

POSTED  
1-10-78  
*[Signature]*

ACTION

DATE 1-24-78  
*Deemed*  
*Withdrawn*  
*& Closed*

BZA 54-77 COMMITTEE

~~DATE~~

B.C.C./B. CO. C. \_\_\_\_\_

Case No. BZA 54-77 - STEPHEN F. DAVIS requests an exception to permit the establishment of a used car lot for one car only on property generally located at the southwest corner of Seneca and



~~XXXXXXXXXXXXXXXXXXXX~~  
~~XXXXXXXXXXXXXXXXXXXX~~

Tenth Floor, City Hall  
455 N. Main Street

March 1, 1978

Mr. Dennis Shay  
Attorney-at-Law  
200 West Douglas  
Wichita, Kansas 67202

Re: Case No. BZA 54-77  
Request for an Exception

Dear Mr. Shay:

We are in receipt of your letter withdrawing the above-captioned case. The Board of Zoning Appeals received and filed your letter, and closed the case.

Sincerely yours,

Larry Dobson  
Assistant Secretary

LD:bh

cc: Stephen Davis, 420 Cheryl, 67209  
Don Gisick, City Clerk  
Robert Feldner, Supt., Central Inspection  
Joe Donnelly, Housing & Zoning Administrator

*Dobson*

**SMITH, SHAY, FARMER & WETTA**

ATTORNEYS AT LAW  
830 OLIVE W. GARVEY BUILDING  
200 WEST DOUGLAS  
WICHITA, KANSAS 67202

TELEPHONE  
(316) 267-5293

PAUL V. SMITH (909-1976)  
DOUGLAS E. SHAY  
WILLIAM C. FARMER  
LEO R. WETTA  
JACK FOCHT  
DENNIS E. SHAY  
ROGER D. HUGHEY  
JACK PEGGOS  
EDWARD J. HUND  
ROBERT C. BROWN  
CLARK V. OWENS II  
MARK WETTA

February 22, 1978

Mr. Larry Dobson  
Assistant Secretary  
Metropolitan Area Planning Dept.  
City Hall - Tenth Floor  
455 North Main Street  
Wichita, Kansas 67202

Re: Case No. BZA 54-77  
Our Client - Stephen F. Davis

Dear Mr. Dobson:

Please be advised that the applicant wishes to withdraw his request for exception in connection with the above referenced matter.

Very truly yours,

SMITH, SHAY, FARMER & WETTA

By *Dennis E. Shay*  
Dennis E. Shay

DES:as

cc: Mr. Stephen F. Davis

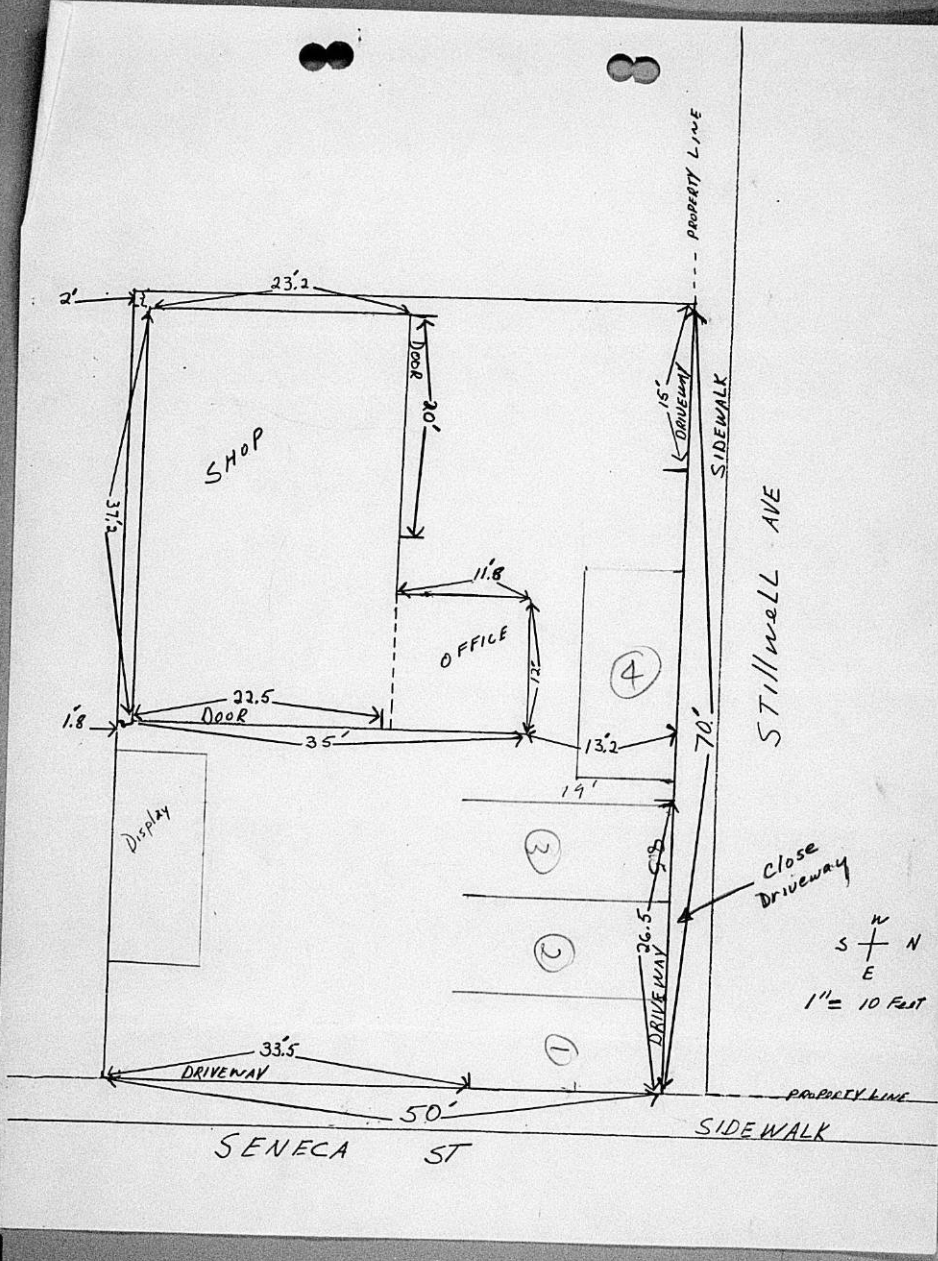


ADDITIONAL COMMENTS - BZA 54-77

The Secretary is still recommending denial of this case as detailed to the Board in the original staff report. However, it was brought up at the previous hearing of this case that suggested conditions of approval should be provided in the event the Board approves the request.

The following is a list of conditions the Secretary suggests as conditions of approval, should that be the Board's action:

1. A 5 to 6 foot solid fence constructed of rough sawed cedar or redwood shall be erected along the entire west property line.
  2. All storage and display areas shall be paved with concrete, asphalt, or other comparable material.
  3. The east driveway on Stillwell shall be closed and the curb returned prior to this Resolution becoming effective.
  4. All lights shall be shielded to reflect or direct light away from adjoining property. No string-type lighting shall be permitted.
  5. Any sign shall conform to the requirements of Section 28.04.139 of the City Code.
  6. No sound projecting devices or loudspeakers shall be used so as to be heard outside of any structure.
  7. No repair work shall be conducted except in an enclosed building, and further provided that no body or fender work is done.
  8. The outdoor display of cars for sale shall be limited to one automobile. Any violation of this condition shall result in the voiding of this exception upon written notice to the applicant by the Office of Central Inspection.
  9. The exception shall apply to this applicant only. If the property is later sold or leased to any other parties, this resolution shall become null and void.
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THE CITY OF WICHITA  
OFFICE OF CITIZEN PARTICIPATION

DATE January 23, 1978



TO Larry Dobson, Secretariat to Board of Zoning Appeals

FROM Sarah Gilbert, CPO Administrative Aide

SUBJECT BZA 54-77 (Southwest Corner of  
Seneca and Stillwell)

At the January 19 meeting of CPO Council, Area "0", the Council reviewed the MAPD Secretary's Report on the above case and discussed phone calls from surrounding residents concerned about increased traffic. Although the Council sympathized with these concerns, they also felt that a used car lot would be compatible with the neighborhood, and the discussion ended with a moot vote.

Please advise the BZA of the Council's discussion when the case is discussed on January 24.

Thank you.

*Sarah Gilbert*  
Sarah Gilbert  
CPO Administrative Aide

SG:sm

Noted:

*David L. Furnas*  
David Furnas  
Citizen Participation Coordinator



January 25, 1978

Dennis E. Shay  
200 West Douglas  
Wichita, Kansas 67202

Re: Case No. BEA 54-77  
Request for Exception:

Dear Mr. Shay:

At the regular meeting of the Board of Zoning Appeals on January 24, 1977, your request for an exception to permit the establishment of a used car lot for one car only on property zoned the "LC" Light Commercial District, and generally located at the southwest corner of Seneca and Stillwell (1201 S. Seneca) was considered.

No action was taken by the Board; therefore, the case will be considered at the regular meeting of the Board of Zoning Appeals on February 28, 1978.

If you have any questions, please call our office.

Very truly yours,

Larry Dobson  
Assistant Secretary

LD:bh

cc: Stephen F. Davis, 480 Cheryl, 67216  
Don Gisick, City Clerk  
Joe Donnelly, Housing & Zoning Officer  
Robert Feldner, Supt., Central Inspection

SECRETARY'S REPORT  
CASE NO. BZA 54-77

APPLICANT: Stephen F. Davis, 420 Cheryl, Wichita, Kansas.

AGENT: Dennis E. Shay, 200 W. Douglas, Wichita, Kansas.

REQUEST: Exception pursuant to Section 2.12.590.C, Code of the City of Wichita to permit the establishment of a used car lot on property zoned "LC" Light Commercial.

GENERAL LOCATION: Southwest corner of Seneca and Stillwell (1201 S. Seneca).

LAND USE: Subject property is developed with an automotive repair garage. North is an income tax business. West is a single family home. South is a palm reading parlor. East is the Sedgwick County Maintenance Yard.

ZONING: Subject property is zoned the "LC" Light Commercial District as are properties to the west and south. North is the "RB" Four Family Dwelling District. East is the "E" Light Industrial District.

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 permit the sale of used cars on subject property in association with an already established automotive repair business being operated on the property.

Subject property is a small 50 x 70 foot corner lot located at the southwest corner of Seneca and Stillwell, with a converted service station being utilized for the auto repair business.

New and used car sales lots are not outright permitted uses in the "LC" District, but may be permitted as exceptions by the Board of Zoning Appeals, subject to conditions and requirements outlined in the zoning ordinance. The reason for this is that car sales lots are not considered to be an appropriate use for every light commercial area in the City. The vast majority of car lots have been established as highway oriented uses, where there are usually compatible uses such as mobile home sales, boat sales, motorcycle sales and

SECRETARY'S REPORT  
Case No. BZA 54-77  
Page 2

other heavier commercial uses located. Basically these uses are located on north and south Broadway and east and west Kellogg.

This general area along south Seneca contains an assortment of uses and zoning districts ranging from the County Yard on "E" Light Industrial zoning across the street east of subject property to Single Family homes developed on the "KB" Four Family Dwelling District in the block immediately north of subject property.

The applicant indicates that he wants to display only one vehicle for sale outside of the building and would display one other vehicle inside of the building. His site plan shows the proposed closing of one of the existing driveways in order to provide the required off-street parking. Location of the one outside display space is not firmly fixed but would probably be near the overhead door on the east side of the building.

RECOMMENDATION:

It is the opinion of the Secretary that the small size of the lot (50 x 70) feet) is not sufficient to properly handle the parking, circulation and display needs associated with the proposed car sales use as an accessory use to an already established automotive repair service. Such limited numbers of display spaces would probably result in enforcement problems as often car lots are observed that are crowded with overflow parking and storage occurring on streets. It has generally been the position of the Planning Department that used car lots should not be conducted with other businesses such as auto repair shops, as they generally are not compatible with either the other light commercial uses or the adjacent residential neighborhood. Therefore, it is recommended that the exception be denied.

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19 notices to adjoining property owners  
10 notices to MAPC members  
1 notice to CPO  
30 total notices sent on BZA 54-77, 12-29-77

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

December 29, 1977

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 54-77

An application has been filed by Stephen F. Davis, 420 Cheryl, Wichita, Kansas, pursuant to Section 2.12.590.C, Code of the City of Wichita, requesting an exception to permit the establishment of a used car lot on property zoned the "LC" Light Commercial District and legally described as follows:

Lots 1 and 2, except the west 70 feet thereof,  
Block 15, Replat of Part of John McCormick's  
Addition to Wichita, Sedgwick County, Kansas.  
Generally located at the southwest corner of  
Seneca and Stillwell (1201 S. Seneca).

This application has been assigned case No. BZA 54-77 and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, January 24, 1978, at 1:30 p.m., in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time you may appear if you so desire, 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.

Jack H. Galbraith  
Secretary

BOARD OF ZONING APPEALS  
CITY OF WICHITA, KANSAS

CASE NO. \_\_\_\_\_  
FILED \_\_\_\_\_

APPLICATION FOR EXCEPTION

I. Name of Applicant Stephen F. Davis  
Mailing Address 420 Cheryl (09) Phone 722-5367  
Name of Authorized Agent Dennis E. Shay  
Mailing Address 200 W. Douglas Phone 267-5293  
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 a used car lot for one car only  
\_\_\_\_\_ on property zoned  
light commercial, located at 1201 S. Seneca

\_\_\_\_\_ and legally described as: Lots 1 & 2  
Except the west seventy (70) feet thereof, Block 15 replat  
of part of John McCormicks Addition to Wichita, Sedgwick  
County, Kansas, 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. 24-606); 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 Stephen F. Davis

Authorized Agent Dennis E. Shay

OFFICE USE ONLY: Received in the office of the Secretary, Board of  
Zoning Appeals, 10:00 (a.m.) - p.m.), 12-23, 19 77,  
together with appropriate fee of \$50.00

Southwest corner of  
Seneca and Stillwell

Signed Larry Johnson

BOARD OF ZONING APPEALS  
WICHITA, KANSAS

EXCEPTION STATEMENT

I wish to inform you of our need to acquire a zoning exception in this matter.

I have recently purchased a small gas station located at 1201 S. Seneca. It was my plan to utilize this building as an automotive repair shop and a small used car dealership. Over the past three years my uncle, two childhood friends and I have operated this same business on property leased by us at 1711 S. Knight. Recently we have determined that the property is too expensive to retain the lease.

I therefore took it upon myself to help keep our small business operating and my friends employed. I found that I could substantially reduce expenses through the purchase of the property commonly known as 1201 S. Seneca. This property is currently zoned light commercial which is adequate for the auto repair shop. However, I am informed that this is not the appropriate zoning for a used car lot.

It is our belief, that although our property is small compared to most business, it is adequate and has much potential, provided that we are able to keep a minimum of two cars available for sale. In order to purchase these cars and price them competitively, it is imperative that we be able to purchase them at the local dealer's auto auction. This necessitates us being able to retain our current car dealers' license and dealers' tags. In order to keep the two dealers' tags assigned to us by the Division of Vehicles, it has been determined by that authority that we must have two display spaces. We intend to establish one display space inside the existing structure and maintain the other display space outside.

In order to accomplish this purpose, we find it necessary to petition this Board for an exception to the current existing light commercial zoning. We request that we be allowed to keep no more

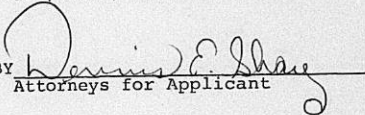
than one vehicle outside on this property at one time for the  
express purpose of resale.

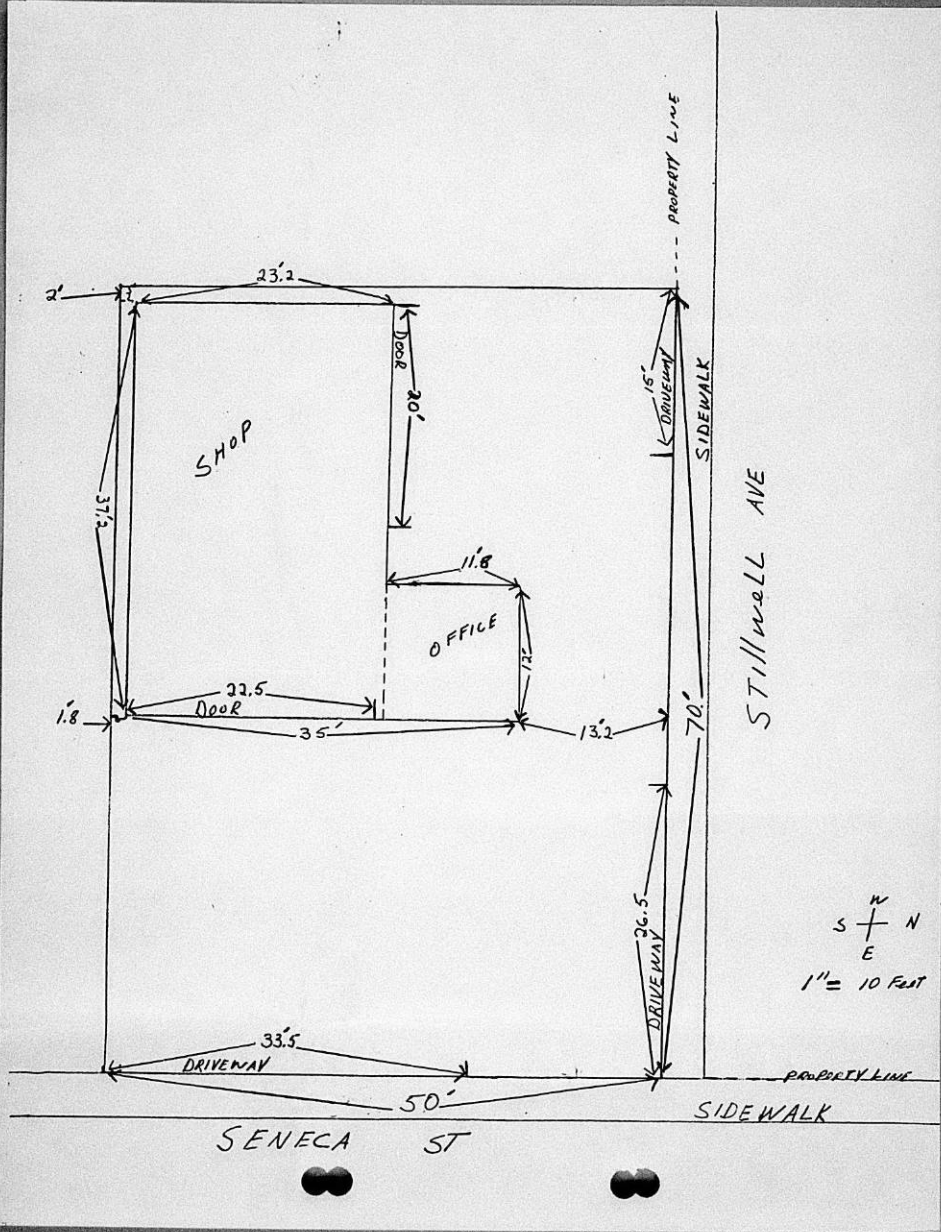
We believe the Board of Zoning Appeals has jurisdiction in  
the premises under Section 2.12.590C of the Code of the City of  
Wichita.

Respectfully submitted

Stephen F. Davis, applicant

SMITH, SHAY, FARMER & WETTA

BY   
Attorneys for Applicant



CERTIFICATE OF OWNERSHIP

REALTY TITLE CO., INC., hereby certifies the following to be a true and correct list of the property owners as shown by the last deeds of record in the Office of the Register of Deeds, Sedgwick County, Kansas, of:

Lots 1 and 2, except the West 70 feet thereof, Block 15, Replat of Part of John McCormick's Addition to Wichita, Sedgwick County, Kansas,

together with all real estate lying within a 200-foot radius thereof.

| <u>DESCRIPTION</u>                                 | <u>OWNERS AND ADDRESSES</u>                                                                  |
|----------------------------------------------------|----------------------------------------------------------------------------------------------|
| <u>REPLAT OF PART OF JOHN MCCORMICK'S ADDITION</u> |                                                                                              |
| <u>Block 15</u>                                    |                                                                                              |
| Lots 1 & 2, except the West 70 feet                | Stephen F. Davis<br>420 Cheryl<br>Wichita, Kansas 67209                                      |
| West 70 feet of Lots 1 and 2                       | Aylene Rupe Puls<br>Max L. Puls<br>1111 Stillwell<br>Wichita, Kansas 67213                   |
| Lot 18 and 19                                      | Delbert E. Porter<br>Pearl Maxine Porter<br>2255 Euclid<br>Wichita, Kansas 67213             |
| Lots 16 and 17                                     | Walter V. Payne<br>Margaret J Payne<br>1212 S. Elizabeth<br>Wichita, Kansas 67213            |
| Lots 14 and 15                                     | A. C. Meyer<br>Johanna Meyer<br>1217 Stillwell<br>Wichita, Kansas 67213                      |
| Lots 41 and 42<br>39 and 40                        | Goldie Vredenburg<br>Charles R. Vredenburg<br>1121 S. Dodge<br>Wichita, Kansas 67213         |
| Lots 9 and 10                                      | Jerry W. Westerman<br>1221 South Seneca<br>Wichita, Kansas 67213                             |
| Lots 5, 6, 7 and 8                                 | Frank L. Bartlett<br>Hazel L. Bartlett<br>812 South Vine<br>Wichita, Kansas 67213            |
| Lots 3 and 4                                       | Frederick Enterprises, Inc.<br>c/o Helen Marks<br>1205 South Seneca<br>Wichita, Kansas 67213 |

| DESCRIPTION | OWNERS AND ADDRESSES |
|-------------|----------------------|
|-------------|----------------------|

REPLAT OF PART OF JOHN  
McCORMICK'S ADDITION con't.

Block 14

|                |                                                                                       |
|----------------|---------------------------------------------------------------------------------------|
| Lot 8          | William G. Seaton<br>537 South St. Clair<br>Wichita, Kansas 67213                     |
| Lot 9 and 10   | H. W. Patterson<br>B. E. Patterson<br>1121 South Seneca<br>Wichita, Kansas 67213      |
| Lots 11 and 12 | Parmelia Mae Breth<br>c/o A. D. Brown<br>137 North St. Clair<br>Wichita, Kansas 67213 |
| Lot 13         | Hazel Mary Walters<br>1104 Stillwell<br>Wichita, Kansas 67213                         |

MARY McCORMICK'S 2ND

Block 3

|                |                                                                                     |
|----------------|-------------------------------------------------------------------------------------|
| Lots 39 and 40 | William W. Walters<br>Sherrel M. Walters<br>1128 St. Clair<br>Wichita, Kansas 67213 |
| Lots 41 and 42 | Hazel Mary Walters<br>1104 Stillwell<br>Wichita, Kansas 67213                       |

FRANKLIN YIKES ADDN.

Block 6

|                  |                                                                                                                                                                                      |
|------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Lots 18, 19 & 20 | Bernard J. Makoski<br>John C. Totten<br>Donald E. Ashley, Co-Trustees<br>under Trust Agreement dated<br>10/14/64, known as "Wichita<br>Trust"<br>501 Clara<br>Peoria, Illinois 61614 |
|------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Block 7

|                                   |                                                                    |
|-----------------------------------|--------------------------------------------------------------------|
| Lots 31 and 32                    | Sedgwick County<br>525 North Main<br>Wichita, Kansas 67202         |
| Lots 27, 28, 29 & 30              | Board of County Commissioners<br>525 North Main<br>Wichita, Kansas |
| Lots 21, 22, 23, 24,<br>25 and 26 | do                                                                 |
| Lot 20                            | Glenn V. Bartholomew<br>4415 West 10th<br>Wichita, Kansas 67212    |

DESCRIPTION

OWNERS AND ADDRESSES

MARY McCORMICK'S 2ND

Block 3

Lot 38

Herbert B. Clark  
Minnie L. Clark  
208 N. Martinson  
Wichita, Kansas 67203

✓  
*old record to 2939 W. Fairview*

Certified this 2nd day of August, 1977, 67217  
at 7:00 A.M.

REALTY TITLE CO., INC.

By *Linda Ayala*  
Linda Ayala Vice President

J3877

FORM 223-021

PAYMENT NOTICE  
City of Wichita

| Bldg. | Use of Str.          | Code Bks   | Copies |
|-------|----------------------|------------|--------|
| Elec  | Elev. Insp.          | Hse Moving | Lic.   |
| Mech  | Boiler Insp.         | Pav. Cuts  | Cert.  |
| Plbg  | Exam Fees            | Sewer      | Elev.  |
| Signs | Plan <del>Rev.</del> | Cement     | M.S.P. |

| DESCRIPTION               | AMOUNT         |
|---------------------------|----------------|
| BZA Exception Application | \$5000         |
| NAME                      | Dennis Shay    |
| ADDRESS                   | 1201 S. Seneca |
| FUND                      | AA 407103      |
| COMMENTS                  |                |
| DATE                      | 12-23-77       |
| BY                        | [Signature]    |

54-77

WICHITA - SEDGWICK COUNTY



BOARD OF ZONING APPEALS  
CITY HALL - TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202

*Better*



RETURN TO SENDER  
NOT DELIVERABLE AS ADDRESSED  
NO FORWARDING ORDER ON FILE  
CHISHOLM STA

Important  
Notice of Hearing  
Enclosed

*wrong Clarke, not here*

3939 W. FAIRHAVEN  
WICHITA, KS 67217

