



REPORT TO PLANNING COMMISSION

CITY OF ARNOLD

APPLICATION #: 2019-13

APPLICATION NAME: Application to Amend Municipal Code Chapter 405 (Zoning) - New and Used Vehicle Sales

APPLICANT: City of Arnold

REQUEST: A City-initiated request to amend Chapter 405, Zoning, of the Code of Ordinances to modify definitions and regulations related to "used car sales," as defined in the zoning ordinance, and as related to new car, truck, recreational vehicle, boat, trailer, other vehicle, and/or construction equipment sales.

MEETING DATE: April 9, 2019

REPORT DATE: April 2, 2019

CASE MANAGER: David B. Bookless, AICP

RECOMMENDATION: **APPROVAL**



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BACKGROUND

The City's Zoning Ordinance (Ord. No. 14.2) was adopted by the City Council on June 30, 1977. A number of amendments have been approved since that time with the most recent being on February 21, 2019. Even the best ordinances become out of date. Periodic revision is essential if the ordinances are to establish and maintain a rational land use pattern. Changes, however, should not be made in an arbitrary manner. Significant updates to the Zoning and Subdivision Ordinances are best undertaken following an update of the Comprehensive Plan. The rationale for this approach is that the Ordinances are the implementation tools of the Plan and should reflect its goals and policies. Nevertheless, clarification of information contained in the Zoning Ordinance may be appropriate at any time. Occasionally, unforeseen issues may need to be addressed on an ad hoc basis.

The City has been approached by a number of used car dealers about locating "buy here-pay here" car lots at one former fast-food restaurant as well as at a few other relatively small parcels along Jeffco Boulevard. Staff informed the dealer that the use is permitted on the properties subject to the granting of a Conditional Use Permit by the Planning Commission.

Council, aware of the above, discussed the issue at their March 14, 2019 meeting. Concern was expressed over the possibility of such businesses proliferating along the corridor and elsewhere in the City. After discussion, Council directed the Planning Commission to review the regulations for such uses and make recommendations therefor.

DISCUSSION/ANALYSIS

The analysis by Staff that follows is intended to allow the Planning Commission and City Council to reach the most informed decision possible and to facilitate discussion. Such discussion is important to identify and consider any potential unintended consequences of the proposed amendment.

CURRENT ZONING REGULATIONS REGARDING NEW AND USED VEHICLE SALES

Chapter 405, Zoning, *does not* speak directly to new car or vehicle sales; however, new car sales could be interpreted to fall within the following, provided it meets district requirements:

Section 405.320. "C-2" Commercial District

Section 405.320.A.1. (Permitted Uses)

- a. Stores; shops; service facilities (excluding those identified as a conditional use permit); markets; offices; recreational facilities; and associated work and storage area required to carry on business operations in which goods and services of any kind are offered for sale or hire to the general public on the premises, provided that the total gross floor area devoted to any business, firm, or services shall not exceed thirty thousand (30,000) square feet in floor area.

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Section 405.330. "C-3" Commercial District

Section 405.323.A.1. (Permitted Uses)

- a. *Stores; shops; service facilities, including automatic vending facilities; markets; offices; recreational facilities; and associated work and storage area required to carry on business operations in which goods and services of any kind are offered for sale or hire to the general public on the premises.*

However, Chapter 405, Zoning, does speak directly to used car sales as follows:

Section 405.060. Definitions

USED CAR SALES: *The retail or wholesale of used cars, trucks, recreational vehicles and/or construction equipment as the primary activity on the property.*

Section 405.320. "C-2" Commercial District

Section 405.320.A.2. (Conditional Uses)

- m. *Used car sales.*

Section 405.330. "C-3" Commercial District

Section 405.330.A.2. (Conditional Uses)

- r. *Used car sales.*

Section 405.340.B. "C-4" Planned Commercial District (Permitted Uses)

"In a planned commercial district, the uses permitted shall only be those designated as a permitted use or conditional use in any of the "C" Commercial Districts; however, the specific ordinance authorizing the establishment of a particular planned commercial district related to a specific tract of land may further limit the uses permitted on the tract."

Section 405.370.B. "M-3" Planning Industrial Districts (Permitted Uses)

"In a planned industrial district, the uses permitted shall only be those designated as a permitted use or conditional use in any of the "M" Industrial Districts and "C" Commercial Districts as may be specifically related to a particular industrial activity or complex; however, the specific ordinance authorizing the establishment of a particular planned industrial district related to a specific tract of land may further limit the uses permitted on the tract."

ANALYSIS OF THE CURRENT REGULATIONS

New vehicle sales are permitted by right in the C-2, C-3, and C-4 commercial districts, and in the M-3 industrial district, while used car sales are permitted in the C-2 and C-3 with a



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Conditional Use Permit, and in the C-4 and M-3 as authorized in their respective site-specific governing ordinance. In any case, no differentiation is made between the size, type, or scale of operations. Presently, the City has a variety of vehicle sales establishments, including used car dealerships, salvage shops, asset recovery companies, specialty or collector car businesses, and establishments oriented toward internet-based sales. Vehicle sales operations may vary operationally, as well as in size and scale, but are all regulated by the State of Missouri the same way and must meet the same State-mandated standards. As authorized by the State of Missouri, the police power of zoning affords the City the ability to regulate uses in support of the intent and purpose included in the Zoning Ordinance.

Where a Conditional Use Permit (CUP) is required, the CUP approval process requires that the Planning Commission consider the particular use in the context of the following review criteria:

- a. Consistent with good planning practice;
- b. Can be operated in a manner that is not detrimental to the permitted developments and uses in the district;
- c. Can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area;
- d. Deemed essential or desirable to preserve and promote the public health, safety, and general welfare of the City of Arnold.

In approving conditional uses, the Planning Commission may impose such conditions as it determines necessary to satisfy the above criteria. The Council may, by exercising its Power of Review, seek to override Planning Commission action. And while the above does provide useful review criteria, it doesn't necessarily provide adequate reason for denying an application when officials feel such a request should be denied.

IMPLICATIONS OF MAKING NO CHANGES TO THE CURRENT REGULATIONS

By continuing to allow the vehicle sales as permitted in the Zoning Ordinance, the potential for the proliferation of "buy here-pay-here" lots along Arnold's established commercial corridors is not only possible, but likely considering the number of inquiries already received. The likelihood is based on the pattern of development in communities elsewhere in Jefferson County along Highways 61/67 and 21, where development is marked by an abundance of "buy here-pay here" car lots, cash checking stores, pawn/loan shops, etc.

PROPOSED CHANGES TO THE ZONING ORDINANCE

Staff is recommending the Planning Commission consider setting a minimum acreage for vehicle sales establishments in the all "C" commercial zoning districts, while establishing no such minimum in the "M" industrial zoning districts. The reasoning behind this recommendation is that the concern expressed by Council was that "buy here-pay here" lots would proliferate along Arnold's established commercial corridors, which typically have a commercial zoning designation of C-2, C-3, or C-4. A minimum acreage can be established that

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would effectively prohibit the kinds of operations that Council feels is out of character with the commercial corridors. By allowing smaller-scale operations to operate in the “M” industrial zoning districts regardless of acreage, the City affords the opportunity for a number of alternative business models to operate. Examples of such alternative business models include internet sales establishments where little or no vehicle stock is stored onsite, establishments that overhaul or customize vehicles for sale, etc. Such operations generally operate out of warehouses and require minimal outside storage of vehicles for sale (Note: Missouri Statute requires dealers to have at least two outdoor spaces for vehicle inventory whether they are utilized that way in practice or not).

The minimum acreage in commercial districts recommended by Staff is two and one-half acres. This figure allows for traditional new car dealerships such as the former Reuther Jeep dealership on Richardson Road, which was on an 8 acre tract. It also allows for used car establishments such as InstaCredit Automart, located at the intersection of Jeffco Boulevard and Telegraph Road in Jefferson County, which is 7.3 acres, and CarMax, located on South Lindbergh in south St. Louis County, which is 7.44 acres. There are 13 licensed vehicle sales establishments in the City, but for the purposes of this analysis two of them (Lowe’s and Northern Tool) have been excluded as they sell only the occasional utility trailer. All existing vehicle sales establishments in the City, if for no other reason than their not having a Conditional Use Permit (CUP) in place would be designated nonconforming uses. Nine (9) out of the remaining eleven (11) existing automobile dealers located in the City would also be in nonconformance with the proposed minimum acreage requirement. Nonconforming uses, as defined in the Zoning Ordinance, may continue to operate subject to a number of conditions, but should they cease operations for an established period of time, the nonconformity expires and the use cannot return without an approved Conditional Use Permit. The proposed acreage requirements would therefore make a number of these properties eligible to acquire a CUP in order to re-open as a vehicle sales establishment. The acreage requirements would also prevent vehicle sales establishments from opening at a number of vacant smaller properties such as, but not limited to the former Katie’s Custard, located at the northwest corner of Jeffco Boulevard and Hobelman Drive (0.50 ac), the former McDonald's at the northeast corner of Jeffco Boulevard and Telegraph Road (1.49 ac), and the former Checkered Flag Motors at the southwest corner of Jeffco Boulevard and Church Road (1.26 ac).

Whether located in commercial or industrial zoning districts, Staff also recommends a number of minimum performance standards be met for such uses. Such standards could include required buffering from residential zoning districts, the prohibition on vehicle parts and wrecked or dismantled vehicles being stored outdoors, etc. These minimum standards would not supplant the Commissions right to impose additional standards as part of a CUP as appropriate.

ADDITIONAL RELATED USES

While analyzing regulations related to car sales, Staff identified a number of other uses that had some functional overlap with car sales, such as automotive repair facilities, gas stations, and storage yards; and thought it appropriate to address these uses as well. A brief discussion



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of those issues follows; however, these uses will be addressed at a future public hearing.

Automotive repair shops, including major mechanical repair and auto body and paint establishments are known to sell used vehicles from time to time. The volume of such sales typically doesn't result in additional traffic being generated or the need for licensure by the State of Missouri as a dealer. Therefore, Staff will be proposing a new definition for the use and operational standards that allow such limited sales. Additional language will be included to mitigate substantial adverse impacts on the neighborhood and community at large.

Parking lots and garages. There is no definition in the Zoning Ordinance for the use and the term has been utilized for accessory parking serving auto body shops as well as for recreational vehicle storage yards. Additionally, the common definition for such facilities may include multi-story parking structures, commuter parking lots, public parking lots, etc. The breadth of uses covered may be so varied that saying the use should be allowed in one area versus another may lead to unintended consequences. Therefore, Staff is exploring establishing two distinct uses, one for transient or temporary use by automobiles and one for longer-term vehicular storage.

Filling stations. Sometimes referred to in the Zoning Ordinance as Auto Filling Stations, Gasoline Service Stations or Service Stations, only "filling station" is defined in the Zoning Ordinance, and that definition fits no "gas station" in the City of Arnold. Therefore, staff will be proposing a new definition cover contemporary facilities as well as operational standards to mitigate substantial adverse impacts on the neighborhood and community at large.

ZONING ORDINANCE REORGANIZATION

While, Staff intends to conduct a major assessment and reorganization of the Zoning Ordinance in the near future, for purposes of establishing the *use standards* discussed previously, some reorganization of content is proposed. Staff will utilize this new subsection over the coming months and will present additional information about the "big picture" reorganization for Commission review.

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FINDINGS AND RECOMMENDATION

SUCH AMENDMENT IS REQUIRED BY PUBLIC NECESSITY AND CONVENIENCE AND GENERAL WELFARE

The Community Development Director finds that the text amendments contained within application number 2019-13 are warranted by the public necessity and convenience to provide clarification in the enforcement of the Zoning Ordinance.

The Community Development Director finds that the text amendments contained within application number 2019-13 are warranted by the need to promote and protect the general welfare by protecting the economic and tax base of the City, preserving and enhancing the values of property owners and users, promoting the orderly and harmonious development and redevelopment of the City, preserving and promoting the character and stability of the City and its various residential and commercial neighborhoods, improving the appearance of the City, and promoting the best use and development of commercial land in accordance with the Comprehensive Plan.

RECOMMENDATION

The Director of Community Development finds that the proposed text amendments meet or exceed review criteria and further advances the intent of Chapter 405. Based on this finding the Director of Community Development requests favorable consideration of the draft amendments.

A handwritten signature in black ink that reads "David B. Bookless".

David B. Bookless, AICP
Community Development Director



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ATTACHMENTS

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Proposed Amendments

Unchanged text in black * Additions are in blue underscored * Deletions are in ~~red-strikethrough~~

CHAPTER 405 ZONING

Section 405.060. Definitions

~~USED~~ CAR SALES

The retail or wholesale of new or used cars, trucks, motorcycles, recreational vehicles, boat, utility trailers, other motor vehicles, and/or construction equipment as the primary activity on the property. Accessory uses to car sales may include repair services and selling of replacement parts and accessories.

Section 405.320. "C-2" Commercial District

Section 405.320.A.2. (Conditional Uses)

m. Car ~~Used car~~ sales. (See Section 405.380)

Section 405.330. "C-3" Commercial District

Section 405.330.A.2. (Conditional Uses)

r. Car ~~Used car~~ sales. (See Section 405.380)

Section 405.350. "M-1" Industrial District

Section 405.350.A.2. (Conditional Uses)

n. Car Sales. (See Section 405.380)

Section 405.360. "M-2" Industrial District

Section 405.360.C. (Conditional Uses)

16. Car Sales. (See Section 405.380)

Article II District and Use Regulations

Section 405.380. Use Standards

These use standards shall apply to permitted, conditional, and accessory uses as otherwise authorized in this Chapter.

A. Car Sales

Establishments providing car sales, as defined in Section 405.060 of the Zoning Ordinance, shall be subject to the following conditions and restrictions:

1. Minimum area:

a. Car sales establishments located within the C-2, C-3, and C-4 zoning districts shall only be located on parcels, or contiguous parcels, that are at least two and one-half (2½) acres in total area.

b. Car sales establishments located within the M-1, M-2, and M-3 zoning

DRAFT AMENDMENT LANGUAGE

2019-13 TEXT AMENDMENT



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districts shall have no minimum acreage provided the Planning Commission determines the proposed area is sufficient.

2. Screening. Any outdoor sales shall be visually screened from adjacent property in any "R" Residential District.
3. Traffic Study. A traffic study may be required for establishments which derive from an arterial street, or from a major collector street where the nearest driveway is within five hundred (500) feet of an arterial street, as determined by the Director of Community Development or the Planning Commission. Such studies shall be performed by a qualified firm or individual of the City's choosing from the Missouri Department of Transportation Local Public Agency Consultant's List. The cost of the study shall be borne by the applicant by remittance to the City.

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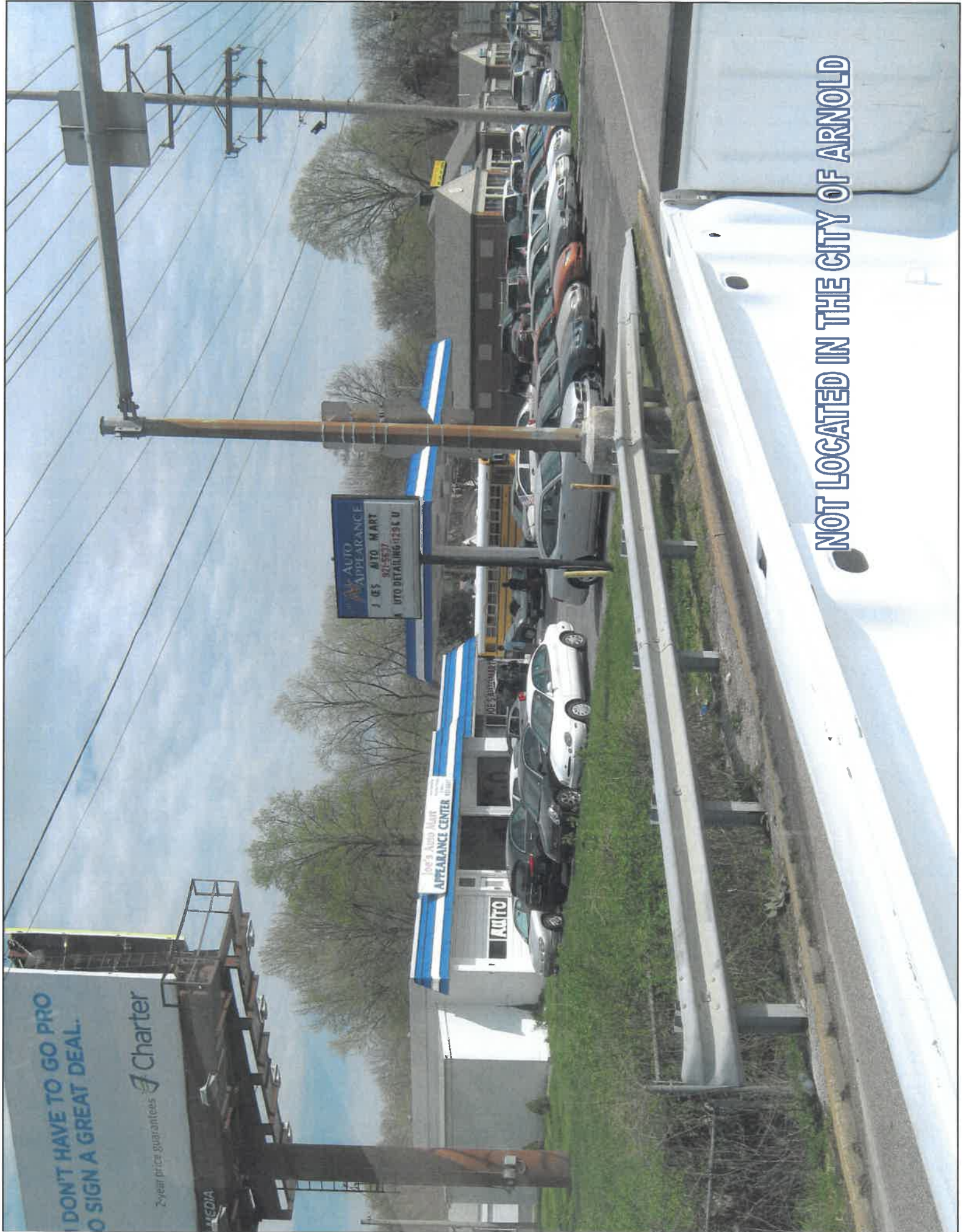
DRAFT AMENDMENT LANGUAGE—CONTINUED

New/Used Vehicles

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FORMER GAS STATION AS VEHICLE SALES ESTABLISHMENT (USED)



NOT LOCATED IN THE CITY OF ARNOLD

DON'T HAVE TO GO PRO TO SIGN A GREAT DEAL.

2-year price guarantee



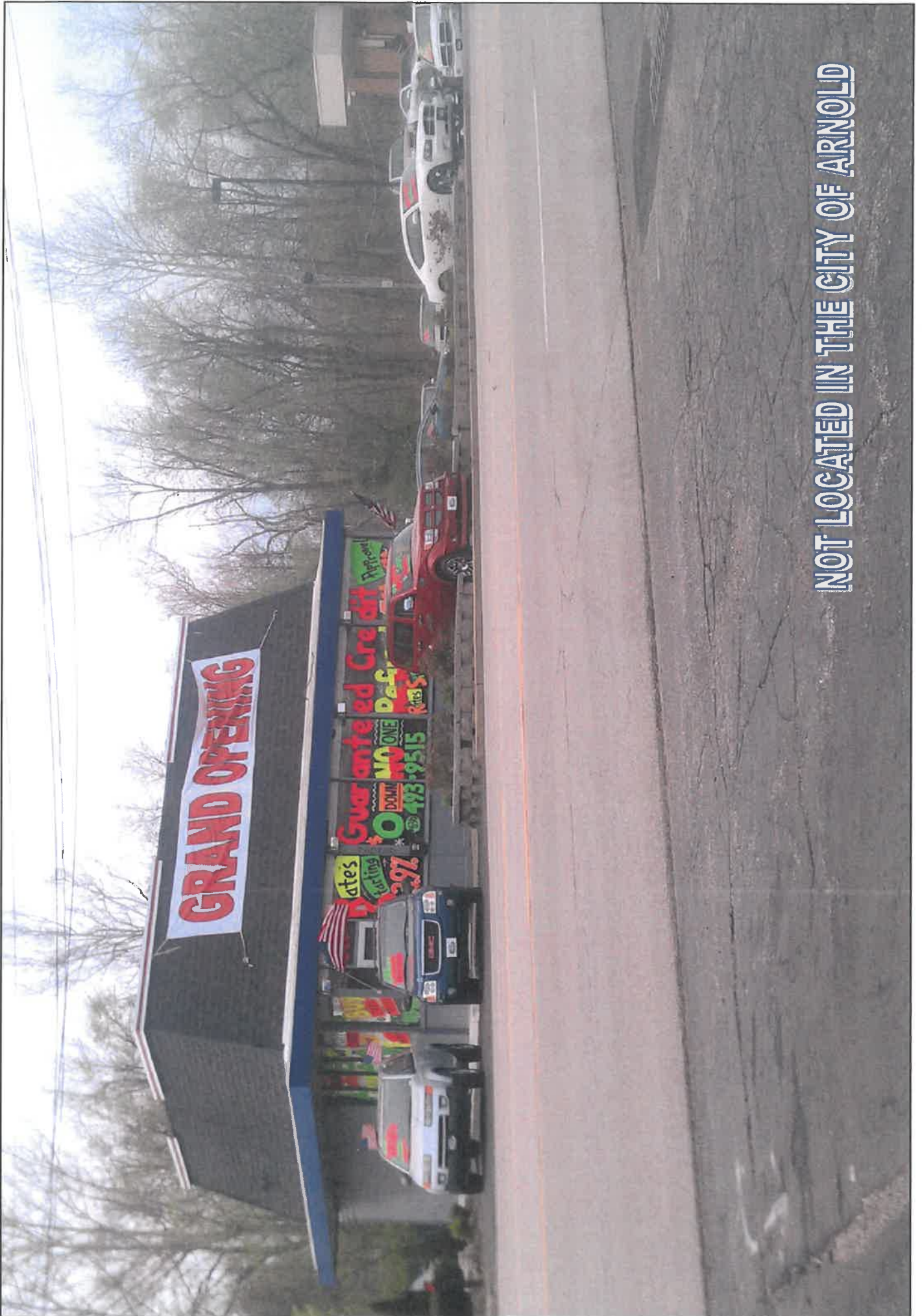
Charter

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EXISTING LICENSED CAR DEALERS AND THEIR CONFORMANCE WITH THE PROPOSED AMENDMENT

2019-13 TEXT AMENDMENT