

LYTLE was asked to review the status of zoning again. LYTLE stated the Planning Commission had heard the request for "B" zoning two months ago and the case was deferred until this Board could consider this request for a parking lot. The zoning request is for the entire three lots, but this request is only a portion of those lots.

Korber stated that if the request is granted today, he will revise the zoning request to include the area the existing home is on. It is still in the control of the neighbors until we can get the covenants changed.

MOTION: JACOB moved, PERRILL seconded, that the exception to permit the establishment of an off-street parking lot on property zoned the "AA" One-family Dwelling District be granted. Motion failed 2-3 (GOEBEL, HENDERSON and KOPIETZ voting no.) President HENDERSON ruled that failure to receive an affirmative vote, the application was denied.

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The official action of the Board to deny the request is reflected in the adoption of Resolution No. BZA 18-85.

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5. Case No. BZA 30-85 - Scholfield-Hatchett, a partnership, 7633 East Kellogg, Wichita, Kansas, pursuant to Section 28.04.183.2, Code of the City of Wichita requesting an exception to permit the establishment of a new and used automobile sales business in the "LC" Light Commercial District and legally described as follows:

The East Thirty-nine feet of Lot 7 and all of Lots 8, 9 and 10, Block 10, Eastridge Addition together with Lots 1, 2 and 3, Block A, Bridwell Addition except the north 10 feet of said Block A, condemned for Street in Case No. C-3932, together with all of the east-west alley lying south and adjacent to said Block A, all in Wichita, Sedgwick County, Kansas, being replatted as Scholfield-Hatchett Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Gouverneur Road between Orme Street and Kellogg Drive.

LYTLE showed slides of the application area and reviewed the following comments from the Secretary's Report.

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JURISDICTION:

The Board has jurisdiction to consider this request under the provisions outlined under Section 2.12.590.C, Code of the City of Wichita. The Board may grant the exception provided the conditions set out in Section 28.04.183.2 can be complied with.

COMMENTS BY THE SECRETARY:

The applicant is requesting an exception to establish a new and used car sales agency, including outdoor storage and display of vehicles in the "LC" Light Commercial District. This may include the repair and servicing of vehicles within an enclosed building, but may not include body and fender work in this zoning district. The major portion of this property has previously been approved for such use, however, with the expansion of the property to include the recently zoned area south of the alley and adjacent to Orme Street, the applicant was required to file a new overall development plan.

The "LC" Light Commercial zoning was granted by the City Commission on March 19, 1985 subject to the entire property being platted into one lot. The plat of Scholfield-Hatchett Addition was approved by the Planning Commission on May 2, 1985 but has not been forwarded to the City Commission for final action. This would then permit the recording of the plat and the publication of the ordinance effectuating the "LC" zoning.

The applicant has indicated his willingness to build a masonry wall along the south property line at Orme and extend it north to the existing alley. Trees will be planted on public right-of-way along to north side of Orme to soften the affects of the wall. Scholfield-Hatchett will be required to maintain the wall and the landscaping.

The applicant has further indicated that the new area on the south of the property will be used primarily for off-street parking and vehicle storage that will be lighted only for security pruposes. The sales showroom and outdoor lighted display will be limited to the area north of the existing alley that is being vacated. The applicant's plat will retain the utility easement running east-west and will be required to accommodate the surface drainage, from the existing properties to the west, across the property to Gouverneur and/or Orme Street.

In light of the fact that the Planning Commission and City Commission recommended the approval of "LC" Light Commercial on the property adjacent to Orme Street, and the plat of the property has been approved without access to Orme Street, all with the full knowledge of the intended use, it would appear that the proposed use should be approved subject to conditions deemed to be appropriate to protect the residential properties on the south and west. This should include screening, landscaping, lighting limitations, access controls and any other conditions deemed reasonable and appropriate.

RECOMMENDATION:

It is the Secretary's opinion that the expansion of a new and used automobile sales lot to include the recently zoned property is appropriate and should be approved subject to the following conditions:

1. The release of the resolution authorizing the automobile sales business on the property shall be subject to the completion of Scholfield-Hatchett Addition and the applicant complying with conditions numbered 2, 3, 4, 5, 7 and 11.
2. The applicant shall submit 3 copies of a revised site plan showing compliance with all conditions set forth herein. This shall include a landscape plan and wall details for the area adjacent to Orme Street and the residential property to the west. Said wall shall be masonry and shall be six feet in height. The landscaping in the right-of-way on Orme Street shall be planted with deciduous and coniferous trees, grass and shall be provided with a means for watering.
3. The applicant shall mark and maintain off-street parking in conformance with the requirements of the zoning ordinance. This shall include 19 parking spaces adjacent to the sales building and not less than 50 employee parking spaces to the south part of the property.
4. No access, pedestrian or vehicular shall be permitted to Orme Street, nor on the east property line for the south 105 feet. The existing driveway approaches to Orme Street shall be closed and the curb reconstructed.
5. All storage and display areas shall be paved with concrete or asphalt.
6. All lights shall be shielded to direct light away from adjoining properties. No string type lighting or banners shall be permitted.
7. All signs shall be in compliance with the provisions of Section 28.04.139 of the zoning ordinance, including the limitation of one portable sign. No signs shall be permitted adjacent to or within 105 feet of the right-of-way line of Orme Street except for directional signs denoting parking spaces within the property.
8. No sound projecting devices or loudspeakers shall be used so as to be heard outside of any structure.
9. No repair work shall be conducted except in an enclosed building, and further provided that no body or fender work shall be permitted.
10. The area shall be properly policed through inspections by the owner or operator for the proper maintenance and removal of trash. The location of any trash containers shall be within an area screened from view and not located on public right-of-way.

11. Appropriate barriers shall be placed adjacent to public right-of-way lines to prevent the uses of public right-of-way for display or parking of vehicles.
12. No structures shall be erected south of a line 140 feet north of the right-of-way line of Orme Street.
13. Prior to the issuance of any additional building permits for any structures, a new site plan showing compliance with all conditions as set forth herein shall be submitted to the Secretary and the Superintendent of Central Inspection for approval.
14. Approval of this exception and the release of this resolution is intended to incorporate and supercede BZA Cases No. 24-83 and 42-64 thereby making those resolutions null and void.

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LYTLE stated that the CPO Council voted 6-0 to approve the request.

Gary Austerman, Attorney, was present.

Mark Schroeder, stated he had appeared before the MAPC on the zoning change request of Scholfield-Hatchett and objected to that request. I am now here on behalf of the neighbors expressing our concern of the wall and drainage of the area. He stated that in meetings with Mr. Molamphy, they had agreed to certain conditions for landscaping and wall construction. This was supposed to have been in his hands but as of today, I still don't have a site plan or wall details.

Mr. Austerman stated that he didn't have any plans ready and wasn't aware of anything like what was being stated. We are very much willing to set down and work with you on anything that will be satisfactory to the residents.

KOPIETZ asked you don't feel condition number 2 would be sufficient? Mr. Schroeder replied, we are not ready to say yes because we don't know what they are planning. The Chrysler/Plymouth dealership has a P.A. system which can be heard all hours during the weekend. Mr. Schroeder has told me in his office he will have a P.A. system and I was under the impression this is in direct violation of the code.

MOTION: PERRILL moved, GOEBEL seconded, that the exception to permit the establishment of a new and used automobile sales business be granted subject to the conditions as set forth in the Secretary's Report. Motion passed 5-0.

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The official action of the Board is reflected in the adoption of Resolution No. BZA 30-85 which includes the following conditions of approval:

1. The release of the resolution authorizing the automobile sales business on the property shall be subject to the completion of Scholfield-Hatchett Addition and the applicant complying with conditions numbered 2, 3, 4, 5, 7 and 11.
2. The applicant shall submit 3 copies of a revised site plan showing compliance with all conditions set forth herein. This shall include a landscape plan and wall details for the area adjacent to Orme Street and the residential property to the west. Said wall shall be masonry and shall be six feet in height. The landscaping in the right-of-way on Orme Street shall be planted with deciduous and coniferous trees, grass and shall be provided with a means for watering.
3. The applicant shall mark and maintain off-street parking in conformance with the requirements of the zoning ordinance. This shall include 19 parking spaces adjacent to the sales building and not less than 50 employee parking spaces to the south part of the property.
4. No access, pedestrian or vehicular shall be permitted to Orme Street, nor on the east property line for the south 105 feet. The existing driveway approaches to Orme Street shall be closed and the curb reconstructed.
5. All storage and display areas shall be paved with concrete or asphalt.
6. All lights shall be shielded to direct light away from adjoining properties. No string type lighting or banners shall be permitted.
7. All signs shall be in compliance with the provisions of Section 28.04.139 of the zoning ordinance, including the limitation of one portable sign. No signs shall be permitted adjacent to or within 105 feet of the right-of-way line of Orme Street except for directional signs denoting parking spaces within the property.
8. No sound projecting devices or loudspeakers shall be used so as to be heard outside of any structure.
9. No repair work shall be conducted except in an enclosed building, and further provided that no body or fender work shall be permitted.
10. The area shall be properly policed through inspections by the owner or operator for the proper maintenance and removal of trash. The location of any trash containers shall be within an area screened from view and not located on public right-of-way.
11. Appropriate barriers shall be placed adjacent to public right-of-way lines to prevent the uses of public right-of-way for display or parking of vehicles.

12. No structures shall be erected south of a line 140 feet north of the right-of-way line of Orme Street.
13. Prior to the issuance of any additional building permits for any structures, a new site plan showing compliance with all conditions as set forth herein shall be submitted to the Secretary and the Superintendent of Central Inspection for approval.
14. Approval of this exception and the release of this resolution is intended to incorporate and supercede BZA Cases No. 24-83 and 42-64 thereby making those resolutions null and void.

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6. Case No. BZA 31-85 - McDonald's Corporation, 11880 College Boulevard, Overland Park, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to permit an increase in the height of a ground or pole sign from 30 feet to 35 feet and legally described as follows:

Lot 2, Branson 2nd Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Rock Road and north of Harry.

LYTLE showed slides of the application area and reviewed the following comments from the Secretary's Report.

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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 the State Statutes are found to exist.

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance to increase the permitted height of a ground or pole sign from 30 feet to 35 feet. This request is made in order to install an identification sign adjacent to the driveway and as near the front property line as possible and still provide a clearance of 15 feet where the sign would project over the driveway. The applicant has not provided any justification of the five conditions necessary to the granting of a variance. The only comment was made by the applicant's agent when the case was filed was there is a gas line in the right-of-way of Rock Road and in order to provide clearance as requested by the pipeline company, it is necessary to move the sign back away from the front property line four feet.

In reviewing the site plan submitted with the application, it is noted that the lot has a frontage of 128.49 feet and will permit one identification sign of 256 square feet. The plans denote a standard road sign #70-200 which is 326 square feet in gross surface as calculated by terms of the City of Wichita regulations. In other words, the sign as proposed is not permitted by the ordinance since it exceeds the permitted area limitation for a lot of this width.