

Case No. BZA 56-83 - Jim Mar - requests a variance to eliminate the screening between commercial & residential zoning districts along the east property line on property zoned the "LC" Light Commercial District and generally

POSTED
10-6-83
682

ACTION

B.Z.A. 56-83 APPROVED 11-22-83
DATE

Jul '4 Sec 10-30-84

Set 11-14

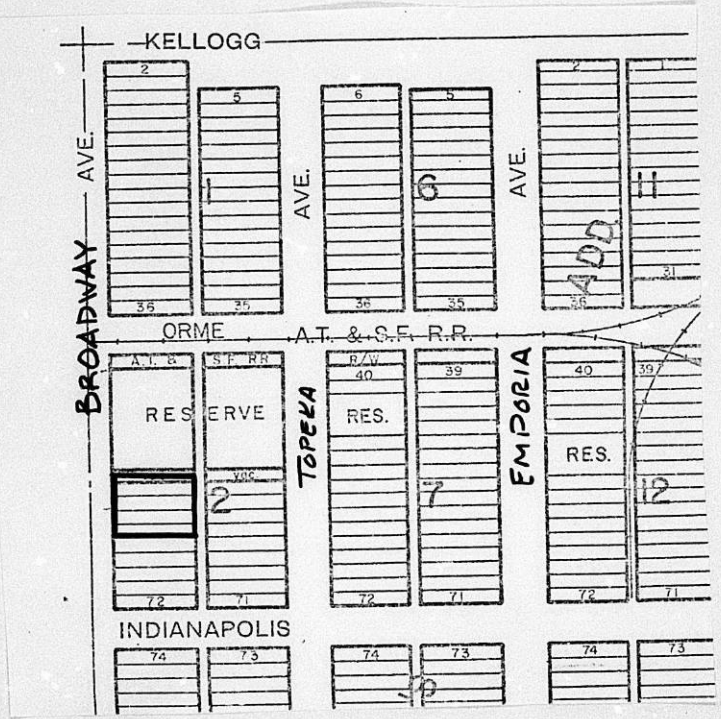
Record ✓

Map No. 5546

BZA 56-83
Filed _____

AREA DATA:

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



LOS ANGELES COUNTY REGISTER
HASTINGS, MN
No. 2-153C
U.S.A.

Smyth
No. 2-153C

October 25, 1984

Jim Mar
2124 West Pawnee
Wichita, Ks. 67213

Re: BZA 56-83 - Request for Variance

Dear Mr. Mar:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on November 22, 1983.

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,

Glen E. Lytle
Assistant Secretary

GEL:sad
Encl.

cc: David N. Hollis, Architect, 1206 E. Waterman, Wichita 67211
Robert Feldner, Superintendent of Central Inspection (2)
Don Cisick, City Clerk

RESOLUTION NO. BZA 56-83

WHEREAS, Jim Mar, 2124 West Pawnee, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to eliminate the required screening of a commercial development adjacent to a residential zoning district on property zoned the "LC" Light Commercial District and legally described as follows:

Lots 56, 58, 60, 62 and 64, Block 2, and one-half of the vacated alley adjacent to the north, all in Orme and Phillips Addition in Wichita, Sedgwick County, Kansas. Generally located on the east side of Broadway between Orme and Indianapolis Streets (822 South Broadway).

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 22, 1983, 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 majority of the east property line will be providing access to required parking spaces and thereby effectively eliminates the screening protection to the residential property; 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 amount of screening to be eliminated will not create an additional detrimental affect on the properties to the east; 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 elimination of the small amount of screening fence adjacent to the alley will not interfere with the use of any right-of-way or easements; 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 should not change the general appearance of the total development in relation to the residential property to the east; 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.

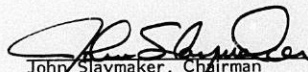
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to eliminate the required screening of a commercial development adjacent to a residential zoning district on property zoned the "LC" Light Commercial District and legally described as:

Lots 56, 58, 60, 62 and 64, Block 2, and one-half of the vacated alley adjacent to the north, all in Orme and Phillips Addition in Wichita, Sedgwick County, Kansas. Generally located on the east side of Broadway between Orme and Indianapolis Streets (822 South Broadway).

be approved subject to the following condition:

1. Prior to the release of the resolution authorizing the elimination of the screening fence along the east property line, the applicant shall attempt to secure a valid petition for the paving of the alley between Orme and Indianapolis Streets.

ADOPTED AT WICHITA, KANSAS, this 22nd day of November, 1983.


John Slaymaker, Chairman

ATTEST:


Glen E. Lytle, Assistant Secretary

November 23, 1983

Jim Mar
2124 West Pawnee
Wichita, Ks.

Re: BZA 56-83 - Request for Variance

Dear Mr. Mar:

At the regular meeting of the Board of Zoning Appeals on November 22, 1983, your request for a variance to eliminate the required screening of a commercial development adjacent to a residential zoning district was considered. It was the action of the Board to approve your request subject to the following condition:

1. Prior to the release of the resolution authorizing the elimination of the screening fence along the east property line, the applicant shall attempt to secure a valid petition for the paving of the alley between Orme and Indianapolis Streets.

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy as soon as you have complied with the condition above.

If you have any questions, please call our office.

Sincerely yours,

Glen E. Lytle
Assistant Secretary

GEL:sad

cc David N. Hollis, 1206 East Waterman, Wichita
Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

THE CITY OF WICHITA

OFFICE OF Citizen Participation

DATE November 22, 1983

TO Glen Lytle, Special Assistant for Zoning

FROM Stan Scott, Administrative Aide III

SUBJECT BZA 56-83: East side of Broadway
between Orme and Indianapolis
(822 South Broadway)

On Monday, November 21st, CPD Neighborhood Council "L" considered the captioned case, a request for a variance to eliminate the screening fence adjacent to a residential zoning district along the east property line on property zoned "LC" Light Commercial District. After discussion, the Council voted 7-0 to recommend approval of the requested variance subject to staff comments concerning paving of the alley.

David N. Hollis, agent for the applicant, appeared before the Council to describe the request and respond to questions from the Council. Council members were provided the notice to adjoining property owners, a map of the area, and MAPD staff comments. No area residents or property owners were present.

Please provide the Council's recommendation to the Board of Zoning Appeals when BZA 56-83 is considered on Tuesday, November 22nd.



Stan Scott
Administrative Aide III

RECEIVED

NOV 22 1983

METROPOLITAN PLANNING

ROUTE

SECRETARY'S REPORT
CASE NO. BZA 56-83

APPLICANT: Jim Mar, 2124 West Pawnee, Wichita, Kansas.

AGENT: David N. Hollis, 1206 East Waterman, Wichita, Kansas.

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 a residential zoning district.

GENERAL LOCATION: On the east side of Broadway between Orme and Indianapolis streets (822 South Broadway).

ZONING: Subject property is zoned the "LC" Light Commercial District as are the properties to the south, west and north.

LAND USE: Subject property is being developed as a restaurant. Properties to the west, south and north are commercial. Property across the alley to the east is 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. 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 east property line that is across the alley from "B" Multiple-family Dwelling District. The zoning ordinance requires that when office or commercial development occurs adjacent to any residential zoning district. The applicant's site plan indicates that the majority of the property line adjacent to the alley is actually providing access to parking spaces or to the service drive. When this occurs, the screening can be omitted at required openings. In this case, only about 35 feet of screening fence would be required in the 135 feet of the east property line. It is the applicant's request to eliminate the required 35 feet of screening.

The majority of the area is developed with commercial uses adjacent to Broadway, however, the zoning to the east across the alley is residential. When development is designed to use the alley for access to some of the parking and service drive, it eliminates the effectiveness of the screening requirement. In this case, the alley is not surfaced and should be paved to eliminate problems to the properties to the east.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the majority of the east property line will be providing access to required parking spaces and thereby effectively eliminates the screening protection to the residential property.

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 amount of screening to be eliminated will not create an additional detrimental affect on the properties to the east.

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 variance would not adversely affect the public interest inasmuch as the elimination of the small amount of screening fence adjacent to the alley will not interfere with the use of any right-of-way or easements.

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 elimination of the required screening should not change the general appearance of the total development in relation to the residential property to the east.

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 be granted subject to the following condition:

1. Prior to the release of the resolution authorizing the elimination of the screening fence along the east property line, the applicant shall attempt to secure a valid petition for the paving of the alley between Orme and Indianapolis Streets.

BZA CASE NO. 56-83

2 NOTICES SENT TO APPLICANT/AGENT

10 ^{LEGAL ADV.}
~~NOTICES~~ SENT TO MAPC

1 NOTICES SENT TO CPO

18 NOTICES SENT TO ADJOINING PROPERTY OWNERS

21 TOTAL NOTICES SENT 11-3-83

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

November 3, 1983

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 56-83

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 Jim Mar, 2124 West Pawnee, 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 screening fence adjacent to a residential zoning district along the east property line on property zoned "LC" Light Commercial District. A legal description of the applicant's property is as follows:

Lots 56, 58, 60, 62 and 64, Block 2, and one-half of the vacated alley adjacent to the north, all in Orme and Phillips Addition in Wichita, Sedgwick County, Kansas. Generally located on the east side of Broadway between Orme and Indianapolis Streets (822 South Broadway).

This application has been assigned Case BZA 56-83. It will be considered by the Board of Zoning Appeals on November 22, 1983 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. 56-83

CITY OF WICHITA, KANSAS

FILED 10-06-83

APPLICATION FOR VARIANCE

I. Name of Applicant Jim Mar

Mailing Address 2124 W. Pawnee, Wichita, KS Phone 943-4181
67213

Name of Authorized Agent David N. Hollis, Architect

Mailing Address 1206 E. Waterman, Wichita, KS Phone 263-1335
67211

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

II. The variance requested is to eliminate the
to waive screening between

commercial and residential zoning districts along the
east property line as required by Section 28.04.160(K).

on the east side of Broadway between Orme and Phillips
for property located at (822 South Broadway) Wichita, KS

67211

and legally described as: Lots 56, 58, 60, 64 and 1/2
60, Block 2,

vacated alley adjacent to north, all in Orme and Phillips

Addition in Wichita, Sedgwick County, 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 Jim Mar

Authorized Agent N/A

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 1:30 (a.m.-p.m.), October 6, 1983.
Together with appropriate fee of 150.00.

Signed L Lytle

SCREENING VARIANCE REQUEST

OWNER: Jim Mar
2124 W. Pawnee
Wichita, Kansas 67213

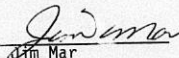
LOCATION: Mar Restaruant
822 South Broadway
Wichita, Kansas 67211

The owner of the Mar Restaurant requests a variance from the screening requirements of Ordinance 28.04.160 K 1 along their east property line which borders an area of "B" zoning across the alley. Such variance would be advantageous to said owner and to the surrounding community for the following reasons:

- a) Of the 135' of bordering property line under consideration, only two isolated sections of 20' and 25' are not necessary for essential ingress and egress to parking and service uses as allowed under 28.04.160 K 4. The appearance would be more intrusive than the landscaping and paved parking otherwise visible beyond.
- b) The positioning of such screens on either side of the parking drive to the alley would create a visual barrier between alley traffic and vehicles in the parking drive such that neither driver could easily see approaching traffic until actually in the intersection. The creation of this hazard would outweigh whatever marginal benefit such screening might provide.
- c) The trash dumpster, which is located toward the rear of the property, is being fully screened from the residential zoned properties with its own solid fencing, requiring no separate screening at the property line.

The hazard to person and property created thereby such screening requirements, the constriction of movement and view, and the expense of erecting and maintaining a structure of such dubious value constitute unnecessary hardship to the owner, patrons and neighbors of this facility.

By:


Jim Mar

CERTIFICATE OF OWNERSHIP

REALTY TITLE CO., INC., hereby certifies the following to be the true and correct property owners as shown by the last deed of record in the Office of the Register of Deeds, Sedgwick County, Kansas, Of:

A 200' radius of Lots 56, 58, 60, 62, & 64, Block 2
Orme & Phillips Addition, Sedgwick County, Kansas.

<u>DESCRIPTION</u>	<u>OWNERS AND ADDRESSES</u>
<u>ORME & PHILLIPS ADDITION</u>	
<u>BLOCK 2</u>	
Lots 55, 57, & 59	✓ Juanita Delarue & Kathryn Gavras 821 S. Topeka Wichita, Kansas 67211
Lots 56, 58, 60, 62 & 64	✓ Kohn Chuck Mar & Bak Fong Mar 822 S. Broadway Wichita, Kansas 67211
Lots 61 & 63	✓ Luther E. Borden & Beryl E. Borden 11516 E. Douglas Wichita, Kansas 67206
Lots 65 & North 20' of Lt. 67	✓ Willard Ritchie & Faye Ritchie 1315 N. Meridian Wichita, Kansas 67203
Lots 69 & 71, and So. 5' of Lt. 67	✓ Richards Diversified Inv. Inc. 411 Rutland Wichita, Kansas 67206
Lots 66, 68, 70, & 72	✓ William Graham, Inc. 211 N. Broadway Wichita, Kansas 67202
A part of the School Reserve in Block 2, Orme and Phillips Addition to the City of Wichita, Sedgwick County, Kansas, described as follows: Beginning 25 feet south of the Northeast corner of said School Reserve, thence south 47 feet; thence west 100 feet; thence north 47 feet; thence east 100 feet to the place of beginning.	✓ Swifton C. Tole & Norma A. Tole 803 S. Topeka Wichita, Kansas 67211
A part of School Reserve in Block Two (2), Orme and Phillips Addition to the City of Wichita, Sedgwick County, Kansas, described as follows: Beginning 25 feet south and 100 feet west of the Northeast corner of said School Reserve; thence south 47 feet; thence west 40 feet; thence north 47 feet; thence east 40 feet to the place of beginning, Sedgwick County, Kansas.	✓ Carol Quick 318 E. Orme Wichita, Kansas 67211
The north 50' of the south 100' of the west half of School Reserve	✓ Steve Marks 801 S. Broadway Wichita, Kansas 67211
Beg. 100' North of the S.W. Corner of School Reserve; th. N. 80'; th. E. 140'; th. S. 80'; th. W to place of beginning.	✓ Jack B. Courtney & Melba L. Courtney 800 S. Broadway returned Wichita, Kansas 67211 <i>641 N. Woodlawn Blvd. Apt. 168</i>
The South 50' of the West 140', School Reserve	✓ Fran-Mar. Inv., Inc. P.O. Box 1995 Wichita, Kansas 67202

DESCRIPTION
ORME & PHILLIPS ADDITION
BLOCK 2

OWNERS AND ADDRESSES

Beg. 99' North of S.E. Corner of School Reserve; th. N. 34'; th. W. 140'; th. S. 34'; th. E. 140' to point of beginning.

D Winifred F. Delaney
1942 N. Meridian
Wichita, Kansas 67213

The South 40' of the East 140' of School Reserve

✓ Derald Musgrove &
Hazel J. Musgrove
6311 E. 8th
Wichita, Kansas 67208

The North 49' of the South 99' of the East Half of School Reserve

✓ Oren Delaney &
Winifred Delaney
1942 N. Meridian
Wichita, Kansas 67213

BLOCK 3

Lot 73, the East 82.6' thereof

✓ Robert P. Trimble
3030 E. English
Wichita, Kansas 67211

Lot 73, the West 57.4' thereof

✓ W.J. Padgett
315 Indianapolis
Wichita, Kansas 67211

Lot 74

D Fran-Mar Inv.
P.O. Box 1995
Wichita, Kansas 67202

J.O. DAVIDSONS ADDITION

Lots 65 thru 73 odd (inc.)

✓ M. Dean Wright
1728 Tamarisk
Wichita, Kansas 67230

LEWIS YOUNGS ADDITION

Lots 22, 24, 26, 28 & 30

✓ Myrtle McCandless
807 S. Broadway
Wichita, Kansas 67211

RANGE LAND DESCRIPTIONS
SECTION 29, TOWNSHIP 27, RANGE 1 EAST,
IN THE NORTHEAST QUARTER

Beg. 716.4' S & 30' W of NE Corner; th. S 32.9'; th. W. 140'; th. N. 32.9'; th. E to beg.

D Myrtle McCandless
807 S. Broadway
Wichita, Kansas 67211

Beg. 749.3' S & 30' W. of NE Corner th. S. 32.7'; th. W 140'; th. N. 32.7'; th. E. to beg.

D Myrtle McCandless
807 S. Broadway
Wichita, Kansas 67211

Beg. 782' S. & 30' W. of N.E. Corner th. W. 140'; th. S 44.9'; th. E 140'; th. N. to beg.

D Myrtle McCandless
807 S. Broadway
Wichita, Kansas 67211

Beg. 864.9' S & 30' W. of N.E. Corner; th. S 83.5'; th. W 140'; th. N. 83.5'; th. E 140' to beg.

✓ James C. Morrison
2531 Porter
Wichita, Kansas 67204

Beg. 948' S. & 30' W. of N.E. Corner South to N.E. Corner of Lot 65, th. W 140' th. N 35.4'; th. E. to beg.

D M. Dean Wright
1728 Tamarisk
Wichita, Kansas 67230

DATED THIS 22nd DAY OF SEPTEMBER, 1983, AT 7:00 O'CLOCK A.M.

0 31083

REALTY TITLE CO., INC.

By *Karen K. Frye*
Karen K. Frye

**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.
Plbg	Exam Fees	Sewer	Elev.
Signs	Plan Rev. (P.W.)	Cement	M.S.P.
	<u>Planning</u>		

DESCRIPTION	AMOUNT
<i>City 224 462</i>	<i>150.00</i>

NAME *1700 RESTAURANT*

ADDRESS *22 So. Broadway*

FUND *155-40071-003* DUE DATE

COMMENTS

DATE *11-6-1983* BY *J. Lytle*

WICHITA - SEDGWICK COUNTY

W S C

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

RECEIVED
NOV 16 1983
METROPOLITAN PLANNING

56-83

WICHITA, KS
1983
NOV 15
PM

WICHITA KANSAS
NOV-3083
U.S. POSTAGE
20

CDU 00 090715N1 11/07/83

RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

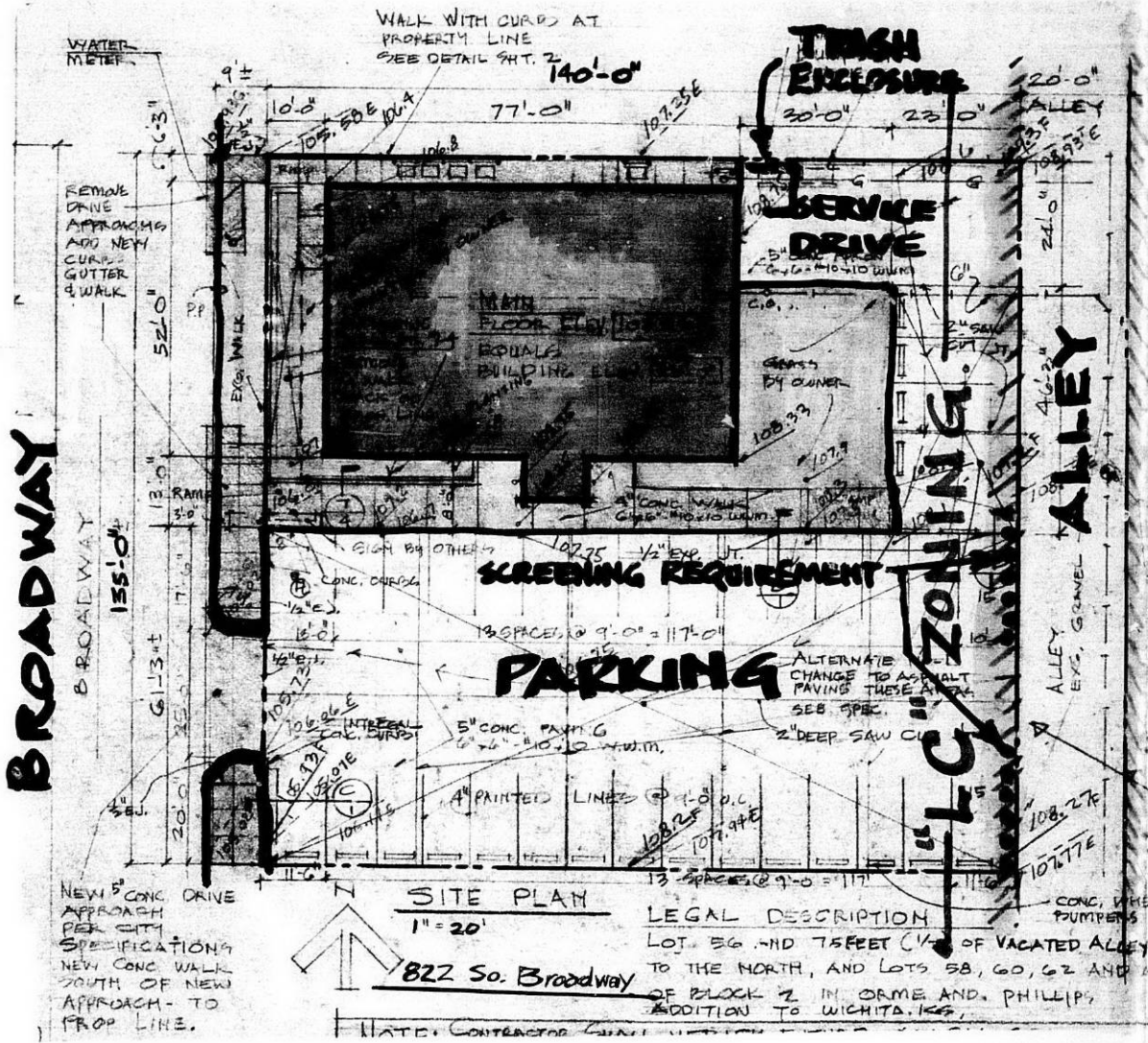
Jack B. & Melba L. Courtney
800 South Broadway
Wichita, Ks. 67211

641 N. Woodlawn Blvd.

Opt. 68

unk/11095ca

ATTEMPTED
NOT KNOWN
RETURN TO SENDER



MAR RESTAURANT

DAVID N. HO
 1206 EAST WATER
 WICHITA, KANSAS
 PHONE (316) 263-4000

WALK WITH CURB AT PROPERTY LINE
SEE DETAIL 9HT. 2

TRASH ENCLOSURE

SERVICE DRIVE

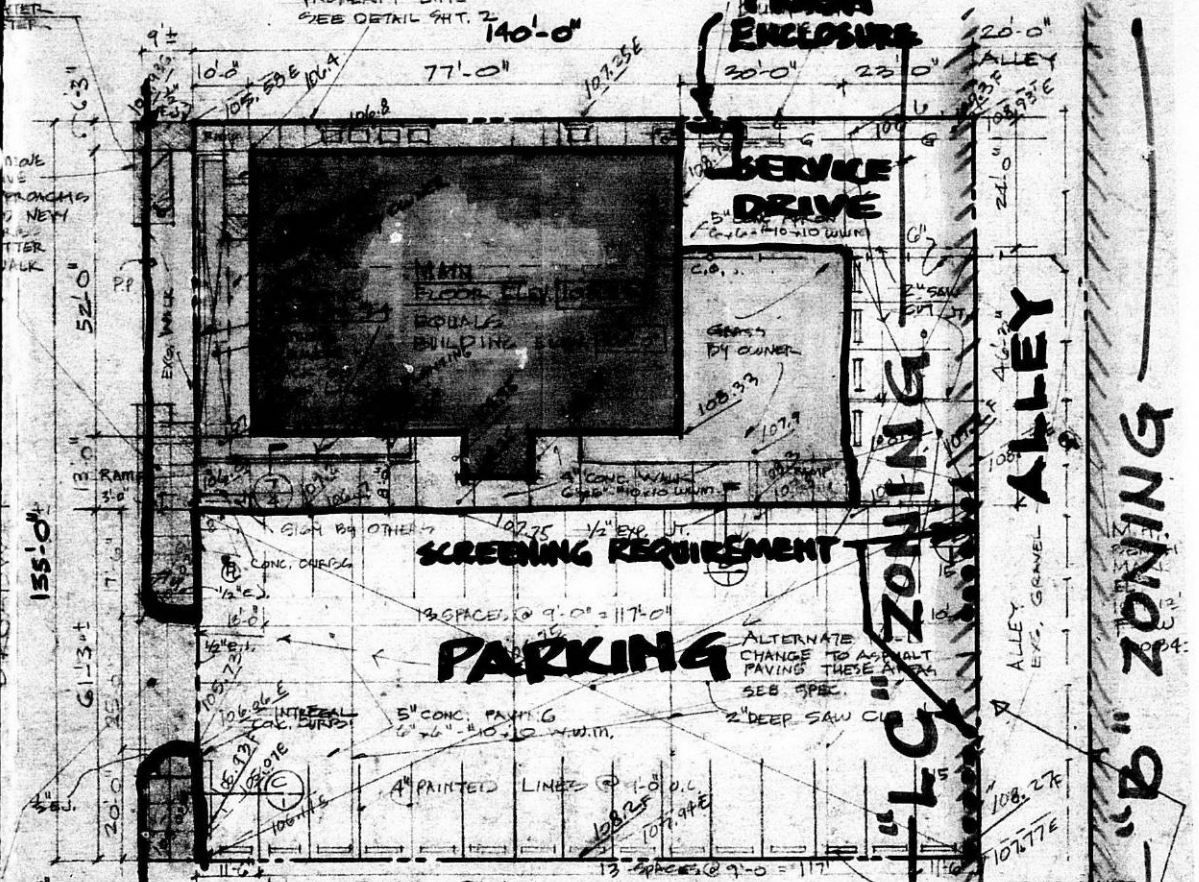
SCREENING REQUIREMENT

PARKING

"L.C." ZONING

ALLEY

"B" ZONING



SITE PLAN

1" = 20'

LEGAL DESCRIPTION

LOT 58 AND 75 FEET (1/2) OF VACATED ALLEY TO THE NORTH, AND LOTS 58, 60, 62 AND 64 OF BLOCK 2 IN ORME AND PHILLIPS ADDITION TO WICHITA, KGS.

822 So. Broadway

MAR RESTAURANT

DAVID N. HOLLIS
1206 EAST WATERMAN
WICHITA, KANSAS 67211
PHONE (316) 263-1335

