

Case No. BZA 24-81 - Eddy's Toyota of
Wichita, Inc. - requests an exception
to permit the establishment of an auto-
mobile agency for the display and
sale of new & used motor vehicles with
a rated 1/2 ton limitation on trucks

5946 A

2-71
2-78
14-73
31-78

~~20/Dec 5-58~~
20/Dec 5-27

Checked 5-26

Shob 6-18-81

Recorded

Posted
6-2-81
211

BZA
24-81

ACTION

COMMITTEE Approved DATE 6-23-81

M.A.P.C. _____

B.C.C./B. CO. C. _____

5946 A

2-71
2-78
14-73
31-78

2004 Sec. 5-5-82
Checked 5-29
Shot 5-26
Recorded 6-18-82

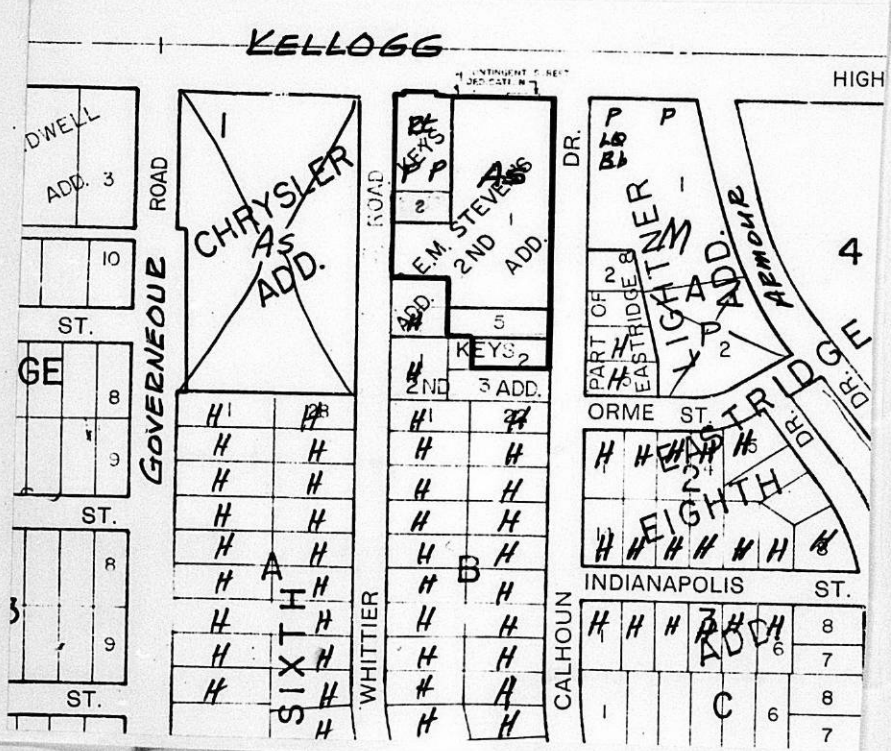
Case No. BZA 24-81 - Kddy's Toyota of
Michigan, Inc. - requests an exception
to permit the establishment of an auto-
mobile agency for the display and
sale of new & used motor vehicles with
a rated 1/2 ton limitation on trucks

Map No. 5946 A
 Sec. 30
 Twp. 27
 Range 2E

BZA- 24-81
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:
 1. Acres: 2.6 (IRREGULAR) (270 ft. by 480 ft.)
 2. Adjoining Zoning: E _____ S _____ W _____ N _____
 3. Land Use: East MOTEL LIQUOR STORE South SINGLE FARM
 West AUTO SALES North KELLOGG-11.5:54
 4. Sketch Plan Land Use is for: _____
 5. Present Land Use if for: AUTO SALES
 6. Area (is) (is not) platted.

PHOTO DATA:
 Taken by _____ Date _____ Time _____



Standard
 No. 2-153C
 HASTINGS, IN
 LOS ANGELES, CHICAGO, LOGAN, OH
 MEMPHIS, TUCUMCUM, MOBILE, GA
 U.S.A.

RESOLUTION NO. EZA 24-81

WHEREAS, Eddy's Toyota of Wichita, Inc., % Edward Steven, 7333 East Kellogg, Wichita, Kansas, requests an exception as provided in Section 2.12.590.C, Code of the City of Wichita, to permit the expansion of a new and used car sales lot on property zoned the "LC" Light Commercial District, and legally described as follows:

South 50 feet of Lot 5 and Lot 1 & Lot 2 both in Keys Addition, Lot 2 except the west 37' in Keys 2nd Addition and Lot 1 E.M. Steven's 2nd Addition, Wichita, Sedgwick County, Kansas. Generally located on the south side of Kellogg between Whittier and Calhoun (7333 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 June 23, 1981, 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 establishment of a new and used car sales lot on property zoned the "LC" Light Commercial District 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 a new and used car sales lot on property zoned the "LC" Light Commercial District and legally described as follows:

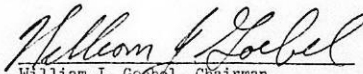
South 50 feet of Lot 5 and Lot 1 & Lot 2 both in Keys Addition, Lot 2 except the west 37' in Keys 2nd Addition and Lot 1 E.M. Steven's 2nd Addition, Wichita, Sedgwick County, Kansas. Generally located on the south side of Kellogg between Whittier and Calhoun (7333 East Kellogg).

subject to the following conditions:


1. Approval of this exception is intended to incorporate and supercede EZA Case No. 31-78, thereby making that resolution null and void.
2. The planting of the trees in the street right-of-way adjacent to Calhoun as indicated by the site plan shall be completed prior to the release of this resolution.
3. All storage and display areas shall be paved with concrete or asphalt.
4. All lights shall be shielded to direct light away from adjoining properties. No string type lighting or banners shall be permitted.
5. Any signs on subject property shall comply with the provisions 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 shall be done.
8. The area shall be properly policed through inspections by the owner or operator for the proper maintenance and removal of trash.
9. All parking and display areas shall have adequate guards to prevent the extension or overhanging of vehicles beyond the property lines.
10. A 6 to 8 foot high solid fence, constructed of redwood or cedar, shall be erected beginning at the southwest corner of Lot 5, Keys Addition, thence east along the south line of said Lot 5 a distance of 37 feet; thence south on a straight line to a point on the south line of Lot 2, Key's Second Addition 37 feet east of the southwest corner of said Lot 2; thence east along the south line of said Lot 2 to the southeast corner of said Lot 2; thence north along the east line of Lot 2, Key's Second Addition and the south 50 feet of Lot 5, Key's Addition, a distance of approximately 105 feet. The above described fence shall connect with the existing fence at the southwest corner of Lot 5, Key's Addition. The existing fence and new fence shall be maintained in good repair.
11. Appropriate barriers shall be placed adjacent to public right-of-way lines to prevent the use of public right-of-way for display or parking of vehicles.
12. The applicant shall obtain a minor street privilege for the planters and the asphalt paving on the public right-of-way or remove same prior to the release of this Resolution. All planting on public right-of-way shall be maintained in good condition.
13. No permanent structure (excluding the fence described above) shall be erected or placed south of the south line of Lot 5, Key's Addition.
14. This exception shall permit the display and sale of new and used motor vehicles with a rated 1/2 ton limitation on trucks and a rated 25 foot length limitation on all other motor vehicles.
15. Unless otherwise noted, all conditions of approval shall be complied with prior to the utilization of Lots 1 & 2 in Key's Addition for the display, sale or storage of any motor vehicle, and within 90 days of the approval or this resolution shall become null and void.
16. No outdoor storage of parts or equipment shall be permitted.

ADOPTED AT WICHITA, KANSAS, this 23rd day of June, 1981.


William J. Goebel, Chairman

ATTEST:


Glen E. Lytle, Assistant Secretary

April 15, 1982

Allen McHenry
1318 Stackman D-1
Wichita, Kansas 67203

Re: Case No. EKA 24-81
Request for Exception

Dear Mr. McHenry:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on June 23, 1981.

This Resolution reflects the official action of the Board to approve your request, and sets out the conditions of approval. It is forwarded to you for your information and files.

If you have questions concerning this matter, please call our office.

Sincerely,

Glen E. Lytle
Assistant Secretary

GEL:sad
Enclosure

cc: Eddy's Toyota of Wichita, Inc., % Edward Steven, 7333 E. Kellogg 67202
Robert Feldner, Superintendent of Central Inspection (2)
Don Giesick, City Clerk

RESOLUTION NO. BZA 24-81

WHEREAS, Eddy's Toyota of Wichita, Inc., % Edward Steven, 7333 East Kellogg, Wichita, Kansas, requests an exception as provided in Section 2.12.590.C, Code of the City of Wichita, to permit the expansion of a new and used car sales lot on property zoned the "LC" Light Commercial District, and legally described as follows:

South 50 feet of Lot 5 and Lot 1 & Lot 2 both in Keys Addition, Lot 2 except the west 37' in Keys 2nd Addition and Lot 1 E.M. Steven's 2nd Addition, Wichita, Sedgwick County, Kansas. Generally located on the south side of Kellogg between Whittier and Calhoun (7333 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 June 23, 1981, 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 establishment of a new and used car sales lot on property zoned the "LC" Light Commercial District 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 a new and used car sales lot on property zoned the "LC" Light Commercial District and legally described as follows:

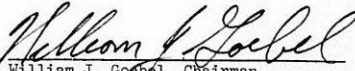
South 50 feet of Lot 5 and Lot 1 & Lot 2 both in Keys Addition, Lot 2 except the west 37' in Keys 2nd Addition and Lot 1 E.M. Steven's 2nd Addition, Wichita, Sedgwick County, Kansas. Generally located on the south side of Kellogg between Whittier and Calhoun (7333 East Kellogg).

subject to the following conditions:

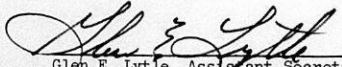
1. Approval of this exception is intended to incorporate and supercede BZA Case No. 31-78, thereby making that resolution null and void.
2. The planting of the trees in the street right-of-way adjacent to Calhoun as indicated by the site plan shall be completed prior to the release of this resolution.
3. All storage and display areas shall be paved with concrete or asphalt.
4. All lights shall be shielded to direct light away from adjoining properties. No string type lighting or banners shall be permitted.
5. Any signs on subject property shall comply with the provisions 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 shall be done.
8. The area shall be properly policed through inspections by the owner or operator for the proper maintenance and removal of trash.
9. All parking and display areas shall have adequate guards to prevent the extension or overhanging of vehicles beyond the property lines.
10. A 6 to 8 foot high solid fence, constructed of redwood or cedar, shall be erected beginning at the southwest corner of Lot 5, Keys Addition, thence east along the south line of said Lot 5 a distance of 37 feet; thence south on a straight line to a point on the south line of Lot 2, Key's Second Addition 37 feet east of the southwest corner of said Lot 2; thence east along the south line of said Lot 2 to the southeast corner of said Lot 2; thence north along the east line of Lot 2, Key's Second Addition and the south 50 feet of Lot 5, Key's Addition, a distance of approximately 105 feet. The above described fence shall connect with the existing fence at the southwest corner of Lot 5, Key's Addition. The existing fence and new fence shall be maintained in good repair.
11. Appropriate barriers shall be placed adjacent to public right-of-way lines to prevent the use of public right-of-way for display or parking of vehicles.
12. The applicant shall obtain a minor street privilege for the planters and the asphalt paving on the public right-of-way or remove same prior to the release of this Resolution. All planting on public right-of-way shall be maintained in good condition.
13. No permanent structure (excluding the fence described above) shall be erected or placed south of the south line of Lot 5, Key's Addition.
14. This exception shall permit the display and sale of new and used motor vehicles with a rated 1/2 ton limitation on trucks and a rated 25 foot length limitation on all other motor vehicles.
15. Unless otherwise noted, all conditions of approval shall be complied with prior to the utilization of Lots 1 & 2 in Key's Addition for the display, sale or storage of any motor vehicle, and within 90 days of the approval or this resolution shall become null and void.
16. No outdoor storage of parts or equipment shall be permitted.

ADOPTED AT WICHITA, KANSAS, this 23rd day of June, 1981.


William J. Goebel, Chairman

ATTEST:


Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA

OFFICE OF Central Inspection Division DATE April 14, 1982

TO Glen Lytle, Special Assistant for Zoning

FROM Edward Azim, Zoning Inspector

SUBJECT BZA #24-81

Eddy's Toyota located at 7333 E. Kellogg is in compliance as of this date with
BZA #24-81.

Edward Azim

Edward Azim
Zoning Inspector
EA:bg

Alan M. McHenry Architect

Wichita, Kansas 265-1872

April 7, 1982

Mr. Don Petersen
Eddy's Toyota
7333 E. Kellogg
Wichita, Kansas 67207

Re: EZA 24-81
Eddy's Toyota
Comm. No. 1123

Dear Don:

I met today with Mr. Eddie Azim of the Central Inspection Department of the City of Wichita, relative to the finalization of this EZA case.

Mr. Azim informs me that if you will accomplish the following two items, he will notify the planning department of compliance with all the conditions of the Resolution.

The items requested are:

1. The black over painting of the existing stripe adjacent to the north to the service entry door on Calhoun. This stripe runs east and west.
2. The installation of a yellow stripe running north and south centered between the building and the existing pipe rail. This stripe should run the full length of the pipe rail on Calhoun thereby defining parking stalls at both the service entry door and the parts door.

If you have any questions do not hesitate to contact me.

Sincerely, yours,

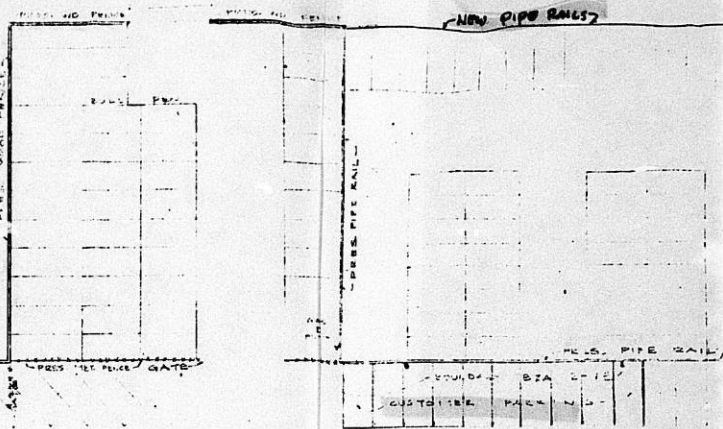
Alan M. McHenry
Architect

cc: Mr. Edw. Azim
Mr. Glen E. Little

AMM/pe

WHITTIER

NEW PIPE RAILS



PRES. VLD. FENCE

PRES. VLD. FENCE / GATE

PRES. PIPE RAIL

STORAGE STA OFFICE
CUSTOMER SERVICE

PRES. VLD. FENCE

COFFEE PICK UP
PACIFIC WORKSHOP

SERVICE PARKING



BANK BLDG
SERVICE YARDING
EDUCATION PARKING



CLAYTON GREEN

PRES. APPOINT

NEW PIPE RAILS

PRES. APPOINT

NEW PIPE RAIL

PRES. APPOINT

C A L H O U N

January 26, 1982

Robert B. Feldner, Superintendent of Central Inspection

Glen E. Lytle, Special Assistant for Zoning

BZA 24-81

In driving by the property on January 26, 1982, it would appear that the barriers have been installed adjacent to Calhoun, but the striping of the earlybird and other spaces on the east side of the building have not been corrected. I did not check the required off-street parking spaces to see that they were designated as shown by the plan.

Please have someone review the property and advise when everything is in compliance so that I can release the Resolution.

Glen E. Lytle

GEL:sad

On BZA 24-81, Steven had
never been right with the world.
I'd say no to amendments, Revenue
new plan etc. Do nothing until
any requirements (part current or of
approved "future") are in place on bonded
or short term basis (not 2 yrs). Be hard
but not outrageous or unreasonable.

January 26, 1982

Mr. Mike Steven
Eddy's Toyota of Wichita, Inc.
6637 East Kellogg
Wichita, Kansas 67207

Re: Case No. EZA 24-81
Request for Exception
7333 East Kellogg

Dear Mr. Steven:

On June 23, 1981, the Board of Zoning Appeals acted on the request for the expansion of the new and used car agency located at 7333 East Kellogg onto Lots 1 and 2 of Keys Addition. Included in the conditions of approval were several items that were to be corrected on the present property occupied by Eddy's Toyota. One of which was the obtaining of a minor street privilege from the City of Wichita. I have been advised by Ray Bruggeman, Director of Engineering that this has finally been completed.

Two other conditions to be complied with prior to the release of the Resolution were for the correction and rearranging of the parking spaces on the east side of the building adjacent to Calhoun. This includes the proper arrangement of the parking spaces so that the use of public right-of-way is not encroached upon in the use of these spaces. Also the elimination of the outdoor storage of parts and equipment.

By copy of this letter I am asking that Central Inspection check the property for compliance and advise this office of compliance with all conditions of approval. Upon written notice that the property is in full compliance with the conditions, I will release the Resolution authorizing the establishment of new and used car sales on the southeast corner of Whittier and Kellogg Drive. Until the Resolution is released, any use of the property for the sale or display of vehicles is in violation of the zoning ordinance.

Blm

on BZA 28-81, I think the lot
is now totally paved to both Young
& Douglas - (the last E course
^{not to} ~~the~~ Douglas may not be down)
You may want to field check conditions
(over)

I have attached a copy of the plan that was considered by the Board on June 23, 1981 which shows the new pipe barriers and the parking arrangement. If you have any questions on this, please give me a call at 268-4421.

Sincerely,

Glen E. Lytle,
Assistant Secretary

GEL:sad

Attachment

cc: Robert Feldner, Superintendent of Central Inspection

Alan McHenry,

THE CITY OF WICHITA



DEPARTMENT OF ENGINEERING
CITY HALL - SEVENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202
(316) 268-4501

November 24, 1981

Mr. Mike Steven
Eddy's Toyota of Wichita,
Incorporated
6637 E. Kellogg
Wichita, KS 67207

Subject: Minor Street Privilege No. 1559
Address: 7333 E. Kellogg

Dear Mr. Steven:

Your request for a minor street privilege for installation of planters, plantings and paving the "parking area" of street right of way adjacent to the property indicated by the above address has been approved in accordance with drawings submitted and Chapter 10.08 of the Code of the City of Wichita. A copy of the Permit No. 1559 is attached for your records. The continuation of this minor street privilege is subject to several conditions specified by the City Code and as further provided by the following:

1. City Code Section 10.08.070 Liability of permittee - To save and hold city harmless. It shall be a condition of the use or enjoyment of any minor street privilege that the permittee shall save and hold the city harmless of any and all liability claims or expenses of any kind caused by, or growing out of, the construction, maintenance, operation, relocation, discontinuance or abandonment of such minor street privileges.
2. Liability insurance covering the encroachment authorized by the minor street privilege is required to be maintained in continuous force during the construction and through the continued use of the encroachment. As a part of this coverage, a current certificate of insurance must be furnished and maintained with the City of Wichita in a form acceptable to the City Attorney.

In the event the liability insurance certificate expires or is terminated for any reason, this minor street privilege shall become null and void. You will then be required to remove the encroachment and restore the property to its previous condition within 30 days following expiration or termination of the liability insurance certificate.

THE CITY OF WICHITA 2

Mr. Mike Steven
November 24, 1981

3. You are responsible for insuring that all permits required under City Ordinance(s) will be secured by the contractor(s).
4. City Code Section 10.08.190 Same - In addition to inspection, construction and other permit fees. All permit fees established for the enjoyment of minor street privileges shall be separate from and in addition to inspection, construction and other permit fees.
5. By acceptance of the minor street privilege, the permittee is obligated to indemnify the City for any and all costs of removal of any unauthorized improvements not constructed according to the documents submitted and approved or not included in the minor street privilege.
6. The area must be maintained in a safe and suitable condition at all times.
7. City Code Section 10.08.090 Restoration of streets, etc. - The cost of all restoration, all adjustments in connection with all utilities and all other adjustments made necessary by the construction, maintenance, operation, relocation, discontinuance or abandonment of any minor street privilege shall be paid by the permittee. All such restoration and other necessary work of adjustment shall be performed in accordance with the provisions of this Code and other ordinance, or in the absence of a regulatory ordinance, shall, at the option of the Director of Engineering/City Engineer, be performed by the permittee or by the City at the permittee's expense from funds deposited with the City by the permittee as provided for under the provisions of this chapter.
8. Should it become necessary for the City of Wichita or any utility operating under a city franchise to excavate this location, it shall be your responsibility to remove any or all of the encroachment if necessary. Should damage occur to the encroachment during this excavation, the City of Wichita or utility operating under a city franchise will not be responsible for the repair or replacement thereof.
9. In the event you are requested to remove the encroachment and fail to do so promptly, the Director of Engineering/City Engineer is authorized to perform the necessary work by hiring a contractor to remove the encroachment and restore the property to its previous condition and charge the expense thereof to the permittee.

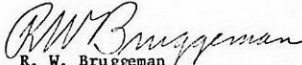
THE CITY OF WICHITA 3

Mr. Mike Steven
November 24, 1981

10. In the event you dispose of any or all of the property adjacent to the encroachment on city property, you are required to advise the new owner of this encroachment and of the requirements of the minor street privilege. Also, you are required to furnish the name and address of the new owner to the City of Wichita, Department of Engineering, within 30 days.
11. All minor street privileges are revokable. The City reserves the right to cancel this minor street privilege at any time subject to 30 days written notice.
12. The annual permit fee is waived in accordance with City Code Section 10.08.210. The administrative fee of ten dollars for the minor street privilege has been paid as evidenced by City Miscellaneous Receipt No. 558024.

If you should have any questions, please feel free to contact me at 268-4266 or Tim R. Cain, Administrative Supervisor, at 268-4601.

Sincerely,


R. W. Bruggeman
Director of Engineering

GF/02/08

Attachment

cc: Don Gisick, City Clerk
Glen Lytle, Planning Department ✓

August 18, 1981

1688

Mr. Edward Steven
7333 East Kellogg
Wichita, Kansas 67207

Re: BZA 24-81

Dear Mr. Steven:

You were informed by letter on June 25, 1981 that the Board of Zoning Appeals had acted favorably on your requested exception for the expansion of the new and used car sales agency at 7333 East Kellogg. In the notification letter on that date, the 16 conditions of approval were listed for your information. The one condition was that "all conditions of approval shall be complied with prior to the utilization of Lots 1 and 2 in Keys Addition for the display, sale or storage of any motor vehicle, and within 90 days of approval or the resolution shall become null and void."

Please be advised that several of the conditions relate to an overall site plan that was submitted with your application for the exception, by your agent Alan McHenry. This plan included correction of several violations that have existed on your property for some time, that were brought to our attention by the neighboring property owners.

In viewing your property this past week, the only progress noted was the planting of the trees in the public sidewalk area adjacent to Calhoun. It was noted at that time that the parking spaces on the east side of the building have not been restriped in conformance to the submitted plan. In other words the present early bird parking spaces and the other display spaces on the east side of the building are not in compliance with the City of Wichita off-street parking standards. The present spaces require the use of the street right-of-way for circulation which is not permitted. This has apparently caused the breaking of a storm inlet cover due to vehicular traffic over the curb. Barriers must be provided adjacent to the public

Page Two
Mr. Edward Steven
August 18, 1981

right-of-way to prevent encroachment or circulation of vehicles.

It is also noted that you are storing searchlight advertising equipment on your property. The approval for a new and used car sales lot does not include the storage of vehicles or equipment of a rental business. The neighborhood has complained and we ask your cooperation in eliminating the violations.

In order to comply with the conditions of the Board, please see that these corrections are made and that the completion of the minor street privilege is completed soon. If I can be of any assistance, please give me a call at 268-4421.

Sincerely,

Glen E. Lytle
Assistant Secretary

GEL:el

cc: Alan McHenry, 1318 Stackman, D-1, Wichita 67203
Robert B. Feldner, Superintendent of Central Inspection
Joe Donnelly, Housing and Zoning Administrator

*bcc David Stone, Div of Oper & Maint.
Tim Kane, Engineering Adm. Asst.*

LAMBERTZ COMPANY

Established 1955
812 N. Waco / Wichita, Kansas 67203 / (316) 265-8537
June 5, 1981

RECEIVED

JUN 8 1981

METROPOLITAN PLANNING

ROUTE _____

REAL ESTATE

Shopping Centers
Investments
Management
Commercial
Counseling
Industrial
Offices

BOARD OF ZONING APPEALS
10th Floor-City Hall
455 North Main
Wichita, Kansas 67202

re: Case No. BZA 24-81.

Good Morning:

I am an adjoining property owner, with my home address of 601 Calhoun.

I wish to speak against the above BZA CASE NO. 24-81 by means of this letter.

The applicant has not yet fulfilled obligations made at the times of his other BZA cases, and should not, in my opinion, be granted additional variances prior to complying with all past conditions that have been neglected.

I have enclosed photographs taken early this spring for your review. Please feel free to use these photos as you would, I do not need to have them returned.

In general, the applicant has made little effort or no effort at all to either comply with the conditions outlined in previous BZA cases, or to simply be a compatible neighbor. I feel that the very barest minimum has been followed in the instances that any effort at all was made to fulfill the applicant's obligations.

The following items are of particular concern to me:

1. Parking of vehicles for sale and/or repair in the area between the curb and sidewalk.
2. The obvious inadequacy of on site parking demonstrated by the congestion created on Calhoun Street by the vehicles belonging to the dealership, customers and employees.
3. Total lack of landscaping along Calhoun Street.
4. Unsightly chain link fence and poorly maintained privacy fence.
5. Storage of vehicles and search lights which project well above the fence which was to screen anything stored on the lot.
6. Noise level of the public address system.
7. High speed demonstration drives and general traffic by employees who have frequent "ralleyes" among themselves to and from work.

If the applicant would comply with past conditions placed on his use of the premises, and develop some concern for the quality of life in the neighborhood, I believe that we could all move forward to a more compatible coexistence.

In consideration of the applicant's past record, I ask that his BZA Case be denied.

Chuck Lambertz

August 18, 1981

David Stowe, Director of Operations and Maintenance

Glen L. Lytle, Special Assostant for Zoning

BZA 24-81 - 7333 E. Kellogg (500 So. Calhoun)

Attached hereto is a letter to Mr. Edward Steven of Eddy's Toyota relative to a recent BZA case. I have highlighted, for your information, that portion of the letter that might be of interest to your department.

Glen E. Lytle
Special Assistant for Zoning

GEL:el

Attachment

June 25, 1961

Allen McHenry
1318 Stackman D-1
Wichita, Kansas 67203

Re: Case No. EZA 24-81
Request for Exception

Dear Mr. McHenry:

At the regular meeting of the Board of Zoning Appeals on June 23, 1961, your request for an exception was considered.

It was the action of the Board to approve your request subject to the following conditions:

1. Approval of this exception is intended to incorporate and supersede EZA Case No. 31-78, thereby making that resolution null and void.
2. The planting of the trees in the street right-of-way adjacent to Calhoun as indicated by the site plan shall be completed prior to the release of this resolution.
3. All storage and display areas shall be paved with concrete or asphalt.
4. All lights shall be shielded to direct light away from adjoining properties. No string type lighting or banners shall be permitted.
5. Any signs on subject property shall comply with the provisions 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 shall be done.
8. The area shall be properly policed through inspections by the owner or operator for the proper maintenance and removal of trash.
9. All parking and display areas shall have adequate guards to prevent the extension or overhanging of vehicles beyond the property lines.
10. A 6 to 8 foot high solid fence, constructed of redwood or cedar, shall be erected beginning at the southwest corner of Lot 5, Keys Addition, thence east along the south line of said Lot 5 a distance of 37 feet; thence south on a straight line to a point on the south line of Lot 2, Key's Second Addition 37 feet east of the southwest corner of said Lot 2; thence east along the south line of said Lot 2 to the southeast corner of said Lot 2; thence north along the east line of Lot 2, Key's Second Addition and the south 50 feet of Lot 5, Key's Addition, a distance of approximately 105 feet. The above described fence shall connect with the existing fence at the southwest corner of Lot 5, Key's Addition. The existing fence and new fence shall be maintained in good repair.
11. Appropriate barriers shall be placed adjacent to public right-of-way lines to prevent the use of public right-of-way for display or parking of vehicles.
12. The applicant shall obtain a minor street privilege for the planters and the asphalt paving on the public right-of-way or remove same prior to the release of this Resolution. All planting on public right-of-way shall be maintained in good condition.
13. No permanent structure (excluding the fence described above) shall be erected or placed south of the south line of Lot 5, Key's Addition.
14. This exception shall permit the display and sale of new and used motor vehicles with a rated 1/2 ton limitation on trucks and a rated 25 foot length limitation on all other motor vehicles.
15. Unless otherwise noted, all conditions of approval shall be complied with prior to the utilization of Lots 1 & 2 in Key's Addition for the display, sale or storage of any motor vehicle, and within 90 days of the approval or this resolution shall become null and void.
16. No outdoor storage of parts or equipment shall be permitted.

Page 3

A Resolution setting forth the official action of the Board is being prepared. Release of the resolution is pending compliance with conditions 2 and 12 of the above conditions of approval.

If you have any questions, please call our office.

Sincerely yours,

Glen E. Lytle
Assistant Secretary

REL:sad

cc: Eddy's Toyota of Wichita, Inc., 5 Edward Street, 7333 E. Kellogg 67207
Robert Feldner, Superintendent of Central Inspection (2)
Don Gisiak, City Clerk

THE CITY OF WICHITA
OFFICE OF CITIZEN PARTICIPATION

DATE June 17, 1981

TO Glen Lytle, Special Assistant for Zoning

FROM Bill Morris, Administrative Aide III

SUBJECT BZA 24-81 (South side of Kellogg,
between Whittier and Calhoun)

CFO Council "H" considered the captioned case on June 15th. Allen McHenry, agent for the applicant, was present. No residents were present in opposition to the case.

The Council voted 7-0 to recommend approval of the exception. It was the Council's opinion that the proposed use is logical because of: (1) surrounding zoning, (2) the many auto agencies existing in the area, and (3) the location of the property next to Kellogg Avenue.



Bill Morris
Administrative Aide III

BM:ml

Noted:



Sarah Gilbert
CP Coordinator

SECRETARY'S REPORT
CASE NO. BZA 24-81

APPLICANT: Eddy's Toyota of Wichita, Inc., Edward Steven, 7333 East Kellogg, Wichita, Kansas

AGENT: Allen McHenry, 1318 Stackman D-1, Wichita, Kansas

REQUEST: Exception pursuant to Section 28.04.183.2, Code of the City of Wichita to permit the expansion of a new and used car sales lot in the "LC" Light Commercial District.

GENERAL LOCATION: On the south side of Kellogg between Whittier and Calhoun (7333 East Kellogg).

ZONING: Subject property is zoned "LC" Light Commercial as are the properties to the west, north and east. Property to the south is "AA" One-family and a portion of the property to the east is "A" Two-family.

LAND USE: Subject property is occupied by the applicant's existing car agency and a former restaurant. Property to the west is a car agency. Property to the south is residential, and to the east is a motel and commercial development. To the north a motel and car agency.

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 an existing new and used car sales lot onto an adjacent property at the southeast corner of Kellogg and Whittier. This expansion will be on property located in the "LC" Light Commercial District formerly occupied by a restaurant.

It should be noted that the applicant originally received approval for an automobile sales lot on this property in 1971 and was expanded in 1973. The applicant again requested expansion to the south in early 1978 and again in August 1978. In each of the previous cases there was always concern expressed by the neighborhood to the south of the intrusion of the lot into the residential area and the need for screening along the south property line and adjacent to Calhoun.

One of the conditions of approval for BZA 31-78 was the planting of trees in the public right-of-way adjacent to Calhoun on the south portion of the development. This was to be accomplished by December 31, 1978. To this date the trees are not planted. There has also been the problem of vehicles being displayed on public right-of-way which is in violation of the City Code. Also, the applicant has failed to maintain adequate off-street parking for customers and there have been complaints about the excessive use of the street by vehicles owned by the applicant.

Over the past few weeks since the application has been filed, the applicant's agent has indicated that steps were being taken to correct some of the violations on the property. The agent has also submitted a development plan showing barriers adjacent to public right-of-way and the removal of nonapproved parking spaces.

RECOMMENDATION:

Should the Board determine that the expansion of the use is appropriate at this location, then it is the recommendation of the Secretary that the application be approved subject to the following conditions:

1. Approval of this exception is intended to incorporate and supercede EZA Case No. 31-78, thereby making that resolution null and void.
2. The planting of the trees in the street right-of-way adjacent to Calhoun as indicated by the site plan shall be completed prior to the release of this resolution.
3. All storage and display areas shall be paved with concrete or asphalt.
4. All lights shall be shielded to direct light away from adjoining properties. No string type lighting or banners shall be permitted.
5. Any signs on subject property shall comply with the provisions 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 shall be done.
8. The area shall be properly policed through inspections by the owner or operator for the proper maintenance and removal of trash.
9. All parking and display areas shall have adequate guards to prevent the extension or overhanging of vehicles beyond the property lines.
10. A 6 to 8 foot high solid fence, constructed of redwood or cedar, shall be erected beginning at the southwest corner of Lot 5, Keys Addition, thence east along the south line of said Lot 5 a distance of 37 feet; thence south on a straight line to a point on the south line of Lot 2, Key's Second Addition 37 feet east of the southwest corner of said Lot 2; thence east along the south line of said Lot 2 to the southeast corner of said Lot 2; thence north along the east line of Lot 2, Key's Second Addition and the south 50 feet of Lot 5, Key's Addition, a distance of approximately 105 feet. The above described fence shall connect with the existing fence at the southwest corner of Lot 5, Key's Addition. The existing fence and new fence shall be maintained in good repair.
11. Appropriate barriers shall be placed adjacent to public right-of-way lines to prevent the use of public right-of-way for display or parking of vehicles.
12. The applicant shall maintain all landscaping in good condition, including the planters adjacent to Calhoun and Kellogg.
13. No permanent structure (excluding the fence described above) shall be erected or placed south of the south line of Lot 5, Key's Addition.
14. This exception shall permit the display and sale of new and used motor vehicles with a rated 1/2 ton limitation on trucks and a rated 25 foot length limitation on all other motor vehicles.
15. Unless otherwise noted, all conditions of approval shall be complied with prior to the utilization of Lots 1 & 2 in Key's Addition for the display, sale or storage of any motor vehicle, and within 90 days of the approval or this resolution shall become null and void.

BZA CASE NO. 24-81

2 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

20 NOTICES SENT TO ADJOINING PROPERTY OWNERS

33 TOTAL NOTICES SENT 6-3-81

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

JUNE 3, 1981

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 24-81

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 Eddy's Toyota of Wichita, Inc., c/o Edward Steven, 7333 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 expansion of an automobile agency (for the display and sale of new and used motor vehicles with a rated 1/2 ton limitation on trucks and a rated 25' length limitation on all other motor vehicles) on property zoned "LC" Light Commercial. A legal description of the applicant's property is as follows:

South 50 feet of Lot 5 and Lot 1 & Lot 2 both in Keys addition, Lot 2 except the west 37' in Keys 2nd Addition and Lot 1 E.M. Steven's 2nd Addition, Wichita, Sedgwick County, Kansas. Generally located on the south side of Kellogg between Whittier and Calhoun (7333 East Kellogg).

This application has been assigned Case No. BZA 24-81. It will be considered by the Board of Zoning Appeals on June 23, 1981 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 variance 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, 268-4381.

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

5946 A

BOARD OF ZONING APPEALS

CASE NO. 24-81

CITY OF WICHITA, KANSAS

FILED 5-22-81

APPLICATION FOR EXCEPTION

I. Name of Applicant Eddy's Toyota of Wichita, Inc.
 % Edward Steven
 Mailing Address 7333 E. Kellogg 67207 Phone 685-4201
 Name of Authorized Agent Alan M. McHenry
 Mailing Address 1318 Stackman, D-1 67203 Phone 265-1872
 Relationship of applicant to property is that of _____
 (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 agency for the display and sale of new & used motor vehicles with a rated 1/2 ton limitation on trucks and a rated 25' length limitation on all other motor vehicles.

on property zoned LC
on the south side of Kellogg between Whittier and Colburn
 located (7333 E. Kellogg)

and legally described as: _____
South 50 feet of Lot 5 and Lot 1, ^{& Lot 2} both in Keys addition, Lot 2
except the west 37' in Keys 2nd Addition and Lot 1 E.M. Steven's
2nd addition, 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 *Edward M. Steven*

Authorized Agent *A. M. Henry*

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 4:30 (a.m.-p.m.), May 22, 1981, together with appropriate fee of 200.00.

Signed *G. Lynn Shirkay*

OWNERSHIP LIST

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
1 & 2	-	Keys Addition	✓ Pizza Hut Inc., 9111 E. Douglas, 67207
4	-	"	Frank W. Buchholz Jr. & Melham Jane Buchholz, Address Unknown
South 50 ft. of 5	-	"	✓ Nevets, Inc. c/o Edward Steven, 7333 E. Kellogg, 67207
All of 1, together with the west 37 ft. of 2 & 3	-	Keys 2nd Addition	✓ Elizabeth Horning & Opal Ramsdall, 542 Whittier, 67207
2 exc. the west 37 ft.	-	"	<i>Dub</i> ✓ Eddy's Toyota of Wichita Inc., 7333 E. Kellogg, 67207
3 exc. the west 37 ft.	-	"	✓ James Isaac Brooks & Georgia L. Kelly Brooks, 555 Calhoun, 67207
1	-	E.M. Steven's 2nd Addition	<i>Dub</i> ✓ Nevets, Inc., c/o Edward Steven, 7333 E. Kellogg, 67207
1	-	Chrysler Addition	✓ ABKO Properties Inc., 4111 E. 37th St. North, 67220
1	B	Eastridge 6th Addition	✓ Frank L. Seten & Virginia Seten, and Robert Ray Seten, 602 Whittier, 67207
22	B	"	✓ Charles V. Lambertz, 601 Calhoun, 67207
2 & 3	1	Eastridge 8th Addition	✓ Robert S. Lightner & Gwendolyn H. Lightner, 26 Cypress Dr., 67206 AND Eugene W. Lightner, 219 N. Market, 67202
4	1	"	✓ Thomas Forster & Marcella M. Forster, 548 Calhoun, 67207
5	1	"	✓ Marjorie A. Wasinger, 554 Calhoun, 67207
1 & 2	A	Lightner Addition	<i>Dub</i> ✓ Robert S. Lightner & Gwendolyn H. Lightner, 26 Cypress Dr., 67206 AND Eugene W. Lightner, 219 N. Market, 67202

page 2

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
2	-	Rockwood South 1st Addition	✓ E.V. Yingling Jr. & Doreen M. Yingling, 24 Via Roma, 67230
1	-	Rockwood South 3rd Addition	✓ O.L. Eck, 7310 E. Kellogg, 67207
28	A	Eastridge 6th Addition	Walter L. Johnson Jr. & Lorene ✓ B. Johnson, 601 Whittier, 67207
2	B	"	✓ Drandco, 2930 E. Harry, 67211
3	B	"	✓ Lee G. Graddy & M. Johnie Graddy, 614 Whittier, 67207
20	B	"	✓ Joseph G. Simon (Deceased) & Claryce J. Simon, 4325 E. Lewis, 67218
21	B	"	✓ Billy R. Popchoke & Wilma D. Popchoke, 607 Calhoun, 67207
1	2	Eastridge 8th Addition	✓ Alonzo C. Smith Sr. & Shirley J. Smith, 602 Calhoun, 67207
2	2	"	✓ Edmund Arthur Woodcox & Lucila Woodcox, 7309 E. Orme, 67207



SECURITY IS KNOWING
Title Insurance • Escrow Closings • Abstracts

page 3

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

Lot 1, E.M. Steven's Second Addition, Wichita,
Sedgwick County, Kansas

AND

Lots 1, 2, and the south 50 feet of lot 5, Keys
Addition to Wichita, Sedgwick County, Kansas

AND

Lot 2 except the west 37 feet, Keys Second Addition
to Wichita, Sedgwick County, Kansas

as shown by the last deed of record on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on the 20th day of May, 1981, at 7:00 A.M.

THE SECURITY ABSTRACT & TITLE CO. INC.

By *Curtis O. Simmons*
Vice-President

Order No. 299098
GE



BZA 2-98

Lot 1, E. M Stevens Second Addition, and the south 50 feet of Lot 5, Keys Addition, Wichita, Sedgwick County. Generally located on the south side of Kellogg in an area between Whittier and Calhoun.

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 February 28, 1978, 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.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, that this application be approved to permit the establishment of a new and used motor vehicle sales agency on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 1, E. M Stevens Second Addition, and the south 50 feet of Lot 5, Keys Addition, Wichita, Sedgwick County. Generally located on the south side of Kellogg in an area between Whittier and Calhoun.

subject to the following conditions:

1. Approval of this application is intended to incorporate and supercede previous BZA cases #21-71 and #14-73, thereby making those resolutions null and void.
2. All storage and display areas shall be paved with concrete or asphalt.
3. All lights shall be shielded to direct light away from adjoining properties. No string type lighting or banners shall be permitted.
4. Any signs on subject property shall comply with the provisions of Section 28.04.139 of the City Code.
5. No sound projecting devices or loudspeakers shall be used so as to be heard outside of any structures.
6. No repair work shall be conducted except in an enclosed building, and further provided that no body or fender work shall be done.
7. The area shall be properly policed through inspections by the owner or operator for the proper maintenance and removal of trash.
8. All parking and display areas shall have adequate guards to prevent the extension or overhanging of vehicles beyond the property line.

9. An 8-foot high solid fence shall be constructed of redwood, or rough sawed cedar along the south property line of Lot 5, Keys Addition, except that the fence shall be reduced to 3 foot in height of the east 20 feet of said property line.
10. An 8 foot solid fence constructed of redwood or rough sawed cedar shall be constructed along the south and west property lines which are common to Lot 4, Keys Addition, except that the fence shall be reduced to 3 foot in height for the west 35 feet of the south property line.
11. No permanent structures (excluding the wall and fence described above) shall be erected or placed within the north 20 feet of Lot 5, Keys Addition.
12. This exception shall permit the display and sale of new and used motor vehicles with a rated 1/2 ton limitation on trucks and a rated 25 foot length limitation on all other motor vehicles.
13. Conditions 9 and 10 above shall be complied with prior to the utilization of Lot 5, Keys Addition for the display, sale or storage of any motor vehicles and within 45 days from the date of approval or this Resolution shall become null and void.

ADOPTED AT WICHITA, KANSAS, this 28th day of February, 1978.

James Richardson, Chairman

ATTEST:

Larry Dobson, Assistant Secretary

Chairman Richardson declared a recess of ten minutes at 3:40 p.m. The meeting reconvened at 4:00 p.m. with the same Board members present and staff members in attendance.

7. Case No. BZA 3-78 - Donrey Outdoor Wichita, 3405 N. Hydraulic, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to waive the following two requirements for off-site sign to be permitted on property zoned the "LC" Light Commercial District; as listed in Section 28.04.139 (1) (6) of the City Code:

(b). "There shall be not less than seventy percent of the designated mile located adjacent to "LC", "C", "E" or "F" zoned properties, or any combination thereof;"

BZA 31-78

BZA MINUTES
August 22, 1978
Page 5

"LC" 10 foot setback would be more appropriate. DOBSON stated a 20 foot setback was made a condition of the previous exception and this had been recommended by either the Planning Commission or the City Commission. DOBSON indicated he had no objection to the setback being less than 55 feet but felt that since a 20 foot setback had been previously recommended, no less than 20 feet should be required as a building setback.

General discussion regarding this setback followed.

McHENRY then said he wished to discuss the height of the fence, indicating he felt it would be advantageous to have a continuous 6 foot fence around the property rather than one section of 8 foot erected. DOBSON indicated some slatted sections of fence were included by the architect in his plan but that the condition called for a solid fence and if it was the Board's inclination to allow this semi-solid arrangement, it would be necessary to change the condition accordingly.

McHENRY stated the reason for incorporating semi-solid sections was that 100 foot long fences are subject to wind conditions and by introducing louvered sections, the wind blows through rather than whipping the fence around. He further stated he felt the louvers would lend aesthetically to the fence and the landscaping.

GALBRAITH requested clarification from McHenry with regard to whether he was requesting a change in condition #9 to read only a 6 foot fence. McHENRY stated this was their intention.

TAYLOR stated there had been considerable discussion in the Planning Commission regarding the merits of an 8 foot fence against a 6 foot fence and that the Commission felt the 8 foot fence was the more desirable in this instance.

GALBRAITH spoke to the fact that the Planning Commission had recommended a masonry wall some two years ago when the last lot was considered for "LC" zoning, and the City Commission concurred that a wall was needed. However, when the application was brought before the Board of Zoning Appeals, the applicants stated they would like to use a wooden fence inasmuch as they were in the process of acquiring the next lot south and did not want to build a permanent wall at that time. Subsequently, the Board of Zoning Appeals did not require establishment of a masonry wall. GALBRAITH also stated he would like to see some wording change in the fence height requirement in that if an 8 foot fence was stipulated, this could cause problems in the construction of the fence as well as the enforcement of the condition. He felt it would be more advantageous to set a requirement of 7-1/2 to 8 foot or something that would allow some flexibility in the fence construction. Further, he stated he believed McHenry had misread the intent of condition #9 in that the condition required not only new fencing, but replacement of the old fence on the south and west property lines of the applicants' ownership. McHENRY stated he did not read the condition that way.

GALBRAITH reiterated this was the intent of the condition as written in the Secretary's Report. He further expressed an interest in clarification of condition #9 as to exactly what it pertains to; that if the Board is talking about a substantial fence of some strong material rather than just the old basketweave louvered cheaper constructed fence, then that issue needs to be addressed. McHENRY stated that Galbraith's earlier comment would mean the whole lot would have to be refenced. GALBRAITH replied this was correct, if the condition was left as written, the south and west lines would have to be fenced with 8 foot high solid fencing. He further stated that if McHenry wished to keep the old fence, the Board needs to establish where the new fence construction is to begin, the desired height, and type of fencing material. DOBSON stated that since this application incorporates the entire ownership, it was necessary to address the total fencing requirement. If it is desired to keep the 6 foot fence on the west side, it would be necessary to separate the two and state one section as being 6 feet and the other as 8 feet. GALBRAITH said the Board could stipulate the existing 6 foot fence shall continue to remain and be maintained satisfactorily under condition #9. SQUIRES inquired about allowable height of the vehicles to be stored on the lot. DOBSON replied there was a length and weight limitation but not one for height.

No one else appeared to speak in favor of the request.

CHUCK LAMBERTZ, an area property owner, spoke in opposition to the request, stating that under "LC" zoning, subsection 1.28 of the Zoning Ordinance reads "the area used for storage shall be enclosed by a fence or wall not less than 6 feet in height nor less than the height of the merchandise". He stated he would not read all the subsection but that he did not understand why the Board was considering a 3 foot fence down Calhoun. He is of the opinion there should be an 8 foot fence along Calhoun to enclose the merchandise.

GALBRAITH stated that the Board's jurisdiction in this case is granted by a section of the ordinance which permits certain exceptions to the use of property. This particular exception permits the Board to authorize new and used car lots to locate in "LC" zoning, which is not otherwise permitted. DOBSON read the screening requirement from Section 28.04.183.2; "such screening for areas contiguous to residential zoning districts as may be determined appropriate and necessary to protect adjacent properties from light, debris and noise, and to preserve adjacent property values".

LAMBERTZ again asked the Board to consider having the 8 foot fence erected along Calhoun Street, stating the neighborhood was becoming cluttered with automobiles. He went on to say that he was not really opposed to the use of the lot but that he believed it was to the best interest of the residents of the area to have the benefit of this screening. Further, he stated it was his opinion a 3 foot fence would not provide adequate screening for north-southbound traffic.

McHENRY stated he believed there was something in the building code which limits that kind of fencing to 3 foot on the front of a lot. He did not particularly object to the higher fence but believed it could not be accomplished because of the required drop. DOBSON replied the 3 foot drop is a requirement when it particularly deals with the screening/landscaping provisions of the ordinance. He further stated that under an exception, the Board has the power and authority to establish a 6 foot high fence in the setback area if the Board so desires. GALBRAITH interjected there was no question that the Board had jurisdiction to establish the fence height desired adjacent to the street. TAYLOR then asked if the fence could be a 6 foot continuous one, enclosing the whole area. GALBRAITH said yes, this could be done and cited the example of the car agency to the west which has a 6 foot fence surrounding much of their property. GALBRAITH said one of the reasons for the 3 foot fence in setbacks is that in the event a sidewalk is constructed, the view of a person backing out of an adjacent driveway would not be obstructed. The 6 to 8 foot fence could create a potential hazard in this respect. SQUIRES asked if the proposed 6 foot fence would obscure the view of the current occupant of the residential property to the south in backing out of the driveway. DOBSON stated the fence would be approximately 14 to 15 feet from the curbline, which should allow enough clearance to check for vehicular traffic, but would block the view of pedestrian traffic if a sidewalk was constructed next to the fence.

RON CLEMENTS appeared and stated he was the owner of the house directly south of the applicant's property. He offered the fact that there were no children in the area with the exception of his. He stated there was a definite problem with automobiles parked next to his driveway and that these automobiles were the cause of difficulty in backing out in that his vision was obscured anyway. CLEMENTS further stated that the parking problem on Calhoun was so pronounced that there was only one lane of traffic. He further said he would like to see a 6 foot fence all the way since he was having trouble keeping his children off the vacant lot. He said he felt a 6 foot fence would not be a problem in obscuring vision, that the parking of automobiles along Calhoun was the major problem. JACOB inquired if Clements had any preference between a 6 or an 8 foot fence. CLEMENTS replied he had no preference.

No one else appeared to speak in opposition to the request.

DOBSON stated that in the times he had visited this site, he noticed there were quite a few automobiles parked along Calhoun and that Clements' statement concerning one lane of traffic was quite true. There appears to be a real on-street parking problem as well as parking on public right-of-way, and he suggested that perhaps this is something the Traffic Commission should review.

JACOB stated he felt any fence required should be a solid fence of uniform height. TAYLOR questioned Galbraith with regard to his statement concerning a 7-1/2 foot to 8 foot high fence. GALBRAITH indicated this could be a 6 to 8 foot fence to allow the

applicant flexibility and to accommodate property elevation factors. TAYLOR stated that if this would be an incentive for the applicant to comply with each and every stipulation then she would concur with Galbraith.

MOTION: TAYLOR moved, JACOB seconded and it carried unanimously to approve the application subject to the conditions listed in the staff report with an amendment to condition #9, the fencing requirement, (see the following Resolution for wording of the condition) and an additional condition to guarantee the closing of the curb cut on the southernmost lot.

JACOB then questioned DOBSON concerning condition #12, asking if the use of the property changes from a storage lot would it then revert back to normal "LC" setback requirements. DOBSON replied in the affirmative. JACOB then asked McHenry if this setback would be a problem to the applicant. MCHENRY stated he felt the 55 foot setback was excessive, in that a possible future purchaser might wish to build. DOBSON stated that this exception applied only to the use of a motor vehicle sales lot. If another use occupied the property the normal "LC" setbacks would apply.

The exception was granted as shown by the adoption of the following resolution:

RESOLUTION NO. BZA 31-78

WHEREAS, Nevets, Inc., 6637 E. Kellogg, Wichita, Kansas, requests an exception as provided in Section 2.12.590.C, Code of the City of Wichita, to permit the establishment of a new and used motor vehicle sales agency on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 1, E. M. Stevens Second Addition, the south 50 feet of Lot 5, Key's Addition and Lot 2, except the west 37 feet thereof, Key's Second Addition.
Generally located on the south side of Kellogg in an area between Whittier and Calhoun.

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 August 22, 1978, 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 establishment of a new and used motor vehicle sales agency on property zoned the "LC" Light Commercial District 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 establishment of a new and used motor vehicle sales agency on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 1, E. M. Stevens Second Addition, the south 50 feet of Lot 5, Key's Addition and Lot 2, except the west 37 feet thereof, Key's Second Addition. Generally located on the south side of Kellogg in an area between Whittier and Calhoun

subject to the following conditions:

1. Approval of this exception is intended to incorporate and supercede previous BZA Case No. 2-78, thereby making that resolution null and void.
2. All storage and display areas shall be paved with concrete or asphalt.
3. All lights shall be shielded to direct light away from adjoining properties. No string type lighting or banners shall be permitted.
4. Any signs on subject property shall comply with the provisions of Section 28.04.139 of the City Code.
5. No sound projecting devices or loudspeakers shall be used so as to be heard outside of any structure.
6. No repair work shall be conducted except in an enclosed building, and further provided that no body or fender work shall be done.
7. The area shall be properly policed through inspections by the owner or operator for the proper maintenance and removal of trash.
8. All parking and display areas shall have adequate guards to prevent the extension or overhanging of vehicles beyond the property lines.
9. A 6 to 8 foot high solid fence, constructed of redwood or cedar, shall be erected beginning at the southwest corner of Lot 5, Keys Addition, thence east along the south line of said Lot 5 a distance of 37 feet; thence south on a straight line to a point on the south line of Lot 2, Key's Second Addition 37 feet east of the southwest corner of

said Lot 2; thence east along the south line of said Lot 2 to the southeast corner of said Lot 2; thence north along the east line of Lot 2, Key's Second Addition and the south 50 feet of Lot 5, Key's Addition, a distance of approximately 105 feet. The above described fence shall connect with the existing fence at the southwest corner of Lot 5, Key's Addition. The existing fence and new fence shall be maintained in good repair.

10. Appropriate barriers shall be placed adjacent to the south side of the southernmost driveway from Calhoun to prevent the parking of vehicles on the public right-of-way between the east property line and the west curb line of Calhoun.
11. The public right-of-way adjacent to the east side of Lot 2, Keys 2nd Addition and Lot 5, Keys Addition shall remain unpaved and shall be landscaped with grass and trees. The City Forester shall be contacted relative to the appropriate type of trees to be planted. Planting of said trees, at least five in number, shall be accomplished not later than December 31, 1978. The applicant shall also be responsible for the timely replacement of any of the trees that die or are otherwise destroyed.
12. No permanent structure (excluding the fence described above) shall be erected or placed south of the south line of Lot 5, Keys Addition.
13. This exception shall permit the display and sale of new and used motor vehicles with a rated 1/2 ton limitation on trucks and a rated 25 foot length limitation on all other motor vehicles.
14. The existing driveway approach adjacent to Lot 2, Key's Second Addition shall be removed and the curb returned. The City Engineer's office shall be contacted with respect to the proper method of accomplishing the curb return.
15. Unless otherwise noted, all conditions of approval shall be complied with prior to the utilization of Lot 2, Key's Second Addition for the display, sale or storage of any motor vehicle and within 60 days from the date of approval or this resolution shall become null and void.

ADOPTED AT WICHITA, KANSAS, this 22nd day of August, 1978.

ATTEST:

Angela Squires, Vice-Chairman

Larry Dobson, Assistant Secretary

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AVAILABLE COPY**

FORM 9-021

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

DESCRIPTION		AMOUNT
NAME		
ADDRESS		
FUND	DUE DATE	
COMMENTS		
DATE	BY	

*

This BZA. Case
Has a Large Drawing
On 35mm Microfilm
Roll # 2