

POSTED
5-30-84 GEL

ACTION

B.Z.A. 3884 APPROVED 6-26-84
DATE

Case No. BZA 38-84 - D. & M. Investments
- requests an exception to permit the
establishment of an automobile sales
business on property zoned the "LC"
Light Commercial District and generally
located on the northeast corner of

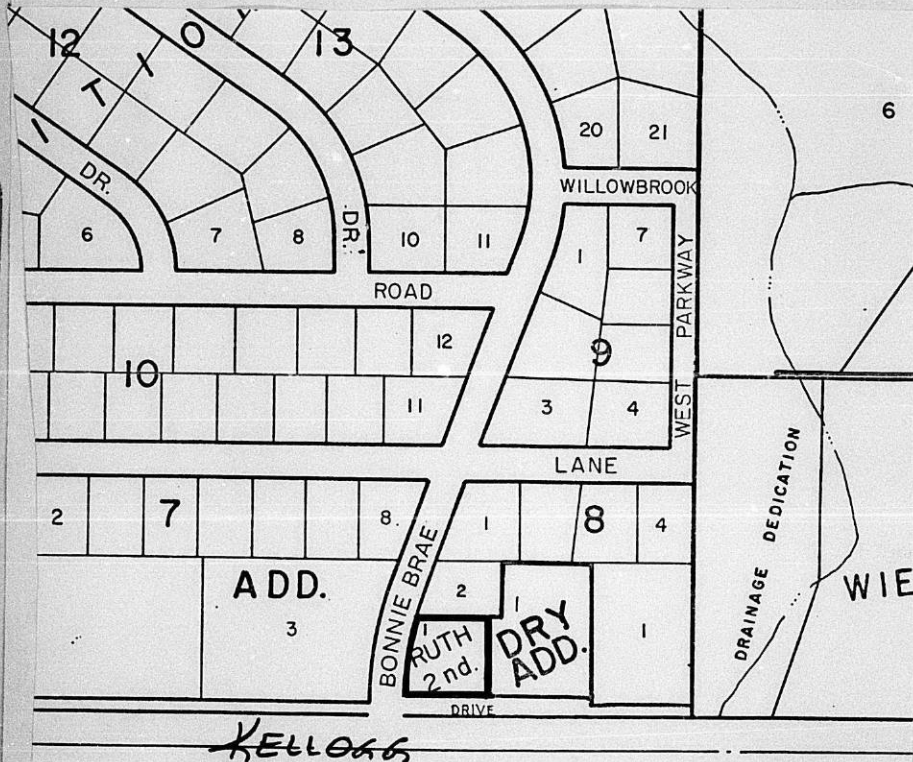
700 1/4 Sec. 72-84
Shot 79
Record

Map No. 6047C

BZA 38-84
Filed _____

AREA DATA:

1. Acres: _____ (_____ ft. by _____ ft.)
2. Adjoining Zoning: E LC S LC W LC N LC
3. Land Use: East Rest. South Auto sales
West Motel North Off
4. Area (is) ~~(is not)~~ platted.



LOS ANGELES, CHICAGO, LOGAN, OH
MCKINSON, TX, LOCUST GROVE, GA
U.S.A.

Shirley
No. 2153C

HASTINGS, MN

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

June 6, 1984

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 38-84

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, & T. G. Davis, Jr., 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 establishment of an automobile sales business on property zoned "LC" Light Commercial District. A legal description of the applicant's property is as follows:

Lot 1, Ruth 2nd Addition to Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of Kellogg and Bonnie Brae (8402 East Kellogg).

This application has been assigned Case BZA 38-84. It will be considered by the Board of Zoning Appeals on June 26, 1984 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.

Jack H. Calbraith
Secretary

June 29, 1984

D & M Investments
& T. C. Davis, Jr.
P. O. Box 18047
Wichita, Ks. 67218

Re: BZA 38-84 - Request for Exception

Dear Mr. Davis:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on June 26, 1984.

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
Encl.

cc: Everett Fettis, Attorney, 120 S. Market, Suite 504, Wichita 67202
Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

RESOLUTION NO. BZA 38-84

WHEREAS, D & M Investments, § T. G. Davis, Jr., P. O. Box 18047, Wichita, Kansas, requests an exception as provided in Section 2.12.590.C, Code of the City of Wichita, to permit the establishment of an automobile sales lot on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 1, Ruth 2nd Addition to Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of Kellogg and Bonnie Brae (8402 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 26, 1984, 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 an automobile 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 establishment of an automobile sales lot on property zoned the "LC" Light Commercial District and legally described as follows:

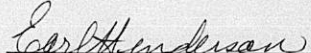
Lot 1, Ruth 2nd Addition to Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of Kellogg and Bonnie Brae (8402 East Kellogg).

subject to the following conditions:

1. 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.
2. All motor repair work shall be conducted entirely within an enclosed building.
3. All storage and display areas shall be paved with concrete, asphalt or asphaltic concrete.
4. 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.
5. No access to the property shall be permitted from Kellogg Drive.
6. All lights shall be shielded to direct light away from adjoining property. No string type lighting or banners shall be permitted.
7. Ground or pole signs shall not exceed the height, area or number permitted by the zoning regulations for the "LC" Light Commercial District.
8. No sound projecting devices or loudspeakers shall be used so as to be heard beyond the property lines.

9. Prior to the release of the Resolution authorizing the issuance of any building permits, 3 copies of a development plan as set forth in condition number 4 shall be reviewed by Central Inspection to determine compliance with the ordinances and approved by the Traffic Engineer shall be provided to the Secretary.
10. The applicant shall remove, or make safe all underground fuel storage tanks.
11. All requirements as set forth in this resolution shall be complied with within 365 days from the approval by the Board or the resolution shall become null and void.

ADOPTED AT WICHITA, KANSAS, this 26th day of June, 1984.


Earl Henderson, President

ATTEST:


Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA

OFFICE OF Citizen Participation DATE June 21, 1984

TO Glen Lytle, Special Assistant for Zoning

FROM Cindy Entriiken, Administrative Aide III

SUBJECT BZA 38-84 Generally located on
the northeast corner of Kellogg
and Bonnie Brae (8402 E. Kellogg)

On Monday, June 18, CPO Council "H" considered the above captioned case.

The Council voted 5-0 to recommend that this request be approved subject to the conditions in the Secretary's report.

Everett Fettis was present to discuss this case with the Council. In response to a concern about vehicles parking on the street, Fettis noted that there would be no vehicles parked on the street, and that the applicant has filed a request for a minor street privilege in front of the property, and will give up access on the service road so that the only access will be Bonnie Brae. There were no area residents present to discuss the case.

Please present the Council's recommendations to the BZA when it meets to consider this case.

Cindy Entriiken

Cindy Entriiken
Administrative Aide III

CE:sm

Noted:

Annie K. Montgomery
Annie K. Montgomery
CRS Director

SECRETARY'S REPORT
CASE NO. BZA 38-84

APPLICANT: D. & M. Investments, & T. G. Davis, Jr., P. O. Box 18047, Wichita, Kansas.

AGENT: Everett Fettis, Attorney, 120 South Market, Suite 504, Wichita, Kansas.

REQUEST: Exception pursuant to Section 28.04.183.2, Code of the City of Wichita to permit the establishment of an automobile sales business.

GENERAL LOCATION: On the northeast corner of Kellogg Drive and Bonnie Brae (8402 East Kellogg).

ZONING: Subject property is "LC" Light Commercial District as are all adjoining properties.

LAND USE: Subject property is occupied by a vacant service station. Properties to the east is a restaurant, to the north an office building, to the west and south are commercial development.

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 establishment of an automobile sales business on property zoned the "LC" Light Commercial District. This application is to permit the conversion of the existing service station property to a sales lot. This property was recently platted as Lot 7, Ruth Second Addition to Wichita, Kansas.

The property immediately across Kellogg to the south has also been converted to an automobile sales business which was a former service station. The property included in the application is approximately 150 feet by 140 feet with the building located approximately in the center. In the process of platting, the applicant was required to dedicate an additional 10 feet of right-of-way for Kellogg, and has shown the use of this 10 feet as part of the site development plan. The applicant will be required to secure a minor street privilege to use the property as part of this request.

The permanent barricade of Bonnie Brae Street to the north should prevent the proposed use of the property from being a detriment to the residential neighborhood to the north. The property to the east is a restaurant that has more than minimum parking and should not be affected by this use. The office building to the north does not have the required parking, and will be losing a number of spaces with the conversion of this property by this application. This will not affect the legal use of the application area for this use, but the owner to the north might need to acquire additional parking for the existing building.

RECOMMENDATION:

Should the Board determine that the proposed automobile sales business at this location is appropriate, then it is the recommendation of the Secretary that the exception be granted subject to the following conditions:

1. 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.

2. All motor repair work shall be conducted entirely within an enclosed building.
3. All storage and display areas shall be paved with concrete, asphalt or asphaltic concrete.
4. 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.
5. No access to the property shall be permitted from Kellogg Drive.
6. All lights shall be shielded to direct light away from adjoining property. No string type lighting or banners shall be permitted.
7. Ground or pole signs shall not exceed the height, area or number permitted by the zoning regulations for the "LC" Light Commercial District.
8. No sound projecting devices or loudspeakers shall be used so as to be heard beyond the property lines.
9. Prior to the release of the Resolution authorizing the issuance of any building permits, 3 copies of a development plan as set forth in condition number 4 shall be reviewed by Central Inspection to determine compliance with the ordinances and approved by the Traffic Engineer shall be provided to the Secretary.
10. The applicant shall remove, or make safe all underground fuel storage tanks.
11. All requirements as set forth in this resolution shall be complied with within 365 days from the approval by the Board or the resolution shall become null and void.

BZA CASE NO. 30-84

<u>2</u>	NOTICES SENT TO APPLICANT/AGENT
<u>10</u>	LEGAL ADVERTISEMENT SENT TO MAPC
<u>1</u>	NOTICES SENT TO CPO
<u>11</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>14</u>	TOTAL NOTICES SENT <u>6-6-84</u>

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

June 6, 1984

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CASE NO. BZA 38-84

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Lot 1, Ruth 2nd Addition to Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of Kellogg and Bonnie Brae (8402 East Kellogg).

This application has been assigned Case BZA 38-84. It will be considered by the Board of Zoning Appeals on June 26, 1984 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.

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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

BOARD OF ZONING APPEALS

CASE NO. 38-84

CITY OF WICHITA, KANSAS

FILED 5-29-84

APPLICATION FOR EXCEPTION

I. Name of Applicant D & M INVESTMENTS, %T.G. Davis, Jr.
 Mailing Address P.O. Box 18047, Wichita 67218 Phone 685-0211
 Name of Authorized Agent Everett C. Fettis, Attorney
 Mailing Address 504 One Twenty Bldg. 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 an automobile sales business
used car lot

on property zoned LC

located on the northeast corner of Kellogg and Cornish Blvd.
(8402 E. Kellogg,) Wichita, Kansas

and legally described as: Lot 1, Ruth 2nd Addition, 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 _____

Authorized Agent Everett C. Fettis

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, appropriate fee of 3.00 (to m.p.m.) May 29, 1984 together with 200.00

Signed H. Lytle

STATEMENT

This property has been occupied as a service station and has been vacant for some time. It is the desire and intention of the applicant that the property be utilized as a used car lot. We feel that the location in this area is such as to make this a suitable use.

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>
Lot 1, Ruth 2nd Addition	D & M Investments 6215 E. Kellogg 67218
Lot 3, except the north 100 feet, Ruth Addition & except the west 155.7 feet.	Gary K. Edminster ✓ 5908 S. 107th E Derby, Kansas 67037
Lot 3, except the west 155 feet & the west 155 feet of lot 3, & all of lot 4, Ruth Addition	Ramoka Inc. ✓ 8300 E. Kellogg 67207
Lot 1, Dry Addition	J. R. Dry Verda S. Dry J. R. Dry, Jr. <u>Address unknown</u>
Lot 1, Ruth Addition	United Life & Accident ✓ Insurance Co. 2 White St. Concord, New Hampshire 03301
Beginning 174.7 feet West and 150 feet north of the southeast corner of said Lot 2, Ruth Addition' thence west parallel to the south line of said lot to the East line of Bonnie Brae Street; thence northeasterly along the east line of said Bonnie Brae Street to the Northwest corner of said Lot 2; thence East along the north line of said lot to a point 164.4 feet west of the Northeast corner of said Lot; thence south to the point of beginning; and Beginning at a point established as follows: From the Southeast corner of lot 2, Ruth Addition, measured west along the south line of said lot 174.4 feet; thence north parallel to the east line of said lot 150 feet; thence northeasterly along a line which would intersect the north line of said lot at a point 164.4 feet west of the northeast corner of said lot to a point which is 92 feet south of the north line of said lot for the point of beginning; thence from said point of beginning northeasterly to a point on the North line of lot 2, which is 164.4 feet west of the northeast corner of said lot; thence east 9 feet; thence south parallel to the east line of said lot a distance of 92 feet; thence west 19 feet, more or less to the point of beginning.	C. L. Finley Jane Finley ✓ 7700 E. 13th 67206 (Affadavit of Interest) ✓ Larry D. Fleming 160 S. Rock Rd. 67207

Property Description

Property Owner

Lot 7, Block 7, Bonnie Brae Addition

✓ Charles B. Myers
Hazel G. Myers
8321 Peach Tree
67207

Lot 8, Block 7, Bonnie Brae Addition

✓ Joseph Bruce-Bryan
Cynthia Marie Bryan
405 Bonnie Brae
67207

Lot 1, Block 8, Bonnie Brae Addition

✓ Union National Bank of
Wichita, Kansas, trustee
for Cy L. Finley
150 N. Main
67202

Lot 2, Block 8, Bonnie Brae Addition

✓ Steve M. Longan
Ronda S. Longan
8407 Peach Tree
67207

Lot 3, Block 8, Bonnie Brae Addition

✓ Douglas J. Moshier
Carolyn S. Moshier
8415 Peach Tree
67207

Lot 1, Block 1, Replat of Block 1,
Sunny-brook Addition

William Levitt
address unknown

Beginning at the intersection of the south line of the frontage road to the south side of Kellogg and the east line of Mansfield Drive; thence southwesterly along the east line of Mansfield Drive, 75 feet; thence southeasterly to a point on the west line of Eastern Avenue which point is 120 feet south of the south line of said frontage road; thence north along west line of eastern Ave., 120 feet; thence west along south line of said frontage road to the point of beginning, being part of Block 2, Sunny-brook Addition.
Lot 1, Weaver-Reimold Addition

D & M Investments
6215 E. Kellogg
67218

✓ Executive Inn Inc.
8401 E. Kellogg
67207

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

(continued on next page)

Page 3

Lot 1, Ruth 2nd 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 of Sedgwick County, Kansas, on this
23rd day of May, 1984, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE CO. INC.

By

Mary Kable
Sr. Vice President

Order No: 334516
cf

O W N E R S H I P L I S T

<u>Property Description</u>	<u>Property Owner</u>
Lot 1, Ruth 2nd Addition	D & M Investments 6215 E. Kellogg 67218
Lot 3, except the north 100 feet, Ruth Addition & except the west 155.7 feet.	Gary K. Edminster 5908 S. 107th E Derby, Kansas 67037
Lot 3, except the west 155 feet & the west 155 feet of lot 3, & all of lot 4, Ruth Addition	Ramoka Inc. 8300 E. Kellogg 67207
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Lot 1, Ruth Addition	United Life & Accident Insurance Co. 2 White St. Concord, New Hamshire 03301
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<u>Property Description</u>	<u>Property Owner</u>
Lot 7, Block 7, Bonnie Brae Addition	Charles B. Myers Hazel G. Myers 8321 Peach Tree 67207
Lot 8, Block 7, Bonnie Brae Addition	Joseph Bruce-Bryan Cynthia Marie Bryan 405 Bonnie Brae 67207
Lot 1, Block 8, Bonnie Brae Addition	Union National Bank of Wichita, Kansas, trustee for Cy L. Finley 150 N. Main 67202
Lot 2, Block 8, Bonnie Brae Addition	Steve M. Longan Ronda S. Longan 8407 Peach Tree 67207
Lot 3, Block 8, Bonnie Brae Addition	Douglas J. Moshier Carolyn S. Moshier 8415 Peach Tree 67207
Lot 1, Block 1, Replat of Block 1, Sunny-brook Addition	William Levitt address unknown
Beginning at the intersection of the south line of the frontage road to the south side of Kellogg and the east line of Mansfield Drive; thence south- westerly along the east line of Mansfield Drive, 75 feet; thence southeasterly to a point on the west line of Eastern Avenue which point is 120 feet south of the south line of said frontage road; thence north along west line of eastern Ave., 120 feet; thence west along south line of said frontage road to the point of beginning, being part of Block 2, Sunny-brook Addition.	D & M Investments 6215 E. Kellogg 67218
Lot 1, Weaver-Reimold Addition	Executive Inn Inc. 8401 E. Kellogg 67207

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

(continued on next page)

Page 3

Lot 1, Ruth 2nd 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 of Sedgwick County, Kansas, on this
23rd day of May, 1984, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE CO. INC.

By

Mary Gable
Sr. Vice President

Order No: 334516
cf

**MICROFILMED
FROM THE BEST
AVAILABLE COPY**

FORM 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

CITY 02A EXCEPT 200 22

NAME

EVERETT FATTIS

ADDRESS

120 S. MKT., Suite 504

FUND

155-40071-003

DUE DATE

COMMENTS

DATE

MAY 29 1984

BY

[Signature]

*

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

Roll # 2