

POSTED  
11-4-82

ACTION

BZA. Deferral 1 Mo. 11-23-82  
11-82 DATE

BZA Deferred 1 Mo. 12-28-82

BZA Deferral 1 Mo. 1-25-83  
at appl. city request

BZA Deferred Indefinite. 2-22-83  
see Corp.

Withdrawn by  
Applicants agent  
by phone 2-24-83

*Eric Lytle*

Case No. BZA 46-82 - Towne West Mall Co.  
requests variances to permit the erection  
of an on-site sign to a height of 55' in  
lieu of the permitted 30' and to permit  
the area to be increased from 200 sq. ft.  
to 600 sq. ft. on property located in the  
"LC" Light Commercial District & general-

Map No. 5146  
 Sec. 26  
 Twp. 27  
 Range 1E

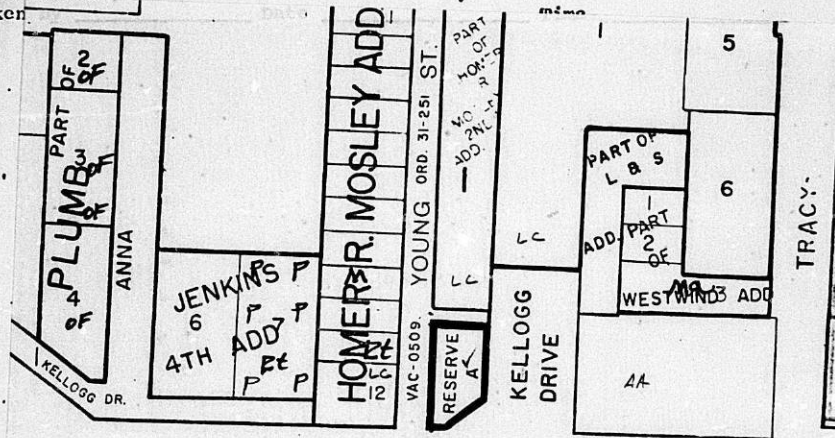
BZA- 46-82  
 SC2- \_\_\_\_\_  
 CU- \_\_\_\_\_  
 Filed \_\_\_\_\_

AREA DATA:

1. Acres: \_\_\_\_\_ (\_\_\_\_\_ ft. by \_\_\_\_\_ ft.)
2. Adjoining Zoning: E \_\_\_\_\_ S \_\_\_\_\_ W \_\_\_\_\_ N \_\_\_\_\_
3. Land Use: East \_\_\_\_\_ South KELLOGG-MS-54  
 West RESTAURANT North ?
4. Sketch Plan Land Use is for: \_\_\_\_\_
5. Present Land Use if for: \_\_\_\_\_ ?
6. Area (is) (is not) platted.

PHOTO DATA:

Taken \_\_\_\_\_



US 54

KELLOGG

R.R.

46-82

HASTINGS, MN  
 LOS ANGELES, CHICAGO, LOUISIANA, OHIO  
 MCGREGOR, TX, LOUST GROVE, GA  
 U.S.A.

Standard  
 No. 24153C

**IMPORTANT MESSAGE**

FOR Glen  
DATE 2/24 TIME 11:12 AM  
P.M.

**WHILE YOU WERE AWAY**

OF Jim Schaffer  
PHONE No. 262-4403

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

MESSAGE Case B2A 46-82  
Withdrawn by  
Applicant's agent -  
by phone -  
2-24-83

SIGNED [Signature]

1-19-83  
~~Phone conversation.~~  
w/ Schaefer  
Don't have 2 design  
as yet -  
Probably ask deferred  
to Feb 22, 1983  
Meeting. —

LITTLE

2-15-83  
Talked w/ Schaefer,  
and he indicated  
T.W. Mgr. out of  
town. Would let  
me know as soon  
as possible if they  
had any proposal.

G. L.

February 23, 1983

Mr. James R. Schaeffer, Attorney  
800 Broadway Plaza Bldg.  
Wichita, Ks. 67202

Re: BZA Case 46-82

Dear Jim:

At the regular meeting of the Board of Zoning Appeals on February 22, 1983, the Board deferred action on the requested sign variance for Towne West Mall Company for the fourth time. This time, however, the Board did not just defer the case for one month, but deferred the case indefinitely until the applicant requests the case be returned to the agenda.

It will now be necessary to submit a letter of request for the case to be placed on the agenda at least 21 days prior to any next regularly scheduled meeting. Also you should furnish to this office with such request any new proposals or drawings on the sign to be located at the intersection of Kellogg and Kellogg Drive (on the north side of Kellogg one block west of Tracy).

Should you have any questions concerning this matter, please contact me at 268-4421.

Sincerely,

Glen E. Lytle  
Assistant Secretary

GEL:sad

**THE CITY OF WICHITA**

**OFFICE OF CITIZEN PARTICIPATION**

**DATE** December 14, 1982

**TO** Glen Lytle, Special Assistant for Zoning

**FROM** Shirley Mast, Administrative Aide III

**SUBJECT** BZA 46-82 Intersection of Kellogg  
and Kellogg Drive on the North side  
of Kellogg one block West of Tracy

CPO Council "0" considered the captioned case at their December 9th meeting and voted 5-0 to recommend that the variance to permit the erection of an on-site sign to a height of 55 feet in lieu of the permitted 30 feet and the area to be increased from 200 square feet to 600 square feet on property zoned the "LC" Light Commercial District be denied.

No one was present to speak in support or opposition to the case.

Please provide the Council's recommendation to the Board of Zoning Appeals when the case is considered at the December 28th meeting.

*Shirley Mast*  
Shirley Mast  
Administrative Aide III

SM:dm

SECRETARY'S REPORT  
CASE NO. BZA 46-82

APPLICANT: Towne West Mall Company, an Indiana Limited Partnership, Box 7033, Indianapolis, Indiana 46207

AGENT: James R. Schaefer, 800 Broadway Plaza Bldg., Wichita, Kansas.

REQUEST: Variances pursuant to Section 2.12.590.B, Code of the City of Wichita, to permit the erection of an on-site sign to a height of 55.5 feet in lieu of 30 feet in height, and to permit the gross surface area to be increased from 200 square feet to 330 square feet.

GENERAL LOCATION: At the intersection of Kellogg and Kellogg Drive on the north side of Kellogg one block west of Tracy.

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

LAND USE: Subject property is platted as a reserve for an identification sign for the shopping center on the property to the north. Property to the west is a motel and restaurant. To the east the highway department maintenance facility. Property across Kellogg is developed commercially.

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 and 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 allow the erection of an on-site sign to exceed the gross surface area of 200 square feet and to exceed the height limitation of 30 feet. The drawing submitted by the applicant indicates the gross surface area of the sign to be 300 square feet and the height to be 55.5 feet.

The limitation of 200 square feet is based on the permitted 2 square feet of sign area for each 1 foot of frontage along Kellogg. This allows for the full width of 100 feet for the property even though only 45 feet actually parallels Kellogg. The height is limited to 30 feet as the only way a sign is permitted to exceed that height is to eliminate a permitted sign along the frontage. In this case, only one sign is permitted, therefore that exception is not applicable.

The applicant submits as justification for the variance that the total shopping center is 92.7 acres and has very limited frontage on Kellogg which severely restricts the size of sign at this location. The applicant indicates that they control ownership of an additional 289.64 feet of frontage on Kellogg that is occupied by a restaurant. It should be noted that this restaurant, does however, utilize the frontage with on-site signage and is not a part of the shopping center zoning lot.

Although the applicant has a large amount of frontage adjacent to Maple Street, an arterial, that would possibly permit the erection of the sign requested, they wish to use the small parcel adjacent to Kellogg for the large electronic message sign. The other streets adjacent thereto are not arterials or expressways.

The purpose and intent of the sign regulations is to limit the number, height and area of signs along the streets of the City of Wichita based on the type of street, the zoning of the adjacent property and the

frontage of the property on which the sign is to be located. There is probably some uniqueness to the property in question. However, taking into consideration the adjacent properties, that the applicant does not own, it is difficult to justify the five conditions necessary to the granting of the variance to the extent requested. Some degree of variance could, however, be justified due to distance separation of the signs to the east that are adjacent to the Kellogg right-of-way.

The applicant proposes an electronic message sign for an identification sign at this location. This is a highly questionable type of sign to be used at a location where the traffic count is high and turning movements are frequent. If any variance to increase the size and height of the sign, is granted, it is suggested that the sign not be permitted to have an electronic message.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the property was platted and designated for an identification sign for a shopping center that is over 90 acres in size and the property has extremely limited frontage.

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 larger and higher sign will then encourage adjacent property owners to request variances in order to increase visibility.

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 frontage of the property along Kellogg is extremely limited and severely limits the size of the sign for such a large development.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would adversely affect the public interest inasmuch as a sign of the type, size and height could be a potential hazard to motorists at the proposed location.

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 the regulations for signs are designed to achieve a reasonable balance between the need for signs, yet preserving the visual qualities of the community and eliminate excessive and confusing sign displays that could potentially be hazards to motorists or pedestrians.

RECOMMENDATION:

It is the opinion of the Secretary that all five conditions necessary to the granting of the variance cannot be found to exist and the request be denied. However, should the Board determine that all five conditions necessary to the granting of a variance can be found to exist, then it is recommended that the variance be granted subject to the following conditions:

1. The height of the sign shall not exceed 40 feet.
2. The gross surface area of the sign shall not exceed 300 square feet.
3. The sign shall not contain any electronic or moving messages.

November 24, 1982

James R. Schaefer, P.A.  
800 Broadway Plaza Bldg.  
Wichita, Ks. 67202

Re: BZA 46-82  
Request for Variance

Gentlemen:

Please be advised that the Board of Zoning Appeals deferred any action on the requested variance until the meeting of December 28, 1982. This action was due to the fact that the necessary documents to be filed with your application have not been received.

In order for the case to be considered by the Board at the next meeting, the following should be received in this office by December 6, 1982:

1. Letter justifying the 5 conditions required to be found existing in order to grant the variance.
2. An overall site plan showing on-site ground or pole signs on the property.
3. The design of the proposed sign as requested by the variance.

If you have any questions, please give me a call.

Sincerely,

Glen E. Lytle  
Special Assistant for Zoning

GEL:sad

cc: Towne West Mall Company, Box 7033, Indianapolis, Indiana 46207

BZA CASE NO. 46-82

2 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

11 NOTICES SENT TO ADJOINING PROPERTY OWNERS

24 TOTAL NOTICES SENT 11-3-82

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

November 3, 1982

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 46-82

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 Towne West Mall Company, an Indiana Limited Partnership, Box 7033, Indianapolis, Indiana 46207, requesting variances.

Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting variances to permit the erection of an on-site sign to a height of 55 feet in lieu of the permitted 30 feet and to permit the area to be increased from 200 square feet to 600 square feet on property zoned the "LC" Light Commercial District. A legal description of the applicant's property is as follows:

Reserve "A", Towne West Square 2nd Addition to Wichita, Sedgwick County, Kansas. Generally located at the intersection of Kellogg and Kellogg Drive on the north side of Kellogg one block west of Tracy.

This application has been assigned Case No. BZA 46-82. It will be considered by the Board of Zoning Appeals on November 23, 1982 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 variances 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

JUSTIFICATION FOR VARIANCE

Pursuant to Section 2.12.590.B, applicant, Towne West Mall Company, is requesting a variance to permit the erection of an electronic sign upon real estate described as follows:

Reserve "A", Towne West Square 2nd Addition to  
Wichita, Sedgwick County, Kansas.

In support of said application for variance, applicant would show to the Board as follows:

1. That Towne West Square Shopping Center is located upon a tract of land of approximately 92.7 acres bounded on the West by I-235, on the North by Maple Street, on the East by Tracy Street and on the South by property generally owned by others. While the principal entrance to the Center is off Kellogg, applicant only owns about 45 feet of actual frontage on Kellogg (Reserve "A"). Applicant does, however, control ownership of additional frontage on Kellogg through a different legal entity. This frontage is approximately 289.64 feet (Mr. Steak ground and parking).

With the exception of the Towne West office building, all the frontage on Kellogg from West Street to I-235 is devoted to commercial use.

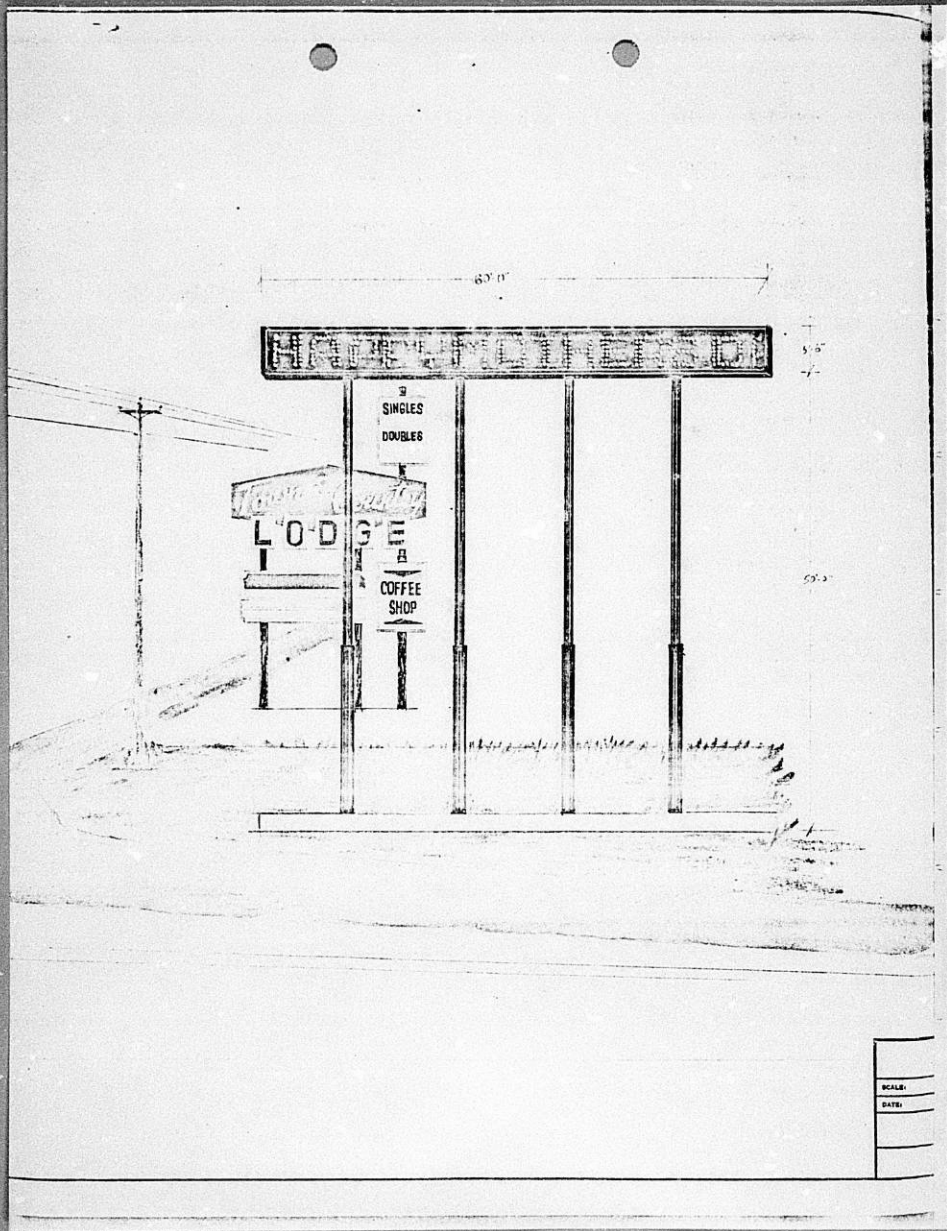
Applicant submits that because of the size and location of the Shopping Center and the lack of visibility of the main entrance off Kellogg, a distinctive landmark is required to identify the entrance to the Center. Certainly the condition for which the variance is requested is unique to the property in question and was not created by any action or inaction by applicant.

2. That there are no residences in the vicinity of the requested variance location and therefore no rights of any residents can be affected. As stated above, with the exception of the Towne West office building, all other property in the vicinity is dedicated to commercial use. The commercial uses have their own signs to identify their businesses and the erection of the electronic sign by applicant will not affect their uses.

3. In view of the small frontage owned by applicant along Kellogg, the strict application of the provisions of Title 28, of the Wichita Code will cause unnecessary hardship on applicant in identifying its major entrance to the Center.

4. With the exception of name signs identifying the major department stores located in the Shopping Center and the present pylon sign (which applicant proposes to remove) on the location on which applicant proposes to construct the electronic sign, there are virtually no signs identifying the Center although applicant owns large frontages on Maple and Tracy Streets, and that the granting of the requested variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare of the community.

5. The granting of the variance desired will not be opposed to the general spirit and intent of Title 28 of the Wichita Code, and applicant submits that in relation to the size of the Shopping Center and the tract on which it is located, the proposed sign is not relatively large comparably speaking.



BOARD OF ZONING APPEALS

CASE NO. 46-82

CITY OF WICHITA, KANSAS

FILED 10-18-82

APPLICATION FOR VARIANCE

I. Name of Applicant TOWNE WEST MALL COMPANY, an Indiana Limited Partnership  
 Mailing Address Box 7033, Indianapolis Indiana 46207 Phone (317) 636-1600  
 Name of Authorized Agent James R. Schaefer, P.A.  
 Mailing Address 800 Broadway Plaza Bldg. Phone (316) 262-4403  
Wichita, Kansas 67202

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

*see  
panel  
language*

II. The variance requested is <sup>one to permit the erection of an on-site sign</sup> To permit the erection of an electronic sign to a height of 55 feet in lieu of the permitted 30 feet and to permit the sign with Towne West logo on top in excess of the height and area to be increased from 200 square feet to 600 square feet  
area requirements of \$28.04.139 of the Wichita Code.

for property located at intersection of Kellogg and Kellogg Drive on the north side of Kellogg on block west of Tracy.  
 and legally described as: Reserve "A" Towne West Square 2nd Addition to Wichita, Kansas

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 TOWNE WEST MALL COMPANY,  
an Indiana Limited Partnership

Authorized Agent JAMES R. SCHAEFER, P.A.

By: James R. Schaefer

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 1:30 (a.m.-p.m.), Oct 18, 1982  
together with appropriate fee of 150.00.

Signed: [Signature]

CERTIFICATE OF OWNERSHIP

GUARANTEE TITLE COMPANY, INC. has searched the public records and finds the following to be a true and correct list of the property owners as evidenced by the last deed of record on the following described property lying on the North side of U. S. Highway 54 and on either side of Reserve "A", Towne West Square Second Addition, Wichita, Sedgwick County, Kansas.:

Note: Addresses are furnished as a courtesy only and are not certified.

DESCRIPTION	OWNER/ADDRESS	ZIP CODE
<u>Bales Add.</u>		
Lot 1	✓ William E. Bales and Ruth N. 9628 Tee Wichita, Kansas	67212
	Lease last assigned to West Wichita Partners, a Pennsylvania Limited Partnership, ✓ c/o Craig Lord Four Penn Center Plaza Philadelphia, Pa.	19103-2599
	Lessee in possession: K-Mart Corporation ✓ 3100 West Big Beaver Road Troy, Michigan	48084
<u>GMC ADD.</u>		
All of Lots 1, 3, 4, 5, 6, 7 & 8, and all of Lot 9, except the S/2 thereof.	✓ Julia Frances Lygrisse 3727 Sleepy Hollow Wichita, Kansas	67208
	Lease last assigned to: West Wichita Partners, a Pennsylvania Limited Partnership D c/o Craig Lord Four Penn Center Philadelphia, Pa.	19103-2599
	Lessee in possession: D K-Mart Corporation 3100 West Big Beaver Road Troy, Michigan	48084
All of Lots 2, 10, 11, 12, 13, 14 & 15, and the S/2 of Lot 9	D William E. Bales and Ruth N. 9628 Tee Wichita, Kansas	67212
	Lease last assigned to West Wichita Partners, a Pennsylvania Limited Partnership D c/o Craig Lord Four Penn Center Plaza Philadelphia, Pa.	19103-2599
	Lessee in possession: D K-Mart Corporation 3100 West Big Beaver Road Troy, Michigan	48084

CERTIFICATE OF OWNERSHIP - page 2

Jenkins 4th Add.

Lots 6 & 7

Westwood mall Associates, Inc.  
c/o Jim Schaeffer  
800 Broadway Plaza  
Wichita, Kansas

67202

Homer Mosley Add.

Lots 1, 2, 3, 4, 5, 6, 7, 8,  
9, 10, 11 & 12

Groendyke Enterprises, Inc.  
✓ 808 Main  
Kiowa, Kansas

67070

Plumb Add.

The South 100' of Lot 2

Oren Lawrence Smith & Deloy M.  
✓ 1201 So. 119th St. West  
Wichita, Kansas

67209

Lot 3

J & K Development, Inc.  
✓ 1935 No. Ridge Road  
Wichita, Kansas

67212

Lot 4

Maray Properties, Inc.  
✓ 1935 No. Ridge Road  
Wichita, Kansas

67212

Town West Square 2nd Add.

Reserve "A"

D Towne West Mall Company, an Indiana  
Limited Partnership  
c/o Jim Schaeffer  
800 Broadway Plaza  
Wichita, Kansas

67202

W-C Add.

Lots 1, 2, 3 & 4

W-C Co., a partnership composed  
of Ken Wagnon, H. Doyle Walz, Jamie  
Coulter, Carl M. Coonrod, Robert A.  
Geis, and Marvin Fogg, as co-partners  
✓ c/o Carl Coonrod  
P. O. Box 2120  
Wichita, Ks. *act.*

67201

The South 185' of the East 660'  
of the SW/4 of the NE/4 lying  
North of U. S. Highway 54 R-0-W,  
exc. the West 256.62' and except  
Tracy Street and except the East  
2.5' thereof.

State Highway Commission  
✓ State Office Building  
Topeka, Kansas

66612

A tract of land in the E/2 of the City of Wichita  
E/2 of the SW/4 of the NE/4 of Sec. City Building  
26, Twp. 27 S., R 1 West of the 6th Wichita, Kansas  
P.M., described as follows: Be-  
ginning at a point 40' West & 278.8'  
North of the SE/corner of said SW/4  
of the NE/4 of said Sec.; th. West  
2.5'; th. North and parallel to the  
East line of said SW/4 of the NE/4  
of said Sec.; 185'; th. East 2.5';  
th. South to the place of beginning.

67202

No. 5348

GUARANTEE TITLE CO., INC.

By: *Ernie L. Douthett*  
Licensed Abstracter

**MICROFILMED  
FROM THE BEST  
AVAILABLE COPY**

FORM 29-1 PAYMENT NOTICE  
City of Wichita

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

DESCRIPTION	AMOUNT

NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
FUND \_\_\_\_\_ DUE DATE \_\_\_\_\_  
COMMENTS \_\_\_\_\_  
DATE \_\_\_\_\_ BY \_\_\_\_\_

WICHITA - SEDGWICK COUNTY  
**W.S.C.**  
BOARD OF ZONING APPEALS  
CITY HALL - TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202

*Shuley*  
*46-82*

WICHITA, KS  
NOV 3 1982  
10v 5 258

WICHITA, KANSAS  
NOV 3 1982  
20  
PB 341925

WV-CC Company  
% Carl Coonrod  
P. O. Box 2120  
Wichita, Ks. 67201

FORWARDING  
ORDER EXPIRES  
RETURN TO SENDER

\*

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

Roll # 2