

Case No. EZA 48-81 - Robert L. Mitchell - requests a variance to eliminate the required screening fence at the west and north property lines on property zoned the "LC" Light Commercial District and generally

Revised
11-9-81

ACTION

DATE 11-24-81

COMMITTEE Approved
partially
west side only

M.A.P.C. _____

B.C.C./B. CO. C. _____

BZA
11-24-81

5650B

700
1/4 Sec 12-7-81
Revised 12-7-81
1-4-82
-Shirley
Revised 1-5-82

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

NOVEMBER 4, 1981

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 48-81

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 Robert L. Mitchell, 2111 North Piatt, 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 at the west and north property lines on property zoned "LC" Light Commercial District. A legal description of the applicant's property is as follows:

Lot 1, R. L. Mitchell Addition to Wichita, Sedgwick County, Kansas. Generally located on the north side of 21st Street and east of Erie (2932 East 21st St.).

This application has been assigned Case No. BZA 48-81. It will be considered by the Board of Zoning Appeals on November 24, 1981 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
Tenth Floor - City Hall
455 North Main, Wichita, Kansas 67202

NOVEMBER 4, 1981

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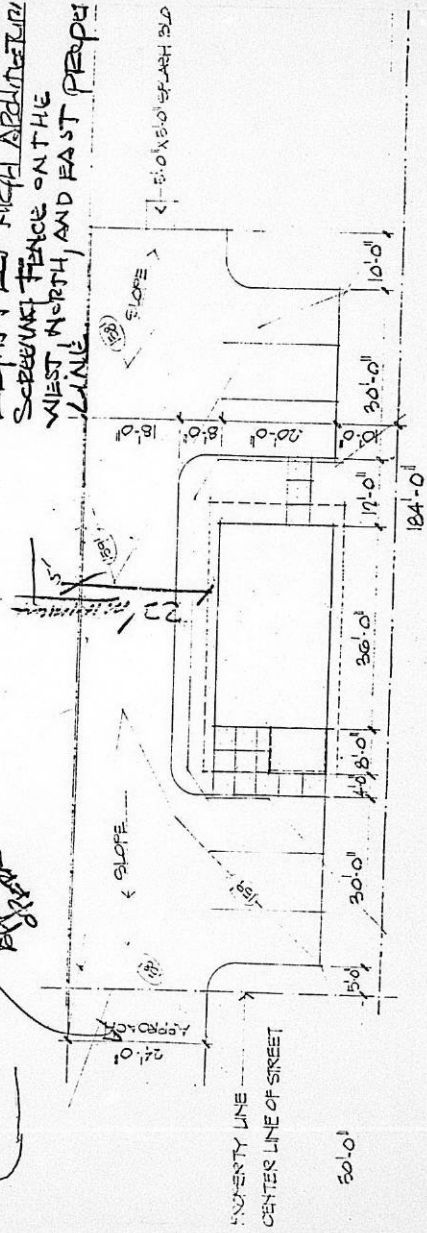
Jack H. Galbraith
Secretary

9-3-51
10/10/51



PROVIDE AN 8'x10'
 EIGHT FEET HIGH ALUMINUM
 SCREEN FENCE ON THE
 WEST, NORTH, AND EAST PROPERTY
 LINE

DATE TO BE
 APPROVED BY DEPT OF
 PLANNING 9-2-51



CHARLES F. MCAFEE F.

REVISED SITE PLAN

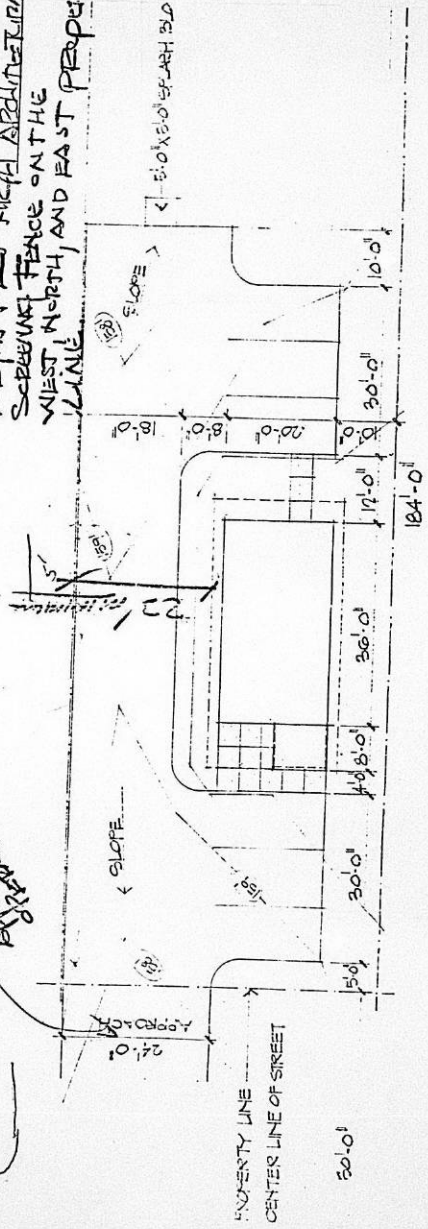
OFFICE

9-3-51
McCAFEE



PROVIDE AN 8' X 10'
 EIGHT FEET HIGH ALUMINUM
 SCREENED FENCE ON THE
 WEST, NORTH, AND EAST PERIM-
 PETERS

ERTS TO BE
 DONE BY TSC
 APPROVED BY DEPT OF
 OPERATION 9-3-51



CHARLES F. MCAFEE F.

REVISED SITE PLAN

OFFICE

APPLICANT: Robert L. Mitchell, 2111 North Platt, Wichita,
Kansas

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.3, Code
of the City of Wichita, to eliminate the screening
fence adjacent to the west and north property lines.

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

ZONING: Subject property is zoned "LC" Light Commercial.
Properties to the East, north and west are zoned
"AA" One-family Dwelling District.

LAND USE: Subject property is occupied by an office building.
Property to the west is vacant, to the north
residential and to the east residential.

JURISDICTION:

The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.3, 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 eliminate the required screening fence adjacent to the west and north property lines. Screening is required for all office, commercial, industrial and institutional uses when development is adjacent to any residential zoning district. In this case screening has been provided along the east property line. Also, the screening is not required for an office use if there is at least a 25' landscaped yard provided adjacent to the residential zoning district. The site plan provided indicates that there is at least 25' to the north of any parking that can be maintained as a landscaped area. The property to the west has until recently been occupied by a nonconforming use. This has been removed and the property is vacant. The logical reuse of the property would be for additional commercial or office use. The property to the north is residential and should be provided the protection from the affects of commercial development to the south.

UNIQUENESS:

It is the opinion of the Secretary that this property is somewhat unique inasmuch as the property to the west is vacant and the most logical reuse of the property would be for office or commercial development.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the property to the west is vacant and the property to the east is already screened. The property to the north is afforded the 25' area that can be landscaped to comply with the regulations.

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 a screening fence to the west would at some point in time not be required once the most logical development occurs.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the elimination of the screening will not create a precedent along a major street where office and commercial development is likely to occur in the not to distant future.

5 cond
for west var.
not No.

Page 2
BZA 48-61
BZA AGENDA
11-24-61

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the intent of the regulation is to provide protection to residential property.

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 variance to eliminate the screening fence adjacent to the west property line be granted subject to the following condition:

1. Should the property to the west be developed residential, the variance shall become null and void.

CPO 8-0 appr.

December 1, 1981

Robert L. Mitchell
2932 East 21st Street
Wichita, Kansas 67214

Re: Case No. BZA 48-81
Request for Variance

Dear Mr. Mitchell:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on November 24, 1981.

This Resolution reflects the official action of the Board to approve your request, and sets out the condition of approval. It is forwarded to you for your information and files.

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

Sincerely,

Jack H. Galbraith
Secretary

GKL:sad
Enclosure

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

RESOLUTION NO. 48-81

WHEREAS, Robert L. Mitchell, 2932 East 21st Street, 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 north and west property lines on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 1, R. L. Mitchell Addition to Wichita, Sedgwick County, Kansas. Generally located on the north side of 21st Street and east of Erie (2932 East 21st 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 November 24, 1981, 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 property to the west is vacant and the most logical reuse of the property would be for office or commercial development; 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 property to the west is vacant and the residence to the east is already screened; 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 screening fence on the west will not serve any purpose of protection unless developed as a residential property; 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 elimination of the screening fence would not set a precedence when changes along most arterials are for uses other than residential; 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 intent of the regulation is to provide protection to residential property; 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.

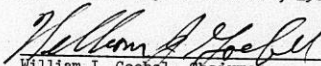
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to eliminate the screening fence adjacent to the west property line on property zoned the "LC" Light Commercial District and legally described as:

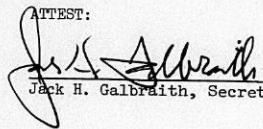
Lot 1, R. L. Mitchell Addition to Wichita, Sedgwick County, Kansas. Generally located on the north side of 21st Street and east of Erie (2932 East 21st Street).

be approved subject to the following condition:

1. Should the property to the west be developed residential, the variance shall become null and void.

ADOPTED AT WICHITA, KANSAS, this 24th day of November, 1981.


William J. Goebel, Chairman

ATTEST:

Jack H. Galbraith, Secretary

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE November 24, 1981



TO Glen Lytle, Special Assistant for Zoning

FROM Clemencia L. Prieto, Administrative Aide III

SUBJECT BZA -48-81: North side of
21st Street and East of Erie

On Thursday, November 19th, CPO Neighborhood Council Area "J" considered the captioned case, a request for a variance to eliminate the required screening fence at the west and north property lines on property zoned "LC", Light Commercial District. The Council voted 8-0 to recommend approval.

Neither the applicant, nor area residents were present.

Please provide the Council's recommendation and comments to the Board of Zoning Appeals when BZA 48-81 is considered on Tuesday, November 24th.

Clemencia L. Prieto
Clemencia L. Prieto
Administrative Aide III

CLP:dm

Noted:

Sarah Gilbert
Sarah Gilbert
CP Coordinator

SECRETARY'S REPORT
CASE NO. BEA 46-31

APPLICANT: Robert L. Mitchell, 2111 North Piatt, Wichita,
Kansas

AGENT: None

REQUEST: Variance pursuant to Section 2.12.590.B, Code
of the City of Wichita, to eliminate the screening
fence adjacent to the west and north property lines.

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

ZONING: Subject property is zoned "LC" Light Commercial.
Properties to the East, north and west are zoned
"AA" One-family Dwelling District.

LAND USE: Subject property is occupied by an office building.
Property to the west is vacant, to the north
residential and to the east residential.

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 eliminate the required screening fence adjacent to the west and north property lines. Screening is required for all office, commercial, industrial and institutional uses when development is adjacent to any residential zoning district. In this case screening has been provided along the east property line. Also, the screening is not required for an office use if there is at least a 25' landscaped yard provided adjacent to the residential zoning district. The site plan provided indicates that there is at least 25' to the north of any parking that can be maintained as a landscaped area. The property to the west has until recently been occupied by a nonconforming use. This has been removed and the property is vacant. The logical reuse of the property would be for additional commercial or office use. The property to the north is residential and should be provided the protection from the affects of commercial development to the south.

UNIQUENESS:

It is the opinion of the Secretary that this property is somewhat unique inasmuch as the property to the west is vacant and the most logical reuse of the property would be for office or commercial development.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the property to the west is vacant and the property to the east is already screened. The property to the north is afforded the 25' area that can be landscaped to comply with the regulations.

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 a screening fence to the west would at some point in time not be required once the most logical development occurs.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the elimination of the screening will not create a precedent along a major street where office and commercial development is likely to occur in the not to distant future.

Page 2
BZA 48-61
BZA AGLBDA
11-24-61

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the intent of the regulation is to provide protection to residential property.

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 variance to eliminate the screening fence adjacent to the west property line be granted subject to the following condition:

1. Should the property to the west be developed residential, the variance shall become null and void.

BZA CASE NO. 48-81

1 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

16 NOTICES SENT TO ADJOINING PROPERTY OWNERS

28 TOTAL NOTICES SENT 11-4-81

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

NOVEMBER 4, 1981

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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
CITY OF WICHITA, KANSAS

CASE NO. 48-81
FILED 10-6-81

APPLICATION FOR VARIANCE

I. Name of Applicant Robert J. Mitchell 67214
Mailing Address 2111 North piatt Phone 262-0992
Name of Authorized Agent Robert J. Mitchell
Mailing Address 2111 N. piatt Phone 262-0992
Relationship of applicant to property is that of Owner
(Owner, Tenant, Lessee, Other)

II. The variance requested is to eliminate the required
screening fence on the west and south
fence on the west side
and Rear of the Building
for property located at the north end of 2111 piatt and east of
Street Wichita, KS

and legally described as:

Lot 1 R.L. Mitchell
Addition to the City of
Wichita, Sedgwick Co. Kansas

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

III. The applicant herein, or his authorized agent, acknowledges:

- That he has received an instruction sheet concerning the filing and hearing of this matter;
- 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;
- 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.
- That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Applicant Robert J. Mitchell

Authorized Agent _____

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 10:30 (a.m. - p.m.) Oct 6, 1981 together with appropriate fee of 150.00.

Signed J. Lytle

Lewis and Davis

Attorneys at Law
Davis-Lewis Building
17th and Madison
Wichita, Kansas 67214

Chester J. Lewis
O'neil Davis

Telephone
263-0181
263-0182
Area Code 316

10/5/81

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

Re: Application for Variance

Dear Board:

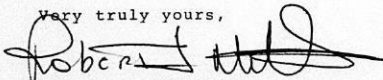
I'm requesting a variance from Section 28-04-160K wherein it requires the building of a fence around commercial property when it's adjacent to residential property. I will place a fence on the east side of the building located at 2932 E. 21st Street. The land to the west of the property at 2932 E. 21st Street is a vacant lot; and the chances of a home being built on the vacant lot is very slim. Also, the College Inn, a beer parlor, does not have a fence at all, the same holds true for Dr. Shea and Dr. Ohaebosim's Clinic located within two blocks of the property at 2932 East 21st Street.

Also, the granting of the variance will not adversely affect the right of adjacent property owners or resident because the resident to the east of the property shall have a fence between it and 2932 E. 21st Street.

The strict application of the provisions will constitute unnecessary hardship upon the landowner because of the large expenses involved in building a fence around the property lines.

The granting of the variance desired will not be opposed to the general spirit and intent of Title 28; because the only residential structure will have a fence between it and the property located at 2932 E. 21st Street.

Very truly yours,



Robert L. Mitchell
LEWIS, DAVIS & MITCHELL

RLM/mm

We hereby extend the foregoing ownership list of
the property owners within a 200 foot radius of

Lot 63 on 21st Street, Hillside
Gardens, Sedgwick County, Kansas
now platted as
Lot 1, R. L. Mitchell Addition
Wichita, Kansas, Sedgwick County
Kansas

from the 25th day of February, 1981, at 7:00 o'clock A.M.
to the 2nd day of October, 1981 at 7:00 o'clock A.M.
without change except:

<u>Lot</u>	<u>Addition</u>	<u>Property Owner</u>
1	R. L. Mitchell Addition	<i>Dub</i> Robert L. Mitchell 2202 East 17th Street 67214

THE SECURITY ABSTRACT & TITLE CO. INC.

By

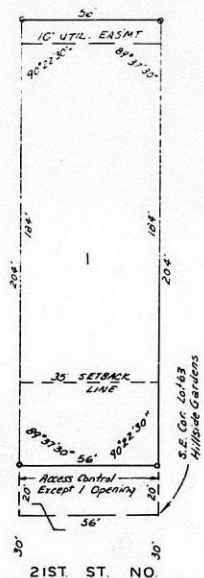
Mary Gable
Vice-President

Order No: 303422
Update of: 296345
ap

JANUARY 1981

R. L. MITCHELL ADDITION

WICHITA, KANSAS



State of Sedgwick
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This plot of "R.L. MITCHELL ADDITION," Wichita, Kansas, has been submitted to and approved by the Wichita-Sedgwick County Metropolitan Area Planning Commission, Wichita, Kansas, dated this 31st day of July, 1981.

Wichita-Sedgwick County Metropolitan Area Planning Commission
 _____ Chairman
 _____ Secretary
 Robert A. Lakin

This plot approved and all dedications shown hereon accepted by the Board of Commissioners of the City of Wichita, Kansas, this _____ day of _____, 1981.

_____ Mayor
 Donald E. Gislak City Clerk

This plot approved and all dedications shown hereon accepted by the Board of Commissioners of Sedgwick County, Kansas, this _____ day of _____, 1981.

_____ Chairman
 Donald E. Gislak
 Jack Spratt Commissioner
 Tom Scott Commissioner
 _____ County Clerk

State of Sedgwick
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OWNERSHIP LIST

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
East 140 ft. of 56	-	Hillside Gardens Addition ✓	✓ Marion Dean Childers & Johnese M. Childers, 2225 N. Chautauqua, 67219
West 165 ft. of 56, exc. the west 30 ft.	-	"	✓ ✓ Berniece Norwood, 2252 N. Erie, 67219
West 165 ft. of 57, exc. the west 30 ft.	-	Resent to: 7315 Regent Ln. 67206 ✓	✓ ✓ N.B. Farha, 1409 Wassall, 67216; AND Ray R. Farha, 550 S. Glendale, 67218 Resent to 2021 S. Oliver 11-10-81
57 exc. the west 165 ft.	-	"	✓ ✓ First Federal Savings & Loan Association, 123 S. Market, 67202
58 exc. the west 185 ft.	-	"	✓ ✓ Earl Willis & Willie Mae Willis, 2221 N. Chautauqua, 67219 returned w/ the same address 11-16-81
West 185 ft. of 58, exc. the west 30 ft. for street, & exc. sewer r/o/w	-	"	D D N.B. Farha, 1409 Wassall, 67216; AND Ray R. Farha, 550 S. Glendale, 67218
59 exc. the west 30 ft. for street	-	"	✓ ✓ FRAN-MAR Investment Inc., c/o United Distributors Inc., 420 S. Seneca, 67213
62	-	"	✓ ✓ Dorothy Hougham, 1702 N. Belmont, 67208
63	-	"	D Enterprise, Inc., Address Unknown applicant
64 exc. sewer r/o/w	-	"	✓ ✓ William Graham Oil Co., 211 N. Broadway, 67202
65	-	"	X City of Wichita, 455 N. Main, 67202
66 & 67	-	"	✓ ✓ Jesse H. Philips & Eva L. Philips, 2330 Rosenthal, 67204

<u>Lot</u>	<u>Block</u>	<u>Addition</u>	<u>Property Owner</u>
71 exc. the west 137.32 ft., & exc. the east 30 ft. for street, & exc. the west 8 ft. of the south 6 ft. for sewer	-	Hillside Gardens Addition	Dwight S. Rolfe & Jacquelin K. Rolfe, 2225 N. Erie, 67219
East $\frac{1}{2}$ of 72 exc. the east 30 ft.	-	"	Gabriel R. Maxwell & Catherine N. Maxwell, 1217 N. Ash, 67214
East $\frac{1}{2}$ of 73 exc. the east 30 ft.	-	"	Juanita E. Reed, Address Unknown
1	-	Fran-Mar Addition	FRAN-MAR Investment Inc., c/o United Distributors Inc., 420 S. Seneca, 67213
1	-	Watkins Addition	William L. Harper & Juanita D. Harper, 2804 Maplewood, 67214
2	-	"	Clarence Clark & Flora Alice Clark, 2808 Maplewood, 67214
1 thru 6, odd & even inclusive	2	Shadybrook Addition	Ronald Russ Prater and Daniel S. Prater, (each $\frac{1}{2}$ interest), 240 N. Rock Rd., 67206

page 3

We hereby certify the foregoing to be a true and correct list of
the property owners within a 200 foot radius of

Lot 63 on 21st Street, Hillside Gardens,
Sedgwick County, Kansas

as shown by the last deed of record on file in the Office of the Register
of Deeds of Sedgwick County, Kansas, on the 25th day of February, 1981,
at 7:00 A.M.

THE SECURITY ABSTRACT & TITLE CO., INC.

By

Mary Lable

Vice-President

Order No. 296345

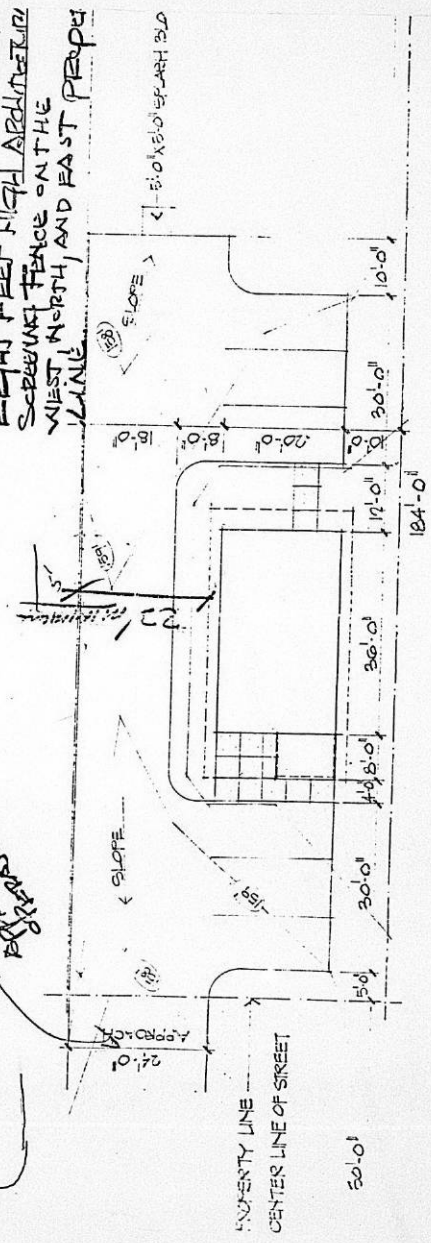
GE



10-3-30
~~10-3-30~~

PROVIDE AN SIX TO EIGHT FEET HIGH ALUMINUM SCREENED FENCE ON THE WEST, NORTH, AND EAST PERIMETER

ENTRANCE TO BE APPROVED BY DEPT OF



CHARLES F. MCAFEE F.

REVISED SITE PLAN

OFFICE

WICHITA - SEDGWICK COUNTY



BOARD OF ZONING APPEALS
CITY HALL - TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202

try
bus 2021 S. Oliver
48-81 ~~*14-7375 Page 1*~~

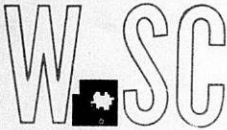


Ray R. Farha
550 South Glendale
Wichita, Kansas 67218

Jack Lee Shumard
Route 11-5 1809
Southeast Station



WICHITA - SEDGWICK COUNTY



BOARD OF ZONING APPEALS
CITY HALL - TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202

Returned 11-16-81
48-81 ~~*14-7375 Page 1*~~



WIL 21 040517N1 11/05/81
WIL 21 040613N1 11/06/81
RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

Ernest & Willie M. Willis
2221 North Chautauque
Wichita, Kansas 67219

WIL 21 040727N1 11/07/81
WIL 21 041022N1 11/10/81
RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

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FORM 021 PAYMENT NOTICE
 City of Wichita

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

DESCRIPTION	AMOUNT
12A	150

NAME _____
 ADDRESS _____
 FUND _____ DUE DATE _____
 COMMENTS _____
 DATE 1-6-11 BY _____