

BZA 10-75 - Transamerican Investment Properties request variance of sign ordinance for the south side of Kellogg and the west side of Rock Road.

M.A.P.C.

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

POSTED
3-2-75
[Signature]

MAPV
CS
6-2-75

ACTION

BZA COMMITTEE Approved 3.25.75 DATE

M.A.P.C. _____

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

BZA 10-75 - Transamerican Invest-
ment Properties request variance
of sign Ordinance for the south
side of Kellogg and the west
side of Rock Road.

Map No. 5946
 Sec. 30
 Twp. 27
 Range 2E

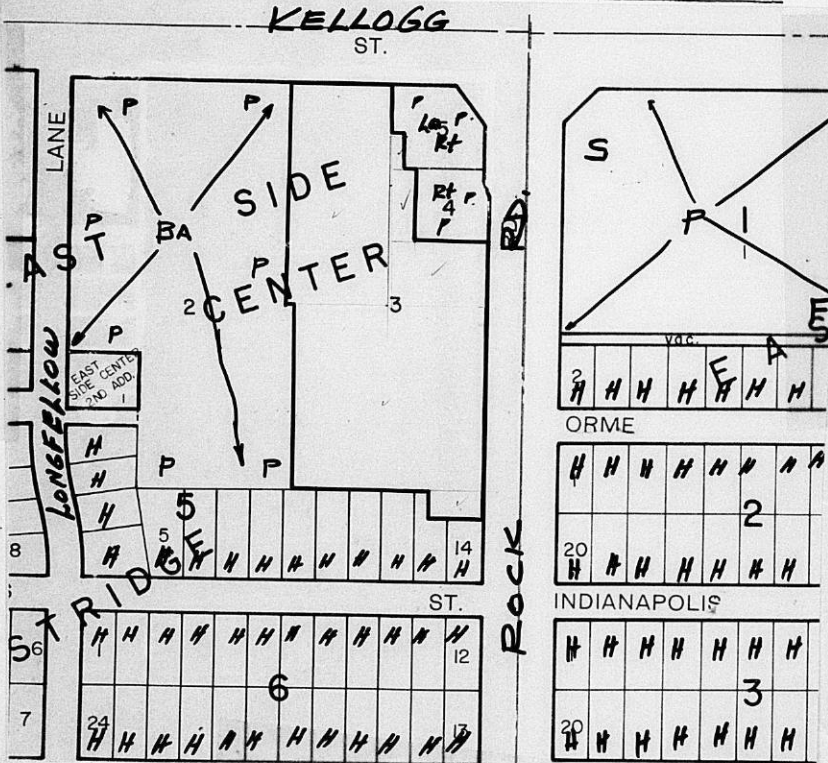
BZA- 10-75
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:

1. Acres: 5.04 (365 (IRREGULAR) ft. by 730 ft.)
2. Adjoining Zoning: E _____ S _____ W _____ N _____
3. Land Use: East LIQUOR STORE RESTAURANT South SINGLE FAM
 West BANK North KELLOGG AVE
4. Sketch Plan Land Use is for: _____
5. Present Land Use if for: MOTEL
6. Area (is) (is not) platted. _____

PHOTO DATA:

Taken by _____ Date _____ Time _____



S. Mendenhall
 No. 2-153C
 EASTING: JAN. 1, 1916
 LOGAN, OH - MORGENTHAU, TX, U. S. A.

September 22, 1975

Mr. Max Eberhart, V.P. and
General Counsel for Transamerican
Properties, Inc.
250 North Rock Road
Wichita, Kansas 67206

Subject: Lighting - Hilton Inn

Dear Mr. Eberhart:

After receiving your September 18th letter advising of the adjustments to the sign and lights as authorized by Transamerican, I advised those persons who had complained of the voluntary action you have taken. Although I am certain the Hilton Inn sign will never be completely satisfactory to those who opposed the variance being granted, I sincerely appreciate your cooperation in making the adjustments.

As far as I am concerned this closes the matter, however, should I receive additional comments from the neighborhood I will keep you advised.

Thanks again.

Sincerely,

Jack H. Galbraith
Secretary, Board of
Zoning Appeals

JHG:el

September 22, 1975

Mrs. Cleve Holland
7814 East Indianapolis
Wichita, Kansas 67207

Subject: Lighting - Hilton Inn

Dear Mrs. Holland:

As you will recall last June you called concerning the intensity of the blue light of the Hilton Inn sign. Later we discussed by phone the globe lights adjacent to the wall that directed the white light on to the neighborhood's back yard.

We have transmitted those concerns on to Max Eberhart, Vice President and General Counsel for Transamerican Properties, Inc. and last Friday I received a letter advising that Transamerican has reduced the light intensity by 50% at a cost of approximately \$1,200.00. This was accomplished by having the sign company remove the 60 M.A. transformers and reinstall with a 30 M.A. transformer.

Mr. Eberhart also advised that they placed light reflectors on the four globe lights along the south border of the property which now prevents lights from shining directly into the back yards of homes bordering to the south.

Although I am sure the Hilton Inn sign will never be completely satisfactory to the neighborhood, Hilton Inn now believes that these changes satisfy those objections raised and fulfill the conditions

Mrs. Cleve Holland
September 22, 1975

established under the sign variance granted by the Board of
Zoning Appeals.

I appreciate your calling these problems to our attention
and hope that the adjustments that have been made are satis-
factory.

Sincerely,

Jack H. Galbraith
Secretary, Board of
Zoning Appeals

JHG:el

cc: Mr. James Ellington, 7909 East Indianapolis, 67207
Robert Feldner, Superintendent of Central Inspection

REGAN & MCGANNON
ATTORNEYS AT LAW

1400 VICKERS-KSBET BUILDING
128 NORTH MARKET STREET
WICHITA, KANSAS 67202

PATRICK J. REGAN
JAMES J. MCGANNON

TELEPHONE
AREA CODE 316
288-7741

September 18, 1975

Mr. Jack Galbraith, Chief Planner
Metropolitan Area Planning Department
104 South Main Street
Wichita, Kansas 67202

Re: Wichita Hilton Inn

Dear Mr. Galbraith:

This is a follow-up letter to our letters of June 27 and August 8 with regard to the "Hilton Inn" sign. Enclosed please find a letter from Ed Dunn sign company which confirms action we have taken with regard to the sign.

You will recall that you received several complaints from neighbors to the south regarding the intensity of this sign. We received a variance from the Board of Zoning Appeals to erect and light this sign. We requested the sign company to construct a sign in accordance with the variance requirements including the allowed intensity. The intensity standard is a subjective one and the sign company specified and constructed a sign they felt was in conformity to the subjective standard. Some neighbors apparently disagreed. Our independent investigation produced the opinion that the sign intensity was probably not too intense, however the opinion was not unanimous.

The owner, Transamerican Investment Properties, has consistently tried to be, within reason, a good commercial neighbor. Therefore, Transamerican has voluntarily reduced the lighting intensity by 50% at a cost of approximately \$1,200.00. We do not feel that any further reduction is feasible according to our sign company's evaluation.

In addition, light reflectors have been installed on the parking lights (there are four of them) that are on the south border line of the property. These prevent lights from shining directly into the backyards of homes bordering the property to the south.



Page 2
Mr. Jack Galbraith
September 18, 1975

It is extremely difficult to satisfy everyone when a major commercial property borders a residential area. We hope that these changes satisfy the reasonable objections raised and fulfill the conditions established under our Community Unit Plan and sign variance granted by the Board of Zoning Appeals.

Thank you,

Max E. Eberhart

Max E. Eberhart

cc: David H. Aull

Lynn Dunn



ED DUNN & SONS, INC.
THE INTERNATIONAL SIGN SERVICE

Gary Dunn

MANUFACTURERS OF SIGNS AND DISPLAYS OF EVERY DESCRIPTION — SINCE 1930

September 9, 1975

Transamerican Properties Inc.
7701 E. Kellogg
Wichita, Kansas 67207

R.E. Hilton Inn
Wichita, Ks.

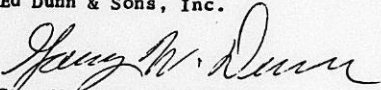
Attn: Oscar Escalman

Dear Sir,

As per your request this letter is to confirm that on August 22, 1975, that we Ed Dunn & Sons, Inc. did remove the 60 M.A. transformers from the 7' Hilton Inn letters on the south elevation of the building and re-install 30 M.A. transformers to reduce the light lumens by one half.

Sincerely,

Ed Dunn & Sons, Inc.


Gary W. Dunn, President
GWD/ls

cc: Mr. Jack Galbraith
City of Wichita

933 SOUTH WEST ST.

PHONE (316) 942-1418

WICHITA KANSAS 67213

Received 9-15-75

JK

September 9, 1975

Transamerican Properties Inc.
7701 E. Kellogg
Wichita, Kansas 67207

R.E. Hilton Inn
Wichita, Ks.

Attn: Oscar Escarman

Dear Sir,

As per your request this letter is to confirm that on August 22, 1975, that we Ed Dunn & Sons, Inc. did remove the 60 M.A. transformers from the 7' Hilton Inn letters on the south elevation of the building and re-install 30 M.A. transformers to reduce the light lumens by one half.

Sincerely,

Ed Dunn & Sons, Inc.

Gary W. Dunn

Gary W. Dunn, President
GWD/1s

cc: Mr. Jack Galbraith
City of Wichita



August 4, 1975

Mr. Max E. Eberhart, Vice President
General Counsel
Transamerican Investment Properties, Inc.
250 North Rock Road
Wichita, Kansas 67206

Re: Lighting - Hilton Inn

Dear Mr. Eberhart:

In reviewing the above-captioned matter, I find that we have received no response since your letter of June 27, 1975 advising that you were investigating this matter and hoped to respond in the near future. We are still receiving calls concerning this matter and the latest advises that the Hilton lights have now been changed and that there are now globe lights in the parking lot that are reflecting light directly onto the properties to the south. Also, we were advised that the East Side Center has now increased the intensity of the blue light on their sign.

Will you please advise me of the status of your investigation.

Sincerely,

Jack H. Galbraith
Chief Planner

JHG:ber

cc: Everett Fettis, Attorney
One Twenty Building 67202

July 2, 1975

Max E. Eberhart
Vice President, General Counsel
Transamerican Investment Properties, Inc.
250 North Rock Road
Wichita, Kansas 67206

Subject: Lighting - Hilton Inn

Dear Mr. Eberhart:

I appreciate your letter replying to the complaints on the sign for Hilton Inn. This is to advise you that we are still continuing to receive neighborhood complaints and now we are receiving calls concerned with the intensity of the white lights shining on the face of the building. This lighting is apparently being directed from high poles and the complaints are stating that the intensity and the glare is much greater than from the sign. I have also been advised that lights are being placed on some type of cabana at the rear of the building and the neighborhood has expressed concern over potential reflection of these lights.

Inasmuch as you are checking into the matter of the sign I would also appreciate you viewing the lighting problem and advising if they are experimenting with the location of lights, or if it is intended that these bright lights reflect directly onto the white surface of the building.

If you have any questions, please call.

Sincerely,

Jack H. Galbraith
Secretary

JHG:js

cc: Everett Fettis, One Twenty Building, 67202



TRANS AMERICAN INVESTMENT PROPERTIES, INC. EAST FIVE PARK EAST
25 SOUTH ROCK ROAD • (316) 685-5355 • WICHITA, KANSAS 67206

June 27, 1975

Mr. Jack Galbraith
Chief Planner
Metropolitan Area Planning Commission
104 S. Main Street
Wichita, Kansas 67202

Dear Mr. Galbraith:

This will acknowledge receipt of your letter dated June 25 with regard to complaints with the Hilton Inn sign associated with case number BZA 10-75. We are thoroughly investigating this situation and hope to respond in the very near future. The president of the sign company with whom we work is on vacation and his presence may be required to complete our analysis.

We are hopeful that something can be worked out to everyone's reasonable satisfaction.

Yours truly,

Max E. Eberhart

Max E. Eberhart
Vice President, General Counsel

MEE:djm



June 24, 1975

Robert Feldner, Supt. of Central Inspection

Jack H. Galbraith, Chief Planner

Case No. BEA 10-75 - Variance of Sign Ordinance

Attached is a copy of my letter to Mr. Darrell L. Watson, who represented the Hilton Inn in a recent request for a variance on their sign height. Although the neighborhood appeared in opposition, it was the action of the Board to grant the variance and since the lighting of the sign last week we have had numerous complaints on the intensity of the bright blue light.

I wanted you all to be advised of these complaints as the neighborhood is quite concerned. I am specifically requesting that the Office of Central Inspection contact Hilton Inn and work with them to see if the intensity of the lighting can be lessened and the ordinance on illuminated signs be complied with.

Jack H. Galbraith
Chief Planner

JHG:js

cc: City Manager's Office
Fred Linde, Grievance Officer

June 25, 1975

Mr. Darrell L. Watson
c/o Everett Fettis
One Twenty Building
Wichita, Kansas 67202

Subject: Complaints with the
Hilton Inn sign associated
with Case No. BZA 10-75

Dear Mr. Watson:

This is to advise you and those receiving copies of this letter that we have received several calls complaining about the bright blue light from the Hilton Inn sign that apparently was turned on last week. These calls were received last Friday and Monday and we have assured those callers that we would have their complaints investigated.

In re-reading your letter of February 24, 1975, you justified for the Board the reasons why the variance should be granted. You emphasized that the light would be "shaded soft pastel blue that is very pleasing to the eye and creates a feeling of warmth as compared to the white light radiated from individual rooms". As I recall, the presentation before the Board also emphasized the soft blue light.

Last night Glen Lytle of our staff, and I viewed the area and I basically agree with the callers, that the light is not shaded or soft, rather it is quite bright and casts a blue reflection on the front and back yards of nearby homes and reflects off of houses, storm windows, and cars and I can see why the neighborhood is concerned. In reviewing the Resolution which granted the variance, two of the five conditions were found in your favor specifically because of the purported shaded pastel color of the lighting of the sign.

Darrell L. Watson
June 25, 1975
Page Two

Because of the complaints and what appears to be a misrepresentation of the type of illumination, we would appreciate you contacting your client and the sign company and see if something can be done to substantially reduce the intensity of the light. Please be advised that Section 28.04.139(5) Illuminated Signs states in part as follows:

"Signs shall be shaded wherever necessary to avoid casting bright lights upon property located in any residential district or upon any public street."

My first impression is that this sign violates this condition of the text.

We would appreciate you reviewing this matter. We are requesting that the Superintendent of Central Inspection also investigate these complaints and take whatever action is necessary to see that the sign conforms to the ordinance and as presented to the Board of Zoning Appeals associated with subject case. If the intensity cannot be lessened, it will be necessary that we bring this matter to the attention of the Board, who could cause the case to be re-opened.

If you have any questions concerning this matter, please contact me.

Sincerely,

Jack H. Galbraith
Chief Planner

JHG:js

cc: Max E. Eberhart, 250 North Rock Road, 67206
Everett Pettis, One Twenty Building, 67202

WICHITA-SEDGWICK COUNTY


DATE

June 23, 1975

METROPOLITAN AREA PLANNING DEPARTMENT

TO The File
FROM Jack H. Galbraith, Chief Planner
SUBJECT BZA 10-75

On Friday, June 20, and Monday, June 23, 1975, we received several calls complaining about the intensity of the blue light of the Hilton Inn sign. Specifically, calls came from Mrs. Holland and Mrs. Harris (683-2494) and Mr. Ellington (682-6176). We advised that we would investigate the matter and contact the Office of Central Inspection and request that they work with the owners of the property to see if the intensity of the light could be lessened.


Jack H. Galbraith
Chief Planner

JHG:js

RESOLUTION NO. BZA 10-75

WHEREAS, Transamerican Investment Properties, Inc., 250 North Rock Road, Suite 150, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to increase the maximum permitted height of three (3) Illuminated Building Signs from 30 feet to 92 feet above grade on property zoned the "LC" Light Commercial District, and legally described as follows:

Lot 3, East Side Center, an Addition to Wichita, Kansas. Generally located on the west side of Rock Road in an area south of Kellogg.

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

WHEREAS, the Board of Zoning Appeals did, at the meeting of March 25, 1975, consider said application; and

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

WHEREAS, the Board of Zoning Appeals has found that the variance arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant inasmuch as preliminary planning and construction stages of this hotel were made many months prior to the adoption of the sign ordinance. It may also be unique that under the provisions of the proposed new zoning ordinance, if adopted, this height restriction would not apply to subject property; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents inasmuch as the lighting of the signs will be a shaded pastel color and as such would not cast bright light on any adjoining properties; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28 (Zoning Ordinance) of which variance is requested, will constitute unnecessary hardship upon the property owner represented in the application inasmuch as the applicant had completed much in the way of preliminary planning and construction prior to the adoption of the new sign regulations; and

WHEREAS, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare due to the fact building signs of a shaded pastel color would be no more distracting to motorists than the other assorted building or room lights on the hotel and yet would provide for easier identification to travelers; and

Resolution No. BZA 10-75
Page Two

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as the quality of lighting to be used would be a shaded pastel blue and the south face of the building adjacent to the residential properties lies approximately 230 feet from the common property line; and

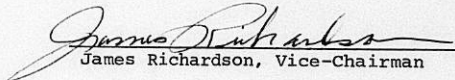
WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

NOW, ~~WHEREAS~~, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to increase the maximum permitted height of three (3) illuminated Building Signs from 30 feet to 92 feet above grade on property zoned the "IC" Light Commercial District and legally described as:

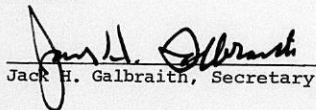
Lot 3, East Side Center, an Addition to Wichita, Kansas. Generally located on the west side of Rock Road in an area south of Kellogg.

be approved.

ADOPTED AT WICHITA, KANSAS, this 25th day of March, 1975.


James Richardson, Vice-Chairman

ATTEST:


Jack H. Galbraith, Secretary

May 1, 1975

Mr. James Beasley
Fettis, Quinn & Beasley
One Twenty Building
Wichita, Kansas 67202

Subject: Case No. BZA 10-75
Request for Variance

Dear Mr. Beasley:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on March 25, 1975, in connection with your request for a variance to increase the maximum permitted height of three Illuminated Building Signs from 30 feet to 92 feet above grade on property zoned the "LC" Light Commercial District, and generally located on the west side of Rock Road in an area south of Kellogg.

This Resolution reflects the official action of the Board to approve your request. It is forwarded to you for your information and files.

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

Sincerely,

Jack H. Galbraith
Secretary

JHG:js
Encl.

cc: Transamerican Investment Properties, Inc., 250 N. Rock Rd. 67206
Darrell L. Watson, c/o Everett Fettis, One Twenty Bldg., 67202
Robert Feldner, Supt. of Central Inspection
Don C. Gisick, City Clerk
Joe Donnelly, Central Inspection

March 31, 1975

Mr. James Beasley
Fettis, Quinn & Beasley
One Twenty Building
Wichita, Kansas 67202

Subject: Case No. BZA 10-75
Request for Variance

Dear Mr. Beasley:

At the regular meeting of the Board of Zoning Appeals on March 25, 1975, your request for a variance to increase the maximum permitted height of three illuminated Building Signs from 30 feet to 92 feet above grade on property zoned the "LC" Light Commercial District, and generally located on the west side of Rock Road in an area south of Kellogg was considered.

It was the action of the Board to approve this variance as requested.

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

If you have any questions, please call our office.

Very truly yours,

Jack H. Galbraith
Secretary

JHG:LD:rme

cc: Robert Feldner, Superintendent of Central Inspection
Don C. Gisick, City Clerk
Joe Donnelly, Central Inspection
Everett Fettis, One Twenty Building, 67202
Darrell L. Watson, 250 North Rock Road, 67206 *returned 4-3-75*
Max E. Eberhart, 250 North Rock Road, 67206
Mrs. Ralph Sapp, 207 East Kelly, Augusta, Kansas 67010
✓ Mrs. Cleve Holland, 7814 East Indianapolis, 67207
✓ Mr. James Ellington, 7909 East Indianapolis, 67207



THE AMERICAN INVESTMENT PROPERTIES, INC. EXECUTIVE PARK EAST
NORTH ROCK ROAD • (316) 685-5355 • WICHITA, KANSAS 67208

March 25, 1975

Mr. Jack Galbraith
Chief Planner
City of Wichita
204 S. Main
Wichita, Kansas

Dear Jack:

RE: Hilton Inn Sign Variance

We are most gratified that the merits of our case warranted your favorable recommendation of our application for sign variance.

I wish to thank you for the time you spent on our case and your support.

Sincerely,

Max E. Eberhart

Max E. Eberhart
Vice President & General Counsel

vb



SECRETARY'S REPORT

CASE NO. EZA 10-75

APPLICANT: Transamerican Investment Properties, Inc., 250 North Rock Road, Suite 150, Wichita, Kansas.

AGENT: Everett Fettis, 120 Building, Wichita, Kansas

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to increase the maximum permitted height of three (3) Illuminated Building Signs from 30 feet to 92 feet above grade.

GENERAL LOCATION: West side of Rock Road in an area south of Kellogg

ZONING: Subject property is zoned the "LC" Light Commercial district as are properties to the east, west and north, property to the south is zoned the "AA" Single Family Dwelling District.

LAND USE: Subject property is being developed as a motor hotel complex, to the west is a bank, office building and parking; north are assorted small service type businesses and across U.S. 54 is the Towne East development; east is the Eastgate Shopping Center and south is developed as single family residences.

JURISDICTION:

The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five of the following conditions are found to exist:

1. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the 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, prosperity or general welfare; and

Secretary's Report
Case No. BZA 10-75
Page Two

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

COMMENTS BY THE SECRETARY

The applicants are requesting a variance of the maximum sign height permitted in the "LC" District for an Illuminated Building sign. The recently adopted Sign regulation permits Illuminated Building Signs in the "LC" Light Commercial District provided that the "signs shall not be more than 30 feet above grade". This request for variance is from the permitted height of 30 feet to 92 feet above grade. The requested variance, if granted, would permit the placement of Illuminated Building Signs, near the top of the hotel structure, on three sides of the building. It is proposed to place the hotel's identification symbol, a large "H", on both the east and west ends of the structure and to place the words "HILTON INN" on the south side, presumably to attract travelers on the Kansas Turnpike. This south wall of the hotel is approximately 230 feet from the adjoining residential district.

The applicants in their letter of justification point out that their hotel would be the only hotel/motel in the city required to abide by this 30-foot limitation on building signs. This is true only in the sense that theirs is the only hotel/motel to apply for a sign permit in the "LC" District after the adoption of the new sign regulations; all other hotel/motel signs in excess of 30 feet are now non-conforming. The applicants further state that the quality of the lighting to be used in the Wichita Hilton Inn signs will be a shaded pastel blue that is very pleasing to the eye and will not be objectionable to adjacent residences.

Subject property is part of a Community Unit Plan which also includes the East Side Financial Center. This CUP was approved by the City Commission and became effective with the recording of the associated plat on May 12, 1972. If the developers had applied for a permit for the desired signs at a time after this date and before the December 13, 1974 date of adoption of the sign ordinance, they could have obtained the permit without benefit of a variance.

It should also be noted that subject property, as presently determined, would be in the B-4 Special Business District under the provisions of the proposed new zoning ordinance and as such would not be limited as to the height of a building sign.

Secretary's Report
Case No. BZA 10-75
Page Three

UNIQUENESS

It is the opinion of the Secretary that uniqueness may exist inasmuch as preliminary planning and construction stages of this hotel were made many months prior to the adoption of the sign ordinance. It may also be unique that under the provisions of the proposed new zoning ordinance, if adopted, this height restriction would not apply to subject property.

ADJACENT PROPERTY

It is the opinion of the Secretary that the granting of the variance would not adversely affect adjacent property owners inasmuch as the lighting of the signs will be a shaded pastel color and as such would not cast bright light on any adjoining properties.

HARDSHIP

It is the opinion of the Secretary that it is difficult to determine if unnecessary hardship would be placed upon the applicant by the strict application of the zoning ordinance. However, it may be a hardship inasmuch as the applicant had completed much in the way of preliminary planning and construction prior to the adoption of the new sign regulations.

PUBLIC INTEREST

It is the opinion of the Secretary that the granting of the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare inasmuch as building signs of a shaded pastel color would be no more distracting to motorists than the other assorted building or room lights on the hotel and yet would provide for easier identification to travelers.

SPIRIT AND INTENT

It is the opinion of the Secretary that the spirit and intent of the zoning ordinance, in this case, is to assure that residential properties to the south of subject property are protected from the intrusion of their privacy that might be caused due to bright lighted signs on subject property. It is the further opinion of the Secretary that the requested variance would not be opposed to

Secretary's Report
Case No. BZA 10-75
Page Four

that spirit and intent inasmuch as the quality of lighting to be used would be a shaded pastel blue and the south face of the building adjacent to the residential properties lies approximately 230 feet from the common property line.

RECOMMENDATION

Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, it is recommended that the request to increase the maximum permitted height of three (3) Illuminated Building Signs from 30 feet to 92 feet be approved.

BOARD OF ZONING APPEALS
Room 402 City Building Annex
104 South Main Street
Wichita, Kansas 67202

March 3, 1975

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 10-75

An application has been filed by Transamerican Investment Properties, Inc., 250 North Rock Road, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to increase the maximum permitted height of three (3) illuminated Building Signs from 30 feet to 92 feet above grade on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 3, East Side Center, an Addition to Wichita, Kansas. Generally located on the west side of Rock Road in an area south of Kellogg.

This application has been assigned Case No. BZA 10-75, and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, March 25, 1975, at 1:30 p.m., in Room 401 City Building Annex, 104 South Main Street, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Jack H. Galbraith
Secretary

3-4-75 - 31 Notices to adjacent property owners mailed this date
3-4-75 - 10 Notices to MAPC

5946
BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

CASE NO. 10-75
FILED 2-25-75

APPLICATION FOR VARIANCE

✓ I. Name of Applicant Transamerican Investment Properties, Inc.
250 N. Rock Road, Suite 150
Mailing Address Wichita, Kansas 67206 Phone 685-5355

✓ Name of Authorized Agent Darrell L. Watson - Everett Jettis
250 N. Rock Road, Suite 150
Mailing Address Wichita, Kansas 67206 Phone 685-5355

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

II. The variance requested is Section 28.04.139 G, 2 regarding 30' height
restriction above grade from a maximum height of 30'
30' to 92' *from a maximum height of 92'*
for property located 549 South Rock Road

Lot 3, in EAST SIDE CENTER, an Addition to Wichita, Sedgwick County, Kansas; TOGETHER WITH a non-exclusive permanent reciprocal easement for ingress and egress over and across beginning at the Northwest corner of Lot 2 of East Side Center, an Addition to Wichita, Sedgwick County, Kansas, thence South along the West line of Lot 2 for 376 feet for the POINT OF BEGINNING; thence East from the POINT OF BEGINNING parallel to the North line of Lot 2, for 385 feet to the eastern line of Lot 2; thence South along said eastern line of Lot 2 for 21 feet; thence East 20 feet; thence South along said eastern line of Lot 2 for 5 feet; thence West parallel to the North line of Lot 2 for 405 feet to the western line of Lot 2; thence North along said western line of Lot 2 for 26 feet to the POINT OF BEGINNING.

in the City of Wichita; and which is presently zoned Light Commercial

Community Plan DP-44
III. The applicant herein, or his authorized agent, acknowledges:

- That he has received an instruction sheet concerning the filing and hearing of this matter;
- That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 24-606); and that the appropriate fee is herewith tendered;
- That he has been advised of his right to bring action in the District Court of Sedgwick County to appeal the decision of the Board.
- That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Transamerican Investment Properties, Inc.
Applicant

Darrell L. Watson
Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 1130 (a.m. - (p.m.)), 2/25 1975
together with appropriate fee of \$50.00.

T9-402

Larry Johnson
Signed



February 24, 1975

The Board of Zoning Appeals
City Building Annex, Room 401
104 South Main
Wichita, KS 67202

RE: Variance Statement
Wichita Hilton Inn
549 South Rock Road
Wichita, Kansas

Gentlemen:

The undersigned, as authorized agent of Transamerica Investment Properties, Inc., does hereby respectfully request a variance permit be granted from the 30 foot height limitation currently applicable for illuminated building signs in "LC", Light Commercial Districts, as set forth in Section 28.04. 139 G,2 of the Code of the City of Wichita, Kansas.

I submit that this application will meet the requirements of Section 2.12. 590.B, Code of the City of Wichita as follows:

1. That the variance requested arises from a condition which is unique to the Wichita Hilton Inn in that our new Hilton Inn is the only project under construction or existing that is similarly situated and adversely affected. All hotels and motels in the City of Wichita currently enjoy the right of using illuminated building signs at heights much greater than 30 feet for identification purposes; and the Wichita Hilton Inn did not create the condition of limitation as to the 30 foot height restriction that is currently applicable by virtue of Section 28.04. 139 G,2 of the Code of the City of Wichita, Kansas; and
2. That the granting of the permit for variance will not adversely affect the rights of adjacent property owners or residents, in any way; and
3. That the strict application of the provisions of Title 28 of which this variance is requested will constitute unnecessary hardships upon the Wichita Hilton Inn as follows:
 - (a) Substantial reduction of revenues by loss of patronage to competitors who currently enjoy the right to have their building signs 90 feet or higher on their structures;

- (b) Substantially increase the time span within which Wichita Hilton Inn could otherwise recover development costs and expenses; and thereby reduce the investment rate of return on an investment of several million dollars; and
 - (c) A resulting reduction of room tax revenue from patronage, if enacted, that would otherwise be available to promote conventions and tourism for the City of Wichita, together with reduction of sales and excise taxes which would be partially available to Wichita; and
 - (d) The established fact as published by the American Hotel and Motel Association that the hotel and motel business is primarily a nighttime business of which it is estimated that in excess of 80% of the revenues generated are derived from nighttime patronage and the current 30 foot height limitation for illuminated signs severely limits the capability of the Wichita Hilton Inn to attract prospective patrons during the hours of darkness; and
 - (e) That the 30 foot height restriction certainly creates an unnecessary hardship upon the Wichita Hilton Inn when it is recognized and acknowledged that the Wichita Hilton Inn is the only hotel or motel in the City of Wichita that the current height restriction is applicable to; and
 - (f) That the Wichita Hilton Inn will be in effect, penalized and made to suffer a severe disadvantage as to its competitors in the ability to attract patrons and generate revenues, however, at the same time the Wichita Hilton Inn will be expected to pay its full share of real estate taxes to the City of Wichita and the County of Sedgwick upon the same formula as other hotels and motels in the City or County; and
 - (g) That the Wichita Hilton Inn will be denied proper access of high quality identification into its potential market place that would be within vision of prospective patrons, severely diluting the ability of the Wichita Hilton Inn to be a community service leader in Wichita and provide first class rooms, lodging and convention facilities that should greatly further enhance the reputation and image of Wichita to visitors and transients to our City; and
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare. In fact, I submit that most of the above would be enhanced as follows:
- (a) The signing that the Wichita Hilton Inn desires to position on its building above the 30 foot level would amount to a total approximate illuminated square footage of 440; which is .034 of the 13,104 square foot window area above the 30 foot level.

In addition, the quality of the lighting to be used in the Wichita Hilton Inn signs will be a shaded soft pastel blue that is very pleasing to the eye and creates a feeling of warmth as compared to the white light radiating from the individual rooms; and

- (b) Identification from a higher elevation than 30 feet would allow patrons to safely journey to the Wichita Hilton Inn in an orderly, convenient manner because our identification would come into view from a greater distance away and prospective patrons would be in a position to negotiate the proper traffic lane well in advance of arriving at a proper access point and thereby reduce the potential danger of a prospective patron creating a traffic accident or affecting the flow of otherwise orderly traffic on all adjacent arteries and thoroughfares; and
 - (c) That in the long run, the public health, prosperity, and general welfare of the citizens of the City of Wichita will be enhanced as a result of visitors and patrons of the Wichita Hilton Inn having utilized its facilities and spent money that flows into the economic mainstream of Wichita; and
5. That granting of the variance desired will not be opposed to the general spirit and intent of Title 28 (zoning ordinance), when one recognizes and acknowledges some of the basic elements that all ordinances and standards created by an ordinance are imposed with as a matter of law.

In the first instance it is very hard for me to determine what the City of Wichita is attempting to control with the now established 30 foot height restriction that is applicable to our particular zoning designation of "LC" light commercial that is not applicable to "C", Commercial, or "E" Light Industrial:

- (a) Is the City concerned about esthetics of the sign itself as it relates to height?
- (b) Is the City concerned that light being emitted from altitudes in excess of 30 feet automatically have an adverse affect upon the public health, safety, morals, prosperity, or general welfare of the citizens of Wichita?
- (c) Is the City concerned about the sign being a hazard of some type?
- (d) Is the City concerned that it will be a nuisance to adjacent property owners?
- (e) Why did the City not establish the 30 foot height restriction upon hotels and motels that utilize other zoning designations?
- (f) What is magic about a 30 foot height restriction in and of itself?

The Board of Zoning Appeals
Page 4
February 24, 1975

In essence, in my opinion, the 30 foot height restriction is an arbitrary standard the basis or justification of which is at best vague and uncertain and is most certainly discriminating as to the Wichita Hilton Inn. In short, the element of "reasonableness" as part of the 30 foot standard appears to be lacking.

In addition, if one applies the theory of "utility of use versus gravity of harm" to the 30 foot standard it is not hard to determine in which direction the pendulum should rightfully swing. By this I mean that if the City weighs the utility of enforcing the 30 foot height restriction on our "LC" district as compared to the benefit the Wichita Hilton Inn and the City of Wichita would realize by way of increased revenues and money flowing directly into the Wichita economy that would result from the waiving of the height restriction; the answer would be obvious.

In summation I would emphasize that we are not opposed to the new sign ordinance and feel that the City is moving in the right direction to control the existing signs and establish fair standards for new signs and further provide for licensing of sign hangers. These new provisions will most certainly result in a more attractive city in the long run and establish higher standards and order in signing of all types. However, I am hopeful the City will recognize those areas within the ordinance; similar to the one I am requesting a variance of, that are not representative of a fair or reasonable standard and will be prepared to act accordingly, amending the ordinance or granting a permit for variance. I feel that everyone agrees that a height restriction needs to be established, but the merits of each sign should be weighed along with the quality of the particular sign in arriving at an acceptable height for that sign.

I'm sure that each member of the Board of Zoning Appeals will individually weigh the merits of my request as a reasonably prudent man and vote according to what each feels will be in the best interest of the City of Wichita upon a basis of determination that otherwise meets the test of "reasonableness" and "utility of use versus gravity of harm".

Thank you for your time in considering this request.

Very truly,

Darrell L. Watson

Darrell L. Watson
Assistant General Counsel

DLW/dah

STATEMENT OF OWNERSHIP

STATE OF KANSAS)
) SS:
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,

All the Owners within 200 feet of:

Lot 3, EAST SIDE CENTER an Addition to
Wichita, Kansas.



And from such examination find that the owners thereof are as set opposite the description of the property below, viz:
(Addresses as given are furnished as a service and not certified.)

<u>LOT</u>	<u>ADDITION</u>	<u>OWNER & ADDRESS</u>
3	EAST SIDE CENTER	Wichita Properties Inc. ✓ % Ferd E. Evans Jr., Resident Agent 200 West Douglas, Suite 430 Wichita, Kansas 67202
2	EAST SIDE CENTER	East Side Financial Center Inc. ✓ % David H. Aull, Resident Agent 260 North Rock Road Wichita, Kansas 67206
4 & 5	EAST SIDE CENTER	Transamerican Investment Properties Inc. ✓ 260 North Rock Road Wichita, Kansas 67218 and Richard M. & Jeannae C. Leslie ✓ 721 Stratford Wichita, Kansas 67206

Fidelity  Title
COMPANY, INC.

<u>LOT</u>	<u>ADDITION</u>	<u>OWNER & ADDRESS</u>
1 exc. East 22 feet	ROCKWOOD SOUTH SECOND ADDITION	✓ Reproco Inc. First National Bank Building Bartlesville, Oklahoma 74003
East 22 feet of Lot 1	ROCKWOOD SOUTH SECOND ADDITION	✓ City of Wichita
1	KELLOGG MALL	✓ Chrysler Realty Corporation Address Unknown <i>P.O. Box 1719</i> and <i>Retreat, MO 64231</i>
4	KELLOGG MALL	✓ Kellogg Mall Associates Address Unknown
1, 2, 3, 4 Block 1	EASTMOOR	<i>None</i> Chrysler Realty Corporation Address Unknown
1 Block 2	EASTMOOR	✓ Eastgate of Wichita Inc. % Vincent Bogart, Resident Agent 444 North Market Wichita, Kansas 67202
2 Block 2	EASTMOOR	✓ M. I. Jr. and Patricia Joy Neher Address Unknown <i>8001 E. Orme</i> <i>Wichita, Ks 67207</i>
3 Block 2	EASTMOOR	✓ Larry J. & Nina J. McKee Address Unknown <i>Box 48</i> <i>Clearwater, Ks 67026</i>
18 Block 2	EASTMOOR	✓ James H. & Lottie Ellen Baugh 8013 East Orme Wichita, Kansas 67207
20 Block 2	EASTMOOR	✓ John E. & Marilyn J. Huston 8014 East Indianapolis Wichita, Kansas 67207 & ✓ Earnest H. Dennison 3420 East Kinkaid Wichita, Kansas 67218 & ✓ James L. Dennison 6423 Eilerts Street Wichita, Kansas 67218
		✓ Roy D. & Nancy J. Flock 8002 East Indianapolis Wichita, Kansas 67207



<u>LOT</u>	<u>ADDITION</u>	<u>OWNER & ADDRESS</u>
1 Block 3	EASTMOOR	✓ Clifford L. & Helen Ferch 8001 East Indianapolis Wichita, Kansas 67207
5 Block 5	EASTRIDGE ELEVENTH	✓ Vaughan O. & Grace I. Stevens 220 Lochinvar Wichita, Kansas 67207
6 Block 5	EASTRIDGE ELEVENTH	✓ Joseph E. & Mozelle Munzenko 7720 East Indianapolis Wichita, Kansas 67207
7 Block 5	EASTRIDGE ELEVENTH	✓ James Parker & Jeanette M. Resch 7802 East Indianapolis Wichita, Kansas 67207
8 Block 5	EASTRIDGE ELEVENTH	✓ John Adam & Roberta Smith 7808 East Indianapolis Wichita, Kansas 67207
9 Block 5	EASTRIDGE ELEVENTH	✓ Cleve C. Jr. & Marion Holland * 7814 East Indianapolis Wichita, Kansas 67207
10 Block 5	EASTRIDGE ELEVENTH	✓ Craig E. & Carmo D. Allen 7820 East Indianapolis Wichita, Kansas 67207
11 Block 5	EASTRIDGE ELEVENTH	✗ Ambrose D. & Jacqueline Allison Address Unknown
12 Block 5	EASTRIDGE ELEVENTH	✓ Eugene V. & Carol M. Moser 7908 East Indianapolis Wichita, Kansas 67207
13 Block 5	EASTRIDGE ELEVENTH	✓ Gordon R. & Janet K. Mardis 7914 East Indianapolis Wichita, Kansas 67207
14 Block 5	EASTRIDGE ELEVENTH	✓ James Russell & Ruth R. Harris 7920 East Indianapolis Wichita, Kansas 67207
9 Block 6	EASTRIDGE ELEVENTH	✓ Jack S. & Marilyn K. Luder 7903 East Indianapolis Wichita, Kansas 67207
10 Block 6	EASTRIDGE ELEVENTH	✓ Ralph C. & Vera I. Sapp 207 East Kelly Augusta, Kansas 67010



<u>LOT</u>	<u>ADDITION</u>	<u>OWNER & ADDRESS</u>
11 Block 6	EASTRIDGE ELEVENTH	✓ Nellie A. Capron 7915 East Indianapolis Wichita, Kansas 67207
12 Block 6	EASTRIDGE ELEVENTH	✓ Victor L. & Wanda L. Durrington 306 South Clifton Wichita, Kansas 67218

Dated at Wichita, Kansas, this 10th day of February,
1975, 7:00 o'clock A.M.

FIDELITY TITLE COMPANY, INC.

By *Arleta Gray*
Asst. Sec. ag

Tracer No. 27314



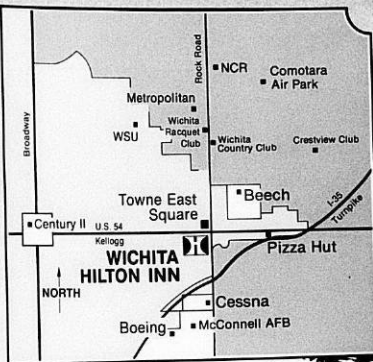
H WICHITA
HILTON
INN



WICHITA HILTON INN... Unmatched for comfort and convenience

Special occasions happen often at the Hilton. Beautiful service. A pleasant, relaxed atmosphere. Elegant meals. All in the Hilton tradition of gracious hospitality which makes every day special.

At the registration desk...in our full-service bell staff...in quick-response elevators which speed you to your room...traditional Hilton quality and consideration show the moment you arrive. Quality shows, too, in each of the Hilton's 262 guest rooms. And in elegantly appointed suites atop the central ten-floor tower...or special executive rooms and pool-side family cabanas. The kind of quality you expect at the Hilton.



...Unmatched for location

Wichita Hilton Inn's easily accessible location is an important convenience for convention delegates and families. Just off the turnpike from Kansas City, Topeka and Oklahoma City on Highway 54—only minutes away from major area industries, country clubs, golf courses, theaters, tennis club and shopping. And a short, direct drive from Downtown Wichita.

For reservations:
(316) 686-7131



WICHITA HILTON INN... Unmatched for convention and meeting facilities

For a meeting of the Board or a convention of 1,000, the Wichita Hilton is ideal! Convenience features in the spacious Grand Ballroom were designed to accent any meeting or convention. Extra-wide delivery doors with access to the loading dock, stage platforms, a projection room, central light and sound controls, soundproof walls...it's the kind of convention consideration you'll find only at the Hilton.

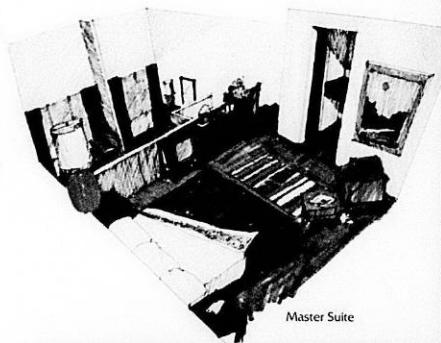
Banquets for 650 guests are graciously served from the Hilton's special banquet kitchens. Beautifully decorated Board Rooms and five special meeting rooms provide dining and conference accommodations for smaller groups.

...Unmatched for service

Getting away from it all...or getting down to business...Hilton services always mean comfort and convenience.

- Airport Pickup and Delivery
- Acres of Free Parking
- Tennis and Golf Arrangements with Wichita Clubs
- Swimming Pool and Saunas
- Gift Shop
- Color Television

And the shopping is superb! Across the street from the Hilton are two shopping centers including Towne East, the newest and largest complete shopping mall in Kansas!



Master Suite



Restaurant

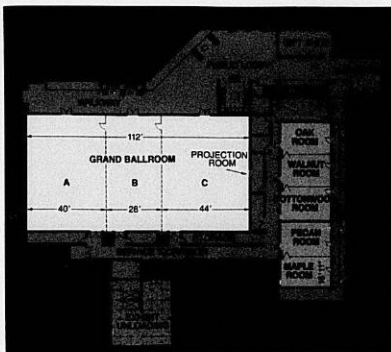
Club



Grand Ballroom



Coffee House



	Dimensions	Floor Space	Seating Capacity	Bar Seating	Club Seating
Grand Ballroom	59x112	6,608	1,000	650	450
Ballroom A	59x40	2,360	360	240	160
Ballroom B	59x28	1,652	240	160	110
Ballroom C	59x44	2,596	375	250	170
Oak, Walnut, Cottonwood, Pecan, or Maple Room	26x17	450	60	45	30

...Unmatched for dining pleasure

Elegant dining is assured at the Hilton Inn. Rustic beamed ceilings, warm wood tones, a creative menu and live entertainment nightly promise pleasure and relaxation in the Restaurant and Club. Or, try the light-hearted, soda-fountain atmosphere of the Coffee House for a sandwich or malt. It's open 21 hours a day.

For reservations or information:

Wichita Hilton Inn—(316) 686-7131

Hilton Reservation Service is available through any Hilton Hotel or Inn. Or ask your travel agent.



Kellogg & Rock Road
Wichita, Kansas 67207



FORM 22-01

PAYMENT NOTICE
City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

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

DESCRIPTION	AMOUNT
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12A	
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Name

Address

Type	Due Date
A-1-7-73	2/24/75

Comments:

Date	By
2/25/75	CS

*

This BZA. Case
Has a Large Drawing
On 35mm Microfilm
Roll # 1