



FILE COPY

Wichita-Sedgwick County Metropolitan Area Planning Department

September 25, 2003

J. Larry Fugate
Property Owner
208 S. Maize Rd., Ste. 2A
Wichita, KS 67209

RE: BZA2003-45 - Appeal of an administrative adjustment to a CUP dated June 27, 2003, which permitted a car wash on property zoned "LC" Limited Commercial for DP-104, Oak Cliff Estates Community Unit Plan. Generally located north of Maple and west of Maize.

Dear Ladies and Gentlemen:

The above-referenced appeal was heard by the Board of Zoning Appeal on September 23, 2003. The official action of the Board was to affirm the Administrative Adjustment. Enclosed is an official Resolution and findings for the decision. Unless this action is appealed to District Court within 30 days of the hearing, the action of the BZA will be considered final.

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

Sincerely,

Scott Knebel

Assistant BZA Secretary

SK/rms

Cc: Lakeridge Development, L.L.C., %Larry Bottenberg, 2330 N. Maize Rd., Ste. 1300,
Wichita, KS 67205
Steve M. Stark, Fleeson, Gooing, Coulson & Kitch, P O Box 997, Wichita, KS 67201
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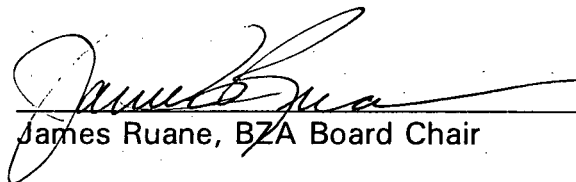
BZA RESOLUTION NO. 2003-00045

HAVING CONSIDERED THE ENTIRE RECORD REGARDING THIS MATTER AND HAVING HEARD THE EVIDENCE AS PRESENTED TO THE BOARD HERE TODAY, THE BOARD MAKES THE FOLLOWING FINDINGS:

1. That the Board of Zoning Appeals has jurisdiction to hear this appeal, pursuant to K.S.A. 12-759(d) and Section 2.12.590 of the Code of the City of Wichita Kansas;
2. That the Board makes the following findings of fact:
 - a) That pursuant to Article V, Sec.V-E(14) of the Wichita-Sedgwick County Zoning Code, the authority existed to grant the administrative adjustment made on June 27, 2003.
 - b) That the requirements for granting an administrative adjustment, pursuant to Art. V-I-6 have been met.
 - i) **Impact on Safety and Convenience of Vehicular and Pedestrian Circulation:** The creation of Parcel 7, with the permitted use of a car wash would have no impact on safety and convenience of vehicular and pedestrian circulation in the vicinity of the property, as a car wash is currently allowed in the CUP because of the Administrative Adjustment in 2002.
 - ii) **Impact on existing uses in surrounding areas:** There will be no impact to the surrounding area because the conditions in Art. II, Sec. III-D(6)(f) provide adequate screening, fencing and lighting requirements to adequately protect surrounding residential properties.
 - iii) **Compatibility with existing or permitted uses on abutting sites:** The addition of the permitted use of a car wash on parcel 7 is compatible with the existing commercial uses already established in the CUP, and does not create a significant change in the permitted uses for the CUP.
 - iv) **Effect on public health, safety or welfare:** There will be no negative impact on the public health, safety or welfare nor will properties or improvements in the vicinity be materially injured.
 - c) The administrative adjustment is supported by the language contained in Wichita-Sedgwick County Unified Zoning Code.
3. The Board further finds that the administrative adjustment as set forth in the letter of June 27, 2003 was reasonable and is supported by the evidence presented at this hearing.
4. The Board further finds that the appellant has not met his burden of proof to show that the administrative adjustment was in error.
5. The Board further finds no error in the process utilized by the staff.

THEREFORE, BASED UPON THE FOREGOING, THE BOARD RESOLVES THAT THE ADMINISTRATIVE ADJUSTMENT HEREIN BE AFFIRMED.

ADOPTED AT WICHITA, KANSAS, this 23rd DAY of SEPTEMBER 2003.


James Ruane, BZA Board Chair

ATTEST:


Scott Knebel, BZA Secretary