CITY OF WICHITA

FILE COPY

Wichita-Sedgwick County Metropolitan Area Planning Department

January 8, 2002

Dickinson, Inc.,
%John Heartley
P O Box 2905
Mission, KS 66201

RE: BZA 2001-00050- Variance to increase the maximum height of a building sign for Dick's Sporting Goods from 30' to 38'6" on property zoned "LC" Limited Commercial. Generally located south of 32nd Street North and east of Rock Road.

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on December 18, 2001, 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.

If you have any questions concerning this matter, please call our office at 268-4421.

Sincerely,

Scott Knebel
Assistant BZA Secretary

SK/rms

cc: Classic Real Estate, %Christian Ablah, 8200 E. 32nd Street N., Wichita, KS 67226
David Babich, 4431 Ironwood, Wichita, KS 67226
Golf Discount of Wichita, %Tim Grube, 3300 N. Rock, Wichita, KS 67226
Bundy and Assoc., 7701 E. Kellogg, Ste. 630, Wichita, KS 67207
Mike Boyd, Contract Purchaser, 128 S. Dellrose, Ste. 200, Wichita, KS 67208
City Council Member District II, Joe Pisciotte, Mail Stop 1-13
D.A.B. II, Donte Martin, Mail Stop 1-13
Sharon Dickgrafe, Law Department, Mail Stop 1-132

BZA RESOLUTION NO. 2001-00050

WHEREAS, Dickinson Inc., c/o John Heartley (owner/applicants); Bundy and Associates and Mike Boyd (contract purchaser); Classis Real Estate c/o Christian Ablah (agent), pursuant to Section 2.12.590.B, Code of the City of Wichita, request a variance to increase the maximum height of a building sign for Dick's Sprorting Goods from 30 feet to 38 feet 6 inches on property zoned "LC" Limited Commercial and legally described as follows:

> Lot 2, Block 1, Meditteranean Plaza Commercial Second Addition, Wichita, Sedgwick County, Kansas. Generally located south of 32nd Street North 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 December 18, 2001, 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 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. The Board finds that the property is unique because it is a single-use multi-purpose building and it will have a total change in use.

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. The Board finds that the adjacent property will not be affected because other properties that are adjacent to Rock Road do not suffer the same setback off of the main right-of-way as this business does.

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. The Board finds that strict application of the provision of the zoning regulations may constitute unnecessary hardship because of the location and setback from Rock Road and other nearby streets.

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. The Board finds that the granting of the variance will not adversely affect the public interest because there are no negative impacts on property owners closer to Rock Road.

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. The Board finds that the granting of the variance would not be opposed to the spirit and intent of the ordinance because it does not detract from the character of the retailer area whatsoever.

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 a variance be granted to allow the increase of the maximum height of a building sign for Dick's Sporting Goods from 30 feet to 38 feet 6 inches on property zoned "LC" Limited Commercial and legally described as follows:

Lot 2, Block 1, Meditteranean Plaza Commercial Second Addition, Wichita, Sedgwick County, Kansas. Generally located south of 32nd Street North and east of Rock Road.

ADOPTED AT WICHITA, KANSAS, this 18th DAY of December, 2001.

James P. Ruane, BZA Board President

ATTEST:

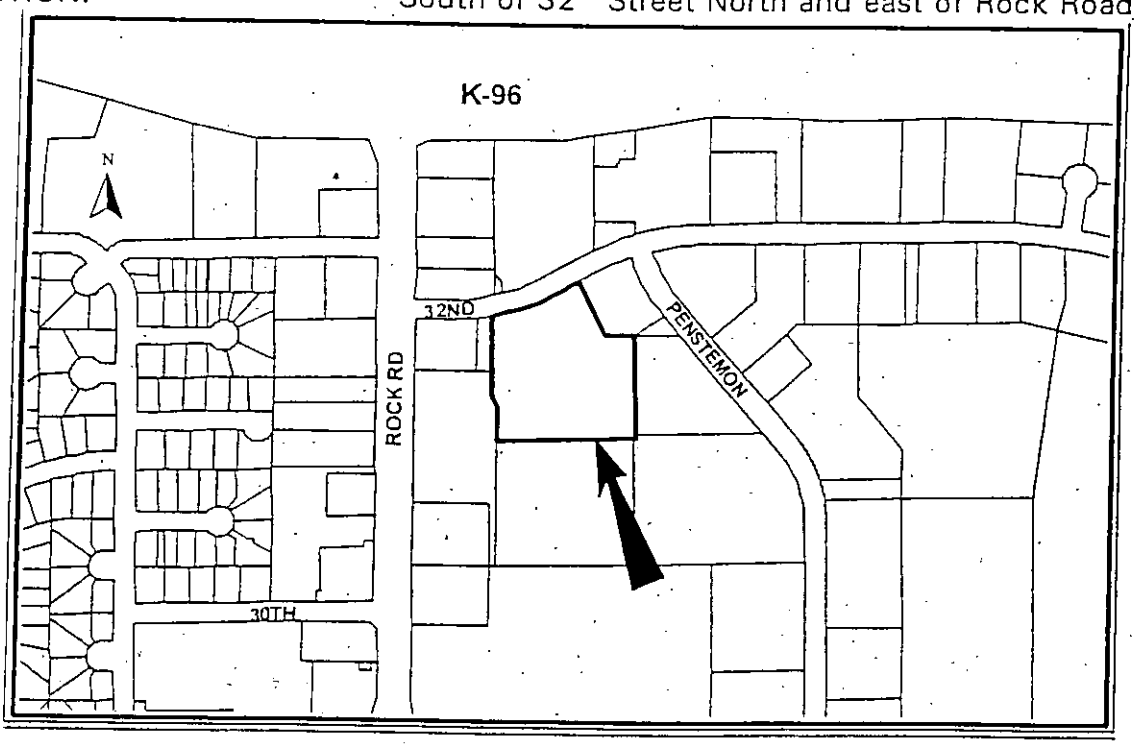
Scott Knebel, BZA Assistant Secretary

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 2
October 29, 2001

SECRETARY'S REPORT

CASE NUMBER:	BZA2001-00050
OWNER:	Dickinson Inc. c/o John Heartley
CONTRACT PURCHASERS:	Bundy and Associates and Mike Boyd
AGENT:	Classic Real Estate c/o Christian Ablah
REQUEST:	Variance to increase the maximum height of a building sign for Dick's Sporting Goods from 30' to 38'6"
CURRENT ZONING:	"LC" Limited Commercial
SITE SIZE:	4.84 acres
LOCATION:	South of 32nd Street North and east of Rock Road



JURISDICTION: 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.

BACKGROUND: The applicant indicates that the Northrock 6 movie theater located south of 32nd Street North and east of Rock Road will be razed, and a 73,000 square foot retail center will be constructed that includes a 45,000 square foot Dick's Sporting Goods store (see attached site plan). The applicant is requesting a variance to permit a 38'6" high building sign for Dick's Sporting Goods (see attached "West Elevation"). The applicant states that a variance to permit a 38'6" high building sign is requested since the store will be located behind existing commercial buildings along Rock Road (see attached letter dated September 19, 2001).

The proposed site of the Dick's Sporting Goods store is zoned "LC" Limited Commercial and is within the Mediterranean Plaza Commercial CUP (DP-111). The CUP states that signage is permitted in accordance with the Sign Code and that sign height variances may be granted by the Board of Zoning Appeals. In the "LC" Limited Commercial zoning district, the Sign Code permits building signs provided that signs shall not be more than 30 feet above grade; therefore, the requested 38'6" high building sign would require a variance.

The surrounding uses are commercial with all the properties surrounding the site zoned either "LC" Limited Commercial or "GC" General Commercial. West of the site is a Dairy Queen and a strip commercial center. North of the site is a strip commercial center and an office building. East of the site is the Northrock 14 movie theater. South of the site is the Northrock Lanes bowling alley.

ADJACENT ZONING AND LAND USE:

NORTH	"LC"	Commercial center, office building
SOUTH	"LC"	Bowling alley
EAST	"LC"	Restaurant, commercial center
WEST	"GC"	Movie theater

UNIQUENESS: The applicant indicates that, in their opinion, the property is unique because the proposed use is a "walk up retail" business operated by a new entrant to the local retail market and because the use of the property will be changing from a special purpose theater use to a more traditional retail use. It is the opinion of staff that these same points are why the property is not unique. The property is proposed to be developed with "big box" retail businesses, which even the applicant indicates is the "traditional" pattern of retail development. There are dozens of big box retail businesses in Wichita that conform with existing sign regulations, and many of these businesses were new entrants to the local market when they were permitted. Most big box retail businesses are located on sites with developed out parcels that places buildings between the big box retail business and the street. Ground-mounted signage is permitted in CUPs to be located along the street frontage to convey the location of businesses behind developed out parcels. The existing property has a permitted ground sign already in place along the Rock Road frontage that the applicant indicates will be used to signify the location of Dick's Sporting Goods.

ADJACENT PROPERTY: The applicant indicates that, in their opinion, there is no negative impact on adjacent property because new retail use of the property is preferable to a vacant theater and because retail use of the property will promote "cross shopping" among other businesses in the area. It is the opinion of staff that there is no evidence that granting the variance requested is necessary for retail development to occur on the property. In fact, the applicant has indicated that other retail businesses are proposed for the property that will conform to existing sign regulations. It is the opinion of staff that the granting of the variance will adversely affect the rights of adjacent property owners, inasmuch as the property is adjacent to commercial areas that have developed in conformance with specific development plans, including specific sign regulations. Permitting the proposed 38'6" building sign would be out of character with the area, which contains planned commercial developments consisting of similar intensity commercial uses developed under signage and architectural controls intended to create attractive and cohesive commercial development. Granting the requested variance would establish a precedent that conflicts with the planned development of the area and would lead to other businesses requesting more and larger signage.

HARDSHIP: That applicant indicates that, in their opinion, strict application of the sign code constitutes an unnecessary hardship because Dick's Sporting Goods desires their "prototypical package," which includes a building sign higher than is permitted by the Sign Code in the underlying zoning district. Planning staff is aware of an instance in the City of Olathe where the applicant developed a store with signage different than their prototypical package. In Olathe, the applicant desired to build to their prototypical package but the height of the building sign was not permitted by the zoning regulations, so the property was developed in conformance with sign regulations by utilizing a lower sign height. It is the opinion of staff that the strict application of the provisions of the zoning regulation will not constitute an unnecessary hardship upon the applicant, inasmuch as the business has experience in other communities with designing and installing signage in conformance with existing sign regulations that differs from their prototypical package.

Additionally, the applicant indicates that, in their opinion, line-of-sight photos (attached) clearly set forth that the signage is visible at 38 feet and is not visible at 30 feet along Rock Road. It is the opinion of staff that this statement simply is not true. A review of the attached line-of-sight photos indicates that signage installed at a height of 30 feet is visible both from the east-bound K-96 exit to Rock Road and as well as from along Rock Road, except when a building on an out parcel is in the direct line-of-sight of the proposed signage. However, even at a the proposed height of 38'6", a building sign would not be visible from Rock Road if a building on an out parcel is in the direct line-of-sigh of the proposed signage. An attached diagram illustrates that the base of the sign would need to be at a height of 73 feet (with a resulting sign height of over 85 feet) in order to be visible from Rock Road over the buildings developed on the out parcels.

PUBLIC INTEREST: That applicant indicates that, in their opinion, the variance will benefit the community by increasing the tax base and retail options available and that the request is not a drastic increase beyond what is allowed by the sign code. Currently

the property is fully developed and generating tax revenue for the community to fund public services. There is no evidence that development of the property in a manner that does not conform to sign regulations is the only manner by which the property can continue in productive use. In fact, there is no evidence that the proposed retail use of the property will result in a net increase in tax base, jobs, or shopping options. Instead, it is possible, as supported by a study commissioned by the City of the retail market along Rock Road, that additional retail development in the area will result in an over-saturation of the market with off-setting declines of tax base, jobs, and shopping options in other areas of the city. This scenario is similar to the scenario affecting the existing theater on the property, which is proposed for transition to another use due to over-saturation of the theater market by the construction of new theaters in other areas of the city.

Regarding the degree to which the requested sign height varies from the existing sign regulations, it is the opinion of planning staff that the requested variance would adversely affect harmonious development, inasmuch as the 38'6" high sign would be placed on top of a building that is otherwise only 25 feet high. Permitting an additional 13'6" in height on the façade for a sign amounts to a billboard that is unnecessary for identification of the business and would lead to an unsightly, cluttered development.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would oppose the general spirit and intent of the Sign Code inasmuch as the sign regulations are designed for application in instances where "big box" retailers are located in the "LC" district. The intent of these regulations is to limit building signs to 30 feet in height and to provide for ground-mounted signage to be installed along the street frontage for instances where a business is located behind developed out parcels.

The applicant indicated several locations where, in their opinion, variances were granted to permit building signs higher than 30 feet; however, variances were not granted in any of the locations indicated. With the exception of the east Best Buy site, all of the properties indicated by the applicant are zoned "GC" General Commercial, which does not have the same limitation for a 30-foot high building sign as the "LC" Limited Commercial district. According to building permit records, the approved height of the building sign for the east Best Buy is 25 feet. It is the opinion of staff that the examples mentioned by the applicant are not comparable to this request. As previously mentioned, the zoning of the other properties is more intensive; therefore, more intensive commercial uses have developed in these areas under different development plans that permit more and larger signage than the Rock Road plans. Additionally, these properties are adjacent to high-speed, elevated expressways where, unlike an arterial street, ground-mounted signage is less effective.

RECOMMENDATION: It is staff's opinion that the conditions necessary for the granting of the variance do not exist; therefore, it is the recommendation of the Secretary that the variance to increase the maximum height of a building sign for Dick's Sporting Goods from 30' to 38'6" be DENIED.

NEW CONSTRUCTION
73,000 TOTAL S.F.
309 TOTAL CARS

32 nd STREET

NEW
TRUCK
ENTRY

ROCK ROAD

D.D.

24' UTILITY EASEMENT

ACCESS TO
NORTH ROCK ROAD

50' BUILDING SETBACK

EXISTING
SHOPPING CENTER

RETAIL C
13,000 S.F.

RETAIL B
15,000 S.F.

DICK'S SPORTING GOODS
45,000 S.F.

100'
130'
155'
80'
40'
200'
225'

SCALE
80' 0 80' 160'