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HASTINGS, MINN. - LOGAN, OHIO U.S.A.

THE CITY OF WICHITA, KANSAS  
BOARD OF ZONING APPEALS  
104 SOUTH MAIN  
WICHITA, KANSAS 67202



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- Addressee unknown

*PM*

31-65

Donald R. & Barbara J. Downey  
1762 N. Fountain  
Wichita, Kansas



JRN  
ER



THE CITY OF WICHITA, KANSAS  
BOARD OF ZONING APPEALS  
104 SOUTH MAIN  
WICHITA, KANSAS 67202



*Resent to 3902 E. 17th  
8-10-65*

*3902 E. 17*

Frances Louise & Elmer C. Eflinger  
3209 East 17th St.  
Wichita, Kansas



31-65

JRN  
ER



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*Res'ed*

THE CITY OF WICHITA, KANSAS  
BOARD OF ZONING APPEALS  
104 SOUTH MAIN  
WICHITA, KANSAS 67202



*Resent to 536 N. Yale  
8-10-65*

William H. & Hedwig J. Stefeens  
536 N. Yale  
Wichita, Kansas



31-65

JRN  
ER



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*809*

BOARD OF ZONING APPEALS  
Room 402 City Building Annex  
104 South Main  
Wichita, KANSAS

August 6, 1965

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 31-65

An application has been filed by University Housing Construction, Ltd., 505 Union National Building, Wichita, Kansas, by Sidney J. Brick, Attorney, 505 Union National Building, Wichita, Kansas, pursuant to Section 2.12.590, Code of the City of Wichita, appealing from the decision of the Superintendent of Central Inspection, who has required 680 off-street parking spaces in connection with construction of a dormitory, based on the provision in the ordinance relating to fraternity and sorority houses, whereas the applicant maintains that sub-section 2.2 of Section 28.04.140, pertaining to hotel, apartment building, apartment hotel, etc. is the proper provision of the ordinance which should apply in this case. Subject property is zoned "B" and legally described as:

Lot 1, Wheatshocker Addition, in the City of Wichita,  
Sedgwick County, Kansas

Generally located at the northeast corner of 17th and  
Bluff

This application has been assigned Case No. BZA 31-65, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, August 24, 1965, at 2 p.m. in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith  
Secretary

JHG:ber

LAW OFFICES OF  
BRICK, BEATY, GLAVES AND WEIL  
505 UNION NATIONAL BUILDING  
WICHITA, KANSAS 67202

SIDNEY J. BRICK  
FRED A. BEATY  
JACK GLAVES  
EDWARD WEIL  
PAUL H. HUMANN

July 25, 1966

(310) AMHERST 4-6344

Mr. Robert A. Lakin  
Assistant Planning Director  
Metropolitan Area Planning Department  
City Building Annex  
104 S. Main  
Wichita, Kansas 67202

Re: BZA- 31-65

Dear Bob:

With reference to your letters of October 13, 1965, and June 17, 1966, and our several telephone conversations, we will need to discuss this before finalizing the resolution.

I will be out of the city the next two weeks, but hope to meet with you soon thereafter.

I much appreciate your patience.

Yours very truly,

BRICK, BEATY, GLAVES and WEIL

By *Sidney J. Brick*  
Sidney J. Brick

SJB:pw



June 17, 1966

Mr. Sidney Brick, Attorney  
505 Union National Building  
Wichita, Kansas

Dear Mr. Brick:

Re: BZA 31-65

As you requested, I have reviewed the file on the above case and I see no reason why the Board of Zoning Appeals' action should not be considered void inasmuch as no contract has ever been submitted as required by the Board, and due to the fact that building permits issued for the second unit of Wheatshocker Hall have expired and are also void. As I understand, this is in accordance with the wishes of you and your client that this be the position of the administrators in relation to this particular case.

Such action would require the existing Wheatshocker Hall to have the number of parking spaces required under the existing zoning ordinance and, further, that any new Wheatshocker Hall dorm unit constructed would have to comply with off-street parking requirements in effect at the time the building permits were issued. If you concur in this position, will you please countersign a copy of this letter as agent for University Housing Construction, Ltd., and return to this office for our files.

Sincerely yours,

Robert A. Lakin  
Assistant Planning Director

RAL:ber

cc: Glen Lytle, Superintendent of Central Inspection

---

Sidney Brick, Attorney for  
University Housing Construction, Ltd.

Russell E. McClure, City Manager

May 9, 1966

Robert A. Lakin, Assistant Planning Director

BZA 31-65 - University Housing Construction Ltd.  
Board of Zoning Appeals Appeal re Wheatshocker Hall  
17th and Bluff

Attached is a copy of the action of the Board of Zoning Appeals on the above case, as well as a copy of the "proposed" resolution making effective this change. As you will notice, one of the conditions in the motion was that an agreement be entered into between the Board of Zoning Appeals and the University Housing Construction, Ltd., providing that additional parking will be provided if the option were exercised to acquire additional land, and if the Board of Zoning Appeals, or appropriate authority as named in the agreement, made a finding that additional parking was needed. Because of the rather unique nature of this agreement, Sidney Brick agreed with me that he would attempt to prepare the initial draft of such an agreement or contract. We have discussed this several times with Mr. Brick, however, press of business on his part has apparently kept him from preparing this needed document.

As a result, the resolution has never been formally signed or forwarded to the applicants or to the Superintendent of Central Inspection. Thus, this case is not yet completed.

The Board of Zoning Appeals, in making its decision in this case, also considered the applicant's proposed second Wheatshocker Hall and made their ruling on a basis which affected and reduced the parking requirement on the second hall from both the then interpreted standard and from the new adopted standards of parking for dormitories. Glen Lytle advises me that a permit was issued for this second Wheatshocker Hall on the basis of this Board of Zoning Appeals action; however, six months have elapsed since the issuance of that permit and he considers the permit for the second Wheatshocker Hall as being void.

RAL:ber  
Attachments

BZA-31-45

SIDNEY J. BRICK  
FRED A. BEATY  
PAUL H. HUMANN

LAW OFFICES OF  
**BRICK AND BEATY**  
505 UNION NATIONAL BUILDING  
WICHITA, KANSAS 67202

AMHERST 4-6344

December 29, 1965

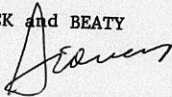
Mr. Robert A. Lakin  
Assistant Planning Director  
Metropolitan Area Planning Department  
City Building Annex  
104 S. Main Street  
Wichita, Kansas 67202

Dear Mr. Lakin:

Apparently I was mistaken, this is the only thing  
we have in our file.

Yours very truly,

BRICK and BEATY

By   
Sidney J. Brick

SJB:pw  
Enc.



October 13, 1965

Mr. Sidney J. Brick  
305 Union National Bldg.  
Wichita, Kansas

Subject: BEA 31-65 - Appeal from the Decision of the Superintendent of Central Inspection relative to the Number of Off-Street Parking Spaces required at the northeast corner of 17th Street and Bluff


Dear Mr. Brick:

Enclosed herewith is a copy of the Board of Zoning Appeals Resolution affectuating the action of the Board of Zoning Appeals relative to the above-captioned application. I would like to have you review the Resolution and submit any comments you might have to our office by Friday, October 22, 1965. I have also asked the members of the Board of Zoning Appeals to submit any comments they might have on this matter by the same date so that I may prepare the final Resolution. If we do not hear from you by October 22, I will assume that you have given your approval to this Resolution and will have it signed by the Secretary and Chairman of the Board of Zoning Appeals.

Attachment A, referred to on the last page of the Resolution, refers to the agreement that is to be worked out between the applicant and the Board of Zoning Appeals in the event it is determined that additional off-street parking spaces will be required in order to provide sufficient off-street parking facilities for the two dormitories. This agreement will be drawn up prior to the time the final Resolution is signed and forwarded to the parties concerned.

If you have any questions concerning this matter, please feel free to call.

Sincerely,

  
Robert A. Lakin  
Assistant Planning Director

RAL:JWH:bys

cc: Arthur Johnson, Jr.  
Members, Board of Zoning Appeals

SECRETARY'S REPORT

CASE NO. BZA 31-65

APPLICANT: University Housing Construction, Ltd.

AGENT: Sidney J. Brick, Attorney

REQUEST: Appeal from decision of the Office of Central Inspection

GENERAL LOCATION: Northeast corner of 17th Street and Bluff

EXISTING ZONING: "B" Multiple Family

The applicant has appealed the ruling that 680 off-street parking spaces are required for the structure at 4000 East 17th Street. This is a structure which will have a capacity for 1,030 unmarried students and 26 faculty or student families (Est. 2 persons/family = 52 persons), or a total capacity of 1,082 people, all adults.

The applicant's statement as to why he believes the decision requiring 680 off-street parking spaces to be in error is attached as Attachment A. The copy of the building permit is also submitted as Attachment B. When the building permit was issued, 680 spaces were shown on the plot plan referred to in the building permit. Even on the first submittal of plans, there were over 630 spaces shown. It is assumed that the intent of applicant was to provide this amount either on the basis that this many spaces were needed or on the basis that this was what they recognized to be the requirement.

The main contention seems to be that no specific requirement is made in the Ordinance for "dormitories." Since no such requirement is in the Ordinance, the Ordinance "may be held to be unenforceable and unconstitutional." In such instance, the applicant contends the Ordinance to be "unenforceable." However, in a spirit of cooperation, certain off-street parking is proposed to be provided - not as a requirement but as a compromise.

The applicant's contentions are correct as they relate to the existence and non-existence of terms in the Zoning Ordinance. The rules of law cited for the Board's use are also generally correct. However, the facts in each instance must govern. A closer look at the arguments of the applicant will also show that if the structure involved is not a "fraternity or sorority house and it is not a multi-family dwelling (by definition, as the applicants after being advised by this office, chose to design the structure with six people per unit instead of the allowable four), then what is it? The Zoning Ordinance, if it is to be strictly construed as it relates to off-street parking, must surely receive the same treatment as to the vital core of every zoning ordinance, its "use list" in each permitted district. Unless this structure and its use are specifically named in the Zoning Ordinance, or unless the use can

be reasonably assumed to be the same as those uses named, such permit for construction was illegally issued and the use and structure should be removed.

Those uses in Section 28.04.070.A ("B" Multiple Family) and all uses in Section 28.04.040.A ("AA" Single Family), Section 28.04.050.A ("A" Two Family) and Section 28.04.060.A ("RB" Four Family), are the only uses permitted and for which a permit can be issued. Of those uses listed, it is the Staff's opinion that only

- Boarding houses and lodging houses
- Multi-family Dwellings
- Private clubs, excepting those the chief activity of which is a service, customarily carried on as a business; and fraternity and sorority houses,

all of which are permitted in the "B" Multiple Family District, come close to being a dormitory. Boarding house is defined in the Ordinance as

"A building or place where for compensation and by pre-arrangement for definite periods, table board is provided for five or more persons, but does not furnish meals to occasional or transient customers without such previous arrangement."

Similarly, a lodging house is

"A building or place wherein lodging is provided for five or more individuals pursuant to previous arrangement and not open to transients."

The definition appears to clearly fit the type of use and structure under consideration in this appeal.

The applicant has defined a fraternity (and sorority.) ~~Common dictionary definitions are quite similar.~~ However, we cannot quite agree that the use of fraternity houses as dwelling is or was not contemplated or used primarily for dwelling purposes. Three of the ~~four fraternity houses have a substantial portion of their structure~~ in use for this purpose. Similarly, such uses are common on other campuses. The second point that the sequence of listing of off-street parking requirements is indicative of the relationship for dwelling purposes, is of doubtful validity. Note mobile homes (a type of dwelling unit) follows all uses - commercial, office, public and industrial. Mortuaries follow industrial, etc. To arrive at intent by an analysis of ordinance form after 30 years of patching, repatching and codification, is indeed tenuous.

Finally, a multi-family unit in its normal usage would be quite similar to the use proposed, e.g., sleeping, eating and bath facilities per unit. However, the applicant has made an adequate showing of why they cannot be considered as a "family." The plans also indicate that there are no "living areas" in each unit, only study area, sleeping area, combined kitchen and eating area and combined baths. Certainly not the type of multi-family configuration normally conceived of nor the type legally defined. The only way which this structure would be considered as a multi-family unit would be to either: a) reduce the occupancy to four persons per room (this is what was intended by the Ordinance to control density of population) or, b) seek a variance from the Board as to what may be counted as a family.

What would be the required parking for each of the above categories?

	<u>Standard</u>	<u>Spaces</u>
Boarding-lodging house	1 space/lodger or boarder	1,046
Multi-family dwellings		
a. 4 persons 1 DU	1 space/DU	196
b. 6 persons = 1½ DU		281

Now, the question of vagueness and whether the Superintendent of Central Inspection has been "unreasonable and arbitrary" in his enforcement provisions. The rule cited by the applicant is generally correct, but it is upon the facts of each case that the decision must be made. City and County of Denver v. Denver Buick, Inc. has been cited as a case relating to "unreasonable, ill-defined," etc. ordinances. This is probably the only major case in the country upsetting off-street parking requirements. The decision of the court was not as to vagueness, but as to whether, by requiring off-street parking for use by the public, there was a taking of land and thus unreasonable under the police power. The court held this to be true. However, there were several dissents and five separate opinions were handed down. This case, although controversial, has not been held to be a leading case, except in Colorado, and has generally been condemned by leading legal zoning authorities.

Where the questions of vagueness have been discussed, language such as a "sufficiently high ratio," "parking which is compatible with the needs of the established development of the area," have been held to be vague. In Ohio, Ex. rel Associated Land & Investment

Corp. v. City of Lyndhurst, Supreme Court of Ohio, 154 NE 2d 435, a provision requiring parking spaces "reasonably adequate for commercial vehicles necessary to carry on the business... and for the normal volume of car parking by persons coming to the premises on matter incidental to the use thereof," when the rest of the ordinance had specific requirements, e.g., one space/six seats for churches, etc. Although the Wichita Ordinance does not set out "dormitories," its requirements are specific and well defined. All major categories of land use are covered (residential, commercial, industrial and public), by specific requirements, e.g., 1 space/250 square feet, 1 space for each dwelling unit, 1 space for each lodger.

Robert M. Anderson, Professor of Law at Syracuse University, in his text "Zoning Law and Practice in New York State" page 438, submits the following:

"It should be noted that in spite of the novelty of zoning and the necessity for strict construction dictated by the impact of zoning upon common-law rights, the courts usually have construed zoning regulations with fidelity to their central purpose. They have worked with language which was vague and inexact, and have filled gaps left by hasty or inefficient draftsmen. Indeed, where construction of a zoning ordinance has impaired its purpose, such construction has been authored by an administrative body as frequently as by the courts."

The central purpose here is to provide off-street parking spaces consistent to expected demand.

This would appear, then, to bring the question to reasonableness of the Central Inspection's decision. Using the strict interpretation approach, it would appear that 1,046 spaces are required. However, the intent of off-street parking requirements is to relieve the demand for on-street parking and to eliminate traffic congestion.

Dunham's "A Legal and Economic Basis for City Planning," 58 Columbia Law Review, 650, 666, 667 (May 1958, No. 5), as reported in Rathkopf's Law of Zoning and Planning, 3rd Edition, says that:

"A regulation requiring the provision of off-street parking facilities for buildings used for those purposes which in themselves are generators of a volume of traffic or which tend to deteriorate or become municipal liabilities for lack of parking space, would fall clearly within one or more of the quoted purposes of a zoning ordinance. Nor would placing the burden of such provision upon the landowner appear to be oppressive, confiscatory, discriminatory or unreasonable since it is the landowner whose use of the premises invites and thus causes the congestion."

If, then, it is proper to require off-street parking as an element of zoning through the police power, a "reasonable interpretation" as to the number of spaces needed should be upheld if the demand for such spaces can be justified.

Inquiries to Kansas State, Kansas University and Wichita State University have produced indicators of demand for dormitories. At K-State in 1963, where off-street parking problems at a dormitory promoted an inquiry as to actual usage, it was found that of 600 boys residing in a single dorm, 400 had autos at school; a two to three ratio. In 1964, there were 6,500 car permits issued to students. Approximately 10,000 were enrolled. However, it should be noted that some students living in Manhattan with parents registered all family cars. The zoning ordinance in Manhattan requires only  $1\frac{1}{2}$  spaces per dwelling unit, with a dwelling unit equal to four students.

At Lawrence, no specific regulation figures were available. The ordinance requires  $1\frac{1}{4}$  spaces for each two students, based on estimated occupancy or  $2\frac{1}{2}$  spaces per dwelling unit (4 student maximum) whichever is greater. The University itself is not under municipal zoning control, but is reported to have as its goal for State dorms, one space for two students.

Exact figures were not available at WSU, however, estimates are available that 7,535 car permits were issued to 9,246 students for the Spring 1965 semester. In the same semester, there were 109 students out of 340 who had cars at dorms. This is an average of both boys and girls. Of the same group, 47 out of 112 boys had cars at the dorms, a significantly higher percentage than the average.

Also attached is an extract from a recent survey by the American Society of Planning Officials of newly adopted zoning ordinances. Requirements vary from 1 to 1, to 1 to 6. However, conditions vary within communities, depending on University regulations, car ownership pattern, street conditions, etc.

With the KU, KS and WSU figures running from 81% registration at WSU to 60% actual usage at K-State, a 2 space to 3 student ratio would not seem to be unreasonable. It appears that a 1 to 3 ratio (WSU combined) would be the lowest possible figure. This would not recognize the trend for higher ratios with male students nor the obvious trend to more affluent students and increased car ownership.

Failure to have adequate parking will either create congestion on the streets or drive the students to use campus parking which is needed to serve classroom concentrations. If either happen, the public will be the one to shoulder the burden of "correcting" the situation.

The Central Inspection requirement of 680 spaces approximates slightly over 1 for 2, not quite the potential high of 2 for 3, nor as low as the actual low of 1 for 3. That requested by the applicant (314 spaces approved to 680 required) does not quite reach the 1 to 3 level.

Summary

If a strict reading of the ordinance is demanded, then parking should be required on a 1 to 1 basis. However, this does not appear to be justified, based on information collected from the three schools. A more reasonable interpretation would place the requirement at the level indicated by the Superintendent of Central Inspection. The lower level, whether as a "compromise" or as a requirement for dwellings, would not appear to serve the public interest. It is recommended that the decision of the Superintendent of Central Inspection be upheld.

Attachments - A - Statement by attorney of appellant  
B - Building Permit  
C - Extract from ASPO Report 182

R E S O L U T I O N N O . B Z A 3 1 - 6 5

WHEREAS, UNIVERSITY HOUSING CONSTRUCTION LTD., 505 Union National Building, by their attorney, Sidney J. Brick, 505 Union National Building, has appealed a decision of the Superintendent of Central Inspection requiring 680 off-street parking spaces for a dormitory located on part of Lot 1, Wheatshocker Addition, generally located on the north side of 17th Street North and east of Bluff as extended from the south, all as is authorized and provided for in Section 2.12.590.1, Code of the City of Wichita, and amendments thereof; and

WHEREAS, the Board of Zoning Appeals did give proper notice by both mail and by advertisement in the official City paper; and

WHEREAS, the Board of Zoning Appeals did, in regular meeting on August 24, 1965, consider said application, and did at that time defer action until their next regular meeting on September 28, 1965; and

WHEREAS, the Board of Zoning Appeals did on September 28, 1965, at their regular meeting again consider said application; and

WHEREAS, the Board of Zoning Appeals did hear arguments and receive written briefs, reports and opinions from both the appellants, the Wichita-Sedgwick County Metropolitan Area Planning Department staff, the City Legal Department, and did hear all proponents and objectors from nearby property owners and other interested parties; and

WHEREAS, the Superintendent of Central Inspection has determined that off-street parking should be provided on the

basis of the requirement set forth in the Zoning Ordinance of the City of Wichita for "fraternity and sorority house"; and

WHEREAS, the appellant claims the Zoning Ordinance of the City of Wichita does not clearly establish requirements for off-street parking for dormitories, and further claims the decision of the Superintendent of Central Inspection to be in error; and

WHEREAS, the appellants have proposed to supply 340 off-street parking units for each of the two dormitory units to be built on this site (one of said dormitory units is the structure upon which this appeal is based) and have offered to provide additional and adequate off-street parking if needed on land to the east on which they hold an option to purchase; and

WHEREAS, the appellant owns additional land designated as "Area A" and "Area B" as shown on the plot plan on file with the Secretary.

NOW, THEREFORE, BE IT RESOLVED BY the Board of Zoning Appeals of the City of Wichita, Kansas, that the decision of the Superintendent of Central Inspection was in error, and that the appeal of University Housing Construction, Ltd. be upheld subject to the appellant providing at least the number of off-street parking spaces proposed and set forth in their brief to the Board of Zoning Appeals (340 spaces per 6-story dormitory unit with a maximum occupancy of approximately 1,020 persons per 6-story unit), provided that in addition to the parking thus provided, the applicants utilize Areas A and B for such off-street parking as may be permitted by ordinance, and provided

further, that the appellants provide additional off-street parking on land to the east on which they hold an option to purchase, provided that said option to purchase is exercised and it is determined in the manner set forth in Attachment A to this Resolution that additional off-street parking is required for dormitory structures located on Lot 1, Wheatshocker Addition. All said requirements and findings may be voided in the event and further amendment to the Zoning Ordinance of the City of Wichita, would provide for fewer spaces than required by this Resolution.

PASSED AND ADOPTED this 28th day of September, 1965.

\_\_\_\_\_  
Harold Bauer, Chairman

ATTEST:

\_\_\_\_\_  
Jack H. Galbraith, Secretary

THE CITY OF WICHITA  
OFFICE OF CENTRAL INSPECTION DIVISION

DATE December 21, 1965

*File BZA 31-65*



TO John Dekker, City Attorney  
FROM Glen E. Lytle, Superintendent of Central Inspection

SUBJECT OFFSTREET PARKING  
WHEATSHOCKER DORMITORIES  
4000 EAST SEVENTEENTH

The permit for the second dormitory to be located on the tract of land known as Lot 1, Wheatshocker Addition was based on complying with the provisions set forth in BZA case no. 31-65.

There are 903 parking spaces shown on the approved plan to be provided for the two structures. Capacity of these structures provide for 1,980 students when calculated on a basis of six students per unit in the dormitory area. There are also provided 27 apartment units in each structure.

Subtracting 54 parking spaces from the 903 total leaves 849 spaces for the dormitory occupants. This provides parking on a basis of one space for each 2.33 students at capacity.

GEL:ml

cc: Ralph Wuls  
C. Hickley Foster  
Robert Lakin



The City of Wichita

CITY BUILDING ANNEX - TELEPHONE AMBER 2-8211

WICHITA, KANSAS

*File*  
BZA-  
31-65

BOARD OF ZONING APPEALS  
Office of Secretary

October 13, 1965

Mr. Sidney J. Brick  
505 Union National Bldg.  
Wichita, Kansas

Subject: BZA 31-65 - Appeal from the Decision of the Superintendent of Central Inspection relative to the Number of Off-Street Parking Spaces required at the northeast corner of 17th Street and Bluff

Dear Mr. Brick:

Enclosed herewith is a copy of the Board of Zoning Appeals Resolution effectuating the action of the Board of Zoning Appeals relative to the above-captioned application. I would like to have you review the Resolution and submit any comments you might have to our office by Friday, October 22, 1965. I have also asked the members of the Board of Zoning Appeals to submit any comments they might have on this matter by the same date so that I may prepare the final Resolution. If we do not hear from you by October 22, I will assume that you have given your approval to this Resolution and will have it signed by the Secretary and Chairman of the Board of Zoning Appeals.

Attachment A, referred to on the last page of the Resolution, refers to the agreement that is to be worked out between the applicant and the Board of Zoning Appeals in the event it is determined that additional off-street parking spaces will be required in order to provide sufficient off-street parking facilities for the two dormitories. This agreement will be drawn up prior to the time the final Resolution is signed and forwarded to the parties concerned.

If you have any questions concerning this matter, please feel free to call.

Sincerely,

*Robert A. Lakin*

Robert A. Lakin  
Assistant Planning Director



RAL:JWH:bgs

cc: Arthur Johnson, Jr.  
Members, Board of Zoning Appeals

SECRETARY'S REPORT

CASE NO. BZA 36-65

APPLICANT: Mr. and Mrs. Harold D. Mercer, 23 Lynwood Boulevard,  
Wichita, Kansas

AGENT: James R. Vosburgh, 440 North Yale, Wichita, Kansas

REQUEST: Variance pursuant to Section 2.12.590.2 of the Code of the City of Wichita to reduce the rear yard setback requirement from 20 feet down to ten feet and a variance to reduce the required lot area requirement for three duplexes from 18,000 square feet down to 15,000 square feet.

LOCATION: Generally located on the west side of Hillcrest in an area north of Lincoln.

LAND USE: Existing - 2 duplexes; north - duplex; east - shopping center - small shops; south - fourplex; and west - single family.

ZONING: Existing - "A" Two Family; north - "A" Two Family; east - "LC" Light Commercial; south - "A" Two Family; and west - "AA" Single Family.

JURISDICTION

The Board of Zoning Appeals has jurisdiction to consider the variance requests under the provisions outlined under Section 2.12.590.2 of the Code of the City of Wichita. The Board may grant the variance requests if it can be determined that all five of the following conditions can be 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 property 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, pros-

perity or general welfare.

5. That granting the variance desired will not be opposed to the general spirit and intent of Title 25 (Zoning Ordinance).

COMMENTS BY THE SECRETARY

The applicant originally filed a request for a variance to allow a third duplex to be constructed on his property which could only be accomplished if the rear yard requirement was reduced from 20 feet down to 10 feet. (There are presently two duplexes located on the property.) At the time the Secretary reviewed the applicant's original request, it was also found that the property in question lacked 3,000 square feet of meeting the minimum lot area requirement for three duplexes. 6,000 square feet of lot area is required for each duplex which means that the applicant is required to have 18,000 square feet of lot area. Since the applicant's property contains only 15,000 square feet, he is now requesting a variance to reduce the minimum lot area requirement from 18,000 to 15,000 square feet.

The two variance requests of the applicant are now as follows:

1. Variance to reduce the rear yard setback from 20 feet down to 10 feet; and
2. Variance to reduce the minimum lot area requirement from 18,000 square feet down to 15,000 square feet.

UNIQUENESS

The applicant is contending that the variance requests are unique and are "caused simply by the requirements, regulations and ordinances of the City of Wichita, Kansas, with which these applicants have complied, in the erection of two other duplexes on said lot."

It is the opinion of the Secretary that the applicant is exactly right when he states that the variance requests are caused by the requirements contained in the Zoning Ordinance. However, this is no justification for uniqueness because everyone within the same zoning district are required to comply with the same setback and lot area requirements. In this instance, the applicant is simply wanting to overbuild his lot by constructing an additional duplex. The two duplexes now located on the property have

adequate area for off-street parking as well as adequate area for light and view. If the applicant is granted the variance requests and is allowed to construct another duplex, it would seriously hamper the intent of requiring minimum setbacks and lot area requirements which essentially is to provide for adequate air, light, view, yard area, as well as for adequate area for parking. It is also the opinion of the Secretary this situation was created by an action of the property owner inasmuch as there is sufficient lot area for two duplexes; however, the applicant's desire for a third duplex was created by his own action which has resulted in the request for two variances.

#### ADJACENT PROPERTY

It is the opinion of the Secretary that any time a piece of property is over-developed, there is a good possibility that the rights of adjacent property owners can be adversely affected, especially if additional congestion and parking problems are a result of the over-development.

#### HARDSHIP

The applicant has pointed out in the statement of justification that he will sustain a severe financial hardship if the variance requests are not granted. The Secretary has pointed out on several occasions that a financial loss has not generally been accepted by the courts as sufficient justification for hardship. The applicant can and has already utilized his property for the purpose for which it is zoned by constructing two duplexes thereon. If the two variances are granted, the applicant would only be granted a privilege that is not enjoyed by other property owners in this same zoning district.

If variances are granted for the purpose of allowing property to be over-developed, then there would appear to be no need for having minimum standards such as setbacks and lot area requirements set out in the Zoning Ordinance.

#### PURPOSE AND INTENT

The Secretary is of the opinion that the two variance requests are opposed to the general spirit and intent of the Zoning Ordinance since the setback and lot area requirements set out in the Ordinance not only provide for adequate light, air, yard area, etc., but also help to guard against the over-development of property.

Page 4 - Secretary's report  
Case No. BSA 36-65

RECOMMENDATION

Since it is very doubtful if any of the five conditions necessary to the granting of variance can be found to exist, it is the recommendation of the Secretary that this application not be approved.

October 5, 1965

University Housing Construction, Ltd.  
505 Union National Building  
Wichita, Kansas

Attention: Sidney J. Brick

Dear Mr. Brick:

Re: BZA 31-65 - Appeal from the  
decision of the Superintendent  
of Central Inspection

This is to advise you that at its regular meeting of September 28, 1965, the Board of Zoning Appeals of the City of Wichita, considered your appeal from the decision of the Superintendent of Central Inspection with respect to off-street parking requirements in connection with construction of housing facilities at the northeast corner of 17th and Bluff. The Board took the following action:

It was moved, seconded and carried that the appeal from the Superintendent of Central Inspection be granted on the condition that the appellant, the landowner herein, in addition to parking proposed to be provided as set forth in the appellant's brief to the Board, be required to utilize the two triangular sections (designated Tract A and Tract B on the copy of the building and parking site plan on file with the Secretary of the Board of Zoning Appeals) for additional parking space, and subject to an agreement between the landowner and the Board of Zoning Appeals, or other official body of the City of Wichita so authorized to act, to the effect that if additional adjacent land to the east is acquired by the landowner, and if it is determined that off-street parking as authorized by this action is inadequate, the landowner shall provide additional off-street parking spaces so that adequate parking is available.

Page 2 - University Housing Construction, Ltd.  
October 5, 1965

It should also be pointed out that you will not be able to utilize the triangle piece of property lying to the north of 18th Street until such time as the property is rezoned to a "B" Multiple Family classification. I would suggest that you file this application as soon as possible so this situation may be rectified.

A draft of the resolution effecting the action of the Board will be mailed to you, and the Board and our legal counsel. After that the formal resolution will be prepared, signed and forwarded to you.

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

Very truly yours,

Jack H. Galbraith  
Secretary

JHG:ber

cc: Glen Lytle, Superintendent  
of Central Inspection

ATTACHMENT "A"

APPEAL FROM ORDER OR DECISION OF THE  
SUPERINTENDENT OF CENTRAL INSPECTION

This appeal relates to the construction of dormitories for occupancy by Wichita State University students and faculty, which dormitories are to be located generally at the corner of 17th and Bluff, the legal description being:

Lot 1 of Wheatshocker Addition to  
the City of Wichita, Sedgwick  
County, Kansas.

The dormitory under construction is a six story structure with 170 units for unmarried students and 26 units for faculty families. Each unit includes sleeping and study areas, a kitchenette, and bath. The building is designed primarily as a multiple dwelling for university students, and includes recreation areas and a heated indoor swimming pool. At the time the building permit for the first dormitory on this location was granted, the Superintendent of Central Inspection required off street parking spaces in accordance with Sub-Section 2.8 of Section 28.04.140,A. This computes to 680 car parking spaces for the first dormitory building alone.

The appellant believes this requirement or determination by the Central Inspection Division to be in error for the following reasons:

A. The section of the zoning code used in determining the minimum number of parking spaces reads:

"2.8 Fraternity and Sorority House. One space for each two hundred fifty square feet of floor area."

"Fraternity and sorority house" is not specifically defined by the code; therefore, we must look to the general

definitions clause, Section 28.04.020 Definitions, where it states:

"Any word not defined herein or in the building code of the city shall have its usual meaning."

By no stretch of the 'magination could the appellant's dormitory be considered a "fraternity or sorority house" under the code or otherwise. A fraternity or sorority has been defined as follows:

"A 'fraternity' (or sorority) has been defined as a body of men (or women) associated for their common interest, business, or pleasure; a brotherhood; society; specifically a fraternal society, association, or order. In American colleges, a student organization, either a nationally chartered society comprising many affiliated chapters or a single chapter in one institution, formed chiefly to promote friendship and welfare among the members, and usually having secret rites and a name consisting of Greek Letters." Alpha Rho Alumni Ass'n v. City of New Brunswick, 18A(2d) 68, 126 N.J.L. 233.

Clearly under this definition or under the definition given by any commonly used dictionary, the instant project does not fit. In our opinion, the fraternity or sorority house contemplated by the code is in the nature of a group or special meeting place; a place where groups may gather socially as an organization. The code does not contemplate their use as primarily a dwelling place for students or others. This may be evidenced in two ways:

1. None of the fraternity or sorority houses at Wichita State University, nor to our knowledge any other lodges or groups in the City of Wichita which might be contemplated under this section of the code, are used primarily

for dwelling purposes. They are used instead primarily as meeting places and gathering facilities for the members of the organization.

2. The provision for fraternities or sorority houses in the code is not grouped with structures primarily used for either permanent or temporary dwelling. It is, instead, located between schools and commercial portions in the code. It is noted that the code, in an orderly manner, provides for off street parking first for dwellings of a private nature, then dwellings of a commercial nature. Commercial spots such as auditoriums, theatres and stadiums, etc., come next, followed by churches, doctor's offices and clinics, hospitals, schools (all non-dwelling type usages) finally coming to the section in question.

It is clear therefore that a mistake was made in requiring the appellant to provide off street parking under the section of the code dealing with fraternity and sorority houses.

B. The problem in the instant case arises because dormitories are not specifically provided for by the code. Therefore, it seems obvious that the requirement for off street parking should be made in accordance with a section of the code that most closely fits the contemplated structure. The fact that the dormitory is built primarily as living quarters for students who will reside there while attending Wichita State University, indicates to us that it should fall under one of the sections of the code which deal with

structures built primarily for dwelling purposes. Sub-Section 2.1 Dwelling. covers family homes and other small dwellings units. The code definition of "dwelling", eliminates dormitories from this classification.

"Families" as used in the "dwelling" definition is defined in the same section:

"FAMILY. One person living alone or two or more persons living together, related either by birth or marriage, who, together with their servants, occupy a single housekeeping unit; or a group of not more than four unrelated persons who, with their servants, occupy a single housekeeping unit. Family does not include a group occupying a club, sorority or fraternity house, etc." (Underlining added)

In the appellant's dormitories, 6 persons may be accommodated in each of the 170 housekeeping units rather than 4, and consequently do not meet the definition of "family". Again, the zoning ordinance does not actually provide for the current situation.

The term "dormitory" to our knowledge is used only once in the city zoning ordinance. It appears in the definition of multiple family dwelling, (Sec. 28.04.020 Definitions) as follows:

"DWELLING \* \* \* Multiple. A building or portion of a building having suitable accommodations for three or more families living independently of each other, who may or may not have joint use of utilities, halls, yards, etc. The term includes premises occupied more or less permanently for residential purposes in which the rooms are occupied in apartments, suites, or groups, such as apartments, dormitories, lodging houses, rooming houses, and all other dwellings, similarly occupied." (underlining added)

At first blush, it would appear dormitories properly belong under this section, but the definition of "family" quoted above prohibits the use of this section of the ordinance.

Sub-section 2.2 Hotel, apartment building, apartment hotel, club, motel. seems to most closely fit a dormitory usage.

It reads:

"One space for each housekeeping unit, suite of rooms or motel unit, plus one space for each 250 square feet of floor area or fraction thereof used for \* \* \* meeting rooms, recreational spaces \* \* \*"

Sub-Section 2.2 is based on housekeeping units, which in turn is defined in Section 28.04.020 as:

"HOUSEKEEPING UNIT. A building or a portion of a building which is occupied or intended to be occupied as a dwelling, and which has the facilities for cooking and serving meals and for sleeping quarters, and which may or may not include other rooms or facilities."

This definition fits the units being constructed in the dormitories. Each unit will contain not only sleeping and study area quarters for the persons living there, but also kitchenette facilities for cooking and serving meals.

Considering the above, it seems clear that the dormitory structure most nearly fits Section 2.2 of the off street parking ordinance. The dormitories in question are actually apartment buildings, their only distinction being that they are designed primarily for student occupancy.

C. We are indeed reluctant to challenge the determination of the Superintendent on a legal or technical ground, but we feel obligated to raise the question that the

off street parking ordinance in its application to the structure in question may be held to be unenforceable and unconstitutional. Several cases involving off street parking ordinances indicate that whenever such an ordinance is unreasonable, illdefined or unclear, in any particular application, it is unconstitutional and unenforceable.

Denver v. Denver Buick, Inc. 347 Pacific 2d 919 (Colorado, 1963); Roselle v. Wright (N.J. Super) 117 A2d 661, aff'd 122 Atlantic 2d 506.

In the case of Porporis v. City of Warson Woods 352 S.W. 2d 506 (Mo. 1962), the court said:

"It is true, as the plaintiffs suggest, that an ordinance or statute which attempts to clothe an administrative officer with arbitrary discretion without a definite standard or rule for his guidance' is unconstitutional".

The author of Zoning Law and Practices by Yokley, Vol. 2, at page 71 of the supplement Section 212, said in discussing State v. Lynnhurst, 154 N.E.2d 435 (Ohio):

"This decision clearly demonstrates that the courts are ready and willing to sustain reasonable provision for off street parking in zoning ordinances, and, in fact, in this decision, approval was given to certain of the provisions detailing criteria for off street parking, but the decision cited again indicates that those responsible for municipal zoning must 'clean up' provisions for off street parking which are vague and indefinite or they will not be sustained."  
(Underlining added)

It may well be that our zoning ordinance concerning off street parking is vague and indefinite with respect to the structure contemplated and hence, unenforceable. We are

in every sympathy with the Central Inspection Superintendent's problem to try to make the ordinance fit this case in some way, but from a legal standpoint, the classification of the structure as a fraternity or sorority house might well be within the realm of "unreasonable and arbitrary" and, therefore, unenforceable.

#### APPELLANT'S PROPOSAL

Recognizing that the ordinance does not clearly cover the factual situation and in spirit of cooperation, we suggest the following as a practical solution:

We propose that Sub-Section 2.2 of ordinance Section 28.04.140 governed. Using the formula of this section, we would be required to provide 170 parking spaces for the 170 units for unmarried student occupancy; 26 for the 26 family units, plus 33 for the 8,143 square feet of floor space used for swimming pool and other recreation areas, being lounges and TV rooms. This would provide a total of 229 parking spaces. As a practical compromise, and inasmuch as the housekeeping units can accommodate as many as 6 instead of a maximum of 4, we propose that there be added additional spaces in accordance with the following: that the additional possible 2 persons in each unit be grouped into an aggregate of 340 persons. Divide these 340 into groups of 4, as if they were in separate housekeeping units, and provide one additional parking space for each of the additional groups, or a total of 85 parking spaces resulting

in a total of 314 off street parking spaces for the dormitory. This would result in the net effect of providing the exact number of off street parking spaces required by the ordinance if the building had been so constructed into separate house-keeping units for maximum occupancy of 4 persons each.

It is submitted that this proposal is greater than that technically required, is fair and is in keeping with the spirit of the ordinance. This plan will provide approximately 1 parking space for each 3 occupants. Since the occupants will be students from out of the city it would seem reasonable that this will provide adequate parking. The proximity of the dormitory to the campus will provide education to the students within easy walking distance and should furnish a deterrent to students to bringing automobiles to school.

It should be mentioned that the present requirement of 680 spaces will exhaust practically all of the land area comprising about 10 acres, and will prevent the construction of the second contemplated building as planned. The present and contemplated structures will require a total of 628 parking spaces using the suggested formula, which would make the construction of the second building on the tract feasible and would provide for adequate off street parking.

Should the suggested proposal be accepted, it will also permit the developers to provide for at least some landscaping and open green area, which is much desirable from an ascetic stand point.

It is also suggested that our interpretation of the ordinance and our choice of sections is to be preferred

to that of the Central Inspection Superintendent in that it follows the general interpretation and purpose clause of the zoning ordinance which reads in part:

"28.04.010 Interpretation and Purpose. A. In interpreting and applying the provisions of this chapter, they shall be held to the minimum requirements for the promotion of the public safety, health, convenience, comfort, propriety, general welfare and the preservation of personal and property rights. \* \* \*"

Respectfully submitted,

UNIVERSITY HOUSING CONSTRUCTION, LTD.

By *Sidney J. Brick*  
Sidney J. Brick, its attorney

# THE CITY OF WICHITA



DEPARTMENT OF LAW  
OFFICE OF CITY ATTORNEY  
AMHERST 2-8211 — AREA CODE 316  
303 S. MAIN—WICHITA, KAN. 67202

JOHN DEKKER, DIRECTOR OF LAW AND CITY ATTORNEY

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DOUGLAS E. SHAY  
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ROBERT A. THIESSEN  
PHILLIP S. MELLOR  
RICHARD L. HONEYMAN

September 28, 1965

Board of Zoning Appeals  
City of Wichita, Kansas

Re: Case Number BZA 31-65  
University Housing Construction, Ltd.

Gentlemen:

University Housing Construction, Ltd., has appealed from a ruling by the office of Central Inspection which provided for 680 off-street parking spaces for the building located at 4000 East 17th Street, Wichita, Kansas. It is appellant's contention that only 229 off-street parking spaces should be required.

By way of back ground, it should be noted that the appellant on May 11, 1965, obtained a building permit for the erection of a "dormitory" and as a part thereof submitted a plot plan which provided for 696 off-street parking spaces. The permit, as granted, was on the basis of providing 680 off-street parking spaces. It should be noted that this application was for a dormitory, a use not specifically designated by our code. It was thus necessary for the Central Inspection Division to attempt to relate the proposed usage, i.e., dormitory, to the various use classifications set forth in the zoning code. These various usages as related to off-street parking requirements are found in 28.04.140 of the Code of the City of Wichita, Kansas, and a review thereof would place a dormitory in either sub-section 2.2 or sub-section 2.8 thereof. Sub-section 2.2 relates generally to apartment type dwellings which in turn is further limited by 28.04.020 and 18.01.020 of the Code of the City of Wichita. These last two cited ordinances limit the concept of a family to four persons which in turn limits the definition of an apartment to the occupancy of a single housing unit by not to exceed four persons. As a result of this limitation on the definition of an apartment and University Housing Construction, Ltd., proposed usage thereof, six occupants, it would properly follow that a dormitory would not come within that limited definition.

By the process of elimination then it is necessary to place



ALL-AMERICA CITY

THE CITY OF WICHITA 2

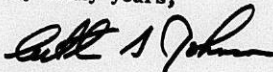
September 28, 1965

Re: Case Number BZA 31-65  
University Housing Construction, Ltd.

dormitory within the use classification of "sorority and fraternity house".

Based upon the foregoing it is my considered opinion that the office of Central Inspection was correct in the first instance and their ruling should be upheld and sustained.

Very truly yours,



Arthur G. Johnson  
Assistant City Attorney

AGJ/rm

File

Attachment "c" - Extract  
from ASPO Report No. 182

Submitted to B2A  
by S. Bouché 9-29-67  
BAC

Types of Land Uses  
requirements shown as number of parking spaces per (1) predetermined constant

City and Population (and date of zoning ordinance)	Residential Structures	Private Clubs, Lodge Halls, and Union Headquarters	Boarding, Rooming, or Lodging Houses	Dormitories, Fraternity, and Sorority Houses
Phoenix, Ariz. 439,170 (1961)	1/dwelling unit and 1/2 guest rooms	1/4 seats and 1/60 sq. ft. of floor area not having seats	1/dwelling unit, or 1/2 guest rooms 196	
Fresno, Calif. 133,929 (1960)		1/sleeping guest or member or employe	1/bed room 356	1/sleeping guest, or member, or employe 1026
Mountain View, Calif. 30,889 (1962)			1/2 guests 513	1/2 guests 513
Santa Clara, Calif. 58,880 (1960)	1/dwelling unit	1/10 seats	1/3 sleeping rooms 122	1/3 beds plus 1/4 seats in each place of assembly 352
New Haven, Conn. 152,048 (1963)	1/unit	1/3 sleeping rooms	1/2 rental sleeping rooms plus 1/owner or operator 123	1/2 beds plus 1/owner or operator plus 1/2 employes 518
Fort Lauderdale, Fla. 83,648 (1960)	1/dwelling unit	1/120 sq. ft. of assembly hall, or 1/600 sq. ft.	1/3 lodging rooms plus 1/owner or manager 190	1/3 members plus 1/manager 343
Cook County, Ill. 5,129,725 (1960)	1/dwelling unit	1/lodging room plus spaces equal to 30% of capacity in persons	2 parking spaces plus 1/2 roomers 513	1/5 residents plus 1/3 full-time employes 208
Evanston, Ill. 79,283 (1960)	1/dwelling unit plus 1/2 roomers; maximum 4/dwelling unit	2 parking spaces plus 1/2 roomers plus 1/3 employes	1/3 residents 342	1/3 residents 342
Lake County, Ill. 293,656 (1963)	1/dwelling unit or efficiency unit	1/3 persons based on designed capacity of facility	1/3 residents 342	1/3 residents 342
Cecil County, Md. 48,408 (1962)	1/dwelling unit.	1/5 members		1/5 members 205
Worcester, Mass. 186,587 (1963)	1/dwelling unit		1/2 guest sleeping rooms 183	1/4 dormitory beds 157
Minneapolis, Minn. 482,872 (1963)	1/dwelling unit	1/rooming unit plus spaces equal to 30% of capacity in persons	1/3 rooming units 122	1/3 members plus 1/manager 343
Ithaca, N. Y. 28,759 (1960)			1/rental unit 196	1/4 beds, or 1/5 members, whichever is larger 257
Abilene, Tex. 90,368 (1960)	2/single family detached; all other: 3/2 dwelling units	1/500 sq. ft. of floor area	1/guest room 366	1/3 beds 257
Seattle, Wash. 557,087 (1963)	1/dwelling unit	1/200 sq. ft. of gross floor area	1/3 sleeping rooms, or 1/6 beds, whichever is greater 342	1/3 sleeping rooms, or 1/6 beds, whichever is greater 342
Tacoma, Wash. 147,979 (1962)	1/dwelling unit	1/500 sq. ft. of floor area in excess of 3,000 sq. ft.	1/3 guest rooms or suites 122	1/3 guest rooms or suites 122
St. Clair County, Mich. (prototype 1962)	2/dwelling unit.	1/5 members		1/4 beds and 1/2 employes 262
Tulsa Area, Okla. (prototype 1963)	1/dwelling unit		1/bedroom 366	
Fox Valley, Wis. (prototype 1961)	1/dwelling unit	1/120 sq. ft. of floor area	1/2 sleeping rooms and 1/3 employes 188	1/2 sleeping rooms and 1/3 employes 188
Lorain County, Ohio (prototype 1960)	1/dwelling unit	1/2 sleeping rooms, or 1/100 sq. ft. of floor area	1/2 guest sleeping rooms 183	1/2 guest sleeping rooms 183

Summary:

172 - 196	15
205 - 262	4
342 - 366	10
513 - 518	4
1026	1
<b>TOTAL</b>	<b>34</b>

Submitted  
 9-29-65  
 by S. Brink  
 to BZA ~~etc~~  
 File

WHEATSHOCKER HALL

As of Saturday, September 25, 1965:  
 (Count taken Wednesday, Thursday and Friday)

Students residing in building:  
 Men 248  
 Women 89  
 Total 337

Number of cars brought to school by  
 above students (close estimate)  
 (includes 87 athletes who brought  
 more than 20 cars) 100 = 30%

Students residing in building:  
 Non-athletes 250  
 Athletes 87  
 Total 337

Number of men 4 to apartment 18  
 Number of women 4 to apartment 13  
 Total 4 to apartment 31

Out of 250 non-athletes 31 are 4 to apartment or 13%

On this basis total number of students anticipated  
 per building is 976

On basis of ratio of 30% cars to students,  
 parking space need is 293  
 Plus 26 faculty parking spaces 26  
 Total need 319

Present ratio of men to women students  
 is high because more windows installed  
 in men's wing. Ratio on completion  
 will be 1 to 1. Adjusting to equal  
 ratio of men to women students and  
 using recognized formula of men bring-  
 ing twice as many cars to school as  
 women, the number of parking spaces  
 needed will be:

Students 249  
 Faculty 26  
 Total 275

SECRETARY'S REPORT

CASE NO. BZA 31-65

APPLICANT: University Housing Construction, Ltd.

AGENT: Sidney J. Brick, Attorney

REQUEST: Appeal from decision of the Office of Central Inspection

GENERAL LOCATION: Northeast corner of 17th Street and Bluff

EXISTING ZONING: "B" Multiple Family

The applicant has appealed the ruling that 680 off-street parking spaces are required for the structure at 4000 East 17th Street. This is a structure which will have a capacity for 1,030 unmarried students and 26 faculty or student families (Est. 2 persons/family = 52 persons), or a total capacity of 1,082 people, all adults.

The applicant's statement as to why he believes the decision requiring 680 off-street parking spaces to be in error is attached as Attachment A. The copy of the building permit is also submitted as Attachment B. When the building permit was issued, 680 spaces were shown on the plot plan referred to in the building permit. Even on the first submittal of plans, there were over 630 spaces shown. It is assumed that the intent of applicant was to provide this amount either on the basis that this many spaces were needed or on the basis that this was what they recognized to be the requirement.

The main contention seems to be that no specific requirement is made in the Ordinance for "dormitories." Since no such requirement is in the Ordinance, the Ordinance "may be held to be unenforceable and unconstitutional." In such instance, the applicant contends the Ordinance to be "unenforceable." However, in a spirit of cooperation, certain off-street parking is proposed to be provided - not as a requirement but as a compromise.

The applicant's contentions are correct as they relate to the existence and non-existence of terms in the Zoning Ordinance. The rules of law cited for the Board's use are also generally correct. However, the facts in each instance must govern. A closer look at the arguments of the applicant will also show that if the structure involved is not a "fraternity or sorority house and it is not a multi-family dwelling (by definition, as the applicants after being advised by this office, chose to design the structure with six people per unit instead of the allowable four), then what is it? The Zoning Ordinance, if it is to be strictly construed as it relates to off-street parking, must surely receive the same treatment as to the vital core of every zoning ordinance, its "use list" in each permitted district. Unless this structure and its use are specifically named in the Zoning Ordinance, or unless the use can

be reasonably assumed to be the same as those uses named, such permit for construction was illegally issued and the use and structure should be removed.

Those uses in Section 28.04.070.A. ("B" Multiple Family) and all uses in Section 28.04.040.A ("AA" Single Family), Section 28.04.050.A ("A" Two Family) and Section 28.04.060.A ("RB" Four Family), are the only uses permitted and for which a permit can be issued. Of those uses listed, it is the Staff's opinion that only

- Boarding houses and lodging houses
- Multi-family Dwellings
- Private clubs, excepting those the chief activity of which is a service, customarily carried on as a business; and fraternity and sorority houses,

all of which are permitted in the "B" Multiple Family District, come close to being a dormitory. Boarding house is defined in the Ordinance as

"A building or place where for compensation and by pre-arrangement for definite periods, table board is provided for five or more persons, but does not furnish meals to occasional or transient customers without such previous arrangement."

Similarly, a lodging house is

"A building or place wherein lodging is provided for five or more individuals pursuant to previous arrangement and not open to transients."

The definition appears to clearly fit the type of use and structure under consideration in this appeal.

The applicant has defined a fraternity (and sorority.) Common dictionary definitions are quite similar. However, we cannot quite agree that the use of fraternity houses as dwellings is or was not contemplated or used primarily for dwelling purposes. Three of the four fraternity houses have a substantial portion of their structure in use for this purpose. Similarly, such uses are common on other campuses. The second point that the sequence of listing of off-street parking requirements is indicative of the relationship for dwelling purposes, is of doubtful validity. Note mobile homes (a type of dwelling unit) follows all uses - commercial, office, public and industrial. Mortuaries follow industrial, etc. To arrive at intent by an analysis of ordinance form after 30 years of patching, repatching and codification, is indeed tenuous.

Finally, a multi-family unit in its normal usage would be quite similar to the use proposed, e.g., sleeping, eating and bath facilities per unit. However, the applicant has made an adequate showing of why they cannot be considered as a "family." The plans also indicate that there are no "living areas" in each unit, only study area, sleeping area, combined kitchen and eating area and combined baths. Certainly not the type of multi-family configuration normally conceived of nor the type legally defined. The only way which this structure would be considered as a multi-family unit would be to either: a) reduce the occupancy to four persons per room (this is what was intended by the Ordinance to control density of population) or, b) seek a variance from the Board as to what may be counted as a family.

What would be the required parking for each of the above categories?

	<u>Standard</u>	<u>Spaces</u>
Boarding-lodging house	1 space/lodger or boarder	1,046
Multi-family dwellings		
a. 4 persons 1 DU	1 space/DU	196
b. 6 persons = 1½ DU		281

Now, the question of vagueness and whether the Superintendent of Central Inspection has been "unreasonable and arbitrary" in his enforcement provisions. The rule cited by the applicant is generally correct, but it is upon the facts of each case that the decision must be made. City and County of Denver v. Denver Buick, Inc. has been cited as a case relating to "unreasonable, ill-defined," etc. ordinances. This is probably the only major case in the country upsetting off-street parking requirements. The decision of the court was not as to vagueness, but as to whether, by requiring off-street parking for use by the public, there was a taking of land and thus unreasonable under the police power. The court held this to be true. However, there were several dissents and five separate opinions were handed down. This case, although controversial, has not been held to be a leading case, except in Colorado, and has generally been condemned by leading legal zoning authorities.

Where the questions of vagueness have been discussed, language such as a "sufficiently high ratio," "parking which is compatible with the needs of the established development of the area," have been held to be vague. In Ohio, Ex. rel Associated Land & Investment

Corp. v. City of Lyndhurst, Supreme Court of Ohio, 154 NE 2d 435, a provision requiring parking spaces "reasonably adequate for commercial vehicles necessary to carry on the business... and for the normal volume of car parking by persons coming to the premises on matter incidental to the use thereof," when the rest of the ordinance had specific requirements, e.g., one space/six seats for churches, etc. Although the Wichita Ordinance does not set out "dormitories," its requirements are specific and well defined. All major categories of land use are covered (residential, commercial, industrial and public), by specific requirements, e.g., 1 space/250 square feet, 1 space for each dwelling unit, 1 space for each lodger.

Robert M. Anderson, Professor of Law at Syracuse University, in his text "Zoning Law and Practice in New York State" page 438, submits the following:

"It should be noted that in spite of the novelty of zoning and the necessity for strict construction dictated by the impact of zoning upon common-law rights, the courts usually have construed zoning regulations with fidelity to their central purpose. They have worked with language which was vague and inexact, and have filled gaps left by hasty or inefficient draftsmen. Indeed, where construction of a zoning ordinance has impaired its purpose, such construction has been authored by an administrative body as frequently as by the courts."

The central purpose here is to provide off-street parking spaces consistent to expected demand.

This would appear, then, to bring the question to reasonableness of the Central Inspection's decision. Using the strict interpretation approach, it would appear that 1,046 spaces are required. However, the intent of off-street parking requirements is to relieve the demand for on-street parking and to eliminate traffic congestion.

Dunham's "A Legal and Economic Basis for City Planning," 58 Columbia Law Review, 650, 666, 667 (May 1958, No. 5), as reported in Rathkopf's Law of Zoning and Planning, 3rd Edition, says that:

"A regulation requiring the provision of off-street parking facilities for buildings used for those purposes which in themselves are generators of a volume of traffic or which tend to deteriorate or become municipal liabilities for lack of parking space, would fall clearly within one or more of the quoted purposes of a zoning ordinance. Nor would placing the burden of such provision upon the landowner appear to be oppressive, confiscatory, discriminatory or unreasonable since it is the landowner whose use of the premises invites and thus causes the congestion."

If, then, it is proper to require off-street parking as an element of zoning through the police power, a "reasonable interpretation" as to the number of spaces needed should be upheld if the demand for such spaces can be justified.

Inquiries to Kansas State, Kansas University and Wichita State University have produced indicators of demand for dormitories. At K-State in 1963, where off-street parking problems at a dormitory promoted an inquiry as to actual usage, it was found that of 600 boys residing in a single dorm, 400 had autos at school; a two to three ratio. In 1964, there were 6,500 car permits issued to students. Approximately 10,000 were enrolled. However, it should be noted that some students living in Manhattan with parents registered all family cars. The zoning ordinance in Manhattan requires only  $1\frac{1}{2}$  spaces per dwelling unit, with a dwelling unit equal to four students.

At Lawrence, no specific regulation figures were available. The ordinance requires  $1\frac{1}{4}$  spaces for each two students, based on estimated occupancy or  $2\frac{1}{2}$  spaces per dwelling unit (4 student maximum) whichever is greater. The University itself is not under municipal zoning control, but is reported to have as its goal for State dorms, one space for two students.

Exact figures were not available at WSU, however, estimates are available that 7,535 car permits were issued to 9,246 students for the Spring 1965 semester. In the same semester, there were 109 students out of 340 who had cars at dorms. This is an average of both boys and girls. Of the same group, 47 out of 112 boys had cars at the dorms, a significantly higher percentage than the average.

Also attached is an extract from a recent survey by the American Society of Planning Officials of newly adopted zoning ordinances. Requirements vary from 1 to 1, to 1 to 6. However, conditions vary within communities, depending on University regulations, car ownership pattern, street conditions, etc.

With the KU, KS and WSU figures running from 81% registration at WSU to 60% actual usage at K-State, a 2 space to 3 student ratio would not seem to be unreasonable. It appears that a 1 to 3 ratio (WSU combined) would be the lowest possible figure. This would not recognize the trend for higher ratios with male students nor the obvious trend to more affluent students and increased car ownership.

Failure to have adequate parking will either create congestion on the streets or drive the students to use campus parking which is needed to serve classroom concentrations. If either happen, the public will be the one to shoulder the burden of "correcting" the situation.

The Central Inspection requirement of 680 spaces approximates slightly over 1 for 2, not quite the potential high of 2 for 3, nor as low as the actual low of 1 for 3. That requested by the applicant (314 spaces approved to 680 required) does not quite reach the 1 to 3 level.

Summary

If a strict reading of the ordinance is demanded, then parking should be required on a 1 to 1 basis. However, this does not appear to be justified, based on information collected from the three schools. A more reasonable interpretation would place the requirement at the level indicated by the Superintendent of Central Inspection. The lower level, whether as a "compromise" or as a requirement for dwellings, would not appear to serve the public interest. It is recommended that the decision of the Superintendent of Central Inspection be upheld.

Attachments - A - Statement by attorney of appellant  
B - Building Permit  
C - Extract from ASPO Report 182

SECRETARY'S REPORT

CASE NO. BZA 31-65

APPLICANT: University Housing Construction, Ltd.

AGENT: Sidney J. Brick, Attorney

REQUEST: Appeal from decision of the Office of Central Inspection

GENERAL LOCATION: Northeast corner of 17th Street and Bluff

EXISTING ZONING: "B" Multiple Family

The applicant has appealed the ruling that 680 off-street parking spaces are required for the structure at 4000 East 17th Street. This is a structure which will have a capacity for 1,030 unmarried students and 26 faculty or student families (Est. 2 persons/family = 52 persons), or a total capacity of 1,082 people, all adults.

The applicant's statement as to why he believes the decision requiring 680 off-street parking spaces to be in error is attached as Attachment A. The copy of the building permit is also submitted as Attachment B. When the building permit was issued, 680 spaces were shown on the plot plan referred to in the building permit. Even on the first submittal of plans, there were over 630 spaces shown. It is assumed that the intent of applicant was to provide this amount either on the basis that this many spaces were needed or on the basis that this was what they recognized to be the requirement.

The main contention seems to be that no specific requirement is made in the Ordinance for "dormitories." Since no such requirement is in the Ordinance, the Ordinance "may be held to be unenforceable and unconstitutional." In such instance, the applicant contends the Ordinance to be "unenforceable." However, in a spirit of cooperation, certain off-street parking is proposed to be provided - not as a requirement but as a compromise.

The applicant's contentions are correct as they relate to the existence and non-existence of terms in the Zoning Ordinance. The rules of law cited for the Board's use are also generally correct. However, the facts in each instance must govern. A closer look at the arguments of the applicant will also show that if the structure involved is not a "fraternity or sorority house and it is not a multi-family dwelling (by definition, as the applicants after being advised by this office, chose to design the structure with six people per unit instead of the allowable four), then what is it? The Zoning Ordinance, if it is to be strictly construed as it relates to off-street parking, must surely receive the same treatment as to the vital core of every zoning ordinance, its "use list" in each permitted district. Unless this structure and its use are specifically named in the Zoning Ordinance, or unless the use can

be reasonably assumed to be the same as those uses named, such permit for construction was illegally issued and the use and structure should be removed.

Those uses in Section 28.04.070.A. ("B" Multiple Family) and all uses in Section 28.04.040.A ("AA" Single Family), Section 28.04.050.A ("A" Two Family) and Section 28.04.060.A ("RB" Four Family), are the only uses permitted and for which a permit can be issued. Of those uses listed, it is the Staff's opinion that only

- Boarding houses and lodging houses
- Multi-family Dwellings
- Private clubs, excepting those the chief activity of which is a service, customarily carried on as a business; and fraternity and sorority houses,

all of which are permitted in the "B" Multiple Family District, come close to being a dormitory. Boarding house is defined in the Ordinance as

"A building or place where for compensation and by pre-arrangement for definite periods, table board is provided for five or more persons, but does not furnish meals to occasional or transient customers without such previous arrangement."

Similarly, a lodging house is

"A building or place wherein lodging is provided for five or more individuals pursuant to previous arrangement and not open to transients."

The definition appears to clearly fit the type of use and structure under consideration in this appeal.

The applicant has defined a fraternity (and sorority.) Common dictionary definitions are quite similar. However, we cannot quite agree that the use of fraternity houses as dwellings is or was not contemplated or used primarily for dwelling purposes. Three of the four fraternity houses have a substantial portion of their structure in use for this purpose. Similarly, such uses are common on other campuses. The second point that the sequence of listing of off-street parking requirements is indicative of the relationship for dwelling purposes, is of doubtful validity. Note mobile homes (a type of dwelling unit) follows all uses - commercial, office, public and industrial. Mortuaries follow industrial, etc. To arrive at intent by an analysis of ordinance form after 30 years of patching, repatching and codification, is indeed tenuous.

Finally, a multi-family unit in its normal usage would be quite similar to the use proposed, e.g., sleeping, eating and bath facilities per unit. However, the applicant has made an adequate showing of why they cannot be considered as a "family." The plans also indicate that there are no "living areas" in each unit, only study area, sleeping area, combined kitchen and eating area and combined baths. Certainly not the type of multi-family configuration normally conceived of nor the type legally defined. The only way which this structure would be considered as a multi-family unit would be to either: a) reduce the occupancy to four persons per room (this is what was intended by the Ordinance to control density of population) or, b) seek a variance from the Board as to what may be counted as a family.

What would be the required parking for each of the above categories?

	<u>Standard</u>	<u>Spaces</u>
Boarding-lodging house	1 space/lodger or boarder	1,046
Multi-family dwellings		
a. 4 persons 1 DU	1 space/DU	196
b. 6 persons = 1½ DU		281

Now, the question of vagueness and whether the Superintendent of Central Inspection has been "unreasonable and arbitrary" in his enforcement provisions. The rule cited by the applicant is generally correct, but it is upon the facts of each case that the decision must be made. City and County of Denver v. Denver Buick, Inc. has been cited as a case relating to "unreasonable, ill-defined," etc. ordinances. This is probably the only major case in the country upsetting off-street parking requirements. The decision of the court was not as to vagueness, but as to whether, by requiring off-street parking for use by the public, there was a taking of land and thus unreasonable under the police power. The court held this to be true. However, there were several dissents and five separate opinions were handed down. This case, although controversial, has not been held to be a leading case, except in Colorado, and has generally been condemned by leading legal zoning authorities.

Where the questions of vagueness have been discussed, language such as a "sufficiently high ratio," "parking which is compatible with the needs of the established development of the area," have been held to be vague. In Ohio, Ex. rel Associated Land & Investment

Corp. v. City of Lyndhurst, Supreme Court of Ohio, 154 NE 2d 435, a provision requiring parking spaces "reasonably adequate for commercial vehicles necessary to carry on the business... and for the normal volume of car parking by persons coming to the premises on matter incidental to the use thereof," when the rest of the ordinance had specific requirements, e.g., one space/six seats for churches, etc. Although the Wichita Ordinance does not set out "dormitories," its requirements are specific and well defined. All major categories of land use are covered (residential, commercial, industrial and public), by specific requirements, e.g., 1 space/250 square feet, 1 space for each dwelling unit, 1 space for each lodger.

Robert M. Anderson, Professor of Law at Syracuse University, in his text "Zoning Law and Practice in New York State" page 438, submits the following:

"It should be noted that in spite of the novelty of zoning and the necessity for strict construction dictated by the impact of zoning upon common-law rights, the courts usually have construed zoning regulations with fidelity to their central purpose. They have worked with language which was vague and inexact, and have filled gaps left by hasty or inefficient draftsmen. Indeed, where construction of a zoning ordinance has impaired its purpose, such construction has been authored by an administrative body as frequently as by the courts."

The central purpose here is to provide off-street parking spaces consistent to expected demand.

This would appear, then, to bring the question to reasonableness of the Central Inspection's decision. Using the strict interpretation approach, it would appear that 1,046 spaces are required. However, the intent of off-street parking requirements is to relieve the demand for on-street parking and to eliminate traffic congestion.

Dunham's "A Legal and Economic Basis for City Planning," 58 Columbia Law Review, 650, 666, 667 (May 1958, No. 5), as reported in Rathkopf's Law of Zoning and Planning, 3rd Edition, says that:

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Attachments - A - Statement by attorney of appellant  
B - Building Permit  
C - Extract from ASPO Report 182

APPEAL FROM ORDER OR DECISION OF THE  
SUPERINTENDENT OF CENTRAL INSPECTION

This appeal relates to the construction of dormitories for occupancy by Wichita State University students and faculty, which dormitories are to be located generally at the corner of 17th and Bluff, the legal description being:

Lot 1 of Wheatshocker Addition to  
the City of Wichita, Sedgwick  
County, Kansas.

The dormitory under construction is a six story structure with 170 units for unmarried students and 26 units for faculty families. Each unit includes sleeping and study areas, a kitchenette, and bath. The building is designed primarily as a multiple dwelling for university students, and includes recreation areas and a heated indoor swimming pool. At the time the building permit for the first dormitory on this location was granted, the Superintendent of Central Inspection required off street parking spaces in accordance with Sub-Section 2.8 of Section 28.04.140,A. This computes to 680 car parking spaces for the first dormitory building alone.

The appellant believes this requirement or determination by the Central Inspection Division to be in error for the following reasons:

A. The section of the zoning code used in determining the minimum number of parking spaces reads:

"2.8 Fraternity and Sorority House. One space for each two hundred fifty square feet of floor area."

"Fraternity and sorority house" is not specifically defined by the code; therefore, we must look to the general

definitions clause, Section 28.04.020 Definitions, where it states:

"Any word not defined herein or in the building code of the city shall have its usual meaning."

By no stretch of the imagination could the appellant's dormitory be considered a "fraternity or sorority house" under the code or otherwise. A fraternity or sorority has been defined as follows:

"A 'fraternity' (or sorority) has been defined as a body of men (or women) associated for their common interest, business, or pleasure; a brotherhood; society; specifically a fraternal society, association, or order. In American colleges, a student organization, either a nationally chartered society comprising many affiliated chapters or a single chapter in one institution, formed chiefly to promote friendship and welfare among the members, and usually having secret rites and a name consisting of Greek Letters." Alpha Rho Alumni Ass'n v. City of New Brunswick, 18A(2d) 68, 126 N.J.L. 233.

Clearly under this definition or under the definition given by any commonly used dictionary, the instant project does not fit. In our opinion, the fraternity or sorority house contemplated by the code is in the nature of a group or special meeting place; a place where groups may gather socially as an organization. The code does not contemplate their use as primarily a dwelling place for students or others. This may be evidenced in two ways:

1. None of the fraternity or sorority houses at Wichita State University, nor to our knowledge any other lodges or groups in the City of Wichita which might be contemplated under this section of the code, are used primarily

for dwelling purposes. They are used instead primarily as meeting places and gathering facilities for the members of the organization.

2. The provision for fraternities or sorority houses in the code is not grouped with structures primarily used for either permanent or temporary dwelling. It is, instead, located between schools and commercial portions in the code. It is noted that the code, in an orderly manner, provides for off street parking first for dwellings of a private nature, then dwellings of a commercial nature. Commercial spots such as auditoriums, theatres and stadiums, etc., come next, followed by churches, doctor's offices and clinics, hospitals, schools (all non-dwelling type usages) finally coming to the section in question.

It is clear therefore that a mistake was made in requiring the appellant to provide off street parking under the section of the code dealing with fraternity and sorority houses.

B. The problem in the instant case arises because dormitories are not specifically provided for by the code. Therefore, it seems obvious that the requirement for off street parking should be made in accordance with a section of the code that most closely fits the contemplated structure. The fact that the dormitory is built primarily as living quarters for students who will reside there while attending Wichita State University, indicates to us that it should fall under one of the sections of the code which deal with

structures built primarily for dwelling purposes. Sub-Section 2.1 Dwelling. covers family homes and other small dwellings units. The code definition of "dwelling", eliminates dormitories from this classification.

"Families" as used in the "dwelling" definition is defined in the same section:

"FAMILY. One person living alone or two or more persons living together, related either by birth or marriage, who, together with their servants, occupy a single housekeeping unit; or a group of not more than four unrelated persons who, with their servants, occupy a single housekeeping unit. Family does not include a group occupying a club, sorority or fraternity house, etc." (Underlining added)

In the appellant's dormitories, 6 persons may be accommodated in each of the 170 housekeeping units rather than 4, and consequently do not meet the definition of "family". Again, the zoning ordinance does not actually provide for the current situation.

The term "dormitory" to our knowledge is used only once in the city zoning ordinance. It appears in the definition of multiple family dwelling, (Sec. 28.04.020 Definitions) as follows:

"DWELLING \* \* \* Multiple. A building or portion of a building having suitable accommodations for three or more families living independently of each other, who may or may not have joint use of utilities, halls, yards, etc. The term includes premises occupied more or less permanently for residential purposes in which the rooms are occupied in apartments, suites, or groups, such as apartments, dormitories, lodging houses, rooming houses, and all other dwellings, similarly occupied." (underlining added)

At first blush, it would appear dormitories properly belong under this section, but the definition of "family" quoted above prohibits the use of this section of the ordinance.

Sub-section 2.2 Hotel, apartment building, apartment hotel, club, motel. seems to most closely fit a dormitory usage.

It reads:

"One space for each housekeeping unit, suite of rooms or motel unit, plus one space for each 250 square feet of floor area or fraction thereof used for \* \* \* meeting rooms, recreational spaces \* \* \*"

Sub-Section 2.2 is based on housekeeping units, which in turn is defined in Section 28.04.020 as:

"HOUSEKEEPING UNIT. A building or a portion of a building which is occupied or intended to be occupied as a dwelling, and which has the facilities for cooking and serving meals and for sleeping quarters, and which may or may not include other rooms or facilities."

This definition fits the units being constructed in the dormitories. Each unit will contain not only sleeping and study area quarters for the persons living there, but also kitchenette facilities for cooking and serving meals.

Considering the above, it seems clear that the dormitory structure most nearly fits Section 2.2 of the off street parking ordinance. The dormitories in question are actually apartment buildings, their only distinction being that they are designed primarily for student occupancy.

C. We are indeed reluctant to challenge the determination of the Superintendent on a legal or technical ground, but we feel obligated to raise the question that the

off street parking ordinance in its application to the structure in question may be held to be unenforceable and unconstitutional. Several cases involving off street parking ordinances indicate that whenever such an ordinance is unreasonable, illdefined or unclear, in any particular application, it is unconstitutional and unenforceable.

Denver v. Denver Buick, Inc. 347 Pacific 2d 919 (Colorado, 1963); Roselle v. Wright (N.J. Super) 117 A2d 661, aff'd 122 Atlantic 2d 506.

In the case of Porporis v. City of Warson Woods 352 S.W. 2d 506 (Mo. 1962), the court said:

"It is true, as the plaintiffs suggest, that an ordinance or statute which attempts to clothe an administrative officer with arbitrary discretion without a definite standard or rule for his guidance' is unconstitutional".

The author of Zoning Law and Practices by Yokley, Vol. 2, at page 71 of the supplement Section 212, said in discussing State v. Lynnhurst, 154 N.E.2d 435 (Ohio):

"This decision clearly demonstrates that the courts are ready and willing to sustain reasonable provision for off street parking in zoning ordinances, and, in fact, in this decision, approval was given to certain of the provisions detailing criteria for off street parking, but the decision cited again indicates that those responsible for municipal zoning must 'clean up' provisions for off street parking which are vague and indefinite or they will not be sustained." (Underlining added)

It may well be that our zoning ordinance concerning off street parking is vague and indefinite with respect to the structure contemplated and hence, unenforceable. We are

in every sympathy with the Central Inspection Superintendent's problem to try to make the ordinance fit this case in some way, but from a legal standpoint, the classification of the structure as a fraternity or sorority house might well be within the realm of "unreasonable and arbitrary" and, therefore, unenforceable.

APPELLANT'S PROPOSAL

Recognizing that the ordinance does not clearly cover the factual situation and in spirit of cooperation, we suggest the following as a practical solution:

We propose that Sub-Section 2.2 of ordinance Section 28.04.140 governed. Using the formula of this section, we would be required to provide 170 parking spaces for the 170 units for unmarried student occupancy; 26 for the 26 family units, plus 33 for the 8,143 square feet of floor space used for swimming pool and other recreation areas, being lounges and TV rooms. This would provide a total of 229 parking spaces. As a practical compromise, and inasmuch as the housekeeping units can accommodate as many as 6 instead of a maximum of 4, we propose that there be added additional spaces in accordance with the following: that the additional possible 2 persons in each unit be grouped into an aggregate of 340 persons. Divide these 340 into groups of 4, as if they were in separate housekeeping units, and provide one additional parking space for each of the additional groups, or a total of 85 parking spaces resulting

in a total of 314 off street parking spaces for the dormitory. This would result in the net effect of providing the exact number of off street parking spaces required by the ordinance if the building had been so constructed into separate house-keeping units for maximum occupancy of 4 persons each.

It is submitted that this proposal is greater than that technically required, is fair and is in keeping with the spirit of the ordinance. This plan will provide approximately 1 parking space for each 3 occupants. Since the occupants will be students from out of the city it would seem reasonable that this will provide adequate parking. The proximity of the dormitory to the campus will provide education to the students within easy walking distance and should furnish a deterrent to students to bringing automobiles to school.

It should be mentioned that the present requirement of 680 spaces will exhaust practically all of the land area comprising about 10 acres, and will prevent the construction of the second contemplated building as planned. The present and contemplated structures will require a total of 628 parking spaces using the suggested formula, which would make the construction of the second building on the tract feasible and would provide for adequate off street parking.

Should the suggested proposal be accepted, it will also permit the developers to provide for at least some landscaping and open green area, which is much desirable from an ascetic stand point.

It is also suggested that our interpretation of the ordinance and our choice of sections is to be preferred

to that of the Central Inspection Superintendent in that it follows the general interpretation and purpose clause of the zoning ordinance which reads in part:

"28.04.010 Interpretation and Purpose. A. In interpreting and applying the provisions of this chapter, they shall be held to the minimum requirements for the promotion of the public safety, health, convenience, comfort, propriety, general welfare and the preservation of personal and property rights. \* \* \*"

Respectfully submitted,

UNIVERSITY HOUSING CONSTRUCTION, LTD.

By

  
\_\_\_\_\_  
Sidney J. Brick, its attorney

PERMIT NUMBER

C16123

CENTRAL INSPECTION DIVISION

CITY OF WICHITA, KANSAS  
APPLICATION FOR NON-RESIDENTIAL BUILDING PERMIT  
AND CERTIFICATE OF OCCUPANCY

APPLICATION NUMBER

No D 3635

(GROUPS A, B, C, D, E, F, G and J-3)

Form 41-213

5-11 1965

APPLICATION is hereby made for a permit to elect  
(erect, repair, remodel, wreck, add to)

a structure at 4010 E 17<sup>th</sup> Street,  
in accordance with the following description and/or with plans and specifications filed herewith and in conformity with  
all laws and ordinances pertaining thereto.

USE OR OCCUPANCY

- (A) Assembly Building (Seats 1,000 or more)
- (B) Assembly Building (Seats less than 1,000)
- (C) School Building
- (D) Hospital (Sanitarium); Institution (Jail, Asylum, etc.)
- (E) Special Hazard (Garage, Planing Mill, Mattress Factory)
- (F) Moderately Hazardous (Store, Cafe, Office, Factory, Warehouse)
- (G) Non-Hazardous (Ice Plant, Factory, Iron Works)
- (J-3) Stadium, Park Building

Previous Occupancy \_\_\_\_\_ New Occupancy Residential (186 units)

CONSTRUCTION

Extreme Dimensions: Frontage 22 1/2 Depth 232.2 Stories 4

Area: Sq. Ft. on Ground \_\_\_\_\_ Total Sq. Ft. of Floor Area \_\_\_\_\_

Foundation Walls: Reinforced Concrete  Plain Concrete  Depth of Footings \_\_\_\_\_  
Concrete Blocks  Basement Size \_\_\_\_\_

Superstructure: Skeleton Steel  Skeleton Concrete  Wall Bearing

Exterior Walls: Brick  Concrete  Metal, Wood Frame   
Partly Brick and Block or Tile  Concrete Blocks  Metal, Metal Frame   
Separate Tile  Wood Frame  Combination

Floors: Wood  Steel  Concrete  Roof Covering Concrete

Designed Floor Loading (Lbs. per Sq. Ft.): 1 \_\_\_\_\_ 2 \_\_\_\_\_ 3 \_\_\_\_\_ 4 \_\_\_\_\_ 5 \_\_\_\_\_

No. of Stairways: Bmnt. to 1st \_\_\_\_\_ 2nd to 3rd \_\_\_\_\_ 4th to 5th \_\_\_\_\_ No. of Ele-  
1st to 2nd \_\_\_\_\_ 3rd to 4th \_\_\_\_\_ vators \_\_\_\_\_

EQUIPMENT

Hot Water  Heaters: Gas  Refrigeration  Standpipes: \_\_\_\_\_  
Hot Air  Space  Coal  Air Conditioning  Wet \_\_\_\_\_  
Steam  Unit  Oil  Auto. Sprinklers  Dry \_\_\_\_\_

If repairing, remodeling, wrecking or adding to, state improvements to be made see back and  
off street parking according to plat filed

New Plumbing yes New Gas Fitting yes Is work being done under  
New Electrical Work yes contract? \_\_\_\_\_

VALUE OF IMPROVEMENTS

Applicant's Estimate \$ 111,900.00 Total Adjusted Square Feet \_\_\_\_\_

OWNER Millard Seldin Address 11929 = 9<sup>th</sup> Street

BUILDER University Housing Const. Address 422 E 17<sup>th</sup> Street

TENANT \_\_\_\_\_ Address \_\_\_\_\_

DESIGNER Farrell Skotone Address \_\_\_\_\_  
(Sign Below)

Licensed Contractor \_\_\_\_\_ Owner \_\_\_\_\_

By \_\_\_\_\_ Authorized Representative \_\_\_\_\_ By \_\_\_\_\_ Agent \_\_\_\_\_

CENTRAL INSPECTION DIVISION RECORD

Zoning Dist. AA A RB B LC Permit Refused Because \_\_\_\_\_

C D E F Permit Held Up for \_\_\_\_\_

Fire Zone 1 2 3 4 Application Taken by \_\_\_\_\_

Attachment "C" - Extract  
from ASPO Report No. 182

Types of Land Uses  
requirements shown as number of parking spaces per ( / ) predetermined constant

City and Population (and date of zoning ordinance)	Residential Structures	Private Clubs, Lodge Halls, and Union Headquarters	Boarding, Rooming, or Lodging Houses	Dormitories, Fraternity, and Sorority Houses
Phoenix, Ariz. 439,170 (1961)	1/dwelling unit and 1/2 guest rooms	1/4 seats and 1/60 sq. ft. of floor area not having seats	1/dwelling unit, or 1/2 guest rooms	
Fresno, Calif. 133,929 (1960)		1/sleeping guest or member or employee		1/sleeping guest, or member, or employee
Mountain View, Calif. 30,889 (1962)			1/bedroom	
Santa Clara, Calif. 58,880 (1960)	1/dwelling unit	1/10 seats	1/2 guests	1/2 guests
New Haven, Conn. 152,048 (1963)	1/unit	1/3 sleeping rooms	1/3 sleeping rooms	1/3 beds plus 1/4 seats in each piece of assembly
Fort Lauderdale, Fla. 83,648 (1960)	1/dwelling unit	1/120 sq. ft. of assembly hall, or 1/600 sq. ft.	1/2 rental sleeping rooms plus 1/owner or operator	1/2 beds plus 1/owner or operator plus 1/2 employees
Cook County, Ill. 5,129,725 (1960)	1/dwelling unit	1/lodging room plus spaces equal to 30% of capacity in persons	1/3 lodging rooms plus 1/owner or manager	1/3 members plus 1/manager
Evanston, Ill. 79,283 (1960)	1/dwelling unit plus 1/2 roomers; maximum 4/dwelling unit	2 parking spaces plus 1/2 roomers plus 1/3 employees	2 parking spaces plus 1/2 roomers	1/5 residents plus 1/3 full-time employees
Lake County, Ill. 293,656 (1963)	1/dwelling unit or efficiency unit	1/3 persons based on designed capacity of facility	1/3 residents	1/3 residents
Cecil County, Md. 48,408 (1962)	1/dwelling unit	1/5 members		1/5 members
Worcester, Mass. 186,587 (1963)	1/dwelling unit		1/2 guest sleeping rooms	1/4 dormitory beds
Minneapolis, Minn. 482,872 (1963)	1/dwelling unit	1/rooming unit plus spaces equal to 30% of capacity in persons	1/3 rooming units	1/3 members plus 1/manager
Ithaca, N. Y. 28,799 (1960)			1/rental unit	1/4 beds, or 1/5 members, whichever is larger
Arlene, Tex. 90,368 (1960)	2/single family detached; all other: 3/2 dwelling units	1/500 sq. ft. of floor area	1/guest room	1/3 beds
Seattle, Wash. 557,087 (1963)	1/dwelling unit	1/200 sq. ft. of gross floor area	1/3 sleeping rooms, or 1/6 beds, whichever is greater	1/3 sleeping rooms, or 1/6 beds, whichever is greater
Tacoma, Wash. 147,979 (1962)	1/dwelling unit	1/500 sq. ft. of floor area in excess of 3,000 sq. ft.	1/3 guest rooms or suites	1/3 guest rooms or suites
St. Clair County, Mich. (prototype 1962)	2/dwelling unit.	1/5 members		1/4 beds and 1/2 employees
Tulsa Area, Okla. (prototype 1963)	1/dwelling unit		1/bedroom	
Fox Valley, Wis. (prototype 1961)	1/dwelling unit	1/120 sq. ft. of floor area	1/2 sleeping rooms and 1/3 employees	1/2 sleeping rooms and 1/3 employees
Lorain County, Ohio (prototype 1960)	1/dwelling unit	1/2 sleeping rooms, or 1/100 sq. ft. of floor area	1/2 guest sleeping rooms	1/2 guest sleeping rooms

CORRECTED NOTICE

BOARD OF ZONING APPEALS  
Room 402 City Building Annex  
104 South Main  
Wichita, Kansas

September 7, 1965

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 31-65

An application has been filed by University Housing Construction, Ltd., 505 Union National Building, Wichita, Kansas, by Sidney J. Brick, Attorney, 505 Union National Building, Wichita, Kansas, pursuant to Section 2.12.590, Code of the City of Wichita, appealing from the decision of the Superintendent of Central Inspection, who has required 680 off-street parking spaces in connection with construction of a dormitory, based on the provision in the ordinance relating to fraternity and sorority houses, whereas the applicant maintains that sub-section 2.2 of Section 28.04.140, pertaining to hotel, apartment building, apartment hotel, etc., is the proper provision of the ordinance which should apply in this case. Subject property is zoned "B" and legally described as:

Lot 1, Wheatshocker Addition, in the City of Wichita, Sedgwick County, Kansas.

Generally located at the northeast corner of 17th and Bluff.

This application has been assigned Case No. BZA 31-65, and will be reconsidered by the Board of Zoning Appeals at its meeting on Tuesday, September 28, 1965, at 2 p.m. in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith  
Secretary

JHG:ber

CORRECTED NOTICE

22 mailed 9-7-65 + PC

CORRECTED NOTICE

BOARD OF ZONING APPEALS  
Room 402 City Building Annex  
104 South Main  
Wichita, Kansas

September 7, 1965

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 31-65

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Lot 1, Wheatshaker Addition, in the City of Wichita,  
Sedgewick County, Kansas.

Generally located at the northeast corner of 17th  
and Bluff.

This application has been assigned Case No. BZA 31-65, and will be reconsidered by the Board of Zoning Appeals at its meeting on Tuesday, September 28, 1965, at 2 p.m. in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Gulbraith  
Secretary

JHG:bar

CORRECTED NOTICE

**BOARD OF ZONING APPEALS**  
Room 402 City Building Annex  
104 South Main  
Wichita, Kansas

25

September 3, 1965

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 31-65

An application has been filed by University Housing Construction, Ltd., 505 Union National Building, Wichita, Kansas, by Sidney J. Brick, Attorney, 505 Union National Building, Wichita, Kansas, pursuant to Section 2.12.590, Code of the City of Wichita, appealing from the decision of the Superintendent of Central Inspection, who has required 680 off-street parking spaces in connection with construction of a dormitory, based on the provision in the ordinance relating to fraternity and sorority houses, whereas the applicant maintains that sub-section 2.2 of Section 28.04.140, pertaining to hotel, apartment building, apartment hotel, etc. is the proper provisions of the ordinance which should apply in this case. Subject property is zoned "B" and legally described as:

Lot 1, Wheatshocker Addition, in the City of Wichita,  
Sedgwick County, Kansas.

Generally located at the northeast corner of 17th  
17th and Bluff.

This application has been assigned Case No. BZA 31-65, and will be reconsidered by the Board of Zoning Appeals at its meeting on Tuesday, September 2, 1965, at 2 p.m. in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith  
Secretary

JHG:ber

22 notices mailed 9-3-65

15

BOARD OF ZONING APPEALS  
Room 402 City Building Annex  
104 South Main  
Wichita, Kansas

September 3, 1965

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 31-65

An application has been filed by University Housing Construction, Ltd., 505 Union National Building, Wichita, Kansas, by Sidney J. Brick, Attorney, 505 Union National Building, Wichita, Kansas, pursuant to Section 2.12.590, Code of the City of Wichita, appealing from the decision of the Superintendent of Central Inspection, who has required 680 off-street parking spaces in connection with construction of a dormitory, based on the provision in the ordinance relating to fraternity and sorority houses, whereas the applicant maintains that sub-section 2.2 of Section 28.04.140, pertaining to hotel, apartment building, apartment hotel, etc. is the proper provisions of the ordinance which should apply in this case. Subject property is zoned "B" and legally described as:

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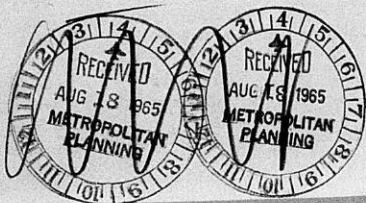
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Jack H. Galbraith  
Secretary

JHG:ber

Gardner  
Lingquist  
Fred Suderman  
L.V. Berg

noticed sent  
8-13-65



ORDINANCE NO. 3431

AN ORDINANCE AMENDING ORDINANCE NO. 3378 OF THE CITY OF LAWRENCE, KANSAS, WHICH ORDINANCE IS SUPPLEMENTAL TO THE ZONING ORDINANCE OF THE CITY OF LAWRENCE, ORDINANCE NO. 2227, RELATIVE TO C-1 DISTRICTS (APARTMENT --DORMITORY, ETC.); ESTABLISHING PERMITTED USES AND ACCESSORY USES; PROVIDING LOT, YARD, AND HEIGHT REGULATIONS, OFF-STREET LOADING AND PARKING REGULATIONS; AND REPEALING SAID ORIGINAL ORDINANCE RELATIVE TO C-1 DISTRICTS AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH.



BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAWRENCE, KANSAS:

That after study and report of the City Planning Commission of the City of Lawrence, Kansas, and after proper notice and hearing relating to a proposed amendment of Ordinance no. 3378 relating to C-1 Apartment Districts, the same being part of the Zoning Ordinance of the City of Lawrence, Ordinance No. 2227, said Ordinance No. 3378 is amended as hereinafter set forth.

SECTION I: The following definitions are set forth herein to aid in the interpretation of this Ordinance:

Accessory Building - A subordinate building, the use of which is clearly incidental to or customarily found in connection with, and located on the same lot or parcel of land as the main building or principal use of the land.

Accessory Use - A use which is clearly incidental to the principal use; conducted primarily for the convenience of the resident occupants of the building and does not involve a commercial activity that caters to the general public.

Fraternity, sorority, dormitory-type residence hall - A building occupied as the more or less temporary abiding place of individuals who are lodged with or without meals and in which there are more than twelve sleeping rooms, and no provisions for cooking in the individual rooms. As such, the rooms are let on a weekly or monthly basis or for a greater period of time and are not available to the general public on a nightly basis as distinguished from a hotel. Ingress to and egress from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. General kitchen and eating facilities may be provided for the primary use of the occupants of the building, provided the main entrance to these facilities is from within the building.

Dwelling Unit - One room or a suite of two or more rooms, designed for or used by one family unit for living and sleeping purposes and having only one kitchen or kitchenette.

Family Unit - One or more persons occupying a single dwelling unit and using common kitchen facilities, provided that unless all members are related by blood, marriage or legal adoption, no such family shall contain more than four persons.

Living Unit - One or more rooms designed for or used by not more than four persons for living and sleeping purposes and not having a kitchen or kitchenette.

SECTION II: PURPOSE: The C-1 District is designed to provide areas for high population density. The District is intended to permit the development of land for multiple family dwellings and dormitory-type residence halls in properly planned and centrally located areas in a residential environment.

SECTION III: PERMITTED USES: In the C-1 District no building, structure or land shall be used and no building or structure shall be hereafter erected, constructed, reconstructed or altered except for the following uses:

1. Fraternity, sorority, or dormitory-type residence hall.
2. Multiple-family dwelling.
3. Accessory buildings.
4. Accessory uses, provided that (1) there shall be no window display or sign outside the building to advertise such use, and (2) there shall be not outside entrances to any accessory uses located within the main building.

SECTION IV: LOT, YARD AND HEIGHT REGULATIONS: No lot or yard shall be established or reduced in area or dimension in the C-1 District that does not meet the minimum requirements set forth herein. No building or structure shall be erected or enlarged that will cause the maximum height regulations to be exceeded as set forth herein.

Subsection "A": Lot Regulations:

Minimum Lot Area - 10,000 square feet.

Minimum Lot Width at building line - 75 feet.

Minimum Lot Depth - 117 feet.

Minimum Lot Area Per Family Unit - 1,000 square feet.

Minimum Lot Area Per Living Unit - 800 square feet.

Whenever a roof garden or top floor is provided and designed especially as open space to be utilized as a yard or patio, one-third of such area may be counted and added to the lot area for the purpose of computing lot area requirements per family unit or living unit.

Whenever the first story of a building is essentially open on all sides so that the first floor level is supported by structural columns at least eight feet above the average ground level and the general appearance of the building is such that at ground elevation the area is landscaped and is actually used for open yard or off-street parking space, three-fourths of such area so utilized may be counted and added to the lot area for the purpose of computing lot area requirements per family unit or living unit.

Subsection "B": Yard Regulations:

Front Yard: The minimum front yard shall be 25 feet, provided that when a building exceeds 40 feet in height the required front yard shall be increased so that no part

of the building shall penetrate a bulk plane with its base at the center line of the street abutting the front yard and extending at an angle of 60 degrees from the horizontal. In no case shall the front yard be less than 25 feet. Where a building site has two or more street frontages the property owner shall choose one frontage for the front yard and all other yards shall abide by the rear and side yard requirements set forth herein.

**Rear Yard:** The minimum rear yard shall be 20 feet, provided that when a building exceeds 40 feet in height the required rear yard shall be increased an additional one-half foot for each additional foot of building height.

**Side Yard:** The minimum side yard shall be 15 feet, provided that when a building exceeds 40 feet in height the required side yard shall be increased an additional one-half foot for each additional foot of building height.

Subsection "C": Height Regulations:

The maximum building height shall be 100 feet.

SECTION V: OFF-STREET LOADING AND PARKING REGULATIONS:

At the time any building or structure is erected, enlarged, or increased in capacity, there shall be provided, maintained and reserved off-street loading and parking spaces and access drives as set forth below:

Subsection "A": Required off-street loading:

Fraternity, Sorority, or dormitory-type residence hall - one off-street loading space not less than 10 feet in width, 35 feet in length and 14 feet in height.

Subsection "B": Required off-street parking:

Multiple Family dwellings - one and one-third off-street parking spaces per dwelling unit.

Fraternities, sororities, dormitory-type residence halls - one and one-fourth off-street parking spaces for each two occupants, or two and one-half parking spaces per living unit, whichever is greater.

Subsection "C": Required Access Drives:

All off-street loading and parking spaces shall be connected to a public street or alley with an access drive of not less than 10 feet in width.

Subsection "D": Location of Off-street Loading and Parking:

Off-street loading and parking spaces may not be located in the required front yard, but may occupy all or any part of the required rear and side yards, except the following:

- (1) That portion provided, maintained and reserved for access drives
- (2) That portion within 10 feet of any adjoining property line in a residential district
- (3) That portion within 5 feet of any street right-of-way line, or
- (4) That portion within 15 feet of a street curb line.

If for reasons of the size or location of the property, adequate off-street parking cannot be provided on the premises, it may be provided on other property not more than 300 feet distant from an entrance to the principal building or use being established. Such off-street parking space shall be associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner unless an alternate site is provided and approved by the City Commission.

Subsection "E": Installation of less than required number of Off-street

Parking Spaces:

In a situation where, in the opinion of the City Commission the required number of off-street parking spaces, as set out in Subsection "B", for fraternity, sorority or dormitory-type residence halls may be greater than the actual number of spaces needed at the time the building or use is established, the City Commission may on application of the owner allow less spaces to be installed; provided, however, that in no case shall less spaces be installed than one space for each two occupants or two spaces for each living unit.

Subsection "F": Development and Maintenance of Off-Street Loading and Parking

areas:

Screening and Landscaping - Off-street loading and parking areas shall be effectively screened to a height not less than four feet on each side which adjoins a street right-of-way or adjoins or faces property in a Residential District.

Barriers - Off-street parking areas shall be provided with curbs, wheel guards, or bumper guards so located that no part of a parked vehicle will extend beyond the parking space.

Surfacing - Off-street loading and parking areas shall be surfaced with a durable and dustless surface, and shall be so graded and drained as to dispose of all surface water into a public storm sewer or surface drainage facility.

Size and Access - Each off-street parking space shall have a minimum width of 9 feet and a minimum length of 18 feet, exclusive of access drives or aisles. There shall be adequate provision for ingress and egress to all parking spaces, and shall be so arranged and marked as to provide for orderly and safe parking and storage of vehicles. The proposed layout and design of each off-street parking area shall be approved by the City Engineer before it is installed.

Lighting - Any lighting used to illuminate an off-street parking area shall be so arranged as to direct the light away from the adjoining premises in any Residential District.

SECTION VI: REPEALING SECTION: Ordinance No. 3378 which is supplemental to the Zoning Ordinance of the City of Lawrence Ordinance no. 2227, be and the same is hereby repealed.

SECTION VII: This Ordinance shall be in full force and effect from and after its passage and publication as provided by law.

PASSED AND APPROVED by the Governing Body of the City of Lawrence, This 2nd day of March, 1965.

# aspo planning advisory service

AMERICAN SOCIETY OF PLANNING OFFICIALS  
1313 EAST 60th STREET - CHICAGO 37, ILLINOIS

Information Report No. 179



## PLANNING FOR CAMPUS PARKING

One result of skyrocketing university and college enrollments in recent years is the problem of providing adequate campus parking facilities for faculty, staff, and students. There is reason to think that parking demand at any given campus will increase indefinitely until it becomes necessary for the university to adopt a policy on how much parking space it will provide and who will be permitted to use the parking facilities.

Estimating required land areas for campus parking is a complex task because of the number of variables that must be considered. Availability and location of student housing, the adequacy of mass transportation facilities, and general policies regarding use of vehicles all enter into the problem. The city's position concerning on-street parking in the immediate neighborhood will also affect campus parking policies. Parking space needs, therefore, are unlikely to be met by universally applying a simple student-automobile ratio formula to all institutions. Unfortunately, many campus planning reports appear to do just this. The pattern most follow is to make a few general assumptions and then propose that one parking space be provided for every three, four, or five students.

Two of the more recent campus planning studies, however, provide useful examples for estimating future parking space requirements, and establish general principles for the location of campus parking facilities.

### Estimating Parking Needs

One of the most complete analyses of campus parking needs was undertaken by the University of Pennsylvania.<sup>1</sup> The university's existing and projected off-street parking requirements were analyzed from two related positions: (1) The parking needs of full-time students, university personnel (faculty and staff), and visitors, and (2) the parking needs of different sections of the campus where existing and future buildings were grouped into functional areas in re-

<sup>1</sup> University of Pennsylvania Proposed Off-Street Parking Plan and Appendices, (Philadelphia: University Planning Office, 1961).

lation to the university's colleges, schools, departments, institutions and agencies.

To determine the need for off-street parking at the time the study was undertaken (1960-61), it was assumed that the method of allocating existing parking spaces to students, university personnel, and visitors was satisfactory. The parking permits issued were grouped by functional area with which the full-time student and university personnel were affiliated. Visitor parking space needs were also identified and assigned by functional area.

It was then determined that the supply and location of parking spaces was inadequate. The 480 additional spaces required to meet over-all existing parking needs were then divided according to the three parking use groups (students, university personnel, visitors) within each functional category. Table I shows the 1960-61 parking requirements of the three groups. <sup>2</sup> Off-street parking needs for part-time students were not included as this group occupies available spaces during evenings and weekends.

Off-street parking needs were next projected to 1965 and 1970. Two estimates of future parking space needs were made. First, the projection of parking demand assumed that the proportion of university population and visitors using automobiles would be similar to that recorded at the time the report was prepared and that the supply and use of on-street parking spaces would be similar to current use. The study also assumed that university building space would be used at the same intensity and that the proportion of net usable open space in gross building area would not change significantly from present practices. Second, essential future parking needs were arrived at by assuming the adoption of certain university policies and programs which would substantially reduce projected off-street parking demand. The extent of the reduction was then measured.

The first step in estimating future off-street parking demands was to establish the mathematical relationship between projections of the university's future size and parking demands that will be generated by such changes to the university. As the most reliable and useful projections available were those pertaining to the university's projected physical plant expansion, the series of functional categories used to determine existing parking needs (see Table I) was also employed to find future parking demand. In each functional category a set of ratios was determined by relating existing building floor area space to existing off-street parking needs of each functional category. These ratios, presented in Table II, indicate the variation in parking demand among various university activities. Then by using data from Table I, parking space-floor area ratios were calculated for university population within each functional category.

The university's projected physical plant requirements by functional category are presented in Table III. To compute total projected off-street parking demands, the ratios in Table II were applied to the projections in Table III, resulting in additional off-street parking spaces generated by future buildings.

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<sup>2</sup>This and subsequent tables from the University of Pennsylvania report may be found in the appendix.

The total existing and projected future off-street parking needs are shown in Table IV. The existing and future parking demand for full-time students, university personnel, and visitors were estimated as follows:

	Number of Spaces		
	1960-61	1965	1970
Full-time students	600	900	1,200
University personnel	1,350	1,700	2,200
Visitors to University	450	600	700
Total	2,400	3,200	4,100

With the future off-street parking demand thus estimated, the final step of the study was to determine the effect of general university policies and programs that could be introduced to reduce the total projected parking demand. The total number of students and university personnel expected to live within the vicinity of the university was estimated. If the university adopted certain residential policies and objectives to encourage its population to live within the area, it was estimated that by 1970 the parking demands of full-time students could be reduced by 15 per cent, while faculty and staff demand might possibly decrease by 45 per cent. Possible parking space reduction of university population and visitors was estimated as follows:

	Number of Spaces		
	1960-61	1965	1970
Full-time students	600	800	1,000
University personnel	1,350	1,300	1,200
Visitors to University	450	600	700
Total	2,400	2,700	2,900

These reductions were included by functional categories in Table V.

Thus the report compares parking needs that would be required if no particular effort were made on the part of the university to bring students and faculty within the university community, with the needs likely to result if university officials adopted policies to bring the university population within the community. Since the university is located in an intensively built-up area where land costs for expansion are high, any reduction of off-street parking demands would result in substantial savings.

Different assumptions, of course, have to be made for estimating parking requirements at a new campus. Methods of travel, and place and type of residence of students, faculty and staff must of course be based from experience at other campuses.

The planning study for a new University of California campus, which would eventually have a total population of 34,500, including students, faculty, non-academic staff, anticipates that 45 per cent of these persons would be expected

to live within 16 minutes walking distance of the campus.<sup>3</sup> The rest would commute by car.

The number of required parking spaces for the new campus were based on ownership and riding patterns from the Berkeley campus. A total of 19,730 parking spaces were provided for in the Almaden campus development plan.

Faculty: 2,000 persons at 1.5 persons per space	1,330 spaces
Staff: 5,600 assumed riders at 1.25 per car, with 90 per cent maximum attendance	4,040 spaces
Student commuters: 11,600 x 92 per cent maximum attendance x 1.25 per car	8,510 spaces
University housing residents:	
Married students: 2,450 x 100 per cent	2,450
Single men: 4,000 x 70 per cent	2,800
Single women: 1,800 x 33 per cent	600
	19,730 spaces

The development plan recommended a surface parking density to 135 cars per acre to allow generous landscaping. Approximately 146 acres, therefore, had to be set aside for parking purposes.

#### Location

Parking facilities are usually proposed on the periphery of the academic core to reduce vehicular traffic within the central campus and to provide direct access to the facilities they serve. At the University of Pennsylvania walking distance standards for parking facilities were proposed for the various types of functional categories. All university activities and facilities requiring off-street parking would be served by parking structures at no greater distance than 1,200 feet, or five minutes walking time from such activities and facilities. Facilities with consistently high off-street parking needs, such as the University Hospital, would be served by a parking structure at a distance of no greater than 800 feet, or three minutes walking time. University facilities that generate only varying peak visitor parking requirements, such as the football stadium or the auditorium, would also be served by parking structures within a distance of 800 feet, or three minutes walking time. High visitor parking generators, such as the University Hospital, would provide passenger loading and unloading entrances and facilities.

The optimum land use and circulation diagram,<sup>4</sup> prepared for the regents of the

<sup>3</sup>A University Community in the Almaden Valley, (San Francisco, Livingston and Blaney, City and Regional Planners, 1961).

<sup>4</sup>University of California South Central Coast Campus - Site Selection Study, (San Francisco: Livingston and Blaney, City and Regional Planners, 1959).

University of California, proposed that parking areas be located as spokes radiating from the academic core. While an actual campus site plan would look very different, Figure I illustrates suggested relationships in designing a new campus and its community. The parking areas would be used by campus commuters and resident students, with spaces adjoining the core reserved for senior faculty and staff and designed to avoid huge expanses of asphalt covered with cars. The optimum scheme also suggests that the parking areas would serve as supplementary insurance against unforeseen future land requirements for expansion of the academic core or for university housing areas. The space standards in Figure I were designed for an ultimate enrollment of 25,000 students.

#### Prohibition

Many universities are attacking their parking problems on a different basis by prohibiting student ownership and use of automobiles. Among the universities and colleges prohibiting undergraduate ownership of automobiles and their use within the community are: Oberlin College, Princeton University, the University of Virginia, and, the University of Michigan. Exceptions are usually made for hardship cases, however. Others, such as Purdue University, prohibit automobile use by underclassmen, but allow use by upperclassmen and graduate students.

Table 1  
ESTIMATED UNIVERSITY OFF-STREET PARKING REQUIREMENTS  
BY FUNCTIONAL CATEGORY, 1960-61

Functional category	Number of spaces required by			Total number of parking spaces required
	Full-time students	University personnel	Visitors	
Administration & University Services <sup>a</sup>	---	100	35	135
Athletics <sup>b</sup>	---	35	5	40
Biological & Medical Sciences	145	250	30	425
Fine Arts	20	25	5	50
Humanities	140	70	15	225
Law	30	20	5	55
Library	---	20	10	30
Physical Sciences & Engineering	90	210	25	325
Services & Activities <sup>c</sup>	---	35	20	55
Social Sciences	175	160	30	365
University Hospital	---	410	200	610
University Museum	---	15	70	85
Total	600	1,350	450	2,400

(a) Includes all the University's centralized administrative, clerical, business, financial, development and maintenance services.

(b) "Athletic" parking excludes all uncovered athletic space (e.g., Franklin Field). It also excludes spectator parking for athletic events conducted at the University, which is discussed on pages 89-98.

(c) Includes such facilities as Houston Hall and Faculty Club.

Note: Parking spaces for university housing are not included in the above requirements.

**Table 2**  
**RELATION OF OFF-STREET PARKING TO FLOOR AREA**  
**BY FUNCTIONAL CATEGORY, 1960-61**

Functional Category	Gross square feet of floor area for each off-street parking space
Administration & University Services	900
Athletics	7,300
Biological & Medical Sciences	1,600
Fine Arts	1,000
Humanities	1,000
Law	1,600
Library	3,600
Physical Science & Engineering	1,600
Services & Activities	3,000
Social Sciences	700
University Hospital <sup>a</sup>	1,200
University Museum	1,900

(a) The University Hospital parking ratio can also be expressed as one parking space for each 1.3 beds.

Note: The relation of total 1960-61 off-street parking requirements (2400 spaces) to the university's total floor area, excluding university housing, is one parking space for each 1400 square feet of gross floor area.

**Table 3**  
**ADDITIONAL GROSS FLOOR AREA**  
**BY FUNCTIONAL CATEGORY**  
**1960-65 and 1965-70**

Functional Category	1960-65	1965-70	Total 1960-70
Administration & University Services	5,000	90,000	95,000
Athletics	50,000	40,000	90,000
Biological & Medical Sciences	150,000	240,000	390,000
Fine Arts	40,000	---	40,000
Graduate Studies	---	60,000	60,000
Humanities	115,000	45,000	160,000
Law	65,000	---	65,000
Library	300,000	---	300,000
Physical Sciences & Engineering	135,000	270,000	405,000
Services & Activities	---	50,000	50,000
Social Sciences	145,000	215,000	360,000
University Hospital	180,000	40,000	220,000
University Museum	---	70,000	70,000
Total	1,185,00	1,120,000	2,305,000

**Table 4**EXISTING AND PROJECTED OFF-STREET PARKING DEMAND  
BY FUNCTIONAL CATEGORY1960-61, 1965, and 1970<sup>a</sup>

Functional Category	Number of Spaces		
	1960-61	1965	1970
Administration and University Services	135	140	240
Athletics	40	45	50
Biological & Medical Sciences	425	515	660
Fine Arts	50	90	90
Graduate Studies <sup>b</sup>	--	--	60
Humanities	225	355	380
Law	55	90	90
Library	30	110	100
Physical Sciences & Engineering	325	405	570
Services and Activities	55	55	70
Social Sciences	365	570	870
University Hospital	610	760	800
University Museum	85	85	120
<b>Total</b>	<b>2,400</b>	<b>3,200</b>	<b>4,100</b>

(a) The above Table, derived from Table II, shows university off-street parking demand generated by old (pre 1960-61) and new building space in the two years: 1965 and 1970.

(b) Although the above Table IV indicates that the initial parking requirements for "Graduate Studies" will not be generated until 1965-70, if facilities for "Graduate Studies" are erected at an earlier date (i.e., during 1960-65) the parking spaces will be required during this first period.

**Table 5**EXISTING AND PROJECTED ESSENTIAL OFF-STREET PARKING  
REQUIREMENTS BY FUNCTIONAL CATEGORY

1960-61, 1965, and 1970

Functional Category	1960-61	1965	1970
Administration & University Services	135	120	160
Athletics	40	35	30
Biological & Medical Sciences	425	425	440
Fine Arts	50	70	65
Graduate Studies <sup>a</sup>	--	--	45
Humanities	225	290	300
Law	55	80	65
Library	30	100	75
Physical Science & Engineering	325	340	375
Services & Activities	55	50	55
Social Sciences	365	460	630
University Hospital	610	630	550
University Museum	85	80	110
<b>Total</b>	<b>2,400</b>	<b>2,700</b>	<b>2,900</b>

(a) Although Table V indicates that the initial parking requirements for "Graduate Studies" will not be generated until 1965-70, if facilities for "Graduate Studies" are erected at an earlier date (i.e., during 1960-65) the parking spaces will be required during this first period.

# Optimum Land Use and Circulation Diagram

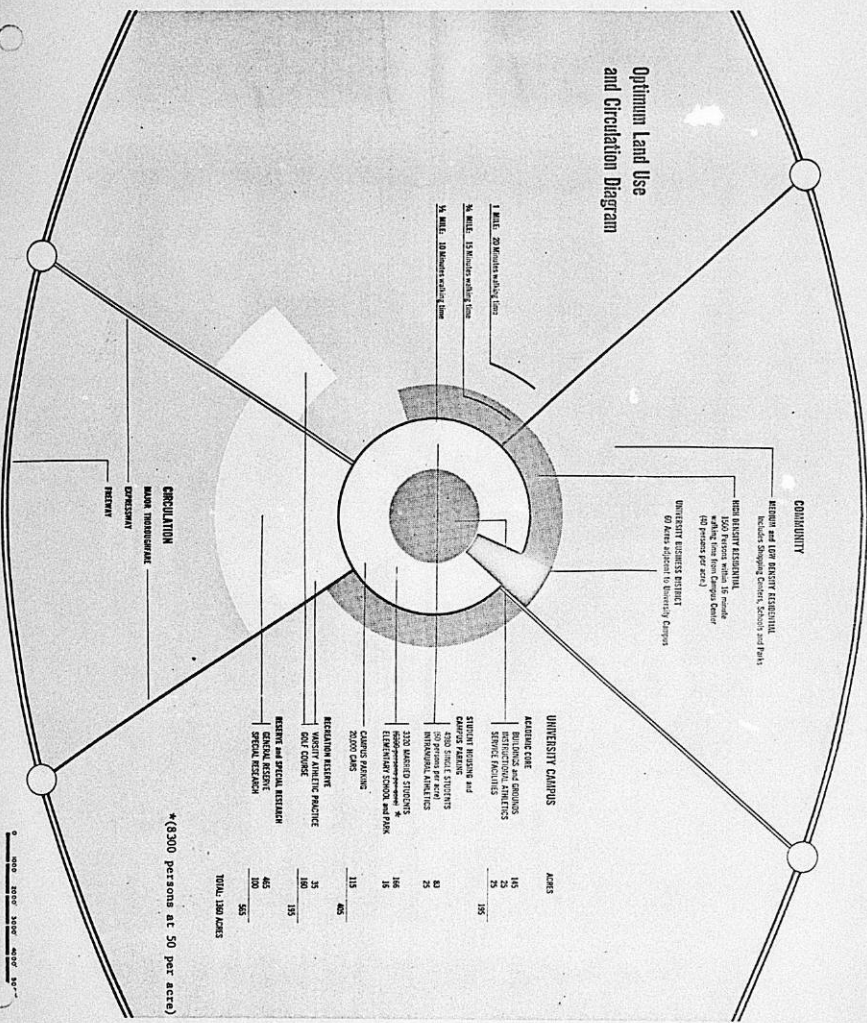
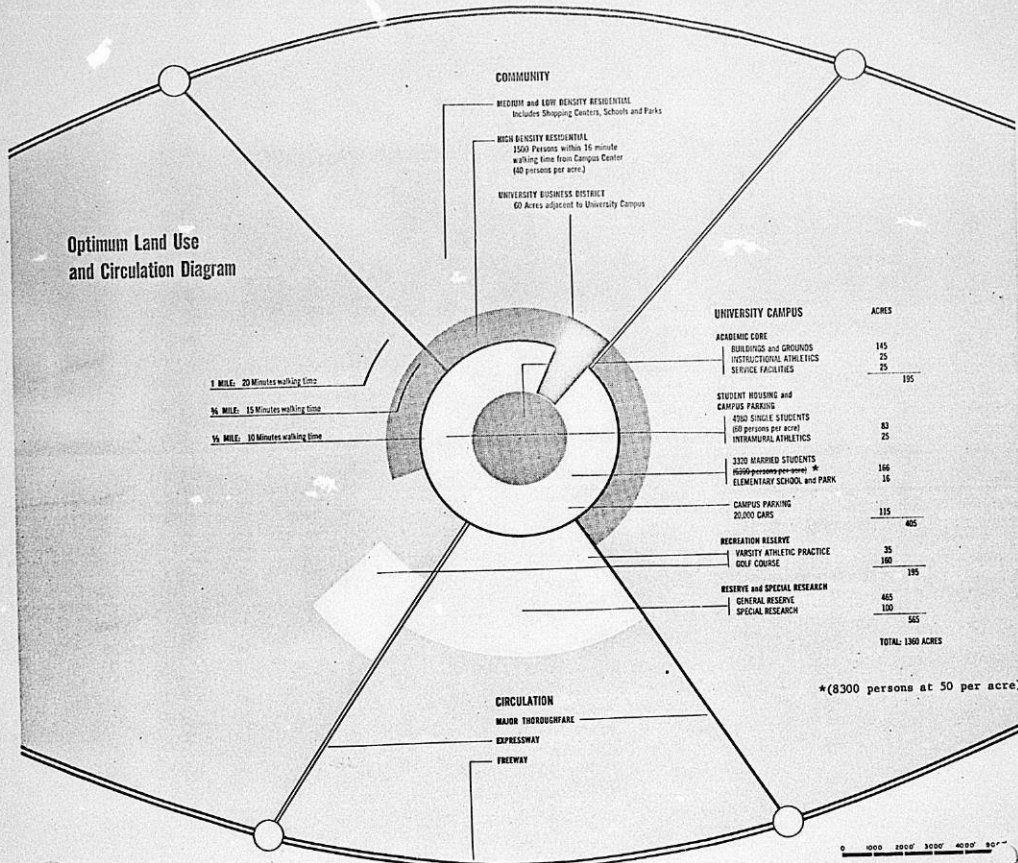


Figure 1

Figure 1

Optimum Land Use and Circulation Diagram



COMMUNITY

- MEDIUM and LOW DENSITY RESIDENTIAL  
Includes Shopping Centers, Schools and Parks
- HIGH DENSITY RESIDENTIAL  
1500 Persons within 16 minute walking time from Campus Center (60 persons per acre)
- UNIVERSITY BUSINESS DISTRICT  
60 Acres adjacent to University Campus

UNIVERSITY CAMPUS

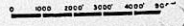
ACRES

ACADEMIC CORE	
BUILDINGS and GROUNDS	145
INSTRUCTIONAL ATHLETICS	25
SERVICE FACILITIES	25
	195
STUDENT HOUSING and CAMPUS PARKING	
4700 SINGLE STUDENTS (60 persons per acre)	83
INTRAMURAL ATHLETICS	25
3300 MARRIED STUDENTS (60 persons per acre) *	166
ELEMENTARY SCHOOL and PARK	16
CAMPUS PARKING 20,000 CARS	115
	405
RECREATION RESERVE	35
VARSITY ATHLETIC PRACTICE GOLF COURSE	180
	195
RESERVE and SPECIAL RESEARCH	
GENERAL RESERVE	465
SPECIAL RESEARCH	100
	565
TOTAL	1360 ACRES

\*(8300 persons at 50 per acre)

CIRCULATION

- MAJOR THOROUGHFARE
- EXPRESSWAY
- FREEWAY



August 26, 1965

University Housing Construction, Ltd.  
505 Union National Building  
Wichita, Kansas

Gentlemen:

Re: BEA 31-65 - Appeal from the  
decision of the Superintendent  
of Central Inspection

This is to advise that at its regular meeting of August 24, 1965, the Board of Zoning Appeals of the City of Wichita, considered your appeal from the decision of the Superintendent of Central Inspection with respect to off-street parking requirements in connection with construction of housing facilities at the north-eastcorner of 17th and Bluff.

It was the action of the Board to defer a decision in this case until its next meeting on September 28, 1965.

Therefore, notices will again be sent to property owners within 200 feet of subject property, and the case will be scheduled for first consideration on the Agenda for September 28.

Very sincerely yours,

Jack H. Galbraith  
Secretary

JHG:JWH:ber

cc: Sidney J. Brick, Attorney  
505 Union National Building

Glen Lytle, Superintendent  
of Central Inspection

August 13, 1965

Mr. Sidney Brick  
Brick, Beatty and Bonwell  
505 Union National Building  
Wichita, Kansas

Dear Mr. Brick:

Please be advised that this office made the decision on the requirements for off-street parking for University Housing before the permit was issued. This decision was based on placing the building under 28.04.140 A. - 2.8 of the zoning ordinance.

Appeals made on any decision of this office or for a variance of the strict application of the ordinance must be directed to the Board of Zoning Appeals.

Sincerely,

Glen E. Lytle  
Superintendent of Central Inspection

GEL:ml

cc: Jack Galbraith, Secretary  
Board of Zoning Appeals



BOARD OF ZONING APPEALS  
Room 402 City Building Annex  
104 South Main  
Wichita, KANSAS

August 6, 1965

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 31-65

An application has been filed by University Housing Construction, Ltd., 505 Union National Building, Wichita, Kansas, by Sidney J. Brick, Attorney, 505 Union National Building, Wichita, Kansas, pursuant to Section 2.12.590, Code of the City of Wichita, appealing from the decision of the Superintendent of Central Inspection, who has required 680 off-street parking spaces in connection with construction of a dormitory, based on the provision in the ordinance relating to fraternity and sorority houses, whereas the applicant maintains that sub-section 2.2 of Section 28.04.140, pertaining to hotel, apartment building, apartment hotel, etc. is the proper provision of the ordinance which should apply in this case. Subject property is zoned "B" and legally described as:

Lot 1, Wheatshocker Addition, in the City of Wichita, Sedgwick County, Kansas

Generally located at the northeast corner of 17th and Bluff

This application has been assigned Case No. BZA 31-65, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, August 24, 1965, at 2 p.m. in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith  
Secretary

JHG:ber

BOARD OF ZONING APPEALS  
Room 402 City Building Annex  
104 South Main  
Wichita, KANSAS

28

August 6, 1965

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 31-65

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Jack H. Galbraith  
Secretary

JHG:ber

23 notices mailed 8-6-65

BOARD OF ZONING APPEALS

CASE NO. \_\_\_\_\_

CITY OF WICHITA, KANSAS

FILED \_\_\_\_\_

~~APPEAL FROM ORDER OR DECISION OF THE  
SUPERINTENDENT OF CENTRAL INSPECTION~~

I. Name of Appellant University Housing Construction, Ltd.  
Mailing Address 505 Union National Building Phone AMherst 4-6344  
Name of Agent Sidney J. Brick  
Mailing Address 505 Union National Building Phone AMherst 4-6344  
Relationship of applicant to property is that of owner  
(owner, tenant, lessee, other).

II. The appellant herein appeals from a decision, determination or an order of the Superintendent of Central Inspection, as follows:

Requirement of 680 parking spaces for building permit

for property located at 17th and Bluff

and legally described as part of Lot 1, Wheatshocker Addition

in the City of Wichita; and which is presently zoned B. The decision was rendered April or May 1965, and refers to Section 28.04.140, A., 2.8, of the Code of the City of Wichita.

III. The appellant hereby declares that he has submitted the following required material, together with and as part of the appeal:

- A. A clear and accurate description of the proposed work or use.
- B. The order, requirement, decision or determination by the Superintendent of Central Inspection which the appellant believes to be in error, and the principal points supporting the appellant's allegation of errors;
- C. Specific reference to that section of the Zoning Ordinance under which it is claimed the permit should be issued;
- D. Drawings or plans for the proposed work or use in relation to the adjacent buildings and property;
- E. A certified listing from an abstract company of the names and current mailing addresses of owners of all property within a distance of 200 feet of the property affected by the appeal.

Applicant UNIVERSITY HOUSING CONSTRUCTION, LTD.

Authorized Agent Sidney J. Brick  
-----  
Sidney J. Brick, its attorney

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals, 3:25 (a.m. - p.m.), Aug 3, 1965, together with appropriate fee of \$50.00.

Signed James W. Howe

APPEAL FROM ORDER OR DECISION OF THE  
SUPERINTENDENT OF CENTRAL INSPECTION

This appeal relates to the construction of dormitories for occupancy by Wichita State University students and faculty, which dormitories are to be located generally at the corner of 17th and Bluff, the legal description being:

Lot 1 of Wheatshocker Addition to  
the City of Wichita, Sedgwick  
County, Kansas.

The dormitory under construction is a six story structure with 170 units for unmarried students and 26 units for faculty families. Each unit includes sleeping and study areas, a kitchenette, and bath. The building is designed primarily as a multiple dwelling for university students, and includes recreation areas and a heated indoor swimming pool. At the time the building permit for the first dormitory on this location was granted, the Superintendent of Central Inspection required off street parking spaces in accordance with Sub-Section 2.8 of Section 28.04.140,A. This computes to 680 car parking spaces for the first dormitory building alone.

The appellant believes this requirement or determination by the Central Inspection Division to be in error for the following reasons:

A. The section of the zoning code used in determining the minimum number of parking spaces reads:

"2.8 Fraternity and Sorority House. One space for each two hundred fifty square feet of floor area."

"Fraternity and sorority house" is not specifically defined by the code; therefore, we must look to the general

definitions clause, Section 28.04.020 Definitions, where it states:

"Any word not defined herein or in the building code of the city shall have its usual meaning."

By no stretch of the imagination could the appellant's dormitory be considered a "fraternity or sorority house" under the code or otherwise. A fraternity or sorority has been defined as follows:

"A 'fraternity' (or sorority) has been defined as a body of men (or women) associated for their common interest, business, or pleasure; a brotherhood; society; specifically a fraternal society, association, or order. In American colleges, a student organization, either a nationally chartered society comprising many affiliated chapters or a single chapter in one institution, formed chiefly to promote friendship and welfare among the members, and usually having secret rites and a name consisting of Greek Letters." Alpha Rho Alumni Ass'n v. City of New Brunswick, 18A(2d) 68, 126 N.J.L. 233.

Clearly under this definition or under the definition given by any commonly used dictionary, the instant project does not fit. In our opinion, the fraternity or sorority house contemplated by the code is in the nature of a group or special meeting place; a place where groups may gather socially as an organization. The code does not contemplate their use as primarily a dwelling place for students or others. This may be evidenced in two ways:

1. None of the fraternity or sorority houses at Wichita State University, nor to our knowledge any other lodges or groups in the City of Wichita which might be contemplated under this section of the code, are used primarily

for dwelling purposes. They are used instead primarily as meeting places and gathering facilities for the members of the organization.

2. The provision for fraternities or sorority houses in the code is not grouped with structures primarily used for either permanent or temporary dwelling. It is, instead, located between schools and commercial portions in the code. It is noted that the code, in an orderly manner, provides for off street parking first for dwellings of a private nature, then dwellings of a commercial nature. Commercial spots such as auditoriums, theatres and stadiums, etc., come next, followed by churches, doctor's offices and clinics, hospitals, schools (all non-dwelling type usages) finally coming to the section in question.

It is clear therefore that a mistake was made in requiring the appellant to provide off street parking under the section of the code dealing with fraternity and sorority houses.

B. The problem in the instant case arises because dormitories are not specifically provided for by the code. Therefore, it seems obvious that the requirement for off street parking should be made in accordance with a section of the code that most closely fits the contemplated structure. The fact that the dormitory is built primarily as living quarters for students who will reside there while attending Wichita State University, indicates to us that it should fall under one of the sections of the code which deal with

structures built primarily for dwelling purposes. Sub-Section 2.1 Dwelling. covers family homes and other small dwellings units. The code definition of "dwelling", eliminates dormitories from this classification.

"Families" as used in the "dwelling" definition is defined in the same section:

"FAMILY. One person living alone or two or more persons living together, related either by birth or marriage, who, together with their servants, occupy a single housekeeping unit; or a group of not more than four unrelated persons who, with their servants, occupy a single housekeeping unit. Family does not include a group occupying a club, sorority or fraternity house, etc."  
(Underlining added)

In the appellant's dormitories, 6 persons may be accommodated in each of the 170 housekeeping units rather than 4, and consequently do not meet the definition of "family". Again, the zoning ordinance does not actually provide for the current situation.

The term "dormitory" to our knowledge is used only once in the city zoning ordinance. It appears in the definition of multiple family dwelling, (Sec. 28.04.020 Definitions) as follows:

"DWELLING \* \* \* Multiple. A building or portion of a building having suitable accommodations for three or more families living independently of each other, who may or may not have joint use of utilities, halls, yards, etc. The term includes premises occupied more or less permanently for residential purposes in which the rooms are occupied in apartments, suites, or groups, such as apartments, dormitories, lodging houses, rooming houses, and all other dwellings, similarly occupied." (underlining added)

At first blush, it would appear dormitories properly belong under this section, but the definition of "family" quoted above prohibits the use of this section of the ordinance.

Sub-section 2.2 Hotel, apartment building, apartment hotel, club, motel. seems to most closely fit a dormitory usage.

It reads:

"One space for each housekeeping unit, suite of rooms or motel unit, plus one space for each 250 square feet of floor area or fraction thereof used for \* \* \* meeting rooms, recreational spaces \* \* \*"

Sub-Section 2.2 is based on housekeeping units, which in turn is defined in Section 28.04.020 as:

"HOUSEKEEPING UNIT. A building or a portion of a building which is occupied or intended to be occupied as a dwelling, and which has the facilities for cooking and serving meals and for sleeping quarters, and which may or may not include other rooms or facilities."

This definition fits the units being constructed in the dormitories. Each unit will contain not only sleeping and study area quarters for the persons living there, but also kitchenette facilities for cooking and serving meals.

Considering the above, it seems clear that the dormitory structure most nearly fits Section 2.2 of the off street parking ordinance. The dormitories in question are actually apartment buildings, their only distinction being that they are designed primarily for student occupancy.

C. We are indeed reluctant to challenge the determination of the Superintendent on a legal or technical ground, but we feel obligated to raise the question that the

off street parking ordinance in its application to the structure in question may be held to be unenforceable and unconstitutional. Several cases involving off street parking ordinances indicate that whenever such an ordinance is unreasonable, illdefined or unclear, in any particular application, it is unconstitutional and unenforceable. Denver v. Denver Buick, Inc. 347 Pacific 2d 919 (Colorado, 1963); Roselle v. Wright (N.J. Super) 117 A2d 661, aff'd 122 Atlantic 2d 506.

In the case of Porporis v. City of Warson Woods 352 S.W. 2d 506 (Mo. 1962), the court said:

"It is true, as the plaintiffs suggest, that an ordinance or statute which attempts to clothe an administrative officer with arbitrary discretion without a definite standard or rule for his guidance' is unconstitutional".

The author of Zoning Law and Practices by Yokley, Vol. 2, at page 71 of the supplement Section 212, said in discussing State v. Lynnhurst, 154 N.E.2d 435 (Ohio):

"This decision clearly demonstrates that the courts are ready and willing to sustain reasonable provision for off street parking in zoning ordinances, and, in fact, in this decision, approval was given to certain of the provisions detailing criteria for off street parking, but the decision cited again indicates that those responsible for municipal zoning must 'clean up' provisions for off street parking which are vague and indefinite or they will not be sustained." (Underlining added)

It may well be that our zoning ordinance concerning off street parking is vague and indefinite with respect to the structure contemplated and hence, unenforceable. We are

in every sympathy with the Central Inspection Superintendent's problem to try to make the ordinance fit this case in some way, but from a legal standpoint, the classification of the structure as a fraternity or sorority house might well be within the realm of "unreasonable and arbitrary" and, therefore, unenforceable.

APPELLANT'S PROPOSAL

Recognizing that the ordinance does not clearly cover the factual situation and in spirit of cooperation, we suggest the following as a practical solution:

We propose that Sub-Section 2.2 of ordinance Section 28.04.140 governed. Using the formula of this section, we would be required to provide 170 parking spaces for the 170 units for unmarried student occupancy; 26 for the 26 family units, plus 33 for the 8,143 square feet of floor space used for swimming pool and other recreation areas, being lounges and TV rooms. This would provide a total of 229 parking spaces. As a practical compromise, and inasmuch as the housekeeping units can accommodate as many as 6 instead of a maximum of 4, we propose that there be added additional spaces in accordance with the following: that the additional possible 2 persons in each unit be grouped into an aggregate of 340 persons. Divide these 340 into groups of 4, as if they were in separate housekeeping units, and provide one additional parking space for each of the additional groups, or a total of 85 parking spaces resulting

in a total of 314 off street parking spaces for the dormitory. This would result in the net effect of providing the exact number of off street parking spaces required by the ordinance if the building had been so constructed into separate house-keeping units for maximum occupancy of 4 persons each.

It is submitted that this proposal is greater than that technically required, is fair and is in keeping with the spirit of the ordinance. This plan will provide approximately 1 parking space for each 3 occupants. Since the occupants will be students from out of the city it would seem reasonable that this will provide adequate parking. The proximity of the dormitory to the campus will provide education to the students within easy walking distance and should furnish a deterrent to students to bringing automobiles to school.

It should be mentioned that the present requirement of 680 spaces will exhaust practically all of the land area comprising about 10 acres, and will prevent the construction of the second contemplated building as planned. The present and contemplated structures will require a total of 628 parking spaces using the suggested formula, which would make the construction of the second building on the tract feasible and would provide for adequate off street parking.

Should the suggested proposal be accepted, it will also permit the developers to provide for at least some landscaping and open green area, which is much desirable from an ascetic stand point.

It is also suggested that our interpretation of the ordinance and our choice of sections is to be preferred

to that of the Central Inspection Superintendent in that it follows the general interpretation and purpose clause of the zoning ordinance which reads in part:

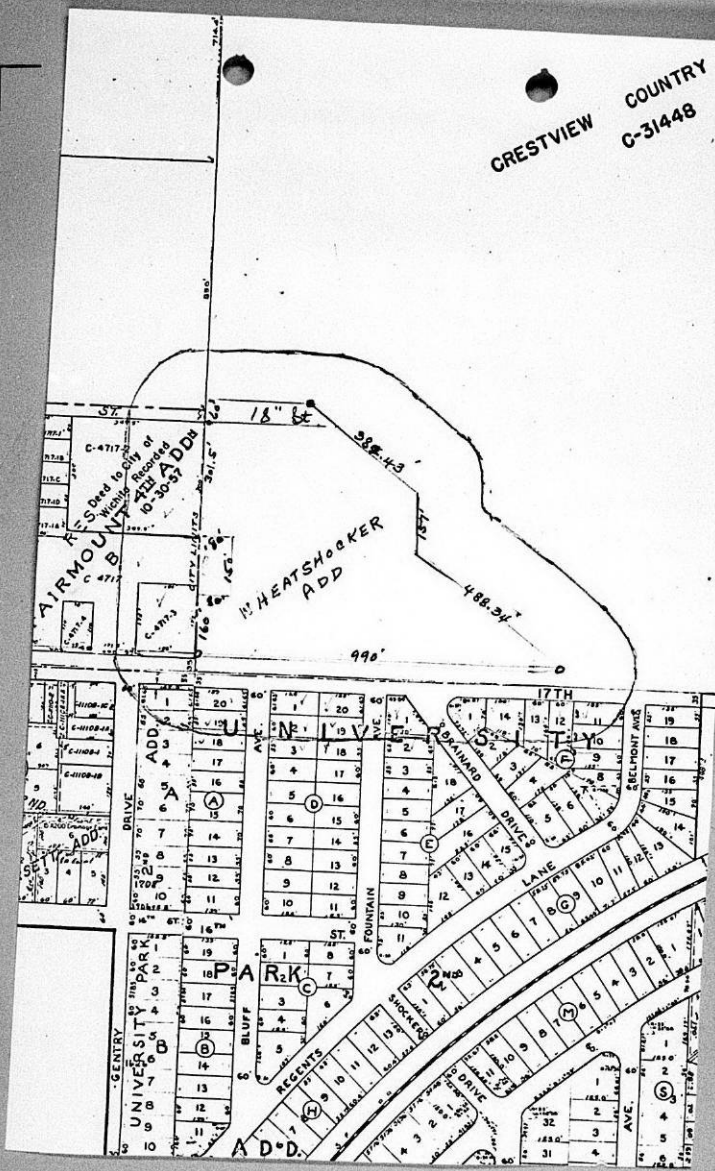
"28.04.010 Interpretation and Purpose. A. In interpreting and applying the provisions of this chapter, they shall be held to the minimum requirements for the promotion of the public safety, health, convenience, comfort, propriety, general welfare and the preservation of personal and property rights. \* \* \*"

Respectfully submitted,

UNIVERSITY HOUSING CONSTRUCTION, LTD.

By *Sidney J. Brick*  
Sidney J. Brick, its attorney

CRESTVIEW COUNTRY  
C-31448



STATEMENT OF RECORD OWNERSHIP

STATE OF KANSAS        )  
                              )  
SEDGWICK COUNTY        )

The undersigned duly bonded and qualified abstractor within and for the County and State aforesaid, does hereby certify:

That we have examined the records in the office of the Register of Deeds of Sedgwick County, Kansas, with reference to the ownership of the following property in Sedgwick County, Kansas, viz:

Property lying within a radius of 200 ft  
of: Lot 1, Wheatshocker Addition to Wichita, Kansas.

  
Fidelity  
Title  
Company,  
inc.

And from such examination find that the record owners thereof are as set opposite the description of the property below, viz:

A tr in NE $\frac{1}{4}$  Sec 11, Twp 27, R 1 E, desc as:  
Beg at SW cor sd NE $\frac{1}{4}$ ; th N along W line sd NE $\frac{1}{4}$   
921 ft; th S Ely 735.21 ft to a pt which is 592  
ft E & 482 ft N of SW cor sd NE $\frac{1}{4}$ ; th S parl with  
W line sd  $\frac{1}{4}$  sec 157 ft; th S Ely 488.34 ft to a  
pt 990 ft E & 40 ft N of SW cor sd  $\frac{1}{4}$  sec; th S  
parl with W line 40 ft to the S line sd  $\frac{1}{4}$  sec;  
th W 990 ft to beg., exc N 150 ft of S 350 ft of  
W 80 ft and exc prt platted as Wheatshocker Add.

University Housing, Inc.

Lot 1, Wheatshocker Addition.

University Housing, Inc.

Beg 200 ft N of SW cor NE $\frac{1}{4}$  Sec 11, Twp 27, R 1 E;  
N 150 ft; E 80 ft; S 150 ft; W to beg.

✓ Kansas Gas & Electric Co.  
201 N. Market



NE $\frac{1}{4}$  Sec 11, Twp 27, R 1 E, exc Wheatshocker  
Add & tr conveyed to University Housing, Inc.  
& K. G. & E. tract.

✓ The Crestview Country Club Association.  
R # 3, Wichita, Kansas

N $\frac{1}{2}$  of Reserve B, exc W 140 ft., Fairmount 4th Add.

City of Wichita

Res B, exc N $\frac{1}{2}$  & exc E 150 ft of S 175 ft & exc  
E 78 ft of W 218 ft of S 110 ft & exc W 140 ft,  
Fairmount 4th Add.

✓ Catholic Diocese of Wichita  
445 N. Emporia

E 150 ft of S 175 ft of Res B, Fairmount 4th Add.

✓ Elmer C. & Frances Louise Eflin, ux  
3209 E 17th St.  
*wrong add*  
*resent to 3902 E. 17th St 8-10-65*

Lots 1, 2, 3, Blk A, University Park 2nd Add.

✓ William H. & Hedwig J. Steffens, ux  
536 S. Yale *resent - misdirected*  
*to 536 N. Yale*

Lot 18, Blk A, University Park 2nd Add.

*no address*  
W. Scott & Lucile B. Preston, ux  
No Address Available

Lot 19, Blk A, University Park 2nd Add.

✓ Hugo B. & Norma Mae Reimer, ux  
1751 N. Bluff

Lot 20, Blk A, University Park 2nd Add.

✓ Harold W. & Glenda R. Foster, ux  
1757 N. Bluff

Lot 1, Blk D, University Park 2nd Add.

*no address*  
Robert & Polly Christy, ux  
No Address Available

Lot 2, Blk D, University Park 2nd Add.

✓ Lorentz J. & Alta Louise Holgerson, ux  
2200 N. Fountain

Lot 3, Blk D, University Park 2nd Add.

✓ Carl A. & Dolores B. Pagel, ux  
1701 N. Meridian

Lot 18, Blk D, University Park 2nd Add.

✓ Robert D. & Mary Jane Abbey, ux  
1745 N. Fountain

Lot 19, Blk D, University Park 2nd Add.

✓ John D. & Judy R. Dersey, ux  
1751 N. Fountain

Lot 20, Blk D, University Park 2nd Add.

✓ Kuldip S. Mali  
1757 N. Fountain

Lot 1, Blk E, University Park 2nd Add.

✓ Donald R. & Barbara J. Downey, ux  
1762 N. Fountain

Lot 2, Blk E, University Park 2nd Add.

✓ Henry S. & Bessie L. Turner, ux  
1754 N. Fountain

*notice  
returned  
"address  
unknown"*

Lot 1, Blk F, University Park 2nd Add.

✓ Administrator of Veterans Affairs  
5500 E. Kellogg

Lot 2, Blk F, University Park 2nd Add.

✓ Donald George & Jeannie R. Spencer, ux  
1726 Brainard Dr.

Lot 10, Blk F, University Park 2nd Add.

✓ Russel N. & Leta Mae Barrett  
1720 Brainard Dr.

Lot 11, Blk F, University Park 2nd Add.

✓ Loran H. & Viola I. Lynch, ux  
1723 N. Belmont

Lot 12, Blk F, University Park 2nd Add.

✓ Clara M. Goodrich  
4129 E 17th St.

Lot 13, Blk F, University Park 2nd Add.

✓ Thomas D. & Barbara J. Spink, ux  
4123 E 17th St.

Lot 14, Blk F, University Park 2nd Add.

*no  
address*  
Tommy O. King, sgle  
No Address Available

Beg 680 ft N of SW cor of NW $\frac{1}{4}$  Sec 11, Twp 27, R 1 E;  
th N 650 ft; W 1220.5 ft; S 650 ft; E to beg, exs  
N 250 ft of W 358.8 ft.

✓ Municipal University of Wichita  
1845 Fairmount

Dated at Wichita, Kansas this 3rd day  
of August, 1965 at 7:00 A. M.

FIDELITY TITLE COMPANY, INC.

By Frank B. Hawkins OEM  
V. Pres.

Tracer # 69751

Form 223-021

**PAYMENT NOTICE**

City of Wichita

**PAY AT TREASURER'S OFFICE - FIRST FLOOR**

Bldg & Elev.	Elec.	Elev. Insp.	Exam. Fees
Res. Mvr.	Res. Moving	Licse.	Mech.
Oil Well	Pav. Cuts	Plan.	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION	AMOUNT
BPA	\$ 50.00

Name *Benjamin B. Bentley*

Address *Union Trust Bldg.*

Type *R-712* Due Date

Comments:

Date *8-3-65* By *M.C. [Signature]*