

Case No. BZA 45-85 - Donald Walenta - requests an exception to permit the establishment of an automobile rental agency on property zoned the "LC" Light Commercial District and generally located on the south side of Kellogg between Dellrose and Pershing (4629 E. Kellogg).

Posted
7-30-85
3-24-86

ACTION

BZA ~~45-85~~ Referred initial 8-27-85
DATE

BD considers
submitted your case to the
lost.

BZA WITHDRAWN 4-22-86

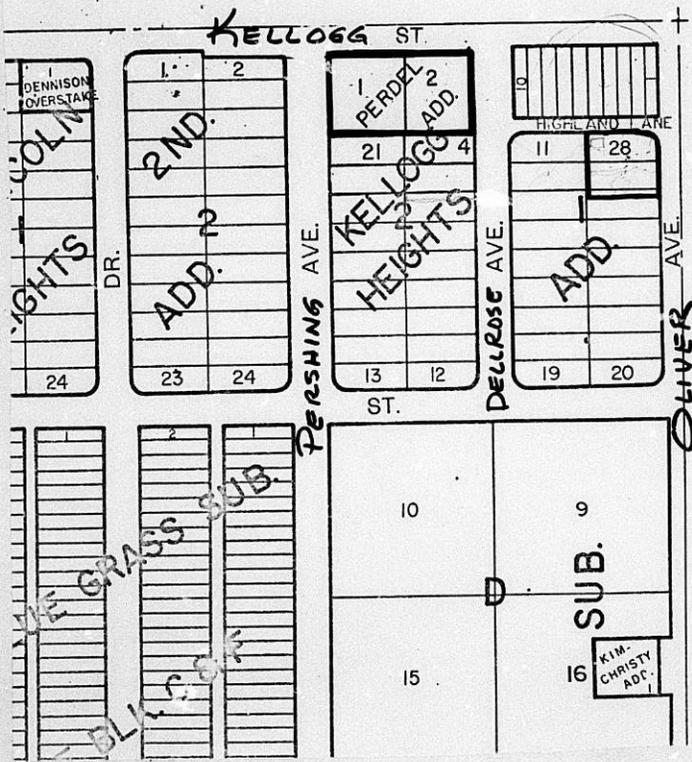
BY AGENT 4-22-86

Map No. 5746A

BZA 45-85
Filed _____

AREA DATA:

1. Acres: _____ ft. by _____ ft.)
2. Adjoining Zoning: E LC S A W BB N A
3. Land Use: East Comm South 1-F & Pkg.
West OPP North 1-F & 2-F
4. Area (is) (~~is not~~) platted.



BZA-45-85

SIGNED _____
FORM 000-017

Standard
No. 2-153C
HASTINGS, MINN.
LOS ANGELES-CHICAGO-LOGAN, OH.
MEMPHIS-TULSA-QUICK SERVICE, GA.
U.S.A.

BZA 45-85



LOS ANGELES, CALIF. 90008
MEMPHIS, TENN. 38103
NEW YORK, N.Y. 10001
PHOENIX, ARIZ. 85001
SAN FRANCISCO, CALIF. 94102
WASHINGTON, D.C. 20004
U.S.A.

Speed
No. 2153C

IMPORTANT MESSAGE

FOR Glen

DATE 4-22-86 TIME 10:15 A.M.
P.M.

WHILE YOU WERE AWAY

Jim Schaefer

OF _____

PHONE No. 685-3300

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input checked="" type="checkbox"/>
CALLED TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RETURNED YOUR CALL	<input type="checkbox"/>

MESSAGE Withdraw Case
BZA-45-85

SIGNED [Signature]

June 19, 1986

Donald Walenta
4635 East Kellogg
Wichita, Kansas 67218

Dear Mr. Walenta:

I am in receipt of your letter of June 17, 1986 regarding the property leased to Enterprise Leasing at 4629 East Kellogg.

I have referred this letter on to Central Inspection who is charged with the enforcement of the City of Wichita Zoning Regulations. The Planning Department processes applications for zoning changes, Board of Zoning Appeals exceptions, etc., but does not have any enforcement responsibility of the regulations.

I have had at least two conversations with Mr. Carpenter of Enterprise Leasing about two other locations that might be acceptable for his business. Unfortunately, he has not contacted me for several weeks on pursuing other locations. I would point out that in the "LC" Light Commercial District that the Board of Zoning Appeals does have authority to grant an exception for an automobile leasing business, and until approved by the Board, it is not permitted.

I appreciate you letting the City know what you have advised your tenant, however, there are certain responsibilities a landowner has in compliance with all regulations. I am certain that the issuance of any building permit on this property was that it would be subject to the issuance of an occupancy permit in conformance with the "LC" Light Commercial District.

The city staff is more than happy to work with you on the occupancy of any property, but this should be accomplished before the tenant moves in, and are best handled before leases are firm. If I can be of help to you at any time, please don't hesitate to give me a call.

Sincerely,

Glen E. Lytle
Special Assistant for Zoning

GEL/lw

cc: Jack H. Galbraith, Chief Planner Current Plans
Monty Robson, Superintendent of Central Inspection

Complete exhaust system service, shock absorbers, brakes . . .



4635 E. Kellogg, Wichita, Kansas 67218
AC 316 / 685-1347

June 17, 1986

Mr. Glen Lytle
Metropolitan Area Planning Commission
City Hall - 10th Floor
455 North Main St.
Wichita, Kansas 67202

Dear Mr. Lytle:

I lease office space to Enterprise Leasing at 4629 East Kellogg. This is a leasing car company and occasionally they park cars in the adjoining parking lot.

On April 17, 1986, I told Mr. Bill Carpenter, local manager for Enterprise Leasing, that I had given up on getting the necessary zoning change and BZA exception to allow this type of parking and they could not and were not to park any lease cars (except employee cars) around or near the office space they lease from me.

On April 18 and 21, 1986, I discussed this at further length with Mr. Dave Willie of Enterprise Leasing Corporate Office in St. Louis, Mo. I relayed the same information to him - that they were not to park any lease vehicles around the lease space at 4629 East Kellogg.

In subsequent conversations with Mr. Bill Carpenter, he has informed me that they are negotiating for another location to park their cars, and that the city was bearing with them until this new location was granted a BZA for their usage.

If further violations appear at 4629 East Kellogg, please direct any correspondence to Enterprise Leasing personally.

Sincerely yours,

A handwritten signature in cursive script that reads "Donald Walenta".

Donald Walenta

DN/bw

RECEIVED

JUN 18 1986

METROPOLITAN PLANNING

ROUTE _____

Complete exhaust system service, shock absorbers, brakes . . .



4635 E. Kellogg, Wichita, Kansas 67218
AC 316 / 685-1347

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In subsequent conversations with Mr. Bill Carpenter, he has informed me that they are negotiating for another location to park their cars, and that the city was bearing with them until this new location was granted a BZA for their usage.

If further violations appear at 4629 East Kellogg, please direct any correspondence to Enterprise Leasing personally.

Sincerely yours,

Donald Walenta
Donald Walenta

DM/bw

RECEIVED

JUN 18 1986

METROPOLITAN PLANNING

ROUTE _____

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING DEPARTMENT

DATE: April 23, 1986

TO: Monty Robson, Superintendent of Central Inspection

FROM: Glen E. Lytle, Special Assistant for Zoning

SUBJECT: BZA 45-85 - Request for Exception to permit automobile leasing
business
18-86

For your information, the Board of Zoning Appeals was notified, through the applicant's attorney, that this case was being withdrawn. This was for an automobile leasing business located at 4629 East Kellogg in the "LC" Light Commercial District without securing proper approval as required by the zoning ordinance.

It should also be noted that the applicant's attorney has informed me that his client is unwilling to replat the property on the southwest corner of Oliver and Highland Lane. This was a requirement established by the MAPC and the City Commission for the "LC" zoning that was requested for the property by the owner. The parking lot has been established on the property without the required improvements and also in violation of the "RB" Four-family Dwelling District. I believe Joe Donnelly's people have issued citations for the violations but I would imagine it will take a considerable amount of follow-up to clear up all the violations.

I have had several inquiries on other locations for the leasing business in the past few days. I feel that there are times when these issues are compounded by the issuance of sign permits for new uses without clearing all the hurdles first. Sometimes this is a good time to check out the location to see that the use is permitted. Another good example is the Gorges Leasing at 330 North Rock Road where the sign is up and ready to move in and they find they have a problem.

Glen E. Lytle
Special Assistant for Zoning

GEL/lw

cc: Joe Donnelly, Central Inspection

RE: AGENDA ITEM NO 2

SECRETARY'S REPORT CASE NO. BZA 45-85

APPLICANT: Donald Walenta, 4635 East Kellogg, and Enterprise Leasing, 4629 East Kellogg, Wichita, KS 67208.

AGENT: James R. Schaefer, 400 North Woodlawn, Suite 205, Wichita, KS 67208.

REQUEST: Exception pursuant to Section 28.04.183.2 Code of the City of Wichita to permit the establishment of of an automobile rental business in the "LC" Light Commercial District.

GENERAL LOCATION: On the south side of Kellogg between Dellrose and Pershing (4629 East Kellogg).

ZONING: Subject property is zoned the "LC" Light Commercial District as is the property to the north and east. To the north is "A" Two-family Dwelling District and to the west is "BB" Office District and the "A" Two-family Dwelling District. To the south are the "A" Two-family and the "RB" Four-family Dwelling Districts.

LAND USE: Subject property is a mixed use commercial center as is the property to the east. To the west is a dental office and to the north are one and two-family dwellings. To the south are one-family dwellings and an off-street parking lot granted by the BZA.

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 in order to legally establish an automobile rental business that has been cited by Central Inspection as a violation of the "LC" Light Commercial District. It had apparently been in existence several months before being noticed that no approval had been obtained through the Board of Zoning Appeals as is required by Section 28.04.183.2 of the Zoning Ordinance.

The applicant has recently received approval for a change in zoning from the "RB" Four-family Dwelling District to "LC" Light Commercial for the area adjacent to Oliver and south of Kellogg. This is for an area that has been graveled and used for off-street parking in violation of the zoning regulations. In addition, the applicant has been storing the rental vehicles in the "A" Two-family Dwelling District on the west side of Dellrose that is regulated by a BZA Resolution for the use as an off-street parking lot only.

This case was first considered by the Board of Zoning Appeals on August 27, 1985 but was deferred indefinitely until a decision was made on the zoning change applications. At the time the applicant first filed this request, it was proposed that only eight vehicles would be stored on the property, and be located in the area north of the use in the "LC" Light Commercial District. Although the applicant has not indicated the number of vehicles that will be maintained at this location, any approval should include some limitation.

This office has observed on numerous occasions a large number of vehicles stored on the property. In fact, on Sunday, April 13, 1986 at 11:00 a.m., there were 24 vehicles stored in the "A" zoning district, and 9 vehicles parked in the area north of the building in the "LC" Light Commercial District.

On April 10, 1986, the applicant's agent came to the Planning Department and requested that the application be amended to only include the area included in Perdel Addition which excludes the area recently approved for "LC" Light Commercial subject to platting. This would now return the application to the same proposal that was presented on August 27, 1985 that was deferred pending the consideration of the associated zone case on South Oliver.

It is the Secretary's opinion that unless the applicant can show that he has a storage lot that is located in the proper zoning district and has been approved for occupancy, then this request should be denied. To approve this request without such approval would only compound the enforcement problem for Central Inspection that has not had the cooperation of the applicant.

RECOMMENDATION:

It is the recommendation of the Secretary that the use as proposed is inappropriate at this location and the application be denied. Should the Board determine that the use be approved at this location, then it is the recommendation that additional information on the number of vehicles owned by the business be provided and that a site plan showing the storage area be provided for review prior to a final decision being made.

BZA CASE NO. 45-85

<u>2</u>	NOTICES SENT TO APPLICANT/AGENT
<u>15</u>	LEGAL ADVERTISEMENT SENT TO MAPC & BZA
<u>1</u>	NOTICES SENT TO CPO
<u>26</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>29</u>	TOTAL NOTICES SENT <u>3/27/86</u>

BOARD OF ZONING APPEALS
Tenth Floor - City Hall
455 North Main, Wichita, Kansas 67202

MARCH 27, 1986

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 45-85

As required by law, all property owners of record, within 200 feet of a property to be considered for an exception or variance by the Board of Zoning Appeals, are to be notified of the public hearing. An application has been filed by Donald Walenta, 4635 E. Kellogg, Wichita, Kansas requesting an exception.

Pursuant to Section 2.12.590.C, of the Code of the City of Wichita, the applicant is requesting an exception to permit the establishment of an automobile rental business on property zoned the "LC" Light Commercial District. A legal description of the applicant's property is as follows:

Lots 1 and 2, Purdel Addition to Wichita, Sedgwick County, Kansas, AND the North eleven feet of Lot 26, and all of Lots 27 and 28, Kellogg Heights Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of Kellogg between Dellrose and Pershing and on the west side of Oliver and south of Kellogg.

This application has been assigned Case No. BZA 45-85. It will be considered by the Board of Zoning Appeals on April 22, 1986 at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested exception, you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, either in person or by agent or attorney.

It should be noted that the Citizen Participation Organization Area Council may consider this case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Glen E. Lytle
Assistant Secretary

BOARD OF ZONING APPEALS

CASE NO. 45-85

CITY OF WICHITA, KANSAS

FILED _____

AMENDED
APPLICATION FOR EXCEPTION

- I. Name of Applicant DONALD VALENTA
Mailing Address 4635 E. KELLOGG Phone 685-1346
⁶⁷²⁰¹
Name of Authorized Agent JAMES R. SCHAEFFER
Mailing Address 400 N. WOODLAWN, Suite 205 Phone 685-3200
⁶⁷²⁰¹
Relationship of applicant to property is that of OWNER
(Owner, Tenant, Lessee, Other)

II. Application is made for an exception as provided in Section 2.12.590.C, Code of the City of Wichita, Kansas, to permit the establishment of an automobile rental business

_____ on property zoned "LC"
located on the south side of Kellogg and west of Oliver and legally
described as: See attached Exhibit "A"

_____, in
the City of Wichita.

III. The applicant herein, or his authorized agent, acknowledges:

- That he has received an instruction sheet concerning the filing and hearing of this matter;
- That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 39-285); and that the appropriate fee is herewith tendered;
- That all documents are attached hereto as noted in paragraphs 2, 3, and 4 of the instructions;
- That he has been advised of his right to bring action in the District Court of Sedgwick County to appeal the decision of the Board.

Applicant Donald Valenta

Authorized Agent James R. Schaeffer

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 10:00 (a.m.), MARCH 4, 1986
together with appropriate fee of (Pd July 23, 1985 w/orig. applic.)

Signed [Signature]

EXHIBIT "A"

Property location: The property is located on the South side of Kellog between Pershing and Dellrose Avenues, and on the Southwest corner of Oliver and Highland Lane.

Legal Description: (1) Lots 1 and 2, PURDEL ADDITION to Wichita, Kansas.

AND

(2) The North eleven (11) feet of Lot Twenty-six (26), and all of Lots Twenty-seven and Twenty-eight (27, 28), Block One (1), KELLOGG HEIGHTS ADDITION to Wichita, Sedgwick County, Kansas.

OWNERSHIP LIST

Lot	Block	Addition	Property Owner
Lots 1-10, inclusive	Block 1	Kellogg Heights Addition	✓ Donald J. Walenta 7918 Dublin Ct. Wichita, KS 67206
Lot 11 & the North 5 feet of Lot 12	Block 1	"	Same As Above
The South 45 feet of Lot 12 and the North 10 feet of Lot 13	Block 1	"	✓ Don Schwartz Mildred A. Schwartz 522 S. Dellrose Wichita, KS 67218
The South 40 feet of Lot 13 & the North 20 feet of Lot 14	Block 1	"	✓ Donald J. Walenta 7918 Dublin Ct. Wichita, KS 67206
The South 30 feet of Lot 14 & the North 20 feet of Lot 15	Block 1	"	✓ Robert M. Love Dorothy M. Love 532 S. Dellrose Wichita, KS 67218
The South 30 feet of Lot 15 & the North 25 feet of Lot 16	Block 1	"	✓ Phil J. Taylor Victoria M. Taylor 538 S. Dellrose Wichita, KS 67218
The South 25 feet of Lot 16 and the North 30 feet of Lot 17	Block 1	"	✓ Aurelio R. Aguilera Angela G. Aguilera 544 S. Dellrose Wichita, KS 67218
The North 17 feet of Lot 22 & the South 36 feet of Lot 23	Block 1	"	✓ Warren E. Jackson True M. Jackson 2380 S. Volutsia Wichita, KS 67211
The North 13 feet of Lot 24 & the South 38 feet of Lot 25	Block 1	"	Harley Schnell Hazel O. Schnell Address Unknown Affidavit of Notice of Interest: ✓ Donald Walenta 7918 Dublin Ct. Wichita, KS 67206
The North 12 feet of Lot 25 & the South 39 feet of Lot 26	Block 1	"	✓ Billy R. Rogers Bonnie L. Rogers 531 S. Oliver Wichita, KS 67218

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
The North 11 feet of Lot 26 and all of Lots 27 & 28	Block 1	Kellogg Heights Addition	✓ Donald Walenta 7918 Dublin Ct. Wichita, KS 67206
Lots 4 and 5 and the North 10 feet of Lot 6	Block 2	"	Same As Above
The South 40 feet of Lot 6 and the North 15 feet of Lot 7	Block 2	"	✓ F. E. "Buster" Tipton 156 S. Ridgewood Wichita, KS 67218
The South 35 feet of Lot 7 and the North 20 feet of Lot 8	Block 2	"	✓ Michael A. Rump 531 S. Dellrose Wichita, KS 67218
The North 4 feet of Lot 17 and all of Lot 18 & the South 20 feet of Lot 19	Block 2	"	✓ W. T. Bowker Edith M. Bowker 1302 Stackman Dr. Wichita, KS 67203
The North 30 feet of Lot 19 and the South 45 feet of Lot 20	Block 2	"	✓ Francis H. Talbott Katharyn Talbott 522 S. Pershing Wichita, KS 67218
The North 5 feet of Lot 20 and all of Lot 21	Block 2	"	✓ John M. Owen Ilene Louise Owen 518 S. Pershing Wichita, KS 67218
Lots 1 & 2		Perdel Addition	✓ Donald Walenta 7918 Dublin Ct. Wichita, KS 67206
Lot 1		Walenta Addition	✓ Lynn Lowry Myrtle Lowry 115 S. Rutan Wichita, KS 67218
Lot 1		DeWitt 2nd Addition	✓ Cedar Village, Inc. 338 S. Morningside Wichita, KS 67207
Reserve A		Eilerts Addition	Richard Eilerts Samson Address Unknown AND ✓ Keith R. Eilerts Lydia W. Eilerts 23 Beech Road Wichita, KS 67206

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
Lot 2	Block 2	Lincoln Heights 2nd Addition	Margaret B. Ash Address Unknown Affidavit of Notice of Interest: Dean O. Mason Corlie O. Mason ✓ 4529 E. Kellogg Wichita, KS 67218
Lot 4	Block 2	"	Dean O. Mason ✓ Corlie O. Mason 4529 E. Kellogg Wichita, KS 67218
Lot 6	Block 2	"	✓ Donna E. Luetters 513 S. Pershing Wichita, KS 67218
Lot 8	Block 2	"	✓ Los Geraldine Chance 519 S. Pershing Wichita, KS 67218
Lot 10	Block 2	"	Charles W. Cox Helen H. Cox ✓ 525 S. Pershing Wichita, KS 67218
Lot 12	Block 2	"	Richard Steven Fresh ✓ Regina Sue Fresh 527 S. Pershing Wichita, KS 67218
Lot 14	Block 2	"	✓ Philip A. Garrison Sue Ann Garrison 533 S. Pershing Wichita, KS 67218
Lot 9	Block 11	Lincoln Heights Addition	DeAnn Hatfield Conservator of ✓ Jennifer Hatfield 461 S. Pershing Wichita, KS 67218
Lot 9	Block 12	"	College Hill Dental ✓ Building, a ltd. partnership 4624 E. Kellogg Wichita, KS 67218
Beginning at the SE/c of Lot 10, Block 12; th. West along the North line of Kellogg Ave. 52 feet; th. North 80 feet to a point 48 feet West of the East line of Lot 10; th. NE'ly 29.58 feet more or less to a point 47 feet South and 24 feet West of the NE/c of Lot 10; th. North 47 feet to the North line of Lot 10; th. East 24 feet to the NE/c of Lot 10; th. South 144.26 feet more or less to p.o.b.	"	Robert E. McFarlane ✓ Fern I. McFarlane 337 S. Dellrose Wichita, KS 67218 AND ✓ Joye D. McFarlane 4616 E. Kellogg Wichita, KS 67218	

Lot	Block	Addition	Property Owner
<p>Part of Lots 10 & 11, Block 12, described as beginning at a point 48 feet West of the NE/c of Lot 10, Block 12; th. South parallel to the East line 45 feet; th. in a SW'ly direction 28.5 feet more or less to a point 76 feet West and 50 feet South of the NE/c of Lot 10; th. West parallel to the North line of Lot 11, 40 feet; th. in a SW'ly direction 52.25 feet more or less to a point on the East line of Pershing Ave., said point being 85 feet SE'ly from the NW/c of Lot 11; th. SE'ly along the E'ly line of Pershing Ave. 106.5 feet more or less to the SW'c of Lot 10; th. East 26.4 feet; th. North 80 feet to point 48 feet West of the East line of said Lot 10; th. NE'ly 29.58 feet more or less to a point 47 feet South and 24 feet West of the NE/c of Lot 10; th. North parallel with the East line of Lot 10, 47 feet to the North line of Lot 10; th. West 24 feet to p.o.b.</p>		<p>Lincoln Heights Addition</p>	<p>Garry O. Carson 1510 Todd Place Wichita, KS 67207</p>
<p>Part of Lot 11, Block 12, described as follows: Beginning at a point 48 feet West of the NE/c of Lot 10, Block 12; th. South parallel with the East line of said Lot 10, 45 feet; th. in a SW'ly direction 28.5 feet, more or less, to a point 76 feet West and 50 feet South of the NE/c of said Lot 10; th. West parallel with the North line of Lot 11, 40 feet; th. in a SW'ly direction 52.25 feet, more or less, to a point on the East line of Pershing Ave., said point being 85 feet SE'ly from the NW/c of said Lot 11; th. NW'ly along the East line of Pershing Ave., as platted in said Addn., 85 feet, to the NW/c of said Lot 11; th. East 137 feet to p.o.b.</p>		<p>"</p>	<p>Vicky J. Howard AND Kerin K. Edelman 460-462 S. Pershing Wichita, KS 67208</p>

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
The South 150 feet of the West 125 feet of Block 14		Lincoln Heights Addition	✓ City of Wichita 455 N. Main Wichita, KS 67202

We hereby certify the foregoing to be a true and correct list of the property owners of the hereinbefore described lots within a 200 foot radius of:

Lots 1 and 2, Perdel Addition, Wichita, Kansas,
Sedgwick County, Kansas.

and

The North 11 feet of Lot 26 and all of Lots
27 and 28, Block 1, Kellogg Heights Addition to
Wichita, Kansas, Sedgwick County, Kansas.

as shown by the last deed of record on file in the Office of the Register of Deeds, Sedgwick County, Kansas, on the 26th day of February, 1986, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

Mary Gable

By

Sr. Vice-President

THE CITY OF WICHITA

OFFICE OF Citizen Participation DATE August 27, 1985

TO Glen Lytle, Special Assistant for Zoning

FROM Shirley Mast, Administrative Aide III

SUBJECT BZA 45-85: South side of Kellogg
 between Dellrose and Pershing -
 4629 East Kellogg

CPO Council "C" considered the captioned case at its August 26th meeting and voted 7-0 to recommend that Case BZA 45-85 be deferred until the City Commission makes a final decision on zone change request Z-2697.

The applicant and agent were present and discussed the case with the Council. No adjoining property owners or area residents were present concerning the case.

Please provide the Council's recommendation to the Board of Zoning Appeals when the case is considered at the August 27th meeting.


Shirley Mast
Administrative Aide III

SM:dm

RECEIVED
AUG 27 1985
METROPOLITAN PLANNING
ROUTE _____

August 28, 1985

James R. Schaefer, Attorney
105 South Broadway
Wichita, Ks. 67202

Re: BZA 45-85 - Request for Exception

Dear Mr. Schaefer:

The Board of Zoning Appeals on August 27, 1985, considered the above-captioned request. At your request, it was the action of the board to defer this case until the Board of City Commission considers an associated case on Oliver. Pending the outcome of that case, it is my understanding that you may amend this application.

If you have any questions, please contact us.

Sincerely,

Jack H. Galbraith
Chief Planner

JHG:sad

cc: Donald Walenta, 4635 E. Kellogg, Wichita 67218
Enterprise Leasing, 4629 E. Kellogg, Wichita 67218
William L. Korber, 330 Laura, Wichita 67211

THE CITY OF WICHITA

OFFICE OF Citizen Participation DATE August 27, 1985

TO Glen Lytle, Special Assistant for Zoning

FROM Shirley Mast, Administrative Aide III

SUBJECT BZA 45-85: South side of Kellogg
between Dellrose and Pershing -
4629 East Kellogg

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Shirley Mast
Shirley Mast
Administrative Aide III

SM:dm

RECEIVED
AUG 27 1985
METROPOLITAN PLANNING
ROUTE _____

RE: AGENDA ITEM NO. 3

SECRETARY'S REPORT CASE NO. BZA 45-85

APPLICANT: Donald Walenta, 4635 East Kellogg, and Enterprise Leasing, 4629 East Kellogg, Wichita, Kansas.

AGENT: William L. Korber, 330 Laura, Wichita, Kansas.

REQUEST: Exception pursuant to Section 28.04.183.2, Code of the City of Wichita to permit the establishment of an automobile rental business in the "LC" Light Commercial District.

GENERAL LOCATION: On the south side of Kellogg between Dellrose and Pershing (4629 East Kellogg).

ZONING: Subject property is zoned the "LC" Light Commercial District as is the property to the east. To the south and north is "A" Two-family Dwelling District and to the west is "BB" Office District.

LAND USE: Subject property is a mixed use commercial center as is the property to the east. To the west is a dental office and to the north are one and two-family dwellings. To the south are one-family dwellings and an off-street parking lot granted by the BZA.

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 28.04.183.5 can be complied with.

COMMENTS BY THE SECRETARY:

The applicant is requesting an exception in order to legally establish an automobile rental business that has been cited by Central Inspection as a violation of the "LC" Light Commercial District. It had apparently been in existence several months before being noticed that no approval had been obtained through the Board of Zoning Appeals as is required by Section 28.04.183.2 of the Zoning Ordinance.

The applicant is requesting that the use be granted provided only eight vehicles will be stored on the property at any time. The eight vehicles stored would be for the eight parking spaces that are located on the property that exceed the number of spaces required by the ordinance. It should be noted that at times there have been far in excess of this number located on the property, and at times, many have been stored on the lot to the south located in the "A" Two-family Dwelling District. The Secretary has asked where the vehicles in excess of the eight will be stored and this information has not been furnished. It would appear that the business has not been properly located to date, and to approve the location for a rental business without knowledge that a storage lot to accommodate the excess vehicles is in existence.

It should be noted that the owners of the property had recently filed two separate zoning change requests for properties to the south and east, and there has been strong neighborhood opposition. It is also the Secretary's opinion that to introduce a use into the area that includes outdoor storage is inappropriate, particularly when a recent zoning change one block to the west was denied the "OC" Office Commercial District.

RECOMMENDATION:

It is the recommendation of the Secretary that the use as proposed is inappropriate at this location and the application be denied. Should the Board determine that the use be approved at this location, then

additional information on the number of vehicles owned by the business and the location of the storage area for vehicles exceeding the eight to be permitted on the property should be furnished. Should this include additional property requested to be zoned for the use, then this case should be deferred until the final approval by the City Commission on the zone change request.

BZA CASE NO. 45-85

<u>3</u>	NOTICES SENT TO APPLICANT/AGENT
<u>10</u>	LEGAL ADVERTISEMENT SENT TO MAPC
<u>1</u>	NOTICES SENT TO CPO
<u>19</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>23</u>	TOTAL NOTICES SENT <u>8-7-85</u>

BOARD OF ZONING APPEALS
Tenth Floor - City Hall
455 North Main, Wichita, Kansas 67202

August 7, 1985

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 45-85

As required by law, all property owners of record, within 200 feet of a property to be considered for an exception or variance by the Board of Zoning Appeals, are to be notified of the public hearing. An application has been filed by Donald Walenta, 4635 East Kellogg, Wichita, Kansas, and Enterprise Leasing, 4629 East Kellogg, Wichita, Kansas, requesting an exception.

Pursuant to Section 2.12.590.C, of the Code of the City of Wichita, the applicant is requesting an exception to permit the establishment of an automobile rental agency on property zoned the "LC" Light Commercial District. A legal description of the applicant's property is as follows:

Lots 1 and 2, Perdel Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of Kellogg between Delirose and Pershing (4629 East Kellogg).

This application has been assigned Case BZA 45-85. It will be considered by the Board of Zoning Appeals on August 27, 1985 at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested exception, you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, either in person or by agent or attorney.

It should be noted that the Citizen Participation Organization Area Council may consider this case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS

CASE NO. 45-85

CITY OF WICHITA, KANSAS

FILED 7-23-85

APPLICATION FOR EXCEPTION

I. Name of Applicant Donald Walenta 4635 E. Kellogg 685-1345 (Owner)
Enterprise Leasing 4629 E. Kellogg (Lessee)

*also
James R. Schuyler
105 S. B. Burt
Le 7202*

Mailing Address _____ Phone _____

Name of Authorized Agent William L. Korber

Mailing Address 330 Laura Phone 262-7271

Relationship of applicant to property is that of Owner & Lessee
(Owner, Tenant, Lessee, Other)

II. Application is made for an exception as provided in Section 2.12.590.C,

Code of the City of Wichita, Kansas, to permit the establishment of
Automobile Rental Agency

on property zoned LC
on the south side of Kellogg between Dellrose and Pershing
located (4629 E. Kellogg)

and legally described as: Lots 1 & 2, Perdel Addition
to Wichita, Sedgwick County, Kansas

_____, in the City of Wichita.

III. The applicant herein, or his authorized agent, acknowledges:

- a. That he has received an instruction sheet concerning the filing and hearing of this matter;
- b. That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 36-596); and that the appropriate fee is herewith tendered;
- c. That all documents are attached hereto as noted in paragraphs 2, 3, and 4 of the instructions;
- d. That he has been advised of his right to bring action in the District Court of Sedgwick County to appeal the decision of the Board.

Applicant Donald Walenta

Authorized Agent William L. Korber

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals,
4:10 (a.m./p.m.), July 23, 1985, together with
appropriate fee of 200.00.

Signed [Signature]

O W N E R S H I P L I S T

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
Lots 1 & 2		Perdel Addition	✓ Donald Walenta 7918 Dublin Ct. Wichita, KS 67206
Lots 5, 6, 7, 8, 9, 10, 11 and the North 5' of Lot 12	Block 1	Kellogg Heights Addition	✓ Donald J. Walenta 7918 Dublin Ct. Wichita, KS 67206
South 45' of Lot 12 & the North 10' of Lot 13	Block 1	"	✓ Don Schwartz Mildred A. Schwartz 522 S. Dellrose Wichita, KS 67218
South 40' of Lot 13 and the North 20' of Lot 14	Block 1	"	✓ Donald J. Walenta 7918 Dublin Ct. Wichita, KS 67206
Lots 27 & 28	Block 1	"	Same As Above
Lots 4, 5 and the North 10' of Lot 6	Block 2	"	Same As Above
South 40' of Lot 6 and the North 15' of Lot 7	Block 2	"	✓ Laurie A. Kitchens 525 S. Dellrose Wichita, KS 67218
South 35' of Lot 7	Block 2	"	✓ Michael A. Rump Brenda Spreir Rump 531 S. Dellrose Wichita, KS 67218
Lot 18 and the South 20' of Lot 19	Block 2	"	✓ W. T. Bowker Edith M. Bowker c/o N. Meier 907 N. Broadway Wichita, KS 67214
North 30' of Lot 19 and the South 45' of Lot 20	Block 2	"	✓ Francis H. Talbott Katharyn Talbott 522 S. Pershing Wichita, KS 67218
Lot 21	Block 2	"	✓ John M. Owen Ilene Louise Owen 518 S. Pershing Wichita, KS 67218
Lot 2 except the North 2' for street	Block 2	Lincoln Heights 2nd Addition	✓ Margaret B. Ash 221 S. Oliver Wichita, KS 67218 Escrow Agreement: Dean O. Mason ✓ Corlie O. Mason 4529 E. Kellogg Wichita, KS 67218

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
Lot 4	Block 2	Lincoln Heights 2nd Addition	Dean O. Mason Corlie O. Mason 4529 E. Kellogg Wichita, KS 67218
Lot 6	Block 2	"	Donna E. Luetters 513 S. Pershing Wichita, KS 67218
Lot 8	Block 2	"	Geraldine Chance 519 S. Pershing Wichita, KS 67218
Lot 10	Block 2	"	Charles W. Cox Helen H. Cox 525 S. Pershing Wichita, KS 67218
Lot 12	Block 2	"	Richard Steven Fresh a/k/a Richard S. Regina Sue Fresh 527 S. Pershing Wichita, KS 67218
Lot 14	Block 2	"	Philip A. Garrison Sue Ann Garrison 533 S. Pershing Wichita, KS 67218
Lot 9 except the West 30' thereof.	Block 11	Lincoln Heights Addition	DeAnn Hatfield Conservator of the Estate of Jennifer Hatfield 461 S. Pershing Wichita, KS 67218
Lot 9	Block 12	"	Bard, Inc. Address Unknown
Beginning at the SE/c of Lot 10; th. West along the North line of Kellogg Ave. 52'; th. North 80' to a point 48' West of the East line of Lot 10; th. NE'y 29.58' more or less to a point 47' South and 24' West of the NE/c of Lot 10; th. North 47' to the North line of Lot 10; th. East 24' to the NE/c of Lot 10; th. South 144.26' to p.o.b.	"	Robert E. McFarlane Fern I. McFarlane 10533 Lynndale Wichita, KS 67209 AND Joye D. McFarlane 4616 E. Kellogg Wichita, KS 67218	

Address of
Richard E. McFarlane
Do not own property
in the area
Cited 8-7-85

Lot	Block	Addition	Property Owner
Beginning at a point 48' West of the NE/c of Lot 10, Blk. 12, th. South parallel with the East line of said Lot 10, 45 feet; th. in a SW'ly direction 28.5' more or less to a point 76' West and 50' South of the NE/c of said Lot 10; th. West parallel with the North line of Lot 11 in said Blk. 12, 40'; th. in a SW'ly direction 52.25' more or less to a point on the East line of Pershing Ave. as platted in said addition, said point being 85' SE'ly from the NW/c of Lot 11; th. in a SE'ly direction along the E'ly line of Pershing Ave., 106.5' more or less to the SW/c of said Lot 10; th. East 26.4'; th. North 80', to a point 48' West of the East line of said Lot 10; th. in a NE'ly direction 29.58' more or less to a point 47' South and 24' West of the NE/c of said Lot 10; th. North parallel to the East line of said Lot 10, 47' to the North line of said Lot 10; th. West 24' to p.o.b.		Lincoln Heights Addition	Garry O. Carson 1510 Todd Place Wichita, KS 67207
Part of Lot 11, Blk. 12 desc. as follows: Beg. at a point 48' West of the NE/c of Lot 10, Blk. 12; th. South parallel with the East line of said Lot 10, 45'; th. in a SW'ly direction 28.5', more or less, to a point 76' West and 50' South of the NE/c of said Lot 10; th. West parallel with the North line of Lot 11, 40'; th. in a SW'ly direction 52.25', more or less, to a point on the East line of Pershing Ave., said point being 85' SE'ly from the NW/c of said Lot 11; th. NW'ly alg. the East line of Pershing Ave., as platted in said Addn., 85', to the NW/c of said Lot 11; th. East 137' to p.o.b.		"	Vicky J. Howard Kerin K. Edelman 460 S. Pershing Wichita, KS 67218
South 150' of the West 125' of Block 14		"	City of Wichita 455 N. Main Wichita, KS 67202

Book slip

Page 4

We hereby certify the foregoing to be a true and correct list of the property owners of the hereinbefore described lots within a 200 foot radius of:

Lots 1 and 2, Perdel Addition, Sedgwick County, Kansas.

as shown by the last deed of record on file in the Office of the Register of Deeds, Sedgwick County, Kansas, on the 17th day of July, 1985, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

Mary Gable

By Sr. Vice-President

Order No: 348909
nj

MICROFILMED
 FROM THE BEST
 AVAILABLE COPY

FORM 2 21

PAYMENT NOTICE
 City of Wichita

Bldg.	Use of Str.	Code Bks	Copies
Elec	Elev. Insp.	Hse Movin.	Lic.
Mech	Boiler Insp.	Pav. Cuts	Cert.
Pibg	Exam Fees	Sewer	Elev.
Signs	Plan Rev. (P.W.)	Cement	M.S.P.

Planning

DESCRIPTION	AMOUNT
CITY WA EXCESS	200 ⁰⁰
NAME LAUNCHER CO.	
ADDRESS 170 LAURA	
FUND 155-40710-00	DUE DATE
COMMENTS	
DATE JULY 23, 1945	BY [Signature]

*

This BZA. Case
Has a Large Drawing
On 35mm Microfilm

Roll # 2