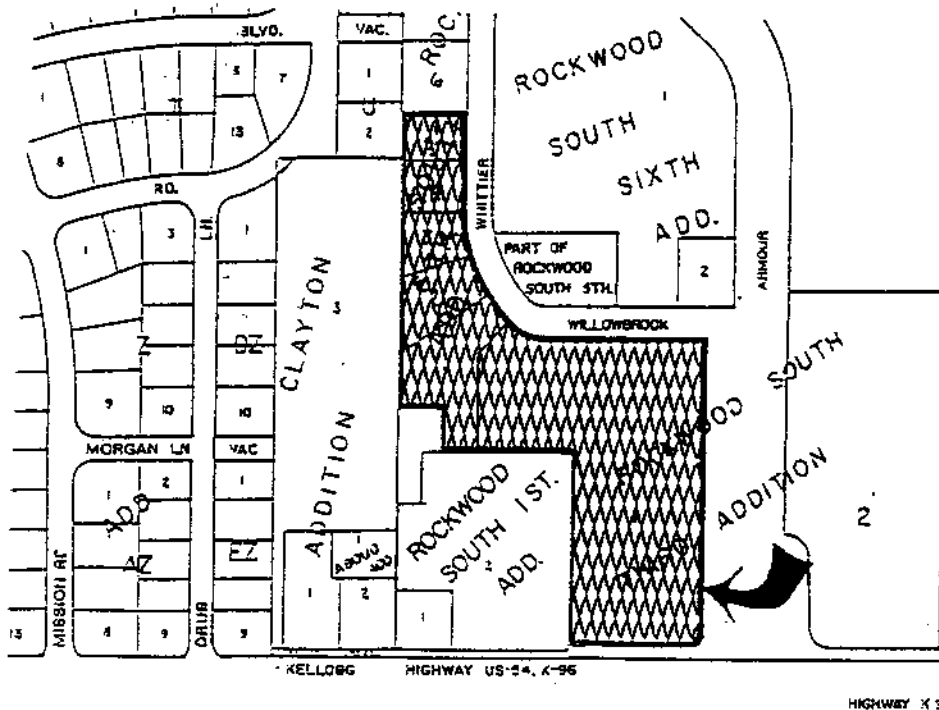


12. Lots 2, 3, 4, and 5 shall not be used for vehicle parking or storage until the required additional landscaping is installed or guaranteed in conformance with the approved plan
13. Paving and lights shall be excluded from the west 35-foot landscape buffer.
14. This resolution authorizing vehicle sales on this property may be declared null and void upon a finding by the Board that the applicant, or subsequent operator of the business, has failed to comply with any of the foregoing conditions.
15. Release of this resolution shall supersede and make null and void BZA Resolution No. 33-66.

SECRETARY'S REPORT

CASE NUMBER: BZA 28-94
OWNER/APPLICANT: Eck Properties Inc.
REQUEST: Exception to permit new and used car sales and service.
CURRENT ZONING: "LC" Light Commercial and "C" Commercial..
SITE SIZE: 11.93 Acres
LOCATION: Northwest corner of Kellogg Drive and Armour.



JURISDICTION: The Board has jurisdiction to consider this request under the provisions outlined in 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.

BACKGROUND: The applicant, Eck Properties Inc., proposes to expand an existing automotive dealership which is located on the northwest corner of Kellogg Drive and Armour. The existing dealership is located on Lot 1 within the Rockwood South Third Addition and a BZA use exception, BZA 33-66, was granted to allow new and used car sales and service on the site. A 40,000 square-foot area near the center of Lot 1 is zoned "C" Commercial to provide for vehicle body and fender work. The area that the applicant would like to expand the dealership into is platted as Lots 1, 2, 3, 4, & 5, Block 1, Rockwood South Fifth Addition and is located north of Willowbrook on the east side of Whittier. This site is bordered by the automotive dealership to the south, a retail store and a restaurant to the west side of Whittier Drive, a day care center to the north, the Windsor at Eastborough multiple-family complex to the west, and single-family homes in the City of Eastborough also to the west. Because this area is within the Kellogg Mall Community Unit Plan, DP-12, it was necessary for the applicant to amend the Community Unit Plan (except for Lot 1 which already permitted auto sales and service) to allow for auto sales and service as a permitted use.

During the amendment process, the request was considered by the Metropolitan Area Planning Commission and finally by the City Council. The City Council took action to approve the request for only automotive storage and employee parking (no sales) on Lots 2, 3, 4, and 5, Block 1, Rockwood South Fifth Addition, subject to approval by the Board of Zoning Appeals. As part of the approval process, the City Council reestablished a 35 foot landscape buffer along the west side of Lots 1, 2, 3, 4, and 5 and required that the applicant intensify the existing plant materials in the buffer zone so that it will provide for a solid visual screen along the west property line of all five lots. Screening was also required along the north property line of Lot 5. Other requirements established by the City Council approval of the amended DP-12 CUP included: establishing responsibility for installing and maintaining the landscaping, requiring that no building permits be issued until the required landscaping is installed or guaranteed, no outdoor loud speakers or sound projection devices shall be permitted on any of the lots, and all lighting must be shielded to reflect or direct light away from adjoining residential properties. The November 17, 1994, minutes of the Planning Commission meeting in which the DP-12 Amendment #10 was considered are attached, as well as the December 13, 1994, City Council action regarding the amendment.

The applicant has submitted a site plan which indicates how Lots 1, 2, 3, 4, and 5, Block 1, Rockwood South Fifth Addition will be integrated into the site of the existing auto dealership to the south. The site plan indicates compliance with the requirements established with the approval of the amended DP-12 CUP. Lot 5 will be used for employee parking and lots 1-4 will be used for vehicle storage areas. Lot 1, Rockwood South Third Addition will continue to be used as the site for service, sales, repair, and parts. The total site, when developed, will contain 1,293 stalls of which 226 stalls

will be for customers and employee parking and the remaining 1,067 stalls will be used to store inventory.

Even though the City Council has approved, thru the CUP amendment process, the use being requested by the applicant, the Board of Zoning Appeals may establish additional requirements to protect adjacent properties from light, debris, and noise and to preserve adjacent property values.

ADJACENT ZONING AND LAND USE:

NORTH: "LC" Day Care Center
SOUTH: "LC" Retail Stores, Hotel
EAST: "LC" Retail Store and Restaurant
WEST: "LC", "B", & "AA" Multi-Family Complex, Single-Family Homes, Retail Stores

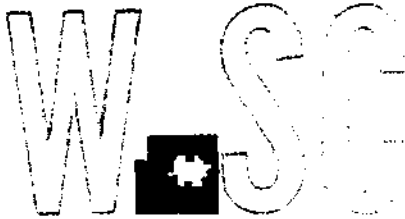
RECOMMENDATION: Should the Board determine that new and used car sales, service, and storage is appropriate at this location, it is recommended that the exception be approved, subject to the following conditions:

1. Within one year after approval by the Board of Zoning Appeals of this use exception, the applicant shall develop the site in conformance with the approved site and landscape plans.
2. All vehicle parking, storage, and display area shall be paved with concrete, asphalt or asphaltic concrete. Parking barriers (e.g. curbs, bumper blocks, posts, and chains, etc.) shall be installed along all perimeter boundaries, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not extend beyond the property boundaries. Parking barriers shall also be installed 35 feet east of the west property line to protect the landscape buffer from encroachment.
3. This new and used vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business. Any vehicle service or repair work conducted on the site shall be entirely within a building. No body or fender work shall be done on the premises except in that area zoned "C" Commercial.
4. Parking spaces for employees and customers shall be provided on the property as specified in the zoning ordinance, which currently requires two employee spaces for each 1,000 square feet of building area and two customer spaces for the first 10,000 square feet of lot area used for storage and display, plus one

customer space for each additional 10,000 square feet of lot area used for storage and display. If any of the building is utilized for car repair, the parking calculation is three per 1,000 square feet, plus three spaces. The spaces required for customers and employees shall be identified on the site plan and labeled on the site by small signs or pavement markings and shall not be used for display and storage of cars which are for sale (except for sales vehicles driven by the employees of this business).

5. All lights shall be shielded to direct light away from adjoining properties. No string-type lighting or banners shall be permitted. Only full cut-off lighting fixtures no taller than 20 feet above grade shall be permitted on Lots 1, 2, 3, 4, and 5.
6. Only those signs permitted in the "LC" zoning district shall be permitted on this site, except that no portable signs shall be permitted and no string-type banners or pennants shall be permitted.
7. No sound projecting devices or loudspeakers shall be permitted outside of the buildings.
8. No vehicles shall be elevated in any manner above the parking surface for purposes of display.
9. Parking for early service customers shall be provided for on site and not be permitted to spill over onto public streets.
10. A solid fence or wall eight feet in height shall be provided and maintained along the west property line of Lots 1, 2, 3, 4, and 5 of the application area. A solid fence or wall six feet in height shall be provided and maintained along the north property line of Lot 5.
11. The required 35 foot landscape buffer along the west side of Lots 1, 2, 3, 4, and 5 shall be maintained and intensified, in accordance with the approved landscape plan to provide a solid visual screen along the west property line. The landscape buffers shall include an underground sprinkler or other acceptable system, so as to provide water to the plant materials. Also, the area immediately north of the north fence of Lot 5 shall be landscaped in accordance with the approved landscape plan. A letter shall be obtained from the owner of Lot 6 acknowledging that the landscaping can be installed on that property and indicating which party will be responsible for maintenance.

WICHITA — SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4421

January 25, 1995

Rusty Eck
Eck Properties, Inc.
7310 E. Kellogg
Wichita, KS 67207

Re: BZA 28-94 - Exception to permit new and used car sales and service on property zoned "LC" Light Commercial.

Dear Mr. Eck:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on January 24, 1995. This resolution reflects the official action of the Board to grant your request and sets out the conditions of approval. It is forwarded to you for your information and files.

This is a reminder that the zoning adjustment signs should now be removed from the property. If you have any questions concerning this matter, please call our office.

Sincerely yours,

Lawrence P. Mitchell
Assistant Secretary
Board of Zoning Appeals

Enclosure

LPM/hm

cc: Doug Malone, 150 N. Market, Wichita, KS 67202
Phil Myer, 315 Ellis, Wichita, KS 67211
Randy Sparkman, OCI
Paul Hays, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk
Yolanda Anderson, MAPD

customer space for each additional 10,000 square feet of lot area used for storage and display. If any of the building is utilized for car repair, the parking calculation is three per 1,000 square feet, plus three spaces. The spaces required for customers and employees shall be identified on the site plan and labeled on the site by small signs or pavement markings and shall not be used for display and storage of cars which are for sale (except for sales vehicles driven by the employees of this business).

5. All lights shall be shielded to direct light away from adjoining properties. No string-type lighting or banners shall be permitted. Only full cut-off lighting fixtures no taller than 20 feet above grade shall be permitted on Lots 1, 2, 3, 4, and 5.
6. Only those signs permitted in the "LC" zoning district shall be permitted on this site, except that no portable signs shall be permitted and no string-type banners or pennants shall be permitted.
7. No sound projecting devices or loudspeakers shall be permitted outside of the buildings.
8. No vehicles shall be elevated in any manner above the parking surface for purposes of display.
9. Parking for early service customers shall be provided for on site and not be permitted to spill over onto public streets.
10. A solid fence or wall six to eight feet in height shall be provided and maintained along the west property line of Lots 1, 2, 3, 4, and 8 feet high along Lot 5 of the application area. A solid fence or wall six feet in height shall be provided and maintained along the north property line of Lot 5.
- * 11. The required 35 foot landscape buffer along the west side of Lots 1, 2, 3, 4, and 5 shall be maintained and intensified, in accordance with the approved landscape plan to provide a solid visual screen along the west property line. The landscape buffers shall include an underground sprinkler or other acceptable system, so as to provide water to the plant materials. Also, the area immediately north of the north fence of Lot 5 shall be landscaped in accordance with the approved landscape plan. The landscape buffer on Lot 1 shall be planted no later than April 30, 1995. All other landscaping shall be planted no later than January 24, 1996.
12. Lots 2, 3, 4, and 5 shall not be used for vehicle parking or storage until the required landscaping is installed or guaranteed in conformance with the approved plan.
13. Paving and lights shall be excluded from the west 35-foot landscape buffer.
14. This resolution authorizing vehicle sales, service, display and storage on this property may be declared null and void upon a finding by the Board that the applicant, or subsequent operator of the business, has failed to comply with any of the foregoing conditions.
15. Release of this resolution shall supersede and make null and void BZA Resolution No. 33-66.

ADOPTED AT WICHITA, KANSAS, this 24th day of January, 1995.


Susan Osborne-Howes, President

ATTEST:


Lawrence P. Mitchell, Assistant Secretary

* Note: On May 23, 1995, during a regularly scheduled BZA meeting, the Board granted a request to extend the deadline for the installation of the landscape buffer on Lot 1 to July 30, 1995, as contained in BZA Resolution No. 28-94 condition #11.

BZA RESOLUTION NO. 28-94

WHEREAS, Eck Properties Inc., pursuant to Section 2.12.590.C, Code of the City of Wichita, requests an exception to permit new and used vehicle sales, service, display and storage on property zoned the "LC" Light Commercial and legally described as follows:

Lot 1, Rockwood South Third Addition, and Lots 1, 2, 3, 4, and 5, Block 1, Rockwood South Fifth Addition, Wichita, Sedgwick County, Kansas. Generally located at the northwest corner of Kellogg and Armour. (7310 E. 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 January 24, 1995, 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 new and used vehicle sales, service, display and storage 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 new and used vehicle sales, service, display and storage on property zoned the "LC" Light Commercial and legally described as follows:

Lot 1, Rockwood South Third Addition, and Lots 1, 2, 3, 4, and 5, Block 1, Rockwood South Fifth Addition, Wichita, Sedgwick County, Kansas. Generally located at the northwest corner of Kellogg and Armour. (7310 E. Kellogg)

subject to the following conditions:

1. Within two years after approval by the Board of Zoning Appeals of this use exception, the applicant shall develop the site in conformance with the approved site and landscape plans as well as all conditions required in DP-12.
2. All vehicle parking, storage, and display area shall be paved with concrete, asphalt or asphaltic concrete. Parking barriers (e.g. curbs, bumper blocks, posts, and chains, etc.) shall be installed along all perimeter boundaries, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not extend beyond the property boundaries. Parking barriers shall also be installed 35 feet east of the west property line to protect the landscape buffer from encroachment.
3. This new and used vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business. Any vehicle service or repair work conducted on the site shall be entirely within a building. No body, fender work, or outdoor storage (except vehicle) shall be done on the premises except in that area zoned "C" Commercial.
4. Parking spaces for employees and customers shall be provided on the property as specified in the zoning ordinance, which currently requires two employee spaces for each 1,000 square feet of building area and two customer spaces for the first 10,000 square feet of lot area used for storage and display, plus one