CITY OF WICHITA

FILE COPY

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

February 7, 2005

Jim Collins
Starship Enterprises
914 E. Douglas
Wichita, KS 67202

**RE: BZA2004-00094 – Variances to reduce the parking requirement from 29 spaces to 7 spaces, to waive the screening requirement, and to waive the landscaping requirements. Generally located at the northwest corner of Douglas and Chautauqua. (2936 E. Douglas)**

Dear Ladies and Gentlemen:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on **January 25, 2005.** This resolution reflects the official action of the Board. 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
Senior Planner

SK/rms

Cc: Vince Haines, PKHL Architect, 101 S. Star, El Dorado, KS 67042
Richard L. Jesik, 120 N. Erie, Wichita, KS 67214
Carl Brewer, WCC, District I, Mail Stop 1-13
Sharon Dickgrafe, Law Department, Mail Stop 1-132
Herb Shaner, OCI, 1-72

**BZA RESOLUTION NO. 2004-00094**

**WHEREAS**, Starship Enterprises LLC c/o Jim Collins (Owner/Applicant); PKHL Architects c/o Vince Haines (Agent) pursuant to Section 2.12.590.B, Code of the City of Wichita, requests variances to reduce the parking requirement from 29 spaces to 7 spaces, to waive the screening requirement, and to waive the landscaping requirements on property zoned "LC" Limited Commercial legally described as follows:

> Lots 9, 10 and 11, on Douglas Avenue, Oliver's Subdivision of Lots 3 and 6, Block 7, Chautauqua Addition to Wichita, Sedgwick County, Kansas. Generally located at the northwest corner of Douglas and Chautauqua. (2936 E. Douglas)

**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 January 25, 2005, 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. It is the opinion of the Board that this property is unique, inasmuch as the property is an older commercial property that was developed at a time when parking, screening, and landscaping were not required. While the property has been damaged to an extent that conformance with current, more suburban, regulations is required, the shell of the building was not damaged; therefore, the remodeling does not require demolition of the structure or a complete redevelopment of the site. Since the exterior conditions of property will not change, the property is in a unique situation that was not contemplated by the non-conformity requirements of the zoning regulations, which anticipate complete redevelopment of damaged properties and therefore requires full conformance with current, more suburban, regulations.

**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 the Board that the granting of the variances requested would not adversely affect the rights of adjacent property owners, inasmuch as the property has existed in the proposed condition since 1926 with no apparent adverse affects on adjacent properties. The parking to be provided on-site is similar to the number of spaces provided for all commercial businesses along this stretch of Douglas, and none of the existing businesses provide screening or landscaping, with no apparent adverse affects on properties in the area.

**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 the Board that the strict application of the provisions of the zoning and landscaping regulations constitutes an unnecessary hardship upon the applicant, inasmuch as complying with the parking, screening, and landscaping regulations would entail demolishing the existing structure or structures on adjoining properties to completely redevelop the property or area at significant expense.

**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 the Board that the requested variances would not adversely affect the public interest, inasmuch as the public has an interest in maintaining the character of the area and the rehabilitation of the damage to the structure on the property. The area is developed with commercial structures built to the property lines with minimal parking that is located in the back and without screening or landscaping, except in the right of way. Complying with the zoning and landscaping regulations would give subject property a suburban character, which would clash with the character of the area and would be contrary to the public interest. Also, complying with zoning and landscaping regulations is so costly that the structure on the property probably would not be rehabilitated, which also is contrary to the public interest.

**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 the Board that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning and landscaping regulations, inasmuch as among the stated intentions of the regulations is to encourage orderly growth and enhance the quality of life. Requiring compliance with the zoning and landscaping regulations would result in a suburban-style development that is out of character with the surrounding area, which is contrary to the intent of the regulations.

**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, pursuant to Section 2.12.590.B, Code of the City of Wichita, that variances be granted to reduce the parking requirement from 29 spaces to 7 spaces, to waive the screening requirement, and to waive the landscaping requirements on property zoned "LC" Limited Commercial legally described as follows:

> Lots 9, 10 and 11, on Douglas Avenue, Oliver's Subdivision of Lots 3 and 6, Block 7, Chautauqua Addition to Wichita, Sedgwick County, Kansas. Generally located at the northwest corner of Douglas and Chautauqua. (2936 E. Douglas)

**The variance is hereby GRANTED, subject to the following conditions:**

1. The site shall be developed in general conformance with the approved site plan dated December 20, 2004, which retains the existing landscaping.
2. The applicant shall obtain all permits necessary to construct the improvements, and the improvements shall be completed within one year of the granting of this variance, unless such time period is extended by the BZA.
3. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

**ADOPTED AT WICHITA, KANSAS, this 25nd DAY of JANUARY 2005.**

James B. Skelton, BZA Board Vice Chair

ATTEST:

Scott Knebel, BZA Secretary

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 2.
January 25, 2005

**SECRETARY'S REPORT**

CASE NUMBER: BZA2004-00094

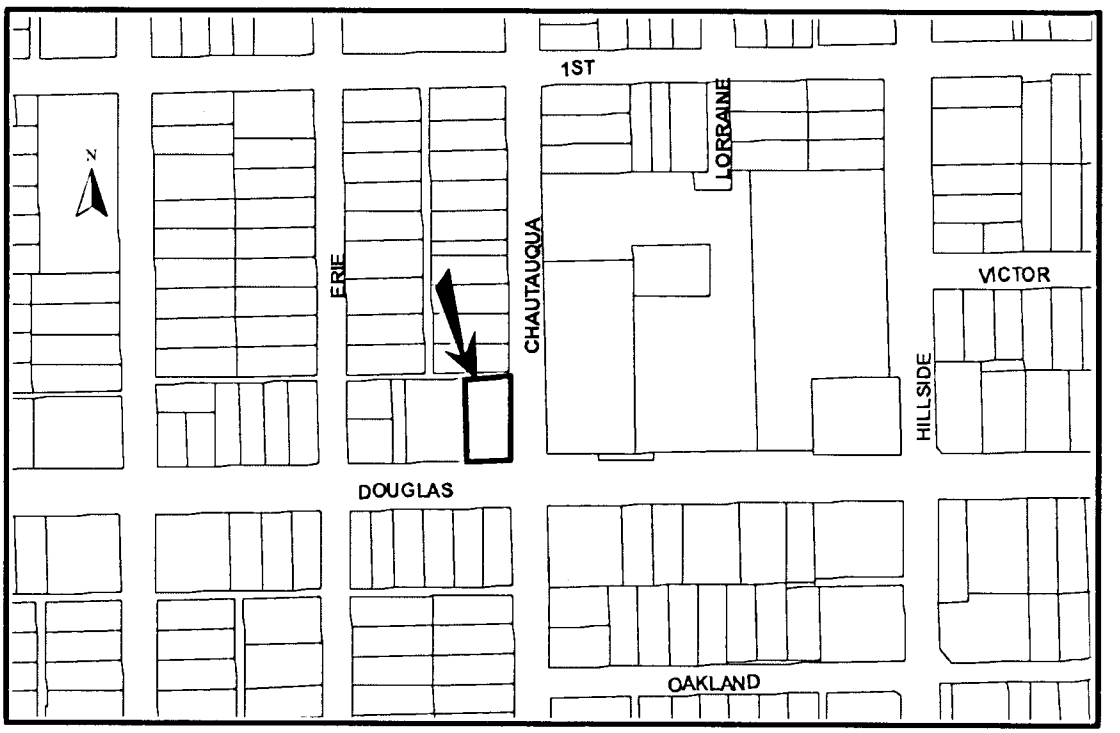
OWNER/APPLICANT: Starship Enterprises LLC c/o Jim Collins

AGENT: PKHL Architects c/o Vince Haines

REQUEST: Variances to reduce the parking requirement from 29 spaces to 7 spaces, to waive the screening requirement, and to waive the landscaping requirements

CURRENT ZONING: "LC" Limited Commercial

LOCATION: Northwest corner of Douglas and Chautauqua (2936 E. Douglas)




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**: A commercial building was constructed on the subject property at the northwest corner of Douglas and Chautauqua in 1926. At the time the building was constructed, the zoning regulations did not require parking spaces to be provided and did not require screening from adjacent residential properties, and the Landscape Ordinance was not adopted until 1992. As indicated in the attached justification letter, the building was damaged by a fire, and the value of the proposed remodeling to house an indoor vehicle sales business exceeds 50 percent of the value of the existing structure. Therefore, Section VII.C.1. of the Unified Zoning Code (UZC) requires the subject property to come into compliance with existing zoning and landscape regulations as part of the proposed remodeling. The applicant has requested variances of two requirements of the zoning regulations (parking and screening) and a variance of the landscape regulations as described below.

Section IV-A.4. of the UZC requires that the proposed indoor vehicle sales business provide 29 on-site parking spaces; however, most of the subject property is covered by the building and only 7 parking spaces can be provided on-site. Therefore, the applicant is requesting a variance to reduce the parking requirement from 29 spaces to 7 spaces.

Section IV-B.3. of the UZC requires that screening be provided along the north property line because the property across the alley is residentially-zoned. Since the entire property is used for either the building or parking, there is no place on the subject property that screening can be located while still providing some parking on-site. Therefore, the applicant is requesting a variance to waive the screening requirement.

The Landscape Ordinance requires a landscape street yard along Douglas, a landscape buffer along the north property line, and parking lot screening along Chautauqua. Since the entire property is used for either the building or parking, there is no place on the subject property that landscaping can be planted. Therefore, the applicant is requesting a variance to waive the landscaping requirements.

**ADJACENT ZONING AND LAND USE**:

| | | |
|---|---|---|
| NORTH | "TF-3" | Duplex |
| SOUTH | "LC" | Office/apartments |
| EAST | "GC" | Grocery store |
| WEST | "LC" | Office |

*The five conditions necessary for approval apply to all variances requested.*

**UNIQUENESS**: It is the opinion of staff that this property is unique, inasmuch as the property is an older commercial property that was developed at a time when parking, screening, and landscaping were not required. While the property has been damaged to an extent that conformance with current, more suburban, regulations is required, the shell of the building was not damaged; therefore, the remodeling does not require demolition of the structure or a complete redevelopment of the site. Since the exterior conditions of property will not change, the property is in a unique situation that was not contemplated by the non-conformity requirements of the zoning regulations, which anticipate complete redevelopment of damaged properties and therefore requires full conformance with current, more suburban, regulations.

**ADJACENT PROPERTY**: It is the opinion of staff that the granting of the variances requested would not adversely affect the rights of adjacent property owners, inasmuch as the property has existed in the proposed condition since 1926 with no apparent adverse affects on adjacent properties. The parking to be provided on-site is similar to the number of spaces provided for all commercial businesses along this stretch of Douglas, and none of the existing businesses provide screening or landscaping, with no apparent adverse affects on properties in the area.

**HARDSHIP**: It is the opinion of staff that the strict application of the provisions of the zoning and landscaping regulations constitutes an unnecessary hardship upon the applicant, inasmuch as complying with the parking, screening, and landscaping regulations would entail demolishing the existing structure or structures on adjoining properties to completely redevelop the property or area at significant expense.

**PUBLIC INTEREST**: It is the opinion of staff that the requested variances would not adversely affect the public interest, inasmuch as the public has an interest in maintaining the character of the area and the rehabilitation of the damage to the structure on the property. The area is developed with commercial structures built to the property lines with minimal parking that is located in the back and without screening or landscaping, except in the right of way. Complying with the zoning and landscaping regulations would give subject property a suburban character, which would clash with the character of the area and would be contrary to the public interest. Also, complying with zoning and landscaping regulations is so costly that the structure on the property probably would not be rehabilitated, which also is contrary to the public interest.

**SPIRIT AND INTENT**: It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning and landscaping regulations, inasmuch as among the stated intentions of the regulations is to encourage orderly growth and enhance the quality of life. Requiring compliance with the zoning and landscaping regulations would result in a

suburban-style development that is out of character with the surrounding area, which is contrary to the intent of the regulations.

**RECOMMENDATION**: Should the Board determine that the conditions necessary for the granting of the variances exist, then it is the recommendation of the Secretary that the variances to reduce the parking requirement from 29 spaces to 7 spaces, to waive the screening requirement, and to waive the landscaping requirements be APPROVED, subject to the following conditions:

1. The site shall be developed in general conformance with the approved site plan.
2. The applicant shall obtain all permits necessary to construct the improvements, and the improvements shall be completed within one year of the granting of this variance, unless such time period is extended by the BZA.
3. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.