

BZA 11-71 - Maverick Develop. Co.
et. al. requests Exception for
new & used car lot at NW corner
of Kellogg Dr. and Heather Rd.

POSTED
11-12-6
DAL/508

BZA 10-26-71 Withdrawn by the
Applicant's Attorney.

Map No. 6047
 Sec. 20
 Twp. 27
 Range 2E

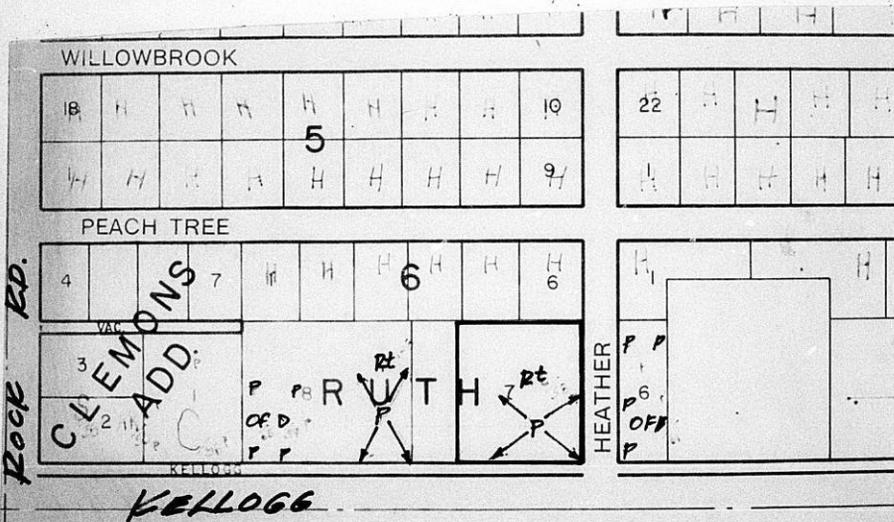
BZA 11-71
 PCZ- _____
 CU- _____
 Filed _____

AREA DATA:

1. Acres: 1.2 (220 ft. by 250 ft.)
2. Adjoining Zoning: E _____ S _____ W _____ N _____
3. Land Use: East OFFICE & PARKING LOT South E. KELLOGG
 West RESTAURANT & PARKING North SINGLE FAM
4. Sketch Plan Land Use is for: _____
5. Present Land Use is for: RESTAURANT & PARKING
6. Area (is) (is not) platted.

PHOTO DATA:

Taken by _____ Date _____ Time _____



KAHRS, NELSON, FANNING, HITE & KELLOGG
ATTORNEYS AT LAW

AUSTIN M. COWAN (1885-1949)

W. A. KAHRS

ROBERT H. NELSON

H. W. FANNING

RICHARD C. HITE

DARRELL D. KELLOGG

ROGER M. SHERWOOD

RICHARD L. HONEYMAN

LARRY A. WITHERS

GARY A. WINFREY

SUITE 630 - 200 WEST DOUGLAS AVENUE

WICHITA, KANSAS 67202

AREA 316

262-3777

October 18, 1971

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

Attention: Mr. Jack H. Galbraith, Secretary

Re: Case No. BZA 11-71

Gentlemen:

I represent the Maverick Development Company, Inc. which filed an application for exception for the property located on Lot 7, Ruth Addition to Wichita, Sedgwick County, Kansas.

I hereby request that application for exception be withdrawn.

Yours very truly,



Robert H. Nelson
OF KAHRS, NELSON, FANNING, HITE & KELLOGG

RHN:kp

SECRETARY'S REPORT

CASE NO. BEN 11-71

APPLICANT: Maverick Development Co., Inc., et. al., 6637 East Kellogg,
Wichita, Kansas

AGENT: Robert H. Nelson, Suite 630-200 West Douglas, Wichita, Kansas

REQUEST: Exception pursuant to Section 2.12.590.C Code
of the City of Wichita to permit a new and used car lot
the installation or construction of

GENERAL LOCATION: At the northwest corner of Kellogg Drive and Heather
Road.

LAND USE: *Subject property is occupied in part by a former restaurant,
west is restaurant, east is office, south is shopping center, north
is single family.*

ZONING: Subject property is zoned "LC" Light Commercial as are those
properties to the south, east and west; north is "AA" Single
Family

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

BZA 11-71

Comments By The Secretary

The applicant is requesting an exception to the zoning ordinance to permit the installation or construction of a new and used car sales lot on property zoned L₁ Light Commercial. Although the Board has jurisdiction and may grant an exception for new and used car sales in the light commercial district, it is recognized that this is not logical or proper in all light commercial districts or the use would be permitted outright without the Board's approval.

New and used car sales lots are highway oriented uses and usually other similar uses such as mobile home sales lots, boat and marina sales, and trailer, vehicle and equipment rental operations congregate in the same area. The majority of these uses are located on North and South Broadway and East and West Kellogg which are two of the major highways of the City.

Although one of the normal requirements of the Board in approving requests such as this would be to require a screening wall or fence for areas contiguous to other residential zoning districts, it should be pointed out that ~~existing~~ solid fencing presently separates subject ^{property} and the residences to the north.

It should also be pointed out that inasmuch as the area contained in this request is a portion of a platted lot, the Central Inspection Division advises that replatting will be necessary and the plat recorded with the Register of Deeds prior to the issuance of any building permits.

The scaled drawing submitted with the application and which has been approved by the office of the Traffic Engineer indicates that one of the existing 30 foot drives from Kellogg Drive will be closed and moved to the west and be reduced to 24 feet in width. Also indicated is the existing and proposed buildings, sales and service parking areas as well as customer and ~~park~~ employee parking spaces.

It is the opinion of the Secretary that this is a logical and proper use for the area inasmuch as subject property is located on a frontage road adjacent to a major highway.

Recommendation

It is the recommendation of the Secretary that the application to permit the installation or construction of a new and used car sales lot be approved subject to the following conditions:

1. All storage and display areas shall be paved with concrete, asphalt, or other comparable material.
2. All lights shall be shielded to direct light away from adjoining property. No string type lighting or banners shall be permitted.

3. No sign ~~shall exceed 10 feet in height~~ shall be placed so as to project over any public right-of-way.
4. No sound-projecting devices or loudspeakers shall be used (so as to be heard outside any structure).
5. The area shall be properly policed through inspections by the owner or operator for the proper maintenance and removal of trash.
6. A six to eight foot high solid wall of masonry, architectural tile, staggered or louvered redwood, or rough-sawed cedar fence shall be constructed along the ~~west~~^{North} property line *in the event the existing fencing owned by the property owner to the north is removed.*
7. All parking spaces abutting property lines shall have adequate guards, to prevent the extension or over-hanging of vehicles beyond property lines or parking spaces. All parking areas shall have adequate markings for channelization and movement of vehicles.
8. All repair work shall be conducted within an enclosed building. No body and fender work shall be permitted.
9. *The applicant shall provide for the closing and reconstruction of the gutter for the existing drive not proposed for use.*
10. *The reconstruction of the gutter and the installation of the new opening shall take place prior to the utilization of the application area for a new and used car sales lot.*
11. All conditions of approval by the Board shall be complied with within 6 months or the application shall become null and void.

BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main Street
Wichita, Kansas 67202

October 6, 1971

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 11-71

An application has been filed by Maverick Development Co., Inc., et. al., 6637 East Kellogg, Wichita, Kansas, pursuant to Section 2.12.590.C, Code of the City of Wichita, requesting an exception to permit the installation or construction of a new and used car sales lot, on property zoned "LC" Light Commercial, and legally described as follows:

The east 220 feet of Lot 7, in Ruth Addition to Wichita, Sedgwick County, Kansas. Generally located at the northwest corner of Kellogg Drive and Heather Road.

This application has been assigned Case No. BZA 11-71, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, October 26, 1971, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

JACK H. GALBRAITH
Secretary

14 Notices Mailed 10-6-71

KAHRS, NELSON, FANNING, HITE & KELLOGG

ATTORNEYS AT LAW

SUITE 630 - 200 WEST DOUGLAS AVENUE

WICHITA, KANSAS 67202

AREA 316
262-3777

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GARY A. WINFREY

September 27, 1971

Board of Zoning Appeals
City of Wichita
104 South Main
Wichita, Kansas

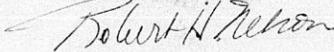
Re: Application for new - used car lot, East 220 feet of
Lot 7, Ruth Addition, City of Wichita

Gentlemen:

The owner of the above described property together with Mr. Edward N. Steven, prospective lessee and/or owner, are requesting the Board to grant an exception for a new and used car sales on the above described property.

It has been zoned light commercial for quite sometime and is contiguous to a major street as designated by the City of Wichita. A plot plan has been submitted to the Traffic Engineer of the City of Wichita and, of course, if granted will be subject to all the requirements as set forth in the above numbered ordinance. The Board of Zoning Appeals has jurisdiction of this case pursuant to Ordinance NO. 28.04.183 (2).

Yours very truly,



Robert H. Nelson
Attorney for Petitioners

RHN:kp

BOARD OF ZONING APPEALS

CASE NO. 11-71

CITY OF WICHITA, KANSAS

FILED 9-27-71

APPLICATION FOR EXCEPTION

I. Name of Applicant Maverick Development Co., Inc. - Owner
Edward N. Steven - prospective purchaser
Mailing Address 6637 E. Kellogg, 67207 Phone _____
Name of Authorized Agent c/o Robert H. Nelson
Mailing Address Suite 630, 200 W. Douglas Phone _____
Relationship of applicant to property is that of _____
(Owner, Tenant, Lessee, Other).

II. Application is made for an exception as provided in Section _____,
Code of the City of Wichita, Kansas
(Zoning Ordinance); to permit the installation or construction
of a new and used car lot

_____ on property zoned
LC rd corner of Kellogg Dr. + Heather Rd.
located on the north side of Kellogg
_____ and legally described as:
East 220 feet of Lot 7, in Ruth Addition to
Wichita, Sedgwick County, Kansas
_____, in the City of Wichita.

III. The applicant herein, or his authorized agent, acknowledges:

- a. That he has received an instruction sheet concerning the filing and hearing of this matter;
- b. That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 24-606); 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.

Maverick Development Co., Inc.
Applicant Edward N. Steven
Authorized Agent Robert H. Nelson

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals, 4:40 (a.m. - (p.m.)), September 27, 19 71, together with appropriate fee of \$50.00.

T9-403

Signed J. Lynn Shockey

CERTIFICATE OF OWNERSHIP

GUARANTEE TITLE CO. Inc., hereby certifies the following to be a true and correct list of the property owners as shown by the last deed of record in the office of the Register of Deeds of Sedgwick County, Kansas, of:

East 220 Feet of Lot 7, in Ruth Addition
to Wichita, Sedgwick County, Kansas,

together with all lots lying within a 200 foot radius thereof.

DESCRIPTION	OWNER/OWNERS	ADDRESS	
<u>Ruth Addition</u>			
E 95' of the W 175' of Lot 7	✓ D Maverick Development Co. Inc.	6637 E. Kellogg	67207
E 125' of Lot 7	do		67207
W 80' of W 175' of Lot 7	✓ Taco Grande, Inc.	5631 E. Harry	67218
E 170' of Lot 8	✓ Mr. T's Appliance and TV Inc.	1613 S. Hillside	67218
E 30' of W 130' of Lot 8	✓ Morco, Inc.	c/o Betty Joyce Morgan 530 Edgewater	67230
W 100' of Lot 8	do	do	67230
Lot 5	✓ Anita Lusk	#6 West Parkway	67206
Lot 6	F.I.G. Holding Co.	no address <i>none found</i>	
<u>Bonnie Brae Addn.</u>			
<u>Block 7</u> Lot 1, exc. W. 90'	✓ D Anita Lusk	# 6 West Parkway	67206
W 90' of Lot 1	✓ Ralph W. Wyatt, Jr. and Dorothy J. Wyatt	8201 Peach Tree Lane	67207
<u>Block 6</u>			
<u>Lot 2</u>	✓ Edward V. Geary and Helen Louise Geary	676 Stratford Road	67206
Lot 3	✓ Willie C. Unruh and Evelyn M.	8107 Peach Tree Lane	67207
Lot 4	✓ James B. Tucker and Evelyn M.	8113 Peach Tree Lane	67207
Lot 5	✓ Andrew Small and Matilda	8121 Peach Tree Lane	67207
Lot 6	✓ Odetta C. Schnitzler	8127 Peach Tree Lane	67207
<u>Eastmoor Addn.</u>			
<u>Block 1</u> Lot 1, except N 360'	✓ Levitt Jewelry Co. Inc.	7707 E. Osie	67207
North 360' of Lot 1	✓ F. M. Brady and Nellie 26 LAKESIDE BLVD	no address 67207	
<u>Block 6</u> Lot 1, exc. N 360'	✓ D Levitt Jewelry Co. Inc.	7707 E. Osie	67207
N 360' of Lot 1	✓ D F.M.Brady and Nellie	no address	

Witness our Hand and Seal this the 24th day of September, 1971 at 7 AM

Order No. 33813

GUARANTEE TITLE CO. Inc.,
By *Nellie M. Festinger*, Vice-Pres.

FORM 021

PAYMENT NOTICE

City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bldg & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hse. Mvr.	Hse. Moving	Licse.	Mech.
Oil Well	Pav. Cuts	Plan.	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION	AMOUNT
<i>Gas Company</i>	<i>4.00</i>

Name *Robert H. ...*

Address *1234 S. ...*

Type *61-4-113* Due Date

Comments:

Date *9-27-71* By *Lo*

*

This BZA. Case
Has a Large Drawing
On 35mm Microfilm
Roll # 1