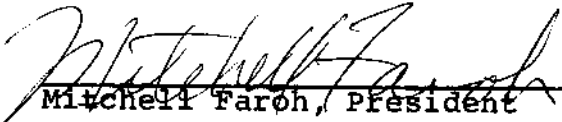


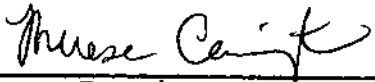
13. The applicant shall obtain a parking lot permit from Central Inspection prior to using this lot for car sales.
14. This site shall be developed for a car sales business in accordance with the approved site plan and in accordance with all conditions of approval within one year after BZA approval, or the resolution shall be considered null and void.

ADOPTED AT WICHITA, KANSAS, this 26th day of May, 1992.



Mitchell Faroh, President

ATTEST:



Theresa Carrington, Asst. Secretary

BZA RESOLUTION NO. 11-92

WHEREAS, K-DA, Inc., pursuant to Section 2.12.590.C, Code of the City of Wichita, requests an exception to permit a new and used car sales lot on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 1, Ruth Addition to Wichita, Kansas. Generally located on the north side of Kellogg Drive in an area east of Bonnie Brae (8474 East Kellogg).

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of May 26, 1992, 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 a new and used car sales lot on property zoned the "LC" Light Commercial District, subject to the conditions outlined in Section 28.04.183(2), Code of the City of Wichita.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this application be approved to permit a new and used car sales lot on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 1, Ruth Addition to Wichita, Kansas. Generally located on the north side of Kellogg Drive in an area east of Bonnie Brae (8474 East Kellogg).

subject to the following conditions:

1. All vehicle parking, storage and display areas shall be paved with concrete, asphalt or asphaltic concrete. Parking barriers (e.g., curbs, bumper blocks, posts and chains, etc.) shall be installed along all perimeter boundaries, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not extend beyond the property boundaries. Special care should be taken to avoid paving or parking beyond the north property line, which is approximately five feet south of the existing fence.
2. This car sales lot shall not be conducted in conjunction with any use not directly related to such a business. Any automotive service or repair work conducted on the site shall be entirely within the building. No body or fender work shall be done on the premises without first obtaining "C" zoning.
3. Parking spaces for employees and customers shall be provided on the property as specified in the zoning ordinance, which currently requires two employee spaces for each 1,000 square feet of building area and two customer spaces for the first 10,000 square feet of lot area used for storage and display, plus one customer space for each additional 10,000 square feet of lot area used for storage and display. If any of the building is utilized for car repair, the parking calculation is three per 1,000 square feet, plus three spaces. The spaces required for customers and employees shall be identified on the site plan and labeled on the site by small signs or pavement markings and shall not be used for display and storage of cars which are for sale (except for sales cars driven by the employees of this business).
4. If the existing six-foot wood fence along the north end of this property is ever removed, destroyed or not maintained as solid screening between the residential uses to the north and this commercial use to the south, the owner of this application site shall install a solid screening fence or wall with a minimum height of six feet along the north property line.

5. All lights shall be shielded to direct light away from adjoining properties. Stray lighting may not trespass more than five feet onto any adjoining residential property. No string-type lighting shall be permitted. The applicant is reminded of City Ordinance #41-312, which states: "No person shall install, maintain and/or use an outdoor visible light or other source of illumination which is on private property and produces glare or direct illumination across a property line in a residential area of such an intensity that it creates a nuisance or unreasonably interferes with the use or enjoyment of adjacent property." The ordinance also states: "Outside lights must be made up of a light source and reflector so that, acting together, the light beam is controlled and not directed across a property line."
6. Only those signs permitted in the "LC" zoning district shall be permitted on this site, except that no portable signs shall be permitted and no string-type banners shall be permitted.
7. No sound projecting devices or loudspeakers shall be used so as to be heard beyond the property lines.
8. No new building or addition to the existing building shall be constructed closer than 45 feet to the existing south property line.

OK 9. A lot grading plan shall be submitted to Bob Jennings in the Maintenance Division of Public Works for review and approval within 90 days and prior to release of this BZA resolution.

See
memo of
7-7-92

10. Within 90 days after approval by the Board of Zoning Appeals and prior to release of the resolution authorizing this use exception, the applicant shall submit six copies of a landscape plan to the Secretary for review and approval. The plan shall designate at least 1,500 square feet of landscaping in front of the building. The landscaping shall consist of grass or other groundcover, shrubs, and at least one shade and two ornamental trees, or at least four ornamental trees. The minimum sizes shall be as specified in the landscape ordinance. The plant materials shall be identified by scientific name, quantity, size at planting, and type of container. The method of providing water to the plant materials shall also be shown. All required landscaping shall be installed prior to use of this site for car sales. All landscaping shall be properly maintained and replaced when necessary.

OK

See
plan
date
6-23-92

11. If Plan "B", which requires the paving of the drainage easement, is utilized, the applicant shall prepare a document for recording which grants an ingress-egress easement to the City for channel maintenance purposes and which provides for removal of the paving and other lot improvements from the drainage easement at such future time as the easement is needed for construction of a design channel. This document shall be submitted within 90 days after approval of this use exception by the Board and prior to release of the BZA resolution. It shall be submitted to the BZA Secretary for review and approval by the City Attorney and the Public Works Department prior to being recorded. *Film 1263 Pg 0633*

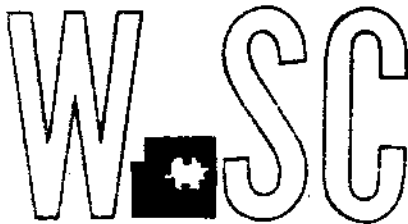
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7-21-92

12. Within 90 days after approval by the Board of Zoning Appeals and prior to release of the resolution authorizing this use exception, the applicant shall submit six copies of a revised site plan which shows the required parking for customers and employees as specified in condition number three. The revised plan should also show the parking barriers (condition number one), any proposed light fixtures, and the location of the ingress-egress easement which will provide maintenance access to the drainage channel. If a parking variance is granted in the future, a revised plan may be submitted to the Secretary for review and approval in accordance with the variance determination.

OK

See
plan
date
6-23-92

WICHITA — SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1888
(316) 268-4421

May 27, 1992

Pete Klein
K-DA, Inc.
P.O. Box 780047
Wichita, KS 67278

Re: BZA 11-92 - Exception to permit a new and used car sales lot on property zoned "LC" Light Commercial, located on the north side of Kellogg Drive in an area east of Bonnie Brae (8474 E. Kellogg).

Dear Mr. Klein:

Enclosed is a signed copy of the above-referenced BZA resolution adopted by the Board of Zoning Appeals on May 26, 1992. This resolution reflects the official action of the Board to grant your request and sets out the conditions of approval. It is forwarded to you for your information and files.

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

Sincerely,

Theresa Carrington
Assistant Secretary
Board of Zoning Appeals

TC:jcm
Enclosure

cc: Everett Fettis, 120 S. Market, Ste. 504, 67202
Baughman Co., 315 Ellis, 67211
Paul Hays, OCI
J.R. Cox, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk

11. If Plan "B", which requires the paving of the drainage easement, is utilized, the applicant shall prepare a document for recording which grants an ingress-egress easement to the City for channel maintenance purposes and which provides for removal of the paving and other lot improvements from the drainage easement at such future time as the easement is needed for construction of a design channel. This document shall be submitted within 90 days after approval of this use exception by the Board and prior to release of the BZA resolution. It shall be submitted to the BZA Secretary for review and approval by the City Attorney and the Public Works Department prior to being recorded.
12. Within 90 days after approval by the Board of Zoning Appeals and prior to release of the resolution authorizing this use exception, the applicant shall submit six copies of a revised site plan which shows the required parking for customers and employees as specified in condition number three. The revised plan should also show the parking barriers (condition number one), any proposed light fixtures, and the location of the ingress-egress easement which will provide maintenance access to the drainage channel. If a parking variance is granted in the future, a revised plan may be submitted to the Secretary for review and approval in accordance with the variance determination.
13. The applicant shall obtain a parking lot permit from Central Inspection prior to using this lot for car sales.
14. This site shall be developed for a car sales business in accordance with the approved site plan and in accordance with all conditions of approval within one year after BZA approval, or the resolution shall be considered null and void.

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 1

May 26, 1992

SECRETARY'S REPORT

CASE NUMBER:

BZA 11-92

OWNER/APPLICANT/AGENT:

United Life & Accident Insurance Co. (owner)
K-DA, Inc. (contract purchaser/applicant)
Everett Fettis and Baughman Co. (agents)

REQUEST:

Exception to permit a new and used car sales lot

CURRENT ZONING:

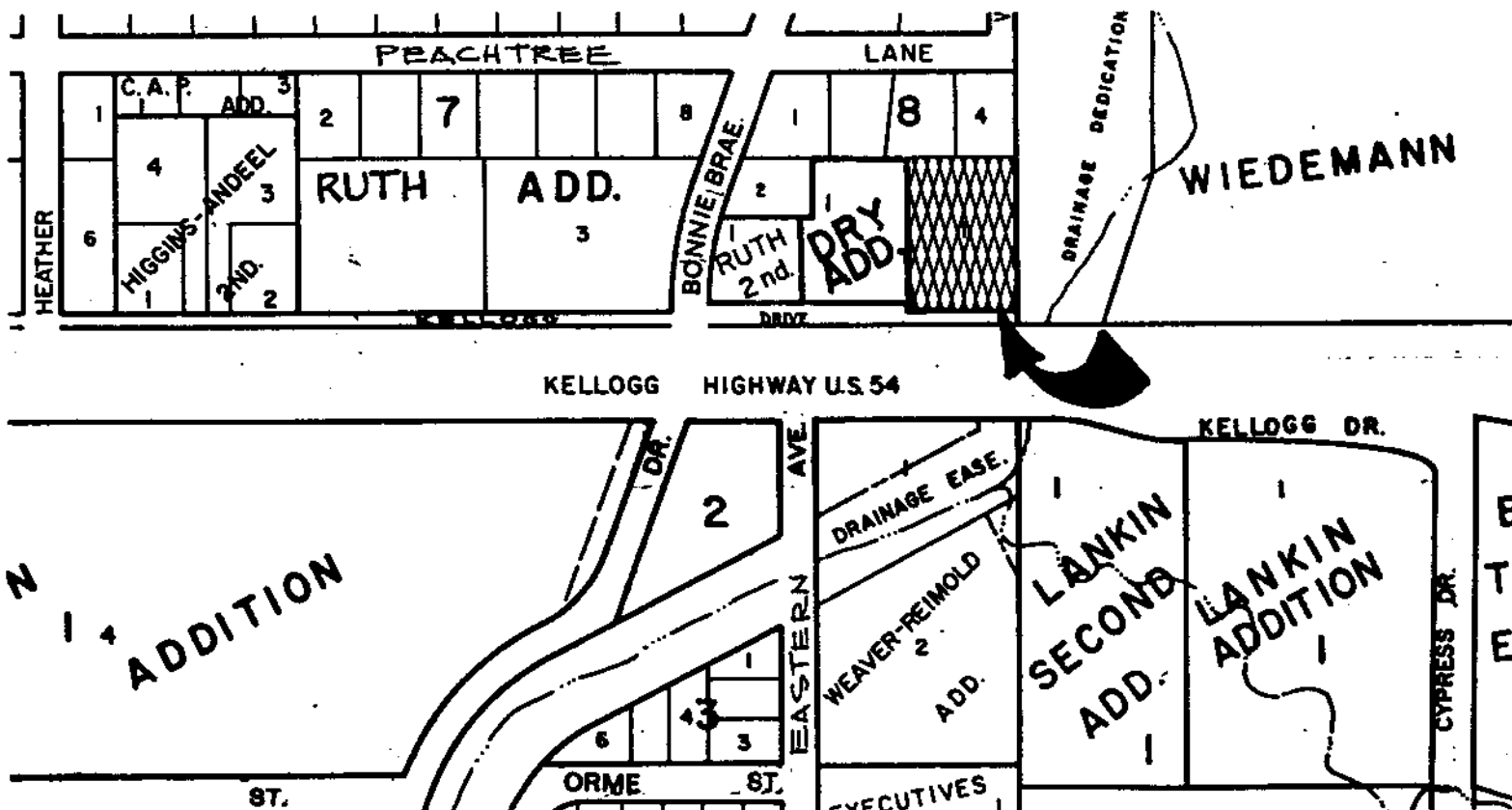
"LC" Light Commercial District

SITE SIZE:

180 ft. x 250 ft.

LOCATION:

North side of Kellogg Drive in an area east of Bonnie Brae (8474 E. Kellogg)



JURISDICTION: The Board has jurisdiction to consider this request under the provisions outlined in Section 2.12.590.C, Code of the City of Wichita. The Board may grant the exception, provided the conditions set out in Section 28.04.183(2) can be complied with.

BACKGROUND: The application area is the former location of a Uni-royal tire store and has recently been purchased by K-DA, Inc., a company owned by T.G. Davis, Jr. The large building with eight car bays will remain on the site, although it is not anticipated that any vehicle repair work will be included as part of this car sales business. Vehicle repair, except for body and fender work, is a permitted indoor use in the "LC" district, however, and could be conducted in this building without a use exception. Since the requirement for employee parking at a new/used car sales lot is based on square footage of the building and must be provided at the ratio of two spaces per 1,000 square feet, 18 employee parking spaces will be required for a car sales business, unless a variance application request is submitted and approved. Any portion of the building which is utilized for auto service and repair will have an even greater parking requirement (three spaces per 1,000 square feet of floor area, plus three spaces). The required customer parking spaces are based on area of the lot used for car display and storage and are calculated at two for the first 10,000 square feet, plus one for each additional 10,000 square feet or fraction thereof. These customer parking spaces are required to be near the front door of the sales office building.

Two site plans were submitted with this application. Plan "A" shows a total of 52 parking stalls without utilizing any of the drainage easement which was granted to the City in 1973. Eighteen employee and four customer spaces are required by the parking code for this site plan. Plan "B" shows 95 parking stalls with full utilization of the drainage easement. Eighteen employee and five customer spaces are required by the parking code for this site plan. The applicants will need to obtain approval from the Public Works Department before the drainage easement can be paved.

On May 12, Bob Jennings of the Maintenance Division of Public Works met with several representatives of the applicant out on the site to discuss the possible paving of the drainage easement. Mr. Jennings indicated a willingness to allow the paving with the understanding that should the easement be needed for construction of a design channel, the improvements would be removed by the owner. Mr. Jennings also requested a curb along the east line to direct drainage from the property to the southeast corner into a culvert and directly into the channel. One hundred cubic feet of rip-rap 18 inches thick will be required at the end of the culvert where it is to empty into the channel. A 15-foot ingress-egress easement to allow for access to the channel for maintenance purposes is also needed. The applicant's attorney should prepare a document for recording which grants this access easement and which provides for removal of the paving and other lot improvements from the existing drainage easement at such future time as the easement is needed for construction of a design channel. This document shall be submitted to the BZA Secretary for review and approval by the City Attorney and the Public Works Department prior to being recorded.

Ruth Addition was platted in 1959 and Lot 1 has not been replatted or lot split since then. Other lots in Ruth Addition to the west of Lot 1 have been replatted and have been required to dedicate additional right-of-way (eight to ten feet) for Kellogg Drive, as well as to plat 35-foot building setbacks from the new property lines. To maintain consistency without requiring replatting, this use exception should prohibit any new structures within the south 45 feet of the property.

Last June, the Board approved two other car sales lots for T.G. Davis, Jr. in this same general area. One is at the northeast corner of Bonnie Brae and Kellogg Drive, while the other is at the southeast corner of Mansfield and Kellogg Drive. The one on Bonnie Brae is leased to Budget Rent-A-Car, while the one on Mansfield is the new Infiniti dealership, one of the Davis-Moore car agencies. Both sites are similar to the present application in that existing buildings were utilized (with extensive modification on the Infiniti site). Both had some requirements for landscaping, even though both were approved before the landscape ordinance became effective in September. In accordance with the landscape ordinance, the property in this current application will be required to provide 1,800 sq. ft. of landscaped street yard if the value of the improvements exceeds 50% of the value of existing improvements. According to the County Appraiser's office, existing improvements are valued at \$174,340. The applicant or his agent should be prepared to tell the Board whether improvements are expected to be more or less than half this value. If they are less than half, the Board may still establish some landscaping requirements if deemed appropriate. Considering the landscape requirements for the two nearby car lots previously referenced in this report, the Secretary recommends that the 1,500-square-foot area in front of the building which is not currently paved be landscaped with grass or other groundcover, shrubs, and a minimum of one shade and two ornamental trees or at least four ornamental trees. This is less total landscaped area and fewer trees than would be required by the landscape ordinance for improvements valued at more than 50% of existing improvements.

Both Plan "A" and Plan "B" indicate a "car display area" in front of the building. If landscaping as recommended above is required, there would still be room for up to three cars in the area at the southeast corner of the building which is already paved. If the applicant intends to use this area for car display, the parking spaces should be delineated.

The existing six-foot wood fence located north of this property appears to be about five feet into the residential properties, rather than on the common property line. Should this fence ever be removed, destroyed or not maintained as solid screening between the residential uses to the north and this commercial use to the south, the owner of this application site would be required to install a solid screening fence or wall with a minimum height of six feet along the north property line. Although the property abutting on the east is zoned "AA",

it is a drainage area with light commercial zoning to the east of that. It is the Secretary's opinion that screening along the east is not necessary, but the Board may wish to discuss this matter.

Since single-family residences abut this property to the north, extra care should be taken in the installation of light fixtures to protect those properties from stray lighting.

ADJACENT ZONING AND LAND USE:

NORTH	"AA"	One-family dwellings
SOUTH	"LC"	Italian Gardens restaurant and Executive Inn motel
EAST	"AA" & "LC"	Drainage ditch and K-Mart
WEST	"LC"	Steak and Ale restaurant

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

1. All vehicle parking, storage and display areas shall be paved with concrete, asphalt or asphaltic concrete. Parking barriers (e.g., curbs, bumper blocks, posts and chains, etc.) shall be installed along all perimeter boundaries, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not extend beyond the property boundaries. Special care should be taken to avoid paving or parking beyond the north property line, which is approximately five feet south of the existing fence.
2. This car sales lot shall not be conducted in conjunction with any use not directly related to such a business. Any automotive service or repair work conducted on the site shall be entirely within the building. No body or fender work shall be done on the premises without first obtaining "C" zoning.
3. Parking spaces for employees and customers shall be provided on the property as specified in the zoning ordinance, which currently requires two employee spaces for each 1,000 square feet of building area and two customer spaces for the first 10,000 square feet of lot area used for storage and display, plus one customer space for each additional 10,000 square feet of lot area used for storage and display. If any of the building is utilized for car repair, the parking calculation is three per 1,000 square feet, plus three spaces. The spaces required for customers and employees shall be identified on the site plan and labeled on the site by small signs or pavement markings and shall not be used for display and storage of cars which are for sale (except for sales cars driven by the employees of this business).

4. If the existing six-foot wood fence along the north end of this property is ever removed, destroyed or not maintained as solid screening between the residential uses to the north and this commercial use to the south, the owner of this application site shall install a solid screening fence or wall with a minimum height of six feet along the north property line.
5. All lights shall be shielded to direct light away from adjoining properties. Stray lighting may not trespass more than five feet onto any adjoining residential property. No string-type lighting shall be permitted. The applicant is reminded of City Ordinance #41-312, which states: "No person shall install, maintain and/or use an outdoor visible light or other source of illumination which is on private property and produces glare or direct illumination across a property line in a residential area of such an intensity that it creates a nuisance or unreasonably interferes with the use or enjoyment of adjacent property." The ordinance also states: "Outside lights must be made up of a light source and reflector so that, acting together, the light beam is controlled and not directed across a property line."
6. Only those signs permitted in the "LC" zoning district shall be permitted on this site, except that no portable signs shall be permitted and no string-type banners shall be permitted.
7. No sound projecting devices or loudspeakers shall be used so as to be heard beyond the property lines.
8. No new building or addition to the existing building shall be constructed closer than 45 feet to the existing south property line.
9. A lot grading plan shall be submitted to Bob Jennings in the Maintenance Division of Public Works for review and approval within 90 days and prior to release of this BZA resolution.
10. Within 90 days after approval by the Board of Zoning Appeals and prior to release of the resolution authorizing this use exception, the applicant shall submit six copies of a landscape plan to the Secretary for review and approval. The plan shall designate at least 1,500 square feet of landscaping in front of the building. The landscaping shall consist of grass or other groundcover, shrubs, and at least one shade and two ornamental trees, or at least four ornamental trees. The minimum sizes shall be as specified in the landscape ordinance. The plant materials shall be identified by scientific name, quantity, size at planting, and type of container. The method of providing water to the plant materials shall also be shown. All required landscaping shall be installed prior to use of this site for car sales. All landscaping shall be properly maintained and replaced when necessary.