

Case No. BZA 75-85 - Bill G. Yung requests a variance to eliminate the required screening fence along the east property line adjacent to a residential district on property zoned the "LC" Light Commercial District & generally located

POSTED  
12-31-85/pt

ACTION

B.Z.A. 75-85 Approved 1/23/86  
DATE

5810

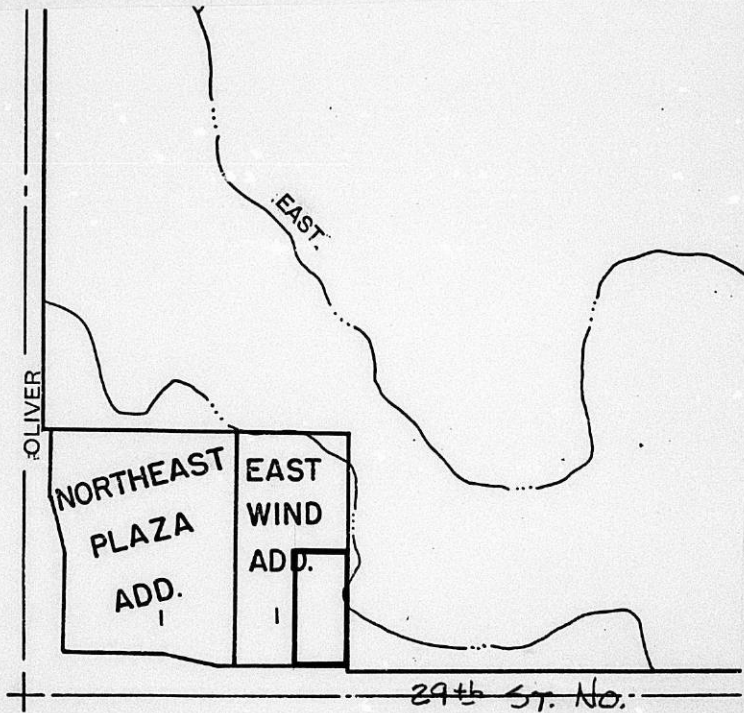
200' Sec 2-13-86  
Shot 2-27-86  
Record ✓

Map No. 5851C

BZA 75-85  
Filed \_\_\_\_\_

AREA DATA:

1. Acres: \_\_\_\_\_ ( \_\_\_\_\_ ft. by \_\_\_\_\_ t.)
2. Adjoining Zoning: E "AA" S. "AA" W "LC" N "LC"
3. Land Use: East Vacant South Vacant  
West Vacant North Vacant
4. Area (is) (~~is not~~) platted.



LOG ANGELES ARCHITECTURAL FIRM  
MEMBERSON THE NATIONAL ARCHITECTS ASSOCIATION  
U.S.A.

No. 2153C  
**Spur.**

February 5, 1986

Bill G. Yung  
8225 East 35th Street North  
Wichita, Kansas 67226

Re: BZA 75-85. On the north side of 29th Street North and east of  
Oliver (4912 East 29th Street North).

Dear Mr. Yung:

Enclosed is a signed copy of the Resolution adopted by the Board of  
Zoning Appeals on January 28, 1986.

This Resolution reflects the official action of the Board to grant, your  
request and sets out the conditions 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/lw

Enclosure

cc: Monty Robson, Superintendent of Central Inspection (2)  
Don Gisick, City Clerk

RESOLUTION CASE NO. 75-85

WHEREAS, Bill G. Yung, 8225 E. 35th Street North, Wichita, Kansas, requests a variance to eliminate the required screening fence along the east property line adjacent to a residential district on property zoned the "LC" Light Commercial District and legally described as follows:

South ½ of the East ½ of Lot 1, Eastwind Addition to Wichita, Sedgwick County, Kansas. Generally located on the north side of 29th Street North and 400 feet east of Oliver (4912 E. 29th Street North).

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 January 28, 1986, 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 it is located adjacent to a floodway and a small tract of land that is not a developable site and the screening would serve no useful purpose; 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 adjacent property is practically unusable as a building site due to the floodway that drains across the properties along the east side of the application area; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28 (Zoning Ordinance) of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as the applicant would be required to install a screening fence along a property line that is not adjacent to residential building site and would be an undue expense; 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 elimination of the screening fence would not interfere with any needed 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 screening is to provide protection to residential properties when commercial and institutional development occurs immediately adjacent, and in this case the adjacent site is not a buildable tract; 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 along the east property line adjacent to a residential district on property zoned the "LC" Light Commercial District and legally described as follows:

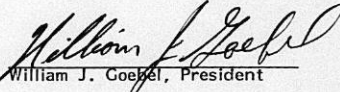
South ½ of the East ½ of Lot 1, Eastwind Addition to Wichita, Sedgwick County, Kansas. Generally located

on the north side of 29th Street North and 400 feet east  
of Oliver (4912 E. 29th Street North).

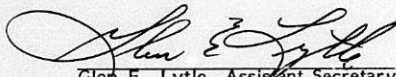
be approved subject to the following conditions:

1. Screening along the east property line shall not be required as long as a residence is not constructed within 20 feet of the application area.

ADOPTED AT WICHITA, KANSAS, this 28th day of January,  
1986.

  
William J. Goebel, President

ATTEST:

  
Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA

OFFICE OF Citizen Participation      DATE      January 8, 1986

TO      Glen Lytle, Special Assistant for Zoning

FROM      Barry L. Carroll, Administrative Aide III

SUBJECT      BZA 75-85: North side of 29th  
Street and 400 feet East of Oliver  
(4912 E. 29th Street North)

On Tuesday, January 7, CPO Council "I" considered the above captioned case, a request for a variance to eliminate the required screening fence along the east property line adjacent to a residential district on property zoned the "LC" Light Commercial District. Council members were provided the notice to adjoining property owners, a map of the area, and MAPD staff comments. After extensive discussion, the Council voted 7-0 to recommend approval of the request.

The applicant, Bill G. Yung, was present to describe the request and respond to questions from the Council members and area residents. Mr. Yung stated that he plans to build an office which will look more like a residential dwelling and that a screening wall would be unnecessary and aesthetically unpleasant.

None of the area residents nor the Council members had any objections to Mr. Yung's request.

Please provide the Council's recommendation to the Board of Zoning Appeals when Case BZA 75-85 is considered.

*Barry L. Carroll*  
Barry L. Carroll  
Administrative Aide III

BLC:dm

Noted:

*Annie K. Montgomery*  
Annie K. Montgomery  
CRS Director

RECEIVED

JAN 08 1986

METROPOLITAN PLANNING

ROUTE

# RE: AGENDA ITEM NO. 8

SECRETARY'S REPORT  
CASE NO. BZA 75-85

APPLICANT: Bill G. Yung, 8225 E. 35th St. North,  
Wichita, KS 67226.

AGENT: Same.

REQUEST: Variance pursuant to Section 2.12.590.B,  
Code of the City of Wichita, to eliminate the  
required screening fence adjacent to the east  
property line.

GENERAL LOCATION: On the north side of 29th Street North and  
east of Oliver (4912 East 29th Street North).

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

LAND USE: Subject property is being developed as the  
applicant's office. Properties in all directions  
are undeveloped in close proximity to the  
application area.

## 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 adjacent to the "AA" One-family Dwelling District. In the development of the property, the applicant has placed the building within 7 feet of the east property line and the parking lot immediately adjacent to the property line.

It should be noted that a large portion of the applicant's property along the east property line is a floodway that is 10 to 12 feet below the grade at the building. In addition, the area adjacent to the site, that is south of the floodway, is so small it will more than likely never be developed as a building site. In addition the floodway contains a fair amount of trees and natural growth that the applicant desires to maintain as a rural type setting for the office site.

It should be noted that, for an office development that is adjacent to a residential district, a 25-foot landscaped area could be provided in lieu of a screening fence. It would appear that the applicant could have designed his building to maintain such a landscaped area and not be required to request a variance. Unfortunately, the building is under construction and it is too late to revise the design.

## UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as it is located adjacent to a floodway and a small tract of land that is not a developable site and the screening would serve no useful purpose.

## 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 adjacent property is practically unusable as a building site due to the floodway that drains across the properties along the east side of the application area.

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 applicant would be required to install a screening fence along a property line that is not adjacent to residential building site and would be an undue expense.

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 fence would not interfere with any needed 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 screening is to provide protection to residential properties when commercial and institutional development occurs immediately adjacent, and in this case the adjacent site is not a buildable tract.

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. Screening along the east property line shall not be required as long as a residence is not constructed within 20 feet of the application area.

BZA CASE NO. 75-85

<u>1</u>	NOTICES SENT TO APPLICANT/AGENT
<u>15</u>	LEGAL ADVERTISEMENT SENT TO MAPC & BZA
<u>1</u>	NOTICES SENT TO CPO
<u>4</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>5</u>	TOTAL NOTICES SENT <u>1/7/86</u>

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

January 6, 1986

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 75-85

As required by law, all property owners of record, within 200 feet of a property to be considered for an exception or variance by the Board of Zoning Appeals, are to be notified of the public hearing. An application has been filed by Bill G. Yung, 8225 E. 35th Street North, 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 along the east property line adjacent to a residential district on property zoned the "LC" Light Commercial District. A legal description of the applicant's property is as follows:

South ½ of the East ½ of Lot 1, Eastwind Addition to Wichita, Sedgwick County, Kansas. Generally located on the north side of 29th Street North and 400 feet east of Oliver (4912 E. 29th Street North).

This application has been assigned Case No. BZA 75-85. It will be considered by the Board of Zoning Appeals on January 28, 1986 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.

Glen E. Lytle  
Assistant Secretary

BOARD OF ZONING APPEALS

CASE NO. 75-85

CITY OF WICHITA, KANSAS

FILED \_\_\_\_\_

APPLICATION FOR VARIANCE

I. Name of Applicant Bill G. Yung  
Mailing Address 8225 E. 35th North, Wichita, KS Phone 683-5567  
Name of Authorized Agent Bill G. Yung Design  
Mailing Address 8225 E. 35th North, Wichita, KS Phone 683-5567  
Relationship of applicant to property is that of Owner  
(Owner, Tenant, Lessee, Other)

II. The variance requested is to waive the required fence on the east  
property line adjacent to AA, (See attached map)

for property located at 4912 East 29th Street North, Wichita, Sedgwick  
County, Kansas  
and legally described as: S $\frac{1}{2}$  of E $\frac{1}{2}$  of Lot 1, Eastwind Addition, recently  
lot split

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. 39-285); and that the appropriate fee is here-with 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 \_\_\_\_\_

Authorized Agent \_\_\_\_\_

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 4:55 (a.m.p.m.), Dec 30, 1985, together with appropriate fee of 300.

Signed LC

DATE: December 31, 1985

RE: Request for variance Tract A, Lot 1, Eastwind Addition. Statement of Justification.

As per the city zoning ordinance section 2.12.590 B, the following information is submitted:

1. The variance requested arises from unusual existing conditions in that the adjacent AA zoned property is unbuildable since the land area is within a designated floodway. The nearest AA structure is approximately 1,000 feet east of the east property line. The floodway area and all property between the residence and the LC property is utilized as a horse breeding farm with all the related farm structures and fencing in place.

Additionally, the area is heavily forested and views into the floodway are very limited and visual contact with the existing AA residences is virtually impossible.

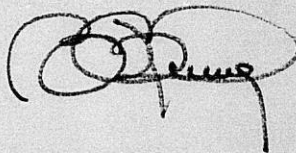
2. The granting of this variance will not adversely affect the adjacent property owner rights since development into single family residences is not possible (floodway) and the office use being constructed on the LC zoning will not in any way affect the horse breeding operation.
3. The concern of the owner of Tract A that if the wall is required, that it will adversely affect the visual quality of the development. Our reason for purchasing this site was to relate to the creek and forested area and to be able to construct and occupy an office site in a rural setting. The office has been designed and is being constructed to take visual advantage of the open space and views into this attractive natural floodway.
4. Since the use of this tract of land is for a design office, the normal trash and debris that is associated with LC developments will not exist, thereby not creating a public health, safety, moral, order, convenience, prosperity or general welfare problem. Our intent is to relate to the natural environment, not alter it or create a man-made improvement which will detract from the natural setting.
5. Granting the variance will not be opposed to the intent of Title 28, in that the proposed office structure including the requested variance represents a well controlled and organized development of our natural resources.



DATE: December 31, 1985

RE: Variance requested for waiving of screening and landscaping for east property line of Tract A, Lot 1, Eastwind Addition.

1. Zoning ordinance requires solid or semi-solid wall on east property line of above tract (Zoned LC) which is adjacent to AA zoning.
2. Requesting elimination of requirement due to unusual conditions of site.
  - a. Nearest AA residence is approximately 1,000 feet from property line.
  - b. Area between nearest residence and east property line of Tract A is a designated flood plain not permitting any additional residences to be constructed.
  - c. Existing vegetation along creek is very heavy establishing the visual barrier required. Existing vegetation establishes a much better visual screen than the requirements of the zoning ordinance could provide.



Excerpt from DP-147 ownership list.  
 Highlighted properties are within 200' of BZA 75-85  
 Page 25

BZA 75-85  
 application  
 area

Lot	Block	Addition	Property Owner
S $\frac{1}{2}$ of the E $\frac{1}{4}$ of Lot 1		East Wind Addition	Bill Yung 8225 E. 35th North Wichita, KS 67220
Lot 1 exc. the S $\frac{1}{2}$ of the E $\frac{1}{4}$		"	Frank A. Caro 330 N. Main Wichita, KS 67220 AND Alfred A. Caro 1559 Gatewood St. Wichita, KS 67206

Tract Description

application  
area

The NW $\frac{1}{4}$  of Sec. 1,  
Twp. 27, Rge. 1 East

Critchfield Real Estate Limited Partnership-1985  
434 N. Oliver  
Wichita, KS 67208

Same As Above

The W $\frac{1}{2}$  of the NE $\frac{1}{4}$  of Sec. 1, Twp. 27, Rge. 1 East

Unified School District #259  
428 S. Broadway  
Wichita, KS 67202

The E $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Sec. 1, Twp. 27, Rge. 1 East, subject to r/o/w dedicated for Woodlawn Blvd. & 29th Street North

Paul F. Holmes Estate  
c/o Edgar L. Miles  
1934 Farmstead  
Wichita, KS 67208

The E $\frac{1}{4}$  of the N $\frac{1}{2}$  of the SW $\frac{1}{4}$  of Sec. 1, Twp. 27, Rge. 1 East, except the South 177' and the West 30' for street

Fourth National Bank & Trust Company as Trustee of Dorothy M. Armour Trust  
P.O. Box 1122  
Wichita, KS 67201

The South 1139.25' of the E $\frac{1}{4}$  of the W $\frac{1}{2}$  of the SW $\frac{1}{4}$  and the East 90' of the South 467' of the W $\frac{1}{2}$  of the SW $\frac{1}{4}$  of Sec. 36, Twp. 26, Rge. 1 East

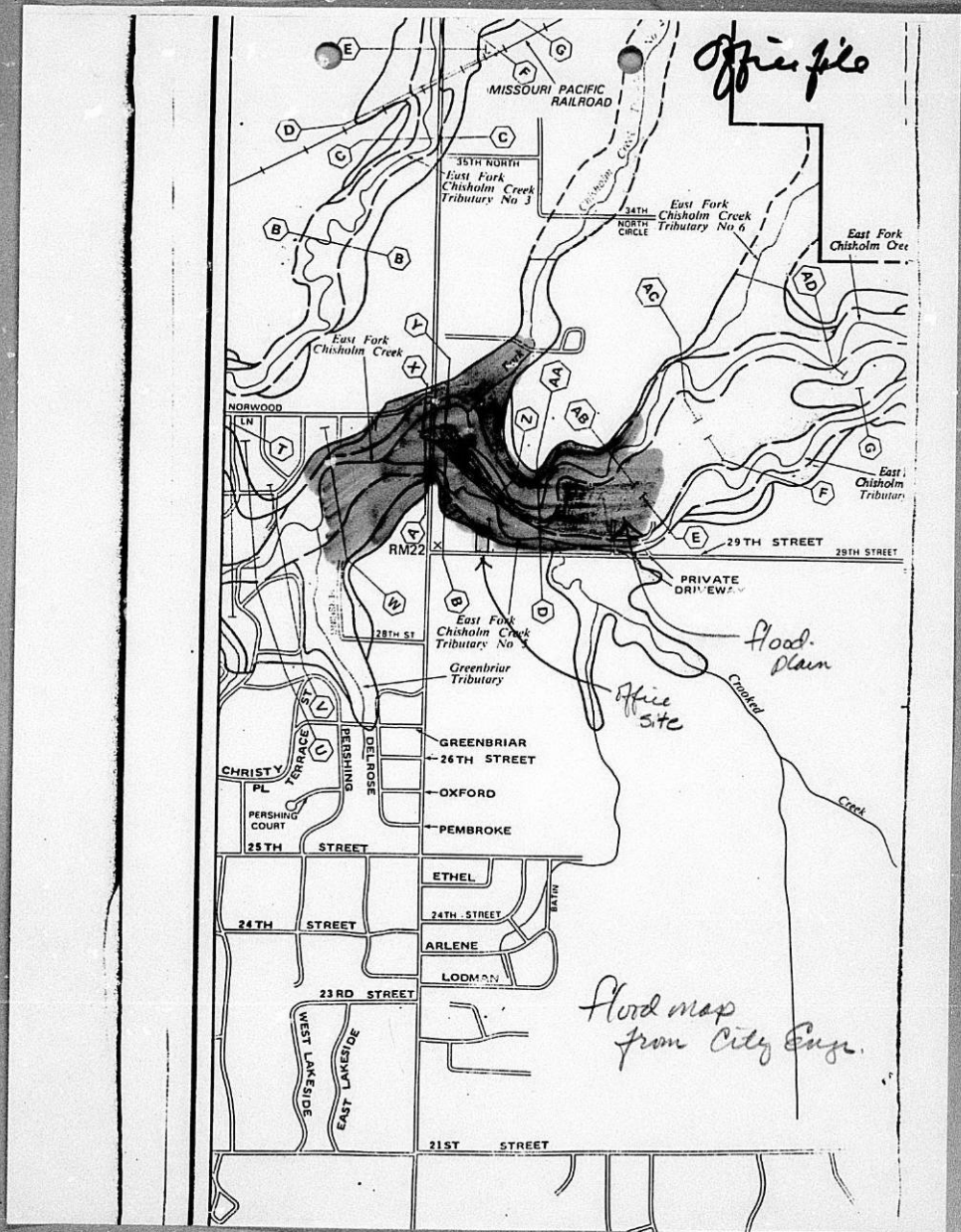
James Stoil Tasheff  
1485 Willow Road  
Wichita, KS 67208

Beginning 769.91' East of the SW/c of the E $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Sec. 36, Twp. 26, Rge. 1 East; th. North 841.5' to a point 769' East of the West line of the E $\frac{1}{4}$  of the SW $\frac{1}{4}$ ; th. East 191.8'; th. South 841.5' to a point on the South line of the SW $\frac{1}{4}$  in said Sec. 36; th. West 192.05' to p.o.b.

Beginning at the SW/c of the E $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Sec. 36, Twp. 26, Rge. 1 East; th. East 569.45'; th. North 841.5'; th. West 567.26'; th. South 841.5' to p.o.b., subject to South 40' for road.

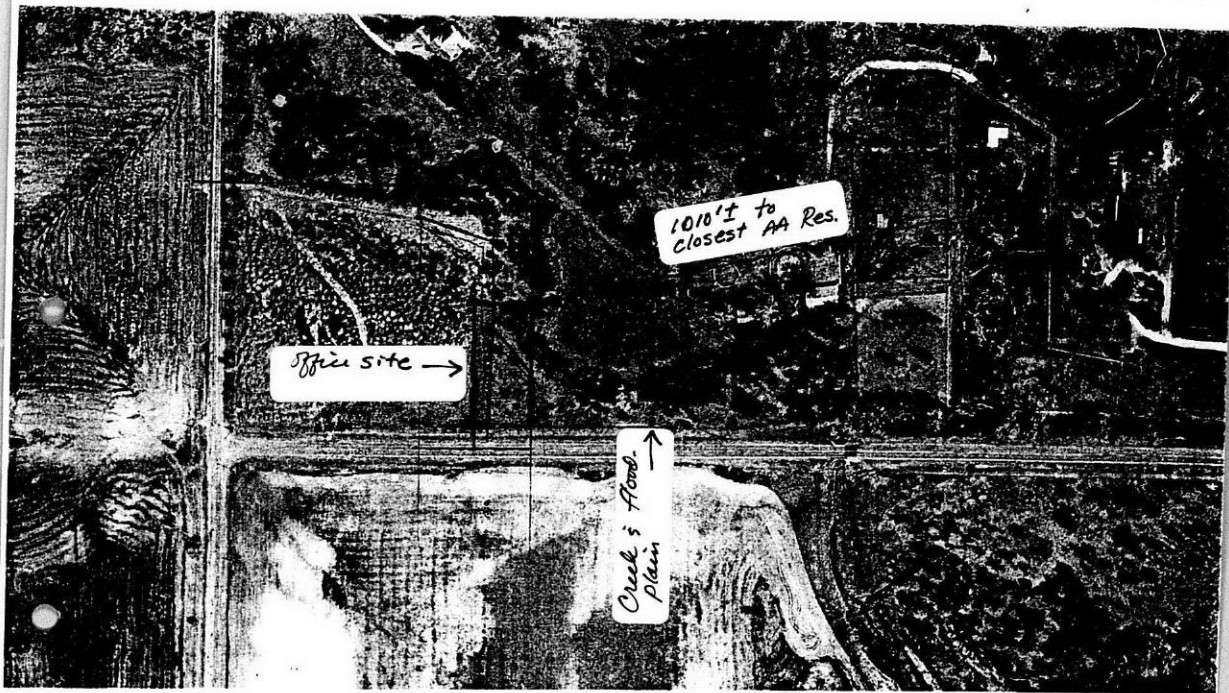
John J. Darrah Jr.  
Joy Naccarato Darrah  
5230 E. 29th St. North  
Wichita, KS 67220

Lot	Block	Addition	Property Owner
Lots 1-20, inclusive	Block 10	Greenbriar Manor	<del>James D. Rickman, et al</del> <del>Jack W. Rickman, Jr.</del> <del>Address Unknown</del> <del>107 N. Market Suite 270</del> 67220
Lot 1		Replat of Lot 1, Block 2, Greenbriar Manor	✓ <del>Cléo W. Bish</del> <del>T. Vivian Bish</del> <del>4701 Pembroke Ln.</del> <del>Wichita, KS 67220</del>
Lot 2		"	✓ <del>Oren D. Baird</del> <del>Darlene Baird</del> <del>4709 Pembroke Ln.</del> <del>Wichita, KS 67220</del>
Lot 3		"	✓ <del>Emmett L. Mullineaux</del> <del>Doris E. Mullineaux</del> <del>4200 N. Oliver</del> <del>Wichita, KS 67220</del>
Lot 4		"	✓ <del>Delmont M. Jackson</del> <del>Cleo J. Jackson</del> <del>4725 Pembroke Ln.</del> <del>Wichita, KS 67220</del>
Lot 5		"	✓ <del>Ella Margaret</del> <del>Wittman Trust</del> <del>2323 N. Woodlawn</del> <del>Wichita, KS 67220</del>
Lot 6		"	✓ <del>Paul D. Ackerman</del> <del>Betty A. Ackerman</del> <del>4726 E. 25th North</del> <del>Wichita, KS 67220</del>
Lot 7		"	? <del>Jason Adam Peridon</del> <del>Marilyn J. Peridon</del> <del>Address Unknown</del>
			Affidavit of Notice of Interest: Octavio Rolfe ✓ <del>Lula Annette Rolfe</del> <del>4706 E. 25th North</del> <del>Wichita, KS 67220</del>
Lot 9		"	✓ <del>Donald Dean McCoy</del> <del>Carolyn S. McCoy</del> <del>4620 E. 25th North</del> <del>Wichita, KS 67220</del>
Block 20		Chisholm Park Estates	✓ <del>Colby B. Sandlian</del> <del>435 N. Broadway</del> <del>Wichita, KS 67202</del>
Lot 1		Northeast Plaza Addition	✓ <del>Frank A. Caro</del> <del>Louise A. Caro</del> <del>330 N. Main</del> <del>Wichita, KS 67220</del>





MICROFILMED  
FROM THE BEST  
AVAILABLE COPY



SCALE - 1" = 200 FEET



DATE MAR, 1983

WICHITA - SEDGW

**MICROFILMED**  
**FROM THE BEST**  
**AVAILABLE COPY**

FORM 29-021      PAYMENT NOTICE  
 City of Wichita

Bldg.	Use of E.R.	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

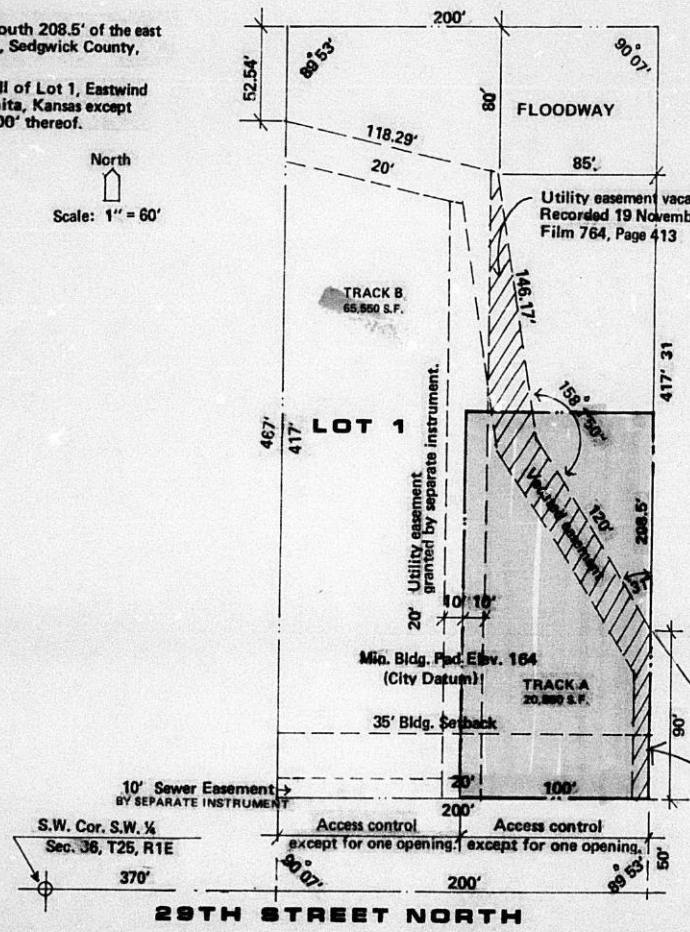
DESCRIPTION	AMOUNT
<i>City Finance</i>	
NAME <i>Bill H. [unclear]</i>	
ADDRESS <i>4225 E. 35th St 76</i>	
FUND <i>758476-113</i>	DUE DATE <i>12-31-75</i>
COMMENTS	
DATE <i>12-30-75</i>	BY <i>[unclear]</i>



Description for Track 1A - South 208.5' of the east  
 Lot 1, Eastwind Addition, Sedgwick County,  
 Kansas.

Description for Track 1B - All of Lot 1, Eastwind  
 Addition, Sedgwick County, Wichita, Kansas except  
 south 208.5' of the east 100' thereof.

North  
  
 Scale: 1" = 60'



*Divide of  
 flood plain  
 steep drop off - 10-12'*

*fence requirement  
 that I am asking  
 for a variance on.  
 frame not large  
 enough to construct  
 any additional structures  
 to the east.*

**LOT SPLIT**



date *21 Nov 85*  
 rev.

**BILL G. YUNG DESIGN**  
 8225 E. 35 TH. ST. NORTH, WICHITA, KS. 67226 316-683-8867

\*

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

Roll # 2