

ACTION

DATE

BZA COMMITTEE APP 12263

M.A.P.C. _____

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

BZA 3-63 - BUILDERS, INC. REQUEST
EXCEPTION FOR USED CAR LOT IN LC AT
SE CORNER OF OLIVER & GLENDALE

RESOLUTION NO. 3-63

WHEREAS, Builders, Inc., 1000 Parklane, Wichita, Kansas, by James B. Clinger, 1000 Parklane, Wichita, Kansas, agent, requests an exception to permit the installation or construction of a used car lot, as provided in Section 28.04.180.A.14 of the Code of the City of Wichita, Kansas; and

WHEREAS, the above request applies to property legally described as the North 125 feet of Lot 49, Block 3, Replat of Builders 4th Addition, in the City of Wichita, Kansas, which is generally located at the southeast corner of Oliver and Glendale; and

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, in regular meeting, consider said application on the 22nd day of January, 1963; and

WHEREAS, the said Board of Zoning Appeals determined that it had proper jurisdiction to consider said request for an exception under the provisions of Section 2.12.590 of the Code of the City of Wichita, Kansas; and

WHEREAS, the Board of Zoning Appeals determined that the location is contiguous to a major street as designated in Pattern for Thorofares, Wichita, Kansas, 1955, or amendments thereto, and that the area is zoned "LC" Light Commercial.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ZONING APPEALS of the City of Wichita, Kansas, that the request for an exception as described above for property legally described as


The north 125 feet of Lot 49, Block 3, Replat of Builders 4th Addition, in the City of Wichita, Kansas,

generally located at the southeast corner of Oliver and Glendale, is hereby approved, and the Superintendent of Central Inspection is hereby authorized to issue a permit for a new and used car sales area, subject to the following:

1. All storage and display areas shall be paved with concrete, asphalt or other comparable material as approved by the Central Inspection Division.
2. All lights shall be shielded to reflect or direct light away from adjoining property and adjacent streets. No string-type lighting shall be permitted.
3. No projecting signs (as defined in the Sign Ordinance) shall be permitted.
4. No sound projecting devices or loud speaker shall be used so as to be heard outside of any structure.
5. No repair work shall be conducted except in an enclosed building, and further provided that no body or fender work is done.

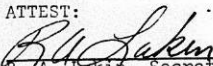
6. Off-street parking and on-site traffic control to be approved by Traffic Engineer.
7. Masonry screening 36 inches high on south property line between west property line and west side of drive easement. Wheel guards shall be installed to prevent vehicles from overlapping property lines.
8. There will be no ingress or egress off of Oliver and ingress and egress will be limited to the now existing access off Glendale.

ADOPTED at Wichita, Kansas, this 22nd day of January, 1963.



E. B. Law, Chairman

ATTEST:



R. A. Lakin, Secretary

February 4, 1963

Mr. James P. Clinger
1000 Parklane
Wichita, Kansas

Dear Mr. Clinger:

Subject: BZA 3-63

On January 23, 1963, we advised you that the Board of Zoning Appeals had approved subject application for a new and used car lot to be established at the southeast corner of Oliver and Glendale. We also advised that the Board's decision might be appealed to the City Commission provided that such appeal was filed on or before February 1, 1963.

The City Clerk has advised that no appeal was filed on or before the date indicated, and the decision of the Board of Zoning Appeals is, therefore, final.

A copy of the resolution setting forth the action of the Board is attached for your information and files.

Very truly yours,

Robert A. Lakin
Secretary

RAL:ber

Attachment

cc: Builders, Inc.
1000 Parklane

Glen Lytle, Superintendent
Central Inspection

Board of Zoning Appeals

January 28, 1963

C. H. Funk, City Clerk

Robert A. Lakin, Secretary

Case BZA 3-63

Attached is a copy of BZA Resolution 3-63,
covering action taken by the Board of Zoning
Appeals on the above case.

This case was heard on January 22, 1963, and
an appeal may be filed in your office on or
before February 1, 1963.

If an appeal is filed, please advise.

Robert A. Lakin
Secretary

RAL:ber

Attachment

SECRETARY'S REPORT

CASE NO. BZA 3-63

GENERAL DESCRIPTION

This case involves a tract of land generally located on the southeast corner of Oliver and Glendale. This is a vacant tract 125 feet by 200 feet.

To the north of subject property is the Park Lane Shopping Center, with the Park Lane bank being directly across the street to the north. To the east across a drainageway are fourplexes and to the south is a drive-in restaurant. To the west there are duplexes, a beauty shop and a church. There is a small shopping center located on the northwest corner of Harry and Oliver.

The property in question is currently zoned "LC" Light Commercial. Existing zoning to the north is "LC" Light Commercial; to the east is "B" Multiple family; south is "LC" Light Commercial and west is "B" Multiple family and "LC" Light Commercial.

REQUEST

The request is for an exception to allow new and used car sales in an "LC" Light Commercial district as provided in Section 28.04.140.A.14.

The Board is granted jurisdiction to consider this type of request subject to the following conditions and requirements:

1. Location contiguous to a major street as designated in the Pattern for Thorofares, Wichita, Kansas, 1955, or amendments thereto.
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.

3. All storage and display areas shall be paved with concrete, asphalt or other comparable material.
4. All lights shall be shielded to reflect or direct light away from adjoining property. No string-type lighting shall be permitted.
5. No projecting signs shall be permitted.
6. No sound projecting devices or loud speaker shall be used so as to be heard outside of any structure.
7. Such other conditions as the Board of Zoning Appeals shall deem necessary to include but not be restricted, proper setbacks, landscaping, and maintenance provisions.
8. No repair work shall be conducted except in an enclosed building, and further provided that no body or fender work is done.

In addition to these requirements, off-street parking shall be provided in accordance with Section 28.04.180.2.12 wherein it is provided that there be one off-street parking space for each 3000 square feet of lot area.

COMMENTS BY THE SECRETARY

The applicant has submitted a letter of justification and is shown as Attachment No. 1 of this report.

The general area on the east side of Olive between Lincoln and Harry is well developed commercially with Park Lane Shopping center being the major commercial use in the area.

This is the first application that has been before the Board of Zoning Appeals, where the location is adjacent to or located in a major shopping center. Since action taken on this application is a precedent for future applications of this nature, careful consideration should be given to the problems of maintaining land values, mixing of uses and traffic congestion. At its

January 3 meeting the Metropolitan Area Planning Commission discussed the matter of car lot applications coming before the Board of Zoning Appeals and a transcript of their remarks has been furnished the Board. It was the general sense of the Metropolitan Area Planning Commission that since this section of the ordinance does not provide for mandatory approval when conditions are met, it should be a matter of discretion for the Board of Zoning Appeals. No specific ground rules were offered as general guides for the Board of Zoning Appeals except certain remarks such as "....the ordinance was intended to be a relief valve for some used car lots on properties that were marginal between the 'LC' and 'C' zoning classifications." The basic question to be answered in this case as in all cases of this type where the boundaries of Board of Zoning Appeals action are not firmly established is, "Is this a reasonable place to put a used car lot?"

It is certainly doubtful if one can hold that this area is a "marginal commercial area" as it is one of the most successful shopping centers in Wichita. It is certainly not a location which would lend itself to "C" type uses such as lumberyards, light manufacturing, wholesalers and distributing type of operations.

On the other hand, one can examine the proposed use in light with other type of uses permitted in the "LC" district. As a traffic generator, the used car lot is certainly more desirable than would be a service station or another drive-in restaurant or perhaps even a medical office. One of the most severe problems in this area is traffic congestion along Oliver. Another question to be resolved is whether or not a "used car lot" is compatible

Page 4 - Secretary's Report
Case BZA 3-63

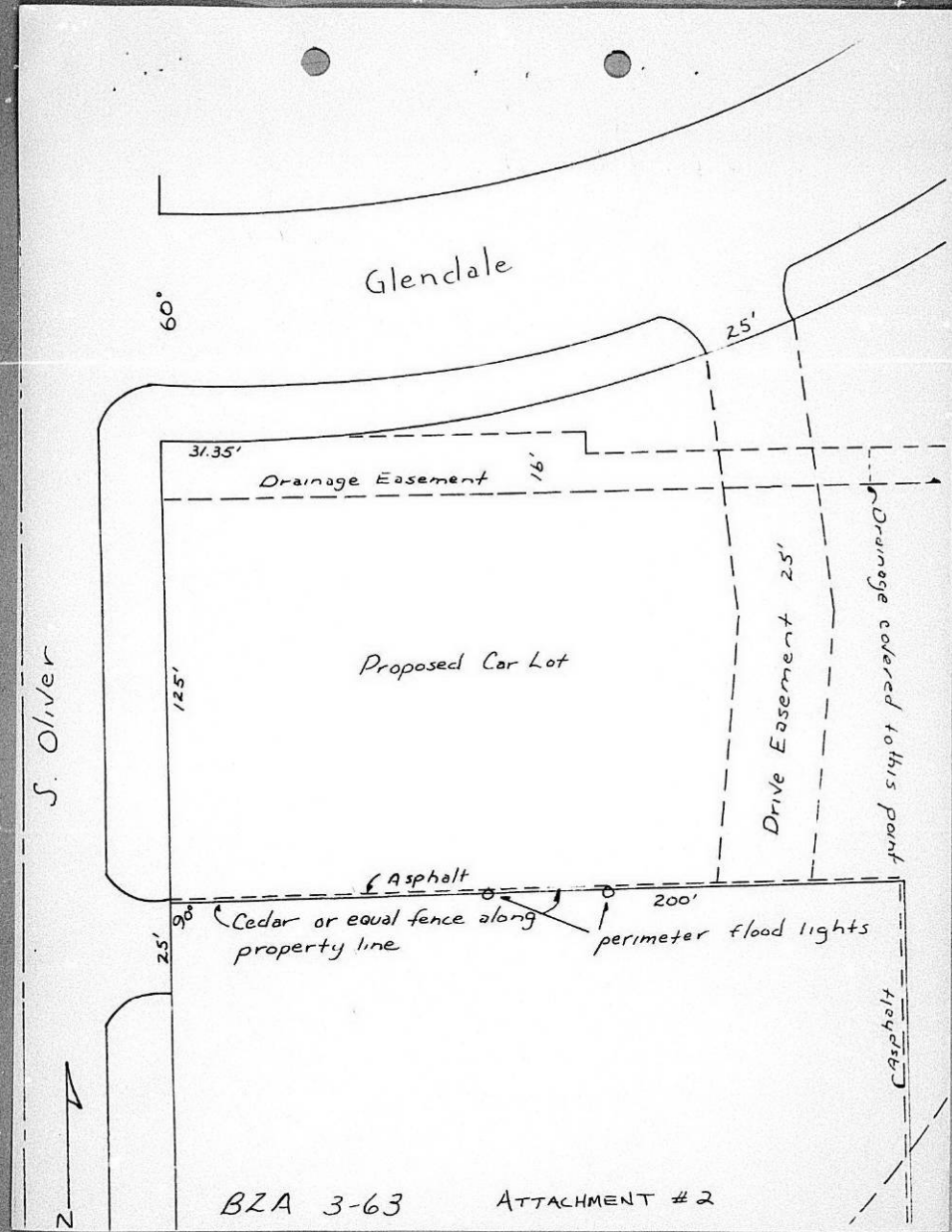
with the type of development in the area. It is doubtful if one can identify any characteristic of a properly developed car lot which can be said to be detrimental to the shopping center, and conversely, the shopping center with the used car lot. Sufficient distance separates the housing to the east and development to the west is of mixed uses which should not be adversely affected if this application is approved.

However, in this particular instance, the applicant does not appear to have prepared a sufficiently detailed plan which can be adequately reviewed. If the plan as submitted (Attachment No. 2) is the plan for development, it is doubtful whether matters of screening, ingress, egress and internal lot arrangement has been given sufficient study to insure that it will result in a high type of development which would be considered compatible with "Parklane".

The staff has reviewed the matter of having an inadequate development plan to the attention of the applicant's agent. Builders report that they are preparing a new plot plan containing the type of information desired by the Board. However, as of the date of preparation of this report, the new plot plan is not available.

The Secretary cannot recommend approval of the application at this time, based on existing information. It is suggested that this case be deferred until the next meeting to allow the applicant time to submit a new plot plan.

However, if it is the decision of the Board that it will not look with favor on applications in conjunction with shopping centers, then formal action should be taken at this meeting to deny the application.



Glendale

60°

25'

37.35'

Drainage Easement 16'

Proposed Car Lot

125'

Drive Easement 25'

Drainage colored to this point

S. Oliver

Asphalt

Cedar or equal fence along property line

perimeter flood lights

200'

Highway



BZA 3-63

ATTACHMENT #2

January 23, 1963

Mr. James B. Clinger
1000 Parklane
Wichita, Kansas

Dear Mr. Clinger:

Subject: BZA 3-83

This is to advise you that at its regular meeting of January 22, 1963, the Board of Zoning Appeals of the City of Wichita considered your request for an exception to the Zoning Ordinance to permit installation or construction of a used car lot (open display) on property legally described as the north 125 feet of Lot 49, Block 3, Replat of Builders 4th Addition, generally located at the southeast corner of Oliver and Glendale.

After discussion, it was the action of the Board of Zoning Appeals to approve your request, such approval being subject to certain conditions which will be shown in the resolution forwarded to you after the appeal period has expired.

Section 2.12.610 of the Code of the City of Wichita provides that the decision of the Board of Zoning Appeals shall be final unless it is appealed to the Board of City Commissioners within ten days of the date of the Board's action. Accordingly, an appeal could be filed in this case on or before February 1, 1963.

Subsequent to the expiration of the appeal period, you will be advised whether or not an appeal has been filed. If no appeal has been filed on or before February 1, 1963, the decision of the Board will be final and the Superintendent of Central Inspection will be in a position to issue the appropriate permit.

Very truly yours,

Robert A. Lakin
Secretary

RAL:JWH:ber

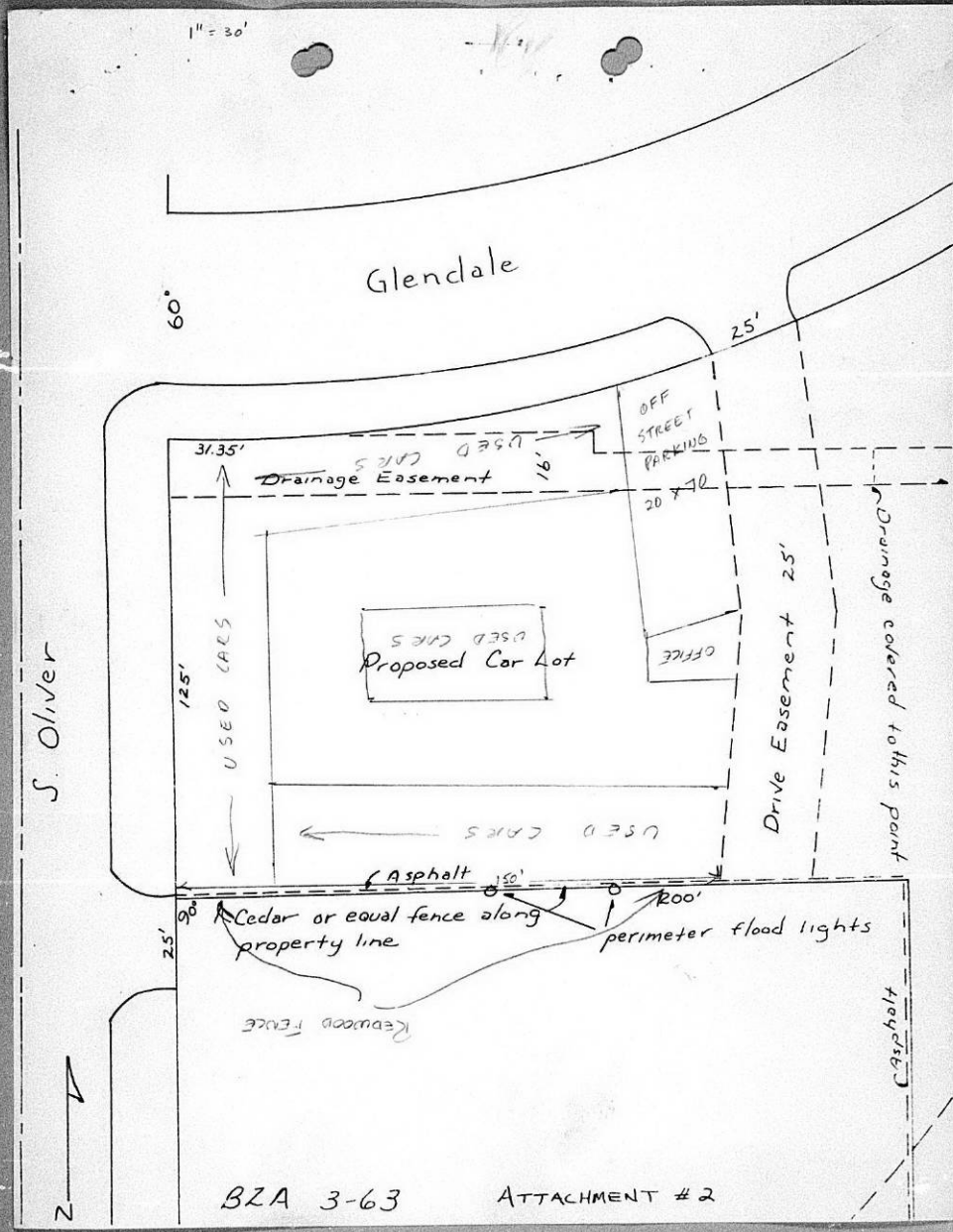
cc: Builders, Inc. 1000 Parklane
C. N. Funk, City Clerk
Glen Lytle, Supt. Central Inspection

P. S. Conditions to approval of this case are attached.

CONDITIONS TO APPROVAL OF BZA 3-63

1. All storage and display areas shall be paved with concrete, asphalt or other comparable material as approved by the Central Inspection Division.
2. All lights shall be shielded to reflect or direct light away from adjoining property and adjacent streets. No string-type lighting shall be permitted.
3. No projecting signs shall be permitted.
4. No sound projecting devices or loud speaker shall be used so as to be heard outside of any structure.
5. No repair work shall be conducted except in an enclosed building, and further provided that no body or fender work is done.
6. Off-street parking and on-sight traffic control approved by Traffic Engineer.
7. Masonry screening - 36 inches high on south property line between west property line and west side of drive easement. Wheel guards shall be installed to prevent vehicles from overlapping property lines.
8. There will be no ingress or egress off of Oliver and ingress and egress will be limited to the now existing access off Glendale.

1" = 30'



BZA 3-63

ATTACHMENT # 2

CASE NO. BZA 3-63 - 4 NOTICES MAILED JANUARY 4, 1963

BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main
Wichita, Kansas

JANUARY 3, 1963

NOTICE TO ADJOINING PROPERTY OWNERS

CASE No. BZA 3-63

AN APPLICATION HAS BEEN FILED BY BUILDERS, Inc., 1000 PARKLANE, WICHITA, KANSAS, BY JAMES B. CLINGER, 1000 PARKLANE, WICHITA, KANSAS, AGENT, AS PROVIDED IN SECTION 28.04.180.A.14 OF THE CODE OF THE CITY OF WICHITA, KANSAS.

THE APPLICATION REQUESTS AN EXCEPTION TO PERMIT THE INSTALLATION OR CONSTRUCTION OF A USED CAR LOT ON PROPERTY ZONED "LC" AND LEGALLY DESCRIBED AS:

NORTH 125 FEET OF LOT 49, BLOCK 3, REPLAT OF BUILDERS 4TH ADDITION, WICHITA, SEDGWICK COUNTY, KANSAS,

AND GENERALLY LOCATED AT THE SOUTHEAST CORNER OF OLIVER AND GLENDALE.

THE BOARD MAY GRANT APPROVAL IF IT DESIRES, SUBJECT TO THE FOLLOWING CONDITIONS:

1. LOCATION CONTIGUOUS TO A MAJOR STREET AS DESIGNATED IN THE PATTERN FOR THOROFARES, WICHITA, KANSAS, 1955, AND AMENDMENTS THERETO.
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.
3. ALL STORAGE AND DISPLAY AREAS SHALL BE PAVED WITH CONCRETE, ASPHALT OR OTHER COMPARABLE MATERIAL.
4. ALL LIGHTS SHALL BE SHIELDED TO REFLECT OR DIRECT LIGHT AWAY FROM ADJOINING PROPERTY. NO STRING-TYPE LIGHTING SHALL BE PERMITTED.
5. NO PROJECTING SIGNS SHALL BE PERMITTED.
6. NO SOUND PROJECTING DEVICES OR LOUD SPEAKERS SHALL BE USED SO AS TO BE HEARD OUTSIDE OF ANY STRUCTURES.
7. SUCH OTHER CONDITIONS AS THE BOARD OF ZONING APPEALS SHALL DEEM NECESSARY TO INCLUDE, BUT NOT BE RESTRICTED, PROPER SETBACKS, LANDSCAPING, AND MAINTENANCE PROVISIONS.
8. NO REPAIR WORK SHALL BE CONDUCTED EXCEPT IN AN ENCLOSED BUILDING, AND FURTHER PROVIDED THAT NO BODY OR FENDER WORK IS DONE.

PAGE 2 - NOTICE TO ADJOINING PROPERTY OWNERS
JANUARY 3, 1963
CASE No. BZA 3-63

THIS APPLICATION HAS BEEN ASSIGNED CASE No. BZA 3-63.
A HEARING WILL BE HELD BY THE BOARD OF ZONING APPEALS ON
TUESDAY, JANUARY 22, 1963, AT 2 P.M. IN ROOM 401 CITY BUILDING
ANNEX, 104 SOUTH MAIN, WICHITA, KANSAS, AT WHICH TIME YOU MAY
APPEAR, IF YOU SO DESIRE, EITHER IN PERSON OR BY AGENT OR
ATTORNEY, TO EXPRESS YOUR VIEWS AND WISHES IN THIS CASE.

ROBERT A. LAKIN
SECRETARY

BUILDERS, INC.



1000 PARKLANE

Phone MUrray 2-6521

WICHITA 18, KANSAS

December 21, 1962

B3A 3-63

Board of Zoning Appeals
City Building Annex
104 South Main
Room 402
Wichita, Kansas

Gentlemen:

The Board of Zoning Appeals is believed to have jurisdiction under Section 28.04.180.A-14, of the City Zoning Ordinance. To further justify this exception, we point to the precedent set forth at your Tuesday, November 27, 1962 meeting. At this meeting two requests were approved to allow the operation of used cars lots on light commercial ground.

We will comply with the requirements listed pertaining to paving, lighting, and permanent type screening from adjoining property. We will fulfill the requirements listed and require any lessee to maintain the standards set by the city as set forth by this exception.

Please find enclosed my application and check for \$30.00, a replat of Builders Fourth Addition, and an ownership list. If any additional information or further clarification is required, please contact me at MU 2-6521 or 1000 Parklane.

Thank you.

Yours truly,

Dallas Noel
Dallas Noel

DN:bb

Enclosures: Check
Application
Replat
Ownership list



ATTACHMENT # 1

December 28, 1962

Mr. James B. Clinger
Builders, Inc.
1000 Parklane
Wichita, Kansas

Subject: BZA 3-63

Dear Mr. Clinger:

In reviewing your application for an exception to the Code of the City of Wichita to permit a used car lot in an "LC" light commercial zone, as provided in Section 28.04.180.A.14 of the Code of the City of Wichita, it was found that there were several items that were omitted from the plot plan submitted with the application.

At the December 18 meeting of the Board of Zoning Appeals, an amendment to Article III.C.3 of the Rules and Regulations of the Board of Zoning Appeals was approved. The amendment requires that a plot plan showing the proposed plan of improvements, parking plan, screening, etc. be submitted with an application of this type. In view of this amendment, we would like to have you submit a new plot plan showing the following:

1. All proposed improvements that are to be made on subject lot.
2. Size, dimension and location of all off-street parking spaces. Section 28.04.140.212 requires that there be one off-street parking space for each 3,000 square feet of lot area.
3. The method of interior circulation on the lot. Will customers have sufficient turning room to get in and out of off-street parking spaces and will customers have sufficient aisle space to get onto and off of the lot, etc.?
4. Means of ingress and egress to the lot. Is the one entrance from Glendale all that is proposed?

We are enclosing a diagram of various methods of off-street parking that has been approved by the Traffic Engineer.

Page 2 - Mr. James B. Clinger
December 28, 1962

It will be necessary to have this additional information by
January 7, 1963, in order for us to process the case for the
January 22 meeting.

If you have any questions concerning this matter, please call.

Sincerely yours,

Robert A. Lakin
Senior Planner

RAL:JWH:ber

Enclosure

DEBIT ADVANCE NOTICE FOR THE ACCOUNT INDICATED BELOW

VENDOR	DATE	REFERENCE OR FOLIO	NUMBER	GROSS AMOUNT	NET AMOUNT
1	1210	SEESTUB0000679	100	30 00	30 00
					30 00

BUILDERS, Inc. WICHITA • KANSAS

PAYMENT NOTICE
City of Wichita

PAY AT TREASURER'S OFFICE — FIRST FLOOR

Bld'g & Elev. _____ Elec. _____ Elev. Insp. _____
 Exam Fees _____ Hse. Mvr. _____ Hse. Moving _____
 Licse. _____ Mech. _____ Oil Well _____ Pav. Cuts _____
 Plan. Pib'g _____ Pib'g Cert. _____
 Sanitation _____ Sewer _____ Signs _____ Sidewalk _____
 Street _____ Trailers _____

DESCRIPTION	AMOUNT
<i>By Builders Inc</i>	30 00
<i>100</i>	

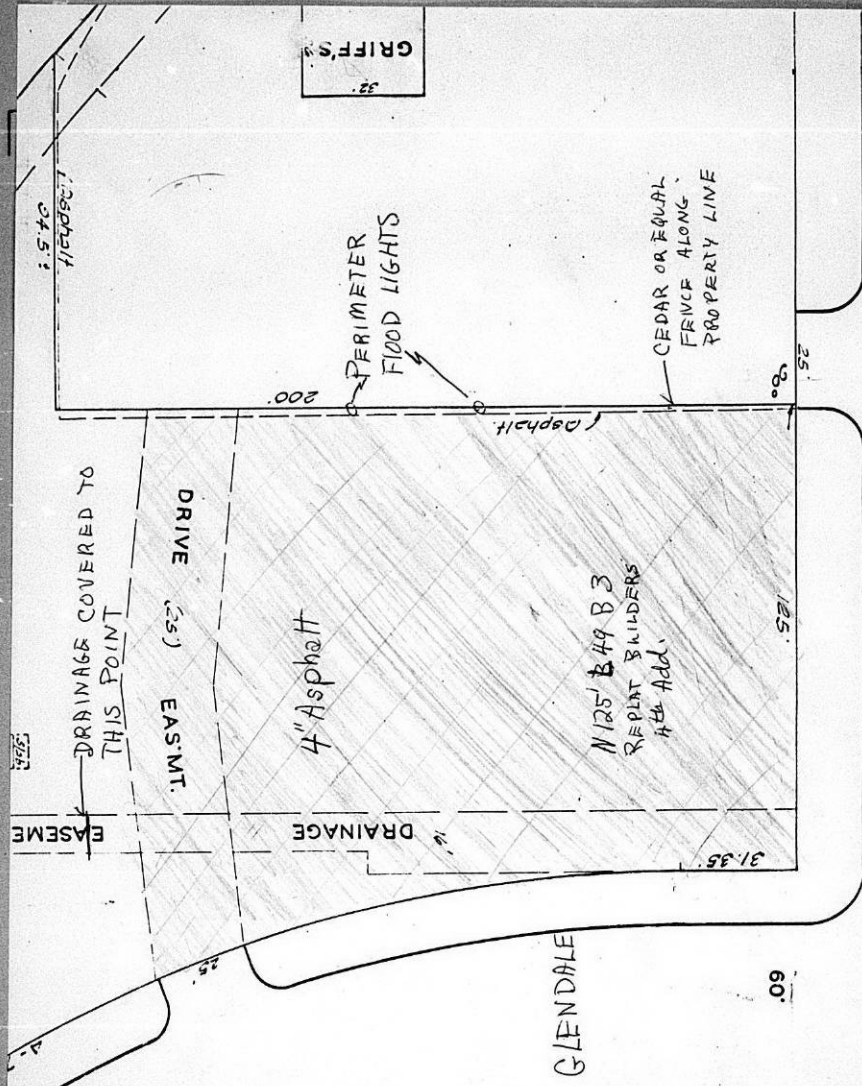
Name *Builders Inc*

Address *1000 Thicket St*

Type _____ Due Date *12-10-60*

Comments: _____

Date *12-10-60* By *[Signature]*



GRIFF'S

1.540
Asphalt

PERIMETER
FLOOD LIGHTS

CEDAR OR EQUAL
FENCE ALONG
PROPERTY LINE

DRAINAGE COVERED TO
THIS POINT

DRIVE
(25')
EASTMT.

4" Asphalt

N 125' B 49 B 3
REPLANT BUILDERS
4th Add.

EASEMENT

4" DRAINAGE

S. OLIVER

GLENDALE

PARKLANE
NATIONAL
BANK



APPLICATION FOR EXCEPTION

I. NAME OF APPLICANT BUILDERS INC.
MAILING ADDRESS 1000 PARKLANE PHONE MM26521
NAME OF AUTHORIZED AGENT JAMES B CLINGER
MAILING ADDRESS 1000 PARKLANE PHONE MM26521
(RELATIONSHIP OF APPLICANT TO PROPERTY IS THAT OF OWNER
OWNER, TENANT, LESSEE, OTHER)

II. APPLICATION IS MADE FOR AN EXCEPTION AS PROVIDED IN SECTION
28.04.180. A 14, CODE OF THE CITY OF WICHITA, KANSAS,
(ZONING ORDINANCE); TO PERMIT THE INSTALLATION OR CONSTRUCTION OF Used car lot (open Display)
ON PROPERTY ZONED LC; LOCATED AT _____
Gr. Dale & Oliver, AND LEGALLY DESCRIBED AS LOT(S)
N 125' 44, BLOCK(S) 3
Replot Builders 4th Add. ADDITION.
(GIVE METES AND BOUNDS DESCRIPTION BELOW IF APPROPRIATE):

III. THE APPLICANT HEREIN, OR HIS AUTHORIZED AGENT:

- A. ACKNOWLEDGES RECEIPT OF AN INSTRUCTION SHEET RELATING TO THIS APPLICATION FOR AN EXCEPTION;
- B. AGREES TO CONFORM TO ALL REQUIREMENTS OF THE APPROPRIATE SECTION OF THE ZONING ORDINANCE IF THIS APPLICATION IS APPROVED;
- C. DECLARES THAT ALL REQUIRED SUPPORTING DOCUMENTS OR INFORMATION ARE ATTACHED HERETO AND MADE A PART OF THIS APPLICATION;
- D. ACKNOWLEDGES THAT HE HAS BEEN ADVISED OF HIS RIGHT OF APPEAL OF THE DECISION OF THE BOARD OF ZONING APPEALS TO THE BOARD OF CITY COMMISSIONERS WITHIN TEN (10) DAYS OF THE DATE OF THAT DECISION.

Builders Inc
J. Clinger

APPLICANT

James B Clinger
AUTHORIZED AGENT

OFFICE USE ONLY

RECEIVED IN OFFICE OF SECRETARY, BOARD OF ZONING APPEALS, _____
(A.M. - P.M.) _____, 19____, TOGETHER WITH APPROPRIATE
FEE OF \$30.00

SIGNED _____



OWNERSHIP LIST



Lot	Block	Addition	Property Owner
49	3	Replat of part of Builders 4th Addition	Builders, Inc.
	2	"	"
Reserve C except the W 8 feet		Hilltop Manor	Dan P. Tevis Hester W. Tevis 416 S. Terrace
S 10' of lot 1, except the W 8' thereof		"	"
S. 10' of lot 2		"	"
lot 1, except the S 10' of the E, 102' thereof		"	Hilltop Manor Mutual Housing Corporation, Inc. 1411 S. Oliver
Lot 2, except the S 10' thereof		"	"
Lot 3		"	"
Lot 4		"	"
Reserve C.		"	"

We, The Security Abstract and Title Company, Inc, hereby certify the foregoing to be a true and correct list of property owners within a 200 foot radius of the tract of land described as follows: beginning at the Northwest corner of Lot 49, Block 3, in Replat of part of Builder's Fourth Addition to Wichita, Sedgwick County, Kansas, as shown by deeds on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on this 12th day of December, 1962 at 7:00 A. M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By

J. M. [Signature]
Vice-President

Order No. 99500