

200' 1/4 Sec 11-3-86  
spot 11-18-86  
Recorded ✓

Case No. BZA 30-86 - Frank L. Carney  
requests a variance to reduce the re-  
quired number of off-street parking  
spaces from 366 spaces to 285 spaces  
for the expansion of the theaters &  
retail space on property zoned the "LC"  
Light Commercial District & located on  
the east side of Rock Road & south of

ACTION

BZA. 30-86 Deferred 4 weeks 8/26/86  
DATE

BZA APPROVED 9-23-86

20' 1/4 Sec 11-3-86

shot 11-18-86

Recorded ✓

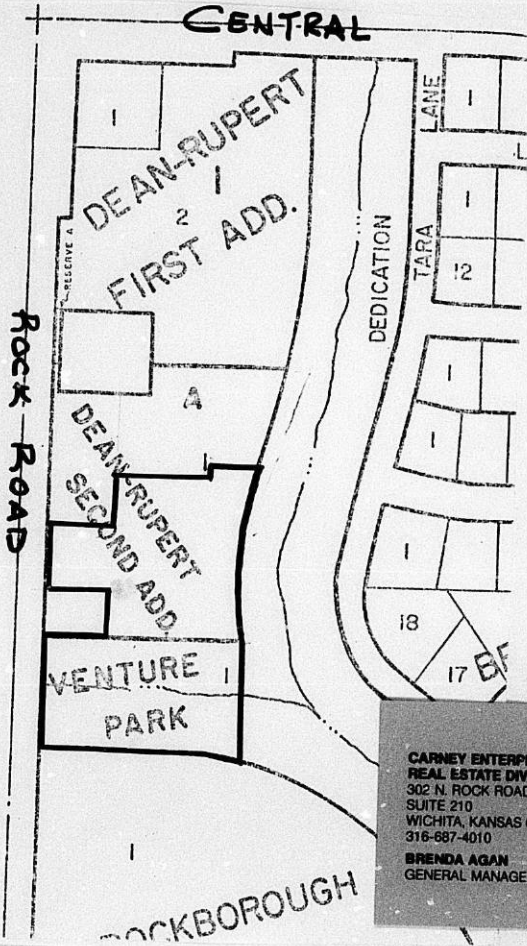
Case No. BZA 30-86 - Frank L. Carney  
requests a variance to reduce the re-  
quired number of off-street parking  
spaces from 366 spaces to 285 spaces  
for the expansion of the theater's  
retail space on property zoned the "LC"  
Light Commercial District is located on  
the east side of Rock Road & south of  
Rock Rd.

Map No. 6747 D

BZA 30-86  
Filed \_\_\_\_\_

AREA DATA:

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



**CARNEY ENTERPRISES**  
REAL ESTATE DIVISION  
302 N. ROCK ROAD  
SUITE 210  
WICHITA, KANSAS 67206  
316-687-4010  
**BRENDA AGAN**  
GENERAL MANAGER

**Standard**  
No. 2153C  
LAWYERS: JIM OGDEN, CH  
MORRISON, TILGNER & GROVE, PA  
U.S.A.

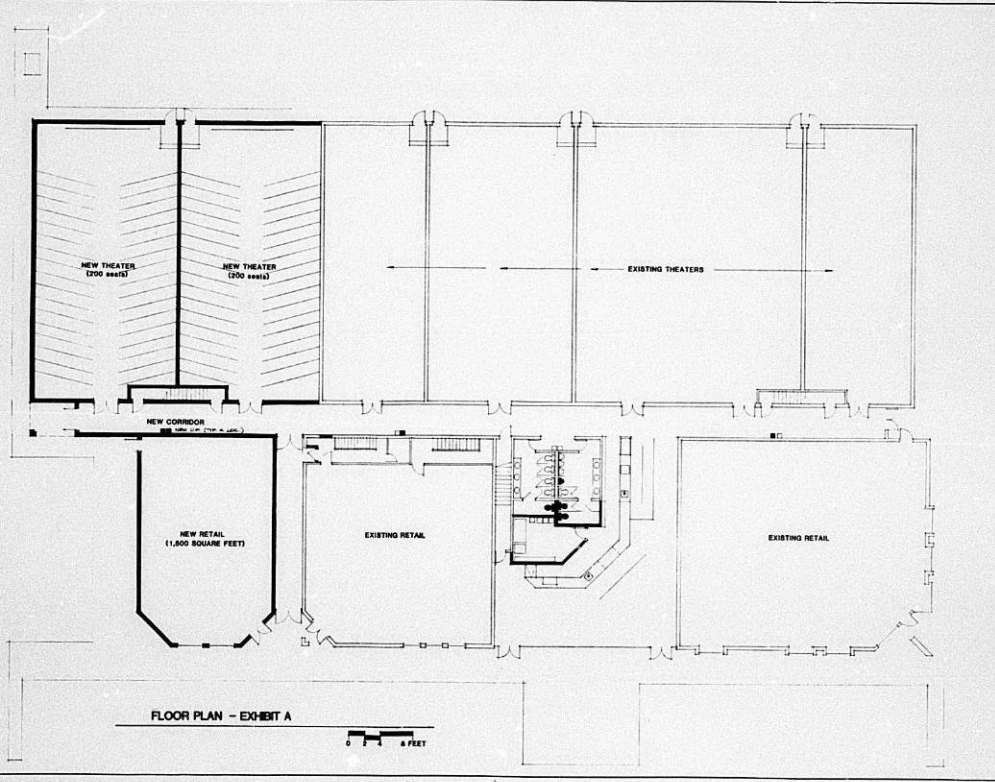
7-25-68



HOWARD & BELSER  
ARCHITECTS, INC.

NO. 1000 - 1000

PROJECT NO.



FLOOR PLAN - EXHIBIT A

0 4 8 FEET

CINEMA EAST  
THEATER EXPANSION  
WICHITA, KS

1  
THREE



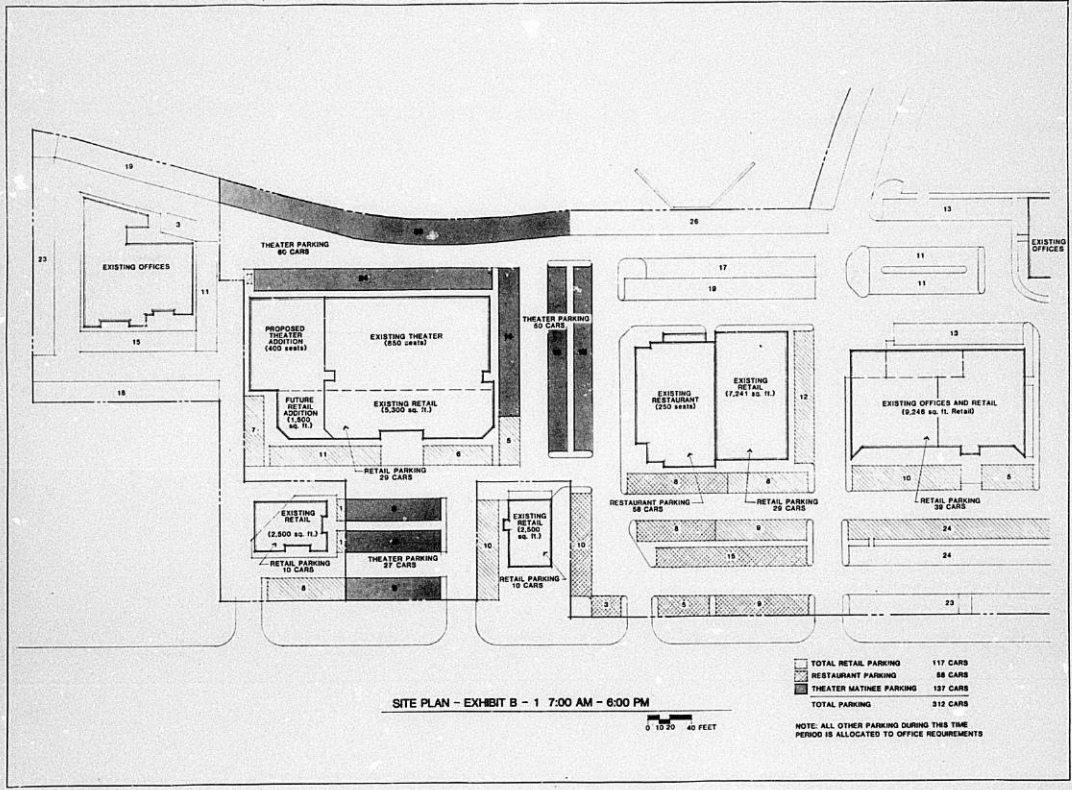
HOWARD S. HELMER  
INC.

SCALE: AS SHOWN

DATE: 7-25-86

PROJECT NO.

CINEMAS EAST  
THEATER EXPANSION  
WICHITA, KS



SITE PLAN - EXHIBIT B - 1 7:00 AM - 6:00 PM



TOTAL RETAIL PARKING	117 CARS
RESTAURANT PARKING	58 CARS
THEATER MATINEE PARKING	137 CARS
TOTAL PARKING	312 CARS

NOTE: ALL OTHER PARKING DURING THIS TIME PERIOD IS ALLOCATED TO OFFICE REQUIREMENTS

7 - 25 - 86



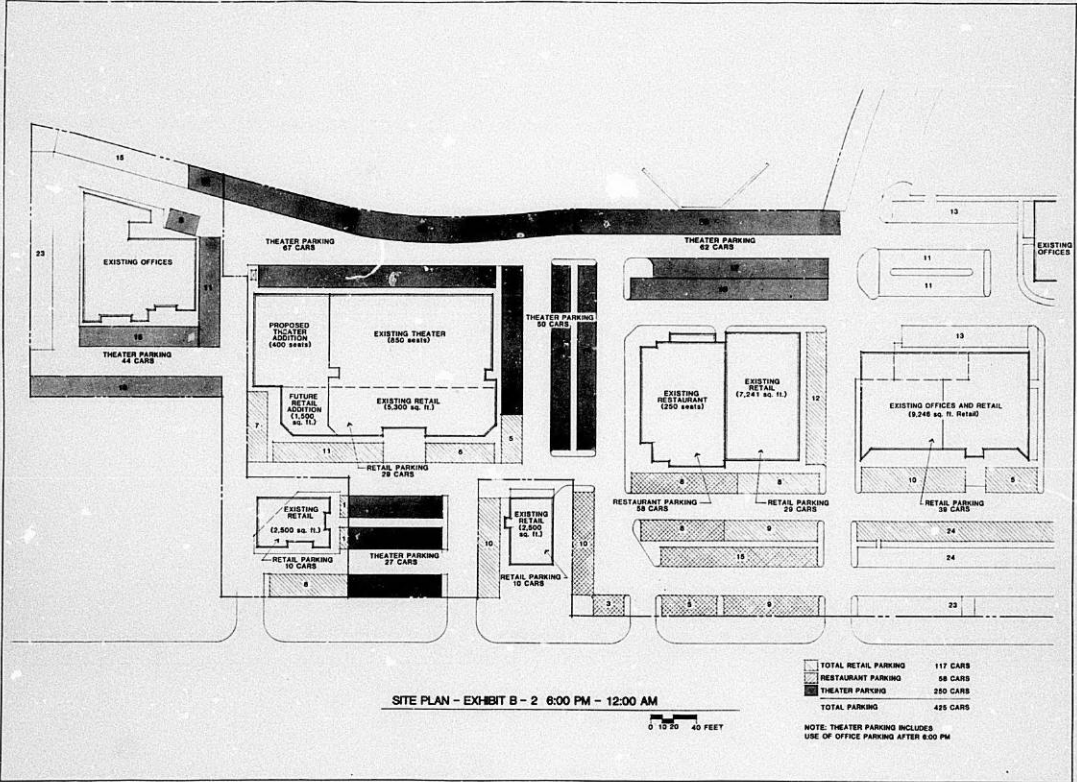
HOWARD & HELMER  
ARCHITECTS, P.A.

100 NORTH 10TH AVENUE, SUITE 100  
WICHITA, KANSAS 67202  
PHONE: 361-1111

PROJECT NO.

CINEMAS EAST  
THEATER EXPANSION  
WICHITA, KS

3  
THREE

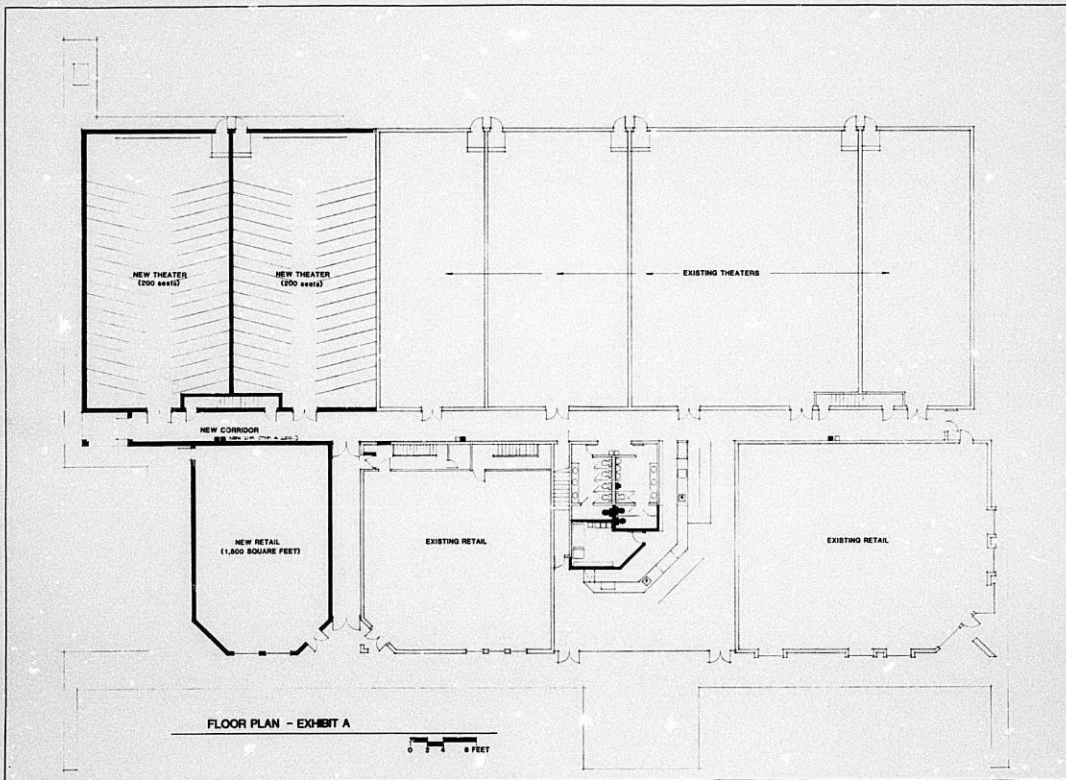


SITE PLAN - EXHIBIT B - 2 6:00 PM - 12:00 AM



TOTAL RETAIL PARKING	117 CARS
RESTAURANT PARKING	58 CARS
THEATER PARKING	250 CARS
<b>TOTAL PARKING</b>	<b>425 CARS</b>

NOTE: THEATER PARKING INCLUDES  
USE OF OFFICE PARKING AFTER 6:00 PM



DATE: 9-8-88



SCALE: AS SHOWN

PROJECT NO.

CINEMA EAST  
THEATER EXPANSION  
WICHITA, KS

1  
TWO



COMMONWEALTH THEATERS - CINEMAS EAST  
 MATINEE ATTENDANCE  
 ACTUAL - FOUR THEATERS

JANUARY

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
*****						
:	:	342	68	111	22	126
:	:	580	116	99	20	185
*****						
44	9	68	14	43	9	49
59	12	65	13	47	9	48
58	12	58	12	55	11	59
59	12	56	11	65	13	52
136	27	51	10	53	11	19
67	13	40	8	34	7	24
47	9	25	5	51	10	52
40	8	35	7	39	8	29
:	:	:	:	:	:	:
:	:	:	:	:	:	:

COMMONWEALTH THEATERS - CINEMAS EAST  
 MATINEE ATTENDANCE  
 ACTUAL - FOUR THEATERS

FEBRUARY

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
:	:	:	:	:	305	61
:	:	:	:	:	236	47
59	12	41	8	34	7	38
27	5	29	6	26	5	57
30	6	28	6	26	5	26
27	5	27	5	27	5	28
167	33	44	9	23	5	44
65	13	34	7	32	6	24
43	9	30	6	13	3	27
27	5	27	5	16	3	18
:	:	:	:	:	:	:
:	:	:	:	:	:	:

COMMONWEALTH THEATERS - CINEMAS EAST  
 MATINEE ATTENDANCE  
 PROJECTED - SIX THEATERS

JANUARY

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
*****						
:	:	503	101	163	33	185
:	:	853	171	146	29	272
*****						
65	13	100	20	63	13	72
87	17	96	19	69	14	71
85	17	85	17	81	16	87
87	17	82	16	96	19	76
200	40	75	15	78	16	26
99	20	59	12	50	10	35
69	14	37	7	75	15	76
59	12	51	10	57	11	43
:	:	:	:	:	:	:
:	:	:	:	:	:	:

COMMONWEALTH THEATERS - CINEMAS EAST  
 MATINEE ATTENDANCE  
 PROJECTED - SIX THEATERS

FEBRUARY

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
:	:	:	:	:	449	90
:	:	:	:	:	347	69
87	17	60	12	50	10	56
40	8	43	9	38	8	84
44	9	41	8	38	8	38
40	8	40	8	40	8	41
246	49	65	13	34	7	65
96	19	50	10	47	9	35
63	13	44	9	19	4	40
40	8	40	8	24	5	26
:	:	:	:	:	:	:
:	:	:	:	:	:	:

COMMONWEALTH THEATERS - CINEMAS EAST  
 MATINEE ATTENDANCE  
 ACTUAL - FOUR THEATERS

MARCH

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
:	:	:	:	:	: 60	12 : 139 28 :
:	:	:	:	:	: 85	17 : 81 16 :
: 15	3 : 16	3 : 17	3 : 23	5 : 83	17 : 292	58 : 280 56 :
: 12	2 : 23	5 : 26	5 : 36	7 : 85	17 : 324	65 : 293 59 :
: 51	10 : 47	9 : 63	13 : 55	11 : 75	15 : 354	71 : 321 64 :
: 46	9 : 63	13 : 75	15 : 65	13 : 103	21 : 441	88 : 351 70 :
: 71	14 : 71	14 : 64	13 : 49	10 : 144	29 : 415	83 : 266 57 :
: 45	9 : 78	16 : 51	10 : 53	11 : 164	33 : 450	90 : 251 50 :
*****						
#280	56 # 269	54 # 292	58 # 252	50 # 369	74 # 382	76 : 337 67 :
#129	26 # 112	22 # 142	28 # 59	12 # 226	45 # 314	63 : 365 73 :
*****						
:243	49 :	:	:	:	:	:
: 72	14 :	:	:	:	:	:

COMMONWEALTH THEATERS - CINEMAS EAST  
 MATINEE ATTENDANCE  
 ACTUAL - FOUR THEATERS

APRIL

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
:	: 94	19 : 122	24 : 101	20 : 79	16 : 323	65 : 287 57 :
:	: 36	7 : 85	17 : 36	7 : 100	20 : 316	63 : 287 57 :
: 48	10 : 33	7 : 29	6 : 27	5 : 50	10 : 192	38 : 451 90 :
: 36	7 : 20	4 : 31	6 : 32	6 : 87	17 : 233	47 : 253 51 :
: 64	13 : 45	9 : 25	5 : 34	7 : 90	18 : 360	72 : 370 74 :
: 29	6 : 27	5 : 22	4 : 31	6 : 80	16 : 340	68 : 284 57 :
: 56	11 : 53	11 : 40	8 : 84	17 : 47	9 : 192	38 : 396 79 :
: 16	3 : 21	4 : 18	4 : 34	7 : 62	12 : 287	57 : 399 80 :
: 19	4 : 26	5 : 20	4 :	:	:	:
: 36	7 : 27	5 : 24	5 :	:	:	:
:	:	:	:	:	:	:
:	:	:	:	:	:	:

COMMONWEALTH THEATERS - CINEMAS EAST  
 MATINEE ATTENDANCE  
 PROJECTED - SIX THEATERS

MARCH

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
:	:	:	:	:	: 88	18 : 204 41 :
:	:	:	:	:	: 125	25 : 119 24 :
: 22	4 : 24	5 : 25	5 : 34	7 : 122	24 : 429	86 : 412 82 :
: 18	4 : 34	7 : 38	8 : 53	11 : 125	25 : 476	95 : 431 86 :
: 75	15 : 69	14 : 93	19 : 81	16 : 110	22 : 521	104 : 472 94 :
: 68	14 : 93	19 : 110	22 : 96	19 : 151	30 : 649	130 : 516 103 :
: 104	21 : 104	21 : 94	19 : 72	14 : 212	42 : 610	122 : 421 84 :
: 66	13 : 115	23 : 75	15 : 78	16 : 241	48 : 662	132 : 369 74 :
*****						
#412	82 # 396	79 # 429	86 # 371	74 # 543	109 # 562	112 : 496 99 :
#190	38 # 165	33 # 209	42 # 87	17 # 332	66 # 462	92 : 537 107 :
*****						
:357	71 :	:	:	:	:	:
:106	21 :	:	:	:	:	:

COMMONWEALTH THEATERS - CINEMAS EAST  
 MATINEE ATTENDANCE  
 PROJECTED - SIX THEATERS

APRIL

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
:	: 138	28 : 179	36 : 149	30 : 116	23 : 475	95 : 422 84 :
:	: 53	11 : 125	25 : 53	11 : 147	29 : 465	93 : 422 84 :
: 71	14 : 49	10 : 43	9 : 40	8 : 74	15 : 282	56 : 663 133 :
: 53	11 : 29	6 : 46	9 : 47	9 : 128	26 : 343	69 : 372 74 :
: 94	19 : 66	13 : 37	7 : 50	10 : 132	26 : 529	106 : 544 109 :
: 43	9 : 40	8 : 32	6 : 46	9 : 118	24 : 500	100 : 418 84 :
: 82	16 : 78	16 : 59	12 : 124	25 : 69	14 : 282	56 : 582 116 :
: 24	5 : 31	6 : 26	5 : 50	10 : 91	18 : 422	84 : 587 117 :
: 28	6 : 38	8 : 29	6 :	:	:	:
: 53	11 : 40	8 : 35	7 :	:	:	:
:	:	:	:	:	:	:
:	:	:	:	:	:	:

COMMONWEALTH THEATERS - CINEMAS EAST  
MATINEE ATTENDANCE  
ACTUAL - FOUR THEATERS

MAY

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
:	:	:	25	5 : 28	6 : 138	28 : 208 42 :
:	:	:	11	2 : 65	13 : 199	40 : 219 44 :
15	3 : 25	5 : 26	5 : 44	9 : 33	7 : 118	24 : 114 23 :
19	4 : 30	6 : 27	5 : 26	5 : 33	7 : 188	38 : 144 29 :
19	4 : 11	2 : 19	4 : 16	3 : 24	5 : 213	43 : 163 33 :
20	4 : 32	6 : 28	6 : 29	6 : 20	4 : 198	40 : 162 32 :
18	4 : 22	4 : 22	4 : 25	5 : 37	7 : 44	9 : 90 18 :
29	6 : 26	5 : 28	6 : 8	2 : 47	9 : 137	27 : 110 22 :
*****						
100	20 # 23	5 : 30	6 : 31	6 : 36	7 : 113	23 :
108	22 # 28	6 : 20	4 : 31	6 : 21	4 : 141	28 :
*****						
:	:	:	:	:	:	:
:	:	:	:	:	:	:

COMMONWEALTH THEATERS - CINEMAS EAST  
MATINEE ATTENDANCE  
ACTUAL - FOUR THEATERS

JUNE

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
:	:	:	:	:	:	95 19 :
:	:	:	:	:	:	97 19 :
28	6 : 25	5 : 29	6 : 25	5 : 145	29 : 238	48 : 8 2 :
32	6 : 28	6 : 17	3 : 22	4 : 121	24 : 207	41 : 556 111 :
97	19 : 115	23 : 209	42 : 180	36 : 106	21 : 181	36 : 298 60 :
116	23 : 99	20 : 98	20 : 67	13 : 142	28 : 227	45 : 330 66 :
98	20 : 167	33 : 95	19 : 172	34 : 83	17 : 175	35 : 204 41 :
55	11 : 47	9 : 69	14 : 57	11 : 71	14 : 152	30 : 214 43 :
124	25 : 53	11 : 78	16 : 90	16 : 185	37 : 254	51 : 285 57 :
93	19 : 66	13 : 32	6 : 55	11 : 101	20 : 180	36 : 275 55 :
203	41 :	:	:	:	:	:
70	14 :	:	:	:	:	:

COMMONWEALTH THEATERS - CINEMAS EAST  
MATINEE ATTENDANCE  
PROJECTED - SIX THEATERS

MAY

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
:	:	:	37	7 : 41	8 : 203	41 : 306 61 :
:	:	:	16	3 : 96	19 : 293	59 : 322 64 :
22	4 : 37	7 : 38	8 : 65	13 : 49	10 : 174	35 : 168 34 :
28	6 : 44	9 : 40	8 : 38	8 : 49	10 : 276	55 : 212 42 :
28	6 : 16	3 : 28	6 : 24	5 : 35	7 : 313	63 : 240 48 :
29	6 : 47	9 : 41	8 : 43	9 : 29	6 : 291	58 : 238 48 :
28	5 : 32	6 : 32	6 : 37	7 : 54	11 : 65	13 : 132 26 :
43	9 : 38	8 : 41	8 : 12	2 : 69	14 : 201	40 : 162 32 :
*****						
147	29 # 34	7 : 44	9 : 46	9 : 53	11 : 166	33 :
159	32 # 41	8 : 29	6 : 46	9 : 31	6 : 207	41 :
*****						
:	:	:	:	:	:	:
:	:	:	:	:	:	:

COMMONWEALTH THEATERS - CINEMAS EAST  
MATINEE ATTENDANCE  
PROJECTED - SIX THEATERS

JUNE

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
:	:	:	:	:	:	140 28 :
:	:	:	:	:	:	143 29 :
41	8 : 37	7 : 43	9 : 37	7 : 213	43 : 350	70 : 12 2 :
47	9 : 41	8 : 25	5 : 32	6 : 178	36 : 304	61 : 818 164 :
143	29 : 169	34 : 307	61 : 265	53 : 156	31 : 266	53 : 438 88 :
171	34 : 146	29 : 144	29 : 99	20 : 209	42 : 334	67 : 485 97 :
144	29 : 246	49 : 140	28 : 253	51 : 122	24 : 257	51 : 300 60 :
81	16 : 69	14 : 101	20 : 84	17 : 104	21 : 224	45 : 315 63 :
182	36 : 78	16 : 115	23 : 118	24 : 272	54 : 374	75 : 419 84 :
137	27 : 97	19 : 47	9 : 81	16 : 149	30 : 265	53 : 404 81 :
299	60 :	:	:	:	:	:
103	21 :	:	:	:	:	:

COMMONWEALTH THEATERS - CINEMAS EAST  
 MATINEE ATTENDANCE  
 ACTUAL - FOUR THEATERS

JULY

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
:	: 271 54 : 216 43 : 240 48 * 248 50 * 474 95 : 398 80 :	*****				
:	: 102 20 : 338 68 : 287 57 * 453 91 * 657 131 : 679 136 :	*****				
: 373 75 :	269 54 :	237 47 :	388 78 :	408 82 :	594 119 :	527 105 :
: 190 38 :	99 20 :	181 36 :	109 22 :	130 26 :	369 74 :	770 154 :
: 121 24 :	245 49 :	247 49 :	261 52 :	323 65 :	546 109 :	474 95 :
: 112 22 :	88 18 :	164 33 :	111 22 :	154 31 :	272 54 :	319 64 :
: 196 39 :	122 24 :	222 44 :	151 30 :	250 50 :	473 95 :	692 138 :
: 83 17 :	119 24 :	139 28 :	155 31 :	211 42 :	509 102 :	575 115 :
: 243 49 :	220 44 :	316 63 :	275 55 :	:	:	:
: 127 25 :	115 23 :	126 25 :	133 27 :	:	:	:
:	:	:	:	:	:	:
:	:	:	:	:	:	:

COMMONWEALTH THEATERS - CINEMAS EAST  
 MATINEE ATTENDANCE  
 ACTUAL - FOUR THEATERS

AUGUST

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
:	:	:	:	: 245 49 :	259 52 :	282 56 :
:	:	:	:	: 140 28 :	499 100 :	468 94 :
: 131 26 :	169 34 :	105 21 :	141 28 :	207 41 :	588 118 :	363 73 :
: 97 19 :	82 16 :	88 18 :	99 20 :	128 26 :	370 74 :	343 69 :
: 120 24 :	175 35 :	172 34 :	135 27 :	272 54 :	399 80 :	401 80 :
: 59 12 :	94 19 :	91 18 :	96 19 :	126 25 :	339 68 :	421 84 :
: 105 21 :	179 36 :	117 23 :	147 29 :	140 28 :	402 80 :	446 89 :
: 93 19 :	71 14 :	91 18 :	69 14 :	139 28 :	458 92 :	505 101 :
: 141 28 :	152 30 :	228 46 :	176 35 :	94 19 :	259 52 :	418 84 :
: 66 13 :	77 15 :	82 16 :	94 19 :	97 19 :	522 104 :	603 121 :
:	:	:	:	:	:	:
:	:	:	:	:	:	:

COMMONWEALTH THEATERS - CINEMAS EAST  
 MATINEE ATTENDANCE  
 PROJECTED - SIX THEATERS

JULY

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
:	: 399 80 :	318 64 :	353 71 :	365 73 :	697 139 :	585 117 :
:	: 150 30 :	497 99 :	422 84 :	666 133 :	966 193 :	999 200 :
: 549 110 :	396 79 :	349 70 :	571 114 :	600 120 :	874 175 :	775 155 :
: 279 56 :	146 29 :	266 53 :	160 32 :	191 38 :	543 109 :	226 :
: 178 36 :	360 72 :	363 73 :	384 77 :	475 95 :	803 161 :	697 139 :
: 165 33 :	129 26 :	241 48 :	163 33 :	226 45 :	400 80 :	469 94 :
: 288 58 :	179 36 :	326 65 :	222 44 :	368 74 :	696 139 :	204 :
: 122 24 :	175 35 :	204 41 :	228 46 :	310 62 :	749 150 :	846 169 :
: 357 71 :	324 65 :	465 93 :	404 81 :	:	:	:
: 187 37 :	169 34 :	185 37 :	196 39 :	:	:	:
:	:	:	:	:	:	:
:	:	:	:	:	:	:

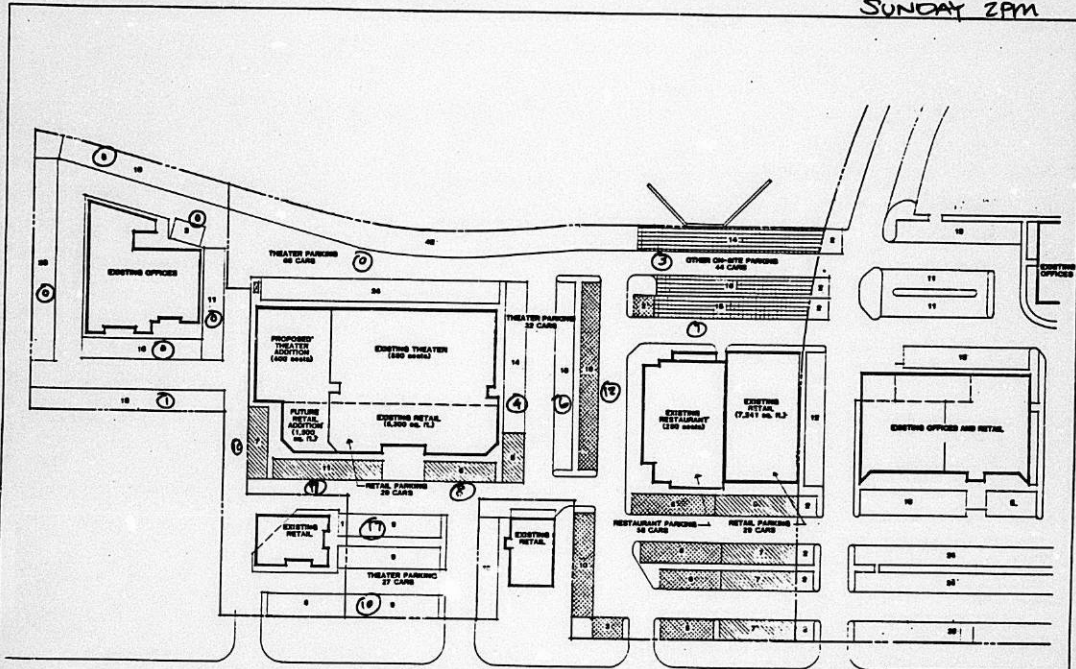
COMMONWEALTH THEATERS - CINEMAS EAST  
 MATINEE ATTENDANCE  
 PROJECTED - SIX THEATERS

AUGUST

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
:	:	:	:	: 360 72 :	381 76 :	415 83 :
:	:	:	:	: 206 41 :	734 147 :	688 138 :
: 193 39 :	249 50 :	154 31 :	207 41 :	304 61 :	865 173 :	534 107 :
: 143 29 :	121 24 :	129 26 :	146 29 :	188 38 :	544 109 :	504 101 :
: 176 35 :	257 51 :	253 51 :	199 40 :	400 80 :	587 117 :	590 118 :
: 87 17 :	138 28 :	134 27 :	141 28 :	185 37 :	499 100 :	619 124 :
: 154 31 :	263 53 :	172 34 :	216 43 :	206 41 :	591 118 :	656 131 :
: 137 27 :	104 21 :	134 27 :	101 20 :	204 41 :	674 135 :	743 149 :
: 207 41 :	224 45 :	335 67 :	259 52 :	138 28 :	381 76 :	615 123 :
: 97 19 :	113 23 :	121 24 :	138 28 :	143 29 :	768 154 :	887 177 :
:	:	:	:	:	:	:
:	:	:	:	:	:	:



SUNDAY 2 AM



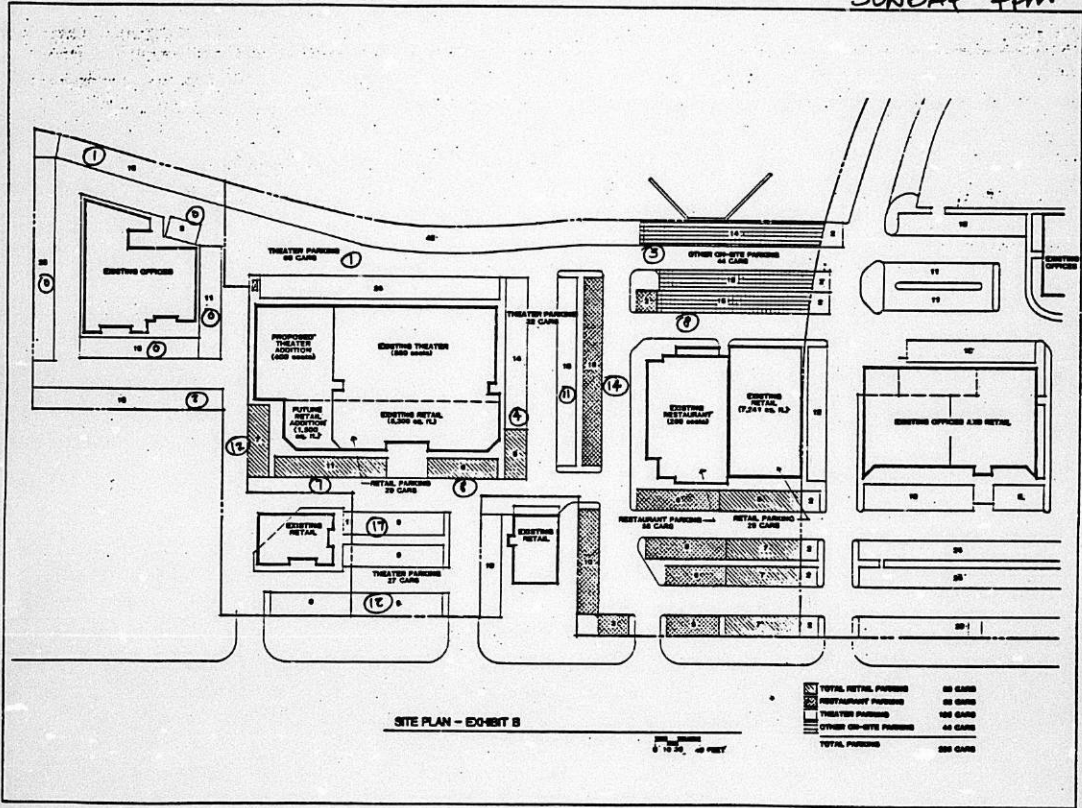
SITE PLAN - EXHIBIT B

SCALE  
1" = 10' - 0" FEET

▨	TOTAL RETAIL PARKING	80 CARS
▨	RESTAURANT PARKING	80 CARS
▨	THEATER PARKING	100 CARS
▨	OTHER ON-SITE PARKING	44 CARS
	<b>TOTAL PARKING</b>	<b>304 CARS</b>

CINEMAS EAST  
THEATER EXPANSION  
WICHITA, KS

SUNDAY 4PM



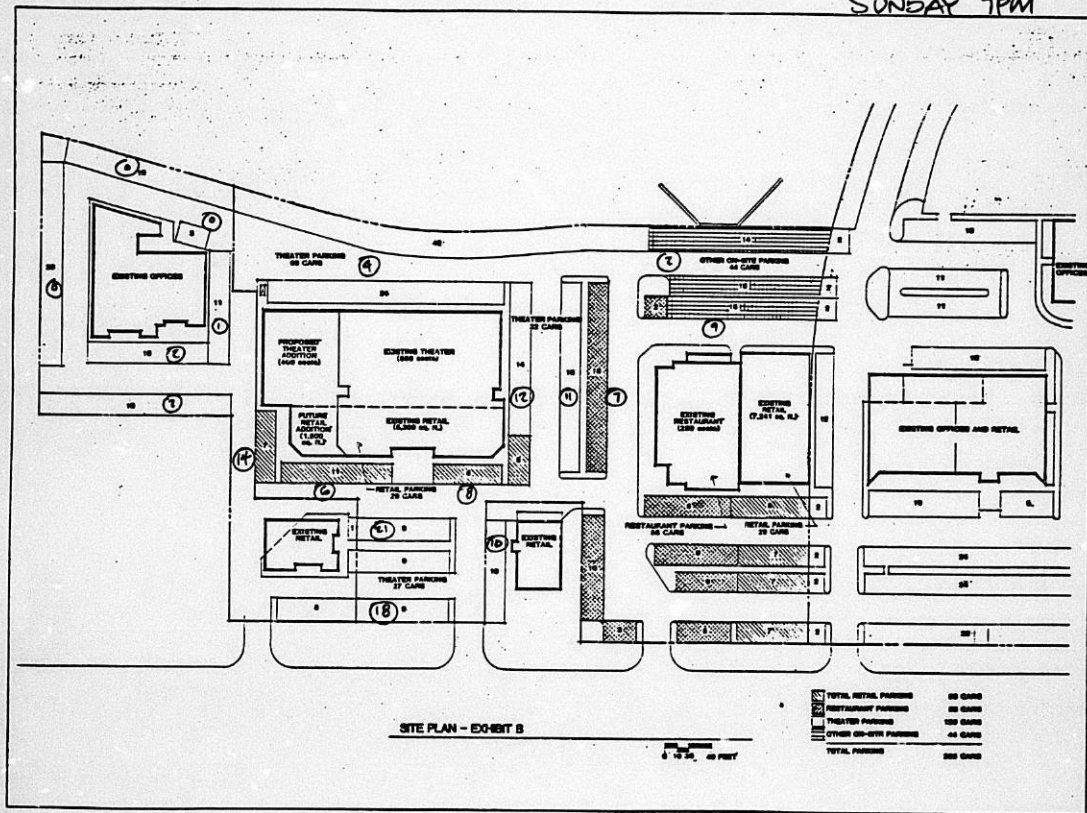
SITE PLAN - EXHIBIT B

DATE: 8-12-24, 48 FEET

■	TOTAL RETAIL PARKING	20 CARS
■	RESTAURANT PARKING	20 CARS
■	THEATER PARKING	100 CARS
■	OTHER ON-SITE PARKING	44 CARS
<b>TOTAL PARKING</b>		<b>284 CARS</b>

CHelsea EAST  
THEATER EXPANSION  
WICHITA, KS

SUNDAY 7PM

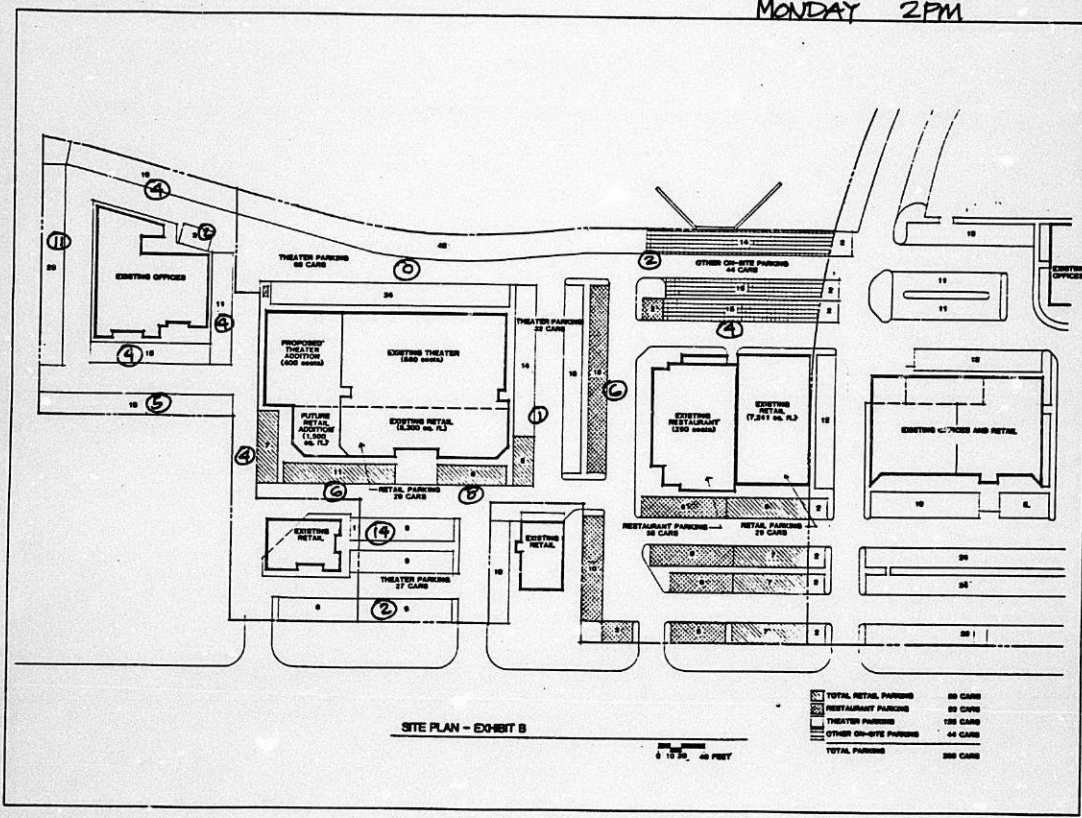


SITE PLAN - EXHIBIT B

1" = 20' - 00 FEET

CINEMA EAST  
THEATER EXPANSION  
WICHITA, KS

MONDAY 2PM



SITE PLAN - EXHIBIT B

0 10 20 30 40 FEET

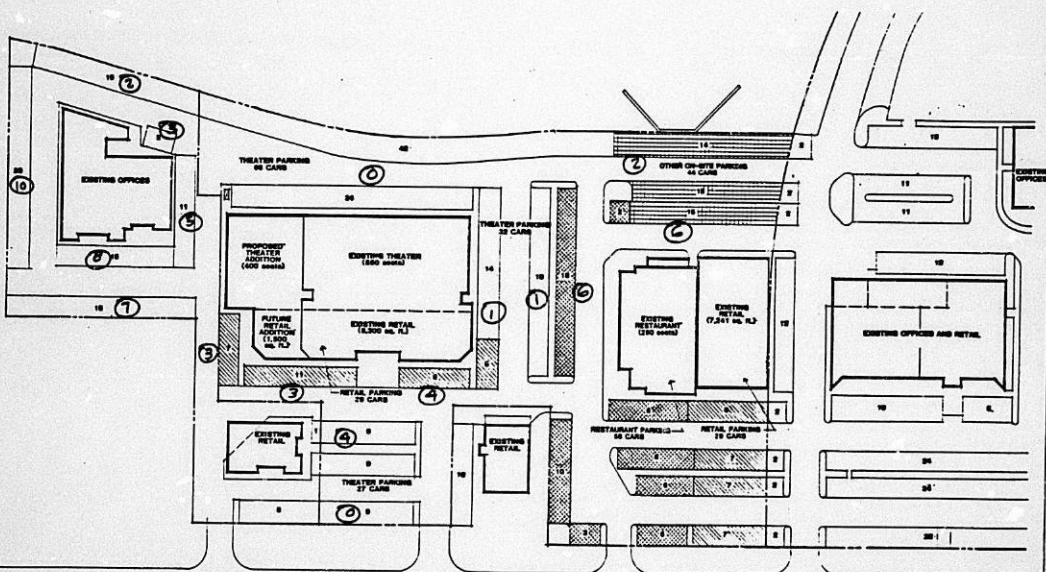
[Pattern]	TOTAL RETAIL PARKING	80 CARS
[Pattern]	RESTAURANT PARKING	50 CARS
[Pattern]	THEATER PARKING	60 CARS
[Pattern]	OTHER ON-SITE PARKING	44 CARS
	<b>TOTAL PARKING</b>	<b>234 CARS</b>

ORPHEUS EAST  
THEATER EXPANSION  
WICHITA, KS

1  
2  
3

MONDAY 4PM

SP 0-0-00



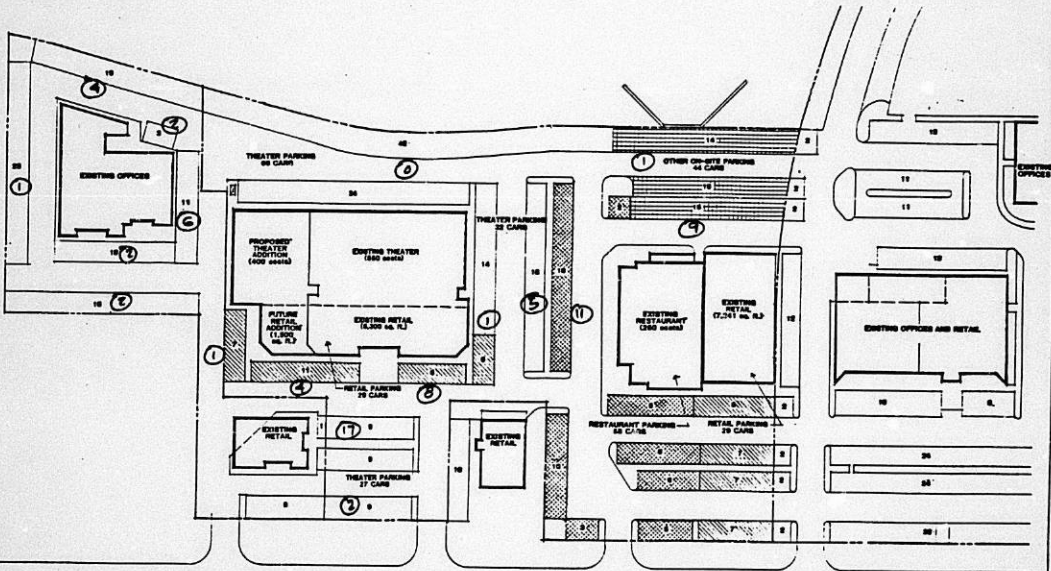
SITE PLAN - EXHIBIT 5

SCALE  
1" = 10', 48 FEET

[Hatched Box]	TOTAL RETAIL PARKING	86 CARS
[Dotted Box]	RESTAURANT PARKING	86 CARS
[Stippled Box]	THEATER PARKING	176 CARS
[White Box]	OTHER ON-SITE PARKING	46 CARS
	<b>TOTAL PARKING</b>	<b>394 CARS</b>

ORIGINS EAST  
THEATER EXPANSION  
WICHTA, KS

MONDAY 7PM



SITE PLAN - EXHIBIT B

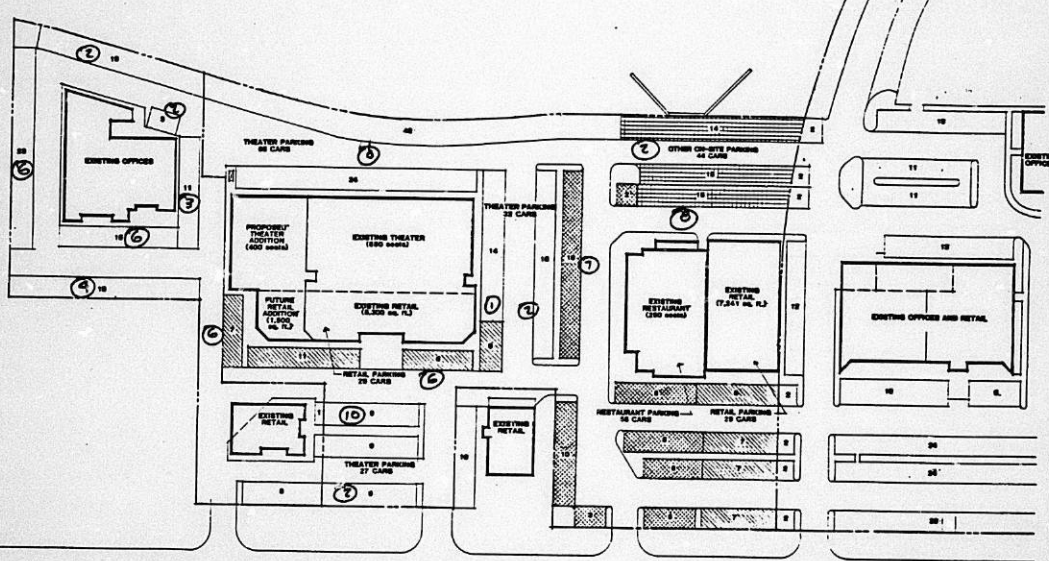
0 10 20 40 FEET

■	TOTAL RETAIL PARKING	28 CARS
■	RESTAURANT PARKING	28 CARS
■	THEATER PARKING	100 CARS
■	OTHER ON-SITE PARKING	44 CARS
	<b>TOTAL PARKING</b>	<b>200 CARS</b>

CINEMAS EAST  
THEATER EXPANSION  
WICHITA, KS



TUESDAY 4PM



SITE PLAN - EXHIBIT B

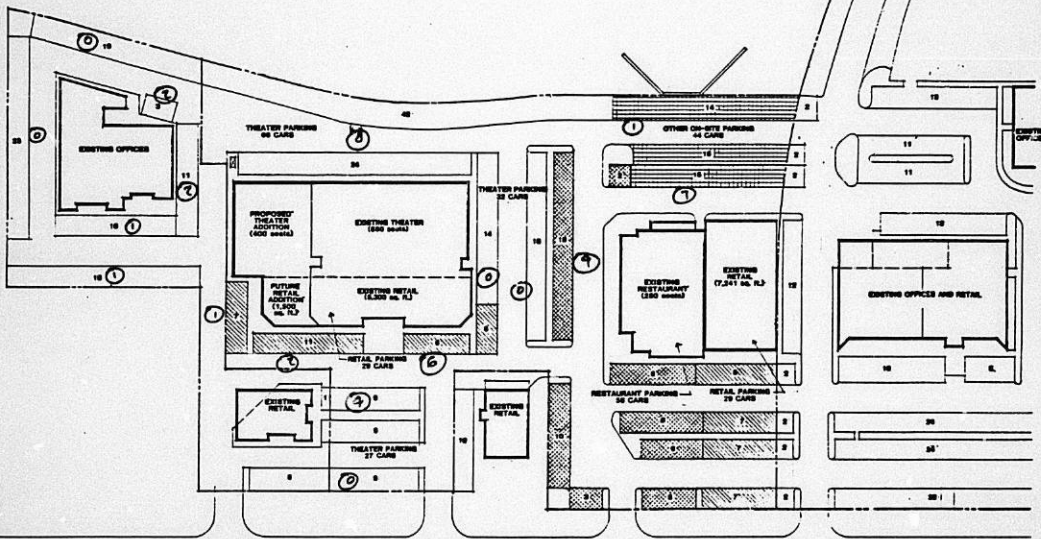
SCALE  
0 10 20 40 FEET

[Hatched Box]	TOTAL RETAIL PARKING	88 CARS
[Hatched Box]	RESTAURANT PARKING	58 CARS
[Hatched Box]	THEATER PARKING	28 CARS
[Hatched Box]	OTHER ON-SITE PARKING	44 CARS
	<b>TOTAL PARKING</b>	<b>218 CARS</b>

CINEMAS EAST  
THEATER EXPANSION  
WICHITA, KS

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100

TUESDAY 7PM



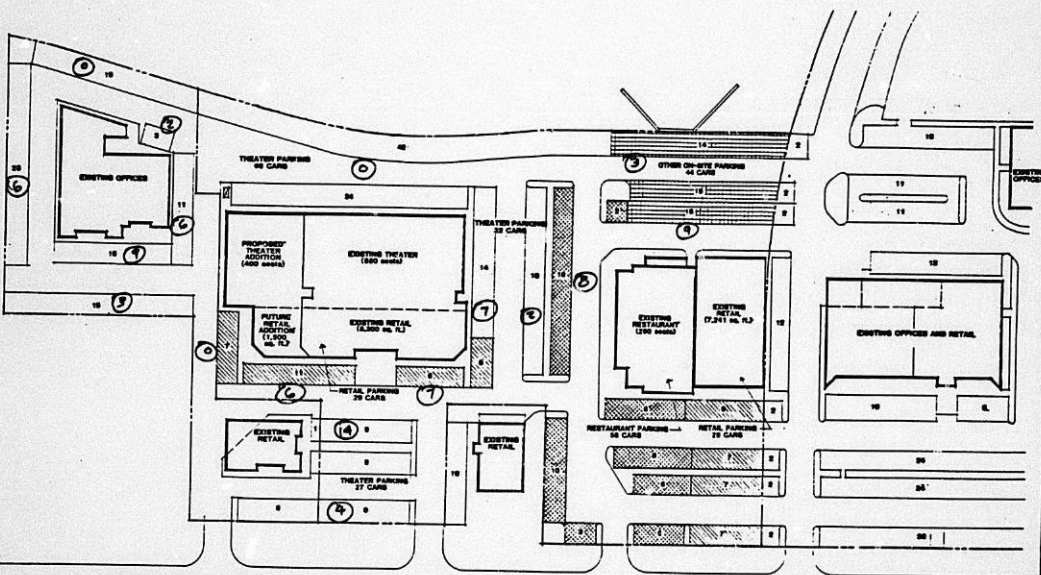
SITE PLAN - EXHIBIT B

8 10 20 40 FEET

	TOTAL METAL PARKING	80 CARS
	RESTAURANT PARKING	20 CARS
	THEATER PARKING	100 CARS
	OTHER ON-SITE PARKING	40 CARS
	<b>TOTAL PARKING</b>	<b>240 CARS</b>

CINEMAS EAST  
THEATER EXPANSION  
WICHITA, KS

WEDNESDAY 2PM



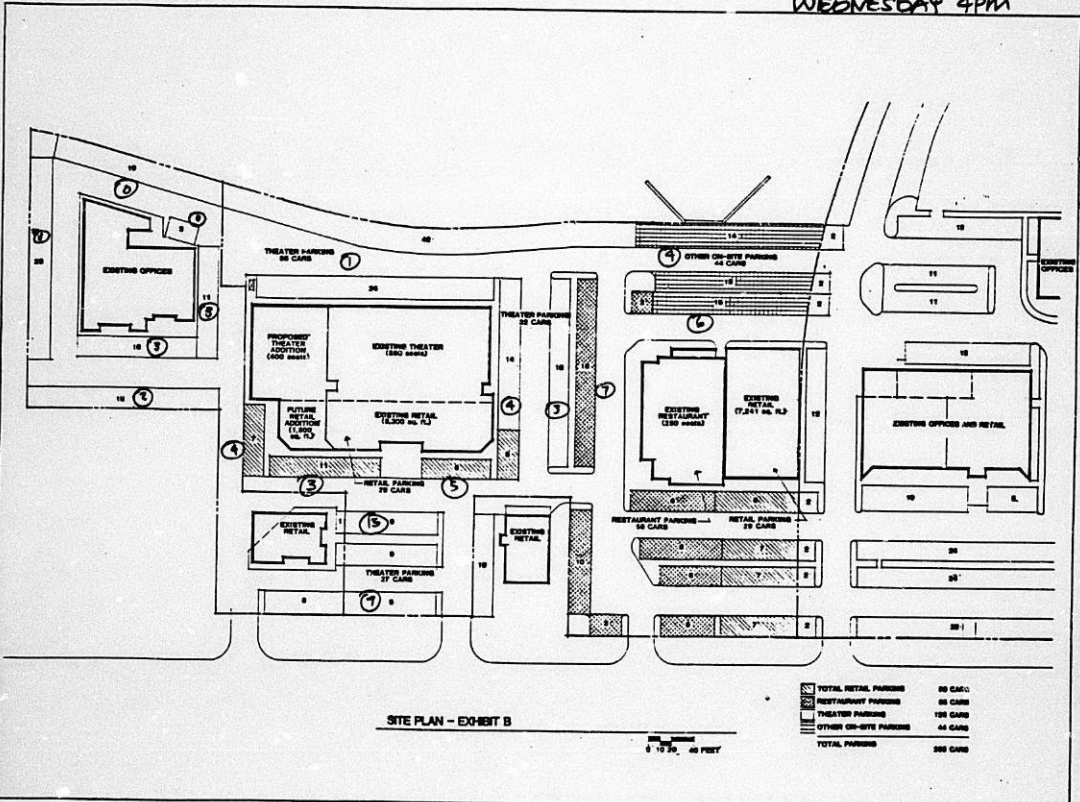
SITE PLAN - EXHIBIT B

SCALE  
0 10 20 40 FEET

■	TOTAL RETAIL PARKING	88 CARS
■	RESTAURANT PARKING	88 CARS
■	THEATER PARKING	100 CARS
■	OTHER ON-SITE PARKING	44 CARS
<b>TOTAL PARKING</b>		<b>320 CARS</b>

CINEMAS EAST  
THEATER EXPANSION  
WICHTA, MS

WEDNESDAY 4PM



SITE PLAN - EXHIBIT B

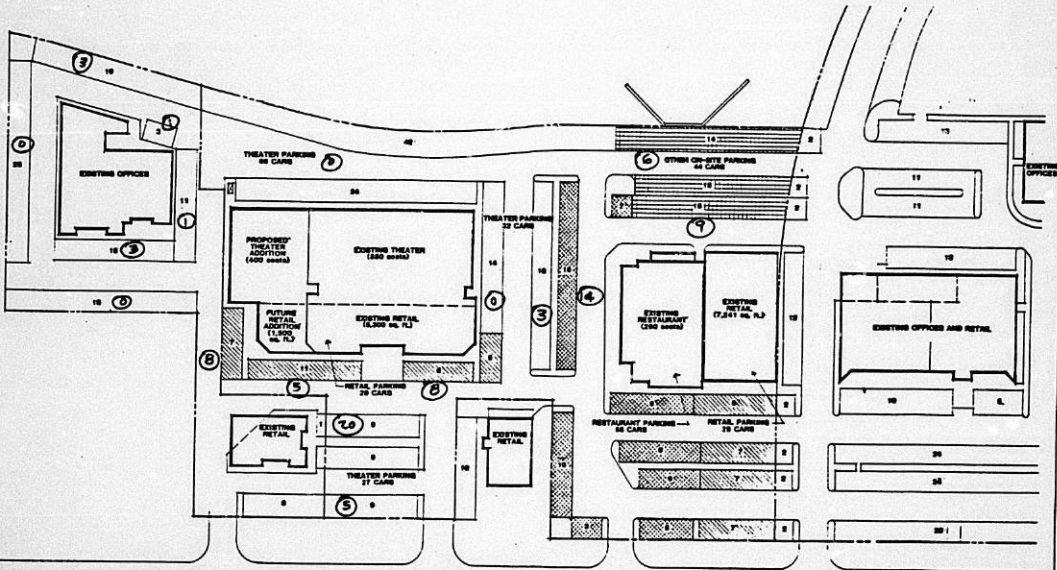
SCALE  
 1" = 10' 0" 40 FEET

TOTAL RETAIL PARKING	86 CARS
RESTAURANT PARKING	150 CARS
THEATER PARKING	120 CARS
OTHER ON-SITE PARKING	44 CARS
<b>TOTAL PARKING</b>	<b>380 CARS</b>

CINEMAS EAST  
 THEATER EXPANSION  
 WICHITA, KS

2  
 TWO

WEDNESDAY 7PM



SITE PLAN - EXHIBIT B

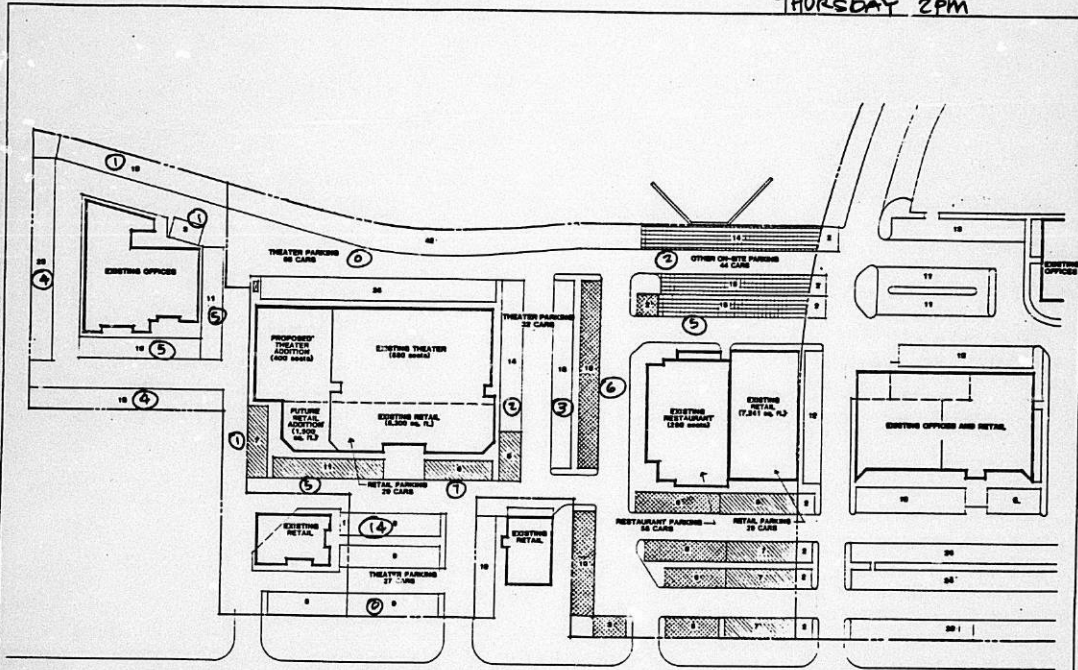
0 10 20 40 FEET

TOTAL RETAIL PARKING	88 CARS
RESTAURANT PARKING	88 CARS
THEATER PARKING	100 CARS
OTHER ON-SITE PARKING	44 CARS
<b>TOTAL PARKING</b>	<b>320 CARS</b>

CINEMA EAST  
THEATER EXPANSION  
WICHITA, KS

1  
2  
3

THURSDAY 2PM



SITE PLAN - EXHIBIT B

SCALE  
 1" = 20'  
 0 10 20 40 FEET

1	TOTAL RETAIL PARKING	89 CARS
2	RESTAURANT PARKING	89 CARS
3	THEATER PARKING	135 CARS
4	OTHER ON-SITE PARKING	44 CARS
TOTAL PARKING		357 CARS



CINEMAS EAST  
 THEATER EXPANSION  
 WICHITA, KS

THURSDAY 4PM

2-4-68



SCALE & HEIGHT

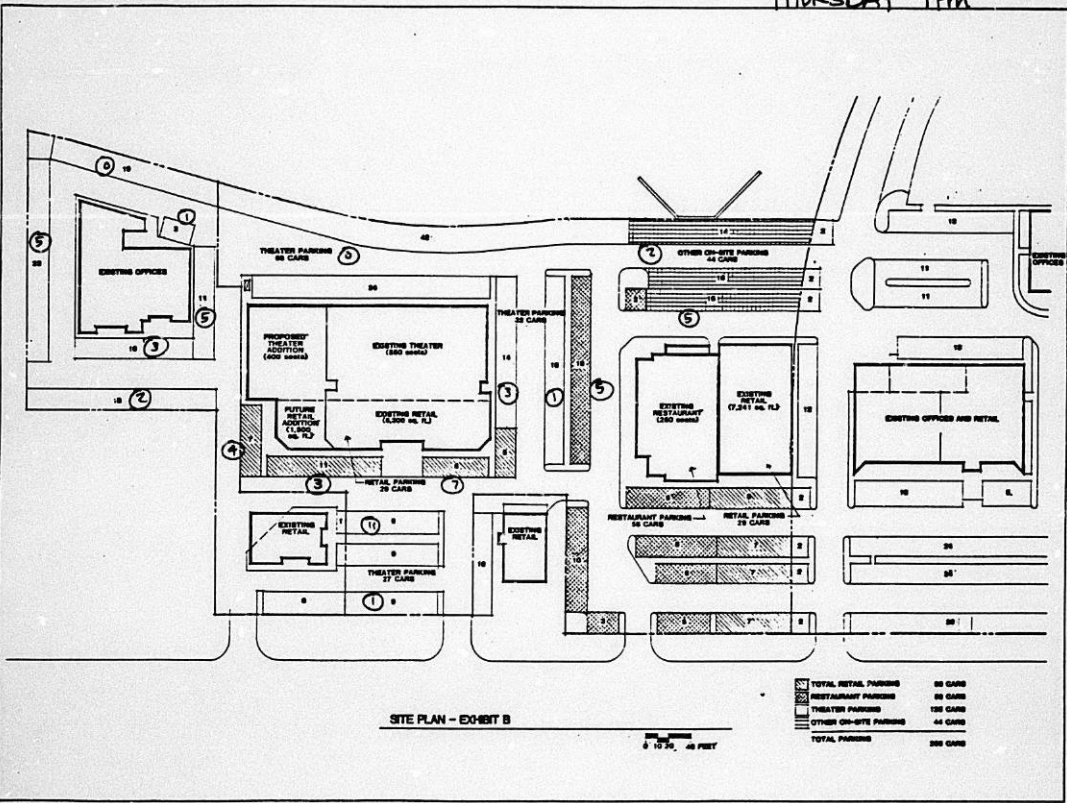
1" = 20' - 0"

1" = 10' - 0"

1" = 5' - 0"

CINEMA EAST  
THEATER EXPANSION  
WICHITA, KS

2  
TWO

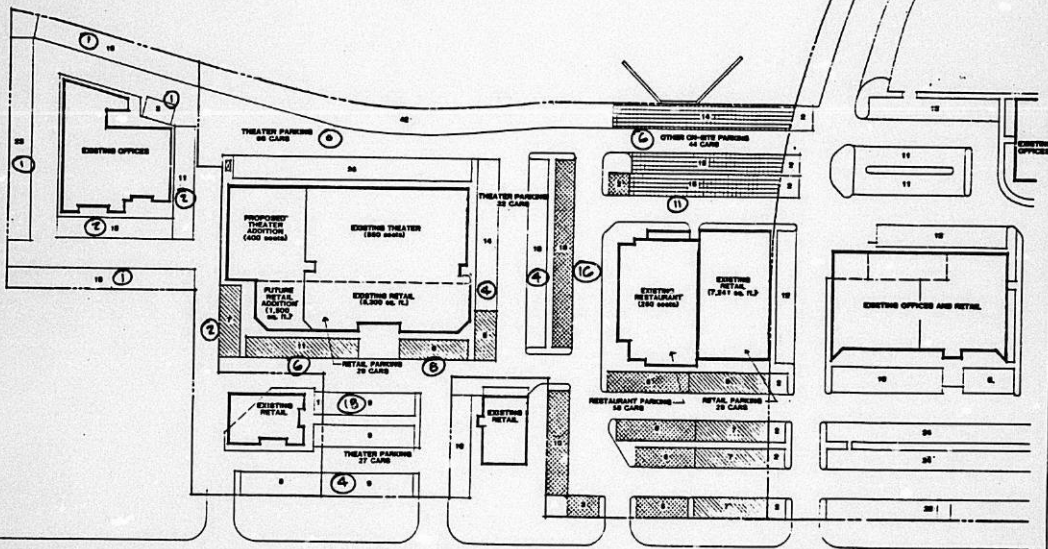


SITE PLAN - EXHIBIT B

SCALE  
1" = 20' - 0"

[Hatched Box]	TOTAL RETAIL PARKING	20 CARS
[Hatched Box]	RESTAURANT PARKING	20 CARS
[Hatched Box]	THEATER PARKING	20 CARS
[Hatched Box]	OTHER ON-SITE PARKING	44 CARS
	<b>TOTAL PARKING</b>	<b>104 CARS</b>

THURSDAY 7PM



SITE PLAN - EXHIBIT B

0 10 20 40 FEET

TOTAL RETAIL PARKING	80 CARS
RESTAURANT PARKING	80 CARS
THEATER PARKING	100 CARS
OTHER ON-SITE PARKING	40 CARS
<b>TOTAL PARKING</b>	<b>300 CARS</b>

ORPHEUS EAST  
THEATER EXPANSION  
WICHITA, KS

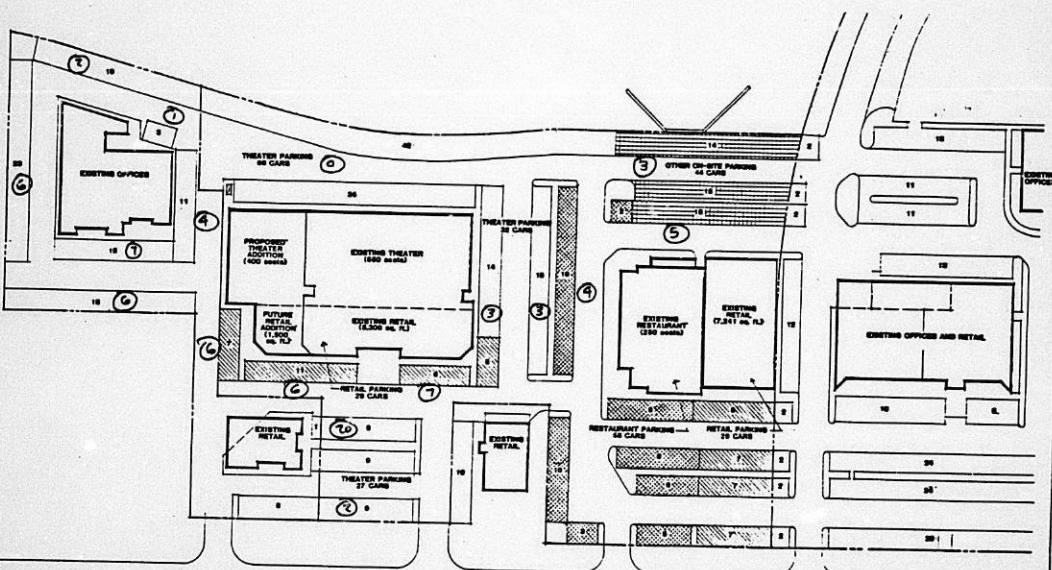
1

2

3



FRIDAY 4PM



SITE PLAN - EXHIBIT B

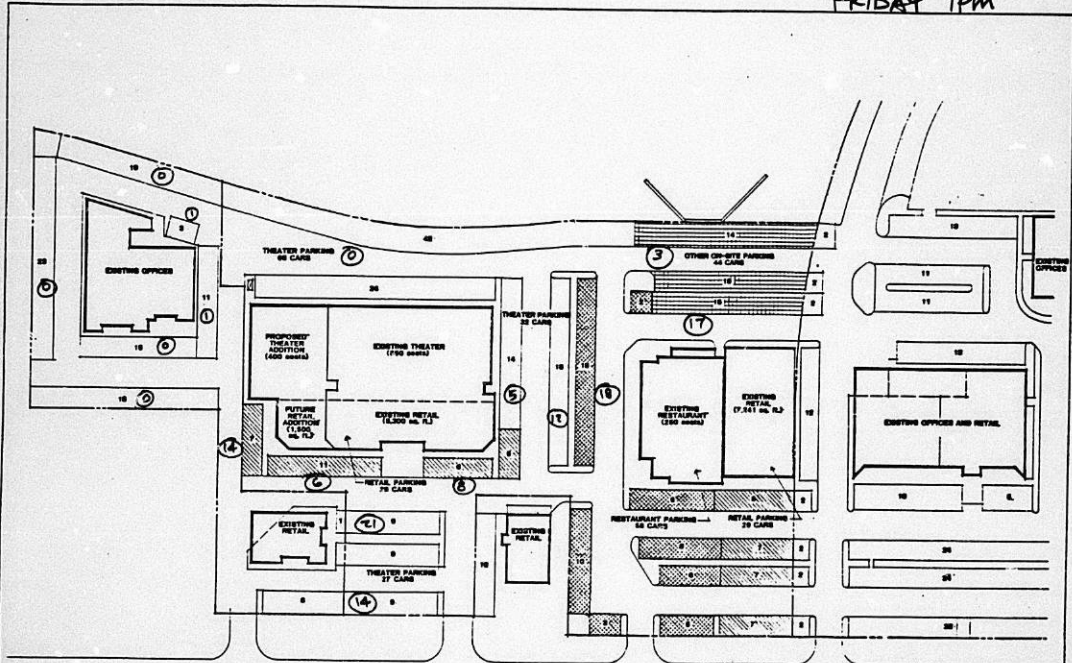
SCALE: 1" = 20' - 00" FEET

[Hatched Box]	TOTAL RETAIL PARKING	89 CARS
[Dotted Box]	RESTAURANT PARKING	80 CARS
[Solid Box]	THEATER PARKING	136 CARS
[Horizontal Lines Box]	OTHER ON-SITE PARKING	44 CARS
	<b>TOTAL PARKING</b>	<b>349 CARS</b>

CINEMAS EAST  
THEATER EXPANSION  
WACHTA, MD

1  
2  
3

FRIDAY 7PM



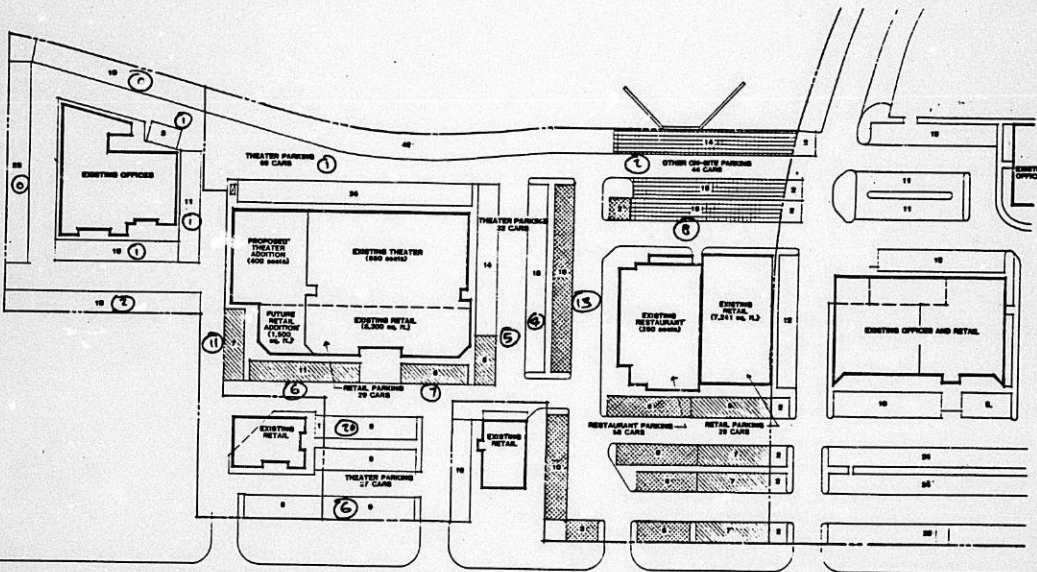
SITE PLAN - EXHIBIT B

SCALE: 1" = 40' PER

TOTAL RETAIL PARKING	86 CARS
RESTAURANT PARKING	50 CARS
THEATER PARKING	106 CARS
OTHER ON-SITE PARKING	44 CARS
<b>TOTAL PARKING</b>	<b>286 CARS</b>

CENEMAS EAST  
 THEATER EXPANSION  
 WICHITA, KS  
 2  
 170

SATURDAY 2PM



SITE PLAN - EXHIBIT B

0 10 20 40 FEET

■	TOTAL RETAIL PARKING	80 CARS
■	RESTAURANT PARKING	28 CARS
■	THEATER PARKING	100 CARS
■	OTHER ON-SITE PARKING	44 CARS
	<b>TOTAL PARKING</b>	<b>252 CARS</b>

CINEMAS EAST  
THEATER EXPANSION  
WICHITA, KS

1

2

3

4

5

6

7

8

9

10

11

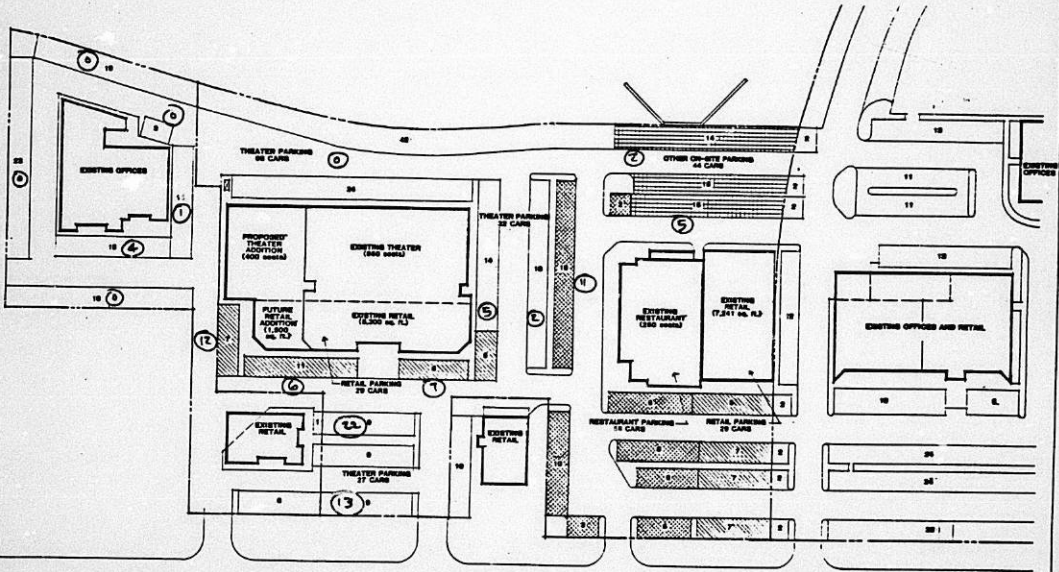
12

13

14

15

SATURDAY 4PM



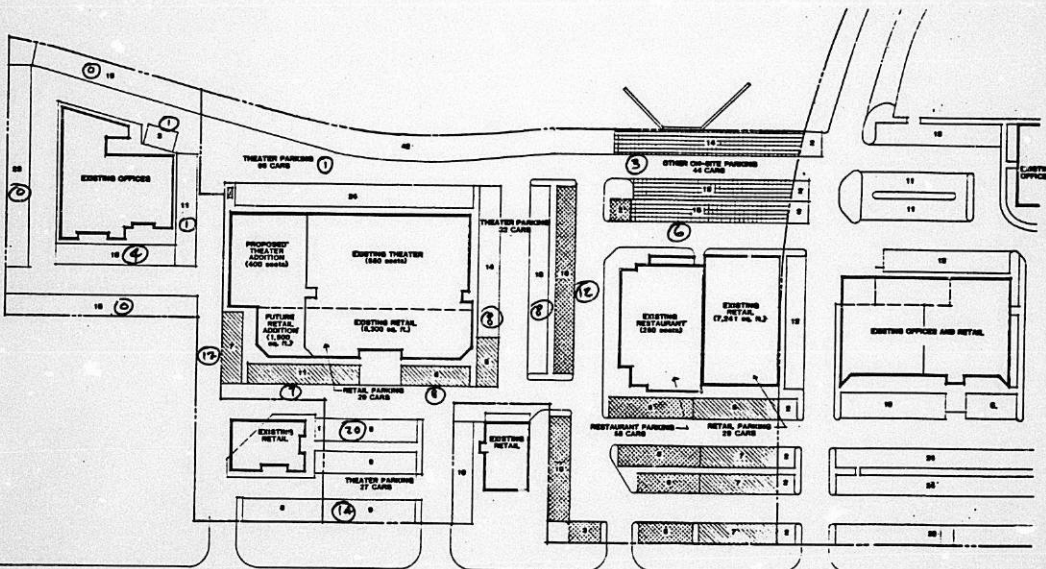
SITE PLAN - EXHIBIT B

1" = 40 FEET

TOTAL RETAIL PARKING	40 CARS
RESTAURANT PARKING	14 CARS
THEATER PARKING	28 CARS
OTHER ON-SITE PARKING	44 CARS
<b>TOTAL PARKING</b>	<b>126 CARS</b>

CHEWAS EAST  
THEATER EXPANSION  
WICHITA, KS

SATURDAY 7PM



SITE PLAN - EXHIBIT B

1" = 40 FEET  
 6" 10' 20' 40' FEET

[Hatched Box]	TOTAL RETAIL PARKING	80 CARS
[Dotted Box]	RESTAURANT PARKING	68 CARS
[Horizontal Lines Box]	THEATER PARKING	100 CARS
[Vertical Lines Box]	OTHER ON-SITE PARKING	44 CARS
	<b>TOTAL PARKING</b>	<b>292 CARS</b>

CINEMAS EAST  
 THEATER EXPANSION  
 WICHITA, KS

8-8-86



Slope of channel behind  
Shelby Jones E.

8-8-86



Drainage from trash  
building. Start drainage  
over slope to channel.



Shows trash building on  
sloped by  $\frac{1}{2}$   
8-8-86

**CITY OF WICHITA**  
Route Slip  
(PLEASE CIRCLE DESTINATION)

<b>Administration</b>	<b>Credit Union</b>	<b>Operations/Maint. Dept.</b>
Budget & Mgmt.	Emergency Com.	Admin. Research
Contracts Admin.	<b>Fire Department</b>	Construction
Controller	<b>Health Department</b>	Fleet Maintenance
DP/OA Support	<b>Housing/Econ. Dev.</b>	Flood Control
Purchasing	Admin. & Finance	Litter Control
Microfilm	Central Inspection	Street Services
Print Shop	Energy Resources	Traffic Engineering
Stores/Mail Room	Industrial Development	<b>Park Department</b>
Ret. & Insurance	Local Housing Authority	<b>Planning Department</b>
Treasurer	<b>Human Resources</b>	Design
<b>Airport Authority</b>	Admin. Services	Graphics
<b>Art Museum</b>	Neighborhood Services	<b>Police Department</b>
<b>City Commission</b>	Planning/Evaluation	<b>Water Department</b>
<b>City Manager</b>	<b>Law Department</b>	Accounting
City Clerk	<b>Library</b>	Engineering
Personnel	<b>M.T.A.</b>	Filter Plant
Public Affairs	<b>Municipal Court</b>	Mains & Services
CPO		Sewer Maintenance
Citizen Rights & Services		Water Pol. Control
<b>Community Facilities</b>		County Data Processing
Building Services		Court House
Century II		
Omnisphere		

For LOUISE OLIVAREZ

For your information  For your comments

MESSAGE: BZA-30-86  
CINEMA EAST

Signed LET WOODWARD Date 10/19/87  
#000-013 JAN 84

CARNEY ENTERPRISES / REAL ESTATE DIVISION

July 31, 1987

Mr. Jay Woodward  
Central Inspection Division  
City Hall, 7th Floor  
455 North Main  
Wichita, Kansas 67202

Project: Cinemas East Addition  
320 North Rock Road

Dear Jay:

In order to conform to the requirements of BZA #30-86, the seating for the Cinemas East Theatres will be changed as follows:

Theatre #	Present Theatres				Additional Theatres		Total
	1	2	3	4	5	6	
Planned Seating	175	272	382	170	195	195	1389
# Seats Removed	10	40	58	10	16	16	150
	165	232	324	160	179	179	1239
# Handicapped Added	1	2	2	1	2	2	10
Total Seats	166	234	326	161	181	181	1249

Please advise us as to the issuance of a building permit. I have asked our contractor, Dave Udden, to get in touch with you.

Very truly,

*Brenda Agan*  
Brenda Agan  
General Manager

BA:tl

cc: Richard Conley  
Commonwealth Theatres

RECEIVED

AUG 10 1987

METROPOLITAN PLANNING

ROUTE  \_\_\_\_\_  
 \_\_\_\_\_

July 28, 1987

Dennis Kirkhart  
Financial Manager  
302 North Rock Road, Suite 210  
Wichita, Kansas 67206

Re: BZA 30-86 - Request for Variance (320 N. Rock Road)

Dear Mr. Kirkhart:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on September 23, 1986.

This Resolution reflects the official action of the Board to grant your request and sets out the conditions of approval. It is forwarded to you for your information and files.

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

Sincerely,

Jack H. Galbraith  
Secretary

GEL/lw

Enclosure

cc: Monty Robson, Superintendent of Central Inspection (2)  
Dale Rea, Deputy City Clerk

*add'l copy of this  
letter, resolution AND  
comments sent to  
Jury in C.I.D. 8-5-87*

RESOLUTION CASE NO. 30-86

WHEREAS, Frank L. Carney, 302 N. Rock Road, #210, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the required number of off-street parking spaces from 366 spaces to 285 spaces for the expansion of the theaters and retail space on property zoned the "LC" Light Commercial District and legally described as follows:

Beginning at a point 235 feet south and 10 feet east of the N.W. Corner of Lot 1, Block A, Dean-Rupert Second Addition to Wichita, Sedgwick County, Kansas; thence east parallel with the north line of said Lot 1, 107 feet; thence north parallel with the west line of said Lot 1, 95 feet; thence east parallel with the north line of said Lot 1, 177.68 feet; thence north parallel with the west line of said Lot 1, 20 feet; thence east parallel with the north line of said Lot 1, 90 feet to the east line of said Lot 1; thence south along the east line of said Lot 1, 312.59 feet to the S.E. Corner of said Lot 1; thence west along the south line of said Lot 1, 241.15 feet to a point 117 feet east of the S.W. Corner of Said Lot 1; thence north parallel with the west line of said Lot 1, 80 feet; thence west parallel with the south line of said Lot 1, 107 feet to a point 10 feet east of the west line of said Lot 1; thence north parallel with the west line of said Lot 1, 113.32 feet to the point of beginning together with Lot 1, Venture Park addition to Wichita, Sedgwick County, Kansas. Generally located on the east side of Rock Road and south of Central (320 North Rock Road).

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 September 23, 1986, consider said application; and

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

WHEREAS, the Board of Zoning Appeals has found that the variance arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant inasmuch as the application area and the adjacent properties contain a mixture of uses that are owned by the applicant, and the peak demand for parking for the uses do not occur at the same time; and provided further, the high parking demand for the theaters will occur in the evenings and on weekends when the offices or adjacent properties are closed; with 50 percent of the required parking for the theaters is provided on site, in addition to all other required parking, the matinee theater patrons should be adequately accommodated; 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 majority of adjacent property is occupied by offices or low intensity commercial and is owned and controlled by the applicant, or has a joint agreement for use of parking; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28 (Zoning Ordinance) of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as the applicant would be required to provide off-street parking that would not be utilized by the uses on the property which would be an undue expense; and

WHEREAS, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare due to the fact that reduction in parking primarily for daytime theater usage will not interfere with the movement of traffic on the adjacent street; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance) inasmuch as the ordinance does not take into consideration the mixture of uses on large parcels of land in one ownership, and leaves unusual situations to be decided by the Board; and

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

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to reduce the required number of off-street parking spaces from 366 spaces to 285 spaces for the expansion of the theaters and retail space on property zoned the "LC" Light Commercial District and legally described as follows:

Beginning at a point 235 feet south and 10 feet east of the N.W. Corner of Lot 1, Block A, Dean-Rupert Second Addition to Wichita, Sedgwick County, Kansas; thence east parallel with the north line of said Lot 1, 107 feet; thence north parallel with the west line of said Lot 1, 95 feet; thence east parallel with the north line of said Lot 1, 177.68 feet; thence north parallel with the west line of said Lot 1, 20 feet; thence east parallel with the north line of said Lot 1, 90 feet to the east line of said Lot 1; thence south along the east line of said Lot 1, 312.59 feet to the S.E. Corner of said Lot 1; thence west along the south line of said Lot 1, 241.15 feet to a point 117 feet east of the S.W. Corner of said Lot 1; thence north parallel with the west line of said Lot 1, 80 feet; thence west parallel with the south line of said Lot 1, 107 feet to a point 10 feet east of the west line of said Lot 1; thence north parallel with the west line of said Lot 1, 113.32 feet to the point of beginning together with Lot 1, Venture Park addition to Wichita, Sedgwick County, Kansas. Generally located on the east side of Rock Road and south of Central (320 North Rock Road).

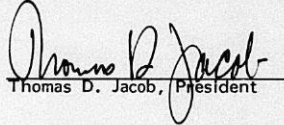
be approved subject to the following conditions:

1. The number of off-street parking spaces on the property may be reduced to not less than 285 spaces.
2. The total theater seating capacities shall not exceed 1,250 seats, and not less than 125 parking spaces shall be provided on site for the theaters.
3. There shall be provided and maintained not less than 58 parking spaces for the existing restaurant and 58 parking spaces for other retail uses on site. This shall provide for additional retail space in conjunction with the theater expansion.
4. Of the 285 parking spaces on site, only 44 may be considered for required parking spaces for offices on the property to the south provided such spaces are made available for evening and weekend theater parking.
5. The applicant shall submit a covenant to the Secretary for review and approval by the Department of Law that will provide not less than 125 off-street parking spaces on the adjacent property to the south, that will be made available for evening and weekend usage as long as the theaters remain on the property. This

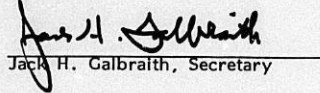
number may be reduced to 81 provided the 44 off-street parking spaces are maintained on site as set forth in condition number 4.

6. Should at any time the theaters cease to operate, or are converted to any other use, this resolution shall become null and void, and the new uses shall provide parking as required by the ordinance.

ADOPTED AT WICHITA, KANSAS, this 23rd day of September, 1986.

  
Thomas D. Jacob, President

ATTEST:

  
Jack H. Galbraith, Secretary

FILE NO 907 PAGE 0520

STATE OF KANSAS  
Sedgewick County  
FILED FOR RECORD AT  
11:00 AM

JUL 23 1987

NO. 8 96570

PAT KETTLER  
REGISTER OF DEEDS

*Ed. Peralta  
Deputy*

DECLARATION OF  
RECIPROCAL PARKING AND ACCESS EASEMENT

MICROFILMED  
OF RECORD

THIS DECLARATION is made as of this 24th day of  
April, 1987, by the undersigned ("Declarants").

W I T N E S S E T H: That,

WHEREAS, Declarants are the owners of certain hereinafter described real property located in Wichita, Kansas, which property has been developed as two (2) separate tracts; and

WHEREAS, there has been constructed on each of said tracts separate sets of commercial improvements, together with certain parking areas located thereon or appurtenant thereto; and

WHEREAS, the City of Wichita has established certain requirements regarding the providing of additional parking to serve one (1) of said tracts; and

WHEREAS, Declarants, in order to meet the requirements relating to such parking, intend hereby to establish certain easements for parking as hereinafter provided.

NOW, THEREFORE, the undersigned do hereby declare and state as follows:

1. Declarants are the owners of the following described tracts of real property which are legally described as follows:

12.00 Carney Enterprises  
Cash. 302 N. Rock Road 17 attn: Brenda Agan  
Suite 210 67206

A. Beginning at a point 235 feet south and 10 feet east of the N.W. Corner of Lot 1, Block A, Dean-Rupert Second Addition to Wichita, Sedgwick County, Kansas; thence east parallel with the north line of said Lot 1, 107 feet; thence north parallel with the west line of said Lot 1, 95 feet; thence east parallel with the north line of said Lot 1, 177.68 feet; thence north parallel with the west line of said Lot 1, 20 feet; thence east parallel with the north line of said Lot 1, 90 feet to the east line of said Lot 1; thence south along the east line of said Lot 1, 312.59 feet to the S.E. Corner of said Lot 1; thence west along the south line of said Lot 1, 241.15 feet to a point 117 feet east of the S.W. Corner of said Lot 1; thence north parallel with the west line of said Lot 1, 80 feet; thence west parallel with the south line of said Lot 1, 107 feet to a point 10 feet east of the west line of said Lot 1; thence north parallel with the west line of said Lot 1, 113.32 feet to the point of beginning; and Lot 1, Venture Park Addition to Wichita, Sedgwick County, Kansas (the "Cinemas East Tract").

B. Lot 1, Block A, Rockborough Addition to Wichita, Sedgwick County, Kansas (the "EPE Tract").

2. There is hereby declared and established a nonexclusive easement for vehicular parking and related vehicular and pedestrian access along and across the EPE Tract, for the benefit of the Cinemas East Tract. Said easement shall be appurtenant to the Cinemas East Tract, as the dominant estate, over the EPE Tract, as the servient estate, so as to permit the shared use of said parking area. Said parking shall be available only for parking after 6:00 o'clock P.M. and on weekends. In the event that the Cinemas East property should cease being utilized for theater operations, then and in that event, this grant of easement shall automatically become null and void and all rights created hereunder shall thereupon terminate.

3. Said easement is established for the benefit of all current and future owners of said Cinemas East tract. It is further hereby declared that notwithstanding the current

common ownership of said tracts, there shall be deemed no merger of said easements into the fee title, and said easements shall be deemed fully established and subsisting upon the recording hereof.

4. In the event of the separate ownership of said tracts, the owner of the EPE tract shall install such paving and other improvements within the parking areas as shall be necessary in order to comply with governmental requirements, and shall maintain, repair, and replace the paving and other improvements so that at all times they shall be in proper first-class working order and condition. Said owner shall bear the cost of the installation, maintenance, repair, and replacement of the paving and other improvements within its tract and shall not be entitled to contribution or reimbursement of any kind from the owner of the Cinemas East tract. Said owner may impose reasonable rules and regulations with respect to the use of its parking area; however, said owner shall not have the right to impose charges or other fees with respect to the use or enjoyment of said parking area by any other owner or their employees, tenants, customers, and invitees. Said owner shall not establish reserved or other areas of exclusive use within said parking area, and shall allow the benefited owners to utilize the parking area as freely and conveniently as such parking area may be utilized by said owner.

Each owner shall timely pay all real property taxes and assessments and all other liens and encumbrances applicable to such owner's tract. Each such owner shall obtain and bear the cost of such liability and other insurance applicable to such owner's tract as such owner may deem necessary for such owner's protection, and no owner shall have any obligation to maintain insurance for the protection of any other owner.

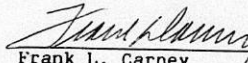
In the event of a breach or any attempted or threatened breach by any owner of any of the provisions hereof, any other owner shall be entitled forthwith to full and adequate relief from the consequences of such breach by injunction and by all other available legal or equitable remedies. The remedies provided for herein shall be cumulative and not exclusive.

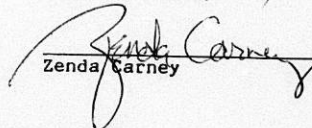
5. This Declaration may be abrogated, rescinded, or amended in whole or in part only by written agreement executed by the respective owners and mortgagees of said tracts, or their successors or assigns as applicable.

6. This Declaration shall not be construed to create any rights in the general public, nor as a dedication to public use of any portion of the respective tracts.

7. This agreement shall be binding upon and inure to the benefit of the undersigned and their successors and assigns.

THIS DECLARATION executed as of the date first above written.

  
\_\_\_\_\_  
Frank L. Carney

  
\_\_\_\_\_  
Zenda Carney

ACKNOWLEDGMENT

STATE OF KANSAS     )  
                          ) SS.  
SEDGWICK COUNTY    )

BE IT REMEMBERED that on this 17 day of March, 1986, before me, a Notary Public within and for the County and State aforesaid, personally appeared FRANK L. CARNEY and ZENDA CARNEY, husband and wife, who are personally known to me and known to me to be the identical persons who executed the within and foregoing Declaration of Reciprocal Parking and Access Easement, and said persons acknowledged to me their execution thereof as and for their free and voluntary act and deed, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at Wichita, Kansas, on the day, month, and year last above written.

Debra Davis  
Notary Public

My Appointment Expires:



Approved as to Form:

Thomas R Powell by TR  
City Attorney  
Re: BZA 30-86

CONSENT

The undersigned Mortgagee does hereby consent to the foregoing Declaration and agrees that its Mortgage shall be subordinate to the rights created hereby for the benefit of the respective tracts above described.

THE LINCOLN NATIONAL LIFE INSURANCE COMPANY

By *Alex Jokay*  
Alex Jokay - Vice President

STATE OF INDIANA )  
                          ) SS.  
ALLEN COUNTY )

The foregoing instrument was acknowledged before me this 21st day of April, 1987, by Alex Jokay, Vice President of The Lincoln National Life Insurance Company, an Indiana corporation, on behalf of the corporation.

*Joan L. Kendall*  
Notary Public - Joan L. Kendall

My Appointment Expires: \_\_\_\_\_

JOAN L. KENDALL  
Notary Public  
Resident of Huntington County, Indiana  
My Commission Expires February 18, 1988



CONSENT

The undersigned Mortgagee does hereby consent to the foregoing Declaration and agrees that its Mortgage shall be subordinate to the rights created hereby for the benefit of the respective tracts above described.

THE MUTUAL BENEFIT LIFE INSURANCE COMPANY

By *John D. Master* *del*  
JOHN D. MASTER

STATE OF <sup>MO</sup> KANSAS )  
  ) SS.  
~~SEDGWICK COUNTY~~  
JACKSON

The foregoing instrument was acknowledged before me this 24th day of April, 1987, by John D. Master, ~~President~~ President of Mutual Benefit Life Insurance Company, a ~~Kansas~~ Missouri corporation, on behalf of the corporation.



*Sharon L. Pauley*  
Notary Public  
SHARON L. PAULEY

My Appointment Expires:  
06-11-1991

CONSENT

The undersigned Mortgagee does hereby consent to the foregoing Declaration and agrees that its Mortgage shall be subordinate to the rights created hereby for the benefit of the respective tracts above described.

MID KANSAS FEDERAL SAVINGS AND  
LOAN ASSOCIATION

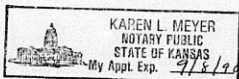
By *Max L. Herzet*  
MAX L. HERZET

STATE OF KANSAS     )  
                          ) SS.  
SEDGWICK COUNTY    )

The foregoing instrument was acknowledged before me this 13th day of March, 1987, by Max L. Herzet Senior Vice President, of Mid Kansas Federal Savings & Loan Association of Wichita, a Kansas corporation, on behalf of the corporation.

*Karen L. Meyer*  
Notary Public

My Appointment Expires:  
\_\_\_\_\_



THE CITY OF WICHITA  
OFFICE OF LAW DEPARTMENT

CONFIDENTIAL

DATE July 8, 1987

TO BOARD OF ZONING APPEALS  
Jack H. Galbraith, Secretary Board of Zoning Appeals

FROM Ed L. Randels, Assistant City Attorney

SUBJECT BZA 27-87  
BZA 30-86

ISSUES

1. What is the status of BZA resolution in BZA 30-86 after the denial of the application in Case No. BZA 27-87?
2. Does the Board have authority to reopen Case No. BZA 30-86?

OPINION

Background: On September 23, 1986, the Board approved a variance request, in Case No. BZA 30-86, to reduce the number of required off-street parking spaces so that the theater complex could expand from four to six theaters increasing the total seating capacity from 850 to 1250 seats.

However, the applicant later determined that his present capacity was in fact 1000 seats. The two additional theaters would increase that capacity to 1400 seats. As a result he filed a new application for a variance based upon the new figures. The new application was considered and denied on June 23, 1987.

What is the status of the resolution in BZA 30-86?

It is inherent that BZA Case No. 27-87 was decided in part pursuant to the provisions of Article III(D) of the Rules and Regulations of the Board of Zoning Appeals. This section establishes that the Board has no authority to consider an application where an application has been previously decided involving the same premises, except in cases where new plans or new facts are presented which show changed conditions or circumstances which materially alter the aspects of the case. The Board when it considered the new application, as stated above, inherently found that the increase in seat capacity materially altered the aspects of the case. The denial of the new application was based upon a material change, i.e., an increase in the total seating capacity to 1400 seats from the proposed 1250 seats.

There is no provision in the ordinances or regulations which declares that when an applicant applies for a new variance for property where an application has been previously decided that the new application voids the previous action. There is also no provision which states that the filing of a new application is deemed to be a

Board of Zoning Appeals  
July 8, 1987  
Page 2

withdrawal of the old application. To the contrary, according to regulation Section VII(D), it is clear that an applicant may withdraw his application at any time prior to the adoption of the resolution. There is nothing to indicate that an application may be withdrawn after the passage of the resolution.

Therefore, should the applicant desire to bring his property in compliance with the terms of the original variance he may do so. The resolution in Case No. BZA 30-86 appears to remain valid. The basis for this conclusion is the fact that the Board granted a variance when it contemplated a theater complex containing a total of 1250 seats. The fact that the applicant understated his present capacity would appear to have little material impact on the Board's decision.

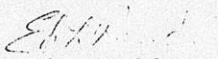
Does the Board have the authority to reopen Case No. BZA 30-86?

Section 2.12.600 of the Code of the City of Wichita prohibits the Board from reopening a case once a decision has become final unless an error in the proceedings is found within two years from the date on which the Board issued its decision.

There is little guidance given as to what kind of error is necessary to reopen a case. Generally, it should be assumed that the error must be of such nature that it materially affected the decision. As stated above, the Board appeared to grant the variance based upon the proposed theatre complex containing a total of 1250 seats. The fact that the applicant understated his present capacity has little material relationship to the total capacity contemplated. To reopen the case based upon this type of error may be arbitrary and capricious if viewed by the courts.

Further, if the case were reopened the Board would have to issue notice of hearing in the same manner as required for the original hearing and a public hearing would have to be held.

In summary there is some limited authority for the Board to reopen the case. However, in this situation it is conceivable that the courts would overturn the decision of the Board because the error in the procedure had little material relationship to the decision. Also, based upon the present rules and ordinances it appears the resolution in Case No. BZA 30-86 remains valid. As a result, if the applicant chooses to expand his facilities in compliance with its terms, he may.

  
Ed L. Rendels  
Assistant City Attorney

ELR:dks

March 4, 1987

Phillip S. Frick, Attorney  
Foulston, Siefkin, Powers and Eberhardt  
700 Fourth Financial Center  
Wichita, Kansas 67202

Re: BZA 30-86 - (320 North Rock Road)

Dear Mr. Frick:

Enclosed is the reciprocal parking and access easement that has been approved as to form by the City Attorney. Please advise when this document is recorded with the Register of Deeds so that I may release the resolution authorizing the parking variance.

Your cooperation on the redraft is appreciated and if we can be of further assistance, please advise.

Sincerely yours,

Glen E. Lytle  
Assistant Secretary  
Board of Zoning Appeals

CEL:lw

Enclosure

PL/0054/1

THE CITY OF WICHITA  
OFFICE OF LAW DEPARTMENT

DATE February 26, 1987

TO Glen E. Lytle, Assistant Secretary, Board of Zoning Appeals  
FROM Ed L. Randels, Assistant City Attorney

SUBJECT BZA 30-86  
(320 North Rock Road)  
Declaration of Reciprocal  
Parking and Access Easement

Per your memo dated February 25, 1987, we have reviewed the  
above-referenced document and it is hereby approved as to form.

*Ed L. Randels*

Ed L. Randels  
Assistant City Attorney

ELR:dks  
Attachment

RECEIVED  
FEB 27 1987  
METROPOLITAN PLANNING  
ROUTE  \_\_\_\_\_

DECLARATION OF  
RECIPROCAL PARKING AND ACCESS EASEMENT

THIS DECLARATION is made as of this \_\_\_\_ day of \_\_\_\_\_, 1986, by the undersigned ("Declarants").

W I T N E S S E T H: That,

WHEREAS, Declarants are the owners of certain hereinafter described real property located in Wichita, Kansas, which property has been developed as two (2) separate tracts; and

WHEREAS, there has been constructed on each of said tracts separate sets of commercial improvements, together with certain parking areas located thereon or appurtenant thereto; and

WHEREAS, the City of Wichita has established certain requirements regarding the providing of additional parking to serve one (1) of said tracts; and

WHEREAS, Declarants, in order to meet the requirements relating to such parking, intend hereby to establish certain easements for parking as hereinafter provided.

NOW, THEREFORE, the undersigned do hereby declare and state as follows:

1. Declarants are the owners of the following described tracts of real property which are legally described as follows:

A. Beginning at a point 235 feet south and 10 feet east of the N.W. Corner of Lot 1, Block A, Dean-Rupert Second Addition to Wichita, Sedgwick County, Kansas; thence east parallel with the north line of said Lot 1, 107 feet; thence north parallel with the west line of said Lot 1, 95 feet; thence east parallel with the north line of said Lot 1, 177.68 feet; thence north parallel with the west line of said Lot 1, 20 feet; thence east parallel with the north line of said Lot 1, 90 feet to the east line of said Lot 1; thence south along the east line of said Lot 1, 312.59 feet to the S.E. Corner of said Lot 1; thence west along the south line of said Lot 1, 241.15 feet to a point 117 feet east of the S.W. Corner of said Lot 1; thence north parallel with the west line of said Lot 1, 80 feet; thence west parallel with the south line of said Lot 1, 107 feet to a point 10 feet east of the west line of said Lot 1; thence north parallel with the west line of said Lot 1, 113.32 feet to the point of beginning; and Lot 1, Venture Park Addition to Wichita, Sedgwick County, Kansas (the "Cinemas East Tract").

B. Lot 1, Block A, Rockborough Addition to Wichita, Sedgwick County, Kansas (the "EPE Tract").

2. There is hereby declared and established a nonexclusive easement for vehicular parking and related vehicular and pedestrian access along and across the EPE Tract, for the benefit of the Cinemas East Tract. Said easement shall be appurtenant to the Cinemas East Tract, as the dominant estate, over the EPE Tract, as the servient estate, so as to permit the shared use of said parking area. Said parking shall be available only for parking after 6:00 o'clock P.M. and on weekends. In the event that the Cinemas East property should cease being utilized for theater operations, then and in that event, this grant of easement shall automatically become null and void and all rights created hereunder shall thereupon terminate.

3. Said easement is established for the benefit of all current and future owners of said Cinemas East tract. It is further hereby declared that notwithstanding the current

common ownership of said tracts, there shall be deemed no merger of said easements into the fee title, and said easements shall be deemed fully established and subsisting upon the recording hereof.

4. In the event of the separate ownership of said tracts, the owner of the EPE tract shall install such paving and other improvements within the parking areas as shall be necessary in order to comply with governmental requirements, and shall maintain, repair, and replace the paving and other improvements so that at all times they shall be in proper first-class working order and condition. Said owner shall bear the cost of the installation, maintenance, repair, and replacement of the paving and other improvements within its tract and shall not be entitled to contribution or reimbursement of any kind from the owner of the Cinemas East tract. Said owner may impose reasonable rules and regulations with respect to the use of its parking area; however, said owner shall not have the right to impose charges or other fees with respect to the use or enjoyment of said parking area by any other owner or their employees, tenants, customers, and invitees. Said owner shall not establish reserved or other areas of exclusive use within said parking area, and shall allow the benefited owners to utilize the parking area as freely and conveniently as such parking area may be utilized by said owner.

Each owner shall timely pay all real property taxes and assessments and all other liens and encumbrances applicable to such owner's tract. Each such owner shall obtain and bear the cost of such liability and other insurance applicable to such owner's tract as such owner may deem necessary for such owner's protection, and no owner shall have any obligation to maintain insurance for the protection of any other owner.

In the event of a breach or any attempted or threatened breach by any owner of any of the provisions hereof, any other owner shall be entitled forthwith to full and adequate relief from the consequences of such breach by injunction and by all other available legal or equitable remedies. The remedies provided for herein shall be cumulative and not exclusive.

5. This Declaration may be abrogated, rescinded, or amended in whole or in part only by written agreement executed by the respective owners and mortgagees of said tracts, or their successors or assigns as applicable.

6. This Declaration shall not be construed to create any rights in the general public, nor as a dedication to public use of any portion of the respective tracts.

7. This agreement shall be binding upon and inure to the benefit of the undersigned and their successors and assigns.

THIS DECLARATION executed as of the date first above written.

\_\_\_\_\_  
Frank L. Carney

\_\_\_\_\_  
Zenda Carney

ACKNOWLEDGMENT

STATE OF KANSAS    )  
                          ) SS.  
SEDGWICK COUNTY    )

BE IT REMEMBERED that on this \_\_\_\_ day of \_\_\_\_\_, 1986, before me, a Notary Public within and for the County and State aforesaid, personally appeared FRANK L. CARNEY and ZENDA CARNEY, husband and wife, who are personally known to me and known to me to be the identical persons who executed the within and foregoing Declaration of Reciprocal Parking and Access Easement, and said persons acknowledged to me their execution thereof as and for their free and voluntary act and deed, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and  
affixed my official seal at Wichita, Kansas, on the day, month,  
and year last above written.

My Appointment Expires:

---

\_\_\_\_\_  
Notary Public

Approved as to Form:

*Thomas R. Powell* by *ERR*  
*Interim* City Attorney  
Re: BZA 30-86

CONSENT

The undersigned Mortgagee does hereby consent to the foregoing Declaration and agrees that its Mortgage shall be subordinate to the rights created hereby for the benefit of the respective tracts above described.

LINCOLN NATIONAL LIFE INSURANCE  
COMPANY

By \_\_\_\_\_

STATE OF KANSAS     )  
                          ) SS.  
SEDGWICK COUNTY    )

The foregoing instrument was acknowledged before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 1986, by \_\_\_\_\_  
\_\_\_\_\_ of Lincoln National Life  
Insurance Company, a \_\_\_\_\_ corporation, on behalf of the  
corporation.

\_\_\_\_\_  
Notary Public

My Appointment Expires:

\_\_\_\_\_

**FOULSTON, SIEFKIN, POWERS & EBERHARDT**

LAW OFFICES

ROBERT C. FOULSTON, P.A.  
ROBERT N. PARTBRIDGE  
RICHARD C. HARRIS  
GERALD SAWATZKY  
ROBERT L. HOWARD  
CHARLES J. WOODIN  
MICHEL L. STOUT  
BENJAMIN C. LANGELE  
JERRY G. ELIJOTT  
WILLIAM H. DYK  
PHILLIP S. FRICK  
STANLEY G. ANDELL  
FREDERICK L. HAAG  
RICHARD D. EBY  
DARRELL L. WARTA  
HARVEY R. BORENSEN

MICHAEL KIM MOORE  
JAMES M. ARMSTRONG  
MARY KATHLEEN BABCOCK  
CHARLES P. EFFLANDT  
JAMES D. OLIVER  
NICHOLAS S. DAILY  
GARY L. AYERS  
LINDA E. CONSTABLE  
GLORIA S. FLENTJE  
LARRY G. HAPP  
R. DOUGLAS REAGAN  
JAY F. FOWLER  
STEPHEN M. KERWICK  
GARY E. KNIGHT  
JOHN J. MURPHY

A PARTNERSHIP INCLUDING A PROFESSIONAL ASSOCIATION

700 FOURTH FINANCIAL CENTER  
BROADWAY AT DOUGLAS  
WICHITA, KANSAS 67202  
(316) 267-6371  
TELECOPIER: (316) 267-6345

ROBERT C. FOULSTON (1889-1947)  
VALUHN BURKHOLDER  
TERRY C. CLIPPS  
JIM H. GOODING  
DOUGLAS L. HANBACH  
WYATT A. HOCH  
CHRISTOPHER M. HURST  
ROBERTA R. JOHNSON  
JEFFERY A. JORDAN  
AMY S. LEMLEY

OF COUNSEL  
GEORGE S. POWERS  
ROBERT M. SIEFKIN

GEORGE SIEFKIN (1895-1954)  
LOREN J. LEMON  
DAVID K. MARTIN  
TIMOTHY B. MUSTAINE  
SUSAN L. SMITH  
DOUGLAS L. STANLEY  
TRISHA A. TWELEN  
M. KATHRYN WEBB  
WILLIAM R. WOOD II  
WYATT M. WRIGHT

RETIRED  
JOHN F. EBERHARDT

February 23, 1987

Mr. Glen E. Lytle  
Assistant Secretary  
The City of Wichita  
Board of Zoning Appeals  
City Hall-Tenth Floor  
455 North Main Street  
Wichita, Kansas 67202

RECEIVED

FEB 24 1987

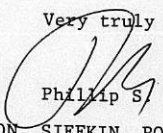
METROPOLITAN PLANNING  
ROUTE  \_\_\_\_\_  
 \_\_\_\_\_

Re: BZA 30-86 (320 N. Rock Road)

Dear Glen:

In connection with the off-street parking and access easement prepared for the above matter I enclose herewith a revised document which provides in paragraph 1(B) that all of Lot 1, Block A is incorporated. We have also added the approval line for the City Attorney and the necessary consents for the various mortgagees. If this is now satisfactory with you and the law department I would appreciate your so advising Dennis Kirkhart and he will forward the originals on for signature. Thanks for your help.

Very truly yours,

  
Phillip S. Frick

of FOULSTON, SIEFKIN, POWERS & EBERHARDT

PSF/plw

Enclosures

WICHITA-SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING DEPARTMENT

DATE: February 25, 1987

TO: Ed Randels, Assistant City Attorney  
FROM: Glen E. Lytle, Assistant Secretary, Board of Zoning Appeals  
SUBJECT: BZA 30-86 (320 North Rock Road)

Attached is a revised covenant prepared by the attorney for the property owners of the tracts of land that are a part of BZA 30-86. A letter of explanation is also attached.

Please review, and if acceptable, return to me so that I might release the Resolution authorizing the variance.

Glen E. Lytle  
Assistant Secretary, BZA

GEL/lw  
Attachment

PL/0044/1

February 10, 1987

Dennis Kirkhart  
302 North Rock Road, Suite 210  
Wichita, Kansas 67206

RE: BZA 30-86 (320 N. Rock Road)

Dear Dennis:

I have received the response from the Department of Law regarding the draft of the covenant required by BZA 30-86. It is suggested that the following changes be made in order to comply with the intent of the conditions established by the Board:

A portion of the property listed as the "EPE" tract that contains the building is zoned "LC" Light Commercial and contains commercial businesses that are open on some evenings and weekends, and would thus not provide the required number of off-street parking spaces to be available for theater patrons. Since the majority of the justification for the variance was based on the fact that the offices to the south would not be occupied in the evenings and weekends, and that more than the required number of spaces would be available to accommodate the theaters, the entire property to the south should be included as a part of the covenant to provide the 125 spaces. As noted, this figure may be reduced to 81 spaces only as long as the 44 excess spaces on the application area are maintained and utilized for office parking that would be made available for evening and weekend theater parking. The Law Department would also appreciate a signature line being added to the covenant for the City Attorney to approve its form. This signature line could include a reference to BZA 30-86.

If you or Phil Frick have any problem with making these changes, I would be glad to set up a meeting with the Law Department to review the covenant. Please advise if you have any further questions.

Sincerely,

Glen E. Lytle  
Assistant Secretary

GEL/lw

PL/0034/1

THE CITY OF WICHITA  
OFFICE OF THE LAW DEPARTMENT

DATE February 5, 1987

TO Glen E. Lytle, Assistant Secretary, Board of Zoning Appeals  
FROM Ed L. Randels, Assistant City Attorney

SUBJECT BZA 30-86 (320 North Rock Road)

After reviewing the proposed easement in the above entitled matter, it is clear that it cannot be approved by the Law Department unless there is a showing by the applicant that the tract referred to as the "EPE" tract will provide at least 125 parking spaces in addition to the required on-site parking for the Light Commercial zoned building or buildings presently located there.

It appears from the record that the variance would be granted if not less than 125 off-street parking spaces on adjacent land to the south were made available for evening and weekend usage as long as the theaters remain on the property. This number could be reduced to 81 if 44 spaces set aside for offices are made available for evening and weekend theater parking.

Apparently, it was contemplated that a larger portion if not all of Lot 1, Block A, Rockborough Addition, would be available to comply with condition Number 5 of those set forth in your letter of September 25, 1986, to Mr. Kirkhart. However, the only requirement of this condition is that one hundred twenty-five spaces on the land adjacent to the south be available for use by the theater on evenings and weekends. With the building on the "EPE" tract that is zoned Light Commercial containing commercial uses which are open some evening and weekends, it is necessary that any easement be sufficient in size to satisfy the conditions of the variance.

In response to the question concerning reference to the BZA resolution in the easement itself, it is not necessary that the easement contain this language. The important factor is that both the easement and the variance terminate at any time the theaters cease to operate.

I would suggest that the easement contain a signature line for the City Attorney to approve its form. This signature line could contain a reference to BZA Resolution 30-86.

If you have any further questions, please feel free to contact me.

*Ed L. Randels*  
Ed L. Randels  
Assistant City Attorney

ELR:kj

WICHITA-SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING DEPARTMENT

DATE: January 29, 1987

TO: Ed Randels, Assistant City Attorney

FROM: Glen E. Lytle, Assistant Secretary, Board of Zoning Appeals

SUBJECT: BZA 30-86 (320 N. Rock Road)

Attached is a draft copy of a covenant that has been prepared by the applicant's attorney. This covenant is to guarantee that off-street parking for the Cinemas East Theaters will be provided on the adjacent property to the south.

I have attached a location map showing the two parcels designated by the covenant. The highlighted area is the "Cinemas East Tract" and the blue cross hatched area is the "EPE Tract". I have also included correspondence to the applicant setting forth the conditions of approval established by the Board on September 23, 1986.

I would appreciate your review of this covenant so that I can respond to Mr. Kirkhart at the earliest possible date. My major concern with the covenant is that they have referred to only a portion of Lot 1, Block A, Rockborough Addition, and that particular tract contains a building that is located in the "LC" Light Commercial District and contains commercial uses that are open some in the evenings and definitely on weekends.

The justification for the variance was the owners of the "Cinemas East Tract" also owned the property to the south and it consisted mainly of offices that were not open in the evenings and on weekends. I think that any covenant should include all of Lot 1, Block A, Rockborough Addition, as the property that the 125 spaces will be available to comply with condition number five. I would also assume that the covenant should refer to Resolution BZA 30-86 and remain in effect unless released by the Secretary of the Board of Zoning Appeals.

GEL/lw

Attachments

PL/0022/1

CARNEY ENTERPRISES / 302 N. ROCK ROAD / SUITE 210 / WICHITA, KANSAS 67206 / 316-683-4624

January 23, 1987

Mr. Glen E. Lytle  
The City of Wichita  
Board of Zoning Appeals  
City Hall - Tenth Floor  
455 North Main Street  
Wichita, Kansas 67202

RE: BZA 30-86 (320 N. Rock Road)

Dear Glen:


One of the conditions of the approval of BZA 30-86 relative to the parking variance for the Cinemas East expansion was that we were to submit to you a covenant for review and approval by the Department of Law providing off-street parking spaces for evening and weekend usage on the adjacent property south of the Cinemas East property.

Enclosed please find a copy of the Declaration of Reciprocal Parking and Access Easement prepared by Phil Frick of Foulston, Siefkin, Powers & Eberhardt providing said parking.

Once the Department of Law has reviewed the document, please let me know so that we may forward it to Lincoln National Life Insurance Company for their signature.

If you have any questions, please call.

Sincerely,



Dennis L. Kirkhart  
Financial Manager

DLK/sd

Enclosure

RECEIVED

JAN 26 1987

METROPOLITAN PLANNING  
ROUTE

DECLARATION OF  
RECIPROCAL PARKING AND ACCESS EASEMENT

THIS DECLARATION is made as of this \_\_\_\_ day of \_\_\_\_\_, 1986, by the undersigned ("Declarants").

W I T N E S S E I H: That,

WHEREAS, Declarants are the owners of certain hereinafter described real property located in Wichita, Kansas, which property has been developed as two (2) separate tracts; and

WHEREAS, there has been constructed on each of said tracts separate sets of commercial improvements, together with certain parking areas located thereon or appurtenant thereto; and

WHEREAS, the City of Wichita has established certain requirements regarding the providing of additional parking to serve one (1) of said tracts; and

WHEREAS, Declarants, in order to meet the requirements relating to such parking, intend hereby to establish certain easements for parking as hereinafter provided.

NOW, THEREFORE, the undersigned do hereby declare and state as follows:

1. Declarants are the owners of the following described tracts of real property which are legally described as follows:

A. Beginning at a point 235 feet south and 10 feet east of the N.W. Corner of Lot 1, Block A, Dean-Rupert Second Addition to Wichita, Sedgwick County, Kansas; thence east parallel with the north line of said Lot 1, 107 feet; thence north parallel with the west line of said Lot 1, 95 feet; thence east parallel with the north line of said Lot 1, 177.68 feet; thence north parallel with the west line of said Lot 1, 20 feet; thence east parallel with the north line of said Lot 1, 90 feet to the east line of said Lot 1; thence south along the east line of said Lot 1, 312.59 feet to the S.E. Corner of said Lot 1; thence west along the south line of said Lot 1, 241.15 feet to a point 117 feet east of the S.W. Corner of said Lot 1; thence north parallel with the west line of said Lot 1, 80 feet; thence west parallel with the south line of said Lot 1, 107 feet to a point 10 feet east of the west line of said Lot 1; thence north parallel with the west line of said Lot 1, 113.32 feet to the point of beginning; and Lot 1, Venture Park Addition to Wichita, Sedgwick County, Kansas (the "Cinemas East Tract").

B. The North 217.5 feet of the West 240 feet of Lot 1, Block A, Rockborough Addition to Wichita, Sedgwick County, Kansas (the "EPE Tract").

2. There is hereby declared and established a nonexclusive easement for vehicular parking and related vehicular and pedestrian access along and across the EPE Tract, for the benefit of the Cinemas East Tract. Said easement shall be appurtenant to the Cinemas East Tract, as the dominant estate, over the EPE Tract, as the servient estate, so as to permit the shared use of said parking area. Said parking shall be available only for parking after 6:00 o'clock P.M. and on weekends. In the event that the Cinemas East property should cease being utilized for theater operations, then and in that event, this grant of easement shall automatically become null and void and all rights created hereunder shall thereupon terminate.

3. Said easement is established for the benefit of all current and future owners of said Cinemas East tract. It

is further hereby declared that notwithstanding the current common ownership of said tracts, there shall be deemed no merger of said easements into the fee title, and said easements shall be deemed fully established and subsisting upon the recording hereof.

4. In the event of the separate ownership of said tracts, the owner of the EPE tract shall install such paving and other improvements within the parking areas as shall be necessary in order to comply with governmental requirements, and shall maintain, repair, and replace the paving and other improvements so that at all times they shall be in proper first-class working order and condition. Said owner shall bear the cost of the installation, maintenance, repair, and replacement of the paving and other improvements within its tract and shall not be entitled to contribution or reimbursement of any kind from the owner of the Cinemas East tract. Said owner may impose reasonable rules and regulations with respect to the use of its parking area; however, said owner shall not have the right to impose charges or other fees with respect to the use or enjoyment of said parking area by any other owner or their employees, tenants, customers, and invitees. Said owner shall not establish reserved or other areas of exclusive use within said parking area, and shall allow the benefited owners to utilize the parking area as freely and conveniently as such parking area may be utilized by said owner.

Each owner shall timely pay all real property taxes and assessments and all other liens and encumbrances applicable to such owner's tract. Each such owner shall obtain and bear the cost of such liability and other insurance applicable to such owner's tract as such owner may deem necessary for such owner's protection, and no owner shall have any obligation to maintain insurance for the protection of any other owner.

In the event of a breach or any attempted or threatened breach by any owner of any of the provisions hereof, any other owner shall be entitled forthwith to full and adequate relief from the consequences of such breach by injunction and by all other available legal or equitable remedies. The remedies provided for herein shall be cumulative and not exclusive.

5. This Declaration may be abrogated, rescinded, or amended in whole or in part only by written agreement executed by the respective owners and mortgagees of said tracts, or their successors or assigns as applicable.

6. This Declaration shall not be construed to create any rights in the general public, nor as a dedication to public use of any portion of the respective tracts.

7. This agreement shall be binding upon and inure to the benefit of the undersigned and their successors and assigns.

THIS DECLARATION executed as of the date first above written.

\_\_\_\_\_  
Frank L. Carney

\_\_\_\_\_  
Zenda Carney

ACKNOWLEDGMENT

STATE OF KANSAS     )  
                          ) SS.  
SEDGWICK COUNTY    )

BE IT REMEMBERED that on this \_\_\_\_ day of \_\_\_\_\_, 1986, before me, a Notary Public within and for the County and State aforesaid, personally appeared FRANK L. CARNEY and ZENDA CARNEY, husband and wife, who are personally known to me and known to me to be the identical persons who executed the within and foregoing Declaration of Reciprocal Parking and Access Easement, and said persons acknowledged to me their execution thereof as and for their free and voluntary act and deed, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at Wichita, Kansas, on the day, month, and year last above written.

\_\_\_\_\_  
Notary Public

My Appointment Expires:

\_\_\_\_\_

CONSENT

The undersigned Mortgagee does hereby consent to the foregoing Declaration and agrees that its Mortgage shall be subordinate to the rights created hereby for the benefit of the respective tracts above described.

LINCOLN NATIONAL LIFE INSURANCE  
COMPANY

By \_\_\_\_\_

STATE OF KANSAS )  
                  ) SS.  
SEDGWICK COUNTY )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 1986, by \_\_\_\_\_ of Lincoln National Life Insurance Company, a Kansas corporation, on behalf of the corporation.

\_\_\_\_\_  
Notary Public

My Appointment Expires:

\_\_\_\_\_

WICHITA-SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING DEPARTMENT

DATE: November 14, 1986

TO: Chris Cherches, City Manager

FROM: Michael E. Lindebak, Director of Planning (Interim)

SUBJECT: Authority of Board of Zoning Appeals (Case No. BZA 30-86)

In accordance with KSA 12-715, the Board of Zoning Appeals is designated as the body to "administer the details from or other matters referred to it regarding the application of the zoning ordinance." In particular, these matters are: (1) Appeals on the interpretation of the ordinance; (2) Variances to authorize, in specific cases, a variance from specific terms of the ordinance; and (3) Exceptions to the ordinance when such uses are specifically listed in the zoning ordinance and conditions are established for BZA approval.

In BZA Case 30-86, the request was for a variance of the required number of off-street parking spaces in order to expand the theater complex on the property. The application was filed after a determination was made by Central Inspection that the expansion of the theaters would not be in conformance with the strict application of the parking requirements of the zoning ordinance.

All adjacent property owners within 200 feet of the application area were notified of the hearing before the Board of Zoning Appeals. The major concern expressed by the adjacent property owner and some of their tenants were those of on-site traffic problems at peak hours and the unauthorized parking by theater patrons on their properties.

After the public hearing on August 26, 1986, the Board deferred the case for further information on the matinee attendance of the existing theaters for the year 1986. Since the applicant could comply with the requirements of the ordinance for evenings and weekends, the request for a parking variance only related to daytime hours. Based on the facts furnished to the Board, their determination was that the five conditions for the granting of the variance had been met and they approved the request.

As set forth in KSA 12-715, "any person, official or governmental agency dissatisfied with any order or determination of said Board may bring action in the district court of the county--to determine the reasonableness of any such order or determination." Such action must be taken within 30 days, and as of the date, October 23, no such action was taken by any individual.

It is my opinion that the Board acted in conformance with their assigned responsibilities. Although there will continue to be problems with the control and use of parking spaces by theater patrons in spite of the number of spaces, it is primarily the result of the manner in which the properties have

Chris Cherches

2

November 14, 1986

been sold off after development. There are joint driveway easements and private cross property agreements on this parcel of land that was originally platted as one lot and now is in four ownerships. This results in conflicts between owners and tenants due to the inability to control parking in the area to everyone's satisfaction.

After reviewing this matter with staff, we all are of the opinion that parking standards belong only in the zoning ordinance, and as the law provides, only the Board of Zoning Appeals has the authority to grant deviations from the standards.

MEL/GEL/lw

THE CITY OF WICHITA

DATE: October 27, 1986

TO: Mike Lindebak

FROM: City Manager's Office 

SUBJECT: Authority of BZA  
(BZA 30-86)

Can you provide me with information on authority of board to alter parking requirements? Assuming they have it, should they? Should not parking requirements be "outside" of zoning codes?

CC:mp

RECEIVED

OCT 30 1986

METROPOLITAN PLANNING

ROUTE

September 25, 1986

Dennis Kirkhart  
302 North Rock Road, Suite 210  
Wichita, Kansas 67206

Re: BZA 30-86 - Request for Variance (320 North Rock Road)

Dear Mr. Kirkhart:

At the regular meeting of the Board of Zoning Appeals on September 23, 1986, your request for a variance was considered. It was the action of the Board to approve the request subject to the following conditions:

1. The number of off-street parking spaces on the property may be reduced to not less than 285 spaces.
2. The total theater seating capacities shall not exceed 1,250 seats, and not less than 125 parking spaces shall be provided on site for the theaters.
3. There shall be provided and maintained not less than 58 parking spaces for the existing restaurant and 58 parking spaces for other retail uses on site. This shall provide for additional retail space in conjunction with the theater expansion.
4. Of the 285 parking spaces on site, only 44 may be considered for required parking spaces for offices on the property to the south provided such spaces are made available for evening and weekend theater parking.
5. The applicant shall submit a covenant to the Secretary for review and approval by the Department of Law that will provide not less than 125 off-street parking spaces on the adjacent property to the south, that will be made available for evening and weekend usage as long as the theaters remain on the property. This number may be reduced to 81 provided the 44 off-street parking spaces are maintained on site as set forth in condition number 4.
6. Should at any time the theaters cease to operate, or are converted to any other use, this resolution shall become null and void, and the new uses shall provide parking as required by the ordinance.

September 25, 1986

The release of the Resolution authorizing the expansion of the theaters, as requested, is subject to the submission of a covenant that will assure that 125 off-street parking spaces will be available evenings and weekends on the adjacent property as long as the theaters remain.

If you have any questions, please call our office.

Sincerely yours,

Glen E. Lytle  
Assistant Secretary

GEL:lw

cc: Frank Carney, 302 N. Rock Road, Suite 210, Wichita, KS 67206  
Monty Robson, Superintendent of Central Inspection (2)  
Don Gisick, City Clerk

COMMONWEALTH THEATERS - CINEMAS EAST  
 MATINEE ATTENDANCE  
 ACTUAL - FOUR THEATERS

JANUARY

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY					
:	:	342	69	111	22	126	25	314	63	366	73
:	:	560	116	99	20	185	37	495	99	435	87
44	9	68	14	43	9	49	10	109	22	404	81
59	12	65	13	47	9	48	10	153	31	483	97
58	12	58	12	55	11	59	12	225	45	498	100
59	12	56	11	45	12	52	10	120	24	522	104
135	27	51	10	53	11	19	4	129	26	406	81
67	13	40	8	34	7	24	5	82	16	345	69
47	9	25	5	51	10	52	10	90	18	:	:
46	8	35	7	39	8	29	6	62	12	:	:
:	:	:	:	:	:	:	:	:	:	:	:
:	:	:	:	:	:	:	:	:	:	:	:

COMMONWEALTH THEATERS - CINEMAS EAST  
 MATINEE ATTENDANCE  
 ACTUAL - FOUR THEATERS

FEBRUARY

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
:	:	:	:	:	305	61
:	:	:	:	:	236	47
59	12	41	8	34	7	38
27	5	29	6	26	5	57
30	6	28	6	26	5	26
27	5	27	5	27	5	28
167	33	44	9	25	5	44
65	13	34	7	32	6	24
43	9	30	6	13	3	27
27	5	27	5	16	3	18
:	:	:	:	:	:	:
:	:	:	:	:	:	:

COMMONWEALTH THEATERS - CINEMAS EAST  
 MATINEE ATTENDANCE  
 PROJECTED - SIX THEATERS

JANUARY

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
:	:	503	101	163	33	165
:	:	853	171	146	29	272
85	13	100	20	63	13	72
87	17	96	19	69	14	71
85	17	85	17	81	16	87
87	17	82	16	96	19	76
200	40	75	15	78	16	26
99	20	59	12	50	10	35
69	14	37	7	75	15	76
59	12	51	10	57	11	43
:	:	:	:	:	:	:
:	:	:	:	:	:	:

COMMONWEALTH THEATERS - CINEMAS EAST  
 MATINEE ATTENDANCE  
 PROJECTED - SIX THEATERS

FEBRUARY

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
:	:	:	:	:	449	90
:	:	:	:	:	347	69
87	17	60	12	50	10	56
40	8	43	9	38	8	84
44	9	41	8	38	8	38
40	8	40	8	40	8	41
246	49	65	13	34	7	65
96	19	50	10	47	9	35
63	13	44	9	19	4	40
40	8	40	8	24	5	26
:	:	:	:	:	:	:
:	:	:	:	:	:	:

COMMONWEALTH THEATERS - CINEMAS EAST  
 MATINEE ATTENDANCE  
 ACTUAL - FOUR THEATERS

MARCH

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
:	:	:	:	:	60	12 : 139 28 :
:	:	:	:	:	85	17 : 81 16 :
15	3 : 16	3 : 17	3 : 23	5 : 83	17 : 292	58 : 280 56 :
12	2 : 23	5 : 26	5 : 36	7 : 85	17 : 324	65 : 293 59 :
51	10 : 47	9 : 63	13 : 55	11 : 75	15 : 354	71 : 321 64 :
46	9 : 63	13 : 75	15 : 65	13 : 103	21 : 441	88 : 351 70 :
71	14 : 71	14 : 64	13 : 49	10 : 144	29 : 415	83 : 286 57 :
45	9 : 78	16 : 51	10 : 53	11 : 164	33 : 450	90 : 251 50 :
280	56 : 269	54 : 292	58 : 252	50 : 369	74 : 382	76 : 337 67 :
129	26 : 112	22 : 142	28 : 59	12 : 226	45 : 314	63 : 365 73 :
243	49 :	:	:	:	:	:
72	14 :	:	:	:	:	:

COMMONWEALTH THEATERS - CINEMAS EAST  
 MATINEE ATTENDANCE  
 ACTUAL - FOUR THEATERS

APRIL

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
:	94	19 : 122	24 : 101	20 : 79	16 : 323	65 : 287 57 :
:	76	7 : 85	17 : 36	7 : 100	20 : 316	63 : 287 57 :
48	10 : 33	7 : 29	6 : 27	5 : 50	10 : 192	38 : 451 90 :
56	7 : 20	4 : 31	6 : 32	4 : 87	17 : 233	47 : 253 51 :
64	13 : 45	9 : 25	5 : 34	7 : 90	18 : 360	72 : 370 74 :
29	6 : 27	5 : 22	4 : 31	6 : 80	16 : 340	68 : 284 57 :
56	11 : 53	11 : 40	8 : 84	17 : 47	9 : 192	38 : 396 79 :
16	3 : 21	4 : 18	4 : 34	7 : 62	12 : 287	57 : 399 80 :
19	4 : 26	5 : 20	4 :	:	:	:
33	7 : 27	5 : 24	5 :	:	:	:
:	:	:	:	:	:	:
:	:	:	:	:	:	:

COMMONWEALTH THEATERS - CINEMAS EAST  
 MATINEE ATTENDANCE  
 PROJECTED - SIX THEATERS

MARCH

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
:	:	:	:	:	68	18 : 204 41 :
:	:	:	:	:	125	25 : 119 24 :
22	4 : 24	5 : 25	5 : 34	7 : 122	24 : 429	86 : 412 82 :
18	4 : 34	7 : 38	8 : 53	11 : 125	25 : 476	95 : 431 86 :
75	15 : 69	14 : 93	19 : 81	16 : 110	22 : 521	104 : 472 94 :
68	14 : 93	19 : 110	22 : 96	19 : 151	30 : 649	130 : 516 103 :
104	21 : 104	21 : 94	19 : 72	14 : 212	42 : 610	122 : 421 84 :
66	13 : 115	23 : 75	15 : 78	16 : 241	48 : 662	132 : 369 74 :
412	82 : 396	79 : 429	86 : 371	74 : 543	109 : 562	112 : 496 99 :
190	35 : 165	33 : 206	42 : 87	17 : 332	66 : 462	92 : 537 107 :
357	71 :	:	:	:	:	:
106	21 :	:	:	:	:	:

COMMONWEALTH THEATERS - CINEMAS EAST  
 MATINEE ATTENDANCE  
 PROJECTED - SIX THEATERS

APRIL

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
:	138	28 : 179	36 : 149	30 : 116	23 : 475	95 : 422 84 :
:	53	11 : 125	25 : 53	11 : 147	29 : 465	93 : 422 84 :
71	14 : 49	10 : 43	9 : 40	8 : 74	15 : 282	56 : 663 73 :
53	11 : 29	6 : 46	9 : 47	9 : 126	26 : 343	69 : 372 74 :
94	19 : 66	13 : 37	7 : 50	10 : 132	26 : 529	106 : 544 109 :
43	9 : 40	8 : 32	6 : 46	9 : 118	24 : 500	100 : 418 84 :
82	16 : 78	16 : 59	12 : 124	25 : 69	14 : 282	56 : 582 116 :
24	5 : 31	6 : 26	5 : 50	10 : 91	18 : 422	84 : 587 117 :
28	6 : 38	8 : 29	6 :	:	:	:
53	11 : 40	8 : 35	7 :	:	:	:
:	:	:	:	:	:	:
:	:	:	:	:	:	:

COMMONWEALTH THEATERS - CINEMAS EAST  
MATINEE ATTENDANCE  
ACTUAL - FOUR THEATERS

MAY

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
: : : : 25 5 : 28 6 : 138 28 : 208 42 :						
: : : : 11 2 : 65 13 : 199 40 : 219 44 :						
: 15 3 : 25 5 : 26 5 : 44 9 : 33 7 : 118 24 : 114 23 :						
: 19 4 : 30 8 : 27 5 : 26 5 : 33 7 : 188 38 : 144 29 :						
: 19 4 : 11 2 : 19 4 : 16 3 : 24 5 : 213 43 : 163 33 :						
: 20 4 : 32 6 : 28 6 : 29 6 : 20 4 : 198 40 : 162 32 :						
: 19 4 : 22 4 : 22 4 : 25 5 : 37 7 : 44 9 : 90 18 :						
: 29 6 : 26 5 : 28 6 : 8 2 : 47 9 : 137 27 : 110 22 :						
*****						
#100 20 : 23 5 : 30 6 : 31 6 : 36 7 : 113' 23 : :						
#108 22 : 28 6 : 20 4 : 31 6 : 21 4 : 141 28 : :						
*****						
: : : : : : : :						
: : : : : : : :						

COMMONWEALTH THEATERS - CINEMAS EAST  
MATINEE ATTENDANCE  
ACTUAL - FOUR THEATERS

JUNE

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
: : : : : : : :						95 19 :
: : : : : : : :						97 19 :
: 28 6 : 25 5 : 29 6 : 25 5 : 145 29 : 238 48 : 8 2 :						
: 22 6 : 28 6 : 17 3 : 22 4 : 121 24 : 207 41 : 556 111 :						
: 97 19 : 115 23 : 209 42 : 180 36 : 106 21 : 181 36 : 298 60 :						
: 116 23 : 99 20 : 98 20 : 87 13 : 142 28 : 227 45 : 330 66 :						
: 98 20 : 167 33 : 95 19 : 172 34 : 83 17 : 175 35 : 204 41 :						
: 55 11 : 47 9 : 69 14 : 57 11 : 71 14 : 152 30 : 214 43 :						
: 124 25 : 53 11 : 78 16 : 80 16 : 185 37 : 254 51 : 285 57 :						
: 93 19 : 66 13 : 32 6 : 55 11 : 101 20 : 180 36 : 275 55 :						
: 203 41 : : : : : : : :						
: 70 14 : : : : : : : :						

COMMONWEALTH THEATERS - CINEMAS EAST  
MATINEE ATTENDANCE  
PROJECTED - SIX THEATERS

MAY

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
: : : : 37 7 : 41 8 : 263 41 : 306 61 :						
: : : : 16 3 : 96 19 : 293 59 : 322 64 :						
: 22 4 : 37 7 : 38 8 : 65 13 : 49 10 : 174 35 : 188 34 :						
: 28 6 : 44 9 : 40 8 : 38 8 : 49 10 : 276 55 : 212 42 :						
: 28 6 : 16 3 : 28 6 : 24 5 : 35 7 : 313 63 : 240 48 :						
: 29 6 : 47 9 : 41 8 : 43 9 : 29 6 : 291 58 : 238 48 :						
: 26 5 : 32 6 : 32 6 : 37 7 : 54 11 : 65 13 : 132 26 :						
: 43 9 : 38 8 : 41 8 : 12 2 : 69 14 : 201 40 : 162 32 :						
*****						
#147 29 : 34 7 : 44 9 : 46 9 : 53 11 : 166 33 : :						
#159 32 : 41 8 : 29 6 : 46 9 : 31 6 : 207 41 : :						
*****						
: : : : : : : :						
: : : : : : : :						

COMMONWEALTH THEATERS - CINEMAS EAST  
MATINEE ATTENDANCE  
PROJECTED - SIX THEATERS

JUNE

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
: : : : : : : :						110 28 :
: : : : : : : :						143 29 :
: 41 8 : 37 7 : 43 9 : 37 7 : 213 43 : 350 70 : 12 2 :						
: 47 9 : 41 8 : 25 5 : 32 6 : 178 36 : 304 61 : 818 164 :						
: 143 29 : 169 34 : 307 61 : 265 53 : 156 31 : 266 53 : 438 88 :						
: 171 34 : 146 29 : 144 29 : 99 20 : 209 42 : 334 67 : 485 97 :						
: 144 29 : 246 49 : 140 28 : 253 51 : 122 24 : 257 51 : 300 60 :						
: 81 16 : 69 14 : 101 20 : 84 17 : 104 21 : 224 45 : 315 63 :						
: 182 36 : 78 16 : 115 23 : 118 24 : 272 54 : 374 75 : 419 84 :						
: 137 27 : 97 19 : 47 9 : 81 16 : 149 30 : 265 53 : 404 81 :						
: 299 60 : : : : : : : :						
: 103 21 : : : : : : : :						

COMMONWEALTH THEATERS - CINEMAS EAST  
MATINEE ATTENDANCE  
ACTUAL - FOUR THEATERS

JULY

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
:	: 271	54 : 216	43 : 240	48 : 248	50 : 474	95 : 398 80 :
:	: 192	20 : 338	68 : 287	57 : 453	91 : 657	131 : 679 136 :
-----						
:373	75 : 269	54 : 237	47 : 388	78 : 408	82 : 594	119 : 527 105 :
:190	38 : 99	20 : 181	36 : 169	22 : 130	26 : 389	74 : 770 154 :
-----						
:121	24 : 245	49 : 247	49 : 261	52 : 323	65 : 546	109 : 474 95 :
:112	22 : 88	18 : 164	33 : 111	22 : 154	31 : 272	54 : 319 64 :
-----						
:196	39 : 122	24 : 222	44 : 151	30 : 250	50 : 473	95 : 692 138 :
: 83	17 : 119	24 : 139	28 : 155	31 : 211	42 : 569	102 : 575 115 :
-----						
:243	49 : 226	44 : 316	63 : 275	55 :	:	:
:127	25 : 115	23 : 126	25 : 133	27 :	:	:
-----						
:	:	:	:	:	:	:
:	:	:	:	:	:	:

COMMONWEALTH THEATERS - CINEMAS EAST  
MATINEE ATTENDANCE  
ACTUAL - FOUR THEATERS

AUGUST

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
:	:	:	:	: 245	49 : 259	52 : 282 56 :
:	:	:	:	: 140	28 : 499	100 : 468 94 :
-----						
:131	26 : 169	34 : 105	21 : 141	28 : 207	41 : 588	118 : 363 73 :
: 97	19 : 82	16 : 86	18 : 99	20 : 128	26 : 370	74 : 343 69 :
-----						
:120	24 : 175	35 : 172	34 : 135	27 : 272	54 : 389	80 : 401 80 :
: 59	12 : 94	19 : 91	18 : 96	19 : 126	25 : 339	68 : 421 84 :
-----						
:105	21 : 179	36 : 117	23 : 147	29 : 140	28 : 402	80 : 446 89 :
: 93	19 : 71	14 : 91	18 : 69	14 : 139	28 : 458	92 : 505 101 :
-----						
:141	28 : 152	30 : 228	46 : 176	35 : 94	19 : 259	52 : 418 84 :
: 66	13 : 77	15 : 82	16 : 94	19 : 97	19 : 522	104 : 603 121 :
-----						
:	:	:	:	:	:	:
:	:	:	:	:	:	:

COMMONWEALTH THEATERS - CINEMAS EAST  
MATINEE ATTENDANCE  
PROJECTED - SIX THEATERS

JULY

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
:	:	:	:	:	:	-----
:	: 399	80 : 318	64 : 353	71 : 365	73 : 697	139 : 585 117 :
:	: 156	30 : 497	99 : 422	84 : 666	133 : 966	193 : 999 200 :
-----						
:549	110 : 396	79 : 349	70 : 571	114 : 600	120 : 874	175 : 775 155 :
:279	56 : 146	29 : 266	53 : 160	32 : 191	38 : 543	109 : 1114 226 :
-----						
:178	36 : 360	72 : 363	73 : 364	77 : 475	95 : 603	161 : 697 139 :
:165	33 : 129	26 : 241	48 : 163	33 : 226	45 : 400	80 : 469 94 :
-----						
:288	58 : 179	36 : 326	65 : 222	44 : 368	74 : 696	139 : 1114 204 :
:122	24 : 175	35 : 204	41 : 228	46 : 310	62 : 749	150 : 846 169 :
-----						
:57	71 : 324	65 : 465	93 : 404	81 :	:	:
:187	37 : 169	34 : 185	37 : 196	39 :	:	:
-----						
:	:	:	:	:	:	:
:	:	:	:	:	:	:

COMMONWEALTH THEATERS - CINEMAS EAST  
MATINEE ATTENDANCE  
PROJECTED - SIX THEATERS

AUGUST

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
:	:	:	:	: 360	72 : 381	76 : 415 83 :
:	:	:	:	: 206	41 : 734	147 : 688 138 :
-----						
:193	39 : 249	50 : 154	31 : 207	41 : 304	61 : 665	173 : 534 107 :
:143	29 : 121	24 : 129	26 : 146	29 : 188	38 : 544	109 : 504 101 :
-----						
:176	35 : 257	51 : 253	51 : 199	40 : 400	80 : 567	117 : 590 118 :
: 87	17 : 138	28 : 134	27 : 141	28 : 185	37 : 469	100 : 619 124 :
-----						
:154	31 : 263	53 : 172	34 : 216	43 : 206	41 : 591	118 : 656 131 :
:137	27 : 104	21 : 154	27 : 101	20 : 204	41 : 674	135 : 743 149 :
-----						
:207	41 : 224	45 : 335	67 : 259	52 : 138	28 : 381	76 : 615 123 :
: 97	19 : 113	23 : 121	24 : 138	28 : 143	29 : 768	154 : 887 177 :
-----						
:	:	:	:	:	:	:
:	:	:	:	:	:	:



HOWARD & HELMER  
architects p.a.

9.16.86

CINEMA'S EAST THEATERS EXPANSION

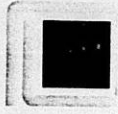
SUMMARY OF PARKING COUNT (Week of Sept. 2 thru 8)

TOTAL CARS

	<u>3PM</u>	<u>4PM</u>	<u>7PM</u>
9/7 SUNDAY	85	100	117
9/8 MONDAY	77	65	76
9/2 TUESDAY	90	67	36
9/3 WEDNESDAY	86	68	86
9/4 THURSDAY	65	58	87
9/5 FRIDAY	86	85	120
9/6 SATURDAY	83	90	105
<u>AVERAGE</u>	82	76	89

BY FLAKEY JAKES

	<u>3PM</u>	<u>4PM</u>	<u>7PM</u>
SUNDAY	22	25	18
MONDAY	12	14	21
TUESDAY	19	17	17
WEDNESDAY	26	17	29
THURSDAY	13	12	83
FRIDAY	16	12	38
SATURDAY	23	18	21
<u>AVERAGE</u>	18	16	25



HOWARD & HELMER  
architects p.a.

CINEMA'S EAST (cont.)

BY THEATERS

	<u>2PM</u>	<u>4PM</u>	<u>7PM</u>
SUNDAY	62	72	94
MONDAY	35	16	38
TUESDAY	41	27	13
WEDNESDAY	40	42	49
THURSDAY	32	30	46
FRIDAY	38	47	80
SATURDAY	<u>60</u>	<u>67</u>	<u>78</u>
	94	43	57

BY JOHN HANCOCK BLDG

	<u>2PM</u>	<u>4PM</u>	<u>7PM</u>
SUNDAY	1	3	5
MONDAY	30	35	17
TUESDAY	30	28	6
WEDNESDAY	26	9	8
THURSDAY	20	16	8
FRIDAY	32	26	2
SATURDAY	<u>5</u>	<u>5</u>	<u>6</u>
	21	17	7

BZA CASE NO. 30-86

<u>2</u>	NOTICES SENT TO APPLICANT/AGENT
<u>14</u>	LEGAL ADVERTISEMENT SENT TO MAPC & BZA
<u>1</u>	NOTICES SENT TO CPO
<u>5</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>8</u>	TOTAL NOTICES SENT <u>9-2-86</u>

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

August 29, 1986

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 30-86

As required by law, all property owners of record, within 200 feet of a property to be considered for an exception or variance by the Board of Zoning Appeals, are to be notified of the public hearing. An application has been filed by Frank L. Carney, 302 N. Rock Road, #210, Wichita, Kansas, requesting a variance.

Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting a variance to reduce the required number of off-street parking spaces from 366 spaces to 285 spaces for the expansion of the theaters and retail space on property zoned the "LC" Light Commercial District. A legal description of the applicant's property is as follows:

Beginning at a point 235 feet south and 10 feet east of the N.W. Corner of Lot 1, Block A, Dean-Rupert Second Addition to Wichita, Sedgwick County, Kansas; thence east parallel with the north line of said Lot 1, 107 feet; thence north parallel with the west line of said Lot 1, 95 feet; thence east parallel with the north line of said Lot 1, 177.68 feet; thence north parallel with the west line of said Lot 1, 20 feet; thence east parallel with the north line of said Lot 1, 90 feet to the east line of said Lot 1; thence south along the east line of said Lot 1, 312.59 feet to the S.E. Corner of said Lot 1; thence west along the south line of said Lot 1, 241.15 feet to a point 117 feet east of the S.W. Corner of Said Lot 1; thence north parallel with the west line of said Lot 1, 80 feet; thence west parallel with the south line of said Lot 1, 107 feet to a point 10 feet east of the west line of said Lot 1; thence north parallel with the west line of said Lot 1, 113.32 feet to the point of beginning; together with Lot 1, Venture Park addition to Wichita, Sedgwick County, Kansas. Generally located on the east side of Rock Road and south of Central (320 North Rock Road).

This application has been assigned Case No. BZA 30-86. It will be considered by the Board of Zoning Appeals on September 23, 1986 at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested variance, you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, either in person or by agent or attorney.

It should be noted that the Citizen Participation Organization Area Council may consider this case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Glen E. Lytle  
Assistant Secretary

August 28, 1986

Dennis Kirkhart  
302 North Rock Road, Suite 210  
Wichita, Kansas 67206

Re: BZA 30-86 - Request for Variance (320 North Rock Road)

Dear Mr. Kirkhart:

The Board of Zoning Appeals, at its meeting of August 26, 1986, considered the above captioned variance request. After considerable discussion and a motion to approve the request subject to several conditions which failed to receive the necessary three votes for approval, the action of the Board was to defer the request until their next meeting.

The Board specifically requested that attendance information be provided, if possible, for all matinees from January 1, 1986 to date.

This case will be scheduled for reconsideration at the meeting of September 23, 1986, in the Board Room, First Floor, City Hall, 455 North Main. This will be the first case on the agenda.

If you have any questions, please call our office.

Sincerely yours,

Jack H. Galbraith  
Secretary

JHG/lw

cc: Frank L. Carney, 302 N. Rock Rd., Wichita, KS 67206  
David Haines, 302 N. Rock Rd., Wichita, KS 67206  
Gary Morgan, GRM Inc., 401 E. Douglas, #505, Wichita, KS 67201  
Joe Roskob, GRM Inc., 401 E. Douglas, #505, Wichita, KS 67201  
Donald Chesser, CPA, 356 N. Rock Rd, Wichita, KS 67206  
Alton R. Crafton, CLU, 350 N. Rock Rd., Wichita, KS 67206  
Stephen Moore, DDS, 356 N. Rock Rd., Wichita, KS 67206  
Max Eberhardt, 125 N. Market, Wichita, KS 67202

THE CITY OF WICHITA

OFFICE OF Citizen Rights & Services DATE August 12, 1986

TO Glen Lytle, Special Assistant for Zoning  
FROM Barry L. Carroll, Administrative Aide III

SUBJECT BZA 30-86: East side of Rock  
Road and south of Central  
(320 South Rock Road)

On Monday, August 11, CPO Council Area "H" considered the above captioned case, a request for a variance to reduce the required number of off-street parking spaces from 366 spaces to 285 spaces for the expansion of the theatres and retail space on property zoned the "LC" Light Commercial District. Council members were provided the notice to adjoining property owners, a map of the area and MAPD staff comments.

After extensive discussion, the Council voted 8-0 to recommend approval of the request.

The agent, Dennis Kirkart and architect, David Haines, were present to explain the specifics of the request and respond to questions from the Council members. There were no area residents present to either support or oppose the request.

Mr. Kirkart and Mr. Haines displayed a color coded drawing of the proposed development area that clearly outlined the proposed parking modifications. Mr. Kirkart stated that he had elected to use the "after 6 p.m. provision" of a parking ordinance in drafting this proposal. Mr. Haines explained that plans stipulate that existing and proposed parking spaces be interconnected in order to enhance traffic flow. Additionally, according to Mr. Haines, Mr. Carney and the adjacent property owners had also entered into a "cross-parking agreement" that should facilitate cooperation.

The Council was appreciative of the thorough explanation and supported the request.

Please provide this information to the Board of Zoning Appeals when case BZA 30-86.

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

BLC:dm  
Noted:

*James J. Montgomery*  
QRS Director

RECEIVED

AUG 13 1986

METROPOLITAN PLANNING

ROUTE

**CINEMAS EAST THEATER  
MATINEE ATTENDANCE SURVEY**

DAILY MATINEE  
ATTENDANCE TOTAL  
(for both matinees)

70	31.46 7.26 108.90 21.78 <u>169.40</u>	Prizzis Honor Year of the Dragon Back to the Future St. Elmos Fire	9/24/85	TUES.
442	89.54 125.84 667.92 186.34 <u>1069.64</u>	Eyes of Fire Year of the Dragon Back to the Future St. Elmos Fire	9/07/85	SAT.
43	24.00 36.00 38.40 4.80 <u>103.20</u>	Prizzis Honor Journey of Natty Gann Back to the Future St. Elmos Fire	10/03/85	THUR.
650	446.40 343.20 381.60 388.80 <u>1560.00</u>	Kiss of the Spider Woman Commando Back to the Future Street Wise	10/27/85	SUN.
121	43.20 74.40 33.60 139.20 <u>290.40</u>	Kiss of the Spider Woman Death Wish 3 Bring on the Night Back to the Future	11/08/85	FRI.
41	12.00 14.40 57.60 14.40 <u>98.40</u>	Kiss of the Spider Woman Bad Medicine Sweet Dreams Back to the Future	11/25/85	MON.
58	.00 86.40 48.00 4.80 <u>139.20</u>	Bad Medicine Santa Claus Young Sherlock Holmes Back to the Future	12/11/85	WED.

E X H I B I T "C"

SECRETARY'S REPORT  
CASE NO. BZA 30-86

APPLICANT: Frank L. Carney, 302 North Rock Road, #260,  
Wichita, KS 67206

AGENT: Dennis Kirkhart, same.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the  
City of Wichita, to reduce the required off-street  
parking spaces from 366 spaces to 285 spaces for the  
expansion of theaters and retail space.

GENERAL LOCATION: On the east side of Rock Road and south of Central.

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

LAND USE: Subject property is occupied by theaters, a  
restaurant and retail businesses. To the north,  
south and west are offices and retail businesses. To  
the east across the drainageway are one-family  
dwellings.

JURISDICTION:

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

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance of the required number of off-street parking spaces in order to expand the theater complex from four theaters to six theaters and increase the retail space approximately 1,500 square feet. The increase in seating for the theaters will be 400 seats.

The zoning ordinance requires that theaters and other places of public assembly provide not less than one parking space for each five seats based on the maximum seating capacity of the facility. The requirement for retail businesses and offices is one parking space for each 250 square feet of floor area. Based on these requirements of the zoning ordinance 366 off-street parking spaces are needed for all existing uses on the property and the proposed additions. In addition, the requirement for the theaters and other places of public assembly, it is permissible for 50 percent of the required parking to be located on adjacent commercial or industrial properties that are within six hundred feet and not in use between 6:00 p.m. and midnight, and the parking is made available by written consent of the owners involved. Such agreement shall be made binding, approved by the Director of Law, and recorded with the Register of Deeds.

In this case the adjacent property to the south is owned by the applicant and contains primarily offices that are not generally operating evenings or weekends. The adjacent property to the south contains approximately 270 off-street parking spaces that would be available on evenings and weekends, but not all of the spaces are within 600 feet of the theaters. It should also be noted that the office building immediately north of the theaters, which was a part of the original development, contains 33 parking spaces in excess of the requirement for the office on the property. A joint usage agreement of parking spaces is in effect between the two property owners on the property to the north.

The applicant can comply with the intent of the regulations for the evening hours, however, the hours prior to 6:00 p.m. on weekdays cannot be met with the parking available on-site or on adjacent properties. As justification for the parking variance, the applicant has provided information on matinee theater attendance for a number of days this past fall. The matinees are at 1:30 and 3:30 p.m. and attendance is greatest at the

1:30 p.m. showing. The greatest matinee attendance for any week day was a Friday with a combined attendance of 121 people. Based on these figures, the increased attendance at the enlarged theaters would be estimated at 180 people. If 2/3 of the attendance was at the early matinee, this would be 120 persons at the theaters of which 60 to 70 parking spaces should be more than adequate to accommodate the cars for the patrons. One hundred twenty-five (125) parking spaces will be provided on site in addition to all other required parking spaces for the restaurant and commercial uses.

It is anticipated that, at some future date, additional parking and offices will be constructed on the property to the south. At that time, a portion of the off-street parking on the east side of the restaurant will be needed for required parking spaces for offices, but would be available to theater patrons on evenings and weekends. In accordance with the site plan, 44 spaces on the property are in excess of the 50 percent of the theater parking spaces (125) and all the parking spaces required by the restaurant and retail uses (116).

Based on the information and site plan furnished by the applicant, it is the Secretary's opinion that there is justification for an adjustment in the parking requirements for the theaters. Rather than trying to justify a variance of the theater parking only for the daytime hours, a variance to reduce the combined usage of the property is more appropriate based on the availability of adjoining office development, most of which is owned by the applicant.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the application area and the adjacent properties contains a mixture of uses that are owned by the applicant, and the peak demand for parking for the uses do not occur at the same time. The high parking demand for the theaters will occur in the evenings and on weekends when the offices are closed. As long as 50 percent of the total parking for the theaters is provided on site, in addition to all other required parking, the matinee patrons should be adequately accommodated.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the majority of adjacent property is occupied by offices or low intensity commercial and is owned and controlled by the applicant or has a joint agreement for use of parking.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as the applicant would be required to provide off-street parking that would not be utilized by the uses on the property which would be an undue expense.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the reduction in parking primarily for daytime theater usage will not interfere with the movement of traffic on the adjacent street.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the ordinance does not take into consideration the mixture of uses on large parcels of land in one ownership, and leaves unusual situations to be decided by the Board.

RECOMMENDATION:

Should the Board determine that all five conditions necessary to the granting of a variance can be found to exist, then it is the recommendation of

the Secretary that the variance be granted subject to the following condition:

1. The number of off-street parking spaces on the property may be reduced to not less than 285 spaces.
2. The total theater seating capacities shall not exceed 1,250 seats, and not less than 125 parking spaces shall be provided on site for the theaters.
3. There shall be provided and maintained not less than 58 parking spaces for the existing restaurant and 58 parking spaces for other retail uses on site. This shall provide for additional retail space in conjunction with the theater expansion.
4. Of the 285 parking spaces on site, only 44 may be considered for required parking spaces for offices on the property to the south provided such spaces are made available for evening and weekend theater parking.
5. The applicant shall submit a covenant to the Secretary for review and approval by the Department of Law that will provide not less than 125 off-street parking spaces on the adjacent property to the south, that will be made available for evening and weekend usage as long as the theaters remain on the property. This number may be reduced to 81 provided the 44 off-street parking spaces are maintained on site as set forth in condition number 4.
6. Should at any time the theaters cease to operate or are converted to any other use, this resolution shall become null and void, and the new uses shall provide parking as required by the ordinance.

BZA CASE NO. 30-86

<u>2</u>	NOTICES SENT TO APPLICANT/AGENT
<u>14</u>	LEGAL ADVERTISEMENT SENT TO MAPC & BZA
<u>1</u>	NOTICES SENT TO CPO
<u>5</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>8</u>	TOTAL NOTICES SENT <u>8/4/86</u>

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

August 1, 1986

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 30-86

As required by law, all property owners of record, within 200 feet of a property to be considered for an exception or variance by the Board of Zoning Appeals, are to be notified of the public hearing. An application has been filed by Frank L. Carney, 302 N. Rock Road, #210, Wichita, Kansas, requesting a variance.

Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting a variance to reduce the required number of off-street parking spaces from 366 spaces to 285 spaces for the expansion of the theaters and retail space on property zoned the "LC" Light Commercial District. A legal description of the applicant's property is as follows:

Beginning at a point 235 feet south and 10 feet east of the N.W. Corner of Lot 1, Block A, Dean-Rupert Second Addition to Wichita, Sedgwick County, Kansas; thence east parallel with the north line of said Lot 1, 107 feet; thence north parallel with the west line of said Lot 1, 95 feet; thence east parallel with the north line of said Lot 1, 177.68 feet; thence north parallel with the west line of said Lot 1, 20 feet; thence east parallel with the north line of said Lot 1, 90 feet to the east line of said Lot 1; thence south along the east line of said Lot 1, 312.59 feet to the S.E. Corner of said Lot 1; thence west along the south line of said Lot 1, 241.15 feet to a point 117 feet east of the S.W. Corner of Said Lot 1; thence north parallel with the west line of said Lot 1, 80 feet; thence west parallel with the south line of said Lot 1, 107 feet to a point 10 feet east of the west line of said Lot 1; thence north parallel with the west line of said Lot 1, 113.32 feet to the point of beginning; together with Lot 1, Venture Park addition to Wichita, Sedgwick County, Kansas. Generally located on the east side of Rock Road and south of Central (320 South Rock Road).

This application has been assigned Case No. BZA 30-86. It will be considered by the Board of Zoning Appeals on August 26, 1986 at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested variance, you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, either in person or by agent or attorney.

It should be noted that the Citizen Participation Organization Area Council may consider this case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Glen E. Lytle  
Assistant Secretary

BOARD OF ZONING APPEALS

CASE NO. 30-86

CITY OF WICHITA, KANSAS

FILED \_\_\_\_\_

APPLICATION FOR VARIANCE

I. Name of Applicant Frank L. Carney  
 Mailing Address 302 N. Rock Rd. #210 Phone 683-4624  
Wichita, Kansas 67206  
 Name of Authorized Agent Dennis Kirkhart  
 Mailing Address 302 N. Rock Rd., #210 Phone 683-4624  
Wichita, Kansas 67206  
 Relationship of applicant to property is that of Financial Manager  
 (Owner, Tenant, Lessee, Other)

II. The variance requested is for a reduction of the number of parking spaces required for the Cinemas East Theaters between the hours of 7:00 a.m. to 6:00 p.m. from 250 cars to 137 cars, and the use of adjoining office parking after 6:00 p.m. (see adver. as agreed to by Dennis Kirkhart and David Hannes) 9-30-86  
 for property located 320 N. Rock Rd., Wichita, Kansas 67206

and legally described as: SEE EXHIBIT "D"

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

III. The applicant herein, or his authorized agent, acknowledges:

- a. That he has received an instruction sheet concerning the filing and hearing of this matter;
- b. That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 39-285); and that the appropriate fee is herewith tendered;
- c. That he has been advised of his right to bring action in the District Court of Sedgwick County to appeal the decision of the Board.
- d. That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Applicant Frank L. Carney

Authorized Agent Dennis Kirkhart  
 Dennis L. Kirkhart  
 Financial Manager

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 10:00 (a.m./p.m.), July 25, 1986, together with appropriate fee of 300.00.

Signed [Signature]

EXHIBIT "D"

Beginning at a point 235 feet south and 10 feet east of the N.W. Corner of Lot 1, Block A, Dean-Rupert Second Addition to Wichita, Sedgwick County, Kansas; thence east parallel with the north line of said Lot 1, 107 feet; thence north parallel with the west line of said Lot 1, 95 feet; thence east parallel with the north line of said Lot 1, 177.68 feet; thence north parallel with the west line of said Lot 1, 20 feet; thence east parallel with the north line of said Lot 1, 90 feet to the east line of said Lot 1; thence south along the east line of said Lot 1, 312.59 feet to the S.E. Corner of said Lot 1; thence west along the south line of said Lot 1, 241.15 feet to a point 117 feet east of the S.W. Corner of said Lot 1; thence north parallel with the west line of said Lot 1, 80 feet; thence west parallel with the south line of said Lot 1, 107 feet to a point 10 feet east of the west line of said Lot 1; thence north parallel with the west line of said Lot 1, 113.32 feet to the point of beginning.

*Together with Lot 1, Venture Park Addition to Wichita,  
Sedgwick County, Kansas.*

Carney Enterprises is currently planning an expansion to the Cinema's East Theaters that will consist of two additional theaters, accomodating two hundred seats each, and 1500 square feet of future retail space (refer to Exhibit "A" - floor plan). The expansion occurs north of the existing building and also includes extensive renovation of the entry lobby and construction of a new marquee.

The total occupancy of all six theaters is 1250 seats, requiring by ordinance parking for 250 cars. Parking available after the proposed addition on-site will be for 137 cars (refer to Exhibit "B-1" - site plan). With the balance of 113 required spaces being provided on adjoining office parking after 6:00 p.m. (refer to Exhibit "B-2"). It should be noted that all parking for theater use is provided on contiguous property within 600 feet, in conformance with Title 28 Chapter 28.04, Section 28.04.141 paragraph 3.3.

It is now generally held by theater operators and tenants that a "six-plex" theater offering a variety of choice is necessary of economic survival. The loss of the theater lease for lack of complying with accepted industry standards will impose an economic hardship for the owner, in that the existing structure is not easily converted to another use.

The owner wishes to request a variance from the strict application of the City of Wichita off-street parking requirements 28.04.140 for the hours of 7:00 a.m. to 6:00 p.m. These hours are deemed as "normal" business operating periods and a possible conflict of use would occur if the theaters were fully operated and attended during these times. However, the theater operator conducts two matinees only at 1:30 p.m. and 3:30 p.m., with the earlier time gaining more attendance.

The accompanying survey and sales documentation (refer to Exhibit "C" - attendance survey) indicates that the maximum weekday attendance occurs on Friday with 121 seats sold. This figure converts to approximately 180 seats sold during that period for the proposed six-plex theater.

Granting this variance for theater parking does not compromise the intent of title 28 in that a maximum of 36 spaces for theater parking, are utilized during the afternoon and 30 spaces for retail parking are required by ordinance. This leaves a balance of 101 parking spaces remaining on the theater site for any unexpected popularity of a specific matinee film (or 505 additional seats). The largest theater consists of 350 seats, and would be easily accomodated on-site should this unlikely event occur.

The uniqueness of this request is that the present ordinance does not recognize that the theaters are only partially attended during daylight hours on the weekdays. Main features shown after 6:00 p.m. and during weekends are accomodated by adjoining unused office parking.

Carney Enterprises is cognizant of the rights and privacy of adjoining property owners and does not wish to create infringements or disturbances to these persons. By allowing access for theater parking onto adjoining property in accordance with a current cross parking agreement between applicable property owners, five egress drives to Rock Road (in lieu of two) help secure the public safety factor and respect for other property.

**CINEMAS EAST THEATER  
MATINEE ATTENDENCE SURVEY**

DAILY MATINEE  
ATTENDANCE TOTAL  
(for both matinees)

70	31.46 Prizzis Honor 7.25 Year of the Dragon 108.90 Back to the Future 21.78 St. Elmos Fire <u>169.40</u>	9/24/85 TUES.
442	89.54 Eyes of Fire 125.84 Year of the Dragon 667.92 Back to the Future 186.34 St. Elmos Fire <u>1069.64</u>	9/07/85 SAT.
43	24.00 Prizzis Honor 36.00 Journey of Natty Gann 38.40 Back to the Future 4.80 St. Elmos Fire <u>103.20</u>	10/03/85 THUR.
650	446.40 Kiss of the Spider Woman 343.20 Commando 381.60 Back to the Future 388.80 Street Wise <u>1560.00</u>	10/27/85 SUN.
121	43.20 Kiss of the Spider Woman 74.40 Death Wish 3 33.60 Bring on the Night 139.20 Back to the Future <u>290.40</u>	11/08/85 FRI.
41	12.00 Kiss of the Spider Woman 14.40 Bad Medicine 57.60 Sweet Dreams 14.40 Back to the Future <u>98.40</u>	11/25/85 MON.
58	.00 Bad Medicine 86.40 Santa Claus 48.00 Young Sherlock Holmes 4.00 Back to the Future <u>139.20</u>	12/11/85 WED.

E X H I B I T "C"



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 viz:

Record Owners within 200 feet of:  
Beginning at a point 235 feet South and 10 feet East of the Northwest corner of Lot 1, Block A, DEAN-RUPERT SECOND ADDITION to Wichita, Sedgwick County, Kansas; thence East parallel with the North line of said Lot 1, 107 feet; thence North parallel with the West line of said Lot 1, 95 feet; thence East parallel with the North line of said Lot 1, 177.68 feet; thence North parallel with the West line of said Lot 1, 20 feet; thence East parallel with the North line of said Lot 1, 90 feet to the East line of said Lot 1; thence South along the East line of said Lot 1, 312.59 feet to the Southeast corner of said Lot 1; thence West along the South line of said Lot 1, 241.15 feet to a point 117 feet East of the Southwest corner of said Lot 1; thence North parallel with the West line of said Lot 1, 80 feet; thence West parallel with the South line of said Lot 1, 107 feet to a point 10 feet East of the West line of said Lot 1; thence North parallel with the West line of said Lot 1, 113.32 feet to the point of beginning.



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.)

DESCRIPTIONS

RECORD OWNERS

Above described description.

Frank Carney  
302 N. Rock Road, Suite 210  
Wichita, Kansas 67206

The North 120 feet of the East 175 feet of the West 185 feet of Lot 1, Block A, Dean-Rupert Second Addition to Wichita, Sedgwick County, Kansas, EXCEPT the West 10 feet thereof; also described as commencing at a point 651 feet South and 60 feet East of the Northwest corner of the Northwest Quarter, Section 20, Township 27 South, Range 2 East of the 6th P.M. (Said point being the Southwest corner of the 140-foot by 175-foot tract of land owned by Kansas Gas and Electric Company.) Thence South 120 feet, thence East 175 feet, thence North 120 feet, thence West 175 feet to the point of beginning,

Karl Solomon and  
Luann H. Weigand, Trustee of the  
Nestor R. Weigand III Trust, an  
intervivos trust created December  
3, 1976, by & between Nestor R.  
Weigand, Jr., Donor and said  
Trustee  
Nestor Weigand  
150 N. Market  
Wichita, Kansas 67202



DESCRIPTIONS

RECORD OWNERS

That part of Lot 1, Block A, Dean-Rupert Second Addition, described as beginning at the Northeast corner thereof; thence West along the North line of said Lot 1, 242.85 feet; thence South parallel with the West line of said Lot 1, 171 feet; thence West parallel with the North line of said Lot 1, 175 feet to a point 10 feet East and 120 feet South of the Northwest corner of said Lot 1; thence South parallel with and 10 feet East of the West line of said Lot 1, 115 feet; thence East parallel with the North line of said Lot 1, 107 feet; thence North parallel with the West line of said Lot 1, 95 feet; thence East parallel with the North line of said Lot 1, 177.68 feet; thence North parallel with the West line of said Lot 1, 20 feet; thence East parallel with the North line of said Lot 1, 90 feet, to the East line of said Lot 1; thence North along the East line of said Lot 1, 176.28 feet to the place of beginning.

Lindy Andeel  
350 N. Rock Road  
Wichita, Kansas 67206



Lot 1, Block A, Dean-Rupert Second Addition, described as that part of said Lot 1, described as beginning at a point 10 feet East of the Southwest corner of said Lot 1; thence East along the South line of said Lot 1, 107 feet; thence North parallel with the West line of said Lot 1, 80 feet; thence West parallel with the South line of said Lot 1, 107 feet to a point 10 feet East of the West line of said Lot 1; thence South parallel with the West line of said Lot 1, 80 feet to the point of beginning.

Lindy Andeel and  
Stanley G. Andeel  
350 N. Rock Road  
Wichita, Kansas 67206

Commencing at the Northeast corner of Lot 2, Block 1, Dean-Rupert First Addition to Wichita, Sedgwick County, Kansas; thence S 0° 00' W along the East line of said Lot 2, a distance of 200 feet to the point of beginning; thence S 0° 00' W along the East line of Lot 2, a distance of 140.04 feet to a point of curve; thence along a curve to the right, said curve having a radius of 1090.00 feet and a central angle of 11° 06' 10" a distance of 211.22 feet to the South line of said Lot 2; thence N 89° 49' 45" W along said South line of Lot 2 a distance of 242.85 feet; thence N 0° 00' E a distance of 89 feet; thence S 89° 49' 45" E a distance of 20 feet; thence N 0° 00' E a distance of 281 feet; thence S 89° 49' 45" E a distance of 243.25 feet to the point of beginning.

Brookhollow Associates, LP  
8165 E. Central  
Wichita, Kansas 67206



DESCRIPTIONS

RECORD OWNERS

Lot 1, VENTURE PARK ADDITION,

✓ Frank L. Carney  
302 N. Rock Road, #210  
Wichita, Kansas 67206

All that part of Lot 1, ROCKWOOD ELEVENTH ADDITION, described as follows: Beginning at a point on the East line of said Lot 1, said point being 280.13 feet North of the Southeast corner thereof; thence Westerly, at right angles to said East line, 188 feet; thence Northerly, parallel to the East line of said Lot 1, 339.17 feet; thence Easterly with a deflection angle to the right of 90°, 188 feet to the East line of said Lot 1; thence Southerly, along said East line, 339.17 feet to the point of beginning.

✓ Genwood Development Co., Inc.  
333 N. Rock Road  
Wichita, Kansas 67206



All of Rockwood Eleventh Addition, Wichita, Sedgwick County, Kansas, EXCEPT that part of Lot 1, Rockwood Eleventh Addition, described as follows: Beginning at a point on the East line of said Lot 1, said point being 280.13 feet North of the Southeast corner thereof; thence Westerly, at right angles to said East line, 188 feet; thence Northerly parallel to the East line of said Lot 1, 339.17 feet; thence Easterly, with a deflection angle to the right of 90°, 188 feet to the East line of said Lot 1; thence Southerly, along said East line, 339.17 feet to the point of beginning.

✓ W. W. & A. Genevieve Taylor  
333 N. Rock Road  
Wichita, Kansas 67206

All of Reserve "A" to Dean Rupert Second Addition to Wichita, Sedgwick County, Kansas; thence from the Southwest corner of said Reserve "A", South a distance of 428.35 feet; thence East a distance of 10.00 feet; thence North a distance of 428.35 feet; thence N 89° 49' 45" W a distance of 10.00 feet to the Southwest corner of said Reserve "A". Said Reserve "A" and the aforescribed tract being dedicated for an additional 10.00 feet of Street right-of-way for Road Road.

Company makes note: That the above property has been dedicated for street right of way on Film "49", page 859.

Dated at Wichita, Kansas, this 12th day of June, 1986 at 7:00 A.M.

FIDELITY TITLE COMPANY, INC.

*Medina L. Sutter*  
By Assistant Secretary

No. T-35405



THE CITY OF WICHITA

RECEIVED

JUN 18 1986

METROPOLITAN PLANNING

ROUTE  \_\_\_\_\_  
 \_\_\_\_\_

June 13, 1986



DEPARTMENT OF HOUSING AND  
ECONOMIC DEVELOPMENT  
CENTRAL INSPECTION DIVISION  
CITY HALL - SEVENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202

Mr. Richard D. Ewy  
Foulston, Siefking, Powers and  
Eberhardt  
700 Fourth Financial Center  
Broadway at Douglas  
Wichita, Kansas 67202

Re: Parking for Cinemas East  
Proposed Expansion

Dear Mr. Ewy:

As you requested, I am writing to confirm our telephone conversation this week regarding our position on the request to expand the Cinemas East theaters and to utilize parking from adjacent and nearby offices and retail shops for theater parking.

I have also discussed this with David Haines, Architect and recently with Ken Helmer of Howard and Helmer, Architects. As I understand, and Ken Helmer agreed, there is sufficient parking to meet the zoning ordinance requirements for each building (theaters, retail, restaurant and offices) presently. However, with the proposed addition to the theaters, there would be parking stalls lost as a result of the expansion plus additional stalls required for the added theater seating. The net effect is that there would not be sufficient parking unless the provision in the Zoning Ordinance (28.04.141, 3.3) could be applied, as has been requested by the architects and your office, allowing other parking already provided to meet up to 50% of the theater requirements.

We have studied this carefully and I regret that our position, as well as that of the Metropolitan Area Planning Department as expressed by Jack Galbraith, is that the above provision cannot be applied in this case. I call your attention to the second sentence in the above referenced article (copy attached).

SUPERINTENDENT OF CENTRAL INSPECTION ..... 268-4460  
BUILDING CODE ENGINEER ..... 268-4468  
PLAN EXAMINATION ..... 268-4477

HOUSING ..... 268-4481  
ZONING ..... 268-4479  
SIGNS ..... 268-4475

BUILDING & CONSTRUCTION ..... 268-4461  
PLUMBING & MECHANICAL ..... 268-4471  
ELECTRICAL & ELEVATOR ..... 268-4465

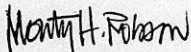
Mr. Richard Ewy  
June 13, 1986  
Page Two

This provision allows use of parking space already provided "...that is not in use between the hours of six p.m. and midnight, and are made available for other parking ..." which means that the two businesses would not be open during the same hours. The fact that the theaters are open during the afternoons means the adjacent retail and office, etc. parking could not be counted for both the theaters and the other businesses.

I have informed Ken Helmer of our position and that this case should be presented to the Board of Zoning Appeals for a variance request. You may wish to use the information Ken presented in regard to attendance at the various theater performances in the presentation of your appeal to the Board, as well as the written approval of Lindy Andeel to use the parking on his property during evening hours which you indicated had been granted.

Again, I regret that our position will not allow the expansion to occur without the variance. If I can be of any help to you whatsoever, please do not hesitate to call.

Sincerely,



Monty H. Robson  
Superintendent of Central Inspection

MHR:wgm

cc: Jack Galbraith, M.A.P.D.  
David Haines  
Ken Helmer

district where only structures for residential uses shall be required to provide off-street parking spaces. The number of spaces or area of parking space for off-street parking shall be as follows:

3.1 Dwellings (e.g., one-family, two-family, three-family, four-family, and multi-family) shall provide one space for each housekeeping unit, plus one space for each lodger or boarder.

3.2 Hotel, apartment building, apartment hotel, club, and motel shall provide one space for each housekeeping unit, suite of rooms or motel unit, plus one space for each two hundred fifty square feet of floor area or fraction thereof used for retail purposes, restaurant, professional and service facilities, offices, meeting rooms, recreational spaces, and salesman display room facilities, except that space designated for storage closet or utility use need not be included in such computation.

3.3 Auditoriums, theaters, stadiums, and other places of public assembly, except churches, shall provide one space for each five seats based on maximum seating capacity. For the purpose of this type of use, parking space already provided to meet off-street parking requirements for stores, office buildings and industrial establishments lying within six hundred sixty feet (as measured along lines of public access) of the place of public assembly, that are not in use between the hours of six p.m. and midnight, and are made available for other parking, may be used to meet not more than fifty percent of the total requirements, providing written consent of the owner or agent of the existing parking lot is obtained and, provided approval is made binding on the owners of such land and such approval is filed with the register of deeds after having first been approved by the department of law.

3.4 Churches shall provide the same as auditoriums, etc., except six a.m. and ten p.m. on Sundays substituted for six p.m. and midnight.

3.5 A doctor's office clinic shall provide one space for each doctor, nurse, technician and employee, plus one space for each five hundred square feet of floor area.

3.6 Hospitals, philanthropic and eleemosynary institutions shall provide one space for each five beds, plus one space for each five employees in the largest working shift in a twenty-four hour period.

3.7 Schools, private and public:

Elementary shall provide one space for each teacher and employee, at capacity;

Intermediate shall provide one space for each teacher and employee, at capacity;

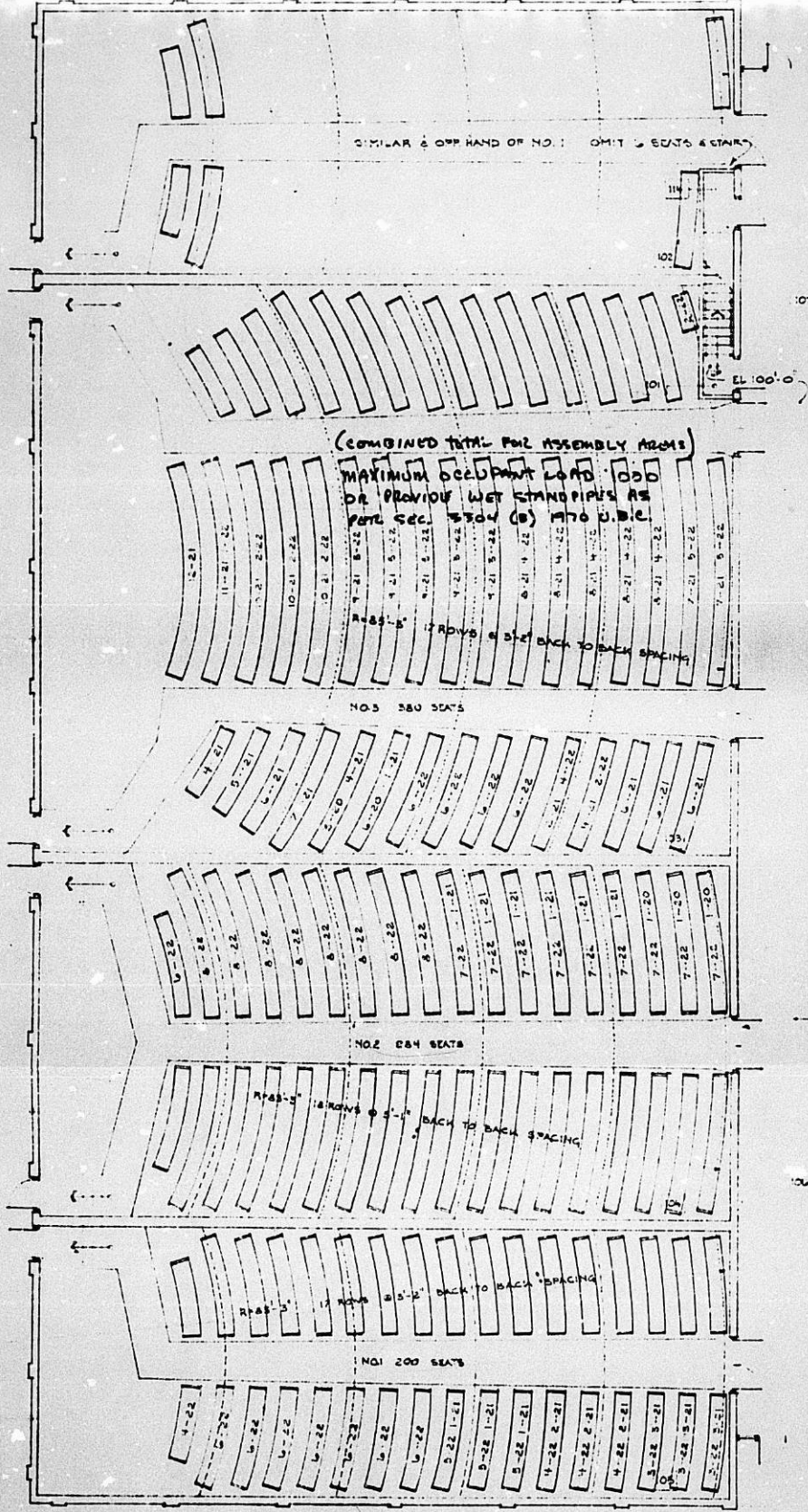
High shall provide one space for each teacher and employee, plus one space for each ten students at capacity.

3.8 Fraternity and sorority houses shall provide one space for each two hundred fifty square feet of floor area.

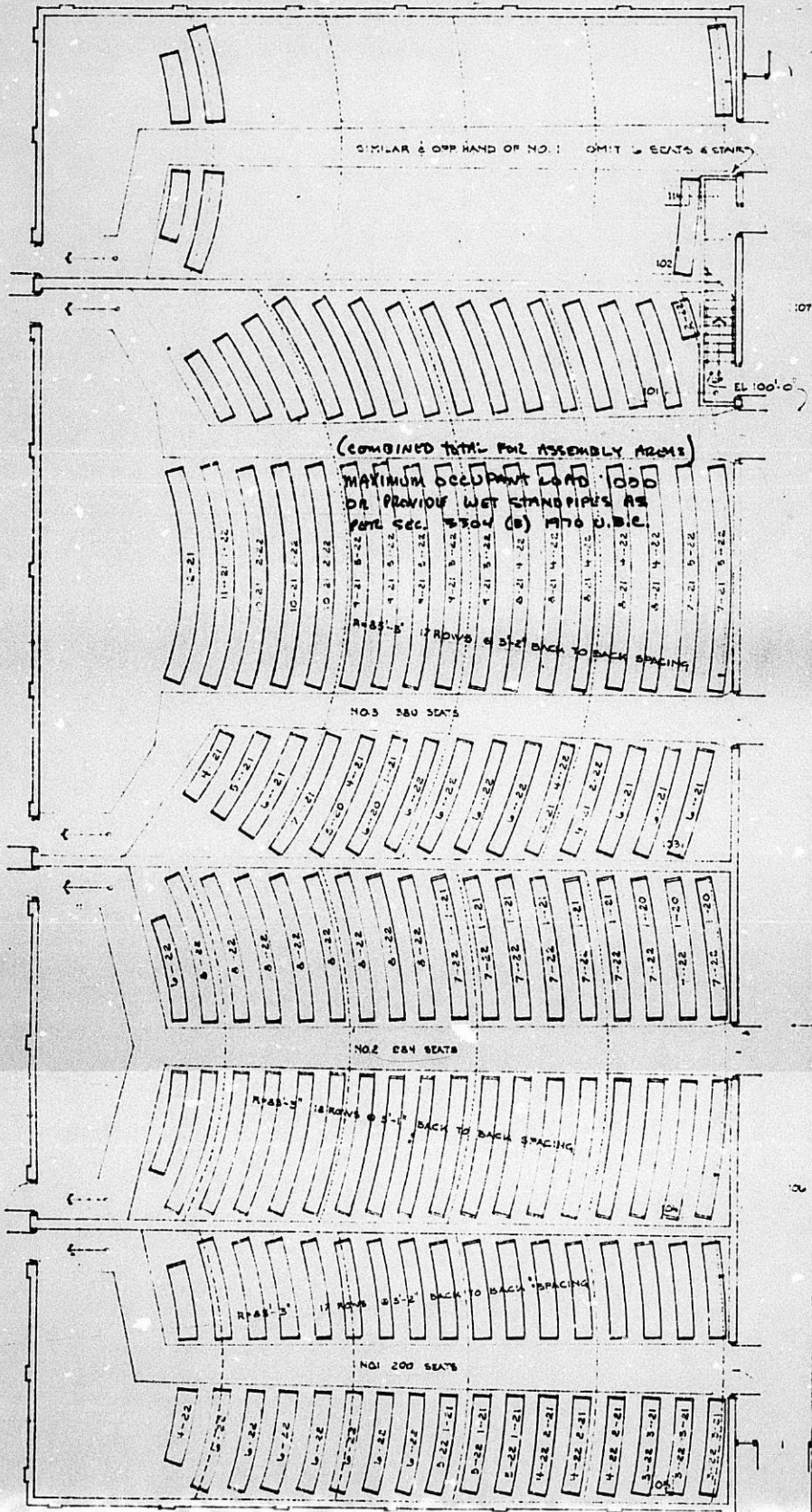
3.9 Office and commercial buildings, including governmental, public utility and other similar buildings, shall provide one space for each two hundred fifty square feet of floor area or one space for every three

E X H I B I T "D"

Beginning at a point 235 feet south and 10 feet east of the N.W. Corner of Lot 1, Block A, Dean-Rupert Second Addition to Wichita, Sedgwick County, Kansas; thence east parallel with the north line of said Lot 1, 107 feet; thence north parallel with the west line of said Lot 1, 95 feet; thence east parallel with the north line of said Lot 1, 177.68 feet; thence north parallel with the west line of said Lot 1, 20 feet; thence east parallel with the north line of said Lot 1, 90 feet to the east line of said Lot 1; thence south along the east line of said Lot 1, 312.59 feet to the S.E. Corner of said Lot 1; thence west along the south line of said Lot 1, 241.15 feet to a point 117 feet east of the S.W. Corner of said Lot 1; thence north parallel with the west line of said Lot 1, 80 feet; thence west parallel with the south line of said Lot 1, 107 feet to a point 10 feet east of the west line of said Lot 1; thence north parallel with the west line of said Lot 1, 113.32 feet to the point of beginning.



SEATING LAYOUT  
 FROM ORIG. PLAN 1974?  
 FURNISHED BY JAY WOODWARD  
 4-28-87



SEATING LAYOUT  
 FROM ORIA. PLAN 1974?  
 FURNISHED BY JAY WOODWARD  
 4-24-87

**MICROFILMED**  
 FROM THE BEST  
 AVAILABLE COPY

FORM 29-021

PAYMENT NOTICE  
 City of Wichita

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

DESCRIPTION	AMOUNT
CONTRACT 4/16	300

NAME: LACROZ ENTER

ADDRESS: 302 N. KULL RD

FUND: 4470-003      DUE DATE:

COMMENTS:

DATE: 4-29-1996      BY: [Signature]

\*

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

Roll # 3