

**ACTION**

BZA 54-87 Defer one month 1/26/88  
DATE

BZA Denied 4-0-12/23/88

On 5-19-88 the District Court ordered the case re-heard by the BZA

BZA Approved subject to 3-1 condition 9/27/88

200'4 Sec. 10.27-88  
Checked   
Shot 1-10-89  
Record

35 spaces required @ 1/250'4  
36 provided

9/88 info from T.E.:  
21,879 on Central  
20,286 of Uhorlmann  
w of Rock

Z-2643  
Z-2782

Case No. BZA 54-87 - OLC Properties requests an exception to permit the establishment of an off-street parking lot for the adjacent medical office building on property zoned "AA" One-

Posted

### ACTION

BZA. 54-87 Defer one month 1/26/88  
DATE

BZA Denied 4-0-1<sup>abatement</sup> 2/23/88

On 5-19-88 the District Court ordered the case re-heard by the BZA

BZA Approved sub to 3-1 9/27/88  
Conditions

200'4 Sec 10-27-88

Checked

Shot 1-10-89

Record

9/88 info from T.E.:

21,899 on Cental  
e of Woodlawn  
20,286 w of Rock

35 spaces required @ 1/250#  
36 provided

Z-2643  
Z-2782

Case No. BZA 54-87 - OTC Properties requests an exception to permit the establishment of an off-street parking lot for the adjacent medical office building on property zoned "AA" One-

DATA SHEET

MAP NO.: 5947D

CASE NO. BZA 54-87

1/25/88  
(CPO 2A, 1110/88)

REQUEST: Exception to permit the establishment of an off-street parking lot for the adjacent medical office building.

EXISTING ZONING: "AA" One-family Dwelling District

GENERAL LOCATION: Between 7011 and 7015 E. Central

APPLICANT: O.L.C. Properties, a partnership  
ADDRESS: 7300 E. Kellogg, Wichita, KS 67206

PHONE: 685-9211

AGENT: Robert Kaplan, 430 N. Market 67202

262-5175

AGENT: Douglas Malone  
ADDRESS: 150 N. Market, Wichita, KS 67202

PHONE: 262-6400

AGENT: Baughman Company, P.A.  
ADDRESS: 315 Ellis, Wichita, KS 67211

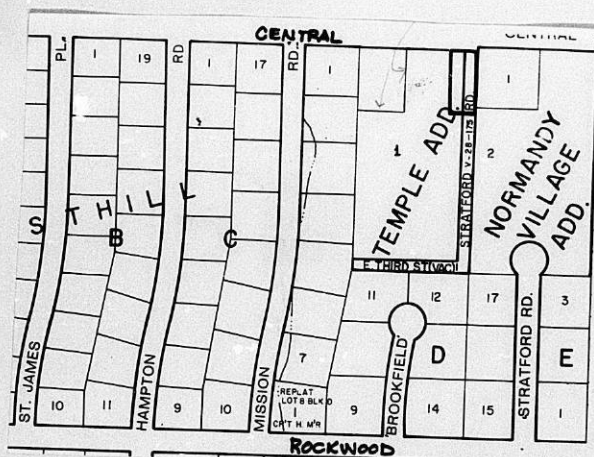
PHONE: 262-7271

AREA DATA

Acres: (65 ft. by 160 ft.)

Adjacent Zoning and Land Use:

North	AA	<u>Single family houses</u>
South	AA	<u>General Temple parking lot</u>
East	B	<u>Vacant Medical Office Building</u>
West	AA	<u>Undeveloped</u>



9-12-88 Real Estate Records verified that  
O.L.C. Properties now owns the  
application area.

PL1-0066

C.I.D. — 8755 \$ in bldg at 7015 E. Central  
3555 \$ on second floor (5200 \$ on first floor)

LOS ANGELES, CALIFORNIA  
MEMBERSON 17500 EAST BROWNE, CA  
U.S.A.

No. 2-153C  
Standard

Richard Crowder DDS  
PA

Smiles

~~400 N. Tenth~~

13

(14)

684-5784

14 employees acc'd  
to Dr. Crowder's receptionist  
9-12-88



METROPOLITAN AREA PLANNING  
DEPARTMENT

CITY HALL — TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202-1688  
(316) 268-4551

October 25, 1988

Robert Kaplan  
430 N. Market  
Wichita, KS 67202

Re: BZA 54-87 - Exception for parking lot in "AA" between 7011  
and 7015 E. Central.

Dear Mr. Kaplan:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the Board of Zoning Appeals on September 27, 1988. 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 now that the access control dedication and landscape plan have been submitted. The new plant materials as identified on the plan must be installed by December 12, 1988.

If you have questions concerning this matter, please call our office.

Sincerely,

*Louise Olivarez*  
Louise Olivarez  
Assistant Secretary  
Board of Zoning Appeals

LO/jcm  
Enclosure

cc: O.L.C. Properties, 7310 E. Kellogg, Wichita, KS 67206  
Douglas Malone, 150 N. Market, Wichita, KS 67202  
Baughman Company, P.A., 315 Ellis, Wichita, KS 67211  
Monty Robson, Superintendent of Central Inspection  
Joe Donnelly, Zoning Administrator, CID  
Dale Rea, Deputy City Clerk

BZA RESOLUTION NO. 54-87

WHEREAS, O.L.C. Properties, pursuant to Section 2.12.590.C, Code of the City of Wichita, requests an exception to permit the establishment of off-street parking on property zoned the "AA" One-Family Dwelling District and legally described as follows:

The north 160 feet of the east 35 feet of Lot 1, Temple Addition to Wichita, Sedgwick County, Kansas, together with that part of Vacated Stratford Street lying east of and adjacent to the north 160 feet of said Lot 1. Generally located between 7011 and 7015 E. Central.

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 September 27, 1988, 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 off-street parking on property zoned the "AA" One-Family Dwelling District, subject to the conditions outlined in Section 28.04.145, 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 off-street parking on property zoned the "AA" One-Family Dwelling District and legally described as follows:

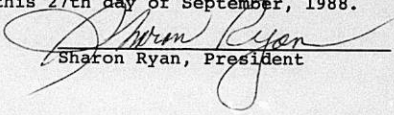
The north 160 feet of the east 35 feet of Lot 1, Temple Addition to Wichita, Sedgwick County, Kansas, together with that part of Vacated Stratford Street lying east of and adjacent to the north 160 feet of said Lot 1. Generally located between 7011 and 7015 E. Central.

subject to the following conditions:

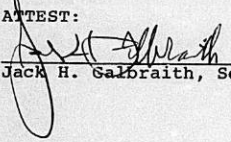
1. The parking spaces and all drives and circulation aisles for the application area, as well as for the existing lot at 7015 E. Central, shall be surfaced with concrete, asphalt, or asphaltic concrete and marked in conformance with the approved plan.
2. The owner shall grant by separate instrument complete access control to Central from the application area prior to release of the resolution and within 90 days, or this application shall be considered denied and closed.
3. A 6-foot solid fence of wood or masonry shall be erected along the south and west property lines where adjacent to residential zoning.
4. The 25-foot front yard adjacent to Central shall be landscaped with grass, trees and shrubs and shall also include a decorative fence or wall at the setback line no taller than 3 feet. Three copies of the landscape plan, including fence design, shall be submitted to the Secretary for review and approval prior to release of the resolution and within 30 days and the approved plant materials shall be installed within 75 days, or this application shall be considered denied and closed.
5. The parking area shall be used only for the parking of passenger vehicles owned or operated by employees and clients of the office building at 7015 E. Central.

6. Prior to use of the property as a parking lot, and in no case later than 12 months after approval by the Board, all conditions of this resolution and those of 28.04.145 of the zoning ordinance shall be complied with, or the resolution shall become null and void.

ADOPTED AT WICHITA, KANSAS, this 27th day of September, 1988.

  
Sharon Ryan, President

ATTEST:

  
Jack H. Galbraith, Secretary

COMPLETE DEDICATION OF ABUTTER'S RIGHTS

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, the undersigned, G.L.C. Properties, a partnership, being the owner(s) of the following described real estate in Sedgwick County, Kansas, to-wit:

The north 160 feet of the east 35 feet of Lot 1, Temple Addition to Wichita, Sedgwick County, Kansas, together with that part of vacated Stratford Street lying east of and adjacent to the north 160 feet of said Lot 1.

do hereby transfer and convey to the City of Wichita, Kansas, all abutter's rights of access, ingress and egress to said property from or to Central over and across the north line of the above-described property; to have and to hold the same forever. It being understood that this conveyance is a covenant running with the land and prohibits all subsequent owners thereof and all members of the public from entering upon said property from Central.

Executed this 21 day of October, 19 88.

O.L.C. PROPERTIES

BY Leslie A Eck  
Leslie A. Eck, Partner

STATE OF KANSAS) ss:  
SEDGWICK COUNTY)

BE IT REMEMBERED, that on this 21 day of October, 19 88, before me a notary public in and for the said County and State, came LESLIE A. ECK, General Partner, of G.L.C. Properties, to me personally known to be the same person(s) who executed the foregoing instrument and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, the day and year last above written.

Karen L. Fox  
Karen L. Fox Notary Public

KAREN L. FOX  
NOTARY PUBLIC  
STATE OF KANSAS  
My Commission 11-14-87  
Expires

*dedication file prepared*

October 14, 1988

City of Wichita  
Metropolitan Area  
Planning Department  
City Hall - Tenth Floor  
455 North Main  
Wichita, KS 67202

Attention: Louise Olivarez, Assistant Secretary

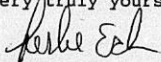
RE: BZA 54-87 - Exception for parking lot in "AA" between 7011  
and 7015 E. Central

Dear Mrs. Olivarez:

In response to your correspondence of September 28, 1988 and specifically the general conditions following Item 6., please be advised that the undersigned, general partner of O.L.C. Properties, does hereby commit that O.L.C. Properties will not request any zone changes or further exceptions or variances for the site which was the subject matter of Board of Zoning Appeals Case No. 54-87.

If a more formal declaration is required, please advise.

Very truly yours,



LESLIE ECK  
General Partner  
O.L.C. Properties

SEDGWICK COUNTY



METROPOLITAN AREA PLANNING  
DEPARTMENT

CITY HALL — TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202-1662  
(316) 268-4551

September 28, 1988

Robert Kaplan  
430 N. Market  
Wichita, KS 67202

Re: BZA 54-87 - Exception for parking lot in "AA" between 7011  
and 7015 E. Central

Dear Mr. Kaplan:

At the regular meeting of the Board of Zoning Appeals on  
September 27, 1988, your request for a parking lot exception was  
considered. It was the action of the Board to approve this  
request, subject to the following conditions:

1. The parking spaces and all drives and circulation aisles for  
the application area, as well as for the existing lot at 7015  
E. Central, shall be surfaced with concrete, asphalt, or  
asphaltic concrete and marked in conformance with the  
approved plan.
2. The owner shall grant by separate instrument complete access  
control to Central from the application area prior to release  
of the resolution and within 90 days, or this application  
shall be considered denied and closed.
3. A 6-foot solid fence of wood or masonry shall be erected  
along the south and west property lines where adjacent to  
residential zoning.
4. The 25-foot front yard adjacent to Central shall be land-  
scaped with grass, trees and shrubs and shall also include a  
decorative fence or wall at the setback line no taller than 3  
feet. Three copies of the landscape plan, including fence  
design, shall be submitted to the Secretary for review and  
approval prior to release of the resolution and within 30  
days and the approved plant materials shall be installed  
within 75 days, or this application shall be considered  
denied and closed.
5. The parking area shall be used only for the parking of  
passenger vehicles owned or operated by employees and clients  
of the office building at 7015 E. Central.

*Received  
10-21-88*

*Received  
10-21-88*

Robert Kaplan  
Page 2

6. Prior to use of the property as a parking lot, and in no case later than 12 months after approval by the Board, all conditions of this resolution and those of 28.04.145 of the zoning ordinance shall be complied with, or the resolution shall become null and void.

*Received  
10-21-86*

You and the applicant agreed to make improvements to the rear of the medical building, as outlined at the February hearing. Your client also agreed to submit a written statement that as long as he owns this property, he will not request a zone change or additional exception or variance for this site.

The resolution setting forth the official action of the Board will be released upon compliance with conditions 2 and 4. Enclosed is the access control dedication form which should be signed by the property owner, notarized, and returned to me as soon as possible. The landscape plan, which was discussed with Doug Malone and the landscape architect this morning, must be submitted no later than October 27 and the approved plant materials installed before December 12, 1988.

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 contact our office.

If you have questions concerning this matter, please call our office.

Sincerely,

*Louise Olivarez*  
Louise Olivarez  
Assistant Secretary  
Board of Zoning Appeals

LO/jcm  
Enclosure

cc: O.L.C. Properties, 7310 E. Kellogg, Wichita, KS, 67206  
Baughman Company, P.A., 315 Ellis, Wichita, KS, 67211  
Douglas Malone, 150 N. Market, Wichita, KS, 67202  
Monty Robson, Superintendent of Central Inspection  
Joe Donnelly, Zoning Administrator, CID  
Dale Rea, Deputy City Clerk

RECOMMENDED REASONS FOR APPROVING BZA 54-87

The Board has jurisdiction to grant this exception for off-street parking;

Although the character of the general area is single-family, the immediate uses are a medical office building, multiple-family, Temple, and associated parking;

The zoning of the general area is "AA", while the immediate area to the east is the highest density residential zoning district in the City which permits medical office uses;

Any potential adverse effects will be minimized with the construction of a screening fence and the installation of landscaping;

The relative gain will be the reduction of potential on-street parking;

There should be no measurable effects on community facilities;

The recommendation of approval by staff.

**THE CITY OF WICHITA**

**TO:** Louise Oliverez, Principal Planner

**DATE:** September 27, 1988

**FROM:** Barry L. Carroll, Administrative Aide III <sup>SLC</sup>

**SUBJECT:** BZA 54-87: Between 7011 & 7015  
E. Central.

On Monday, September 26, CPO Rockwell/Northeast Neighborhood Council 2A considered the captioned case, a request for an exception to permit the establishment of off-street parking lot for the adjacent medical office building.

This case was initially heard by the CPO Council on January 25, 1988. The Council voted 7-0 at that time to recommend approval of the request.

Council members were provided the notice to adjoining property owners, a map of the area and MAPD staff comments. After a brief discussion, the CPO Council voted 9-0 to recommend, once again, disapproval of the request.

There were 24 area residents present who were adamantly opposed to the request. Specifically, the neighbors were opposed for the following reasons: 1) potential for increased traffic congestion, 2) that a medical office would be inappropriate for the residential neighborhood, 3) that the development would negatively impact property values, and 4) that the neighborhood "should not be required to bail-out a real estate speculation that goofed."

The Council cited the following items from the City's Policy #10 as rationale, in part, for their decision to recommend disapproval:

- "a" The character of the neighborhood;
- "b" the zoning and uses of properties nearby;
- "c" the extent to which removal of the restrictions detrimentally affect nearby property; and
- "g" the conformance of the request change to the adopted or recognized master plan being utilized by the city;
- "i" previously adopted zoning policies of the MAPC and governing body; and
- "j" opposition of neighborhood residents.

Please provide the Council recommendation to the Board of Zoning Appeals when case BZA 54-87 is considered.

Mrs. Peggy R. Browning  
7077 East Central, No. 17  
Wichita, Kansas 67206  
September 24, 1988

To Members of the Board of Zoning Appeals:

My husband and I will be out of town and regret we cannot be there today to stand in opposition to the request for an exception to AA being sought by OLC Properties for 7015 E. Central-BZA 54-87.

The 1968 mistake in zoning has already been exploited by OLC Properties to the maximum without concern for neighborhood integrity or the impact on the value of our properties. We implore you not to allow the error to be compounded.

The Temple is the wide card. When it is sold it is much more likely to go BB or OC if the medical building parking is extended into that area.

Your vote against the exception would be greatly appreciated.

Yours truly,

Peggy R. Browning  
W.H. Browning, M.D.

*Mrs. Gladys Lester  
7077 East Central #12  
Wichita, Ks. 67206*

September 26, 1988

Zoning Commission  
Wichita, Kansas

I strongly object to any zoning change  
for 7015 East Central for the present,  
and for what it might mean for its  
future use.

*Gladys Lester*

Wichita Zoning Board:

This note indicates my  
strong disapproval of  
a zoning change at  
7015 - E. Central.

Mrs. Laurel Decker  
7077 - E. Central #25  
Wichita, Kansas 67206

7077 East Central, #33  
Wichita, Kansas 67206  
September 25, 1988

To the Members of the Board of Zoning Appeals:

I regret that I am unable to attend the meeting scheduled for September 27. However I join those who are objecting to any change in the zoning for the project located at 7015 East Central. I hope this letter will help reinforce that objection.

Sincerely,

*Audrey Neels*

318 Brookfield Place  
Wichita, Kansas 67026

September 23, 1988

CPO Council 2A, Rockwell, Northeast  
5939 East 9th Street  
Wichita, Kansas 67208

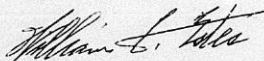
RE: Case No. BZA 54-87

The last time there was a request for an exception to the zoning classification of this property I wrote to your organization to express my opposition to any change in its zoning.

Although my residence is not within 200 feet of the applicant's property, I still am very concerned with the potential impact on our fine residential neighborhood of any further commercial development on Central. There already are sufficient areas designated for commercial activity at Woodlawn/Central and Rock Road/Central. It is most important to the property owners both north and south of Central that the integrity of their residential neighborhoods be maintained. To see the end result of "creeping commercialization" one only needs to look at both sides of Central between Woodlawn and Edgemoor.

Please recommend to the Board of Zoning Appeals that they re-affirm their decision of February 23, 1988, regarding this case.

Sincerely,



William C. Estes

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

September 1, 1988

NOTICE OF PUBLIC HEARING:

CASE NO. BZA 54-87

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 O.L.C. Properties, a partnership, requesting an exception.

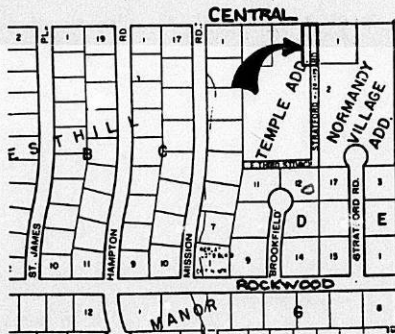
Pursuant to Section 2.12.590.C, Code of the City of Wichita, the applicant is requesting an exception to permit the establishment of an off-street parking lot for the adjacent medical office building on property zoned the "AA" One-Family Dwelling District. A legal description of the applicant's property is as follows:

The north 160 feet of the east 35 feet of Lot 1, Temple Addition to Wichita, Sedgwick County, Kansas, together with that part of Vacated Stratford Street lying east of and adjacent to the north 160 feet of said Lot 1. Generally located between 7011 and 7015 E. Central.

This application was previously reviewed by the Board of Zoning Appeals on February 23, 1988, and was denied. The applicant appealed this decision to the District Court. The judge remanded the matter to the Board of Zoning Appeals for rehearing. It will be considered by the Board of Zoning Appeals on Tuesday, September 27, 1988, at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main, Wichita, Kansas. If you have no interest in or objections to 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.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

NOTE: We have been advised by the Citizen Participation Organization staff that CPO Council 2A, Rockwell/Northeast, will consider this case at their meeting to be held on Monday, September 26, 1988, at 7 p.m. at the Rockwell Branch Library, 5939 E. 9th Street. Additional information regarding this CPO meeting may be obtained by calling the CPO office at 268-4516.



318 Brookfield Place  
Wichita, Kansas 67026

September 23, 1988

CFO Council 2A, Rockwell, Northeast  
5939 East 9th Street  
Wichita, Kansas 67208

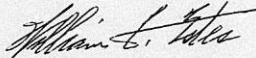
RE: Case No. BZA 54-87

The last time there was a request for an exception to the zoning classification of this property I wrote to your organization to express my opposition to any change in its zoning.

Although my residence is not within 200 feet of the applicant's property, I still am very concerned with the potential impact on our fine residential neighborhood of any further commercial development on Central. There already are sufficient areas designated for commercial activity at Woodlawn/Central and Rock Road/Central. It is most important to the property owners both north and south of Central that the integrity of their residential neighborhoods be maintained. To see the end result of "creeping commercialization" one only needs to look at both sides of Central between Woodlawn and Edgemoor.

Please recommend to the Board of Zoning Appeals that they re-affirm their decision of February 23, 1988, regarding this case.

Sincerely,



William C. Estes

SECRETARY'S REPORT

CASE NUMBER: BZA 54-87

OWNER/APPLICANT/AGENT: O.L.C. Properties (owner/applicant)  
Robert Kaplan (agent)

REQUEST: Exception to permit the establishment of off-street parking.

CURRENT ZONING: "AA" One-Family Dwelling District

SITE SIZE: 65 ft. x 160 ft.

LOCATION: Between 7011 and 7015 E. Central



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 28.04.145 can be complied with.

**BACKGROUND:** This request for an off-street parking exception was originally reviewed by the Board February 23, 1988, and was denied 4-0 with one abstention (Phillips). The applicant appealed to District Court and the case was remanded to the Board with directions to rehear the case and provide written summarization and statement of factors which it considers in reaching its ultimate decision regarding the application. The request for a parking exception has been readvertised and notices have been sent to property owners within 200 feet.

There has been no change in the proposed site plan. Twenty-seven parking spaces are to be provided on the lot with access only through the existing lot where the medical building is located at 7015 E. Central. As the building at 7015 E. Central is zoned "B", the only offices permitted are medical offices. The 8,755 square-foot building was constructed as a spec building with 1 parking space per 250 square feet of floor area being required (35 spaces). Thirty-six spaces were originally provided in front of the building, but that lot will be restriped for only 25 cars if the exception for additional parking to the west is approved. For medical offices, parking is required at the ratio of 1 space per employee, plus 1 space for each 500 square feet of floor area. If no additional off-street parking is approved for this building, the maximum number of employees would be limited to 18. The upper floor (3,555 square feet) has recently been finished and an orthodontist with 14 employees now occupies this space.

**ADJACENT ZONING AND LAND USE:**

NORTH	"AA"	Single-family houses
SOUTH	"AA"	Temple parking lot
EAST	"B"	Medical office building
WEST	"AA"	Undeveloped

**RECOMMENDATION:** Should the Board determine that a parking lot is appropriate at this location, it is recommended that the exception be approved, subject to the following conditions:

1. The parking spaces and all drives and circulation aisles for the application area, as well as for the existing lot at 7015 E. Central, shall be surfaced with concrete, asphalt, or asphaltic concrete and marked in conformance with the approved plan.
2. The owner shall grant by separate instrument complete access control to Central from the application area prior to release of the resolution and within 90 days, or this application shall be considered denied and closed.
3. A 6-foot solid fence of wood or masonry shall be erected along the south and west property lines where adjacent to residential zoning.

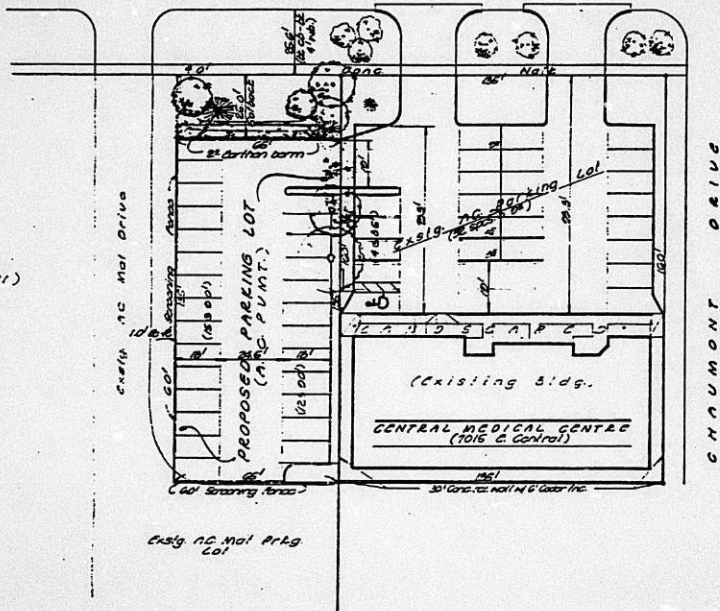
BZA 54-87  
Page 3

4. The 25-foot front yard adjacent to Central shall be landscaped with grass, trees and shrubs and shall also include a decorative fence or wall at the setback line no taller than 3 feet. Three copies of the landscape plan, including fence design, shall be submitted to the Secretary for review and approval prior to release of the resolution and within 90 days, or this application shall be considered denied and closed.
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6. Prior to use of the property as a parking lot, and in no case later than 12 months after approval by the Board, all conditions of this resolution and those of 28.04.145 of the zoning ordinance shall be complied with, or the resolution shall become null and void.

CENTRAL AVENUE



Female  
(Emaru-21)



PARKING LAYOUT  
for  
CENTRAL MEDICAL CENTRE  
BY BAUGHMAN COMPANY, P.A.  
ENGINEERING & ARCHITECTURE  
1000 ...  
JUN 20 1967

824 54-87

BZA CASE NO. 54-87

- 15 LEGAL ADVERTISEMENTS SENT TO MAPC & BZA
- 4 NOTICES SENT TO APPLICANT/AGENT
- 18 NOTICES SENT TO ADJOINING PROPERTY OWNERS
- 5 NOTICES SENT TO BZA MEMBERS

NOTICES SENT 9/1/88

- 1 NOTICE SENT TO CPO
- 2 NOTICES SENT TO CITY MANAGER & CITY COUNCIL REPRESENTATIVE TO DISTRICT
- 5 NOTICES TO MAPD STAFF -

Jack Galbraith  
Louise Olivarez  
Bob Young  
Forrest Nagley  
Karen Crook

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

September 1, 1988

NOTICE OF PUBLIC HEARING:

CASE NO. BZA 54-87

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 O.L.C. Properties, a partnership, requesting an exception.

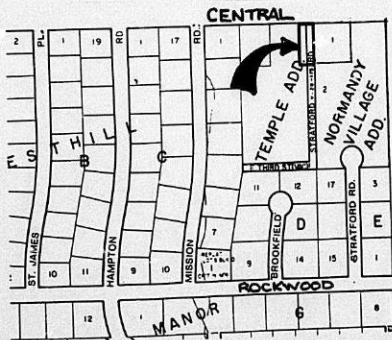
Pursuant to Section 2.12.590.C, Code of the City of Wichita, the applicant is requesting an exception to permit the establishment of an off-street parking lot for the adjacent medical office building on property zoned the "AA" One-Family Dwelling District. A legal description of the applicant's property is as follows:

The north 160 feet of the east 35 feet of Lot 1, Temple Addition to Wichita, Sedgwick County, Kansas, together with that part of Vacated Stratford Street lying east of and adjacent to the north 160 feet of said Lot 1. Generally located between 7011 and 7015 E. Central.

This application was previously reviewed by the Board of Zoning Appeals on February 23, 1988, and was denied. The applicant appealed this decision to the District Court. The judge remanded the matter to the Board of Zoning Appeals for rehearing. It will be considered by the Board of Zoning Appeals on Tuesday, September 27, 1988, at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main, Wichita, Kansas. If you have no interest in or objections to 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.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

NOTE: We have been advised by the Citizen Participation Organization staff that CPO Council 2A, Rockwell/Northeast, will consider this case at their meeting to be held on Monday, September 26, 1988, at 7 p.m. at the Rockwell Branch Library, 5939 E. 9th Street. Additional information regarding this CPO meeting may be obtained by calling the CPO office at 268-4516.



( \_\_\_\_\_ ) Published in The Daily Reporter, September 2, 1988

OFFICIAL NOTICE

NOTICE IS HEREBY given that on the 27th day of September, 1988, the Board of Zoning Appeals of the City of Wichita, Kansas, meeting in the Board Room, First Floor, City Hall, 455 N. Main, Wichita, Kansas, will consider the following applications beginning at 1:30 p.m.

1. Case No. BZA 54-87 - O.L.C. Properties, a partnership, pursuant to Section 2.12.590.C, Code of the City of Wichita, requests an exception to permit the establishment of an off-street parking lot for the adjacent medical office building on property zoned the "AA" One-Family Dwelling District and legally described as follows:

The north 160 feet of the east 35 feet of Lot 1, Temple Addition to Wichita, Sedgwick County, Kansas, together with that part of Vacated Stratford Street lying east of and adjacent to the north 160 feet of said Lot 1. Generally located between 7011 and 7015 E. Central.

2. Case No. BZA 41-88 - Highland House, a partnership, and HCA Health Services of Kansas, Inc., a Kansas corporation, pursuant to Section 2.12.590.C, Code of the City of Wichita, request an exception to permit the establishment of off-street parking on property zoned the "A" Two-Family Dwelling District and legally described as follows:

Lots 31 and 32 on Orchard Avenue, Myers' Subdivision of Lots 1 and 3 in Block 6, FRISCO HEIGHTS ADDITION to Wichita, Kansas; odd Lots 1, 3, 5, 7, 9 and 11, inclusive, on Orchard Avenue, Grandview Subdivision of Lots 2 and 4 in Block 6 in FRISCO HEIGHTS, Wichita, Kansas; and Lot 16, except the west 5.7 feet thereof, and all of Lot 18 on Murdock Avenue, Grandview Subdivision of Lots 2 and 4 in Block 6 in FRISCO HEIGHTS, Wichita, Kansas. Generally located between Murdock and Orchard Avenue in an area west of Holyoke.

3. Case No. BZA 42-88 - Cornerstone Church of God, pursuant to Section 2.12.590.C, Code of the City of Wichita, requests an exception to permit the establishment of a child daycare center on property zoned the "AA" One-Family Dwelling District and legally described as follows:

Lots 1 and 2, Block A, Replat of Sower's Gardens, Sedgwick County, Kansas. Generally located at the southeast corner of Glenn and Crawford (2706 S. Glenn).

4. Case No. BZA 43-88 - Jerry Hansen, pursuant to Section 2.12.590.C, Code of the City of Wichita, requests an exception to permit the expansion of a self-service car wash on property zoned the "LC" Light Commercial District and legally described as follows:

The north 190 feet of Lots 7, 8, and 9, Christian Add., Sedgwick County, Kansas. Generally located near the southwest corner of MacArthur and Hydraulic (1647 E. MacArthur).

5. Case No. BZA 44-88 - T. G. Davis, Jr., pursuant to Section 2.12.590.C, Code of the City of Wichita, requests an exception to permit the expansion of a new and used car lot on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 1, Low's Addition; Lot 1, Hudson Addition; the west 10 feet of Lot 2, Hudson Addition; the east 100 feet of Lot 2, Hudson Addition; the west 30 feet of the north 312.86 feet of vacated Waverly; the west 20 feet of the east 30 feet of the north 312.86 feet of vacated Waverly, except the north 100 feet thereof; Lots 1, 10, 11 and 20, Drivers Addition, together with Lexington Street lying between said Lots 10 and 11; all in Wichita, Sedgwick County, Kansas. Generally located on the south side of Kellogg Drive in an area east of Lightner.

As provided in City Ordinances hereinabove described and Section 2.12.560 et. seq., Code of the City of Wichita, Sedgwick County, Kansas, the same will then and there be discussed and considered by the said Board of Zoning Appeals and all persons interested in said matters will be heard at this time concerning their views and wishes in the premises, and any protest against any of the provisions of the exceptions will be considered by the Board of Zoning Appeals as by law provided.

WITNESS my hand and seal this 2nd day of September, 1988.

Jack H. Galbraith, Secretary  
Board of Zoning Appeals

LAW OFFICES  
KAPLAN, McMILLAN AND HARRIS

ROBERT W. KAPLAN  
CALVIN McMILLAN  
CHARLES F. HARRIS  
GERARD C. SCOTT

*Kaplan on vacation  
thru 8-1-88*

LAW BUILDING  
430 NORTH MARKET  
WICHITA, KANSAS 67202  
316-262-5175

July 6, 1988

Ms. Louise Olivarez  
Assistant Secretary  
Board of Zoning Appeals  
City Hall - Tenth Floor  
455 North Main Street  
Wichita, Kansas 67202

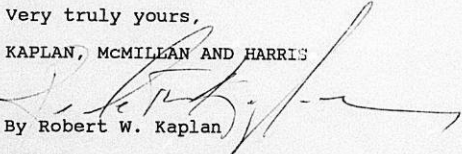
RE: BZA 54-87 - Exception for parking lot in "AA" district  
associated with 7015 East Central

Dear Louise:

Enclosed is a certified copy of a journal entry from the District Court of Sedgwick County, Kansas. We would request that the matter be placed on the agenda for the August 23, 1988 meeting of the Board of Zoning Appeals. If you have any questions, please call me.

Very truly yours,

KAPLAN, McMILLAN AND HARRIS

By Robert W. Kaplan 

RWK/js

cc: Mr. O. L. Eck

**RECEIVED**

JUL 07 1988

METROPOLITAN PLANNING

ROUTE  \_\_\_\_\_  
 \_\_\_\_\_

*Since Kaplan may be in Court 8/23, he has agreed to postpone until the September mtg.*

THOMAS R. POUL  
City Attorney  
DOUGLAS J. MOSHIER  
Assistant City Attorney  
ED L. RANDELS  
Assistant City Attorney  
City Hall - 13th Floor  
455 North Main  
Wichita, Kansas 67202  
(316) 268-4681

IN THE EIGHTEENTH JUDICIAL DISTRICT  
DISTRICT COURT, SEDGWICK COUNTY, KANSAS  
CIVIL DEPARTMENT

O. L. ECK and LESLIE A. ECK, )  
d/b/a O.L.C. PROPERTIES, )  
a General Partnership, )  
Plaintiffs, )

v. )

Case No. 88 C 971

THE CITY COUNCIL OF THE )  
CITY OF WICHITA, KANSAS, a )  
Municipal Corporation; and )  
THE BOARD OF ZONING APPEALS )  
OF THE CITY OF WICHITA, KANSAS, )  
Defendants. )

PURSUANT TO CHAPTER 60 OF  
KANSAS STATUTES ANNOTATED

JOURNAL ENTRY

NOW, on this 19 day of May, 1988, the above-entitled matter comes on for hearing before the Honorable Tom Raum. The Plaintiffs appear by and through their counsel, Robert W. Kaplan of Kaplan, McMillan and Harris. The Defendants appear by and through Ed L. Randels, Assistant City Attorney for the City of Wichita.

Thereupon, the matter proceeds to hearing, and the Court, having heard the arguments of counsel and being fully advised in the premises finds that the Motion of the Defendants should be and is sustained and the matter remanded to the Defendant pursuant to the following findings and orders:

1. The Plaintiffs' application for zoning exception to permit the establishment of an off-street parking lot for an adjacent medical office building located at 7015 E. Central, Wichita, Sedgwick County, Kansas, will be set for rehearing in due course.

2. All costs of publication and notice as shall be required shall be borne by the City.

3. The Defendant, Board of Zoning Appeals, in hearing and redetermining the application of the Plaintiffs shall provide in the record its written summarization and statement of factors which it considers in reaching its ultimate decision regarding such application.

4. Plaintiffs shall select the date that Plaintiffs desire for rehearing of Plaintiffs' application, but such rehearing shall be on the date of a regularly scheduled Board of Zoning Appeals meeting and shall be scheduled in sufficient time for proper legal notifications.

IT IS SO ORDERED.

FORM 841001

Tom Raum, Judge, Division 7

APPROVED:

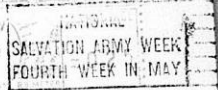
KAPLAN, McMILLAN AND HARRIS

By *Robert W. Kaplan*  
Robert W. Kaplan  
Attorney for Plaintiffs

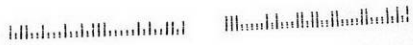
*Ed L. Randels*  
Ed L. Randels  
Assistant City Attorney  
Attorney for Defendants

Filed this 19<sup>th</sup> day of May 1988  
District of Columbia  
Dated this 19<sup>th</sup> day of May 1988  
Clerk of the District Court  
By *Bella Reese*

LAW OFFICES  
**KAPLAN, MCMILLAN AND HARRIS**  
LAW BUILDING  
430 NORTH MARKET  
WICHITA, KANSAS 67202



MS LOUISE OLIVAREZ  
ASSISTANT SECRETARY  
BOARD OF ZONING APPEALS  
CITY HALL - TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA KS 67202



THOMAS R. POWELL  
City Attorney  
DOUGLAS J. MOSHIER  
Assistant City Attorney  
ED L. RANDELS  
Assistant City Attorney  
City Hall - 13th Floor  
455 North Main  
Wichita, Kansas 67202  
(316) 268-4681

IN THE EIGHTEENTH JUDICIAL DISTRICT  
DISTRICT COURT, SEDGWICK COUNTY, KANSAS  
CIVIL DEPARTMENT

O. L. ECK and LESLIE A. ECK, )  
d/b/a O.L.C. PROPERTIES, )  
a General Partnership, )  
Plaintiffs, )

v. )

Case No. 88 C 971

THE CITY COUNCIL OF THE )  
CITY OF WICHITA, KANSAS, a )  
Municipal Corporation; and )  
THE BOARD OF ZONING APPEALS )  
OF THE CITY OF WICHITA, KANSAS, )  
Defendants. )

PURSUANT TO CHAPTER 60 OF  
KANSAS STATUTES ANNOTATED

JOURNAL ENTRY

NOW, on this 19 day of May, 1988, the above-entitled matter comes on for hearing before the Honorable Tom Raum. The Plaintiffs appear by and through their counsel, Robert W. Kaplan of Kaplan, McMillan and Harris. The Defendants appear by and through Ed L. Randels, Assistant City Attorney for the City of Wichita.

Thereupon, the matter proceeds to hearing, and the Court, having heard the arguments of counsel and being fully advised in the premises finds that the Motion of the Defendants should be and is sustained and the matter remanded to the Defendant pursuant to the following findings and orders:

1. The Plaintiffs' application for zoning exception to permit the establishment of an off-street parking lot for an adjacent medical office building located at 7015 E. Central, Wichita, Sedgwick County, Kansas, will be set for rehearing in due course.

2. All costs of publication and notice as shall be required shall be borne by the City.

3. The Defendant, Board of Zoning Appeals, in hearing and redetermining the application of the Plaintiffs shall provide in the record its written summarization and statement of factors which it considers in reaching its ultimate decision regarding such application.

4. Plaintiffs shall select the date that Plaintiffs desire for rehearing of Plaintiffs' application, but such rehearing shall be on the date of a regularly scheduled Board of Zoning Appeals meeting and shall be scheduled in sufficient time for proper legal notifications.

IT IS SO ORDERED.

**TOM RAUM**

Tom Raum, Judge, Division 7

APPROVED:

KAPLAN, MCMILLAN AND HARRIS

BY *Robert W. Kaplan*  
Robert W. Kaplan  
Attorney for Plaintiffs

*Ed L. Randels*  
Ed L. Randels  
Assistant City Attorney  
Attorney for Defendants

Clerk of the District Court. The above is a true and correct copy of the original instrument filed on the 19 day of May, 1988 and recorded in this Court of the Eighteenth Judicial District, Sedwick County, Mo. Dated this 19 day of May, 1988 Clerk of the District Court.

By *Rita Reese*

*Louise: See me on this case. We are not to reschedule until Kaplan advises. Definitely not for June*

THOMAS R. POWELL  
City Attorney  
DOUGLAS J. MOSHIER  
Assistant City Attorney  
ED L. RANDELS  
Assistant City Attorney  
City Hall - 13th Floor  
455 North Main  
Wichita, Kansas 67202  
(316) 268-4681

IN THE EIGHTEENTH JUDICIAL DISTRICT  
DISTRICT COURT, SEDGWICK COUNTY, KANSAS  
CIVIL DEPARTMENT

O. L. ECK and LESLIE A. ECK, )  
d/b/a O.L.C. PROPERTIES, )  
a General Partnership, )  
Plaintiffs, )

v. )

Case No. 88 C 971

THE CITY COUNCIL OF THE )  
CITY OF WICHITA, KANSAS, a )  
Municipal Corporation; and )  
THE BOARD OF ZONING APPEALS )  
OF THE CITY OF WICHITA, KANSAS, )  
Defendants. )

PURSUANT TO CHAPTER 60 OF  
KANSAS STATUTES ANNOTATED

MOTION OF DEFENDANTS TO  
REMAND WITH DIRECTIONS

COME NOW, the Defendants by and through Ed L. Randels, Assistant City Attorney and moves the Court for an Order remanding the entire matter involved herein to the Defendant, Board of Zoning Appeals for the City of Wichita, Kansas, for a rehearing with directions that Defendant Board of Zoning Appeals make a written summarization and statement of factors considered, upon which the ultimate decision of said body is based.

Office of the City Attorney  
of the City of Wichita, Kansas

\_\_\_\_\_  
Ed L. Randels  
Assistant City Attorney  
Attorneys for Defendants

NOTICE OF HEARING

TAKE NOTICE: The above and foregoing Motion Of Defendants To Remand With Directions, will be heard before the Honorable Tom Raum, Judge of Division No. 7 of this Court on the 5th Floor of the Sedgwick County Courthouse, 525 North Main, Wichita, Kansas, on the 6th day of May, 1988, at 9:30 a.m.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing Motion of Defendants to Remand With Directions, was mailed, postage prepaid, to Mr. Robert W. Kaplan of Kaplan, McMillan and Harris, 430 N. Market, Wichita, Kansas, 67202, Attorney for Plaintiffs, by placing the same in the United States mail, postage prepaid, this 26th day of April, 1988.

\_\_\_\_\_  
Ed L. Randels

THOMAS R. POWELL  
City Attorney  
DOUGLAS J. MOSHIER  
Assistant City Attorney  
ED L. RANDELS  
Assistant City Attorney  
City Hall - 13th Floor  
455 North Main  
Wichita, Kansas 67202  
(316) 268-4681

IN THE EIGHTEENTH JUDICIAL DISTRICT  
DISTRICT COURT, SEDGWICK COUNTY, KANSAS  
CIVIL DEPARTMENT

O. L. ECK and LESLIE A. ECK, )  
d/b/a O.L.C. PROPERTIES, )  
a General Partnership, )

Plaintiffs, )

v. )

Case No. 88 C 971

THE CITY COUNCIL OF THE )  
CITY OF WICHITA, KANSAS, a )  
Municipal Corporation; and )  
THE BOARD OF ZONING APPEALS )  
OF THE CITY OF WICHITA, KANSAS, )

Defendants. )

\_\_\_\_\_  
PURSUANT TO CHAPTER 60 OF  
KANSAS STATUTES ANNOTATED

JOURNAL ENTRY

NOW, on this \_\_\_\_\_ day of \_\_\_\_\_, 1988, the above-entitled matter comes on for hearing before the Honorable Tom Raum. The Plaintiffs appear by and through their counsel, Robert W. Kaplan of Kaplan, McMillan and Harris. The Defendants appear by and through Ed L. Randels, Assistant City Attorney for the City of Wichita.

Thereupon, the matter proceeds to hearing, and the Court, having heard the arguments of counsel and being fully advised in the premises finds that the Motion of the Defendants should be and is sustained and the matter remanded to the Defendant pursuant to the following findings and orders:

1. The Plaintiffs' application for zoning exception to permit the establishment of an off-street parking lot for an adjacent medical office building located at 7015 E. Central, Wichita, Sedgwick County, Kansas, will be set for rehearing in due course.

2. All costs of publication and notice as shall be required shall be borne by the City.

3. The Defendant, Board of Zoning Appeals, in hearing and redetermining the application of the Plaintiffs shall provide in the record its written summarization and statement of factors which it considers in reaching its ultimate decision regarding said application.

IT IS SO ORDERED.

\_\_\_\_\_  
Tom Raum, Judge, Division 7

APPROVED:

KAPLAN, MCMILLAN & HARRIS

\_\_\_\_\_  
Robert W. Kaplan  
Attorney for the Plaintiffs

\_\_\_\_\_  
Ed L. Randels  
Assistant City Attorneys  
Attorney for Defendants

WICHITA-SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING DEPARTMENT

DATE: April 19, 1988

TO: Board of Zoning Appeals

FROM: Louise Olivarez, Assistant Secretary

SUBJECT: April 26 Meeting

After the four regular items on your April 26 agenda, we will need to go into executive session to discuss the lawsuit which has been filed regarding case BZA 54-87 (exception request for parking lot for medical offices at 7015 E. Central). Attached for your information is a copy of the Petition filed with the District Court by Bob Kaplan. Ed Randels of the Law Department will be present to discuss this matter with you.

Also, under "Other Matters" on the agenda, we should take some time to discuss the types of findings that should be made for approval or denial of any exception case. Please plan to stay for discussion of these items after the regular cases are heard.

LO/jcm  
Attachment

PL1-0398

*FILE COPY*

IN THE EIGHTEENTH JUDICIAL DISTRICT  
DISTRICT COURT, SEDGWICK COUNTY, KANSAS  
CIVIL DEPARTMENT

O. L. ECK and LESLIE A. ECK, )  
d/b/a O.L.C. PROPERTIES, a )  
General Partnership, )

Plaintiffs, )

vs. )

THE CITY COUNCIL OF THE CITY OF )  
WICHITA, KANSAS, a Municipal )  
Corporation; and THE BOARD OF )  
ZONING APPEALS OF THE CITY OF )  
WICHITA, KANSAS, )

Defendants. )

Case No. 280 971

Pursuant to Chapter 60 of  
Kansas Statutes Annotated

PETITION

COME NOW the plaintiffs and for their cause of action  
against the defendants, allege and state:

1. Plaintiffs are individuals residing in Sedgwick  
County, Kansas, and for purposes material to this action are  
doing business as general partners under the name and style of  
O.L.C. Properties.

2. Defendants are the City of Wichita, Kansas, a muni-  
cipal corporation, its City Council, and the Board of Zoning  
Appeals created pursuant to K.S.A. 12-714 and Municipal Ordinance  
of the City of Wichita 2.12.560.

3. The city council persons comprising the City  
Council at the time of the action herein complained of were: Bob  
Knight, Mayor; Sheldon Kamen, Vice Mayor; Greg Ferris, Council-  
man; Skeets Winkler, Councilwoman; and Sally Dewey, Councilwoman.

4. The appointed members to the Board of Zoning  
Appeals are: Danny Jenkins, Chairman; Elton Parsons, Member;  
Sharon Ryan, Member; Randy Phillips, Member; and Cindy  
Sundell-Guy, Member.

5. Plaintiffs requested before the defendants, Board  
of Zoning Appeals, an exception pursuant to Section 28.04.145 of  
the Code of the City of Wichita to permit the establishment of an

KAPLAN,  
McMILLAN  
AND  
HARRIS  
ATTORNEYS

ROBERT W. KAPLAN  
CALVIN McMILLAN  
CHARLES F. HARRIS  
GERARD C. SCOTT

LAW BUILDING  
430 NORTH MARKET  
WICHITA, KANSAS 67202  
(316) 262-5175

offstreet parking lot for an adjacent medical office building located at 7015 East Central, Wichita, Kansas.

6. A hearing was held pursuant to statute and city code on the 23rd day of February, 1988, having been continued from January 26, 1988.

7. Defendant Board of Zoning Appeals, acting upon the request, denied said request and in so doing acted unreasonably and arbitrarily, including but not limited to the following:

(a) The Board of Zoning Appeals in denying the request and in the motion made to deny failed to state the basis for the board's actions or its reasons for denial of the plaintiffs' request for an exception. The denial was made arbitrarily and unreasonably without the benefit of any reason stated therefor. That the record in said case supports no valid reasons for the denial, and the evidence before the board provided no valid basis or reasons for denial of the request.

(b) The matter was denied without consideration of any criteria except the plebiscite of the neighbors and on the basis of undocumented representations which did not provide valid reasons for denial of the request for an exception.

(c) The motion was made, seconded, and the chairman called for a vote, prohibiting any discussion by the members of the board on the motion, notwithstanding a request for discussion was made by member Elton Parsons.

(d) The chairman of the Board of Zoning Appeals had previously appeared in opposition to plaintiffs' request for a zoning change on the adjacent property at 7015 East Central for which the present exception was requested for parking and had previously publicly made known his personal objection to the rezoning of the plaintiffs' property, and as such, acted unreasonably in continuing to chair the meeting, discussing, and voting on the requested exception. See Exhibit "A", transcript

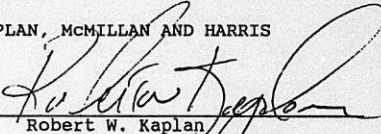
of minutes of the July 24, 1986, meeting of the  
Wichita-Sedgwick County Metropolitan Area Planning  
Commission.

8. By reason of the above and foregoing factors, it is  
alleged that the defendant Board of Zoning Appeals acted unrea-  
sonably and arbitrarily in failing to apply objective criteria  
and in failing to consider plaintiffs' compliance with the recom-  
mendations of the secretary of the Board of Zoning Appeals.

WHEREFORE, plaintiffs pray that the court determine that  
the action of the defendants in denying the requested exception  
was unreasonable, arbitrary, and unlawful and order the defen-  
dants to grant the exception as requested or refer the matter  
back to the Board of Zoning Appeals for reconsideration in accor-  
dance with this court's findings.

KAPLAN, MCMILLAN AND HARRIS

By

  
Robert W. Kaplan  
Attorney for Plaintiffs



THE CITY OF WICHITA  
OFFICE OF LAW DEPARTMENT

DATE April 13, 1988

TO Marvin Krout, Director of Planning  
FROM Thomas R. Powell, Director of Law  
SUBJECT BZA Training Session

I am willing to set up a training session to school the BZA on how they should handle matters that come before them. Before a training session is held a policy should be drafted by our staffs that sets forth Golden type findings that must be made that is applicable to BZA action on request for exceptions. A training session could be held at the end of a regular BZA meeting. The training session should take less than one hour. Let me know when it would be convenient to hold a training session.

*Thomas R. Powell*  
Thomas R. Powell  
Director of Law

TRP:kh

cc: Chris Cherches

RECEIVED

APR 15 1988

METROPOLITAN PLANNING  
ROUTE

*Louise & I would like to have this at their next session (4-26?) - is that possible? could you get Ed Dangle edit a BZA version of Policy 10? NK*

THE CITY OF WICHITA  
OFFICE OF

DATE April 9, 1988

TO Tom Powell

FROM Chris *[Signature]*

SUBJECT BZA Training Session

The recent litigation filed against the BZA brings me to a question of whether or not the BZA has ever received any training in their rights, procedures, etc. that may avoid such litigation of their decisions? While we cannot stop it, we can, I believe, provide the techniques to ensure decisions are based on sound, legal (defensible) decisions, etc.

Can you work with Marvin to set up such a training session shortly with the BZA members. I should think they may be more than receptive to such a session with you.

Thanks

cc: Marvin Krout

*Ed could do this in his explanation in the executive session at the end of their next mtg. I don't believe we have any other problem.*

*try to schedule WCC Conference Room for Executive Session*

**RECEIVED**

APR 12 1988

METROPOLITAN PLANNING

ROUTE  ~~Jack~~/Louise:  
 they had a training session - do you think that, other than citing "reasons" for use exceptions, we have a problem?  
MK

Case No. BZA 54-87

Law Dept. 4-6-88 1:30pm

BZA is quasi-judicial

Must make findings of fact.  
Do not have to parallel the MAPC findings.

Need policy for BZA <sup>EXCEPTIONS AND APPEALS</sup> similar to  
MAPC Policy #10

ck  
By-laws state Board must make  
findings -of-fact

If Court orders case reheard, we should  
re-advertise and re-notify.

check with Johnson County cities for their BZA findings

have Ed meet with Board on 4-26  
at end of agenda (executive session)  
to discuss this lawsuit.

DISTRICT COURT  
EIGHTEENTH JUDICIAL DISTRICT  
DIVISION SEVEN - 9TH FLOOR  
SEDGWICK COUNTY COURTHOUSE  
WICHITA, KANSAS  
67203

TOM RAUM  
PRESIDING JUDGE  
CIVIL DEPARTMENT  
TEL (316) 268-7941

TO: KAPLAN, ROBERT W.  
WICHITA, CITY OF, 455 N. MAIN, WICHITA, KANSAS 67202  
~~BOARD OF ZONING APPEALS, 455 N. MAIN, WICHITA, KANSAS 67202~~

Case No.: 88C 00971  
Re: ECK, O. L. DBA ETAL  
VS.  
WICHITA, CITY OF ETAL

On this 7th day of APRIL, 1988

The above captioned bench trial has been scheduled  
to the 20th day of MAY, 1988  
at 9:00 a.m. in Division No. 7, Judge Raum's Court.

If you have any questions regarding this, please do not  
hesitate to call.

*Tom Raum*

\_\_\_\_\_  
JUDGE TOM RAUM  
PRESIDING JUDGE  
CIVIL DEPARTMENT

**RECEIVED**

APR 11 1988

METROPOLITAN PLANNING

ROUTE  \_\_\_\_\_  
 \_\_\_\_\_

ma

CHAMBERS OF  
**TOM RAUM**  
JUDGE DISTRICT COURT  
18TH DISTRICT DIVISION 7  
WICHITA, KANSAS 67203

BOARD OF ZONING APPEALS  
455 N. MAIN  
WICHITA, KANSAS 67202

# THE CITY OF WICHITA

  
BOARD OF ZONING APPEALS  
CITY HALL — TENTH FLOOR  
405 NORTH MAIN STREET  
WICHITA, KANSAS 67202  
(316) 266-4421

April 6, 1988

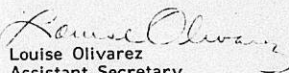
Mr. Robert Kaplan  
430 N. Market  
Wichita, KS 67202

Re: BZA 54-87

Dear Mr. Kaplan:

As you requested, I have enclosed a draft copy of the February 23, 1988, minutes of the Board of Zoning Appeals as they pertain to case number BZA 54-87 (exception to permit parking lot in "AA" district at 7011 - 7015 E. Central). These have not yet been approved by the Board, but if the Board requires corrections to the minutes, I will advise you.

Sincerely,

  
Louise Olivarez  
Assistant Secretary  
Board of Zoning Appeals

LO/jcm  
Enclosure

cc: Ed Randels, Law Department

FILE COPY

BOARD OF ZONING APPEALS  
MINUTES

February 23, 1988

The regular meeting of the Board of Zoning Appeals of the City of Wichita, Kansas, was held at 1:30 p.m., February 23, 1988, in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas.

The following members were in attendance: DANNY JENKINS, ELTON PARSONS, RANDY PHILLIPS, SHARON RYAN and CINDY SUNDELL-GUY.

Also present were Marvin Krout, Jack Galbraith, and Louise Olivarez of the Planning Department staff.

1.

Approval of the minutes of October 27, November 24 and December 15, 1987.

MOTION: PARSONS moved, RYAN seconded that the minutes be approved as mailed. Motion passed 5-0.

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2. Case No. BZA 54-87 - O.L.C. Properties, a partnership, 7310 E. Kellogg, Wichita, Kansas 67206, pursuant to Section 2.12.590.C, Code of the City of Wichita, requests an exception to permit the establishment of an off-street parking lot for the adjacent medical office building on property zoned the "AA" One-family Dwelling District and legally described as follows:

The north 160 feet of the east 35 feet of Lot 1, Temple Addition to Wichita, Sedgwick County, Kansas, together with that part of Vacated Stratford Street lying east of and adjacent to the north 160 feet of said Lot 1. Generally located between 7011 and 7015 East Central.

PHILLIPS abstained from participating in this case, due to a conflict of interest.

GALBRAITH showed slides of the application area and reviewed the following comments from the Secretary's Report.

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**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 28.04.145 can be complied with.

**BACKGROUND:** The applicant is requesting an exception to permit the establishment of an off-street parking lot for the adjacent medical office building located at 7015 E. Central. The building has been completed for more than two years, but has never been occupied. Because it is in "B" zoning, medical offices are the only type offices permitted. Twice in the past four years, a zone change to "OC" or "BB" has been requested, but either withdrawn or denied. A medical lessor has been found if additional parking can be provided. Temple Emanu-El to the west has agreed to sell a 65-foot by 160-foot portion of their property to the medical building owner for parking purposes. The site is just east of their entrance drive and north of their parking lot.

The site plan submitted by the applicant (Plan A) provides for 27 spaces in the new lot and 33 in the existing lot. However, the east 18 spaces are totally separate from the others and anyone turning into that aisle and finding all spaces occupied would have to go back out to Central in order to get to the other section of the parking lot. With a slight rearrangement of the lots (see Plan B), 58 spaces could be provided, including one required handicapped parking space, all of which are accessible from each driveway. It is recommended that Plan B be approved.

Solid screening is required along the south and west lines of the application area due to adjacent "AA" zoning. The 25-foot setback from the north line should be required to be landscaped, since it is across the street from "AA" zoning and uses. No curb cut to Central from the application area is proposed at this time and the owner should be required to grant complete access control to assure there will be no future curb cuts.

**ADJACENT ZONING AND LAND USE:**

NORTH	AA	Single-family houses
SOUTH	AA	Temple parking lot
EAST	B	Medical office building
WEST	AA	Undeveloped

**RECOMMENDATION:** Should the Board determine that the parking lot is acceptable at this location, it is recommended that the exception be approved subject to the following conditions:

1. The parking spaces and all drives and circulation aisles for the application area as well as for the existing lot at 7015 E. Central shall be surfaced with concrete, asphalt, or asphaltic concrete and marked in conformance with the approved plan.
2. The owner shall grant by separate instrument complete access control to Central from the application area prior to release of the resolution and within 90 days or this application shall be considered denied and closed.
3. A six-foot fence of wood or masonry shall be erected along the south and west property lines where adjacent to residential zoning.

4. The 25-foot front yard adjacent to Central shall be landscaped with grass, trees and shrubs and may also include a fence or wall at the setback line no taller than three feet. Three copies of the landscape plan shall be submitted to the Secretary for review and approval prior to release of the resolution and within 90 days, or this application shall be considered denied and closed.
5. The parking area shall be used only for the parking of passenger vehicles owned or operated by employees and clients of the office building at 7015 E. Central.
6. Prior to use of the property as a parking lot, and in no case later than 12 months after approval by the Board, all conditions of this resolution and those of 28.04.145 of the zoning ordinance shall be complied with or the resolution shall become null and void.

GALBRAITH discussed land uses and gave a history of the site. Two zoning cases have been filed during the last four years, the first being for an office/commercial classification, which was withdrawn prior to consideration by the City Council. After this withdrawal, the owner of the property proceeded with the development of a two-story building, supposedly a medical office building. Approximately one year ago, an application was filed for the "BB" Office District, the next classification higher than Multiple Family. The intent at that time was to try to utilize the two-story structure for general offices permitted in the "BB" District. That case was denied by the City Council. Both of these previous cases met with considerable neighborhood opposition. However, in any residential zoning district, an exception may be granted for a parking lot conditioned upon any conditions that may be appropriate, such as landscaping. GALBRAITH presented a slide of the proposed parking lot for consideration. It has been suggested to the applicant that the new lot, if approved, be tied in so that people going to the front of the building would then go to the new lot to the right. Since creation of the staff report, the applicant has had his agent redesign a site plan. This site plan is satisfactory to the staff. GALBRAITH stated that if the Temple wanted to use this site for their own parking lot, they could do so without BZA exception approval. The newest plan provides for a layout containing 25 spaces in the existing lot and 27 new parking spaces on the site they desire to purchase from the Temple. GALBRAITH recommended approval of the exception, subject to conditions shown in the staff report, and in addition, changing item 3, which refers to a 6' fence of "wood or masonry" to a "solid" fence. A landscape plan must be submitted for the front 25'. The plan should identify the type and size of materials. GALBRAITH stated everything should be finalized no later than a year from the date of approval, or this case should be considered null and void. CPO Council considered this case on January 25 and recommended by a vote of 7 to 0 that the application not be approved. GALBRAITH stated this structure has been constructed and completed on the exterior only and has remained vacant for over one year. He stated staff supports the application, believing that the exception for additional parking is appropriate.

RYAN stated it was her understanding that when the building was approved to be built, the required parking was not done critically enough to put in the parking spaces for a doctor's office. Evidently, the parking is adequate to serve the building that is there, but does not fit the parking requirements for a doctor's office.

GALBRAITH agreed and stated that any time a spec office building is built, there is probably no way they know how many employees will be there when it opens. The medical office parking requirement is different than that for general offices. General offices require one space for every 250 square feet of floor area, versus one space for every 500 square feet of floor area for medical offices, plus one space for every physician, nurse, technician and employee who will be on the premises. GALBRAITH stated the original parking lot had approximately 33 spaces, but they operate both sides independently, where you can't cross from one to the other. He thought the spaces were originally rather narrow and had been widened in this latest plan.

BOB KAPLAN appeared on behalf of the applicant and stated the applicant concurs with staff comments, requirements and conditions set forth in the staff report, as well as the amendment to item 3 mentioned previously. In addition to conditions set forth in the staff report, KAPLAN stated a willingness on behalf of the applicant to consider any additional reasonable restrictions which may be imposed. KAPLAN then introduced BRENT WOOTEN of the Baughman Company, who was present on behalf of the applicant to answer any questions regarding site layout or landscape planting, and also BEN BOLT, administrator for the lessee, who was present to address any questions from the neighbors or those present regarding the practice of the medical practitioners and doctors who would occupy the facility.

KAPLAN stated the existing lease agreement between the applicant and the doctors requires that this facility house five family practice physicians and their support staff. These family practitioners conduct normal office hours as family medicine practitioners, and there is no off-hour activity which will be conducted on this site. KAPLAN stated that therefore, this facility is not a minor medical or emergency medical clinic.

KAPLAN explained the additional spaces shown on the slide presented are for the purpose of accommodating the automobiles of the doctors, nurses and administrative personnel and not patient parking. There will be no access to Central from the new lot, and one of the conditions in the staff report is complete access control from the additional parking lot to Central. KAPLAN reiterated that this is an acceptable condition.

KAPLAN stated arrangements are being made to improve the south elevation, with canopies, repainting, window shutters, etc. and he asked Brent Wooten to display the rendering of the building as it will look when improved.

KAPLAN said he was retained by Mr. Eck after the January CPO meeting. He requested a meeting with the people who protested this application at CPO, but was not successful in persuading anyone to attend, although he scheduled a meeting at the Temple. KAPLAN said that KEITH ALTER of the Temple was present to answer concerns that the Temple is contemplating a large redevelopment. KAPLAN said that was not true.

KAPLAN stated the actions taken between the Temple and Mr. Eck are contradictory to any notion that the Temple is going to be the next one in front of the podium for a rezoning.

KAPLAN stated the concerns he heard are basically three-fold: First, there is concern about additional traffic. With 18,000 cars per day on Central at this location now, he did not feel the additional 27 cars would have an impact upon traffic conditions within the area. KAPLAN stated he could not address the second concern, that being that the neighborhood is extremely displeased with the mere existence of the building. The third concern is the opinion that some feel this case is a zoning case and as such, it sets some kind of precedent in the neighborhood, mandating the approval of future applications for future rezoning. He said this is not a rezoning; the zoning will stay "AA". If violations of the approval conditions occur, the Superintendent of Central Inspection can pull the permit which authorizes this car parking lot.

JENKINS asked KAPLAN what the traffic count was of patients coming to the facility for daily care. KAPLAN did not have that information, but stated BOLT could answer that question.

PARSONS reiterated some of KAPLAN's statements to make sure he understood the background of this case.

BEN BOLT then came to the podium and stated he is an officer of the company which serves the physicians (Physicians Corporation of America) and he could answer any questions of the Commission.

RYAN discussed with BOLT the contract providing for five physicians to occupy the building. RYAN stated as it exists now, the building would accommodate only three physicians. BOLT stated there is a parking allowance of five spaces per doctor (along with his support staff) being proposed, which gives them the majority of space requested.

JENKINS asked if BOLT had statistical support for the client base utilized by the facility and asked for an account of the number of patients an average family practitioner sees per day.

BOLT replied that appointments are scheduled approximately every 20 minutes. He recommended nine spaces per doctor, taking into account the patient currently being seen by the doctor and any who might be waiting for treatment in the waiting room. BOLT estimated each doctor would probably see 15 to 20 patients per day.

KEITH ALTER, Finance Chairman for the Temple, then took the podium. ALTER stated the congregation spent quite a bit of time considering the effects of this project before approving the contract. ALTER felt the congregation approved the contract because they consider the empty building to be more of a blight to the neighborhood than a useful building. He stated they are very interested in maintaining the aesthetics the way they currently exist.

JENKINS then asked any opponents of the case to raise their hands so as to get an estimate of the number present. He then asked anyone who opposed this issue to come to the podium and identify himself.

SUE DOWER, 522 N. Mission, said her primary objection is that when this case was brought before the MAPC the first two times, the city planners recommended against any zoning change because of a long-term city plan for no spot zoning. She stated this property is zoned "B" only because at the time the property was developed, there was no R-5 or R-6 zoning district; "B" was the only zoning for multi-family. She stated it had been made very clear to the builder at that time that the neighborhood and the City were opposed to any other usage for this property. DOWER feels any variance to the property would, in fact, upgrade the building and allow more people to occupy the building than what the initial parcel of land would have held.

WAYNE WALLACE, Attorney, appeared on behalf of Josephine A. Taylor (his mother) and two other residents and owners of units in The Chaumont -- Mr. and Mrs. Bill Browning and Marcilee Davis. WALLACE also lives in The Chaumont. WALLACE stated their opposition is based on the fact that they believe the property has been overbuilt. WALLACE stressed the importance of the neighborhood remaining a residential area, and stated the building is too large for the size of lot it is on.

SUNDELL-GUY stated she does not believe Mr. Eck built the building, but that he was certainly aware that it has been overbuilt.

JOHN BRAMMER, 507 Brookfield, felt Mr. Eck's inability to accurately plan for the number of patients and personnel using the building was a speculator's error. He considers the building an eyesore.

SYLVIA STECKLEY, 507 N. Mission, is presently trying to sell her home which is on the corner of Mission and Central. She is skeptical of the promise by the builder to make the aesthetics acceptable to the neighborhood. She stated every neighbor in the area to whom she has talked is opposed to this case.

ED HUND, 325 Brookfield, reiterated that the neighborhood has lost faith in what has been represented to them about what's going to happen with the building. He said that Mr. Eck was the applicant on the demolition permit for the original house on this site. The traffic on Central at Mission is very bad. He feels the proposed use is not really a neighborhood type doctors' group, but a corporation of doctors.

VICKIE REEF, 534 Tallyrand, owns a Chaumont condominium in which her mother resides. She asked GALBRAITH how many cars the additional parking could accommodate at maximum. GALBRAITH stated he didn't see how they could design any more than the 27 additional spaces indicated. REEF then asked the total number of doctors if the case is approved. GALBRAITH stated assuming the building has 9,000 square feet, with 18 spaces required for medical office personnel, there could be a total of 6 doctors in the facility. REEF stated it is difficult to access Central (a left turn) from the Chaumont, and access will get worse with additional traffic. RYAN asked how many people live at the Chaumont, and it was determined there are 35 units.

WALLACE MCCLASKEY, 522 Brookfield, mentioned vacant space on the second floor which was left unfinished so the building would have the proper square feet for the parking available. MCCLASKEY discussed the high traffic which would result from the additional parking. MCCLASKEY stated he feels the building should be converted to either apartments or townhouses.

PARSONS stated that while this is not strictly a zoning case, in practicality, it has a lot to do with zoning because it has a lot to do with use. PARSONS stated it's generally better to have vacant ground than vacant buildings, since vacant buildings are more of a detriment to a neighborhood. He does not believe any action taken on this case will set a precedent to favorably or unfavorably entertain future zoning. He does not believe the project should have been built, but believes it would probably be beneficial to all parties if the property were useful.

JENKINS stated it was apparent since its inception, the area residents have been opposed to this project. He stated it seems there was a mistake made at some point and finds it hard to make another mistake to try to improve on the first mistake by granting this application. JENKINS stated the building is right in the heart of a residential area, completely surrounded by "AA" zoning.

RYAN asked to see the area zoning slide. In noting the large amount of commercial zoning at the southwest corner of Central and Rock, which is currently undeveloped, she said that traffic from this application area would be negligible in comparison. She stated it was her understanding that Mr. Eck did not have anything to do with constructing this building -- that Pete Russell or his associates built the building and that Eck purchased the property at a later date and is now faced with the physician contract. She wanted to know if Mr. Eck's name was on the wrecking permit. She thinks the parking lot issue is not the main concern.

SUNDELL-GUY stated she felt doctor's offices should never be in an area zoned Multi-Family. She stated it really bothers her that the building was ever built in the area in the first place. She stated inappropriate zoning is the cause of several neighborhoods in the city being less than "good." Perhaps the neighbors here should have supported "BB" zoning, because other type offices are less disruptive than medical offices.

JENKINS asked GALBRAITH about the first application for zoning of the area. GALBRAITH stated the first application for zoning was filed by Pete Russell. The second application for zoning was filed by Mr. Eck. He did not know for certain whose names were on the wrecking permit, but believes he had seen Mr. Eck's name on that permit.

BOB KAPLAN said he had requested of Mr. Eck some explanation of what the neighborhood was discussing and the comments that were made. He understood that Pete Russell and Ron Harms were the developers and builders of the property, and Mr. Eck still assures KAPLAN that that is the case. At the time Harms and Russell were obtaining financing from the First National Bank in Wichita, they had difficulties and problems qualifying for the project and asked Mr. Eck to come in and guarantee the financing. Eck did so, but KAPLAN stated Eck had no input regarding the building whatsoever. After a default, Mr. Russell left town and Mr. Eck inherited the building, via the First National Bank.

JENKINS asked if Eck received any compensation for providing his guarantee. KAPLAN did not know, but Eck stated he did not.

PARSONS asked GALBRAITH what analysis he provided for whether or not the conditions set out in the zoning regulations have or have not been met. GALBRAITH stated after hearing the statements of those present at the meeting, he felt the site was overdeveloped. However, looking strictly at land use, he could not find objection to the parking lot. GALBRAITH stated that if the Temple owned and used the property the building was on today, there could be a parking lot built on the application area.

PARSONS stated concern, after hearing the various estimates of the number of new spaces needed, whether the proposed parking lot would be big enough. He was unsure as to whom to believe.

JENKINS stated there would have to be at least 3 votes either in favor of or against this application.

MOTION: RYAN moved, PARSONS seconded, to deny the exception for off-street parking. Motion passed 4-0.

KAPLAN asked JENKINS for a discussion of the motion. JENKINS stated the motion was already made and passed to deny the case, and therefore no further discussion could be allowed. PARSONS then requested that his vote be changed to the negative on the motion to deny and stated he felt the motion should have been discussed. JENKINS asked GALBRAITH if he had a comment on this.

GALBRAITH stated he thought PARSONS could change his vote and that someone could make a motion to have further discussion of the motion. JENKINS agreed that this would be in order.

RYAN then made a motion for further discussion and SUNDELL-GUY seconded the motion for further discussion of the motion to deny the case. Motion passed 3-1 in favor of further discussion. JENKINS voted against this motion.

KAPLAN stated the only comment he wanted to make in regard to the motion that was made is that he understood that if the motion passes to deny the case, it cannot come back before the Board of Zoning Appeals for one year. GALBRAITH stated it could not come back at all, unless there are substantial changes regarding the facts of the case.

RYAN stated she made the motion primarily for the sake of discussion, but she thought she was still going to stand on her vote.

SUNDELL-GUY stated she also stood on her vote to deny the exception.

JENKINS asked if there was any further discussion, and since there was not, the next case was considered.

The official action of the Board is reflected in Resolution No. 54-87, which denies this application.

DEPARTMENT OF LAW

ASSIGNMENT and DIRECTIONS

<input type="checkbox"/>	POWELL	DATE: <u>March 23, 1988</u>	
<input type="checkbox"/>	ISSINGHOFF	SUBJECT: <u>O. L. Eck and Leslie A. Eck d/b/a O.L.C. Properties, a General Partnership v. The City Council of the City of Wichita, Kansas, a Municipal Corporation, et al., Case No. 88C971</u>	
<input type="checkbox"/>	REBENSTORF		
<input type="checkbox"/>	WINKLER		
<input type="checkbox"/>	MOSHIER		Type of Action: _____
<input type="checkbox"/>	LANG		_____
<input type="checkbox"/>	JENKINS	Amount: \$ _____	
<input checked="" type="checkbox"/>	RANDELS	Due Date: _____	
<input type="checkbox"/>	HARLENSKE		
<input type="checkbox"/>	JONES, H. E.	SUPERVISOR: <u>Moshier</u>	
<input type="checkbox"/>	JONES, S. J.		
<input type="checkbox"/>	OTHER _____:		

Please complete in manner indicated:

- Handle Directly. Copies to me.
- Handle Litigation to completion.
- Research and reply direct to me.
- Prepare reply for my signature.

Other Instructions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Office Control:

- Make Separate File
- General File
- \_\_\_\_\_ OTHER

Thomas R. Powell  
(Signature) *TRP*

IN THE EIGHTEENTH JUDICIAL DISTRICT DISTRICT COURT EDG WICK COUNTY, KANSAS

Serve: City Clerk  
Wichita City Hall  
45<sup>th</sup> North Main,  
2nd Floor  
Wichita, Kansas

O. L. ECK and LESLIE A. ECK,  
d/b/a O.L.C. PROPERTIES, a  
General Partnership,  
PLAINTIFF(S)



vs.

THE CITY COUNCIL OF THE CITY OF  
WICHITA, KANSAS, a Municipal  
Corporation, et al.,  
DEFENDANT(S)

88C 971  
Case No

SUMMONS

PURSUANT TO CHAPTER 60  
KANSAS STATUTES ANNOTATED

To the above-named Defendant:

You are hereby summoned to defend an action brought in the District Court for SEDGWICK

County, and required to serve upon Robert W. Kaplan, plaintiff's attorney,

whose address is 430 No. Market, Wichita, KS 67202, a pleading to the petitioner which is herewith served upon you, within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the petition. Your pleading also must be filed with the

District Court of SEDGWICK County. As provided in K.S.A. 60-213 (a), your answer must state as a counterclaim any related claim which you may have against the plaintiff(s). You will thereafter be barred from making such claim in any other action.

(Seal of the Court)



Clerk of the District Court of Sedgwick County, Kansas

Dated MAR 17 1988

By Karen L. Byrard, Deputy

RETURN ON SERVICE OF SUMMONS

I hereby certify that I served the within summons:

(1) By delivering on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, a copy of the summons, and a copy of the petition to each of the within-named defendants.

(2) By leaving on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, for each of the within-named defendants

A copy of the summons and a copy of the petition at the respective dwelling place or usual place of abode of said defendants with some person of suitable age and discretion residing therein.

(3) By delivering on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, a copy of the summons, and a copy of the petition to each of the following agents authorized by appointment or by law to receive service of process

(4) By leaving a copy of the summons and a copy of the petition at the dwelling house or usual place of abode and mailing by first-class mail to each of the following defendants a notice that such copy has been so left.

on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

All done in \_\_\_\_\_ County, Kansas.

Sheriff of \_\_\_\_\_ County, Kansas

By \_\_\_\_\_ Deputy

BS  
3-22-88

~~WICHITA-SEDGWICK COUNTY~~  
~~METROPOLITAN AREA PLANNING COMMISSION~~

MINUTES

July 24, 1986

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, July 24, 1986, at 1:30 p.m., in the City Commission Meeting Room, First Floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: David Bayouth, Vice Chairman; Jerry L. Banzer; Mary Ellen Conlee; Sue L. Crockett; James Gardner, II; Harley Miles; John Terry Moore; Elton Parsons; Elmer S. Peters and James C. Wilson. Staff members present were: Jack H. Galbraith, Assistant Secretary; and Louise Olivarez, Senior Planner. Recording Secretary, Ruby M. Eubanks.

1. Approval of the minutes of May 15, 1986; May 29, 1986 and June 12, 1986.

MOTION: That the Planning Commission approve the minutes of May 15, 1986; May 29, 1986 and June 12, 1986 as written and mailed. Banzer moved, Miles seconded and it carried unanimously.

NEW CASES:

B. Case No. 72-27827 - O.L.C. Properties requests zone change from "B" to "BB" for Lot 1, except the east 30 feet thereof, Normandy Village, Wichita, Sedgwick County, Kansas. Generally located on the south side of Central Avenue in an area west of Armour.

DANNY JENKINS, 507 North Armour, stated that they had heard a lot of comments this afternoon about this application, and felt that there was a consensus of opinion that the homeowners in the area certainly feel that the "B" zoning that now exists for the subject property was a mistake, and they would like to see no further "B" zoning in any areas of their neighborhood. That goes further to say that they object strenuously to "BB" zoning that is proposed today in this application. JENKINS felt that it was unreasonable and unconscionable for the financial interest of one investor to outweigh the equities of the many area homeowners and the safety of their families. Without a doubt millions of dollars were invested in homes in this area based in hope or in part on the stability of this residential neighborhood. This stability became the hallmark in molding the integrity and character of the area. The adoption of the policy to retain existing zoning classifications for both sides of Central between Woodlawn and Webb Road demonstrated a strong and commendable public concern by past policy makers for preserving the character of this residential area. In the spirit of fairness and equity, JENKINS asked that the Commission continue the policy to retain existing zoning classifications and deny the request before them today.

**EXHIBIT "A"**

BZA INSPECTION SHEET

MAP NO.: 5947D

CASE NO. BZA 54-87

REQUEST: Exception to permit the establishment of an off-street parking lot for the adjacent medical office building.

EXISTING ZONING: "AA" One-family Dwelling District

GENERAL LOCATION: Between 7011 and 7015 E. Central

APPLICANT: O.L.C. Properties, a partnership  
ADDRESS: 7310 E. Kellogg, Wichita, KS 67206

PHONE: 685-9211

AGENT: Douglas Malone  
ADDRESS: 150 N. Market, Wichita, KS 67202

PHONE: 262-6400

AGENT: Baughman Company, P.A.  
ADDRESS: 315 Ellis, Wichita, KS 67211

PHONE: 262-7271

HEARING DATE: 2/23/88

BZA ACTION: Denied

REMARKS BY: [illegible]

THE CITY OF WICHITA



BOARD OF ZONING APPEALS  
CITY HALL — TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202  
(316) 256-4421

March 7, 1988

O.L.C. Properties, a partnership  
7310 E. Kellogg  
Wichita, KS 67206

Re: BZA 54-87 - Exception for parking lot in "AA" district associated  
with 7015 E. Central.

Gentlemen:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted  
by the Board of Zoning Appeals on February 23, 1988. This Resolution  
reflects the official action of the Board to deny your request. It is  
forwarded to you for your information and files.

If you have questions concerning this matter, please call our office.

Sincerely,

Louise Olivarez  
Assistant Secretary  
Board of Zoning Appeals

LO/dlk

Enclosure

cc: Douglas Malone, 150 N. Market, Wichita, KS 67202  
Baughman Company, P.A., 315 Ellis, Wichita, KS 67211  
Robert Kaplan, 430 N. Market, Wichita, KS 67202  
Monty Robson, Superintendent of Central Inspection  
Joe Donnelly, Zoning Administrator, CID  
Dale Rea, Deputy City Clerk

RESOLUTION NO. BZA 54-87

WHEREAS, O.L.C. Properties, a partnership, 7310 E. Kellogg, Wichita, Kansas 67206, pursuant to Section 2.12.590.C, Code of the City of Wichita, requests an exception to permit the establishment of an off-street parking lot for the adjacent medical office building on property zoned the "AA" One-Family Dwelling District and legally described as follows:

The north 160 feet of the east 35 feet of Lot 1, Temple Addition to Wichita, Sedgwick County, Kansas, together with that part of vacated Stratford Street lying east of and adjacent to the north 160 feet of said Lot 1. Generally located between 7011 and 7015 East Central.

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 February 23, 1988 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 a parking lot on property zoned the "AA" One-Family Dwelling District; subject to the conditions outlined in Section 28.04.145, Code of the City of Wichita.

NOW, THEREFORE, BE IT RESOLVED that after consideration of all facts presented, the Board of Zoning Appeals of the City of Wichita denies this application for an exception to permit the establishment of an off-street parking lot for an adjacent medical office building on property zoned the "AA" One-Family Dwelling District.

ADOPTED AT WICHITA, KANSAS, this 23rd day of February, 1988.

  
\_\_\_\_\_  
Danny E. Jenkins, President

ATTEST:

  
\_\_\_\_\_  
Jack H. Galbraith, Secretary

# THE CITY OF WICHITA



BOARD OF ZONING APPEALS  
CITY HALL - TENTH FLOOR  
425 NORTH MAIN STREET  
WICHITA, KANSAS 67202  
(316) 268-4421

February 24, 1988

O.L.C. Properties, a partnership  
7310 E. Kellogg  
Wichita, KS 67206

Re: BZA 54-87 - Exception for parking lot in "AA" district associated with 7015 E. Central.

Gentlemen:

At the regular meeting of the Board of Zoning Appeals on February 23, 1988, your request for an exception to permit a parking lot in the "AA" district was considered. It was the action of the Board to deny this request. Their decision was unanimous (4-0) with one abstention.

If you have any questions, please call our office.

Sincerely yours,

A handwritten signature in cursive script that reads "Louise Olivarez".

Louise Olivarez  
Assistant Secretary  
Board of Zoning Appeals

LO/dlk

cc: Douglas Malone, 150 N. Market, Wichita, KS 67202  
Baughman Company, P.A., 315 Ellis, Wichita, KS 67211  
Robert Kaplan, 430 N. Market, Wichita, KS 67202  
Keith Alter, 2321 Addison Circle, Wichita, KS 67226  
Ben Bolt, Physician Corporation of America, 151 N. Main,  
Wichita, KS 67202  
Sue Dower, 522 N. Mission, Wichita, KS 67206  
Wayne Wallace, Attorney, Page Court, Wichita, KS 67202  
John Brammer, 507 Brookfield, Wichita, KS 67206  
Sylvia Steckley, 507 Mission, Wichita, KS 67206  
Ed Hund, 325 Brookfield, Wichita, KS 67206  
Vickie Reef, 534 Tallyrand, Wichita, KS 67206  
Wallace McClaskey, 522 Brookfield, Wichita, KS 67206  
Monty Robson, Superintendent of Central Inspection  
Joe Donnelly, Zoning Administrator, CID  
Dale Rea, Deputy City Clerk

Mr. and Mrs. Homer Castor  
507 North Stratford  
Wichita KS 67206

February 18, 1988

Mr. Danny Jenkins  
Board of Zoning Appeals  
10th Floor - City Hall  
455 North Main  
Wichita KS 67202

Dear Mr. Jenkins:

We would like to register our opposition to the proposed zoning change Case #BZA 54-87. As physical health makes it difficult to get around, we have chosen to write each of you this letter. We live at 507 North Stratford directly across from the facility in question.

First and foremost, we feel that the proposed zoning change represents an encroachment on this predominantly residential area. We are concerned not only about what this would do to the property value of our home but also the erosion of a private, established residential area.

We witness daily the traffic on Central. It is already difficult to cross a lane of traffic to turn onto Central, especially at times of slowed traffic flow due to the school zone east of the Chaumont apartments. We cannot imagine what traffic in/out of a facility housing four to six physicians might do to the flow of traffic--certainly it would seriously impede smooth flow.

Thirdly, we oppose strip zoning for our residential area.

We encourage you to reject the proposed zoning change.

Respectfully,

*Homer J. Castor*  
*Lorene Castor*  
Homer and Lorene Castor



BOARD OF ZONING APPEALS  
WICHITA, KANSAS

AGENDA ITEM NO. 2  
JANUARY 26, 1988

FEB 23

SECRETARY'S REPORT

CASE NUMBER: BZA 54-87

OWNER/APPLICANT/AGENT: O.L.C. Properties (applicant)  
Douglas Malone (agent)  
Baughman Company, P.A. (agent)

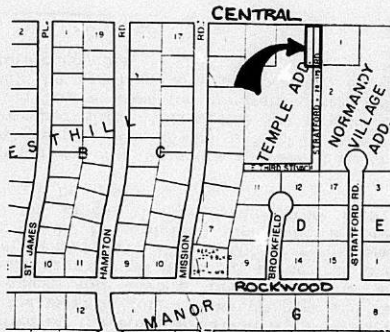
REQUEST: Exception pursuant to Section 28.04.145 Code of the City of Wichita to permit the establishment of an off-street parking lot for the adjacent medical office building

CURRENT ZONING: "AA" One-family Dwelling District

SITE SIZE: 65 feet by 160 feet

LOCATION: Between 7011 and 7015 E. Central

PROPOSED USE: Additional parking for medical offices



**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 28.04.145 can be complied with.

BZA 54-87 SR

BACKGROUND: The applicant is requesting an exception to permit the establishment of an off-street parking lot for the adjacent medical office building located at 7015 E. Central. The building has been completed for more than two years but has never been occupied. Because it is in "B" zoning, medical offices are the only type offices permitted. Twice in the past four years, a zone change to "OC" or "BB" has been requested but either withdrawn or denied. A medical lessor has been found if additional parking can be provided. Temple Emanu-El to the west has agreed to sell a 65 foot by 160 foot portion of their property to the medical building owner for parking purposes. The site is just east of their entrance drive and north of their parking lot.

The site plan submitted by the applicant (Plan A) provides for 27 spaces in the new lot and 33 in the existing lot. However, the east 18 spaces are totally separate from the others and anyone turning into that aisle and finding all spaces occupied would have to go back out to Central in order to get to the other section of the parking lot. With a slight rearrangement of the lots (see Plan B), 58 spaces could be provided, including one required handicapped parking space, all of which are accessible from each driveway. It is recommended that Plan B be approved.

Solid screening is required along the south and west lines of the application area due to adjacent "AA" zoning. The 25-foot setback from the north line should be required to be landscaped since it is across the street from "AA" zoning and uses. No curb cut to Central from the application area is proposed at this time and the owner should be required to grant complete access control to assure there will be no future curb cuts.

ADJACENT ZONING AND LAND USE:

NORTH	AA	Single-family houses
SOUTH	AA	Temple parking lot
EAST	B	Medical office building
WEST	AA	Undeveloped

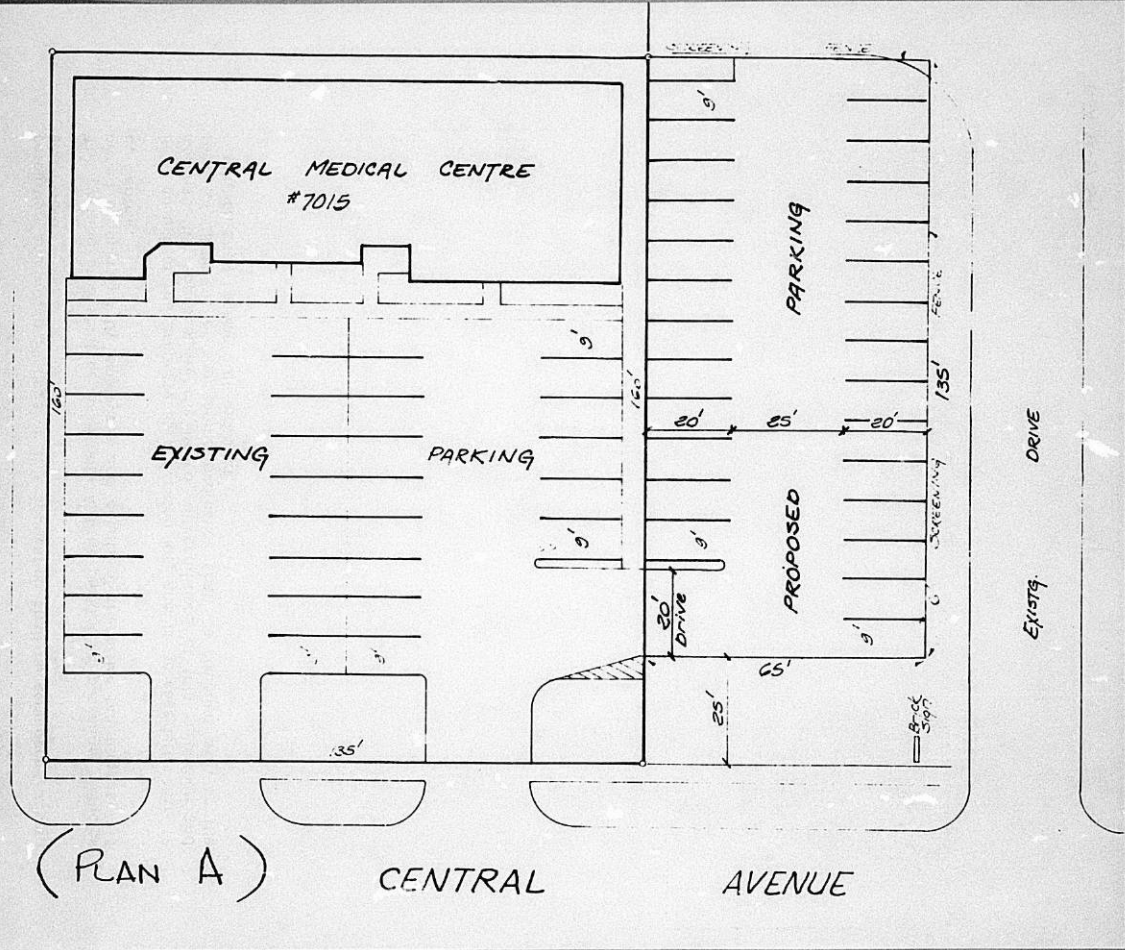
RECOMMENDATION: Should the Board determine that the parking lot is acceptable at this location, it is recommended that the exception be approved subject to the following conditions:

1. The parking spaces and all drives and circulation aisles for the application area as well as for the existing lot at 7015 E. Central shall be surfaced with concrete, asphalt, or asphaltic concrete and marked in conformance with the approved plan.
2. The owner shall grant by separate instrument complete access control to Central from the application area prior to release of the resolution and within 90 days or this application shall be considered denied and closed.
3. A six-foot fence of wood or masonry shall be erected along the south and west property lines where adjacent to residential zoning.
4. The 25-foot front yard adjacent to Central shall be landscaped with grass, trees and shrubs and may also include a fence or wall at the setback line no taller than three feet. Three copies of the landscape plan shall be submitted to the Secretary for review and approval prior to release of the

resolution and within 90 days or this application shall be considered denied and closed.

5. The parking area shall be used only for the parking of passenger vehicles owned or operated by employees and clients of the office building at 7015 E. Central.
6. Prior to use of the property as a parking lot, and in no case later than 12 months after approval by the Board, all conditions of this resolution and those of 28.04.145 of the zoning ordinance shall be complied with or the resolution shall become null and void.

CHAUMONT DRIVE



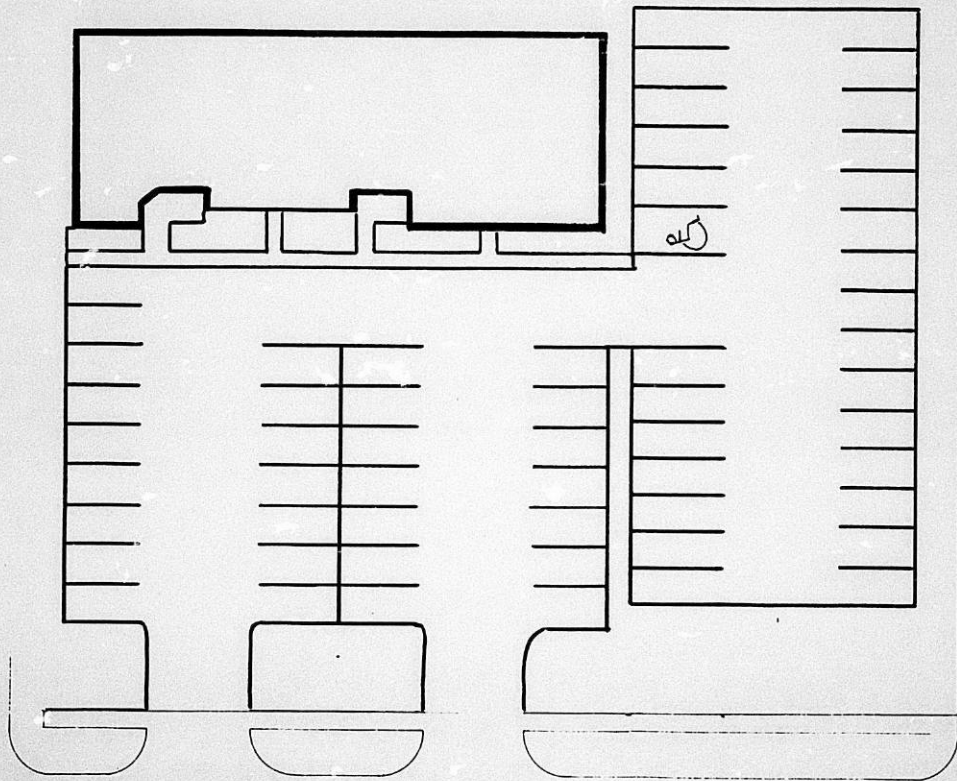
(PLAN A)

CENTRAL AVENUE

EXISTING DRIVE

CHAUMONT DRIVE

CHAUMONT DRIVE



(PLAN B)

CENTRAL AVENUE

AVENUE

EXISTING DRIVE

58

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

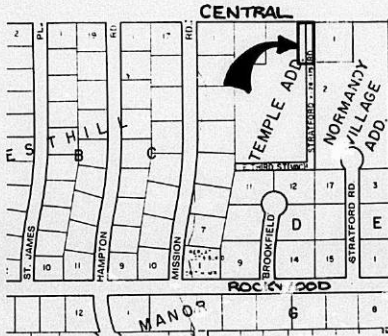
February 2, 1988

NOTICE OF PUBLIC HEARING:

CASE NO. BZA 54-87  
Request to permit a parking  
lot in "AA" District (between  
7011 and 7015 E. Central)

You were previously notified that the Board of Zoning Appeals would consider the above-referenced case at their January meeting. However, due to the agent's request for a one-month deferral, this case is now rescheduled for hearing at the Board of Zoning Appeals meeting on Tuesday, February 23, 1988, beginning 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 in or objections to 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.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.



*Wichita  
2/2/88*

January 27, 1988

Baughman Company, P.A.  
ATTN: Brent Wooten  
315 Ellis  
Wichita, Kansas 67211

Re: BZA 54-87 - Exception to permit the establishment of an off-street parking lot for the adjacent medical office building (between 7011 and 7015 E. Central)

Dear Mr. Wooten:

At the regular meeting of the Board of Zoning Appeals on January 26, 1988, your request for a deferral of the above-referenced matter was granted. The case will be re-scheduled for consideration by the Board at their next meeting to be held on February 23, 1988. If you have a revised site plan to submit, we would like to receive it by February 10.

If you have any questions, please call our office.

Sincerely yours,

Louise Olivarez  
Assistant Secretary  
Board of Zoning Appeals

LO/lw

cc: O.L.C. Properties, 7310 E. Kellogg, Wichita, KS 67202  
Douglas Malone, 150 N. Market, Wichita, KS 67202  
Monty Robson, Superintendent of Central Inspection  
Joe Donnelly, Central Inspection

FILE COPY

IMPORTANT MESSAGE

FOR Louise  
DATE 1-22 TIME 8:00 <sup>A.M.</sup> <sub>P.M.</sub>

WHILE YOU WERE AWAY  
Nancy Beamon

OF \_\_\_\_\_  
PHONE No. 685-2273

TELEPHONED	<input checked="" type="checkbox"/>	PLEASE CALL	<input checked="" type="checkbox"/>
CALLED TO SEE YOU	<input type="checkbox"/>	WILL CALL AGAIN	<input type="checkbox"/>
WANTS TO SEE YOU	<input type="checkbox"/>	RETURNED YOUR CALL	<input type="checkbox"/>

MESSAGE BZA 54-87

25-55  
Wayne Wallace attorney for  
Josephine Wallace wife  
opposed

SIGNED [Signature]

Check with C.I.D.  
re # spaces  
required for  
7015 E. Central

THE CITY OF WICHITA

OFFICE OF Citizen Participation      DATE      January 26, 1988

TO      Louise Oliverez, Principal Planner

FROM      Barry L. Carroll, CPO Staff <sup>BLC</sup>

SUBJECT      BZA 54-87: Between 7011  
and 7015 E. Central

On Monday, February 25, 1988, CPO Rockwell/Northeast Neighborhood Council 2A considered the captioned case, a request for an exception to permit the establishment of an off-street parking lot for the adjacent medical office building. Council members were provided the notice to adjoining property owners, a map of the area and MAPD staff comments. After extensive discussion, the Council voted 7-0 to recommend disapproval of the request.

The agents, Brent Wooten and Doug Malone, were present to describe the request and respond to questions from the Council and the fifteen area residents present. Mr. Wooten stated that the applicant wanted to construct additional parking spaces to accommodate a planned medical office that would employ five M.D.'s and 19 staff; a total of 58 parking spaces are proposed. Additionally, Mr. Wooten added, the applicant would provide screening and landscaping around the perimeter of the parking area.

The area residents were adamantly opposed to the request. Specifically, the neighbors would opposed for the following reasons: 1) the potential for increased traffic congestion, 2) that a medical office was inappropriate for the residential neighborhood, 3) that the development would negatively impact property values, and 4) that the neighborhood "should not be required to bail-out a real estate speculation that goofed".

The Council cited items the following items from the City's Policy #10 as rationale, in part, for their decision to recommend disapproval:

- "a" The character of the neighborhood;
- "b" the zoning and uses of properties nearby;
- "d" the extent to which removal of the restrictions will detrimentally affect nearby property; and
- "j" previously adopted zoning policies of the MAPC and governing body.

Please provide the Council's recommendation to the Board of Zoning Appeals when case BZA 54-87 is considered.

BLC:blc

**RECEIVED**

JAN 26 1988

METROPOLITAN PLANNING

ROUTE

SECRETARY'S REPORT

CASE NUMBER: BZA 54-87

OWNER/APPLICANT/AGENT: O.L.C. Properties (applicant)  
Douglas Malone (agent)  
Baughman Company, P.A. (agent)

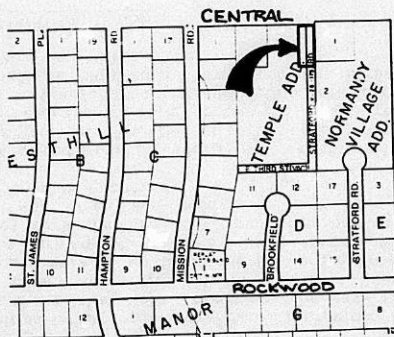
REQUEST: Exception pursuant to Section 28.04.145 Code of the City of Wichita to permit the establishment of an off-street parking lot for the adjacent medical office building

CURRENT ZONING: "AA" One-family Dwelling District

SITE SIZE: 65 feet by 160 feet

LOCATION: Between 7011 and 7015 E. Central

PROPOSED USE: Additional parking for medical offices



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 28.04.145 can be complied with.

**BACKGROUND:** The applicant is requesting an exception to permit the establishment of an off-street parking lot for the adjacent medical office building located at 7015 E. Central. The building has been completed for more than two years but has never been occupied. Because it is in "B" zoning, medical offices are the only type offices permitted. Twice in the past four years, a zone change to "OC" or "BB" has been requested but either withdrawn or denied. A medical lessor has been found if additional parking can be provided. Temple Emanu-El to the west has agreed to sell a 65 foot by 160 foot portion of their property to the medical building owner for parking purposes. The site is just east of their entrance drive and north of their parking lot.

The site plan submitted by the applicant (Plan A) provides for 27 spaces in the new lot and 33 in the existing lot. However, the east 18 spaces are totally separate from the others and anyone turning into that aisle and finding all spaces occupied would have to go back out to Central in order to get to the other section of the parking lot. With a slight rearrangement of the lots (see Plan B), 58 spaces could be provided, including one required handicapped parking space, all of which are accessible from each driveway. It is recommended that Plan B be approved.

Solid screening is required along the south and west lines of the application area due to adjacent "AA" zoning. The 25-foot setback from the north line should be required to be landscaped since it is across the street from "AA" zoning and uses. No curb cut to Central from the application area is proposed at this time and the owner should be required to grant complete access control to assure there will be no future curb cuts.

**ADJACENT ZONING AND LAND USE:**

NORTH	AA	Single-family houses
SOUTH	AA	Temple parking lot
EAST	B	Medical office building
WEST	AA	Undeveloped

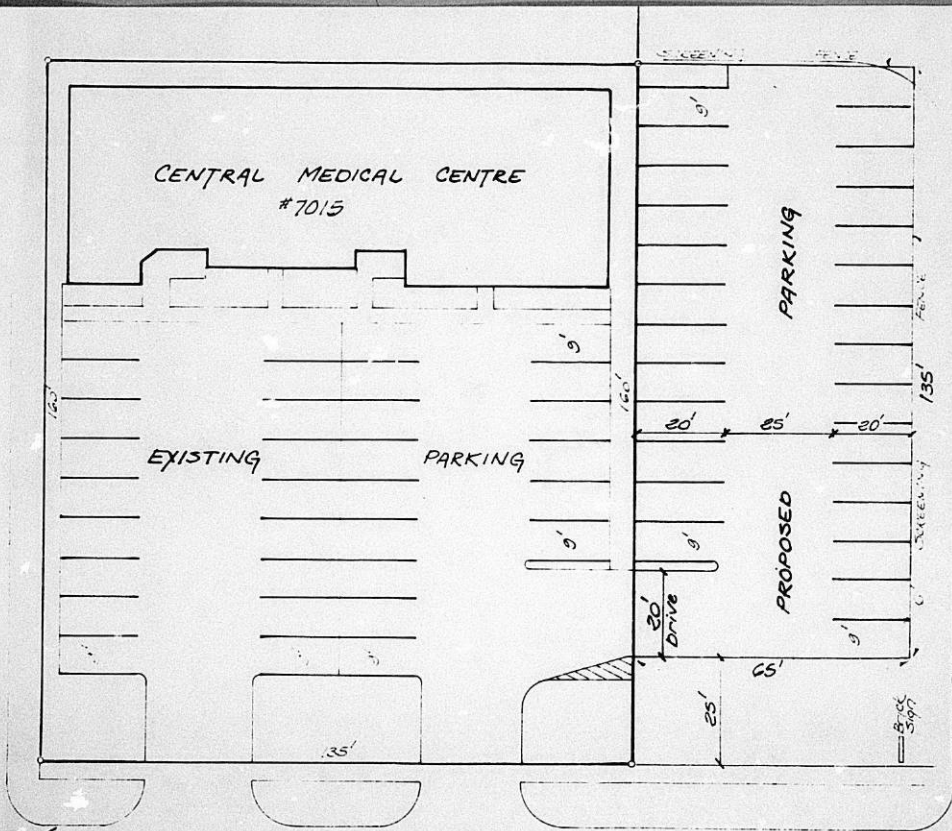
**RECOMMENDATION:** Should the Board determine that the parking lot is acceptable at this location, it is recommended that the exception be approved subject to the following conditions:

1. The parking spaces and all drives and circulation aisles for the application area as well as for the existing lot at 7015 E. Central shall be surfaced with concrete, asphalt, or asphaltic concrete and marked in conformance with the approved plan.
2. The owner shall grant by separate instrument complete access control to Central from the application area prior to release of the resolution and within 90 days or this application shall be considered denied and closed.
3. A six-foot fence of wood or masonry shall be erected along the south and west property lines where adjacent to residential zoning.
4. The 25-foot front yard adjacent to Central shall be landscaped with grass, trees and shrubs and may also include a fence or wall at the setback line no taller than three feet. Three copies of the landscape plan shall be submitted to the Secretary for review and approval prior to release of the

resolution and within 90 days or this application shall be considered denied and closed.

5. The parking area shall be used only for the parking of passenger vehicles owned or operated by employees and clients of the office building at 7015 E. Central.
6. Prior to use of the property as a parking lot, and in no case later than 12 months after approval by the Board, all conditions of this resolution and those of 28.04.145 of the zoning ordinance shall be complied with or the resolution shall become null and void.

CHAUMONT DRIVE



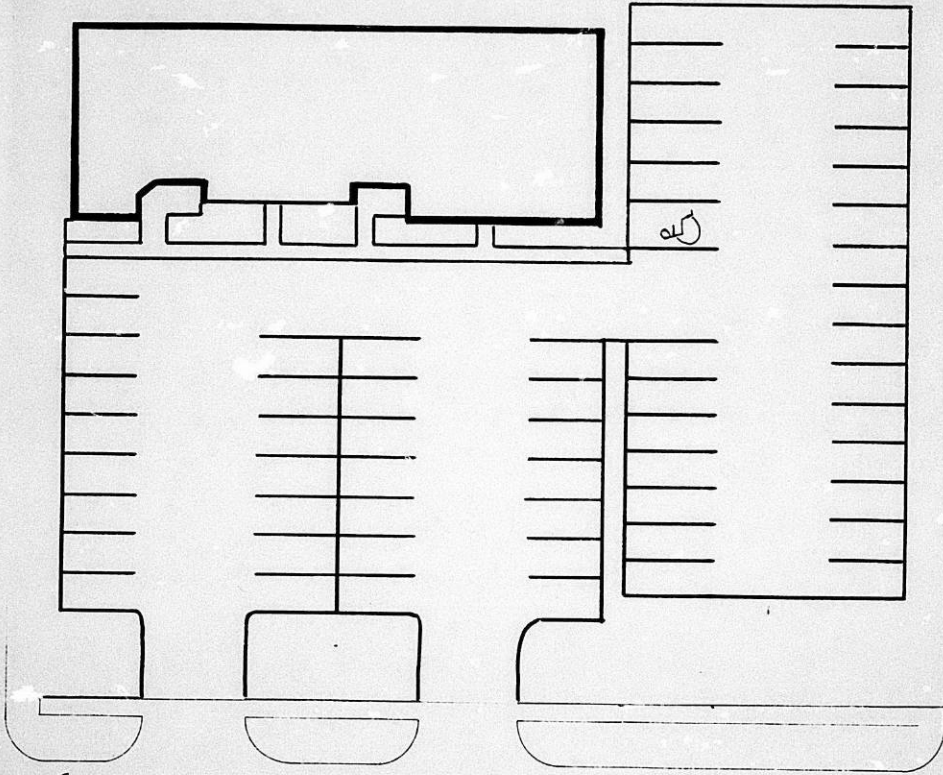
(PLAN A)

CENTRAL

AVENUE

EXISTING DRIVE

● CHAUMONT DRIVE



EXISTING DRIVE  
58.

(PLAN B)

CENTRAL

AVENUE

BZA CASE NO. 54-87

14 LEGAL ADVERTISEMENT SENT TO MAPC & BZA

3 NOTICES SENT TO APPLICANT/AGENT

19 NOTICES SENT TO ADJOINING PROPERTY OWNERS

5 NOTICES SENT TO BZA MEMBERS

NOTICES SENT 12/31/87

- 1 NOTICES SENT TO CPO
- 2 NOTICES SENT TO CITY MANAGER & CITY COUNCIL REPRESENTATIVE TO DISTRICT
- 4 NOTICES TO MAPD STAFF

Jack Galbraith  
Louise Olivarez  
Barbara Harris  
Karen Crook

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

December 31, 1987

NOTICE OF PUBLIC HEARING:

CASE NO. BZA 54-87

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 O.L.C. Properties, a partnership, requesting an exception.

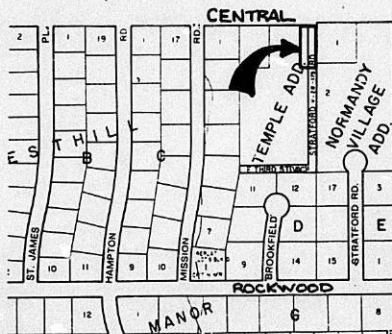
Pursuant to Section 2.12.590.C, of the Code of the City of Wichita, the applicant is requesting an exception to permit the establishment of an off-street parking lot for the adjacent medical office building on property zoned the "AA" One-family Dwelling District. A legal description of the applicant's property is as follows:

The north 160 feet of the east 35 feet of Lot 1, Temple Addition to Wichita, Sedgwick County, Kansas, together with that part of Vacated Stratford Street lying east of and adjacent to the north 160 feet of said Lot 1. Generally located between 7011 and 7015 East Central.

This application has been assigned Case No. BZA 54-87. It will be considered by the Board of Zoning Appeals on Tuesday, January 26, 1988 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 in or objections to 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.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

NOTE: We have been advised by the Citizen Participation Organization staff that CPO Council 2A, Rockwell/Northeast, will consider this case at their meeting to be held on Monday, January 25, 1988, at 7 p.m., at the Rockwell Branch Library, 5939 E. 9th Street. Additional information regarding this CPO meeting may be obtained by calling the CPO office at 268-4516.



( ) Published in The Daily Record, December 31, 1987

OFFICIAL NOTICE

NOTICE IS HEREBY given that on the 26th day of January, 1988, the Board of Zoning Appeals of the City of Wichita, Kansas, in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas will consider the following applications beginning at 1:30 p.m.:

1. Case No. BZA 52-87 - Gordon E. Royse, Route 3, Box 320, Sunrise Beach, Missouri 65079, pursuant to Section 2.12.590.C, Code of the City of Wichita, requests an exception to permit the establishment of an automobile sales business on property zoned the "LC" Light Commercial District and legally described as follows:  
Lots 8, 9 and 10 Merton Park Addition, Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of Seneca and Merton.
  
2. Case No. BZA 53-87 - 920 Partnership, 443 N. Maize Road, Wichita, Kansas 67212, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the rear yard setback from 10 feet to 0 feet on property zoned the "LC" Light Commercial District and legally described as follows:  
Lot 2, Block 1, Regency Plaza Addition, Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of Central and Maize Road.
  
3. Case No. BZA 54-87 - O.L.C. Properties, a partnership, ~~7310 E. Kellogg, Wichita, Kansas 67206~~, pursuant to Section 2.12.590.C, Code of the City of Wichita, requests an exception to permit the establishment of an off-street parking lot for the adjacent medical office building on property zoned the "AA" One-family Dwelling District and legally described as follows:  
The north 160 feet of the east 35 feet of Lot 1, Temple Addition to Wichita, Sedgwick County, Kansas, together with that part of Vacated Stratford Street lying east of and adjacent to the north 160 feet of said Lot 1. Generally located between 7011 and 7015 East Central.

As provided in City Ordinances hereinabove described and Section 2.12.560 et. seq., Code of the City of Wichita, Sedgwick County, Kansas, the same will then and there be discussed and considered by the said Board of Zoning Appeals and all persons interested in said matters will be heard at this time concerning their views and wishes in the premises, and any protest against any of the provisions of the exceptions and the variances will be considered by the Board of Zoning Appeals as by law provided.

WITNESS my hand and seal this 31st day of December, 1987.

Jack H. Galbraith, Secretary

BOARD OF ZONING APPEALS

CASE NO. 54-87

CITY OF WICHITA, KANSAS

FILED 12-28-87

APPLICATION FOR EXCEPTION

I. Name of Applicant O.L.C. Properties a partnership (Rusty Eck)

Mailing Address 7310 E. Kellogg Phone 685-9211

Name of Authorized Agent Douglas Malone

Mailing Address 150 N. Market Phone 262-6400

Name of Authorized Agent Baughman Company, P.A.

Mailing Address 315 Ellis Phone 262-7271

Relationship of applicant to property is that of Contract Purchaser  
(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 off-street parking lot for the adjacent medical office building

on property zoned AA

located between 7011 and 7015 E. Central

and legally described as: See Attached Sheet

\_\_\_\_\_, 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 REK (RUSTY ECK)

Authorized Agent \_\_\_\_\_

Map No. 5947D (N) AA (S) AA (E) B (W) AA

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 10 (a.m./p.m.), 12-28, 1987, together with appropriate fee of 300.00.

CPO ZA  
1-18(2)

Signed Louise Olverson

WILLIAM L. KORBER, L.S.  
JOHN E. LINDBLADE, L.S.  
N. BRENT WOOTEN, P.E.



**BAUGHMAN COMPANY, P.A.**

SURVEYING & ENGINEERING

316/262-7271 • 315 ELLIS • WICHITA, KANSAS 67211

The north 160 feet of the east 35 feet of  
Lot 1, Temple Addition to Wichita, Sedgwick  
County, Kansas, together with that part of  
Vacated Stratford Street lying east of and  
adjacent to the north 160 feet of said Lot  
1.

WICHITA — SEDGWICK COUNTY

METROPOLITAN AREA PLANNING  
DEPARTMENT

CITY HALL — TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202-1688



FORWARDING ORDER  
EXPIRED

BZA 54-87



RECEIVED

SEP 06 1988

METROPOLITAN PLANNING

ROUTE  Jan



Neva & Stewart Prosser  
7077 E. Central, Apt. 10  
Wichita, KS 67206

PRO 77 040227N1 09/02/88

RETURN TO SENDER  
NO FORWARDING ORDER ON FILE  
UNABLE TO FORWARD

WICHITA — SEDGWICK COUNTY

METROPOLITAN AREA PLANNING  
DEPARTMENT

CITY HALL — TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202-1688



FORWARDING ORDER EXPIRED

BZA 54-87



RECEIVED

SEP 08 1988

METROPOLITAN PLANNING

ROUTE  Jan



Carolyn A. Rosecrans  
7077 E. Central, #30  
Wichita, KS 67206-04

ROS 77 040330N1 09/03/88

RETURN TO SENDER  
NO FORWARDING ORDER ON FILE  
UNABLE TO FORWARD

OWNERSHIP LIST

<u>Property Description</u>	<u>Property Owner</u>
Lot 1 and the West 30 feet of Temple Addition vacated Stratford Drive adjacent.	Board of Trustees of Congregation Emanu-El 7011 E. Central Wichita, KS 67206
A tract beginning at the NW/c of the W $\frac{1}{2}$ of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 19, Township 27 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas; th. East 132.51 feet; th. South 230 feet; th. West 132.5 feet; th. North 230 feet to the point of beginning, except tract dedicated for Central Avenue.	Same As Above
Lot 5                    Block E                    First Addition to Woodlawn Village	Jerry L. Banzer Barbara A. Banzer 508 N. Brookfield Wichita, KS 67206
Lot 6                    Block E                    "	Homer T. Castor Lorene Castor 507 N. Stratford Wichita, KS 67206
Lot 6                    Block F                    "	Charles E. Lane Audry S. Lane 508 N. Stratford Wichita, KS 67206
Lot 1, except the East 30 feet.                    Normandy Village	O.L.C. Properties 601 Powell Wichita, KS 67230
The Chaumont, a condominium, being a part of Lots 1 and 2, Normandy Village	
<u>Building A</u>	
Unit 1	Willard J. Smith Jr. 8100 Tipperary Wichita, KS 67206
Unit 2	Fourth National Bank & Trust Company 100 N. Broadway Wichita, KS 67202
Lot 3	First National Bank in Wichita, Trustee for Kathryn E. Cooper Living Trust 7077 E. Central, Apt. 3 Wichita, KS 67206
Unit 4	The Chaumont, a partnership 150 N. Market Wichita, KS 67202
Units 5 & 7	Highland House, a partnership 150 N. Market Wichita, KS 67202

<u>Property Description</u>	<u>Property Owner</u>
The Chaumont, a condominium, being a part of Lots 1 and 2, Normandy Village	
<u>Building A</u>	
Unit 6	<i>dup</i> Fourth National Bank & Trust Company 100 N. Broadway Wichita, KS 67202
Unit 8	<i>dup</i> First National Bank in Wichita, as Trustee of Kathryn E. Cooper Living Trust 7077 E. Central, Apt. 3 Wichita, KS 67206 AND First National Bank in Wichita, as Trustee of Iva S. Davis & Harold B. Davis Living Trust 936 St. James St. Wichita, KS 67206
<u>Building C</u>	
Unit 9	<i>dup</i> The Chaumont, a partnership 150 N. Market Wichita, KS 67202
Unit 10	<i>X</i> Neva Prosser Tulloch Stewart A. Prosser 7077 E. Central, Apt. 10 Wichita, KS 67206
Unit 11	<i>X</i> Love Box Company Inc. 700 E. 37th St. North Wichita, KS 67219
Units 12 & 13	<i>dup</i> Fourth National Bank & Trust Company 100 N. Broadway Wichita, KS 67202
<u>Building E</u>	
Unit 15	<i>dup</i> Love Box Company Inc. 700 E. 37th St. North Wichita, KS 67219
Unit 17	<i>X</i> William H. Browning Peggy R. Browning 7077 E. Central, Apt. 17 Wichita, KS 67206
<u>Building F</u>	
Unit 18	<i>X</i> Marcellette G. Davis 7077 E. Central, Apt. 18 Wichita, KS 67206
Unit 19	<i>X</i> Mildred E. Drake 7077 E. Central, Apt. 19 Wichita, KS 67206

Property Description

Property Owner

The Chaumont, a condominium, being a part of  
Lots 1 and 2, Normandy Village

Building F

Unit 20

*dup* Love Box Company Inc.  
700 E. 37th St. North  
Wichita, KS 67219

Unit 21

*dup* Highland House,  
a partnership  
150 N. Market  
Wichita, KS 67202

Building G

Units 23 & 25

*dup* Love Box Company Inc.  
700 E. 37th St. North  
Wichita, KS 67219

Building D

Unit 26

*dup* Fourth National Bank  
& Trust  
100 N. Broadway  
Wichita, KS 67202

Units 27 & 29

*dup* Highland House,  
a partnership  
150 N. Market  
Wichita, KS 67202

Unit 28

*dup* The Chaumont,  
a partnership  
150 N. Market  
Wichita, KS 67202

Unit 30

*X* Carolyn A. Rosecrans  
7077 E. Central, Apt. 30  
Wichita, KS 67206

Building B

Unit 31

*X* Josephine A. Wallace  
a/k/a Josephine Wallace  
Taylor  
300 W. Douglas, Suite 300  
Wichita, KS 67202

Units 32 & 34

*dup* Fourth National Bank  
& Trust  
100 N. Broadway  
Wichita, KS 67202

Unit 33

*dup* The Chaumont,  
a partnership  
150 N. Market  
Wichita, KS 67202

<u>Property Description</u>	<u>Property Owner</u>
The Chaumont, a condominium, being a part of Lots 1 and 2, Normandy Village	
<u>Building B</u>	
Unit 35	<del>Blythe H. Meisinger Victoria H. Reiff 534 N. Tallyrand Wichita, KS 67206</del>
Unit 36	Highland House, a partnership 150 N. Market Wichita, KS 67202 <i>dup</i>
Unit 37	Love Box Company Inc. 700 E. 37th St. North Wichita, KS 67219 <i>dup</i>
Unit 38	Fourth National Bank & Trust Company 100 N. Broadway Wichita, KS 67202 <i>dup</i>

The common areas in The Chaumont, a condominium, are owned by the owners of the individual units, each unit owner receiving an interest in the common areas at the time he acquires title to his unit.

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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:

The North 160 feet of the East 35 feet of Lot 1, Temple Addition to Wichita, Sedgwick County, Kansas, together with that part of vacated Stratford Street lying East of and adjacent to the North 160 feet of said Lot 1.

as shown by the last deed of record on file in the Office of the Register of Deeds, Sedgwick County, Kansas, on the 24th day of December, 1987, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

*Mary Gable*

By  
Sr. Vice-President

Order No. 389561  
nj

BOARD OF ZONING APPEALS  
MINUTES

*excerpt*

February 23, 1988

The regular meeting of the Board of Zoning Appeals of the City of Wichita, Kansas, was held at 1:30 p.m., February 23, 1988, in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas.

The following members were in attendance: DANNY JENKINS, ELTON PARSONS, RANDY PHILLIPS, SHARON RYAN and CINDY SUNDELL-GUY.

Also present were Marvin Krout, Jack Galbraith, and Louise Olivarez of the Planning Department staff.

1. Approval of the minutes of October 27, November 24 and December 15, 1987.

MOTION: PARSONS moved, RYAN seconded that the minutes be approved as mailed. Motion passed 5-0.

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2. Case No. BZA 54-87 - O.L.C. Properties, a partnership, 7310 E. Kellogg, Wichita, Kansas 67206, pursuant to Section 2.12.590.C, Code of the City of Wichita, requests an exception to permit the establishment of an off-street parking lot for the adjacent medical office building on property zoned the "AA" One-family Dwelling District and legally described as follows:

The north 160 feet of the east 35 feet of Lot 1, Temple Addition to Wichita, Sedgwick County, Kansas, together with that part of Vacated Stratford Street lying east of and adjacent to the north 160 feet of said Lot 1. Generally located between 7011 and 7015 East Central.

PHILLIPS abstained from participating in this case, due to a conflict of interest.

GALBRAITH showed slides of the application area and reviewed the following comments from the Secretary's Report.

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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 28.04.145 can be complied with.

BACKGROUND: The applicant is requesting an exception to permit the establishment of an off-street parking lot for the adjacent medical office building located at 7015 E. Central. The building has been completed for more than two years, but has never been occupied. Because it is in "B" zoning, medical offices are the only type offices permitted. Twice in the past four years, a zone change to "OC" or "BB" has been requested, but either withdrawn or denied. A medical lessor has been found if additional parking can be provided. Temple Emanu-El to the west has agreed to sell a 65-foot by 160-foot portion of their property to the medical building owner for parking purposes. The site is just east of their entrance drive and north of their parking lot.

The site plan submitted by the applicant (Plan A) provides for 27 spaces in the new lot and 33 in the existing lot. However, the east 18 spaces are totally separate from the others and anyone turning into that aisle and finding all spaces occupied would have to go back out to Central in order to get to the other section of the parking lot. With a slight rearrangement of the lots (see Plan B), 58 spaces could be provided, including one required handicapped parking space, all of which are accessible from each driveway. It is recommended that Plan B be approved.

Solid screening is required along the south and west lines of the application area due to adjacent "AA" zoning. The 25-foot setback from the north line should be required to be landscaped, since it is across the street from "AA" zoning and uses. No curb cut to Central from the application area is proposed at this time and the owner should be required to grant complete access control to assure there will be no future curb cuts.

ADJACENT ZONING AND LAND USE:

NORTH	AA	Single-family houses
SOUTH	AA	Temple parking lot
EAST	B	Medical office building
WEST	AA	Undeveloped

RECOMMENDATION: Should the Board determine that the parking lot is acceptable at this location, it is recommended that the exception be approved subject to the following conditions:

1. The parking spaces and all drives and circulation aisles for the application area as well as for the existing lot at 7015 E. Central shall be surfaced with concrete, asphalt, or asphaltic concrete and marked in conformance with the approved plan.
2. The owner shall grant by separate instrument complete access control to Central from the application area prior to release of the resolution and within 90 days or this application shall be considered denied and closed.
3. A six-foot fence of wood or masonry shall be erected along the south and west property lines where adjacent to residential zoning.

4. The 25-foot front yard adjacent to Central shall be landscaped with grass, trees and shrubs and may also include a fence or wall at the setback line no taller than three feet. Three copies of the landscape plan shall be submitted to the Secretary for review and approval prior to release of the resolution and within 90 days, or this application shall be considered denied and closed.
5. The parking area shall be used only for the parking of passenger vehicles owned or operated by employees and clients of the office building at 7015 E. Central.
6. Prior to use of the property as a parking lot, and in no case later than 12 months after approval by the Board, all conditions of this resolution and those of 28,04,145 of the zoning ordinance shall be complied with or the resolution shall become null and void.

GALBRAITH discussed land uses and gave a history of the site. Two zoning cases have been filed during the last four years, the first being for an office/commercial classification, which was withdrawn prior to consideration by the City Council. After this withdrawal, the owner of the property proceeded with the development of a two-story building, supposedly a medical office building. Approximately one year ago, an application was filed for the "BB" Office District, the next classification higher than Multiple Family. The intent at that time was to try to utilize the two-story structure for general offices permitted in the "BB" District. That case was denied by the City Council. Both of these previous cases met with considerable neighborhood opposition. However, in any residential zoning district, an exception may be granted for a parking lot conditioned upon any conditions that may be appropriate, such as landscaping. GALBRAITH presented a slide of the proposed parking lot for consideration. It has been suggested to the applicant that the new lot, if approved, be tied in so that people going to the front of the building would then go to the new lot to the right. Since creation of the staff report, the applicant has had his agent redesign a site plan. This site plan is satisfactory to the staff. GALBRAITH stated that if the Temple wanted to use this site for their own parking lot, they could do so without BZA exception approval. The newest plan provides for a layout containing 25 spaces in the existing lot and 27 new parking spaces on the site they desire to purchase from the Temple. GALBRAITH recommended approval of the exception, subject to conditions shown in the staff report, and in addition, changing item 3, which refers to a 6' fence of "wood or masonry" to a "solid" fence. A landscape plan must be submitted for the front 25'. The plan should identify the type and size of materials. GALBRAITH stated everything should be finalized no later than a year from the date of approval, or this case should be considered null and void. CPO Council considered this case on January 25 and recommended by a vote of 7 to 0 that the application not be approved. GALBRAITH stated this structure has been constructed and completed on the exterior only and has remained vacant for over one year. He stated staff supports the application, believing that the exception for additional parking is appropriate.

RYAN stated it was her understanding that when the building was approved to be built, the required parking was not done critically enough to put in the parking spaces for a doctor's office. Evidently, the parking is adequate to serve the building that is there, but does not fit the parking requirements for a doctor's office.

GALBRAITH agreed and stated that any time a spec office building is built, there is probably no way they know how many employees will be there when it opens. The medical office parking requirement is different than that for general offices. General offices require one space for every 250 square feet of floor area, versus one space for every 500 square feet of floor area for medical offices, plus one space for every physician, nurse, technician and employee who will be on the premises. GALBRAITH stated the original parking lot had approximately 33 spaces, but they operate both sides independently, where you can't cross from one to the other. He thought the spaces were originally rather narrow and had been widened in this latest plan.

BOB KAPLAN appeared on behalf of the applicant and stated the applicant concurs with staff comments, requirements and conditions set forth in the staff report, as well as the amendment to item 3 mentioned previously. In addition to conditions set forth in the staff report, KAPLAN stated a willingness on behalf of the applicant to consider any additional reasonable restrictions which may be imposed. KAPLAN then introduced BRENT WOOTEN of the Baughman Company, who was present on behalf of the applicant to answer any questions regarding site layout or landscape planting, and also BEN BOLT, administrator for the lessee, who was present to address any questions from the neighbors or those present regarding the practice of the medical practitioners and doctors who would occupy the facility.

KAPLAN stated the existing lease agreement between the applicant and the doctors requires that this facility house five family practice physicians and their support staff. These family practitioners conduct normal office hours as family medicine practitioners, and there is no off-hour activity which will be conducted on this site. KAPLAN stated that therefore, this facility is not a minor medical or emergency medical clinic.

KAPLAN explained the additional spaces shown on the slide presented are for the purpose of accommodating the automobiles of the doctors, nurses and administrative personnel and not patient parking. There will be no access to Central from the new lot, and one of the conditions in the staff report is complete access control from the additional parking lot to Central. KAPLAN reiterated that this is an acceptable condition.

KAPLAN stated arrangements are being made to improve the south elevation, with canopies, repainting, window shutters, etc. and he asked Brent Wooten to display the rendering of the building as it will look when improved.

KAPLAN said he was retained by Mr. Eck after the January CPO meeting. He requested a meeting with the people who protested this application at CPO, but was not successful in persuading anyone to attend, although he scheduled a meeting at the Temple. KAPLAN said that KEITH ALTER of the Temple was present to answer concerns that the Temple is contemplating a large redevelopment. KAPLAN said that was not true.

KAPLAN stated the actions taken between the Temple and Mr. Eck are contradictory to any notion that the Temple is going to be the next one in front of the podium for a rezoning.

KAPLAN stated the concerns he heard are basically three-fold: First, there is concern about additional traffic. With 18,000 cars per day on Central at this location now, he did not feel the additional 27 cars would have an impact upon traffic conditions within the area. KAPLAN stated he could not address the second concern, that being that the neighborhood is extremely displeased with the mere existence of the building. The third concern is the opinion that some feel this case is a zoning case and as such, it sets some kind of precedent in the neighborhood, mandating the approval of future applications for future rezoning. He said this is not a rezoning; the zoning will stay "AA". If violations of the approval conditions occur, the Superintendent of Central Inspection can pull the permit which authorizes this car parking lot.

JENKINS asked KAPLAN what the traffic count was of patients coming to the facility for daily care. KAPLAN did not have that information, but stated BOLT could answer that question.

PARSONS reiterated some of KAPLAN's statements to make sure he understood the background of this case.

BEN BOLT then came to the podium and stated he is an officer of the company which serves the physicians (Physicians Corporation of America) and he could answer any questions of the Commission.

RYAN discussed with BOLT the contract providing for five physicians to occupy the building. RYAN stated as it exists now, the building would accommodate only three physicians. BOLT stated there is a parking allowance of five spaces per doctor (along with his support staff) being proposed, which gives them the majority of space requested.

JENKINS asked if BOLT had statistical support for the client base utilized by the facility and asked for an account of the number of patients an average family practitioner sees per day.

BOLT replied that appointments are scheduled approximately every 20 minutes. He recommended nine spaces per doctor, taking into account the patient currently being seen by the doctor and any who might be waiting for treatment in the waiting room. BOLT estimated each doctor would probably see 15 to 20 patients per day.

KEITH ALTER, Finance Chairman for the Temple, then took the podium. ALTER stated the congregation spent quite a bit of time considering the effects of this project before approving the contract. ALTER felt the congregation approved the contract because they consider the empty building to be more of a bight to the neighborhood than a useful building. He stated they are very interested in maintaining the aesthetics the way they currently exist.

JENKINS then asked any opponents of the case to raise their hands so as to get an estimate of the number present. He then asked anyone who opposed this issue to come to the podium and identify himself.

SUE DOWER, 522 N. Mission, said her primary objection is that when this case was brought before the MAPC the first two times, the city planners recommended against any zoning change because of a long-term city plan for no spot zoning. She stated this property is zoned "B" only because at the time the property was developed, there was no R-5 or R-6 zoning district; "B" was the only zoning for multi-family. She stated it had been made very clear to the builder at that time that the neighborhood and the City were opposed to any other usage for this property. DOWER feels any variance to the property would, in fact, upgrade the building and allow more people to occupy the building than what the initial parcel of land would have held.

WAYNE WALLACE, Attorney, appeared on behalf of Josephine A. Taylor (his mother) and two other residents and owners of units in The Chaumont -- Mr. and Mrs. Bill Browning and Marcilee Davis. WALLACE also lives in The Chaumont. WALLACE stated their opposition is based on the fact that they believe the property has been overbuilt. WALLACE stressed the importance of the neighborhood remaining a residential area, and stated the building is too large for the size of lot it is on.

SUNDELL-GUY stated she does not believe Mr. Eck built the building, but that he was certainly aware that it has been overbuilt.

JOHN BRAMMER, 507 Brookfield, felt Mr. Eck's inability to accurately plan for the number of patients and personnel using the building was a speculator's error. He considers the building an eyesore.

SYLVIA STECKLEY, 507 N. Mission, is presently trying to sell her home which is on the corner of Mission and Central. She is skeptical of the promise by the builder to make the aesthetics acceptable to the neighborhood. She stated every neighbor in the area to whom she has talked is opposed to this case.

ED HUND, 325 Brookfield, reiterated that the neighborhood has lost faith in what has been represented to them about what's going to happen with the building. He said that Mr. Eck was the applicant on the demolition permit for the original house on this site. The traffic on Central at Mission is very bad. He feels the proposed use is not really a neighborhood type doctors' group, but a corporation of doctors.

VICKIE REEF, 534 Tallyrand, owns a Chaumont condominium in which her mother resides. She asked GALBRAITH how many cars the additional parking could accommodate at maximum. GALBRAITH stated he didn't see how they could design any more than the 27 additional spaces indicated. REEF then asked the total number of doctors if the case is approved. GALBRAITH stated assuming the building has 9,000 square feet, with 18 spaces required for medical office personnel, there could be a total of 6 doctors in the facility. REEF stated it is difficult to access Central (a left turn) from the Chaumont, and access will get worse with additional traffic. RYAN asked how many people live at the Chaumont, and it was determined there are 35 units.

WALLACE MCCLASKEY, 522 Brookfield, mentioned vacant space on the second floor which was left unfinished so the building would have the proper square feet for the parking available. MCCLASKEY discussed the high traffic which would result from the additional parking. MCCLASKEY stated he feels the building should be converted to either apartments or townhouses.

PARSONS stated that while this is not strictly a zoning case, in practicality, it has a lot to do with zoning because it has a lot to do with use. PARSONS stated it's generally better to have vacant ground than vacant buildings, since vacant buildings are more of a detriment to a neighborhood. He does not believe any action taken on this case will set a precedent to favorably or unfavorably entertain future zoning. He does not believe the project should have been built, but believes it would probably be beneficial to all parties if the property were useful.

JENKINS stated it was apparent since its inception, the area residents have been opposed to this project. He stated it seems there was a mistake made at some point and finds it hard to make another mistake to try to improve on the first mistake by granting this application. JENKINS stated the building is right in the heart of a residential area, completely surrounded by "AA" zoning.

RYAN asked to see the area zoning slide. In noting the large amount of commercial zoning at the southwest corner of Central and Rock, which is currently undeveloped, she said that traffic from this application area would be negligible in comparison. She stated it was her understanding that Mr. Eck did not have anything to do with constructing this building -- that Pete Russell or his associates built the building and that Eck purchased the property at a later date and is now faced with the physician contract. She wanted to know if Mr. Eck's name was on the wrecking permit. She thinks the parking lot issue is not the main concern.

SUNDELL-GUY stated she felt doctor's offices should never be in an area zoned Multi-Family. She stated it really bothers her that the building was ever built in the area in the first place. She stated inappropriate zoning is the cause of several neighborhoods in the city being less than "good." Perhaps the neighbors here should have supported "BB" zoning, because other type offices are less disruptive than medical offices.

JENKINS asked GALBRAITH about the first application for zoning of the area. GALBRAITH stated the first application for zoning was filed by Pete Russell. The second application for zoning was filed by Mr. Eck. He did not know for certain whose names were on the wrecking permit, but believes he had seen Mr. Eck's name on that permit.

BOB KAPLAN said he had requested of Mr. Eck some explanation of what the neighborhood was discussing and the comments that were made. He understood that Pete Russell and Ron Harms were the developers and builders of the property, and Mr. Eck still assures KAPLAN that that is the case. At the time Harms and Russell were obtaining financing from the First National Bank in Wichita, they had difficulties and problems qualifying for the project and asked Mr. Eck to come in and guarantee the financing. Eck did so, but KAPLAN stated Eck had no input regarding the building whatsoever. After a default, Mr. Russell left town and Mr. Eck inherited the building, via the First National Bank.

JENKINS asked if Eck received any compensation for providing his guarantee. KAPLAN did not know, but Eck stated he did not.

PARSONS asked GALBRAITH what analysis he provided for whether or not the conditions set out in the zoning regulations have or have not been met. GALBRAITH stated after hearing the statements of those present at the meeting, he felt the site was overdeveloped. However, looking strictly at land use, he could not find objection to the parking lot. GALBRAITH stated that if the Temple owned and used the property the building was on today, there could be a parking lot built on the application area.

PARSONS stated concern, after hearing the various estimates of the number of new spaces needed, whether the proposed parking lot would be big enough. He was unsure as to whom to believe.

JENKINS stated there would have to be at least 3 votes either in favor of or against this application.

MOTION: RYAN moved, PARSONS seconded, to deny the exception for off-street parking. Motion passed 4-0. (*Phillips abstained*)

KAPLAN asked JENKINS for a discussion of the motion. JENKINS stated the motion was already made and passed to deny the case, and therefore no further discussion could be allowed. PARSONS then requested that his vote be changed to the negative on the motion to deny and stated he felt the motion should have been discussed. JENKINS asked GALBRAITH if he had a comment on this.

GALBRAITH stated he thought PARSONS could change his vote and that someone could make a motion to have further discussion of the motion. JENKINS agreed that this would be in order.

RYAN then made a motion for further discussion and SUNDELL-GUY seconded the motion for further discussion of the motion to deny the case. Motion passed 3-1 in favor of further discussion. JENKINS voted against this motion.

KAPLAN stated the only comment he wanted to make in regard to the motion that was made is that he understood that if the motion passes to deny the case, it cannot come back before the Board of Zoning Appeals for one year. GALBRAITH stated it could not come back at all, unless there are substantial changes regarding the facts of the case.

RYAN stated she made the motion primarily for the sake of discussion, but she thought she was still going to stand on her vote.

SUNDELL-GUY stated she also stood on her vote to deny the exception.

JENKINS asked if there was any further discussion, and since there was not, the next case was considered.

The official action of the Board is reflected in Resolution No. 54-87, which denies this application.

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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
BEA Wapiti 7015 E. Center	1310
NAME	
ADDRESS	
FUND	DUE DATE
COMMENTS	
DATE	BY

\*

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

Roll # 3