



PREPARED FOR THE PLAN COMMISSION

**Project Address:** 5401-5425 High Crossing Boulevard (17<sup>th</sup> Aldermanic District, Alder Baldeh)  
**Application Type:** Conditional Use  
**Legistar File ID #:** [44431](#)  
**Prepared By:** Kevin Firchow, AICP, Planning Division  
Report Includes Comments from other City Agencies, as noted

## Summary

**Applicant:** Don T. Miller; Don Miller Inc; 5822 Odana Road; Madison, WI 53719

**Contact:** Thomas A. Knoop; Sullivan Design / Build; 1314 Emil Street; Madison, WI 53713

**Owner:** Madison Real Estate Investments LLC and CKI Investments LLC; 5822 Odana Road; Madison, WI 53719

**Requested Action:** The applicant requests Conditional Use approval to construct an auto sales facility exceeding 25,000 square feet of gross floor area.

**Proposal Summary:** The applicant proposes to construct an approximately 28,500-square foot automobile sales facility on two unimproved properties.

**Applicable Regulations & Standards:** While auto sales facilities are listed as a permitted use in the CC (Commercial Center) zoning district, §28.068(4) of the Madison General Ordinances (MGO) requires buildings exceeding 25,000 square feet of gross floor area to be reviewed as a Conditional Use. This request is subject to the Conditional Use standards of §28.183(6) MGO and the Supplemental Regulations for auto sales and rental uses of §28.151 MGO. The Supplemental Regulations are included as an attachment to this report.

**Review Required By:** Plan Commission (PC)

**Summary Recommendation:** The Planning Division recommends that the Plan Commission find that the conditional use standards are met and **approve** the request to construct an auto sales facility exceeding 25,000 square feet of gross floor area at 5401-5425 High Crossing Boulevard. This recommendation is subject to input at the public hearing and the conditions recommended by the Planning Division and other reviewing agencies.

## Background Information

**Parcel Location:** The 3.5-acre subject site is located on the south side of High Crossing Boulevard, immediately east its intersection with Promontory Place; Aldermanic District 17 (Ald. Baldeh). The project is within the limits of the Sun Prairie Area School District.

**Existing Conditions and Land Use:** The subject site consists of two undeveloped properties. The topography slopes across the site with the street side of the properties generally 20 feet lower than at the rear property line.

**Surrounding Land Use and Zoning:**

North: Auto sales and service facilities, zoned CC (Commercial Center);

South: Multi-building residential development, zoned PD (Planned Development);

East: Tavern, zoned CC; and

West: Credit Union, zoned CC.

**Adopted Land Use Plan:** The Comprehensive Plan (2006) recommends general commercial uses for the subject site. The Nelson Neighborhood Development Plan (1992) recommends Commercial, Retail, and Service uses.

**Zoning Summary:** This property is zoned CC (Commercial Center District). A report from the Zoning Administrator was not received in time to be included in this report. Please see attached documents for further information.

**Environmental Corridor Status:** The property is not within a mapped environmental corridor.

**Public Utilities and Services:** This property is served by a full range of urban services.

## Previous Approvals

In 2005, the City approved a zoning map amendment rezoning the subject properties to the “C3 Highway Commercial District” in conjunction with an application to construct an auto sales facility on the subject properties. The associated development was never constructed, though permissible zoning on the site to allow auto sales facilities remained. With the adoption of the City’s new zoning code in 2013, the properties were zoned to the CC (Commercial Center) District, which similarly allows auto sales facilities as a permitted use.

## Project Description, Analysis, and Conclusion

The applicant, Don Miller Inc, requests Conditional Use approval to construct an auto sales facility exceeding 25,000 square feet of gross floor area. This request is subject to the approval standards for Conditional Uses and the Supplemental Regulations for auto sales and rental facilities.

The 3.5-acre subject site consists of two undeveloped properties. In places, the site has an approximate 20-foot grade change, being lower towards High Crossing Boulevard and higher towards the abutting residential development to the rear. The site currently includes several trees and shrubs.

The proposed facility includes an approximately 28,500-square foot building, measuring 27 feet in height. The building’s ground floor includes sales and service functions, while its partial second floor includes a break room, lockers, and parts storage. The street-facing (“West”) façade includes a large amount of glass combined with aluminum panels. A slate-clad accent element is located near the building’s main entrance. The front exterior materials wrap around the sides which transition to a more utilitarian combination of metal panels towards the rear of the building.

The facility will include 280 automobile parking stalls, with 156 devoted to sales inventory. The building appears to be set back approximately 73 feet from the front property line. This would comply with the Zoning Code’s maximum front yard setback of 85 feet for this zoning district, though City Zoning staff requests that this setback be verified and labeled on any plans submitted for final sign-off. The parking field is set back approximately eight feet from the front property line. Plans show a retaining wall is proposed within this setback area. Based on the grading plan, the wall appears to be approximately three feet tall in some locations, though other design

details are not included. The Planning Division notes that properties to the east have utilized some retaining walls. If approved, the Planning Division requests that further detail on wall height and materials is provided for final staff review and approval. Staff also notes that no information regarding lighting was provided and such details are also recommended to be provided with any submitted sign-off plans.

Along the rear of the property, a buffer of 18-24 feet is proposed between the parking field and the adjoining residential property. The grade of this buffer rises between 10 and 15 feet towards the back of the site. Beyond the subject property, the adjoining residential property includes a wooded area at the top of the hill, estimated to be approximately 125 feet deep.

In regards to the approval standards, the Plan Commission shall not approve a conditional use without due consideration of the City's adopted plans, design guidelines, and finding that all of the conditional use standards of §28.183(6) MGO are met. The Nelson Neighborhood Development Plan recommends Commercial, Retail, and Service uses and includes discussion related to having less intensive commercial uses areas abutting residential development. As noted above, the property was previously rezoned in 2005 specifically to accommodate an auto sales facility. The more contemporary Comprehensive Plan recommends general commercial development for the subject property and automobile sales are considered consistent with that recommendation.

The Planning Division notes that automobile sales facilities are a permitted use in this zoning district. The only conditional use requested is for the size of the proposed building, which has a gross floor area of roughly 3,500 square feet above the threshold requiring Conditional Use review. Staff does not anticipate that the extra square footage proposed here will result in different impacts than what would be generated with a slightly smaller building approved as a permitted use. The Planning Division believes that the building's design, especially the two-story street-facing façade, is complementary with surrounding buildings and could meet the standards regarding normal and orderly development and development aesthetics.

An auto sales facility within close proximity to residential uses could cause possible impacts. In this case, the Planning Division anticipates that the existing wooded area on the adjacent residential property, combined with the grade changes on the subject site, should lessen impacts to the nearby residences. The proposed hours of operation start at 7:00 am, daily, and extend until 8:00 pm on its latest days, Monday through Thursday.

The Planning Division believes that a finding can be made that the Conditional Use standards are met. At the time of report writing, the Planning Division was not aware of concerns on this application.

## Recommendation

### Planning Division Recommendation (Contact Kevin Firchow, (608) 267-1150)

The Planning Division recommends that the Plan Commission find that the conditional use standards are met and **approve** the request to construct an auto sales facility exceeding 25,000 square feet of gross floor area at 5401-5425 High Crossing Boulevard. This recommendation is subject to input at the public hearing and the conditions recommended by the Planning Division and other reviewing agencies.

### Recommended Conditions of Approval

Major/Non-Standard Conditions are Shaded

#### **Planning Division** (Contact Kevin Firchow, (608) 267-1150)

1. That the applicant shall provide details on the design of the retaining wall for staff approval. This shall include information related to height and materials.
2. That the applicant shall provide a lighting plan details, including photometric plan and fixture cut sheets for approval by the Building Inspection Division for compliance with applicable code standards.

#### **City Engineering Division** (Contact Brenda Stanley, (608) 261-9127)

3. A portion of this property is covered for stormwater detention (approximately the NW 1/3 of the site) however the remainder of the site shall provide detention and the entire site shall be required to meet stormwater quality requirements.
4. Provide detail of proposed underground detention. During construction and prior to backfill, contact City Engineer for Inspection.
5. All outstanding Madison Metropolitan Sewerage District (MMSD) charges are due and payable prior to Engineering sign-off, unless otherwise collected with a Developer's / Subdivision Contract. Contact Mark Moder (608-261-9250) to obtain the final MMSD billing a minimum of two (2) working days prior to requesting City Engineering signoff. (MGO 16.23(9)(d)(4))
6. The site plan shall be revised to show all existing public sanitary sewer facilities in the project area as well as the size, invert elevation, and alignment of the proposed service. (POLICY)
7. The Applicant shall submit, prior to plan sign-off but after all revisions have been completed, a digital CAD file (single file) to the Engineering Division with any private storm and sanitary sewer utilities. The digital CAD file shall be to scale and represent final construction. The CAD file shall be in a designated coordinate system (preferably Dane County WISCRS, US Ft). The single CAD file submittal can be either AutoCAD (dwg) Version 2013 or older, MicroStation (dgn) V8i Select Series 3 or older, or Universal (dxf) format and shall contain the only the following data, each on a separate layer name/level number: a) Building Footprints b) Internal Walkway Areas c) Internal Site Parking Areas d) Other Miscellaneous Impervious Areas (i.e. gravel, crushed stone, bituminous/asphalt, concrete, etc.) e) Right-of-Way lines (public and private) f) Lot lines or parcel lines if unplatted g) Lot numbers or the words unplatted h) Lot/Plat dimensions i) Street names j) Private on-site sanitary sewer utilities (including all connections to public sanitary) k) Private on-site storm sewer utilities (including all connections to public storm)

All other levels (contours, elevations, etc) are not to be included with this file submittal.

NOTE: Email CAD file transmissions are preferred to: [bstanley@cityofmadison.com](mailto:bstanley@cityofmadison.com) (East) or [tstroester@cityofmadison.com](mailto:tstroester@cityofmadison.com) (West). Include the site address in the subject line of this transmittal. Any changes or additions to the location of the building, sidewalks, parking/pavement, private on-site sanitary sewer utilities, or private on-site storm sewer utilities during construction will require a new CAD file.

8. The applicant shall submit, prior to plan sign-off but after all revisions have been completed, digital PDF files to the Engineering Division. Email PDF file transmissions are preferred to: [bstanley@cityofmadison.com](mailto:bstanley@cityofmadison.com) (East) or [ttroester@cityofmadison.com](mailto:ttroester@cityofmadison.com) (West). The digital copies shall be to scale, and shall have a scale bar on the plan set. (POLICY and MGO 37.09(2)) PDF submittals shall contain the following information: a) Building Footprints b) Internal Walkway Areas c) Internal Site Parking Areas d) Other Miscellaneous Impervious Areas (i.e. gravel, crushed stone, bituminous/asphalt, concrete, etc.) e) Right-of-Way lines (public and private) f) Lot lines or parcel lines if unplatted g) Lot numbers or the words unplatted h) Lot/Plat dimensions i) Street names j) Stormwater Management Facilities k) Detail drawings associated with Stormwater Management Facilities (including if applicable planting plans).
9. The Applicant shall submit prior to plan sign-off, electronic copies of any Stormwater Management Files including: a) SLAMM DAT files b) RECARGA files c) TR-55/HYDROCAD/Etc d) Sediment loading calculations. If calculations are done by hand or are not available electronically the hand copies or printed output shall be scanned to a PDF file and provided. (POLICY and MGO 37.09(2))
10. Storm sewer to serve this development has been designed and constructed. The site plans shall be revised to identify the location of this storm sewer and to show connection of an internal drainage system to the existing public storm sewer. (POLICY AND MGO OVER 10,000 SF OF IMPERVIOUS AREA 10.29 and 37.05(7)(b))
11. The applicant shall demonstrate compliance with Section 37.07 and 37.08 of the Madison General Ordinances regarding permissible soil loss rates. The erosion control plan shall include Universal Soil Loss Equation (USLE) computations for the construction period. Measures shall be implemented in order to maintain a soil loss rate below 5.0 tons per acre per year.
12. This site appears to disturb over one (1) acre of land and requires a permit from the WDNR for stormwater management and erosion control. The City of Madison has been required by the WDNR to review projects for compliance with NR216 and NR-151 however a separate permit submittal is still required to the WDNR for this work. The City of Madison cannot issue our permit until concurrence is obtained from the WDNR via their NOI or WRAPP permit process. Contact Eric Rortvedt at 273-5612 of the WDNR to discuss this requirement. Information on this permit application is available on line <http://dnr.wi.gov/Runoff/stormwater/constrformsinfo.htm> (NOTIFICATION)
13. Prior to approval, this project shall comply with Chapter 37 of the Madison General Ordinances regarding stormwater management. Specifically, this development is required to detain the 2, 10, & 100 -year storm events, matching post development rates to predevelopment rates.
14. Prior to approval, this project shall comply with Chapter 37 of the Madison General Ordinances regarding stormwater management. Specifically, this development is required to reduce TSS by 80% (control the 5 micron particle) off of newly developed areas compared to no controls.
15. Prior to approval, this project shall comply with Chapter 37 of the Madison General Ordinances regarding stormwater management. Specifically, this development is required to provide infiltration in accordance with Chapter 37 of the Madison General Ordinances.
16. Complete an erosion control plan and complete weekly self-inspection of the erosion control practices and post these inspections to the City of Madison website - as required by Chapter 37 of the Madison General Ordinances.

17. The applicant's utility contractor shall obtain a connection permit and excavation permit prior to commencing the storm sewer construction. MGO 37.05(7) This permit application is available on line at <http://www.cityofmadison.com/engineering/permits.cfm>.
18. The Applicant shall replace all sidewalk and curb and gutter which abuts the property which is damaged by the construction or any sidewalk and curb and gutter which the City Engineer determines needs to be replaced because it is not at a desirable grade regardless of whether the condition existed prior to beginning construction. (POLICY)
19. All work in the public right-of-way shall be performed by a City licensed contractor. (MGO 16.23(9)(c)5) and MGO 23.01)
20. All damage to the pavement on High Crossing Blvd & Promontory Pl, adjacent to this development shall be restored in accordance with the City of Madison's Pavement Patching Criteria. For additional information please see the following link: <http://www.cityofmadison.com/engineering/patchingCriteria.cfm> (POLICY)

**City Engineering Division - Mapping** (Contact Jeffrey Quamme, (608) 266-4097)

21. The proposed new building will cross an underlying platted lot line. Current fire code and City enforcement requires the underlying platted lot line be dissolved by Certified Survey Map (CSM) prior to issuance of a building permit. A CSM and required supporting information shall be prepared and submitted to the City of Madison Planning Department. The CSM shall be approved by the City and recorded with the Dane County Register of Deeds prior to issuance of a building permit.

22. Changes of grade, landscaping, parking areas, signs and retaining walls are planned within platted utility easement areas along the perimeter of the site. The applicant shall be responsible to coordinate all of these improvements and grade changes with the Utility Companies to protect the existing utility facilities and obtain necessary permission to develop as planned within all of those easements.

**Traffic Engineering** (Contact Eric Halvorson, (608) 266-6527)

23. The applicant shall submit one contiguous plan showing proposed conditions and one contiguous plan showing existing conditions for approval. The plan drawings shall be scaled to 1" = 20' and include the following, when applicable: existing and proposed property lines; parcel addresses; all easements; pavement markings; signing; building placement; items in the terrace such as signs, street light poles, hydrants; surface types such as asphalt, concrete, grass, sidewalk; driveway approaches, including those adjacent to and across street from the project lot location; parking stall dimensions, including two (2) feet of vehicle overhang; drive aisle dimensions; semitrailer movement and vehicle routes; dimensions of radii; and percent of slope.
24. The Developer shall post a security deposit prior to the start of development. In the event that modifications need to be made to any City owned and/or maintained traffic signals, street lighting, signing, pavement marking and conduit/handholes, the Developer shall reimburse the City for all associated costs including engineering, labor and materials for both temporary and permanent installations.
25. The City Traffic Engineer may require public signing and marking related to the development; the Developer shall be financially responsible for such signing and marking.
26. All parking facility design shall conform to MGO standards, as set in section 10.08(6).

27. The applicant shall adhere to all vision triangle requirements as set in MGO 27.05 (No visual obstructions between the heights of 30 inches and 10 feet – 25 feet behind the property line at streets and 10 feet at driveways.). Alteration necessary to achieve compliance may include but are not limited to; substitution to transparent materials, removing sections of the structure and modifying or removing landscaping elements. If applicant believes public safety can be maintained they shall apply for a reduction of MGO 27.05(2)(bb) - Vision Clearance Triangles at Intersections Corners. Approval or denial of the reduction shall be the determination of the City Traffic Engineer.
28. The applicant shall provide a clearly defined 5' walkway clear of all obstructions to assist citizens with disabilities, especially those who use a wheel chair or are visually impaired. Obstructions include but are not limited to tree grates, planters, benches, parked vehicle overhang, signage and doors that swing outward into walkway.

**Fire Department** (Contact Bill Sullivan, (608) 261-9658)

29. The proposed building is shown crossing an existing property line. Either adjust the property line or relocate the building on the site in order to comply with the International Building Code.

30. Provide fire apparatus access as required by IFC 503 2015 edition, MGO 34.503.
31. Private fire service mains serving fire hydrants shall be the same size as the public mains supplying the private mains unless hydraulically calculated to provide the minimum required flow and pressure. In all cases, mains serving fire hydrants do not need to exceed 10-inches but shall be at least 6-inches. See MGO 34.507 for additional information.

**Zoning Administrator** (Contact Jenny Kirchgatter, (608) 266-4429)

32. Show the front yard setback on the site plan. The maximum front yard setback in the Commercial Center (CC) district is 85 feet.
33. Provide a calculation and plan detail for lot coverage with the final submittal. The lot coverage maximum is 85%. Lot coverage is defined as the total area of all buildings, measured at grade, all accessory structures, and all paved areas as a percentage of the total area of the lot, with the following exceptions: sidewalks or paved paths no wider than five (5) feet, pervious pavement, green roofs and decks.
34. Identify the various types of parking areas on the site plan: customer, employee, service and inventory parking.
35. Bicycle parking shall comply with the requirements of Sections 28.141(4)(g) and 28.141(11). Provide a minimum of nine (9) short-term bicycle parking stalls located in a convenient and visible area on a paved or impervious surface. Relocate the bicycle parking stalls at least as close as the closest non-accessible automobile parking and within one hundred (100) feet of a principal entrance. Note: A bicycle stall is a minimum of two (2) feet by six (6) feet with a five (5) foot wide access area. Provide a detail of the proposed bike rack.
36. Required loading facilities shall comply with MGO Section 28.141(13). Provide two (10' x 50') loading areas with 14' vertical clearance to be shown on the plan. The loading areas shall be exclusive of drive aisle and

maneuvering space. The required number of loading spaces may be reduced through conditional use approval.

37. Provide adequate development frontage landscaping per Section 28.142(5) Development Frontage Landscaping. Landscaping and/or ornamental fencing shall be provided between buildings or parking areas and the adjacent street(s), except where buildings are placed at the sidewalk. Note that landscaping must be installed on the private property.
38. Provide details showing that the landscape islands contain a minimum of 75% vegetative cover. Per Sections 28.142(3)(c) and 28.142(4)(e) planting beds or planted areas must contain at least 75% vegetative cover mulched. Mulch shall consist of shredded bark, chipped wood or other organic material installed at a minimum depth of two (2) inches.
39. Submit a detail of the trash enclosure. The trash enclosure shall be screened on four (4) sides (including a gate for access) by a solid, commercial-grade wood fence, wall, or equivalent material with a minimum height of six (6) feet and not greater than eight (8) feet.
40. Clearly label the building materials and colors on the building elevations.
41. Provide details showing that the primary street façade meets the door and window opening requirements of Section 28.060(2)(d). For nonresidential uses at ground floor level, windows and doors or other openings shall comprise at least sixty percent (60%) of the length and at least forty percent (40%) of the area of the ground floor of the primary street facade. At least fifty percent (50%) of windows on the primary street facade shall have the lower sill within three (3) feet of grade.
42. Exterior lighting shall be in accordance with City of Madison General Ordinances Section 10.085. Provide an exterior lighting plan and fixture cut sheets with the final plan submittal.
43. Per Section 28.186(4)(b), the property owner or operator is required to bring the property into compliance with all elements of the approved site plans by the date established by the Zoning Administrator as part of the site and building plan approval. Work with Zoning staff to establish a final site compliance date.
44. Signage approvals are not granted by the Plan Commission. Signage must be reviewed for compliance with Chapter 31 Sign Codes of the Madison General Ordinances. Signage permits are issued by the Zoning Section of the Department of Planning and Community and Economic Development.

**Parks / Forestry** (Contact Janet Schmidt, (608) 261-9688)

45. City Forestry will evaluate the terrace for new street tree plantings upon completion of the project. If there is space for new trees, City Forestry will schedule planting and assess the cost of the initial planting to the property owner.

**Water Utility** (Contact Adam Wiederhoeft, (608) 266-9121)

46. A Water Service Application Form and fees must be submitted before connecting to the existing water service. Application materials are available on the Water Utility's Plumbers & Contractors website (<http://www.cityofmadison.com/water/plumberscontractors>), otherwise they may be obtained from the Water Utility Main Office at 119 E Olin Ave. A licensed plumber signature is required on all water service applications. For new or replacement services, the property owner or authorized agent is also required to



sign the application. If you have questions regarding water service applications, please contact Madison Water Utility at (608) 266-4646.

The applicant's utility contractor shall obtain an excavation permit prior to commencing the water main or service construction in the public right-of-way. This permit application is available on the City Engineering Division website (<http://www.cityofmadison.com/engineering/permits.cfm>).

**Metro Transit** (Contact Tim Sobota, (608) 261-4289)

The agency reviewed this request and has recommended no conditions or approval.

# SUPPLEMENTAL REGULATIONS

Sec. 28.151

ZONING CODE

- (d) An appropriate transition area between the use and adjacent property may be required, using landscaping, screening, and other site improvements consistent with the character of the neighborhood.
- (e) The owner shall submit a Management Plan for the facility and a floor plan showing sleeping areas, emergency exits and bathrooms.

## ATM.

- (a) In the DC, UMX, LMX, NMX and TSS districts, no more than one ATM may be installed per street frontage on a zoning lot.
- (b) In the DC, UMX, LMX, NMX and TSS districts, ATMs must be integrated into building design. Construction or modifications to accommodate an ATM shall be made in a manner consistent with the overall design of a façade.
- (c) In the DC, UMX, LMX, NMX and TSS districts, no storefront glass shall be removed to accommodate the installation of an ATM, unless the storefront glass is ninety- (90) degrees perpendicular to the sidewalk, and the ATM is being installed in an existing alcove.
- (d) In the DC, UMX, LMX, NMX and TSS districts, the exterior face, including any cabinet or casing, of an ATM shall not exceed eight (8) square feet in size.

(Cr. by ORD-13-00147, 9-11-13)



## Automobile Body Shop, Automobile Sales and Rental, Automobile Service Station, Automobile Repair Station, Convenience Store.

- (a) All automobile servicing and repair activities shall either:
  - 1. Be carried on within an enclosed building; or
  - 2. Be screened along any property line that abuts a residential zoning district with:
    - a. A minimum of six (6) foot high masonry or decorative wood fencing; and
    - b. An area with a minimum width of eight (8) feet, planted with a minimum of one (1) shade tree per fifty (50) linear feet and one (1) shrub per four (4) linear feet. .
- (b) A convenience store shall not be located within one thousand nine hundred eighty (1,980) feet distance of three (3) or more existing convenience stores, as measured along the center lines of streets.
- (c) The following activities and equipment are allowed only in the rear yard and at least fifty (50) feet from a residential zoning district:
  - 1. Storage of vehicle parts and refuse.
  - 2. Temporary storage of vehicles during repair and pending delivery to the customer.
  - 3. Vacuuming and cleaning.
- (d) The following activities and equipment are allowed only within an enclosed building:
  - 1. Lubrication equipment.
  - 2. Motor vehicle washing equipment.
  - 3. Hydraulic hoists and pits.
  - 4. Body work and painting.
  - 5. Storage of motor vehicles not in safe operating condition.
- (e) Outside storage or parking of any disabled, wrecked, or partially dismantled vehicle is not allowed for a period exceeding ten (10) days during any thirty (30) day period.
- (f) No building, structure, canopy, gasoline pump, or storage tank shall be located within twenty-five (25) feet of a residential zoning district.
- (g) In the NMX, DC, UMX and TSS Districts, the requirement in (g) above, may be modified as part of the conditional use approval so that pump islands are located in front of the building if provides more effective circulation, aesthetics or buffering of neighboring uses.

(Am. by ORD-13-00088, 5-29-13)

(h) (Rep. by ORD-15-00026, 3-11-15)

(Cr. by ORD-14-00037, 3-6-14)