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**Wichita-Sedgwick County Metropolitan Area Planning Department**

May 24, 2000

Eastgate Plaza Ltd.  
A Texas limited partnership  
Reliance Insurance Company  
6500 W. Freeway, Suite 900  
%Woodmont Project  
Ft Worth TX 76107

**RE: BZA 2000-00008 – Variance to allow a building sign without 150 feet of parking lot between buildings. Generally located on the south side of Kellogg and east of Rock Road.**

Dear Ladies and Gentlemen:

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on May 23, 2000, this resolution reflects the official action of the Board to grant your request and sets out the conditions of approval. It is forwarded to you for your information and files.

This is a reminder that the zoning adjustment signs should now be removed from the property. If you have any questions concerning this matter, please call our office.

Sincerely,

Lisa Van de Water  
Senior Planner

LV/rs

Cc: Everett Fettis, 120 S. Market, Wichita, KS 67202  
Samuel's Jewelers, %Suria Young, 8113 E. Kellogg, Wichita, KS 67207  
Donte Martin, DAB District II, Mail Stop 1-135  
Joe Pisciotte, City Council Member District II, Mail Stop 1-13  
J.R. Cox, Office of Central Inspection, Mail Stop 1-072  
Yolanda Anderson (Resolution only)

## **BZA RESOLUTION NO. 2000-00008**

**WHEREAS**, Reliance Insurance Company (property owner); Samuel's Diamonds, c/o Suria Young (tenant), pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a to allow a building sign without 150 feet of parking lot between buildings on property zoned "LC" Limited Commercial and legally described as follows:

Lot 4, Block 1, Sharon Ryan Addition to Wichita, Sedgwick County, Kansas.  
Generally located on the south side of Kellogg and east of Rock Road.

**WHEREAS**, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

**WHEREAS**, the Board of Zoning Appeals did, at the meeting of May 23, 2000, consider said application; and

**WHEREAS**, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Section 2.12.590(B), Code of the City of Wichita; and

**WHEREAS**, the Board of Zoning Appeals has found that the variance arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owners or the applicant. It is the opinion of staff that this property is unique, inasmuch as the building is an out building in a much larger shopping center. Traffic and parking occur both on the south and west sides of the out building, thus the need for building identification on two sides. The original shopping center was designed without regard for the requisite 150 feet of paved area between buildings to allow proper building identification.

**WHEREAS**, the Board of Zoning Appeals has found that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents. It is the opinion of staff that the granting of the variance requested would not adversely affect the rights of adjacent property owners, inasmuch as only those persons or businesses within the shopping center will be able to see the sign. It is completely buffered from the residences behind the shopping center, to the south, and not visible from Kellogg.

**WHEREAS**, the Board of Zoning Appeals has found that the strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application. It is the opinion of staff that the strict application of the provisions of the Sign Code constitutes an unnecessary hardship upon the applicant, inasmuch as the original shopping center was designed without regard to the Sign Code requirement of 150 feet of paved area for building signs. There is significant traffic within the shopping center along the south side of this building, thus the need for building identification, especially for those persons driving from east to west within the shopping center.

**WHEREAS**, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as the approved sign will help to make this business visually accessible and identifiable.

**WHEREAS**, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of the zoning ordinance. It is the opinion of staff that the granting of the variance requested would not oppose the general spirit and intent of the Community Unit Plan and the Sign Code, inasmuch as the intent of this provision of the Sign Code was to prevent illuminated signs from shining onto residential areas. This sign is completely buffered from any residential area by larger buildings within the shopping center.

**WHEREAS**, each of the five conditions required by Section 2.12.590(b), Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

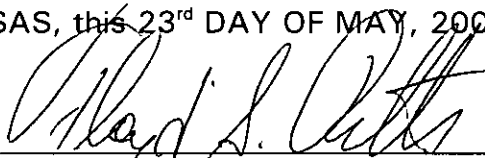
**NOW, THEREFORE, BE IT RESOLVED** by the Board of Zoning Appeals of the City of Wichita that this request be approved for a variance to allow a building sign without 150 feet of parking lot between buildings on property zoned "LC" Limited Commercial and legally described as follows:

Lot 4, Block 1, Sharon Ryan Addition to Wichita, Sedgwick County, Kansas.  
Generally located on the south side of Kellogg and east of Rock Road.

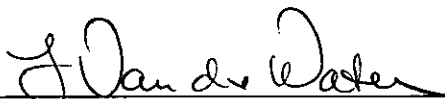
**RECOMMENDATION:** Should the Board determine that conditions necessary to the granting of the variance exist, then it is the recommendation of the Secretary that the variance to allow a 90 square foot building sign on the south elevation at a minimum of 110 feet from the building to the south be APPROVED, subject to the following conditions:

1. The applicant shall obtain all necessary permits for the installation of the approved sign.
2. The sign approved by this variance shall be placed on the south building elevation.
3. The sign approved by this variance shall be limited to a non-flashing internally-illuminated sign.

ADOPTED AT WICHITA, KANSAS, this 23<sup>rd</sup> DAY OF MAY, 2000.

  
\_\_\_\_\_  
Floyd Pitts, BZA President

ATTEST:

  
\_\_\_\_\_  
Lisa Van de Water, BZA Assistant Secretary

**SECRETARY'S REPORT**

CASE NUMBER: BZA2000-00008

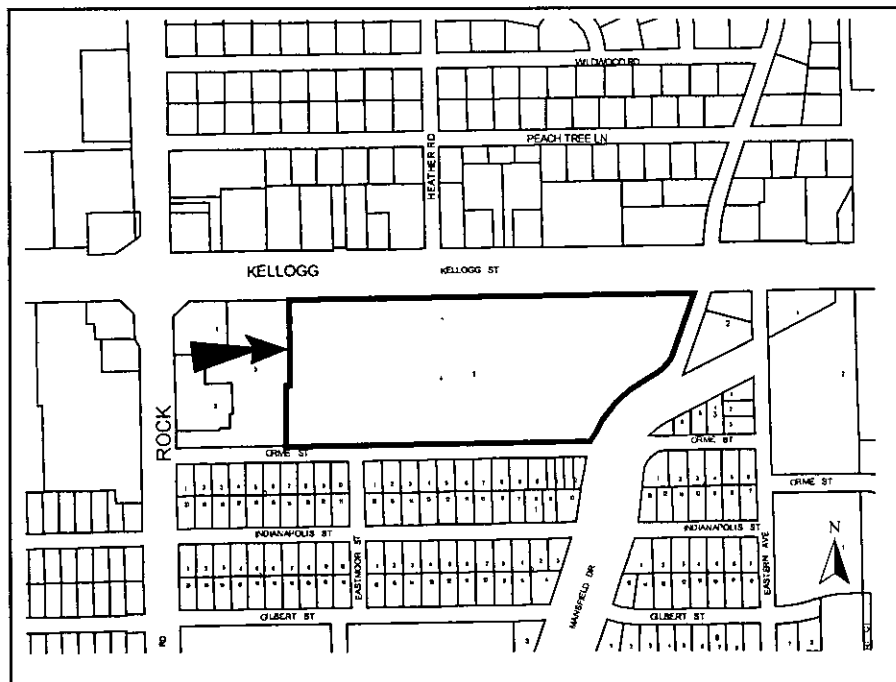
OWNER/APPLICANT: Reliance Insurance Co. (property owner); Samuel's Diamonds, c/o Suria Young (tenant)

AGENT: Everett Fettis

REQUEST: Variance to allow a building sign without 150 feet of parking lot between buildings.

CURRENT ZONING: "LC" – Limited Commercial

LOCATION: Generally located on the south side of Kellogg and east of Rock Road.



**JURISTITION:** The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

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**BACKGROUND:** The applicant is requesting a variance for an existing building sign on the south elevation of the Samuel's Diamonds retail store, formerly Silverman's Jewelers. This elevation is less than 150 feet from the building to the south (T.J. Max), which triggers the need for this variance. The space between the two structures (110 feet) is used for parking and driveway.

Both this sign and the sign on the west elevation were installed without the benefit of a sign permit. Once the Office of Central Inspections became aware of this infraction, the tenant and owner were required to come into compliance with the Sign Code. The first sign company was replaced with Dunn Signs, Inc., who were hired to procure the proper permits for the existing signs so that compliance could be attained. The sign on the west elevation was legally permitted on January 19, 2000. At that time, the applicant was made aware that a variance would be required for the sign on the south elevation.

Both signs are identical in design and size: the letters are 3 feet high, each sign is 30 feet long (90 square feet), and both signs are a maximum of 18 feet above grade.

Per the Sign Code Ordinance, three building signs per business per elevation are permitted for elevations with street frontage or 150 feet of parking in front of the elevation to be signed. The total square footage of all signs must not be greater than 20 percent of the given elevation, nor shall any individual sign be greater than 400 square feet. This sign meets the size requirements, but does not have the requisite 150 feet of paved area in front of the south elevation. Building signs are permitted on elevations with no frontage and as little as 50 feet of parking, but the sign size is limited to 15 square feet and a maximum height of 12 feet.

The subject property is part the Eastgate Shopping Center CUP, which was approved May 23, 1989. In that CUP, General Provision #5 states that signs should be "in accordance with section 28.04.139 of the code of the City of Wichita." This variance request is within the authority of the Board of Zoning Appeals as a variance from the specific terms of the City of Wichita Sign Code. Furthermore, the Sign Code permits properties in CUPs to be treated differently than non-CUP properties.

**ADJACENT ZONING AND LAND USE:**

|       |                                                      |
|-------|------------------------------------------------------|
| NORTH | "LC" – Retail, "CD Warehouse" and "Eyeglass World"   |
| SOUTH | "LC" – Parking and Retail, "TJ Max" and "Osco Drugs" |
| EAST  | "LC" – Retail, "Mr. Goodcents"                       |
| WEST  | "LC" – Parking and "Blockbuster"                     |

**UNIQUENESS:** It is the opinion of staff that this property is unique, inasmuch as the building is an out building in a much larger shopping center. Traffic and parking occur both on the south and west sides of the out building, thus the need for building identification on two sides. The original shopping center was designed without regard

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for the requisite 150 feet of paved area between buildings to allow proper building identification.

**ADJACENT PROPERTY:** It is the opinion of staff that the granting of the variance requested would not adversely affect the rights of adjacent property owners, inasmuch as only those persons or businesses within the shopping center will be able to see the sign. It is completely buffered from the residences behind the shopping center, to the south, and not visible from Kellogg.

**HARDSHIP:** It is the opinion of staff that the strict application of the provisions of the Sign Code constitutes an unnecessary hardship upon the applicant, inasmuch as the original shopping center was designed without regard to the Sign Code requirement of 150 feet of paved area for building signs. There is significant traffic within the shopping center along the south side of this building, thus the need for building identification, especially for those persons driving from east to west within the shopping center.

**PUBLIC INTEREST:** It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as the approved sign will help to make this business visually accessible and identifiable.

**SPIRIT AND INTENT:** It is the opinion of staff that the granting of the variance requested would not oppose the general spirit and intent of the Community Unit Plan and the Sign Code, inasmuch as the intent of this provision of the Sign Code was to prevent illuminated signs from shining onto residential areas. This sign is completely buffered from any residential area by larger buildings within the shopping center.

**RECOMMENDATION:** Should the Board determine that conditions necessary to the granting of the variance exist, then it is the recommendation of the Secretary that the variance to allow a 90 square foot building sign on the south elevation be APPROVED, subject to the following conditions:

1. The applicant shall obtain all necessary permits for the installation of the approved sign.
2. The sign approved by this variance shall be placed on the south building elevation.
3. The sign approved by this variance shall be limited to a non-flashing internally-illuminated sign.

**FILE COPY**

Kellogg

Access Road

Volca  
Street

Rock Road

panels  
on road

sign in  
question  
on call

Mr  
Goodcents

62'

110'

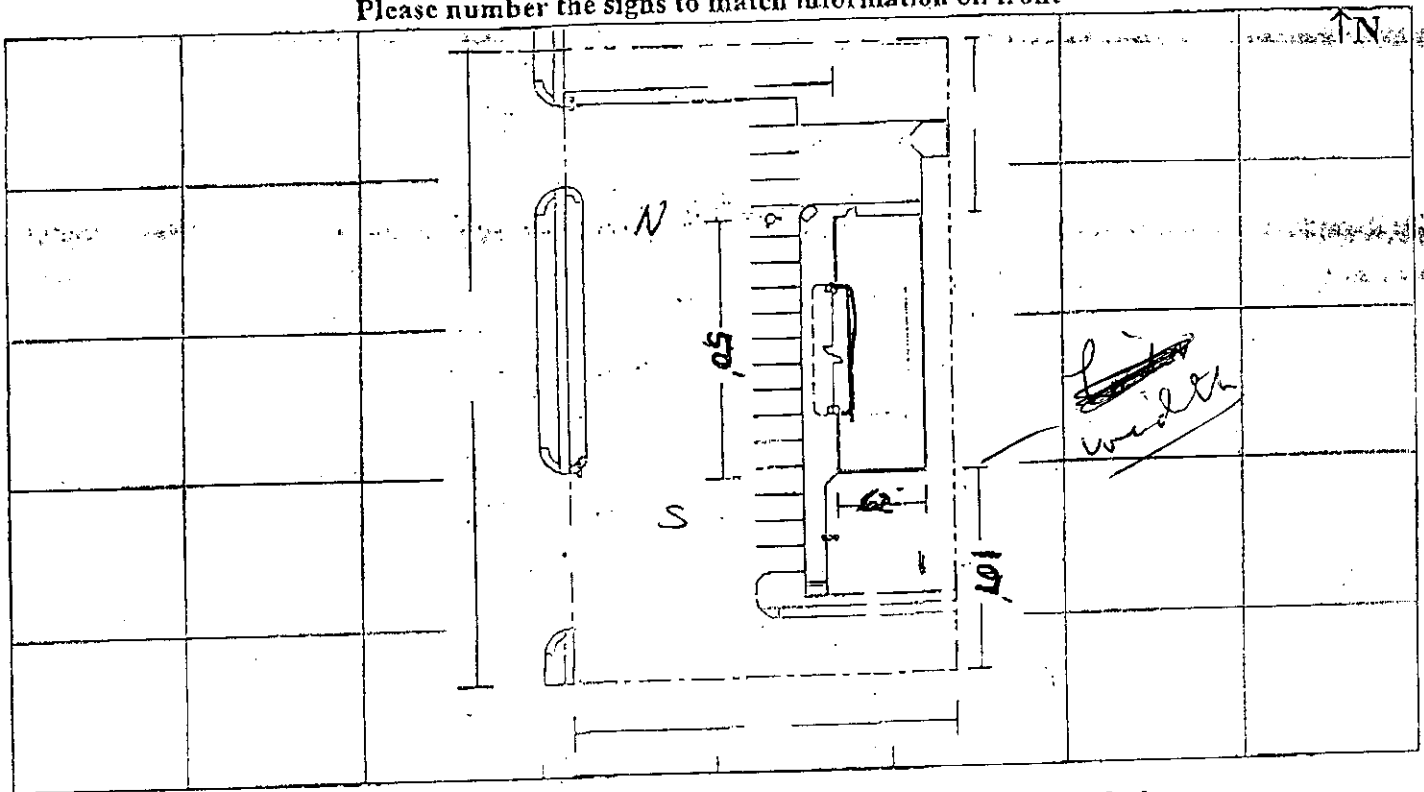
TY MAX

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Site Plan: Locate signs and street name (Refer to Ordinances 24.04.200 - [driveways] & 24.04.220 [T] [intersections]). Include all existing sign locations, distances, separations, square footages, etc.)

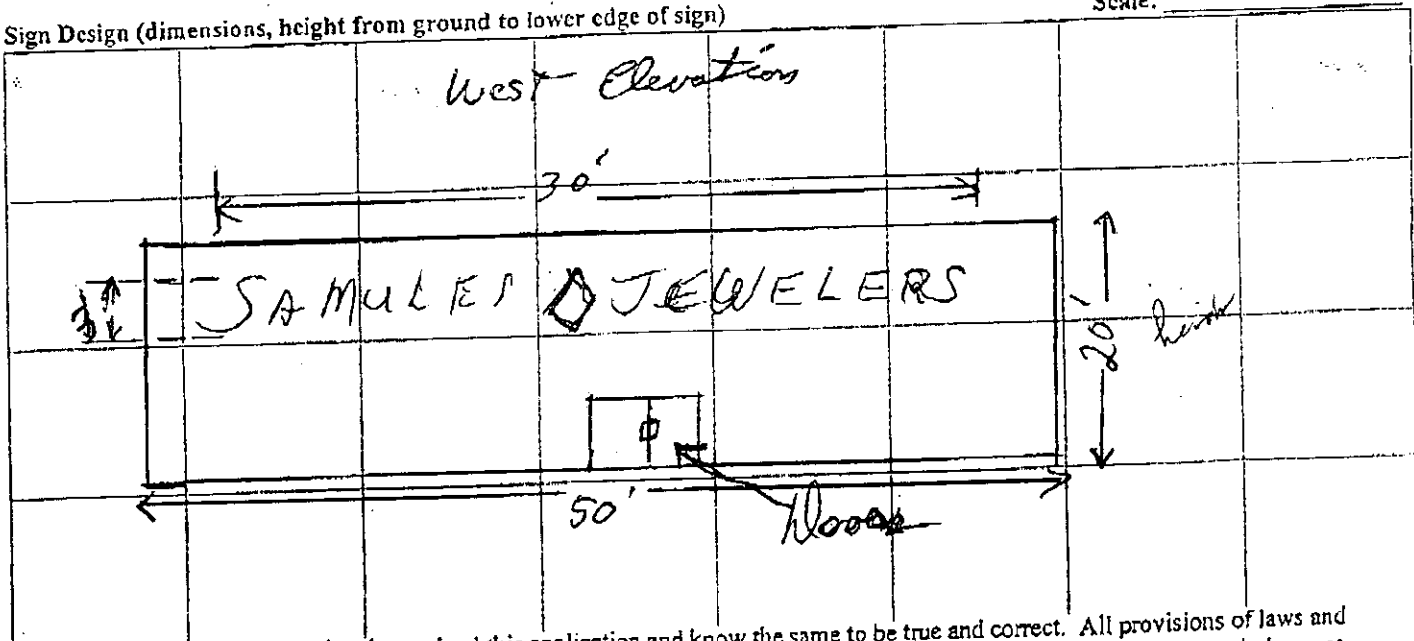
FAILURE TO SHOW ALL REQUIRED MEASUREMENTS AND INFORMATION SHALL BE CAUSE TO REJECT THIS PERMIT APPLICATION

Please number the signs to match information on front



Sign Design (dimensions, height from ground to lower edge of sign)

Scale:



I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction.

Signature

*Wright Keller*

Date 1-13-00

OFFICE USE ONLY

Final Inspection by

Date

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