

CASE NO. BZA 43-86 CAP Partnership, c/o
Lindy Andeel requests an exception to
permit the establishment of an automobile
sales lot on property zoned "LC" Light
Commercial and generally located on the
northeast corner of Heather and Kellogg
Drive (8202 E. Kellogg).

ACTION

BZA 43-86 Deferred 1 mo. 10/21/86
DATE

BZA APPROVED 11/25/86

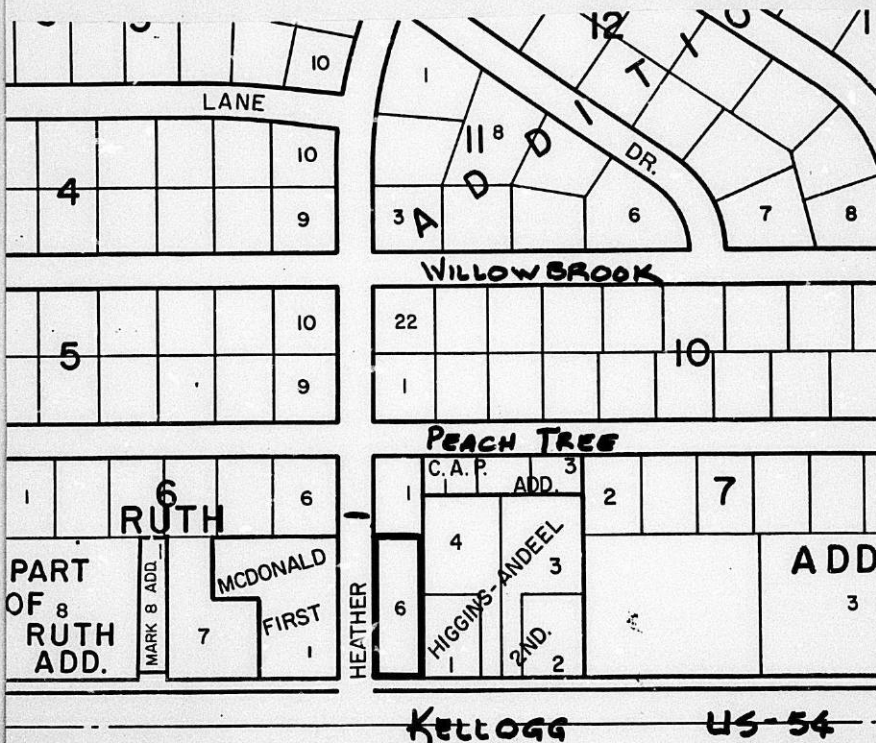
200' 1/4 Sec 1-22-86
Shot 1-30
Record ✓

Map No. **6047C**

BZA **43-86**
Filed _____

AREA DATA:

1. Acres: _____ (_____ ft. by _____ ft.)
2. Adjoining Zoning: E "**LC**" S "**LC**" W "**LC**" N "**AA**"
3. Land Use: East **Comm** South **Shopping Center**
West **Rest.** North **Res.**
4. Area (is) (~~is not~~) platted.



LOS ANGELES CHICAGO LOGAN, OH
MEMPHIS TX-LOCUST GROVE, GA
USA

Simpson
N. 2153C

December 31, 1986

CAP Partnership
c/o Lindy Andeel
358 North Rock Road
Wichita, Kansas 67206

RE: BZA 43-86 - Request for Exception (8202 E. Kellogg)

Gentlemen:

Enclosed is a copy of the signed Resolution, BZA 43-86, adopted by the Board of Zoning Appeals on November 25, 1986. Also attached is a copy of the site plan approved by the Traffic Engineer.

As you will note, the approved site plan requires that the driveway approach to Kellogg Drive must be at least 20 feet in width and there shall be maintained at least 20 feet between the building and any vehicle spaces along the west. In addition, the spaces numbered 1 thru 6 should be designated as customer parking spaces and 7, 8 and 9 for employees. These spaces shall not be utilized as vehicle display spaces.

Spaces 10 thru 45 may be utilized as vehicle display spaces or for additional parking. In accordance with this approved plan, a maximum of 36 vehicles displayed is the capacity of the property outside the enclosed building. Please see that this property is improved and maintained in conformance with the site plan and the resolution.

If you have any questions, please give me a call.

Sincerely,

Glen E. Lytle
Special Assistant for Zoning

GEL/lw
Enclosure

cc: Everett Fettis, 120 S. Market, Wichita, KS 67202
Monty Robson, Superintendent of Central Inspection (2)
Dale Rea, Deputy City Clerk

RESOLUTION CASE NO. 43-86

WHEREAS, CAP Partnership, c/o Lindy Andeel, 358 North Rock Road, Wichita, Kansas, pursuant to Section 2.12.590.C, Code of the City of Wichita, requests an exception to permit the establishment of an automobile sales lot on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 6, Ruth Addition to Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of Heather and Kellogg Drive (8202 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 November 25, 1986, 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 business 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:

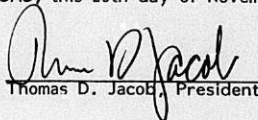
Lot 6, Ruth Addition to Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of Heather and Kellogg Drive (8202 E. Kellogg).

subject to the following conditions:

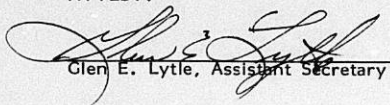
1. Prior to the release of the resolution, the applicant shall submit three copies of a revised site plan indicating the location of the spaces to be utilized for display and storage and all spaces designated as required off-street parking for all buildings and uses located on the property.
2. The automobile 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.
3. All motor repair work shall be conducted entirely within an enclosed building.
4. All storage and display areas shall be paved with concrete, asphalt or asphaltic concrete.
5. 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.
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. All requirements as set forth in this resolution shall be complied with within 180 days from the approval by the Board or the resolution shall become null and void.

ADOPTED AT WICHITA, KANSAS, this 25th day of November, 1986.


Thomas D. Jacob, President

ATTEST:


Glen E. Lytle, Assistant Secretary

November 26, 1986

Everett C. Fettis
120 South Market
Wichita, Kansas 67202

Re: BZA 43-86 - Request for Exception (On the northeast corner of
Heather and Kellogg)

Dear Mr. Fettis:

At the regular meeting of the Board of Zoning Appeals on November 25, 1986, your request for an exception was considered. It was the action of the Board to grant the exception subject to the following conditions:

1. Prior to the release of the resolution, the applicant shall submit three copies of a revised site plan indicating the location of the spaces to be utilized for display and storage and all spaces designated as required off-street parking for all buildings and uses located on the property.
2. 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.
3. All motor repair work shall be conducted entirely within an enclosed building.
4. All storage and display areas shall be paved with concrete, asphalt or asphaltic concrete.
5. 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.
6. All lights shall be shielded to direct light away from adjoining property. No string-type lighting or banners shall be permitted.

November 26, 1986

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. All requirements as set forth in this resolution shall be complied with within 180 days from the approval by the Board or the resolution shall become null and void.

Release of the resolution is subject to the submission of a revised site plan as required by condition #1.

If you have any questions, please call our office.

Sincerely yours,

Glen E. Lytle
Assistant Secretary

GEL:lw

cc: CAP Partnership, c/o Lindy Andeel, 358 N. Rock Rd., Wichita, KS 67206
Monty Robson, Superintendent of Central Inspection (2)
Dale Rea, Deputy City Clerk

October 29, 1986

Everett C. Fettis
120 South Market
Wichita, Kansas 67202

Re: BZA 43-86 - Request for Exception (On the northeast corner of
Heather and Kellogg)

Dear Mr. Fettis:

As you are aware, the application for an automobile sales lot on the northeast corner of Kellogg and Heather was deferred four weeks to the BZA meeting of November 25, 1986. This was caused by the lack of Board of Zoning Appeals members present to take legal action on the case when the president, Tom Jacob, declared a conflict of interest.

I am certain that the Board regrets any inconvenience this might cause for your clients. This item will be the first on the agenda for consideration at the next meeting.

I would again point out that you have not described the operation of the business or advised us whether the drive servicing the motel to the east will remain. If it is to remain, a revised site plan showing the correct layout of the property should be submitted.

Sincerely yours,

Glen E. Lytle
Assistant Secretary

GEL:lw

cc: CAP Partnership, c/o Lindy Andeel, 358 N. Rock Rd., Wichita, KS 67206

THE CITY OF WICHITA

OFFICE OF Citizen Rights & Services DATE October 16, 1986

TO Glen Lytle, Special Assistant for Zoning

FROM Barry L. Carroll, Administrative Aide III

SUBJECT BZA 43-86: Northeast corner of
Heather and Kellogg Drive (8202
East Kellogg)

On Monday, October 13, CPO Council Area "H" considered the above captioned case, a request for an exception to permit the establishment of an automobile sales lot on property zoned "LC" Light Commercial District. Council members were provided the notice to adjoining property owners and a map of the area. After extensive discussion, the Council voted 8-0 to recommend denial of the request.

The agent, Everett Fettis, was present to describe the request and respond to questions from Council members and area residents. According to Mr. Fettis, the applicant would like to lease the property in question and establish a wholesale car operation.

Area resident, Jim Crow, 8126 Peachtree, expressed opposition to the request. Mr. Crow stated that the property in question, in his opinion, is too small for a wholesale car operation, and would increase traffic congestion in the area.

The Council members agreed with Mr. Crow's assessment and recommended denial of the request. The Council stated that the request did not meet items #1, #2, #3 nor #5 of the five conditions set forth by the City for granting exceptions.

Please provide these comments to the Board of Zoning Appeals when case BZA 43-86 is considered.

Barry L. Carroll
Barry L. Carroll
Administrative Aide III

BLC:dm

Noted:

Annie K. Montgomery
Annie K. Montgomery
CRS Director

RECEIVED

OCT 16 1986

METROPOLITAN PLANNING

ROUTE _____

SECRETARY'S REPORT
CASE NO. BZA 43-86

APPLICANT: CAP Partnership, c/o Lindy Andeel, 358 N. Rock Rd., Wichita, KS 67206

AGENT: Everett C. Fettis, 120 S. Market, Suite 504, Wichita, KS 67202

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 Heather and Kellogg.

ZONING: Subject property is zoned the "LC" Light Commercial District as are the properties to the east, west and south. To the north is the "AA" One-family Dwelling District.

LAND USE: Subject property was previously used as a tire store. Property to the west a restaurant, to the east a restaurant and motel and to the south a shopping center. To the north one-family dwellings.

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 applicants are requesting an exception to permit the establishment of an automobile sales business on a property that is developed with a 3,300 square foot building that was previously used as an automobile tire and accessory business. The location of the building restricts the usage of the property quite severely for the display and storage of automobiles. The applicants site plan indicates a maximum of 32 vehicle spaces that can be utilized on the property, of which a number of spaces would be required for off-street parking.

Heather Street presently is barricaded to prevent traffic through the neighborhood to the north. It should also be noted that the north 20 feet of the application area now provides a driveway to serve the motel to the east. This driveway is in extremely bad condition and it is not known if this driveway is to be retained. The site plan indicates that this area will be utilized to increase the amount of vehicle spaces on the property which is reflected in the site plan submitted by the applicant.

It should be noted that the CPO council has recommended 7-0 to deny this request. It is the concern of the property owners in the area that this use will create additional lighting that is objectionable to the residences to the north.

RECOMMENDATION:

It is the recommendation of the Secretary that the proposed use of the property is inappropriate and the application should be denied.

BZA CASE NO. 43-86

<u>3</u>	NOTICES SENT TO APPLICANT/AGENT
<u>14</u>	LEGAL ADVERTISEMENT SENT TO MAPC & BZA
<u>1</u>	NOTICES SENT TO CPO
<u>10</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>14</u>	TOTAL NOTICES SENT <u>10/6/86</u>

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

October 6, 1986

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 43-86

As required by law, all property owners of record, within 700 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 CAP Partnership, c/o Lindy Andeel, 358 North Rock Road, 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 lot on property zoned the "LC" Light Commercial District. A legal description of the applicant's property is as follows:

Lot 6, Ruth Addition to Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of Heather and Kellogg Drive (8202 E. Kellogg).

This application has been assigned Case No. BZA 43-86. It will be considered by the Board of Zoning Appeals on October 28, 1986 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.

Glen E. Lytle
Assistant Secretary

BOARD OF ZONING APPEALS

CASE NO. 43-86

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR EXCEPTION

I. Name of Applicant CAP PARTNERSHIP, s/Lindy Andeel
 Mailing Address 358 N. Rock Road 67206 Phone 683-7511
 Name of Authorized Agent Everett C. Fettis
 Mailing Address 504 - 120 S. Market 67202 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 used car lot

_____ on property zoned "LC",
 located 8202 E. Kellogg and legally
 described as: lot 6, Ruth Addition, Sedgwick Co., 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. 39-285); and that the appropriate fee is here-with 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 CAP PARTNERSHIP
 Authorized Agent Everett C. Fettis

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 10:15 (a.m./p.m.), SEPT. 26, 1986, together with appropriate fee of 400.00.

Signed [Signature]

STATEMENT

The purpose is for the establishment of a used car lot which has generally been approved in the area. There is not contemplated to be any change in the configuration of the lot nor improvements located thereon. If it turns out later that the building presently located thereon should be renovated, that further information will be furnished. The only access is off the drive fronting on the south side or street side of the lot.

LAW OFFICES
FETTIS & MCCLURE
120 SOUTH MARKET
SUITE 504
WICHITA, KANSAS 67202
316-267-7251



Rec'd: 10/2/86
2:30 p.m.

Deliver to Metropolitan Planning

11th Floor - City Bldg.

from Everett Fettis

for CAP Partnership

✓ BZA 43-86

SECURITY ABSTRACT AND TITLE CO., INC.
434 North Main • Wichita, Kansas 67202 • Telephone (316) 267-8371
SECURITY IS KNOWING

I P L I S T

	<u>dition</u>	<u>Property Owner</u>
	th Addition	✓ CAP Partnership 601 Long Boat Club Rd. Long Boat, Florida
	"	✓ W.A. Foshee Deanna Foshee 201 Morningside Dr. Wichita, KS 67218
	Donald's First dition	✓ McDonald's Corp. 66207 AMF, O'Hare Chicago, IL 60666
	ggins-Andeel d Addition	✓ John Clark Stevens aka J. Clark Stevens 14214 Cascade Ct. Wichita, KS 67230
Lot 2	"	✓ James H. Stevens Ann M. Stevens 702 Doreen St. Wichita, KS 67206
Lots 3 & 4	"	✓ Andeel & Andeel Properties 358 N. Rock Rd. Wichita, KS 67206 and Harry B. Pollak (address unknown) and Alfred A. Caro 1559 Gatewood Wichita, KS 67206 and John J. Jabara (address unknown) and Eugene G. Coombes 421 E. 3rd St. Wichita, KS 67202
Lot 1	C.A.P. Addition	✓ Lindy Andeel 350 N. Rock Rd. Wichita, KS 67206
Lot 2	"	✓ Rocco R. Barrese Sandra R. Barrese 8213 Peach Tree Ln. Wichita, KS 67207
Lot 5	Block 6 Bonnie Brae Addition	✓ Andrew Small Mathilda Small 8121 Peach Tree Ln. Wichita, KS 67207

OWNERSHIP LIST

Lot	Block	Addition	Property Owner
Lot 6		Ruth Addition	✓ CAP Partnership 601 Long Boat Club Rd. Long Boat, Florida
The West 85 feet of the East 220 feet of the South 140 feet of Lot 7		"	✓ W.A. Foshee Deanna Foshee 201 Morningside Dr. Wichita, KS 67218
Lot 1		McDonald's First Addition	✓ McDonald's Corp. 66207 AMF, O'Hare Chicago, IL 60666
Lot 1		Higgins-Andeel 2nd Addition	✓ John Clark Stevens aka J. Clark Stevens 14214 Cascade Ct. Wichita, KS 67230
Lot 2		"	✓ James H. Stevens Ann M. Stevens 702 Doreen St. Wichita, KS 67206
Lots 3 & 4		"	✓ Andeel & Andeel Properties 358 N. Rock Rd. Wichita, KS 67206 and Harry B. Pollak (address unknown) and Alfred A. Caro ✓ 1559 Gatewood Wichita, KS 67206 and John J. Jabara (address unknown) and Eugene G. Coombes ✓ 421 E. 3rd St. Wichita, KS 67202
Lot 1		C.A.P. Addition	✓ Lindy Andeel 350 N. Rock Rd. Wichita, KS 67206
Lot 2		"	✓ Rocco R. Barrese Sandra R. Barrese 8213 Peach Tree Ln. Wichita, KS 67207
Lot 5	Block 6	Bonnie Brae Addition	✓ Andrew Small Mathilda Small 8121 Peach Tree Ln. Wichita, KS 67207

Page 2

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
Lot 6	Block 6	Bonnie Brae Addition	✓ Quireno P. Gutierrez Alma Doris Gutierrez 8127 Peach Tree Ln. Wichita, KS 67207
Lot 1	Block 7	"	✓ Leonard William Radermacher Jr La Donna Radermacher 8201 Peach Tree Ln. Wichita, KS 67207

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

Lot 6, Ruth Addition, Sedgwick County, Kansas,

as shown by the last deed of record on file in the Office of the Register of Deeds, Sedgwick County, Kansas, on the 30th day of September, 1986, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

Mary Seale

By
Sr. Vice President

Order No: 368579
ns

**MICROFILMED
FROM THE BEST
AVAILABLE COPY**

FORM 20-21 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
Covered Entry	1400-

NAME: CAP Partnership
ADDRESS: 601 Long Boat Club Rd.
FUND: DUE DATE: 10/24/86
COMMENTS:
DATE: BY: [Signature]

WICHITA - SEDGWICK COUNTY
BOARD OF ZONING APPEALS
CITY HALL - TENTH FLOOR
435 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688



PRESORTED
FIRST-CLASS



ATTEMPTED - NOT KNOWN *mail*
NO SUCH NUMBER *add*
ROUTE No. 6 CARDS/INITIALS DATE 10/24/86

RECEIVED
OCT 27 1986
METROPOLITAN PLANNING
ROUTE _____

CAP Partnership
601 Long Boat Club Rd.
Long Boat Florida

33548

*

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

Roll # 3