

Case No. BZA 1-78 - Eugene Coombs et al, request a variance for the addition of 60 square feet on the rotating sign of Wichita Inn generally located on the north side of Kellogg between Heather

*Noted
1-27-78
[Signature]*

ACTION

DATE 2-28-78

COMMITTEE Denial

BZA 1-78

COMMITTEE

M.A.P.C.

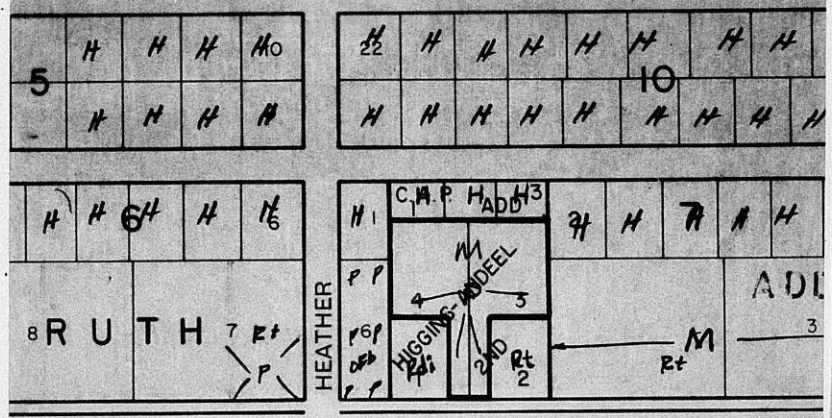
B.C.C./B. CO. C.

Map No. 6047
 Sec. 20
 Twp. R7
 Range 2E

BZA- 1-78
 SCZ- _____
 CU- _____
 Filed _____

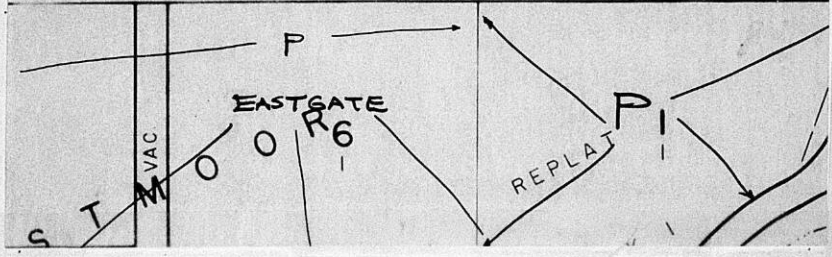
AREA DATA:
 1. Acres: 1.46 (300 (IRREGULAR) ft. by 325 ft.)
 2. Adjoining Zoning: E _____ S _____ W _____ N _____
 3. Land Use: East MOTEL South EASTGATE SHOPPING
 West PARKING LOT OFFICE BLDG. North SINGLE FARM
 4. Sketch Plan Land Use is for: _____
 5. Present Land Use if for: _____
 6. Area (is) (is not) platted.

PHOTO DATA:
 Taken by _____ Date _____ Time _____



KELLOGG

KEL



Sinal
 No. 2,153C
 HASTINGS INN - LOS ANGELES
 LOGAN OH - MARIETTA OH - TX U. S. A.

RESOLUTION NO. BZA 1-78

WHEREAS, Eugene Coombs, Harry Pollak, Lindy Andeel, John Jabara and Alfred A. Caro, 502, 120 Building, Wichita, Kansas, request a variance as provided in Section 2.12.590.B, Code of the City of Wichita to increase the gross surface area of an on-site pole sign from the permitted 150 square feet to 199 square feet; and to increase the height of the sign from the permitted 30 feet to 37 feet on property zoned the "LC" Light Commercial District and legally described as follows:

Lots 3 and 4, Higgins-Andeel 2nd Addition, Wichita, Sedgwick County, Kansas. Generally located on the north side of Kellogg in an area between Heather and Bonnie Brae (8220 East Kellogg).

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 February 28, 1978, 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 does not arise 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 in fact created by an action or actions of the property owner or the applicant inasmuch as the platting of subject property, by the very nature of the plat design, determined that the larger rear portion of subject property would be visually obscured by the two smaller front lots; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance will adversely affect the rights of adjacent property owners or residents inasmuch as there are many commercial signs located in this immediate vicinity, all of which are undoubtedly designed and placed to draw maximum public attention to themselves. To grant this variance to this applicant would not be equitable to these surrounding commercial businesses who are vying for the public's attention; 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 not constitute unnecessary hardship upon the property owners represented in the application inasmuch as they could redesign their existing sign and actually increase it in size slightly if they believe the sign does not adequately advertise their business; 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; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as a property frontage of over 250 feet would be required to permit a sign like the one proposed and this property has only 77 feet of frontage; and in the combined 300 foot frontage of this property and those on either side there are three separate pole signs; 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 not 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 increase the gross surface area of an on-site pole sign from

RESOLUTION NO. BZA 1-78

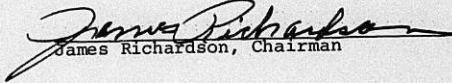
Page 2

the permitted 150 square feet to 199 square feet; and to increase the height of the sign from the permitted 30 feet to 37 feet on property zoned the "LC" Light Commercial District and legally described as follows:

Lots 3 and 4, Higgins-Andeel 2nd Addition, Wichita, Sedgwick County, Kansas. Generally located on the north side of Kellogg in an area between Heather and Bonnie Brae (8220 E. Kellogg).

be denied.

ADOPTED AT WICHITA, KANSAS, this 28th day of February, 1978.


James Richardson, Chairman

ATTEST:


Larry Dobsen, Assistant Secretary

Board of Zoning Appeals

March 22, 1978

Mr. Everett Fettis
Attorney-at-Law
504, 120 Building
Wichita, Kansas 67202

Re: Case No. BZA 1-78
Request for Variance

Dear Mr. Fettis:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on February 26, 1978, in connection with your request for a variance to increase the gross surface area of an on-site pole sign from the permitted 150 square feet to 199 square feet and to increase the height of the sign from the permitted 30 feet to 37 feet.

This Resolution sets forth the official action of the Board to deny your request. It is forwarded to you for your information and files.

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

Very truly yours,

Larry Dobson
Assistant Secretary

LD:bb

cc: Eugene Coombs, Harry Pollak, Lindy Andeel,
John Jabara, and Alfred A. Caro, 502, 120
Building, 67202
Don Gisick, City Clerk
Robert Feldner, Supt., Central Inspection
Joe Donnelly, Housing & Zoning Administrator

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE February 27, 1978

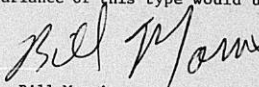
TO Larry Dobson, Secretariat, Board of Zoning Appeals

FROM Bill Morris, CPO Administrative Aide

SUBJECT BZA Case 1-78 (North Side of Kellogg
in an Area Between Heather and
Bonnie Brae)

On February 20, 1978, CPO Council Area "H" considered the captioned case. The Council voted unanimously to recommend that the proposed variance not be allowed.

It was the Council's belief that the applicant's situation does not constitute a hardship and therefore the request should be denied. Additionally, the Council was concerned that the granting of a variance of this type would undermine the intent of the sign ordinance.



Bill Morris
CPO Administrative Aide

BM:sm

Noted:

David Furnas by MP
David Furnas
Citizen Participation Coordinator

~~XXXXXXXXXXXXXXXXXXXX~~
~~XXXXXXXXXXXXXXXXXXXX~~

Tenth Floor, City Hall
455 North Main Street

March 1, 1978

Mr. Everett Fettis
Attorney-at-Law
504, 120 Building
Wichita, Kansas 67202

Re: Case No. BZA 1-78
Request for Variance

Dear Mr. Fettis:

At the regular meeting of the Board of Zoning Appeals on February 28, 1978, your request for a variance to increase the gross surface area of an on-site pole sign from the permitted 150 square feet to 198 square feet and to increase the height of the sign from the permitted 30 feet to 37 feet was considered.

It was the action of the Board to deny the request.

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy as soon as the signatures of the Chairman and Secretary have been obtained.

If you have any questions, please call our office.

Sincerely yours,

Larry Dobson
Assistant Secretary

LD:bb

cc: Eugene Coombs, Harry Pollak, Lindy Andeel,
John Jabara, and Alfred A. Caro, 502, 120
Building, 67202
Don Gialick, City Clerk
Robert Feldner, Supt., Central Inspection
Joe Donnelly, Housing & Zoning Administrator

SECRETARY'S REPORT
Case No. DZA 1-78

APPLICANT: Eugene Coombs, Harry Pollak, Lindy Andeel,
John Jabara and Alfred A. Caro, 502, 120
Building, Wichita, Kansas.

AGENT: Everett Fettis, 504, 120 Building, Wichita,
Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B,
Code of the City of Wichita, to increase
the gross surface area of an on-site pole
sign from the permitted 150 square feet
to 199 square feet; and to increase the
height of the sign from the permitted 30
feet to 37 feet.

GENERAL
LOCATION: North side of Kellogg in an area between
Heather and Bonnie Brae (8220 E. Kellogg).

ZONING: Subject property is zoned the "LC" Light
Commercial District as are those properties
to the east, west and south. North is the
"AA" Single Family development. South is
Eastgate Shopping Center. East is a
restaurant, a motel and single family
residential. West is a restaurant, an office
and single family residential.

JURISDICTION:

The Board has jurisdiction to consider the variance re-
quest 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 of the following conditions are found to exist:

1. That the variance requested 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 prop-
erty owner or the applicant.
2. That the granting of the permit for the variance will
not adversely affect the rights of adjacent property
owners or residents.
3. That the strict application of the provisions of
Title 28 of which variance is requested will constitute
unnecessary hardship upon the property owner represented
in the application.
4. That the variance desired will not adversely affect
the public health, safety, morals, order, convenience,
prosperity or general welfare; and

5. That granting the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance).

COMMENTS BY THE SECRETARY:

The applicants are requesting a variance to increase the gross surface area of an existing on-site sign from the permitted 150 square feet to 199 square feet and also to increase the height of the sign from the permitted maximum of 30 feet to 37 feet.

Subject property is a "T" shaped parcel consisting of two adjoining platted lots. The property frontage is 77 feet. This dimension extends north a distance of 145 feet where the property widens to approximately 300 feet, then continues further north for another 168 feet. A motel is developed on the wide portion of this property and the narrower 77 foot strip provides ingress/egress to the motel and is also utilized for off-street parking. Subject sign is located in the extreme southeast corner of the narrow portion of the property. On March 23, 1976, the Board of Zoning Appeals approved a variance (BZA 3-76) for these same applicants to permit the placement of the sign in its present location. The zoning ordinance required it to be placed not closer than 25 feet to any side property line, which would have interfered with on-site circulation.

In their statement of justification, the applicants contend their visibility to the public is impaired due to the fact that the motel sets back a greater distance from Kellogg than do the other commercial businesses in the area. The property adjacent to the east is developed with a restaurant which has an existing pole sign located approximately 100 feet from subject sign. The property to the west is also developed with a restaurant and has an existing pole sign located approximately 135 feet from subject sign. The motel is actually located behind the two mentioned restaurants. The existing sign reportedly contains 139 square feet of gross surface area and is 30 feet high. The applicants propose to place a 5 by 12 foot rotary panel on the top of the sign, increasing the total gross surface area to 199 square feet and increasing the height to 37 feet.

It should be noted that the Board of Zoning Appeals, in granting the variance for the location of the sign, found that it would not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare due to the fact that the sign would not encroach on public property and would otherwise be a legal sign. To now increase the size and height of the sign may contradict the reasoning in the granting of this previous variance.

SECRETARY'S REPORT
CASE NO. BZA 1-78
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It should also be noted that a rotary sign as proposed would encroach over the adjacent property to the east due to the close proximity of the existing sign to the common property line between these two properties. It is assumed that an easement or agreement would have to be established between the two property owners involved before this could be legally accomplished.

UNIQUENESS:

It is the opinion of the Secretary that it is difficult to determine that the variance requested arises from a condition unique to this property, that was not created by actions of the property owners, inasmuch as the platting of subject property, by the very nature of the plat design, determined that the larger rear portion of subject property would be visually obscured by the two smaller front lots.

ADJACENT PROPERTY:

It is the opinion of the Secretary that it is difficult to determine what affect the granting of this variance would have on the rights of adjacent property owners inasmuch as there are many commercial signs located in this immediate vicinity, all of which are undoubtedly designed and placed to draw maximum public attention to themselves. To grant this variance to this applicant may not be equitable to these surrounding commercial businesses who are vying for the public's attention.

HARDSHIP:

It is the opinion of the Secretary that it is difficult to determine that the strict application of the provisions of the zoning ordinance will constitute an unnecessary hardship upon the applicants simply because of the general nature of the development around their property which they contend obscures the sight of this business.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the variance desired may not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance desired would be opposed to the general spirit and intent of the zoning ordinance inasmuch as the amount of lot frontage and the zoning classification are the

SECRETARY'S REPORT

CASE NO. BZA 1-78

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major determining factors used to regulate the number, height and size of signs within this City. To permit a sign similar in size and height to the one proposed would require a property frontage of over 250 feet. Subject property frontage is only 77 feet. In the combined 300 foot frontage of subject property and the two adjacent properties there are three separate pole signs. To grant this variance for this small amount of frontage and in view of the close proximity of the two adjacent pole signs would, in the Secretary's opinion, be completely contrary to the spirit and intent of the ordinance.

RECOMMENDATION:

It is the opinion of the Secretary that all of the conditions necessary to the granting of a variance cannot be found to exist and therefore, it is recommended that this request be denied.

20 notices sent to applicant and/or agt. & adj. prop. owners
10 notices sent to MAPC
1 notice to CPO
31 total notices sent on BZA 1-78, 2-2-78

20
10
1

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

February 3, 1978

NOTICE TO ADJOINING PROPERTY OWNERS: Case No. BZA 1-78

An application has been filed by Eugene Coombs, Harry Pollak, Lindy Andeel, John Jabara and Alfred A. Caro, 502, 120 Building, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to increase the gross surface area of an on-site pole sign from the permitted 150 square feet to 199 square feet; and to increase the height of the sign from the permitted 30 feet to 37 feet on property zoned the "LC" Light Commercial District and legally described as follows:

Lots 3 and 4, Higgins-Andeel 2nd Addition, Wichita, Sedgwick County, Kansas. Generally located on the north side of Kellogg in an area between Heather and Bonnie Brae (8220 East Kellogg).

This application has been assigned Case No. BZA 1-78 and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, February 28, 1978, at 1:30 p.m., in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time you may appear if you so desire, 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, 269-4516.

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS

CASE NO. _____

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant Eugene Coombs, Harry Pollak, Lindy Andeel, John Jabara and Alfred A. Caro,

Mailing Address 502 120 Bldg., Wichita, Ks., 67202 phone 267-7251

Name of Authorized Agent Everett C. Fettis

Mailing Address 504 120 Bldg., Wichita, Ks., 67202 Phone 267-7251

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

II. The variance requested is the addition of sixty (60) square feet on the rotating sign of Wichita Inn. & increase height of sign

for property located 8220 East Kellogg, Wichita, Kansas, 67207,

and legally described as: Lots 3 and 4 W. B. Higgins-Andeel Second Addition to Wichita, Sedgwick County, Kansas;

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

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. 24-606); 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.

Subj. to receiving rendering and statement

Applicant

Everett C. Fettis
Authorized Agent Everett C. Fettis

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 11:50 (a.m.) - p.m.), 12-12 1977 together with appropriate fee of \$50.00.

N. Side of Kellogg between Heather & Bonnie Brae
T9-402

Larry Johnson
Signed

SPEED MESSAGE

This form available from Grayarc Co., Inc., A Subsidiary of Dictaphone Corporation, 824 Third Ave., Brooklyn, N. Y. 11232

TO L. E. Dobson
Metropolitan Area Planning
455 North Main
Wichita, Kansas 67202

FROM

EVERETT C. FETTIS
Attorney at Law
120 SOUTH MARKET, SUITE 504
WICHITA, KANSAS 67202
(316) 267-7251

SUBJECT: WICHITA INN

DATE 12 December 1977

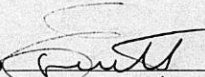
FOLD ↑

Dear Larry:

I have prepared and herewith enclose the exhibit to be attached to the BZA application for variance. I am also enclosing the rendering on the sign. If you need anything additional, please give me a call.



SIGNED


Everett C. Fettis

EXHIBIT

The attached variance is requested for the following reasons:

1. This property is located in the middle of substantial commercial development. It is surrounded by restaurants and other similar businesses, but this particular motel sets back from the street with parking in front and, consequently, is obstructed from view of traffic by virtue of those businesses that are closest to the street. Because of the development in the area, this appeal would be the only reasonable manner in which to construct the project.
2. The granting of the permit will not adversely effect the rights of adjacent property owners because of the general area and nature of the businesses in the neighborhood and the sign will not be that large.
3. The strict application of the provisions of Title 28 will constitute unnecessary hardship on the property owners because of the general nature of the development around the property which obscures the sight of this business.
4. Again, because of the general nature of the area, the variance will not effect the public health, safety, morals, order, convenience, prosperity or general welfare.
5. The general intent and spirit of the zoning ordinance will not be adversely effected because the zoning ordinance is written in such a manner as to allow exceptions to be granted where they are justified.

O W N E R S H I P L I S T

Lot	Addition	Property Owner
1	Higgins-Andeel 2nd	✓ John Clark Stevens aka J. Clark 14214 Cascade Ct. 67230
2	" " " " "	✓ James H. Stevens & Ann M. 702 N. Doreen 67206

Lots 3 & 4, Higgins-Andeel 2nd Addition, Wichita, Kansas, together with an easement for ingress and egress on the North 20 feet on Lot 6, Ruth Addition to Wichita, Sedgwick County, Kansas, and an easement for ingress and egress from driveways on Lots 1 and 2 in said Higgins-Andeel 2nd Addition, Wichita, Kansas, and rights as provided for in a document entitled Easement made and entered into the 13th day of October, 1975, by and between Harry B. Pollak and Sharley Pollak, his wife, Alfred A. Caro and Louise A. Caro, his wife, and Lindy Andeel, a single person, as parties of the first part, and Charles T. Schoenhofer and Peggy J. Schoenhofer, his wife, J. Clark Stevens and Annamarie J. Stevens, his wife, parties of the second part, and Hugh S. Stevens and Margaret Stevens, his wife, and James H. Stevens and Ann M. Stevens, his wife, parties of the third part, recorded October 14, 1975 in the office of the Register of Deeds of Sedgwick County, Kansas, on Film 161 Pages 1581 to 1584, inclusive.

D Harry B. Pollak, Alfred A. Caro
John J. Jabara , Eugene G.
Coombs, Lindy Andeel
5900 E. Central 67208

The east 125 feet of Lot 7, Ruth Addition to the City of Wichita, Sedgwick County, Kansas, excepting and reserving unto the Grantor, her heirs and assigns, a perpetual easement and right of way in common with Grantee, its successors and assigns, for ingress and egress over, on, across, and under the north 25 feet of the aforescribed real property, and still further subject to a restriction on the Grantee, its successors and assigns, that no building shall be placed on the south 50 feet of the above described real estate.

✓ Maverick Development Co. Inc.
250 N. Rock Road 67206

*not in SD
not in CD
not in phone book*

Lot 6, Block 10	Bonnie Brae Addition	✓ Donald Craig Middaugh & Helen Coleen address unknown
Lot 5, Block 10	" " " " "	✓ William D. Harrison & Clarice N. 8226 Peach Tree 67207

Lot	Addition	Property Owner
Lot 4, Block 10	Bonnie Brae	✓ Jack Pearce 8220 Peach Tree 67207
Lot 3, Block 10	" " "	✓ Irwin V. Johnson & Phyllis A. 8214 Peach Tree 67207
Lot 2, Block 10	" " "	✓ Lawrence E. Ree & Bonnie L. 8208 Peach Tree 67207
Lot 1, Block 10	" " "	✓ Robert Ripley Jr. & Lorraine P. 8202 Peach Tree 67207
Lot 9, Block 5	" " "	✓ James B. Crowe & Sharry L. 8126 Peach Tree 67207
Lot 6, Block 6	" " "	✓ Odetta C. Schnitzler 8127 Peach Tree 67207
Lot 4, Block 7	" " "	✓ Archie L. Stover - deceased Marie H. Stover 8301 Peach Tree 67207
Lot 3, Block 7	" " "	✓ Richard Alto Watson & Eva Vera 8223 Peach Tree 67207
W 90' of Lot 1, Block 7	" " "	✓ Leonard William Radermacher & La Donna 8201 Peach Tree 67207 <i>not in SD</i>
E 100' of Lot 2, Block 7	" " "	✗ Patricia Rea Dumler - add. unk. ✓ Harold R. Hall - 202 Lochinvar 67207 <i>not in CD</i>
Lot 6 together with an easement over the N 20' for ingress & egress	Ruth	✗ F.I.G. Holding Company address unknown <i>not in CD</i> <i>not in SD</i>
Lot 4	Ruth	✓ Larry Young, Executor of Estate of Ralph E. Jett, dec. 6314 E. 15th Tulsa, Okla. 74112
Lot 1	C.A.P.	D Lindy Andeel 5900 E. Central 67208
Lot 2	C.A.P.	✓ Rocco R. Barrese & Sandra 8213 Peach Tree 67207
Lot 3	C.A.P.	✓ Mary Ann Friedman 8219 Peach Tree 67207
Lot 6, Block 1	Eastmoor	✓ Levitt Jewelry Co. Inc. 7930 E. Harry 67207
Lot 1, Block 1	Replat of Block 1 Sunny-Brook Addition	D Wm. Levitt 7930 E. Harry 67207

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

200 foot radius of Lots 3 & 4, Higgins-
Andeel 2nd Addition, Wichita, Kansas,
Sedgwick County, Kansas.

as shown by the last deeds of record on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on the 7th day of December, 1977 at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE COMPANY, INC.

By

Mary Gable

Vice President

Order No. 258935

rmk

FORM 221-21

PAYMENT NOTICE
City of Wichita

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

DESCRIPTION		AMOUNT
KZA Insurance		1200
Book		
NAME		
ADDRESS		
FUND	DUE DATE	
445713		
COMMENTS		
DATE	BY	
12/17/77	L	