

POSTED
6-3-85

ACTION

BZA 36-85 DENIED
6-25-85
DATE

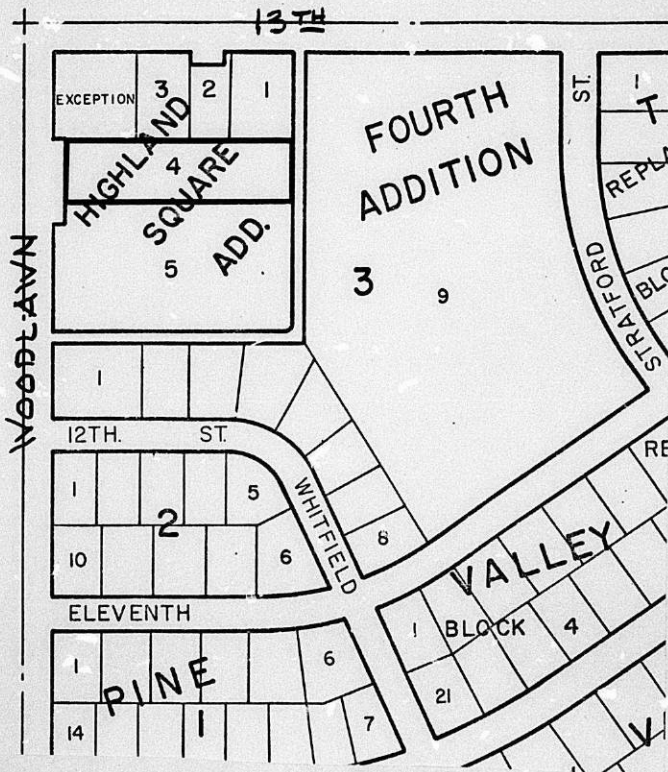
Case No. BZA 36-85 - Woodlawn Associates Ltd. - requests a variance to reduce the required number of off-street parking spaces from 68 spaces to 56 spaces on property zoned the "LC" Light Commercial District and generally located on the

Map No. 5948 D

BZA 36-85
Filed _____

AREA DATA:

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



LOS ANGELES, CHICAGO, LOAN, OH
MORRISON, TX, LUCAS, OHIO, VA
S B A

Shaw
No. 2-153C

THE CITY OF WICHITA



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

June 28, 1985

Woodlawn Associates, Ltd.
1127 St. Andrews Court
Wichita, Ks.

Re: BZA 36-85 - Request for Variance

Gentlemen:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on June 25, 1985.

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,

Glen E. Lytle
Assistant Secretary

GEL:sad
Encl.

cc: Meridith J. Hopper, Woodlawn Associates, Ltd., 1127 St. Andrews Court, Wichita, Ks.
Monty Robson, Superintendent of Central Inspection (2)
Don Gisick, City Clerk
David A. Hanning, 8201 East Harry, #402, Wichita 67207

RESOLUTION NO. BZA 36-85

WHEREAS, Woodlawn Associates, Ltd., 1127 St. Andrews, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to reduce the required number of off-street parking spaces from 68 spaces to 56 spaces on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 4, Highland Square Addition to Wichita, Sedgwick County, Kansas. Generally located on the east side of Woodlawn and south of 13th Street.

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 June 25, 1985, 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 does not arise from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and the request has been created by an action or actions of the property owner or the applicant inasmuch as the applicant wishes to establish a new use on a portion of the property that is now required off-street parking and the property is not adequate to provide additional parking should the demand increase; 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 the reduction of the required parking to add an additional use to the property which could compound the parking problem in the area; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28 (Zoning Ordinance) of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as the creation of any hardship is the desire to lease part of the property for another use so is therefore self imposed which is contrary to the conditions stated in the Statutes; 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 due to the fact that reduction of the number of off-street parking spaces will not interfere with any right-of-way or easements; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired is opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as the ordinance is specific in the providing of off-street parking based on all uses established; and

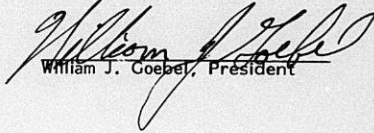
WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required number of off-street parking spaces from 68 spaces to 56 spaces on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 4, Highland Square Addition to Wichita, Sedgwick County, Kansas. Generally located on the east side of Woodlawn and south of 13th Street.

be denied.

ADOPTED AT WICHITA, KANSAS, this 25th day of June, 1985.


William J. Coebel, President

ATTEST:


Glen E. Lytle, Assistant Secretary

RE: AGENDA ITEM NO. 4

SECRETARY'S REPORT
CASE NO. BZA 36-85

APPLICANT: Woodlawn Associates, Ltd., 1127 St. Andrews Court, Wichita, Kansas.

AGENT: Meridith J. Hopper, Woodlawn Associates, Ltd., 1127 St. Andrews Court, Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to reduce the required number of off-street parking spaces from 68 spaces to 56 spaces.

GENERAL LOCATION: On the east side of Woodlawn and south of 13th Street.

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

LAND USE: Subject property is developed with a number of commercial uses as are the properties to the north, south and west. To the east is a church and school.

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 the State Statutes are found to exist.

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance to reduce the required number of off-street parking spaces in order to utilize a portion of the property, that was originally part of the required off-street parking, for a new use. The request is to reduce the number of required spaces from 68 spaces to 56 spaces. The existing uses listed by the applicant include a liquor store, oil office, insurance office, barber shop, dance studio, portrait studio, health spa and additional vacant office space.

It should be noted that when the property was developed a number of years ago, the owners surfaced and provided eight off-street parking spaces on public right-of-way and installed a sign without benefit of a minor street permit. No matter what action the Board may take on this application, the owners should apply for, and receive, a minor street permit for the parking and the sign or remove same.

It is the Secretary's opinion that it is difficult to justify uniqueness to the property as it is a large rectangular lot that has a number of diversified uses located thereon. In most cases where parking variances have been granted by the Board, they have been for uses such as furniture and appliance stores or other similar uses that have a proven record of requiring less parking. In addition, the properties are large enough to provide the parking should the demand develop.

UNIQUENESS:

It is the opinion of the Secretary that this property is not unique inasmuch as the property is rectangular in shape and the uses established thereon are general uses that do not justify said reduction as compared to those uses where previous reductions have been granted due to parking demand and the availability of land for parking.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will adversely affect the rights of adjacent property owners inasmuch as the reduction of the required parking to add an additional use to the property which could compound the parking problem in the area.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance does not constitute an unnecessary hardship upon the applicant inasmuch as the creation of any hardship is the desire to lease part of the property for another use so is therefore self imposed which is contrary to the conditions stated in the Statutes.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the reduction of the number of parking spaces will not interfere with any right of way or easements.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would be opposed to the general spirit and intent of the zoning ordinance inasmuch as intent of the regulations is to provide adequate off-street parking for all uses established.

RECOMMENDATION:

It is the opinion of the Secretary that all five conditions necessary to the granting of a variance cannot be found to exist, and the application be denied.

BZA CASE NO. 36-85

<u>2</u>	NOTICES SENT TO APPLICANT/AGENT
<u>10</u>	LEGAL ADVERTISEMENT SENT TO MAPC
<u>1</u>	NOTICES SENT TO CPO
<u>7</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>10</u>	TOTAL NOTICES SENT <u>6-5-85</u>

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

June 5, 1985

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 36-85

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 Woodlawn Associates, Ltd., 1127 St. Andrews Court, Wichita, Kansas, requesting a variance.

Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting a variance to reduce the required number of off-street parking spaces from 68 spaces to 56 spaces on property zoned the "LC" Light Commercial District. A legal description of the applicant's property is as follows:

Lot 4, Highland Square Addition to Wichita, Sedgwick County, Kansas. Generally located on the east side of Woodlawn and south of 13th Street.

This application has been assigned Case BZA 36-85. It will be considered by the Board of Zoning Appeals on June 25, 1985 at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested variance, you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, either in person or by agent or attorney.

It should be noted that the Citizen Participation Organization Area Council may consider this case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

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

Jack H. Galbraith
Secretary

APPLICATION FOR VARIANCE

I. Name of Applicant Woodlawn Associates, Ltd
Mailing Address 1127 St. Andrews Ct. Phone 733-1466
Name of Authorized Agent Meredith J. Hopper, General Partner
Mailing Address same Phone same

Relationship of applicant to property is that of General Partner
(Owner, Tenant, Lessee, Other)

ii. The variance requested is for a reduction of the required
number of off-street parking spaces for Lot 4 Highland
Square Addition, from 68 spaces to 56 spaces.
for property located in the City of Wichita near the S.E.
corner 13th & Woodlawn in the "LC" District
and legally described as: Lot 4 Highland Square Addition
to WICHITA, Sedgwick Co., KS.

* LESSEE
David A. Hawkins
8201 East Hazel, #402
Wichita, KS. 67207
Send corresp.

- 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 the County Zoning Resolution; and that the appropriate fee is herewith tendered.
 - c. 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.
 - d. That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Woodlawn Associates Ltd
Applicant

Meredith J. Hopper
Authorized Agent

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals 10:02 (a.m./p.m.), MAY 24, 1985 together with appropriate fee of \$ 150.00.

J. Lytle
Signed

WOODLAWN ASSOCIATES, LTD.

1980 NORTH WOODLAWN
WICHITA, KANSAS 67206

1127 1/2 Commercial St.
67230

MEREDITH J. HOPPER
GENERAL PARTNER

233-1466
(316) 687-960

Board of Zoning Appeals
Tenth Floor, City Hall
455 North Main
Wichita, Ks. 67202

May 23, 1985

Board Members;

Please find attached 1) Application for Variance 2) A certified listing of property owners surrounding the subject area 3) A scale sketch, in duplicate, of the subject area 4) The required fee for this application. We have made a sincere effort to supply all materials which would help in your decision concerning this variance request.

Our request is for a variance of the required number of off-street parking spaces as set forth by the Sedgwick County Zoning Resolution and pertaining to Lot 4, Highland Square Add. (outlined in bold). Specifically we intend to justify that all but 4 parking spaces required can be provided for the subject area without the east @108 feet of Lot 4 (outlined in red). We ask that the Board Members 1) approve a reduction of the required number of parking spaces by four spaces, and 2) that the 8 existing spaces bordering on Woodlawn (outlined in green), and now located in a City Right of Way (contingent dedication), be included in the required parking count.

Since Woodlawn (and the entire intersection) has just recently been widened to 5 lanes, and since our property frontage is the only property on the east side of Woodlawn to be either dedicated or contingent dedicated, we believe these eight existing spaces could be included in the required parking count. This matter was reviewed with Mr. Jim Jorgenson, Plans Examiner and Mr. Mike Himple and it was deemed that upon BZA approval a "minor street privilege" permit should be obtained.

As we understand it, the total number of required parking spaces for our building is 68. Total building footage is 17,000 sq. ft. including basement. All but 1000 sq. ft. is leased at present. As the sketch indicates we intend to designate 12 parking spaces in the east 108 feet of Lot 4 to be placed directly along the east edge of the Utility/Drive Easement. This places the parking spaces as close as possible to our Tenants and through proper bordering and signage will provide better traffic flow and parking clarity. As the sketch indicates we have provided for 64 off-street parking spaces, hence the request for variance from 68 spaces down to the 64. We genuinely feel that this number of spaces is completely adequate both now and for the future.

WOODLAWN ASSOCIATES, LTD.

1350 NORTH WOODLAWN
WICHITA, KANSAS 67206

1127 N. Lincoln St.
67233

MEREDITH J. HOPPER
GENERAL PARTNER

333-1466
13161 687-850

Below is a listing of the types of Tenants business that currently occupy our building including the number of employees and square footage.

	Sq. Ft.	Empl.
Retail Liquor Store	2600	1
1800 sales area		
800 storage		
Oil Properties Inc. Offices	1800	4
Photo Store	400	2
Portraits		
State Farm Ins. Offices	700	3
Barber Shop	700	3
Executive Software Offices	400	2
Dance Studio	2150	3
900 actual dance floor		
12 people capacity		
Nautalus	7000	4
3500 actual assembly area		
25 people capacity		
Vacant Office	1000	
Misc.	250	

Thank you for your efforts in this matter.

Sincerely,

Meredith J. Hopper

Meredith J. Hopper
General Partner
Woodlawn Associates, Ltd.

encl.



STATEMENT OF OWNERSHIP

STATE OF KANSAS)
) SS
SEDGWICK COUNTY)

The undersigned duly bonded and qualified abstractor within and for the County and State aforesaid, does hereby certify:

That we have examined the records in the office of the Register of Deeds of Sedgwick County, Kansas, with reference to the ownership of the following property in Sedgwick County, Kansas viz:

All the owners within 200 feet of

The South 45 feet of Lot 1 and the South 45 feet of the East 30 Feet of Lot 2 and the East 138 feet of Lot 4 Highland Square Addition to Wichita.



And from such examination find that the owners thereof are as set opposite the description of the property below, viz: (Addresses as given are furnished as a service and not certified.)

Lots 1, 2 and 3	Highland Square Add.	James O. Smith Ruby J. Smith 640 N. Rock Road Apt 19 Wichita, Kansas 67206
Lot 4	" "	Woodlawn Assts. LTD 830 1st National Bk Bld Wichita, Ks 67202
S 135 ft of W 250 ft of Lot 5	" "	McDonalds Inc. (1522) 66207 AMF O'Hare Chicago, Ill 60666
Lot 5 Exc S 13' of W 250' and Exc E 158' of N 90.94' & Exc E 168' of S 135'	" "	Woodlawn Properties 5900 E. Central Wichita, Ks 67208
E 158' of N 90.94' and E 168' of S 135 ft Lot 5	" "	Memphis S. Hixson Janice L. Hixson 6503 Oneida Wichita, Ks 67206

Lot 9 Block 3 4th Addition to
Pine Valley Estates.

The N 150' of W 150' of
Lot 10, Block 3 4th Addition
to Pine Valley Estates.

Catholic Diocese of Wichita
✓ 424 N. Broadway
Wichita, Ks 67202

Fidelity Savings Association
✓ of Kansas
229 S. Market
Wichita, Ks 67202



Dated at Wichita, Kansas this 20th day of March
1984 at 7:00 A.M

FIDELITY TITLE COMPANY INC.

B.

C. E. Paul Reddy
Ex VP

NO. 65458

Fidelity  Title
COMPANY, INC.

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

June 5, 1985

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 36-85

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This application has been assigned Case BZA 36-85. It will be considered by the Board of Zoning Appeals on June 25, 1985 at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested variance, you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, either in person or by agent or attorney.

It should be noted that the Citizen Participation Organization Area Council may consider this case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

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

Jack H. Galbraith
Secretary

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE June 25, 1985

TO Glen Lytle, Special Assistant for Zoning

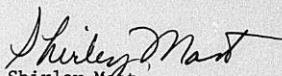
FROM Shirley Mast, Administrative Aide III

SUBJECT BZA 36-85 EAST SIDE OF WOODLAWN
AND SOUTH OF 13TH STREET

CPO Council "G" considered the captioned case at its June 24th meeting and voted 7-0 to recommend that the variance to reduce the required number of off-street parking spaces from 68 to 56 spaces be denied based on the comments from the MAPD Secretary's report. The Council also recommends no matter what action the Board of Zoning Appeals take on the application, that the owner be required to apply for a minor street permit for the off-street parking spaces on public right-of-way and the installed sign.

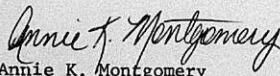
Meridith J. Hopper, the owner of Woodlawn Associates, LTD, was present and explained the request and responded to questions. One adjoining business owner and his agent were present and voiced opposition to the case.

Please provide the Council's recommendation to the Board of Zoning Appeals when the case is considered at the June 25th meeting.


Shirley Mast
Administrative Aide III

SM:dm

Noted:


Annie K. Montgomery
CRS Director

TELEPHONE 316 / 263-7209

JIM SMITH REALTY, INC.



COMMERCIAL - SALES - LEASES
337 NORTH WACO
WICHITA, KANSAS 67202

June 14, 1985

The Board of Zoning Appeals
City of Wichita
455 N. Main
Wichita KS 67202

ATTN: Mr. Jack H. Galbraith
Secretary of the Board of Zoning Appeals

Dear Mr. Galbraith:

I am the owner of the property at 13th Street east of Woodlawn, which includes Porter Paints, Winchell Donuts, the Derby Oil Company station, and is legally described as:

Lots 1, 2 and 3, Highland Square Addition to the
City of Wichita, Sedgwick County, Kansas

I want to protest BZA Case #36-85, which is a request to reduce the required number of off-street parking from 68 spaces to 56 spaces. It is my further understanding that the applicant desires to construct a car wash on Lot 4. At the present time, the parking is continuously being used and, rather than reduce the number of spaces, there should be more spaces added to the lot to service existing businesses and customers. In addition, the existing parking lot is a terrible blight, with more holes and ruts in it than any other lot in the city. Customers going to the stores in the shopping center are parking on the several properties that I own along 13th Street because adequate parking is not available. If a car wash is installed, it will create additional parking problems, and traffic problems as well.

I believe that the intended use, particularly with the additional traffic that will occur, is almost certain to create a potentially hazardous condition. I also believe that the intended use could have a detrimental effect on the value of my property considering the strong nuisance factor it would create.

continued

REALTOR — DEVELOPER

NATIONAL ASSOCIATION OF REAL ESTATE BOARDS
NATIONAL INSTITUTE OF REAL ESTATE BROKERS
COMMERCIAL INVESTMENT DIVISION OF N.A.R.E.B.

— MEMBER —

KANSAS ASSOCIATION OF REALTORS
WICHITA BOARD OF REALTORS
INTERNATIONAL COUNCIL OF SHOPPING CENTERS

RECEIVED

JUN 18 1985

METROPOLITAN PLANNING
ROUTE _____

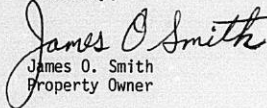
Page 2

At the present time, Derby Oil Company is constructing a brand new building on my property and we are investing considerable dollars in the property. I would not want parking and traffic problems from the adjacent property to jeopardize my investment. I do not think that the intended use and requested variance is in my best interest as the adjacent property owner, and it is certainly not in the public interest either.

Further, I do not feel that the variance requested comes within the spirit and intent of the zoning ordinance since the regulations are there to provide adequate off-street parking for all existing uses, rather than take away from necessary parking, particularly when those uses include among others a liquor store, oil office, insurance office, barber shop, dance studio, photography and portrait studio, health spa, etc.

I therefore respectfully request that the Application for Variance be denied.

Sincerely,

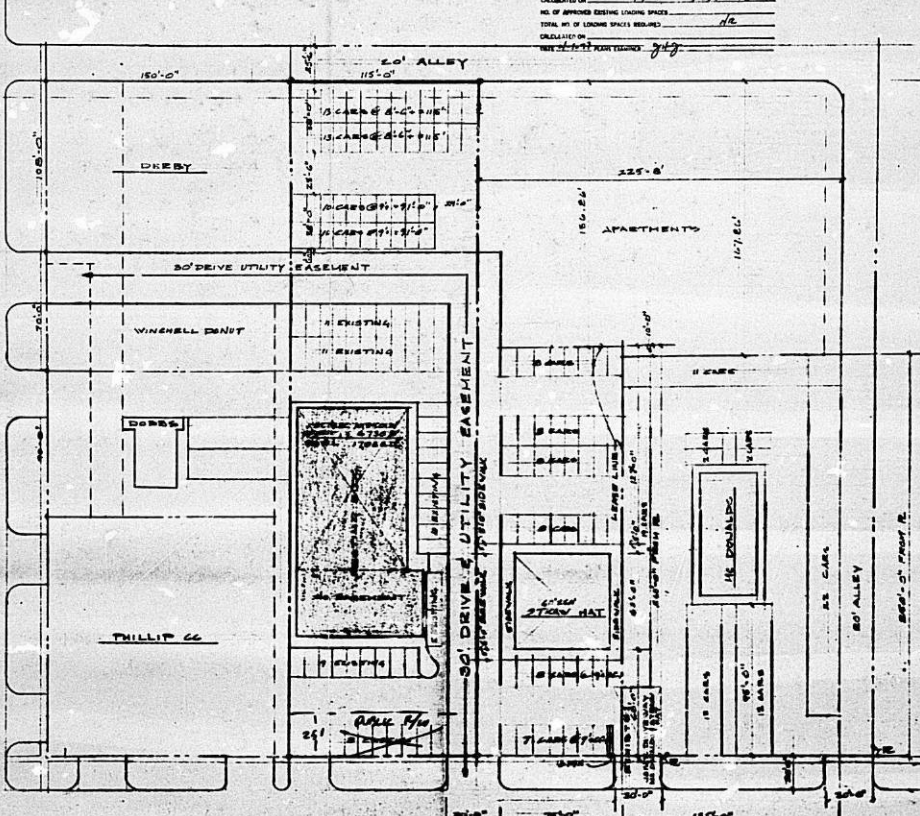

James O. Smith
Property Owner

MICROFILMED
 FROM THE BEST
 AVAILABLE COPY

FORM 29-	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	
CITY BZA VAN		150 ⁰⁰	
NAME <u>David A. Hennings</u>			
ADDRESS <u>2201 E. Harlan Ave</u>			
FUND <u>02-40910-003</u>		DUE DATE	
COMMENTS			
DATE <u>Mar 24, 1975</u>		BY <u>[Signature]</u>	

LIFE-SHEET PARKING AND LOADING
 ADDRESS: 1847 N. Woodlawn
 PROJECT: RENOVATION
 REVIEWED AND APPROVED BY: HC
 FIELD BY: HC
 NO. OF APPROVED EXISTING PARKING SPACES: 89
 TOTAL NO. OF PARKING SPACES REQUIRED: 95
 CALCULATED ON: 8475.7' x 1084.7' = 9184,441 = 95
 NO. OF APPROVED EXISTING LOADING SPACES: 12
 TOTAL NO. OF LOADING SPACES REQUIRED: 12
 CALCULATED ON: 1084.7' x 1084.7' = 1176,588 = 12

ALL TO BE OPEN
 DURING HOURS OF
 20011 NORTH STREET.



APPROVED
 NORTH WOODLAWN DEVELOPMENT
 CITY OF WICHITA
 No. 4618 P. D-28
 Contact: Tom Albritton, Dept. 22000
 In location of work, make provisions
 for installation of storm sewers.

MICROFILMED
 FROM THE BEST
 AVAILABLE COPY

PLOT PLAN
 1074 HIGHLAND SQUARE ADDITION
 NORTH WOODLAWN
 EXISTING 81 CARS
 NEW 14 CARS
 TOTAL PARKING 95 CARS

		DRAWN BY J.A.	SHEET 1
		CHECKED BY J.A.	
A COMMERCIAL COMPLEX 1074 NORTH WOODLAWN ASSOCIATED EXTS. OF WOODLAWN WICHITA, KANSAS		DATE 11-15-75	SCALE 1" = 20'-0"

137th ST.

WOODLAWN

SCALE 1"=20'-0"

*

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

Roll # 2