

**RECOMMENDATION:** Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted, subject to the following conditions:

1. The site shall be developed and required to comply with all building, zoning, and landscape code requirements, except that the compatibility standards building setback along the north and west property lines may be reduced to no less than 11 feet 4 inches.
2. The trees that exist along the west and north property lines shall be retained, as feasible, to enhance the buffer between the commercial and the residential areas. These shall be in addition to the buffer trees required by the landscape code.
3. The height of the commercial buildings from grade to the roof lines shall not exceed 15 feet; the height from grade to the peaks of the roofs shall not exceed 24 feet.
4. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with the foregoing conditions.



**BACKGROUND:** The applicant, Cliff Omo, is proposing to develop property on the northwest corner of Central and Joann as a retail center in two separate buildings. The site is currently zoned "LC" Limited Commercial which will accommodate the proposed retail use but the site is adjacent to "SF-6" Single-Family zoning on the north and west. This proximity of the site to residential zoning triggers the compatibility standards of the Unified Zoning Code (UZC). The compatibility standards established by the UZC are intended to preserve and protect residential neighborhoods. In this specific case the compatibility standards require that buildings maintain a 25-foot setback from the north and west property lines which are adjacent to the residential zoning. The applicant is requesting a variance to reduce the required building setback along the north and west property lines from 25 feet to 11 feet 4 inches to accommodate the proposed development of the site. If the applicant's site was adjacent to "LC" zoning on the north and west the required building setback from the property lines would be 10 feet on the west due to the 10-foot-wide utility easement (interior side-yard setback could be zero feet if there were no easement) and 10 feet for a rear setback along the north.

The applicant has indicated that, due to the platted street-side setbacks and utility easements on the property which limit the location of structures on the site, observing the required 25-foot compatibility setback from the north and west property lines would make it economically infeasible to develop the site. The applicant has investigated the possibility of relocating the sanitary sewer which lies within the 16-foot east-west easement but has been advised by the City Engineer's office that the sewer is too shallow to be relocated. It was also indicated by the applicant that the site has been in the development phase since mid-February when the old zoning code was still in effect and there were no compatibility standard requirements. The building permit was not officially requested until July, however.

There are two residential dwellings located west of the applicant's site. These homes front onto Westridge, therefore their rear yards abut the application area. Another residential dwelling is located adjacent to the north property line and this home fronts onto Joann and it's side yard abuts the application area. There is currently a 6-foot wooden fence that separates the application area from the adjoining residence to the north. If this commercial site is to develop adjacent to residential zoning the current landscape code will require landscape screening regardless of the building setbacks or solid fences. The landscape code will require a buffer of one shade tree or two ornamental trees per forty lineal feet of property line abutting the residential area. These trees must be planted within 15 feet of the residential property line. The UZC will impose screening and lighting requirements on the site since it is developing adjacent to a residential area. The applicant will be responsible for constructing and maintaining a 6 to 8 foot screening wall along his property line adjacent to residential zoning. All outdoor lights will be required to be cut-off luminaries mounted at a height not exceeding on-half the distance from the residential district. (Note: if evidence is

provided to the satisfaction of the Zoning Administrator the light source will be aimed or shielded from the neighboring lot such that light trespass and glare are minimized, these standards may be modified.) The Board may require additional screening, landscaping or other site development standards above the minimum required by the codes if it is deemed necessary to protect and preserve the adjoining residential area.

**ADJACENT ZONING AND LAND USE:**

NORTH	"SF-6"	Single-Family Home
SOUTH	"GO AND SF-6"	Offices and Single-Family Home
EAST	"LC"	Restaurant and Supply Warehouse
WEST	"SF-6"	Single-Family Homes

**UNIQUENESS:** It is the opinion of staff that this property is unique inasmuch as the property was platted with a utility easement that traverses the site in such a manner that limits development and the easement cannot be relocated.

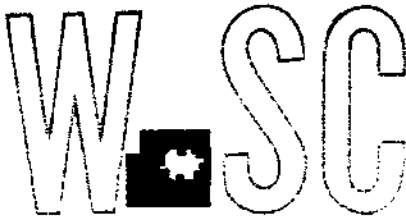
**ADJACENT PROPERTY:** It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as adequate separation will be provided between the property line and the structures to allow for required screening and landscaping to reduce the impact of the development on adjacent properties.

**HARDSHIP:** It is the opinion of staff that the strict application of the provisions of the zoning regulations may constitute an unnecessary hardship upon the applicant inasmuch as the property could not be developed at the intensity or layout to allow for easy access and unobstructed street exposure. This may result in an unnecessary hardship upon the applicant to use the site as a retail center.

**PUBLIC INTEREST:** It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as there will be no encroachments into public utility easements or street right-of-way as a result of this building setback reduction request and therefore there will be no effect on the general public.

**SPIRIT AND INTENT:** It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning regulations inasmuch as the intent of the compatibility standards of the zoning ordinance is to protect residential neighborhoods and with the required screening and landscaping for the site this goal should be met.

WICHITA — SEDGWICK COUNTY



METROPOLITAN AREA PLANNING  
DEPARTMENT

CITY HALL — TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202-1688  
(316) 268-4421  
FAX (316) 268-4390

August 28, 1996

Mr. Cliff Omo  
1830 N. 215 W.  
Goddard, Ks 67052

**RE: BZA 9-96** - Variance to reduce the compatibility standards building setback requirement from 25 feet to 11 feet 4 inches for two commercial buildings adjacent to residential zoning (Northwest corner of Central and Joanne).

Dear Mr. Omo:

Enclosed is a signed copy of the above-referenced BZA Resolutions approved by the Board of Zoning Appeals on August 27, 1996. This resolution reflects the official action of the Board to grant your request and sets out the conditions of approval. It is forwarded to you for your information and files.

This is a reminder that the zoning adjustment signs should now be removed from the property. If you have any questions concerning this matter, please call our office.

Sincerely yours,

Lawrence Mitchell  
Assistant Secretary  
Board of Zoning Appeals

Enclosure

LM/sah

cc: Don Folger Jr. & Associates, 234 S. Topeka, Wichita, Ks 67202  
J. R. Cox, OCI  
Paul Hays, OCI  
Ray Sledge, OCI  
Pat Burnett, Deputy City Clerk  
Yolanda Anderson, MAPD

standards building setback requirement from 25 feet to 11 feet 4 inches for two commercial buildings adjacent to residential zoning on property zoned "LC" Limited Commercial and legally described as follows:

Lot 1, Omo Addition, Wichita, Sedgwick County, Kansas.  
Generally located on the northwest corner of Central and Joann.

subject to the following conditions:

1. The site shall be developed and required to comply with all building, zoning, and landscape code requirements, except that the compatibility standards building setback along the north and west property lines may be reduced to no less than 11 feet 4 inches.
2. The trees that exist along the west and north property lines shall be retained, as feasible, to enhance the buffer between the commercial and the residential areas. These shall be in addition to the buffer trees required by the landscape code.
3. The height of the commercial buildings from grade to the roof lines shall not exceed 15 feet; the height from grade to the peaks of the roofs shall not exceed 24 feet.
4. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with the foregoing conditions.

ADOPTED AT WICHITA, KANSAS, this 27th day of August, 1996.

  
\_\_\_\_\_

Keith Alter, President

ATTEST:

  
\_\_\_\_\_  
Louise Olivarez, Secretary

**BZA RESOLUTION NO. 9-96**

**WHEREAS**, Mr. Cliff Omo, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the compatibility standards building setback requirement from 25 feet to 11 feet 4 inches for two commercial buildings adjacent to residential zoning on property zoned "LC" Limited Commercial and legally described as follows:

Lot 1, Omo addition, Wichita, Sedgwick County, Kansas. Generally located on the northwest corner of Central and Joann.

**WHEREAS**, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

**WHEREAS**, the Board of Zoning Appeals did, at the meeting of August 27, 1996, consider said application; and

**WHEREAS**, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Section 2.12.590.B, Code of the City of Wichita; and

**WHEREAS**, the Board of Zoning Appeals has found that the variance arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owners or the applicant inasmuch as the property was platted with a utility easement that traverses the site in such a manner that limits development and the easement cannot be relocated.

**WHEREAS**, the Board of Zoning Appeals has found that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents inasmuch as adequate separation will be provided between the property line and the structures to allow for required screening and landscaping to reduce the impact of the development on adjacent properties.

**WHEREAS**, the Board of Zoning Appeals has found that the strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as the property could not be developed at the intensity or layout to allow for easy access and unobstructed street exposure. This may result in an unnecessary hardship upon the applicant to use the site as a retail center.

**WHEREAS**, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, inasmuch as there will be no encroachments into public utility easements or street right-of-way as a result of this building setback reduction request and therefore there will be no effect on the general public.

**WHEREAS**, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the intent of the compatibility standards of the zoning ordinance is to protect residential neighborhoods and with the required screening and landscaping for the site this goal should be met.

**WHEREAS**, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Zoning Appeals of the City of Wichita that this request be approved for a variance to reduce the compatibility

**LEGEND**

OE = OVERHEAD ELECTRIC  
 SEC = STREET LIGHT CIRCUIT  
 MH = MANHOLE  
 TSB = TELEPHONE SPICE BOX  
 UT = UNDERGROUND TELEPHONE  
 LP = LIGHT POLE  
 SS = SANITARY SEWER

**REMARKS**

CITY DISC. 30' S. & 42' E.  
 OF THE CENTERLINES OF SHERIDAN &  
 CENTRAL AVE. ELEV. = 121.66  
 CITY DATUM

# SITE PLAN

1" = 20'-0"



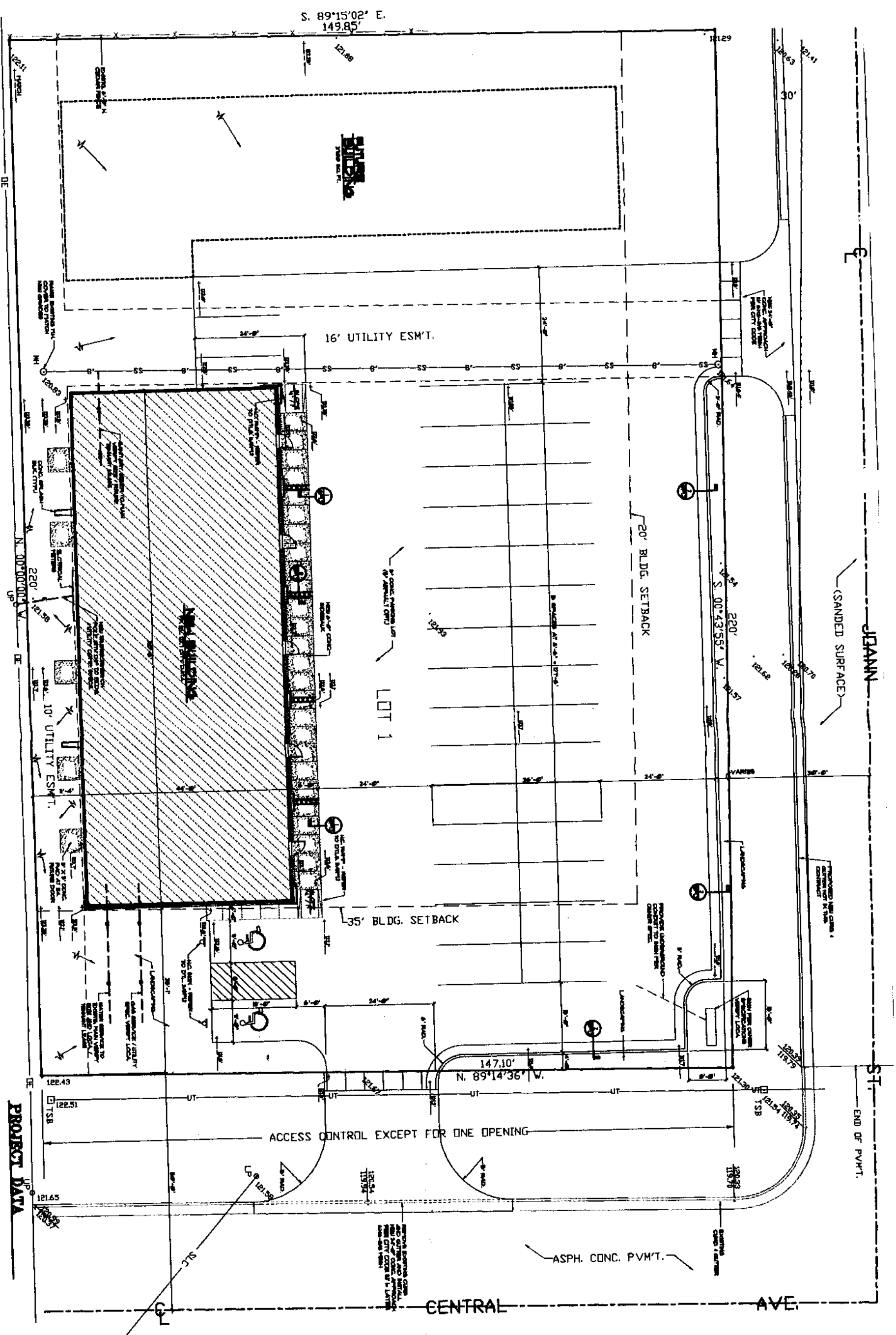
BZA 9-96

**PROJECT DATA**

DATE: 11/15/96  
 DRAWN BY: [Name]  
 CHECKED BY: [Name]  
 PROJECT NO.: [Number]

**BUILDING DATA**

OWNER: [Name]  
 ADDRESS: [Address]  
 CITY: [City]  
 STATE: [State]  
 ZIP: [Zip]



S. 89°15'02" E.  
149.85'

16' UTILITY ESM'T.

20' BLDG. SETBACK

35' BLDG. SETBACK

ACCESS CONTROL EXCEPT FOR ONE OPENING

CENTRAL AVE.

JEANN ST.

ASPH. CONC. PVM'T.

END OF PVMT.