

Case No. BZA 17-86 - D & M Investments
requests an exception to permit the
expansion of an existing automobile
sales lot on property zoned the "LC"
Light Commercial District and generally
located on the south side of Kellogg
Drive between Eastern & Mansfield
(8335 E. Kellogg).

Speed.

No. 2-153C

HASTINGS, MN

LOS ANGELES-CHICAGO-LOGAN, OH

MCGREGOR, TX-LOCUST GROVE, GA

U.S.A.

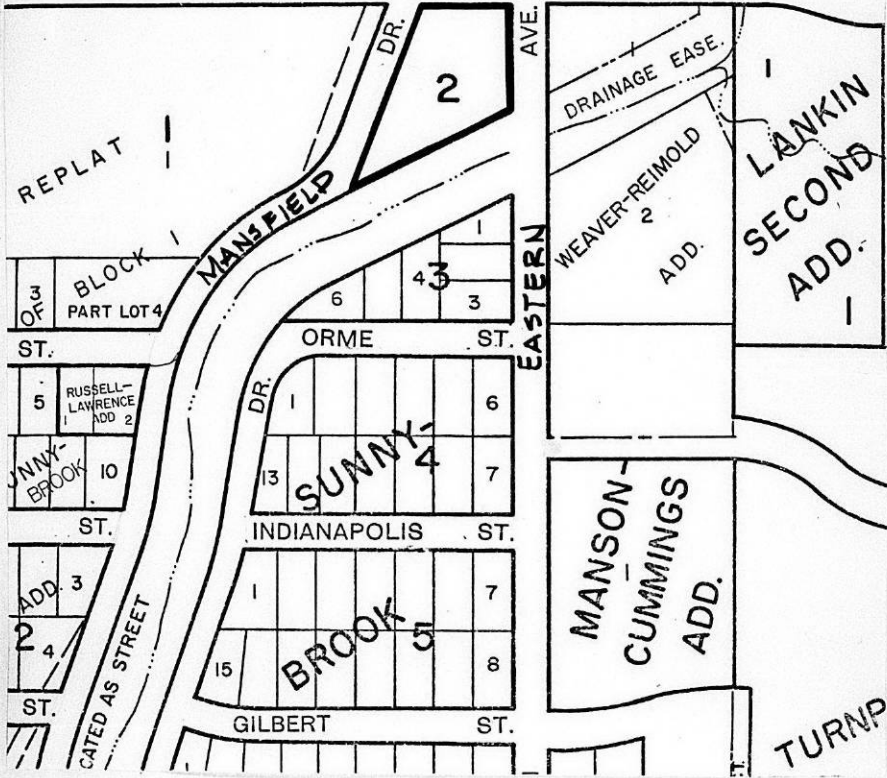
Map No. 6046D

BZA 17-86
Filed _____

AREA DATA:

1. Acres: _____ (_____ ft. by _____ ft.)
2. Adjoining Zoning: E LC S AA W LC N LC
3. Land Use: East Motel South I-F
West Comm. North Auto sales
4. Area (is) (~~is~~) platted.

KELLOGG HIGHWAY U.S. 54 & K-96



RESOLUTION CASE NO. 17-86

WHEREAS, D & M Investments, P.O. Box 18047, Wichita, Kansas, pursuant to Section 2.12.590.C, Code of the City of Wichita, requests an exception to permit the expansion of an existing automobile sales lot on property zoned the "LC" Light Commercial District and legally described as follows:

All of Block 2, Sunnybrook Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of Kellogg Drive between Eastern and Mansfield (8335 East Kellogg).

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 May 27, 1986, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for an exception under the provisions of Section 2.12.590.C, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has authority to permit the expansion of an existing automobile sales lot on property zoned the "LC" Light Commercial, subject to the conditions outlined in Section 28.04.183.2, Code of the City of Wichita.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that this application be approved to permit the expansion of an existing automobile sales lot on property zoned the "LC" Light Commercial District and legally described as follows:

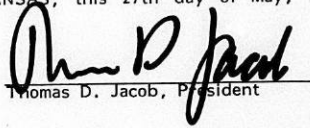
All of Block 2, Sunnybrook Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of Kellogg Drive between Eastern and Mansfield (8335 East Kellogg).

subject to the following conditions:

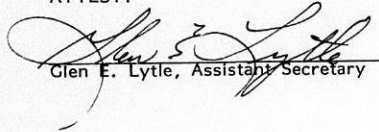
1. Prior to the release of the resolution authorizing the expansion of the previously approved automobile sales lot (BZA 3-84), the applicant shall submit a site plan, in triplicate, to the Secretary for approval showing compliance with all conditions of this resolution.
2. The automobile sales lot shall not be conducted in conjunction with any use not directly related to such a business, nor shall the business include any body or fender work.
3. All motor repair work shall be conducted entirely within an enclosed building.
4. All storage and display areas shall be paved with concrete, asphalt or asphaltic concrete.
5. Off-street parking spaces shall be provided on the property as required by the zoning ordinance and in conformance to the standards established by the Traffic Engineers office. Parking spaces shall be marked and designated for customers and not used for display and storage of company vehicles.
6. No new buildings shall be located closer than 35 feet to Kellogg right-of-way or closer than 35 feet to the right-of-way of Mansfield or Eastern.
7. All lights shall be shielded to direct light away from adjoining property. No string-type lighting or banners shall be permitted.

8. Ground or pole signs shall not exceed the height, area or number permitted by the zoning regulations for the "LC" Light Commercial District.
9. No sound projecting devices or loudspeakers shall be used so as to be heard beyond the property lines.
10. All requirements as set forth in this resolution shall be complied with prior to the occupancy of the property as an automobile sales business.
11. The release of the resolution shall make null and void Resolution BZA 3-84.

ADOPTED AT WICHITA, KANSAS, this 27th day of May, 1986.


Thomas D. Jacob, President

ATTEST:


Glen E. Lytle, Assistant Secretary

WICHITA -- SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL -- TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4561

April 29, 1991

Mr. Richard Cleveland
Pieper, O'Brian, Herr
Two Ravinia Dr., Ste. 1700
Atlanta, GA 30346

Re: Block 2, Sunnybrook Addition, Wichita, Kansas

Dear Mr. Cleveland:

The site plans required for completion of BZA 17-86 were never submitted and therefore only the north portion of this block is currently approved for automobile sales in accordance with BZA 3-84. Since there was no time limit for submission of the plans, they could still be submitted for review and must be submitted and approved before any but the north portion of this block can legally be used for outdoor car sales.

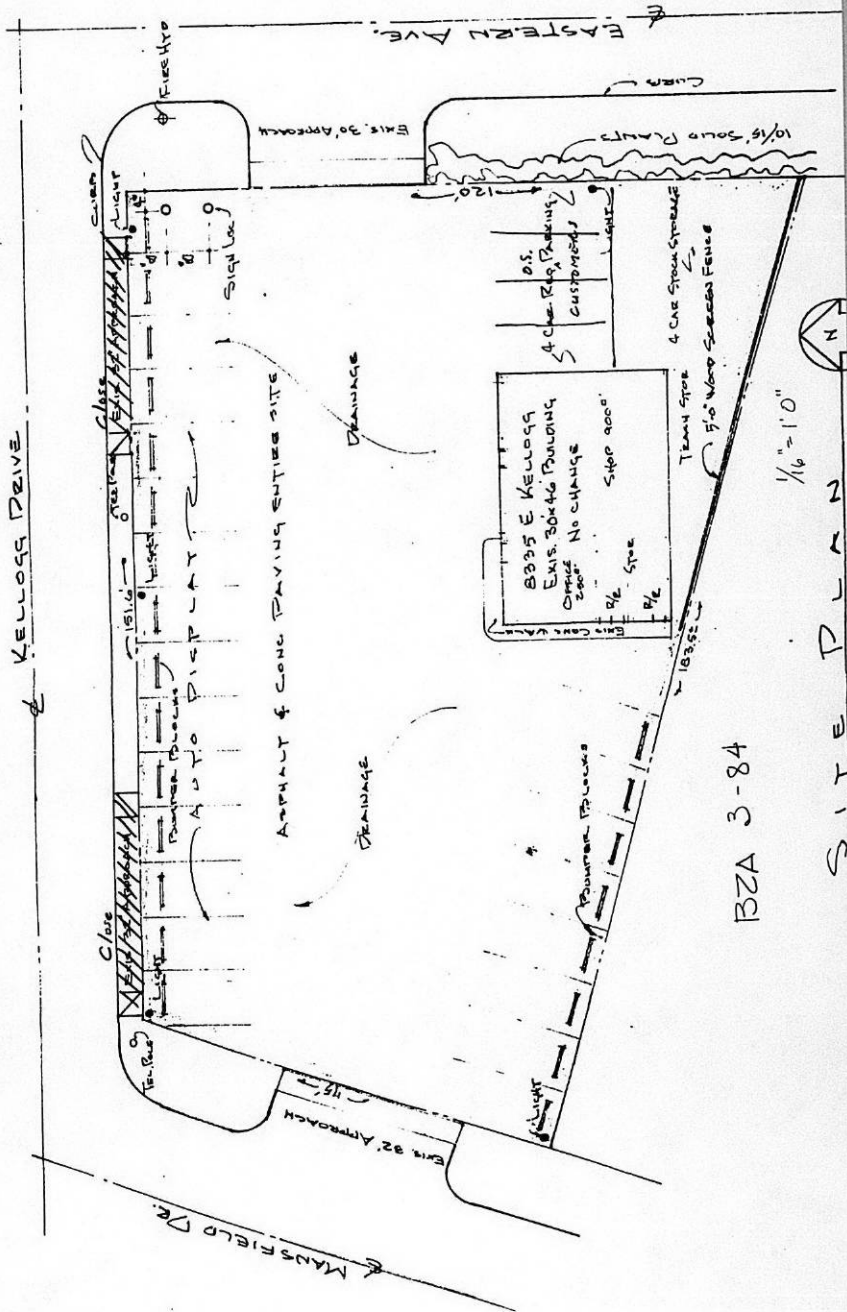
I have enclosed a copy of the approved BZA 3-84 site plan. It can be revised as part of the new, larger site plan, if necessary.

If you have additional questions regarding use of this block for outdoor car sales, please let me know.

Sincerely,

Louise Olivarez
Louise Olivarez
Principal Planner

LO:jcm
Enclosure



KELLOGG DRIVE

MANSFIELD DR.

EASTERN AVE.

APPROX & CONC. PAVING ENTIRE SITE

DRAINAGE

DRAINAGE

8335 E KELLOGG
 EXIST. 30x46 BUILDING
 CONC. NO CHANGE
 SLOP 9000

OS.
 4 CAR RIGS
 CUSTOMERS

4 CAR SPONGE STRAPS
 7'-0" WOOD SCREENED FENCE

BZA 3-84

SITE PLAN
 1/16" = 1'0"



May 12, 1987

Mr. Everett Fettis
120 South Market, Suite 504
Wichita, Kansas 67202

RE: BZA 17-86 (Exception - On the south side of Kellogg between Eastern
and Mansfield)

Dear Mr. Fettis:

On May 29, 1986, you were notified of the action of the Board of Zoning Appeals to approve the request for an exception to permit the expansion of the automobile sales lot for D & M Investments.

Condition number one required that a revised site plan be submitted to the Secretary for approval showing compliance with all conditions established by the Board. As of this date, no plans have been submitted. It has been noted that your client has been using the property in violation of this action and if this continues, Central Inspection will have no alternative but to issue a citation.

Please see that your client fulfills the requirements established by the Board at your earliest convenience, so that I can release the resolution authorizing the expansion.

Sincerely,

Glen E. Lytle
Special Assistant for Zoning

GEL/lw

PL/0150/1

May 29, 1986

Everett G. Fettis
120 South Market, Suite 504
Wichita, Kansas 67202

Re: BZA 17-86 - Request for Exception (On the south side of Kellogg
between Eastern and Mansfield)

Dear Mr. Fettis:

At the regular meeting of the Board of Zoning Appeals on May 27, 1986,
your request for an exception was considered. It was the action of the
Board to approve the request subject to the following conditions:

1. Prior to the release of the resolution authorizing the expansion of the
previously approved automobile sales lot (BZA 3-84), the applicant
shall submit a site plan, in triplicate, to the Secretary for approval
showing compliance with all conditions of this resolution.
2. The automobile sales lot shall not be conducted in conjunction with
any use not directly related to such a business, nor shall the
business include any body or fender work.
3. All motor repair work shall be conducted entirely within an enclosed
building.
4. All storage and display areas shall be paved with concrete, asphalt or
asphaltic concrete.
5. Off-street parking spaces shall be provided on the property as
required by the zoning ordinance and in conformance to the standards
established by the Traffic Engineers office. Parking spaces shall be
marked and designated for customers and not used for display and
storage of company vehicles.
6. No new buildings shall be located closer than 35 feet to Kellogg
right-of-way or closer than 35 feet to the right-of-way of Mansfield
or Eastern.
7. All lights shall be shielded to direct light away from adjoining
property. No string-type lighting or banners shall be permitted.

May 29, 1986

8. Ground or pole signs shall not exceed the height, area or number permitted by the zoning regulations for the "LC" Light Commercial District.
9. No sound projecting devices or loudspeakers shall be used so as to be heard beyond the property lines.
10. All requirements as set forth in this resolution shall be complied with prior to the occupancy of the property as an automobile sales business.
11. The release of the resolution shall make null and void Resolution BZA 3-84.

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy as soon as condition number one has been complied with.

If you have any questions, please call our office.

Sincerely yours,

Glen E. Lytle
Assistant Secretary

GEL:lw

cc: D & M Investments, P. O. Box 18047, Wichita, KS 67218
Monty Robson, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

SECRETARY'S REPORT
CASE NO. BZA 17-86

APPLICANT: D & M Investments, P. O. Box 18047, Wichita, KS 67218

AGENT: Everett C. Fettis, 120 S. Market, Suite 504, Wichita, KS 67202

REQUEST: Exception pursuant to Section 28.04.183.2 Code of the City of Wichita to permit the expansion of an automobile sales lot.

GENERAL LOCATION: On the south side of Kellogg between Eastern and Mansfield.

ZONING: Subject property is zoned the "LC" Light Commercial District as are the properties to the west, north and east. To the south is the "AA" One-family Dwelling District.

LAND USE: Subject property is a vacant restaurant and automobile sales lot. To the east a motel and to the west and north are commercial development. To the south across the drainageway are one-family dwellings.

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 expansion of a previously approved automobile sales lot onto a property that has been a restaurant. The property is surrounded by three streets and the drainageway of Gypsum Creek on the south. The only residences in the immediate area are those located with the rear yards adjacent to Gypsum Creek which is separated 130 feet from the rear of the applicant's property.

The applicant has not submitted a site development plan showing how the property will be arranged for the sale and display of automobile, or which building will be retained. It is not certain if the applicant intends to use the entire property at this time, however, they have filed the application and it may be considered subject to the approval of a site plan by the Traffic Engineer and the Secretary.

It is the Secretary's opinion that this portion of Kellogg has been favored for such uses and the expansion at this location should be appropriate. Any approval for use of the additional property should be subject to the submission of appropriate plans as required by any other automobile sales business in the "LC" Light Commercial District.

RECOMMENDATION:

Should the Board determine that the expansion of an automobile sales lot at this location is appropriate, then it is the recommendation of the Secretary that the exception be approved subject to the following conditions:

1. Prior to the release of the resolution authorizing the expansion of the previously approved automobile sales lot (BZA 3-84), the applicant shall submit a site plan, in triplicate, to the Secretary for approval showing compliance with all conditions of this resolution.

2. The automobile sales lot shall not be conducted in conjunction with any use not directly related to such a business, nor shall the business include any body or fender work.
3. All motor repair work shall be conducted entirely within an enclosed building.
4. All storage and display areas shall be paved with concrete, asphalt or asphaltic concrete.
5. Off-street parking spaces shall be provided on the property as required by the zoning ordinance and in conformance to the standards established by the Traffic Engineers office. Parking spaces shall be marked and designated for customers and not used for display and storage of company vehicles.
6. No new buildings shall be located closer than 35 feet to Kellogg right-of-way or closer than 35 feet to the right-of-way of Mansfield or Eastern.
7. All lights shall be shielded to direct light away from adjoining property. No string-type lighting or banners shall be permitted.
8. Ground or pole signs shall not exceed the height, area or number permitted by the zoning regulations for the "LC" Light Commercial District.
9. No sound projecting devices or loudspeakers shall be used so as to be heard beyond the property lines.
10. All requirements as set forth in this resolution shall be complied with prior to the occupancy of the property as an automobile sales business.
11. The release of the resolution shall make null and void Resolution BZA 3-84.

BZA CASE NO. 17-86

<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>9</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>12</u>	TOTAL NOTICES SENT <u>5/6/86</u>

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

May 6, 1986

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 17-86

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 D & M Investments, P. O. Box 18047, 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 expansion of an existing automobile sales lot on property zoned the "LC" Light Commercial District. A legal description of the applicant's property is as follows:

All of Block 2, Sunnybrook Addition to Wichita, Sedgwick County, Kansas. Generally located on the south side of Kellogg Drive between Eastern and Mansfield (8335 East Kellogg).

This application has been assigned Case No. BZA 17-86. It will be considered by the Board of Zoning Appeals on May 27, 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

FORM 29 1

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 Rev. (P.W.)	Cement	M.S.P.
	Planning		

DESCRIPTION

AMOUNT

NAME

ADDRESS

FUND

DUE DATE

COMMENTS

DATE

BY

BOARD OF ZONING APPEALS

CASE NO. 17-86

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR EXCEPTION

I. Name of Applicant D & M INVESTMENTS
 Mailing Address P.O. Box 18047, Wichita 67218 Phone 685-0211
 Name of Authorized Agent EVERETT C. FETTIS
 Mailing Address 120 S. Market, Su 504, Wichita 67202 Phone 267-7251
 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
used car lot

on property zoned "LC"
located 8335 East Kellogg, Wichita, Kansas
and legally described as: All of Block 2, Sunnybrook 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 D & M INVESTMENTS

Authorized Agent Everett C. Fettis
 Everett C. Fettis

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals,
400 (a.m.p.m.), Apr 25, 1986, together with
 appropriate fee of 400.00.

Signed [Signature]

STATEMENT

The attached application for exception is being filed to request an increase in the size of the front lot which fronts on the Kellogg service road and to add the property behind it which is the former Rax Restaurant.

LAW OFFICES
FETTIS & McCLURE
120 SOUTH MARKET
SUITE 504
WICHITA, KANSAS 67202
316-267-7251

OWNERSHIP LIST

<u>Property Description</u>	<u>Property Owner</u>
Block 2 except beginning at the intersection of the South line of frontage road to the South line of Kellogg and the East line of Mansfield Drive; th. SW'ly along the East line of Mansfield Drive 75 feet; th. SE'ly to a point on the West line of Eastern Ave. 120 feet South of the South line of frontage road; th. North along the West line of Eastern Ave. 120 feet; th. West along the South line of frontage road to beginning.	Sunny-Brook Addition ✓ D & M Investments P.O. Box 18047 Wichita, KS 67218
Part of Block 2 described as beginning at the intersection of the South line of frontage road to the South line of Kellogg and the East line of Mansfield Drive; th. SW'ly along the East line of Mansfield Drive 75 feet; th. SE'ly to a point on the West line of Eastern Ave. 120 feet South of the South line of frontage road; th. North along the West line of Eastern Ave. 120 feet; th. West along the South line of frontage road to beginning.	" Same As Above
Lot 1 and the North 3 feet of Lot 2, Block 3	" Charles W. Melton Darlene F. Melton ✓ 535 Eastern Wichita, KS 67207
Lot 2 except the North 3 feet, Block 3	" Secretary of Housing & Urban Development ✓ 444 S. E. Quincy Topeka, KS 66683
Lot 3 Block 3	" Alan F. Meier ✓ Brenda C. Meier 8336 E. Orme Wichita, KS 67207
Lot 4 Block 3	" Doris L. Miller ✓ 8328 E. Orme Wichita, KS 67207
Lot 5 Block 3	" Veterans Administra- tion ✓ 901 George Washington Blvd. Wichita, KS 67211
Lot 6 except the East 64 feet, Block 3	" The Gas Service Company ✓ 127 N. Market Wichita, KS 67202

Property Description		Property Owner
The East 64 feet of Lot 6, Block 3		Sunny-Brook Addition Frank M. Cupp a/k/a Frank Manning Cupp Audie Elizabeth Cupp Address Unknown
Lot 1	Block 1	Replat of Block 1, Sunny-Brook Addition Levitt Jewelry Co. Inc. 7700 E. Kellogg Rm. 243 Wichita, KS 67207
Lots 1 & 2		Weaver-Reimold Addition Executives, Inc. c/o Harry Pollak 601 Long Boat Club Rd. Long Boat Key, FL 33548
Lot 3, except the North 100 feet and except the West 155.7 feet		Ruth Addition Gary K. Edminster 5908 S. 107th East Derby, KS 67037
Lot 1		Dry Addition J. R. Dry Verda S. Dry J. R. Dry Jr. Address Unknown

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:

All of Block 2, Sunny-Brook 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 25th day of April, 1986, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

Mary Gable

By
Sr. Vice-President

Order No: 359362
nj