WICHITA — SEDGWICK COUNTY

METROPOLITAN AREA PLANNING DEPARTMENT
CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4421
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FILE COPY

March 4, 1999

Charles F. McAfee
1011 E. 13th
Wichita KS 67214

**RE: BZA 4-99 - Variance to modify the compatibility height requirements to permit the height of a structure to increase from 35 feet to 57 feet on property zoned "LC" Limited Commercial**

Dear Mr. McAfee:

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on February 23, 1999. 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 call our office.

Sincerely yours,

Keith Gooch

Keith Gooch, Assistant Secretary
Board of Zoning Appeals

KG/rs

cc: Abner V.J. Jackson, 1011 E. 13th, Wichita KS 67214,
Anderson E. Jackson, 1011 E. 13th, Wichita KS 67214
James A. Crawford II, 1011 E. 13th, Wichita KS 67214
J. R. Cox, OCI
Paul Hays, OCI
Ray Sledge, OCI
Pat Burnett, City Clerk
Yolanda Anderson, MAPC (resolution only)

## BZA RESOLUTION NO. BZA 4-99

**WHEREAS**, Charles F. McAfee, Abner V.J. Jackson and Anderson E. Jackson, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to modify the compatibility height requirements to permit the height of a structure to increase from 35 feet to 57 feet on property zoned "LC" Limited Commercial District and legally described as follows:

> Lot 1, J M Office Park Addition, Wichita, Sedgwick County, Kansas. Generally located at the northwest corner of 21st Street North and Carmen Drive.

**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, 1999, consider said application; and

**WHEREAS**, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Section 2.12.590.B, Code of the City of Wichita; and

**WHEREAS**, the Board of Zoning Appeals has found that the variance arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owners or the applicant inasmuch as the site would be permitted to develop to the height needed if the applicant owned all of the property between 21st Street and Shadybrook. However, the land in question was originally acquired by the City as part of the 21st Street expansion and the land was made available for redevelopment to private interests. If the whole block was in single ownership, the proposed height could be met without any problems; and,

**WHEREAS**, the Board of Zoning Appeals has found that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents inasmuch as proposed improvements are a continuing effort to reinvest and revitalize the 21st Street corridor and the adjacent properties are benefiting from the increase in property values as a result; and,

**WHEREAS**, the Board of Zoning Appeals has found that the strict application of the provisions of the Unified Zoning Code of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as the height restriction would limit the ability of the site to support the proposed hotel; and,

**WHEREAS,** the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, inasmuch as no encroachments into any public easements or any other public areas will result from the variance. And the greater public interest is being served by the construction of the hotel at this location; and,

**WHEREAS,** the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of the Unified Zoning Code inasmuch as the compatibility height variance will permit the construction of the hotel, which is a benefit to the neighborhood and community at large.

**WHEREAS,** each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Zoning Appeals of the City of Wichita that this request be approved for a variance to modify the compatibility height requirements to permit the height of a structure to increase from 35 feet to 57 feet on property zoned "LC" Limited Commercial District and legally described as follows:

Lot 1, J M Office Park Addition, Wichita, Sedgwick County, Kansas.

subject to the following conditions:

1. The site shall be developed and required to comply with all building, zoning, and landscape code requirements, except that the compatibility height shall be modified to permit construction to a height of 57 feet.

2. The applicant shall obtain all local permits necessary to construct the hotel and all improvements shall be completed within one year following BZA approval of the variance or resolution unless such time period is extended by the BZA.

3. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

**ADOPTED AT WICHITA, KANSAS, this 23rd day of February, 1999.**

C. Bickley Foster

C. Bickley Foster, President

**ATTEST:**

David L. Yearout

David L. Yearout, Secretary

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 5
February 23, 1999

## SECRETARY'S REPORT

CASE NUMBER: BZA 4-99

OWNER/APPLICANT: Charles F. McAfee, Abner V.J. Jackson and Anderson E. Jackson, 1011 E. 13th St., Wichita, KS 67214 (Owners)

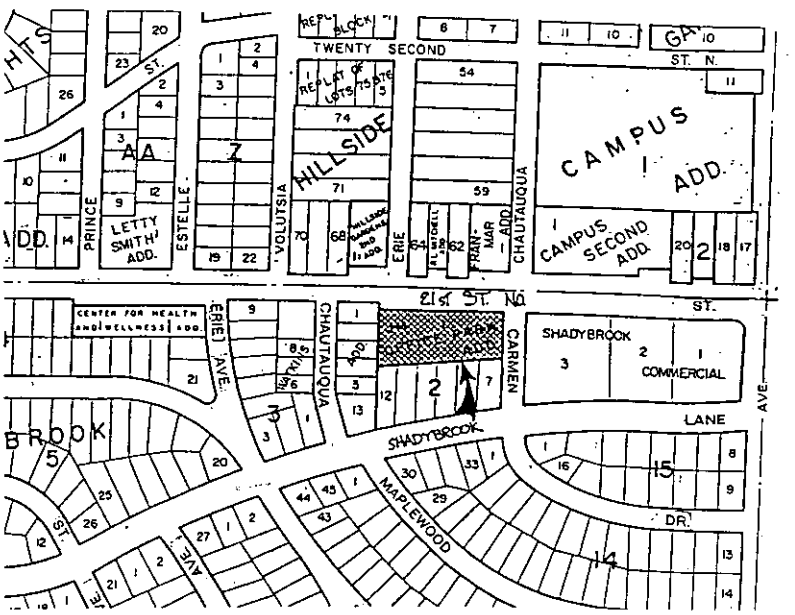
AGENT: James A. Crawford II, 1011 E. 13th St., Wichita, KS, 67214 (Agent)

REQUEST: Variance to modify the required compatibility height standard from 35 feet to 57 feet in order to permit construction of a hotel.

CURRENT ZONING: "LC" Limited Commercial

SITE SIZE: 1.23 Acres

LOCATION: South of 21st Street North and west of Carmen Drive




**JURISDICTION:** The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

**ADJACENT ZONING AND LAND USE:**

NORTH: "LC" "Limited Commercial"; vacant but proposed for hotel project
SOUTH: "TF-3" "Two-Family", duplexes and single family units
EAST: "TF-3" "Two-Family", Northeast Police Substation
WEST: "TF-3" "Two-Family", duplexes and single family units

**UNIQUENESS**: It is the opinion of staff that this property is unique inasmuch as the site would be permitted to develop to the height needed if the applicant owned all of the property between 21st Street and Shadybrook. However, the land in question was originally acquired by the City as part of the 21st Street expansion and the land was made available for redevelopment to private interests. If the whole block was in single ownership, the proposed height could be met without any problems.

**ADJACENT PROPERTY**: It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as proposed improvements are a continuing effort to reinvest and revitalize the 21st Street corridor and the adjacent properties are benefiting from the increase in property values as a result.

**HARDSHIP**: It is the opinion of staff that the strict application of the provisions of the Unified Zoning Code may constitute an unnecessary hardship upon the applicant inasmuch as the height restriction would limit the ability of the site to support the proposed hotel.

**PUBLIC INTEREST**: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as no encroachments into any public easements or any other public areas will result from this variance. And the greater public interest is being served by the construction of the hotel at this location.

**SPIRIT AND INTENT**: It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the Unified Zoning Code inasmuch as the compatibility height variance will permit the construction of the hotel, which is a benefit to the neighborhood and community at large.

**RECOMMENDATION**: Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted, subject to the following conditions:

1. The site shall be developed and required to comply with all building, zoning, and landscape code requirements, except that the compatibility height shall be modified to permit construction to a height of 57 feet.

2. The applicant shall obtain all local permits necessary to construct the hotel and all improvements shall be completed within one year following BZA approval of the variance or resolution unless such time period is extended by the BZA.

3. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

**BACKGROUND**: The applicant is requesting a variance of the compatibility height standards to allow a total height of the proposed 100-unit hotel to 57 feet adjoining the lots to the south that are zoned "TF-3" Two-Family.

The developer is also seeking a Conditional Use permit to use two lots adjacent to the south that are zoned "TF-3" as ancillary parking for the hotel. The applicant is required to provide 121 parking spaces for the hotel project based on the Unified Zoning Code requirements of providing one parking space per guest room plus one parking space per 250 square feet of retail, service and office space and one parking space per 5 occupants allowed in a restaurant contained within the hotel. The amount of parking required can be reduced by administrative adjustment for commercial projects and would result in a minimum number of required parking spaces of 109 with the granting of an administrative adjustment. The attached site plan shows 110 parking spaces, with 57 of these spaces located on"TF-3" zoned property.

This request for a variance is related to three additional requests. As mentioned, an administrative adjustment is needed to reduce total parking spaces required, and the administrative adjustment also should include a request to allow 5 of the spaces to be located within the front yard setback. Secondly, the Conditional Use permit to allow use of the two lots zoned "TF-3" as ancillary parking is being processed. Finally, V-2156 requests vacation of the platted front yard setback from 25 feet to 12 feet to allow the canopy entrance of the hotel to extend into the required front yard setback along 21st Street.

The area surrounding the site includes a mix of uses. The Northeast Police Substation is located directly east across Carmen Drive, followed by the Angelou Northeast Branch Library and Bank IV (C.U.P. 210). The uses across 21st Street to the north include an office, a club and two single family houses. The two dwellings located between the ancillary lots to the south apparently have been converted from duplexes to single family dwellings. South and west of the parking lots are duplexes and single family houses.

**CASE HISTORY**: The hotel project site was platted as J. M. Office Park Addition in 1997 and was rezoned from "A" Two-Family Dwelling district and "RB" Four-Family Dwelling District to "LC" Light Commercial on December 12, 1995 (MAPC Case Z-3182). The applicant proffered a voluntary restrictive covenant in association with the rezoning which included that signage be restricted to the requirements of "BB" Office District and that drinking establishments, adult entertainment establishments, liquor stores, and outside sales or rental of vehicles shall not be permitted. These restrictions remain in place.