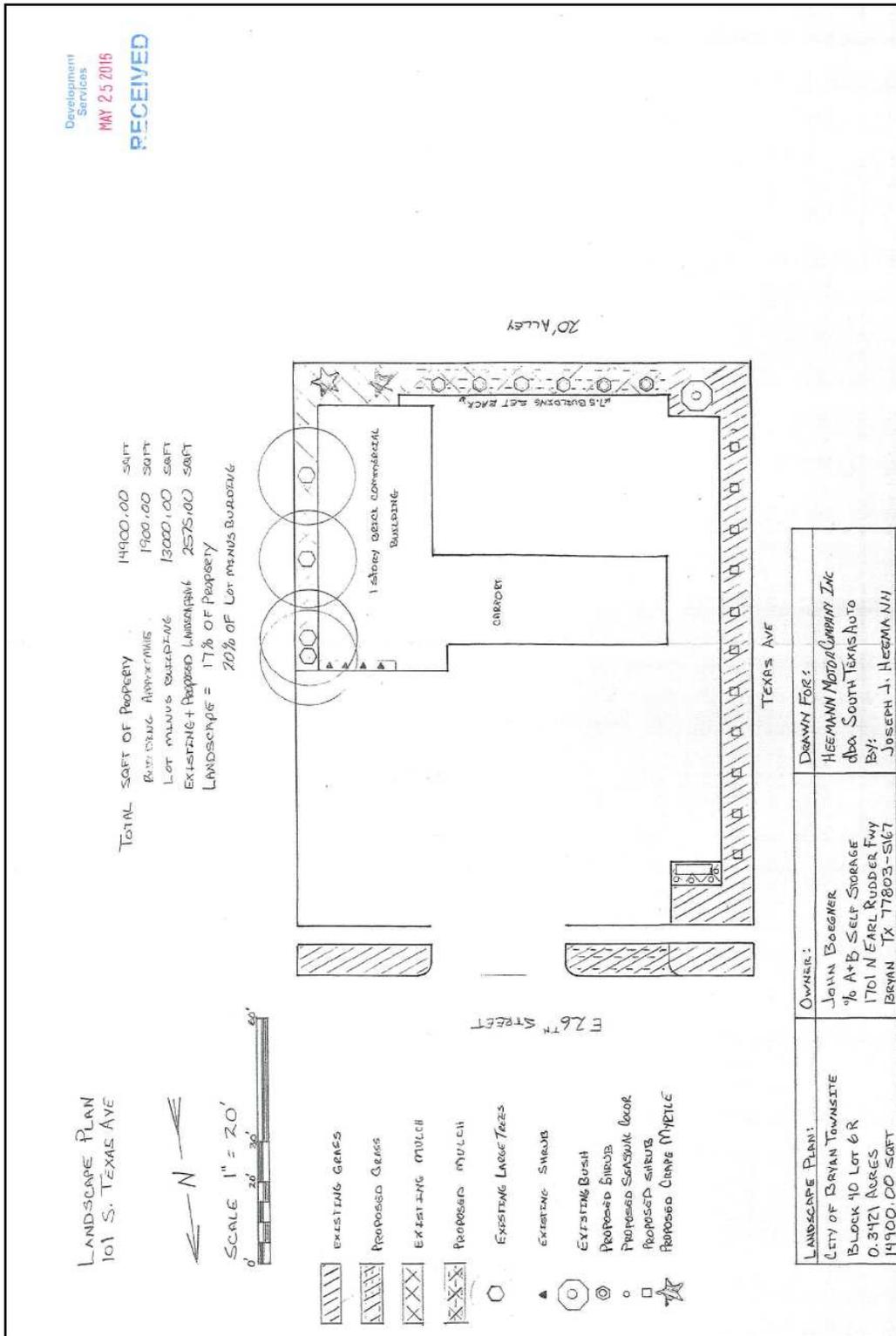
**View from East 26<sup>th</sup> Street facing southeast**



**View from East 26<sup>th</sup> Street facing east**



**PROPOSED LANDSCAPE PLAN:**



## RELATION TO BRYAN'S COMPREHENSIVE PLAN:

The City of Bryan's Comprehensive Plan includes policy recommendations related to the various physical development aspects of the community. The Comprehensive Plan states that it is a goal of the City to achieve a balance of land uses within the City by achieving a sustainable mix of land use types in suitable locations, densities and patterns.

### 5.4 Land Use Issues

Facilitating Development – There was broad consensus that development in Bryan needs to be attractive and efficient while also making the best use of available land, investment and staff resources.

### 5.5 Land Use Policies

The level of importance placed on redevelopment and infill drove the need for policies specific to those types of development. Included in the policy statements adopted within the Comprehensive Plan were several that directly addressed the subject of infill and redevelopment. These statements are located in section 5.5.

- Potential **negative impacts on historic areas** or environmentally sensitive areas, including wildlife habitat areas and topographically constrained areas within the floodplain **should be avoided or adequately mitigated**
- The City of Bryan will encourage and promote compatible infill and redevelopment in areas where these activities will benefit the city as a whole and the area specifically
- Residential redevelopment and infill shall be sensitive to the context within which it occurs. Contextual standards shall be included to ensure compatibility with surrounding residential areas, to include lot size, setbacks, density, building height and mass and architectural design

## ANALYSIS:

Approval of a Conditional Use Permit by the Planning and Zoning Commission shall be based upon the following criteria.

1. Whether the proposed conditional use conforms to applicable regulations and standards established by the Zoning Ordinance.

**Automobile sales businesses are potentially allowed on properties zoned Retail District (C-2), but only with prior approval of a Conditional Use Permit. The applicant is requesting approval of such Conditional Use Permit for the use of an automobile sales business on the subject property. If approved as requested, an automobile sales business at this location will conform to all applicable regulations and standards established by the Zoning Ordinance.**

2. Whether the proposed conditional use is compatible with existing or permitted uses on abutting sites, in terms of use, building height, bulk and scale, setbacks and open spaces, landscaping, drainage, or access and circulation features.

**The adjacent property to the south is currently developed with an auto sales business. The property to the east is developed with a law office. The property to the north, across East 26<sup>th</sup> Street, is developed as the Bryan Independent School District Administration building, and the property across South Texas Avenue to the west is occupied by the Brazos County Courthouse. The subject property is located approximately 0.2 miles from Bryan's Historic Downtown, a regional attraction currently developed with retail and multi-family uses. As locals and visitors**

visit Downtown Bryan they often travel along the Texas Avenue corridor. The Texas Avenue corridor currently has 25 auto sales businesses. Staff is concerned that yet another auto related business along this major gateway to Downtown Bryan may negatively impact the aesthetic appearance of the corridor and this location in close proximity to downtown in particular. The applicant intends to park 25-30 used vehicles on this site, many within the front setback of the property. Staff contends that an automobile sales business with many cars on the property may not create the most desirable appearance at this particular and draw potential customers to visit downtown. Staff contends that an additional auto related businesses along the South Texas Avenue corridor, with display in the front building setbacks and visible from Texas Avenue, will negatively impact adjacent properties that are developed as low intensity office uses, as well as create undesirable storage along Texas Avenue.

3. Whether and the extent to which the proposed conditional use potentially creates greater unfavorable effect or impacts on other existing or permitted uses on abutting sites than those which reasonably may result from the use of the site by a permitted use.

Staff believes that the proposed use of the subject property as an automobile sales lot may create greater unfavorable impacts on abutting sites and properties in the general vicinity. If approved, this Conditional Use Permit would allow the storage of 25-30 vehicles adjacent to Texas Avenue, a major corridor in Bryan and a gateway to Downtown Bryan.

The City of Bryan is currently working to update the Comprehensive Plan. During the public input portion of the project many citizens of Bryan voiced a concern for the unsightly appearance of Texas Avenue. As Bryan residents and visitors travel in and out of Bryan along Texas Avenue they view the current development patterns as unorganized and unattractive. Staff believes that, based on the public input received during the Comprehensive Plan Update process, an additional automobile sales businesses along this main thoroughfare may not be desirable compared to other uses allowed by right on the subject property. Other land uses allowed by right on the subject property, without Conditional Use Permit approval, that may have less of a negative impact and perhaps more compatible with development in the general vicinity include, offices, restaurants, or banks.

The City of Bryan and downtown businesses owners have heavily invested in Bryan's Historic Downtown. The Bryan Comprehensive Plan states that as the City facilitates infill development it needs to protect historic areas and encourage attractive development along major corridors. Staff believes that the proposed use will not protect or enhance Downtown Bryan which is located within walking distance of this site.

4. Whether and the extent to which the proposed conditional use affects the safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use and other uses reasonably anticipated in the area considering existing zoning and land uses in the area.

The subject property has two curb cuts located along South Texas Avenue and one along East 26<sup>th</sup> Street. As stated above, the applicant will close both curb cuts along South Texas Avenue and install curb, gutter, and landscaping. Additionally, the applicant will extend the curb and gutter along East 26<sup>th</sup> Street so that the driveway is narrowed to meet all requirements of the Bryan Code of Ordinances. Texas Avenue and East 26<sup>th</sup> Street with their current improvement level can reasonably be expected as capable of handling additional traffic volumes generated by even the most successful auto sales business at this location. Staff believes that the proposed site improvements will increase the safety of vehicular traffic and pedestrian traffic to the site.

**As per the attached site plan, the applicants propose no structural changes to the buildings on the site. Because the applicants do not intend to make structural improvements to the site, they are not required to bring the site up to current handicapped accessibility standards; meaning an ADA parking space and drive aisle are not required, nor are ramps to the building or handicap-accessible public bathrooms. The applicants do not intend to improve the site to meet current accessibility requirements and therefore the site will not be pedestrian-friendly for all members of the population.**

5. Whether and the extent to which the proposed conditional use would reasonably protect persons and property from erosion, flood or water damage, fire, noise, glare, and similar hazards or impacts.

**The Site Development Review Committee did not identify any additional impacts concerning erosion, flood or water damage, fire and other hazards with the proposed use of this subject property as an auto sales business.**

6. Whether and the extent to which the proposed conditional use adversely affects traffic control or adjacent properties by inappropriate location, lighting, or types of signs.

**The proposed site plan that will govern the requested Conditional Use Permit depicts no additional lighting or signage. Any such additions to the site must conform to existing standards outlined in the City of Bryan Code of Ordinances.**

7. Whether and the extent to which the proposed conditional use provides adequate and convenient off-street parking and loading facilities.

**The proposed site plan shows the development of 2 additional parking spaces for customer parking. Including the proposed 2 spaces, if approved, the site would develop with 7 customer parking spaces and would have 5 remaining stripped spaces for the storage and display of automobiles. Additional automobiles for sale would be located underneath the 1,000+ square feet carport structure. The 5 parking spaces allocated for storage and display are located along South Texas Avenue and completely in the front building setback.**

8. Whether the proposed conditional use conforms to the objectives and the purpose of the zoning district in which the development is proposed.

**The stated purpose of the C-2 zoning district is “various types of general retail trade, business and service uses” and Bryan’s Comprehensive Plan suggests that the City should “encourage and promote compatible infill and redevelopment.” Staff believes that an automobile sales facility at this particular location does not conform to these objectives. As previously mentioned the use of an auto related business is allowed by right in other zoning districts and may not be the best use for this particular property. Staff believes that an automobile sales business here would not be compatible to the surrounding environment. Historic Downtown Bryan is primarily office, restaurants, shops and multi-family dwelling units. Similarly, located to the east, west, and north of the property are office buildings. The property to the south is developed with an auto sales business. However staff does not believe that it would be beneficial to the general public to have another auto related business located along South Texas Avenue, a major entrance into Bryan and the gateway to Downtown Bryan.**

9. Whether the proposed conditional use will be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

**Staff believes that an automobile sales facility at this location may have greater unfavorable impacts on properties and/or improvements in the vicinity, such as the city's investment in the Downtown Bryan area. The properties located across Texas Avenue from the subject property are zoned Downtown - Civic District. As Downtown continues to grow and redevelop, it would be unfavorable to existing developments to allow for an additional auto sales business at this particular location. If approved, an entire City block face of automobiles would be displayed along Texas Avenue and within walking distance to Downtown Bryan. Properties in the general vicinity are developed as office and retail uses. Staff believes the proposed use could be damaging to the investments of surrounding property owners.**

10. Whether the premises or structures are suitable for the proposed conditional use.

**Staff contends that the existing structure will adequately serve the use of an automobile sales office. Staff contends the site would be more suitable for the all members of the public if the site were proposed to meet all ADA accessibility requirements.**

#### **RECOMMENDATION:**

Staff recommends **denying** this request for a Conditional Use Permit to allow an automobile sales office at this location. If approved, an automobile sales business would be allowed on the property forever. As Downtown Bryan continues to redevelop and expand, the use of an auto sales business at this location would prohibit more desirable and attractive uses to develop on the subject property.

However, if the Planning and Zoning Commission is inclined to approve this request, then staff urges that any such approval be made subject to at least at the following conditions:

1. That pipe fencing currently located in the Texas Avenue right-of-way is removed. The Municipal Maintenance Agreement between TXDOT requires the City to assist in removal of existing encroachments within TXDOT right-of-way.
2. That all elements of the site not currently in compliance with the requirements of 2009 IBC, Chapter 11 and the 2012 TAS (Texas Accessibility Standards) be brought into compliance. The structure and parking will need to comply with Chapter 11 of the 2009 IBC and Texas Accessibility Standards for Accessibility (TAS) / ADA.
3. That a landscape plan be submitted for City review and approval that satisfies the requirements of the Land and Site Development Ordinance.