

POSTED
5-30-84 REL

Case No. BZA 44-84 - Rod Steven, 2333
McLean - requests a variance to
eliminate the required screening fence
adjacent to the west property line and
to substitute landscape screening
adjacent to the east property line in
110'

ACTION
~~BZA 44-84~~ **APPROVED** 6-26-84
MHE

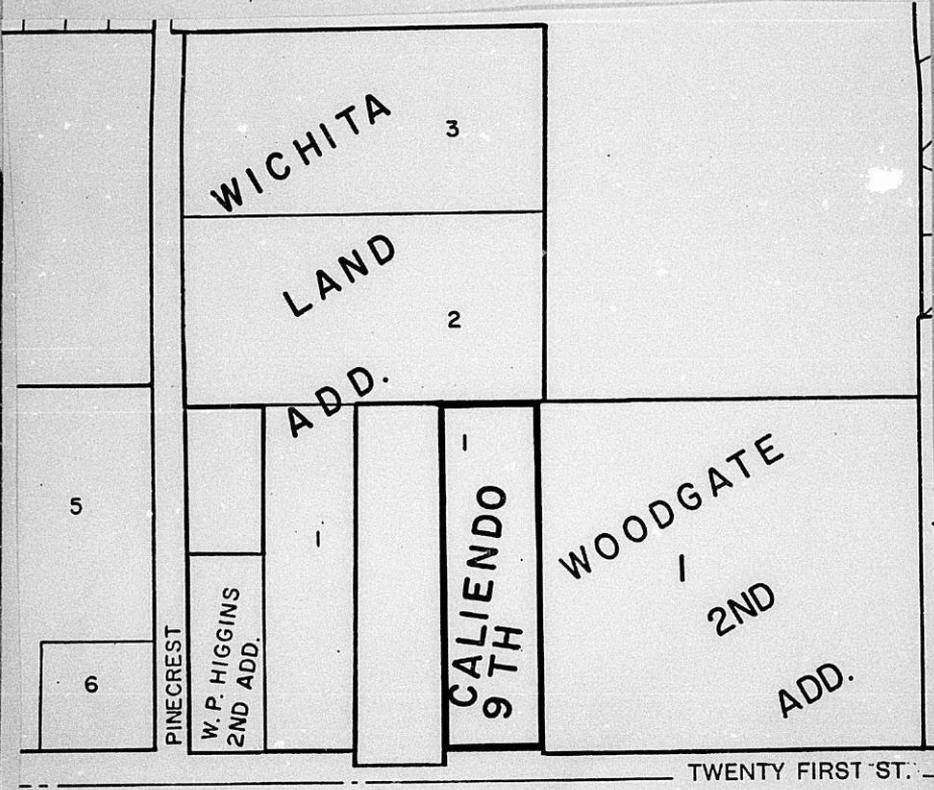
2004 Sec 10-17-84
Shot 11-14-84
Record

Map No. 5850C

BZA 44-84
Filed _____

AREA DATA:

1. Acres: _____ (_____ ft. by _____ ft.)
2. Adjoining Zoning: E R-6 S BB W AA N R-6
3. Land Use: East APTS South OFF
West VAC. North VAC
4. Area (is) (is not) platted.



LOS ANGELES CHICAGO LOGAN, OH
MONROEVILLE, IN
MADISON, IN
INDIANAPOLIS, IN
U.S.A.

Smith
No. 2153C

September 24, 1984

Rodney Steven
2333 McLean
Wichita, Ks. 67204

Re: BZA 44-84 - Request for Variance

Dear Mr. Steven:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on June 26, 1984.

This Resolution of BZA Case 44-84 is released subject to the seeding or sodding of the 15 foot wide landscaped area along the east side of the property and the maintenance of said grass and the existing trees in this area.

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

Sincerely,

Jack H. Galbraith
Secretary

GEL:sad
Encl.

cc: Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

RESOLUTION NO. BZA 44-84

WHEREAS, Rod Steven, 2333 McLean, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to eliminate the required screening fence adjacent to the west property line and to substitute landscape screening adjacent to the east property line on property zoned the "LC" Light Commercial District and legally described as follows:

Callendo 9th Addition to Wichita, Sedgwick County, Kansas. Generally located on the north side of 21st Street and east of Pinecrest.

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 26, 1984, 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 owner or the applicant inasmuch as the adjacent property to the west is vacant and undeveloped and located between two "LC" zoned properties. Also the providing of a sufficient landscape screening area adjacent to the east property line to protect the apartments should comply with the intent of the regulations; 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 providing of a landscaped screening and earth berms will provide a better visual transition for the apartments on the east, and unless the property to the west is developed residentially, the screening fence would serve no useful purpose; 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 installation of the required fencing would be an undue expense which would not provide protection to the residential properties; 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 the installation of landscape screening on the east should be in the best interest of the public; 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 Title 28 (Zoning Ordinance) inasmuch as the elimination of the required screening fence and the providing of landscape screening should not change the general appearance of the total development in relation to the residential property to the east; and the elimination of a screening fence to the west adjacent to an undeveloped tract should not create a problem unless the adjacent property develops residentially which at that time screening could be provided; 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.

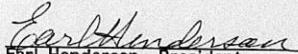
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to eliminate the required screening fence adjacent to the west property line and to substitute landscape screening adjacent to the east property line on property zoned the "LC" Light Commercial District and legally described as follows:

Caliendo 9th Addition to Wichita, Sedgwick County, Kansas. Generally located on the north side of 21st Street and east of Pinecrest.

be approved subject to the following conditions:

1. Prior to the release of the resolution authorizing the elimination of the screening fence along the east property line, the applicant shall submit to the Secretary for approval, three copies of a detailed landscape plan of the 15 foot area along the east property line. Such plan shall include cross sections thru the earth berms and details showing size, height and species of all plant materials.
2. The elimination of the fence along the west property line shall be for the entire length of the property. This fence shall not be required unless the property to the west develops residentially, at which time the fence shall be installed as required by the ordinance.
3. Adequate curbs or bumper guards shall be provided at the perimeter of the paving to prevent vehicles from existing other than across paved driveways.

ADOPTED AT WICHITA, KANSAS, this 26th day of June, 1984.


Earl Henderson, President

ATTEST:


Glen E. Lytle, Assistant Secretary

LITTLE JOE'S

510 E. 13th
Wichita, Kansas 67214
(316) 263-4437



Vacuum Truck Service

- Mud Pits
- Residential Septic Tanks
- Industrial Pumping



Mini Wash

- 12 convenient locations
- Self Service
- Open 24 hours

Sept. 19, 1984

Terry Smith
Metropolitan Planning
City Hall-10th Floor
455 N. Main
Wichita, Ks. 67202

Mr. Smith:

This is to confirm that the 15-ft. strip of land behind the fence at 5340 E. 21st will be seeded this Fall.

Cordially,

A handwritten signature in cursive that reads "Rod Steven".
Rod Steven

RECEIVED

SEP 21 1984

METROPOLITAN PLANNING

ROUTE

September 11, 1984

Rodney Steven
2333 McLean
Wichita, Ks. 67204

Re: BZA 44-84 - Request for Variance

Dear Mr. Steven:

The landscape plan required as a condition of Board of Zoning Appeals case BZA 44-84 and as submitted by you last week is not acceptable as it does not propose sufficient new plant materials to provide the required screening between your lot and the adjacent apartments to the east. Specifically, a detailed plan needs to be submitted that shall be of an appropriate scale and include a north arrow, property lines, slope percentage and the accurate location of the following items:

1. existing trees
2. proposed trees, shrubs, grass
3. relationship of landscaped area to car wash building identifying the procedure for watering and maintaining the landscape screening.

The approval of your request (subject to adequate landscape plan) for a variance to eliminate the required screening fence adjacent to the east property line was predicated that you substitute landscape screening. According to the City Zoning Ordinance, this landscape screening should be planted and maintained for the purpose of concealing from view the area behind this screening.

After consultation with staff as well as various landscape nurseries in Wichita a general consensus was reached on the following points:

1. the slope percentage is not a limiting factor in the selection of plant materials. Personnel from various nurseries agreed that if the grass can be mowed then the slope would not limit planting.

2. The existing elm trees on the adjoining property would not prevent the planting of trees or shrubs. There are various types of plant materials that will grow in an area that encounters both sun and shade. Examples include mentor barberry, honeysuckle, vanhoutte spirea, flowering crab-apple, Washington hawthorn, canaert redcedar, numerous junipers, pyracantha and euonymus.

If landscape screening is now not what you prefer to provide to achieve the visual screening between the residences and your car wash, you may want to reconsider installing the appropriate fence. A fence located approximately 2-3 feet east of the edge of your pavement may be the best answer. When you decide either on the fence or plantings, please provide us with three copies of your plans.

If you have any questions, please give me a call at 268-4421.

Sincerely,

Jack H. Galbraith
Secretary

JHG:TLS:sad

cc: Robert Feldner, Superintendent of Central Inspection
Don Gisick, City Clerk

June 27, 1984

Rod Steven
2333 McLean
Wichita, Ks. 67204

Re: BZA 44-84 - Request for Variance

Dear Mr. Steven:

At the regular meeting of the Board of Zoning Appeals on June 26, 1984, your request for a variance was considered. It was the action of the Board to approve your request subject to the following conditions:

1. Prior to the release of the resolution authorizing the elimination of the screening fence along the east property line, the applicant shall submit to the Secretary for approval, three copies of a detailed landscape plan of the 15 foot area along the east property line. Such plan shall include cross sections thru the earth berms and details showing size, height and species of all plant materials.
2. The elimination of the fence along the west property line shall be for the entire length of the property. This fence shall not be required unless the property to the west develops residentially, at which time the fence shall be installed as required by the ordinance.
3. Adequate curbs or bumper guards shall be provided at the perimeter of the paving to prevent vehicles from existing other than across paved driveways.

The Resolution authorizing the substitution of landscape screening along the east property line will not be released until this office has approved a landscape plan. Please do not wait until the car wash facility is complete before you start this as it will not be permitted an occupancy permit until all conditions are met.

If you have any questions, please give me a call at 268-4421.

Sincerely yours,

Glen E. Lytle
Assistant Secretary

GEL:sad

cc Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

THE CITY OF WICHITA

OFFICE OF Citizen Participation

DATE June 25, 1984

TO Glen Lytle, Special Assistant for Zoning

FROM Mary L. Moore, Administrative Aide III

SUBJECT BZA 44-84 Gernerall located on
the north side of 21st Street
and east of Pinecrest.

On Tuesday, June 19, CPD Council "I" considered the above captioned case. After discussion, the Council voted 4-1 to recommend approval of the request subject to the conditions in the Secretary's report.

The applicant, Rod Steven, was present to discuss this case with the Council. There were no area residents present.

Please present the Council's recommendations to the BZA on June 26, 1984 for their consideration of this case.

Mary L. Moore

Mary L. Moore
Administrative Aide III

MLM:mlm

Noted:

Annie K. Montgomery
Annie K. Montgomery
CRS Director

SECRETARY'S REPORT
CASE NO. BZA 44-84

APPLICANT: Rod Steven, 2333 McLean, Wichita, Kansas.

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to eliminate the required screening of a commercial development adjacent to the west property line and substitute landscape screening adjacent to the east property line.

GENERAL LOCATION: On the north side of 21st Street and east of Pinecrest.

ZONING: Subject property is zoned the "LC" Light Commercial District. Properties to the east, west and north are residential. To the south is "BB" Office District.

LAND USE: Subject property is being developed as a car wash. Properties to the west and north are vacant. Property to the east is apartments and to the south is an office.

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 eliminate the required screening fence along the west property line that is adjacent to a vacant tract of land that is zoned the "AA" One-family Dwelling District. Also requested is a variance of the screening requirement along the east by substituting a landscape screening area. The west property line is required to be screened by the general provisions of the zoning ordinance and the screening adjacent to the east property line is required by the conditions of the previous approval by this Board for an automobile car wash under BZA 13-84.

It is the opinion of the Secretary that the property to the west would now be approved for "LC" Light Commercial since properties on both sides have now been approved. It is also vacant, and so therefore the fence would serve no useful purpose. The screening required along the east property line is for the protection of the residential property to the east. A 15 foot landscaped area was also required to protect the existing trees adjacent to the east property line. It is the applicant's desire to not require a solid fence on the east, but to provide landscaped earth berms of sufficient density to provide the necessary screening.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the adjacent property to the west is vacant and undeveloped and located between two "LC" zoned properties. Also the providing of a sufficient landscape screening area adjacent to the east property line to protect the apartments should comply with the intent of the regulations.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variances requested will not adversely affect the rights of adjacent property owners inasmuch as the providing of a landscaped screening and earth berms will provide a better visual transition for the apartments on the east, and unless the property to the west is developed residentially, the screening fence would serve no useful purpose.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as the installation of the required fencing would be an undue expense which would not provide protection to the residential properties.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variances would not adversely affect the public interest inasmuch as the elimination of the screening fence adjacent to the west property line will not interfere with the public interest if the property is not developed residentially. The providing of landscape screening on the east should be in the best public interest.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variances requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the elimination of the required screening fence and the providing of landscape screening should not change the general appearance of the total development in relation to the residential property to the east; and the elimination of a screening fence to the west adjacent to an undeveloped tract should not create a problem unless the adjacent property develops residentially which at that time screening could be provided.

RECOMMENDATION:

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

1. Prior to the release of the resolution authorizing the elimination of the screening fence along the east property line, the applicant shall submit to the Secretary for approval, three copies of a detailed landscape plan of the 15 foot area along the east property line. Such plan shall include cross sections thru the earth berms and details showing size, height and species of all plant materials.
2. The elimination of the fence along the west property line shall be for the entire length of the property. This fence shall not be required unless the property to the west develops residentially, at which time the fence shall be installed as required by the ordinance.
3. Adequate curbs or bumper guards shall be provided at the perimeter of the paving to prevent vehicles from existing other than across paved driveways.

BZA CASE NO. 44-84

<u>1</u>	NOTICES SENT TO APPLICANT/AGENT
<u>10</u>	LEGAL ADVERTISEMENT SENT TO MAPC
<u>1</u>	NOTICES SENT TO CPO
<u>9</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>11</u>	TOTAL NOTICES SENT <u>6-6-84</u>

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

June 6, 1984

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 44-84

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 Rod Steven, 2333 McLean, 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 eliminate the required screening fence adjacent to the west property line and to substitute landscape screening adjacent to the east property line in lieu of a screening fence, on property zoned "LC" Light Commercial District. A legal description of the applicant's property is as follows:

Caliendo 9th Addition to Wichita, Sedgwick County, Kansas. Generally located on the north side of 21st Street and east of Pinecrest.

This application has been assigned Case BZA 44-84. It will be considered by the Board of Zoning Appeals on June 26, 1984 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

BOARD OF ZONING APPEALS

CASE NO. 44-84

CITY OF WICHITA, KANSAS

FILED 5-29-84

APPLICATION FOR VARIANCE

I. Name of Applicant Rod Steves
 Mailing Address 3333 McLean Phone 838-5672 (263-4437)
 Name of Authorized Agent _____
 Mailing Address _____ Phone _____
 Relationship of applicant to property is that of owner
 (Owner, Tenant, Lessee, Other)

II. The variance requested is to eliminate screening
requirement along west property line & substitute
a landscape screening adjacent to east property line
 for property located north side of 31st Street and east
of Pinecrest
 and legally described as: Calends 9th Addition
to Wichita, Sedgwick County

in the City of Wichita; and which is presently zoned LC.

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 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.

Applicant Rod Steves
by Becky Steves

Authorized Agent _____

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals,
4:35 (a.m.p.m.), MAY 29, 1984, together with
 appropriate fee of 150.00.

Signed [Signature]

OWNERSHIP LIST

<u>Property Description</u>	<u>Property Owner</u>
Lot 14, Block 6, First Addition to Crestview Heights	✓ Center Development Company, Inc. ✓ 5205 E. 21st St. Suite C 67208
Lots 1, 2 & 3, Block 7, First Addition to Crestview Heights	✓ Independent Investment Corporation ✓ 2146 N. Old Manor 67208
Lots 10, 11 & 12, Block 7, First Addition to Crestview Heights	✓ William R. King ✓ Box 357 Benton, KS 67017
The North 70 feet of Lot 1, Block 9, First Addition to Crestview Heights	✓ Edward C. Barnett ✓ Barbara J. Barnett ✓ 2124 N. Parkwood 67208
Lot 1, Woodgate 2nd Addition	✓ Windsor at Woodgate ✓ 202 N. Rock Road 67206
Lots 1 & 2, Wichita Land Addition	✓ Wichita Land Associates, Inc. 9325 E. Harry 67207 <i>returned 3-15-84</i>
Lot 1, Caliendo 9th Addition	✓ Home State Life Insurance Company ✓ P.O. Box 18359 67218
The West Half of the East Half of the South Half of the West Half of the Southeast Quarter of the Southwest Quarter of Section 1-27-1 East	✓ Ralph M. Holmes ✓ (c/o Paul Holmes, Box 66, Offerle, KS 67563)
The East 70 feet of the North Half of the East Half of the Southeast Quarter of the Southwest Quarter of 1-27-1 East	✓ Presidential Woodgate ✓ (c/o George H. Bruce 4505 E. Lewis 67208)
The North Half of the East Half of the South Half of the Southeast Quarter of the Southwest Quarter of Section 1-27-1 East	✓ Gold Crown, Inc. ✓ (c/o George Bruce 4505 E. Lewis 67208)

PAGE 2

We hereby certify the foregoing to be a true and correct list of the property owners of the hereinbefore described lots of:

Within a 200 foot radius of
Lot 1, Caliendo 9th Addition,
Kansas, Sedwgick County, Kansas

as shown by the last deed of record on file in the Office of the Register of Deeds, Sedwgick County, Kansas on the 17th day of February, 1984, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE CO., INC.

By

John Egan

Vice President

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

June 6, 1984

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 44-84

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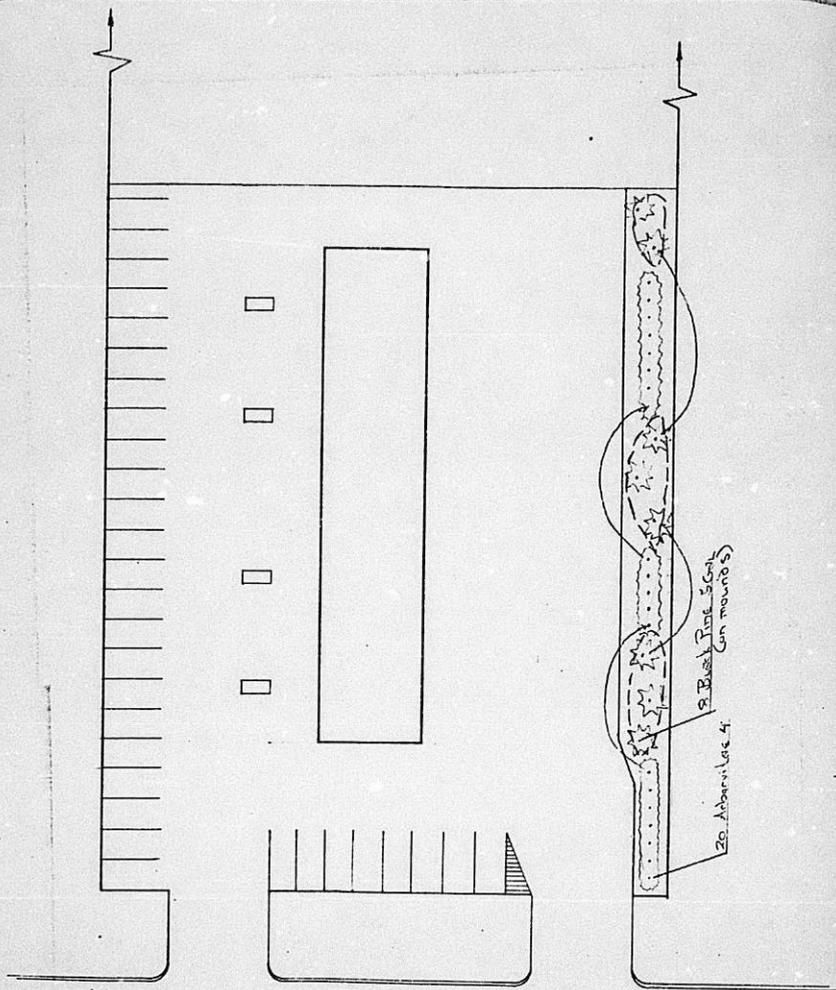
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It should be noted that the Citizen Participation Organization Area Council may consider this case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

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

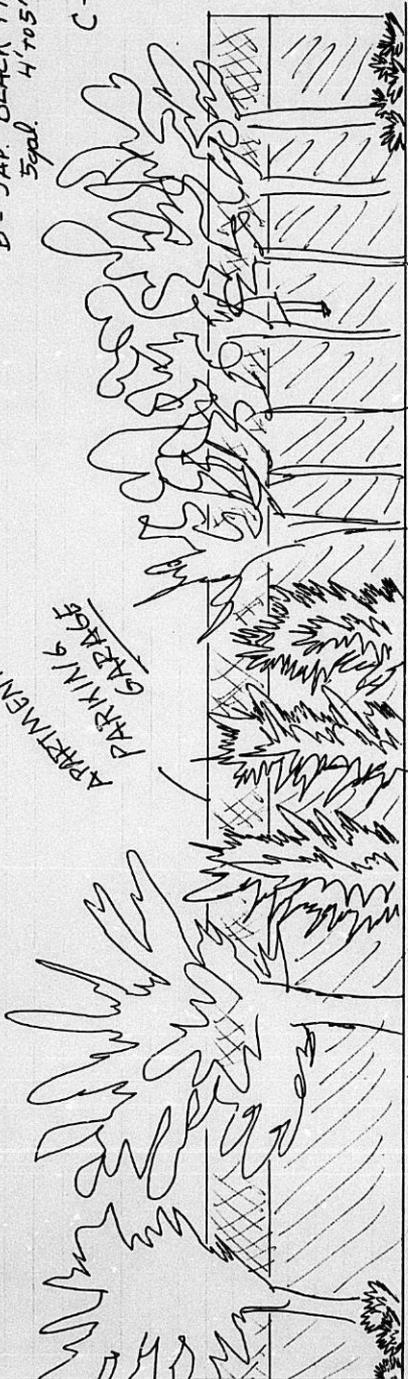


A = Gold Coast Juniper - 8
5 gal. 18" to 24"

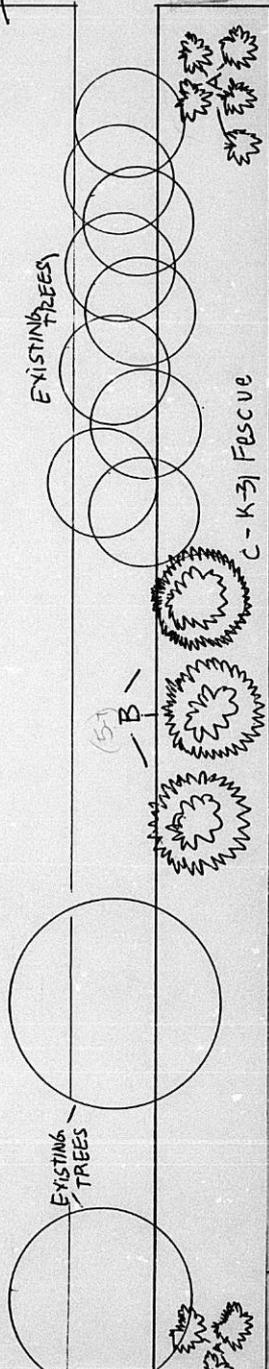
B = JAP. BLACK PINE
5 gal. 4' to 5' - 3

C - 2000 x 15 =
3000 SQ FT.
K-31 FESCUE

APARTMENTS
PARKING
GARAGE



- GARAGE

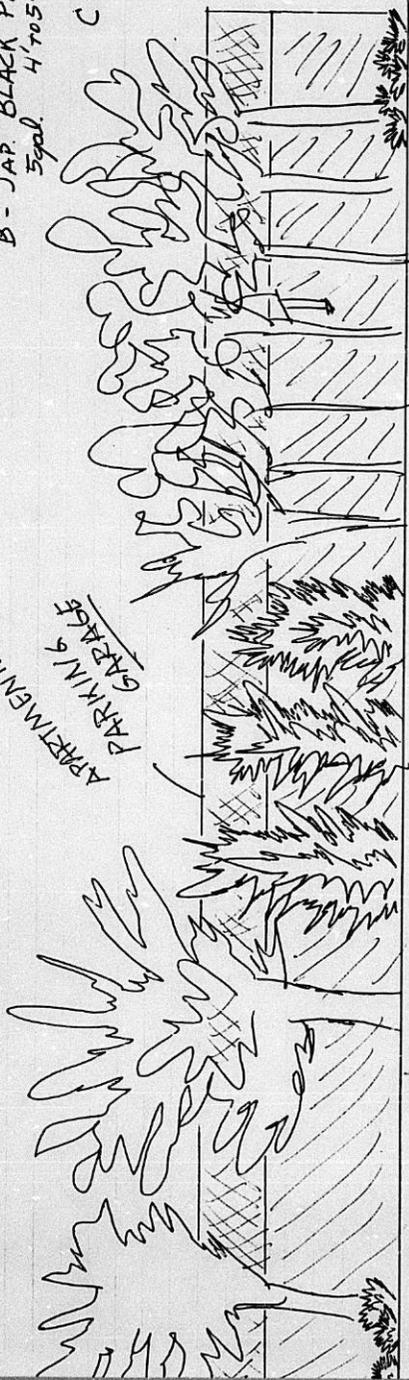


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5 gal. 18" to 24"

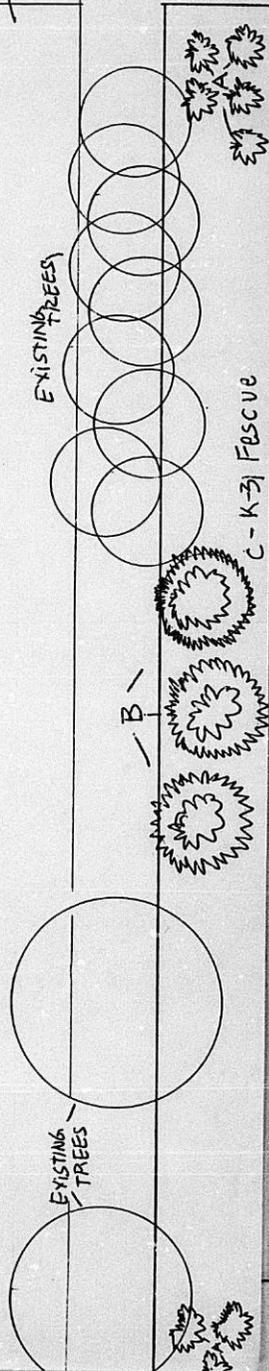
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K-31 FESCUE

APARTMENTS
PARKING
GARAGE



- GARAGE

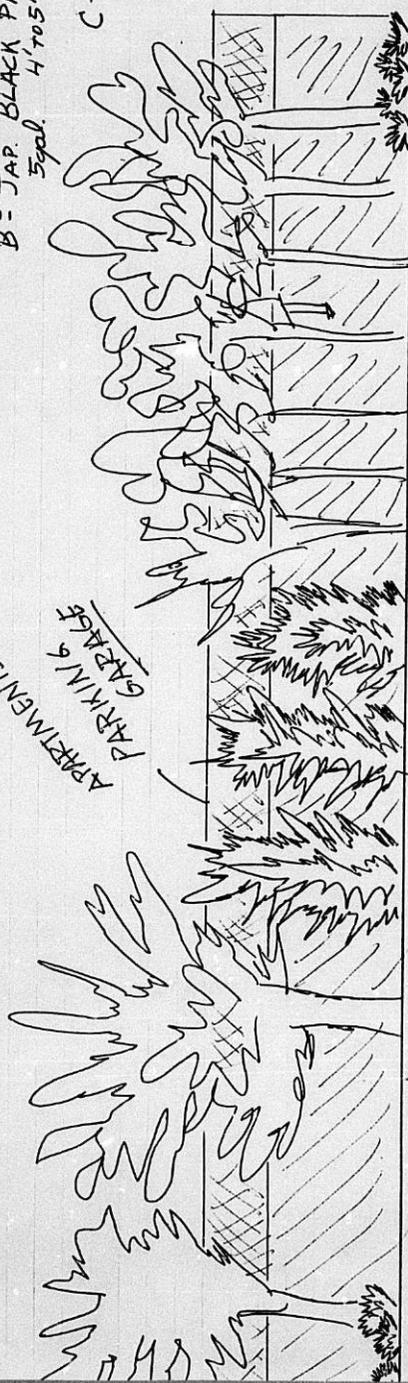


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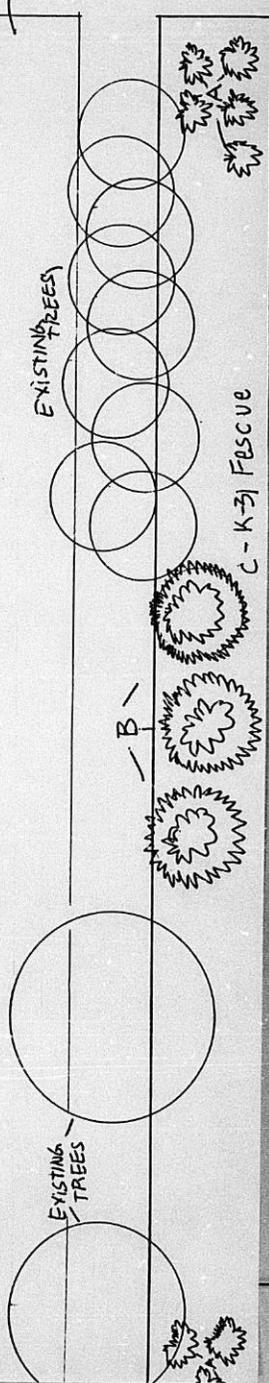
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C - 2000 x 15 =
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K-31 FESCUE

APARTMENTS
PARKING
&
GARAGE



- GARAGE



**MICROFILMED
FROM THE BEST
AVAILABLE COPY**

FORM 21-21 PAYMENT NOTICE
City of Wichita

Bldg.	Use of Str.	Code Bks	Copies
Elec	Elev. Insp.	Hse Moving	Lic.
Mech	Boiler Insp.	Pav. Cuts	Cert.
Plbg	Exam Fees	Sewer	Elev.
Signs	Plan Rev. (P.W.)	Cement	M.S.P.
	Planning		

DESCRIPTION	AMOUNT
City 034 Van	150.00

NAME _____
 ADDRESS _____
 FUND 155-0071-003 DUE DATE _____
 COMMENTS _____
 DATE 10/22/74 BY _____

*

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

Roll # 2