

BZA 31-63 - Phillips Southern Elec. Co., Inc. appeal order of S of CI to allow electrical contractor's business in "LC" on E. side of Hydraulic bet. Rose Marie & Wassall.

ACTION

DATE

11-26-43

*Bza* COMMITTEE

*App*

M.A.P.C.

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

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

WHEREAS, Phillips Southern Electric Co., Inc., 2353 South Hydraulic, Wichita, Kansas, by H. Jay Setter, attorney, 715 Beacon Building, Wichita, Kansas, has appealed from the decision of the Superintendent of Central Inspection, as provided in Section 2.12.590.1, Code of the City of Wichita, in that the Superintendent of Central Inspection has refused to issue a permit for an "electrical contractor's business" in an area zoned "LC" and legally described as follows:

The north 200 feet of Lot 15, Block 5, Classen Parked Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located on the east side of Hydraulic between Rose Marie and Wassall.

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, in regular meeting consider said application on the 26th day of November, 1963; and

WHEREAS, the applicant desires to construct a one-story brick building for the purpose of conducting an electrical contractor's business office and a small retail sales outlet which would include the storage of a very limited supply of small electrical supplies and equipment and without any outside storage and no wholesale sales of any nature or description; and

WHEREAS, all large quantities of supplies and materials purchased from wholesalers will be delivered directly to the job site; and

WHEREAS, the retail sale of electrical supplies, including light fixtures, bulbs, wires, switches, etc., will also be conducted as a part of this business.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita, Kansas, that the Superintendent of Central Inspection is hereby directed and ordered to issue a building permit for an electrical contractor's business on the following described property, if zoned "LC" Light Commercial:

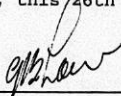
The north 200 feet of Lot 15, Block 5, Classen Parked Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located on the east side of Hydraulic between Rose Marie and Wassall.

Such permit to be effective only when said business is conducted in accordance with the following conditions:

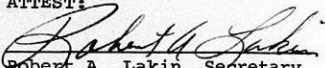
1. The proposed use of the property in question shall be that of an electrical contractor's business office and a small retail sales outlet. The use as the office may include doing the company's book work, planning and estimating contract work and the storage of a very limited supply of small electrical supplies and equipment.
2. There shall be no outside storage whatever, except as provided in condition #4).

3. The retail business shall consist of the sale of electrical supplies, including light fixtures, bulbs, wires, switches, etc. of a similar nature. There shall be no wholesaling of any nature or description.
4. The property shall not be used for storage of vehicles other than automobiles or light delivery trucks.
5. Off-street parking shall be provided as required in Section 28.04.140 of the Zoning Ordinance.

ADOPTED at Wichita, Kansas, this 26th day of November,  
1963.

  
\_\_\_\_\_  
E. B. Law, Chairman

ATTEST:

  
Robert A. Lakin, Secretary

December 9, 1963

Phillips Southern Electric Company, Inc.  
2353 South Hydraulic *Washington*  
Wichita, Kansas

Gentlemen:

Re: BZA 31-63 - Appeal from decision of  
Superintendent of Central Inspection

On December 2, 1963, we advised you that your appeal from the decision of the Superintendent of Central Inspection as it related to the construction of an electrical contractor's business on property located generally on the east side of Hydraulic between Rose Marie and Wassall, had been upheld and the Board approved the issuance of a building permit for that purpose.

We also advised that the Board's decision might be appealed to the City Commission provided that such appeal was filed on or before December 6, 1963. The City Clerk has advised that no appeal was filed on or before the date indicated, and the decision of the Board of Zoning Appeals is, therefore, final.

A copy of the resolution setting forth the action of the Board is attached for your information and files.

Very truly yours,

Robert A. Lakin  
Secretary

RAL:ber  
Attachment

cc: H. Jay Setter, Attorney  
715 Beacon Building

Glen Lytle, Superintendent  
of Central Inspection

Board of Zoning Appeals

December 3, 1963

Robert G. Finch, City Clerk

Robert A. Lakin, Secretary

BZA No. 31-63

Attached is a copy of BZA Resolution No. 31-63, covering action taken by the Board of Zoning Appeals on the above case.

This case was heard on November 26, 1963, and an appeal may be filed in your office on or before December 6, 1963. If an appeal is filed, please advise.

Robert A. Lakin  
Secretary

RAL:ber

Attachment

December 2, 1963

Phillips Southern Electric Company, Inc.  
2353 South ~~Hydraulic~~ *Washington*  
Wichita, Kansas

Gentlemen:

Re: BEA 31-63 - Appeal from decision of  
Superintendent of Central Inspection

This is to advise you that at its regular meeting of November 26, 1963, the Board of Zoning Appeals of the City of Wichita considered your appeal from the decision of the Superintendent of Central Inspection as it related to the construction of an electrical contractor's business on property legally described as:

The north 200 feet of Lot 15, Block 5, Classen Parked Addition, being generally located on the east side of Hydraulic between Rose Marie and Wassall.

It was the decision of the Board to approve the issuance of a building permit for an electrical contractor's business on the above described property, effective only when said business is conducted in accordance with the following conditions:

1. The proposed use of the property in question shall be that of an electrical contractor's business office and a small retail sales outlet. The use as the office may include doing the company's book work, planning and estimating contract work and the storage of a very limited supply of small electrical supplies and equipment.
2. There shall be no outside storage whatever, except as provided in condition #4.
3. The retail business shall consist of the sale of electrical supplies, including light fixtures, bulbs, wires, switches, etc. of a similar nature. There shall be no wholesaling of any nature or description.


Page 2 - Phillips Southern Electric Company, Inc.  
December 2, 1963

4. The property shall not be used for storage of vehicles other than automobiles or light delivery trucks.
5. Off-street parking shall be provided as required in Section 28.04.140 of the Zoning Ordinance.

Section 2.12.610 of the Code of the City of Wichita provides that the decision of the Board of Zoning Appeals shall be final unless it is appealed to the Board of City Commissioners within ten days of the date of the Board's action. Accordingly, an appeal could be filed in this case on or before December 6, 1963.

Subsequent to the expiration of the appeal period, you will be advised whether or not an appeal has been filed. If no appeal has been filed on or before December 6, 1963, the decision of the Board will be final and the Superintendent of Central Inspection will be in a position to issue the appropriate permit.

Very truly yours,

  
Robert A. Lakin  
Secretary

RAL:JWH:ber

cc: H. Jay Setter, Attorney  
715 Beacon Building

Robert G. Finch  
City Clerk

Glen Lytle, Superintendent of  
Central Inspection

SECRETARY'S REPORT

CASE NO. BZA 31-63

GENERAL LOCATION

The property represented in this application is generally located on the east side of Hydraulic between Rose Marie and Wassall.

EXISTING LAND USE

The property in question is currently vacant. The property to the north and east is in single family use. To the south is single family and the Classen School which has recently been closed. To the west is single family, beauty salon and a trailer park.

EXISTING ZONING

The property in question is zoned "AA" Single Family. The existing zoning to the north, east, south and west is "AA" Single Family.

REQUEST

The applicant has filed an appeal from the refusal of the Superintendent of Central Inspection not to issue a permit for construction of a building to house an electrical contractor's business pursuant to Section 28.04.090.A.1.2 ("LC" District Regulations), of the Code of the City of Wichita. The applicant has submitted a statement of justification which is included as Attachment #1 to this report.

HISTORY

The property in question is not zoned Light Commercial. The applicant just recently applied for "C" Commercial zoning, which the

Planning Commission recommended be denied. At the Planning Commission meeting there was some discussion as to whether or not an electrical contractor's business would be allowed in "LC" zoning. However, the Superintendent of Central Inspection pointed out to the Commission that it was his decision that any type of contractor's business is first permitted in the "C" Commercial zone and is not permitted in the "LC" district. The City Commission, upon consideration of the rezoning request, recommended that the case be deferred so that the applicant might appeal the decision of the Superintendent of Central Inspection to the Board of Zoning Appeals for a decision.

It should also be pointed out that even if it is the decision of the Board of Zoning Appeals to allow this particular activity to operate in the "LC" district, that the City Commission could still deny the request for "LC" zoning and the applicant would still be unable to operate in view of the fact that he would not have appropriate zoning for the proposed use. It is not the duty of the Board, nor should it attempt to do so, to make any determination as to whether or not the Light Commercial or Commercial zoning is or is not appropriate at this location.

COMMENTS BY THE SECRETARY

The applicant has stated that it is his intention to construct a one-story brick building for the purpose of conducting an electrical contractor's business office\* and a small retail sales outlet. He also points out that the use as the office will include doing

\*NOTE: The underlining is the Secretary's.

the company's book work, planning and estimating contract work and the storage of a very limited supply of small electrical supplies and equipment. He further notes that there will be no outside storage whatever and no wholesale sales of any nature or description.

The applicant has pointed out that there will be very little storage in view of the fact that all large quantities of supplies and materials purchased from wholesalers will be delivered directly to the job site.

It is further pointed out that the retail business will consist of the sale of electrical supplies, including light fixtures, bulbs, wires, switches, etc. Although it is anticipated that this will be only a small part of the applicant's business, this particular facet is purely retail and a permitted use in the "IC" district.

The applicant is of the contention that to include a relatively small electrical business in the same category as "any contractor" is not justified because of the fact that the applicant's proposed use will not encompass any outside storage as compared to building and construction contractors who store lumber, scaffolding, mixers, pipe, tile, large tools and other equipment, as well as accumulated materials from previous jobs.

The Secretary is of the opinion that there is a significant difference between the types of activity carried on in TV sales and repair shops, electrical sales, radio sales and repair shops, laundry and dry cleaning establishments, printing shops and self service

laundries, as opposed to the type of activity carried on in general building contractors' yards, equipment storage yards, etc.

The "light" businesses mentioned above, which are all permitted in the "LC" district, are all of about the same caliber and create about the same amount of traffic as would an electrical sales and contractor's office. Normally, a drive-in restaurant, which is allowed in "LC" is more obnoxious to adjacent residential areas than a TV repair shop or the use proposed by the applicant.

Although an electrical contractor's shop per se is more of a regional than a neighborhood use, it would seem safe to assume that an electrical contractor's office and area for sales of various small electrical supplies should be a use allowed in the "LC" district. This is in recognition of the fact that supplies and materials purchased from wholesalers will be delivered directly to the job site and that the building will be used only for office use and retail sales.

The complexity of today's business world is so that it is very difficult to say that any particular business is purely retail, purely wholesale, purely fabrication, purely contracting, etc. Because of this extreme complexity, there has evolved many "gray areas" in the field of business, which makes it very difficult to taxonomically classify all businesses as being of some type of "pure" nature (retail vs. contracting, etc.)

The applicant points out that the only storage that would exist on the property, if it can be classified as such, is the parking of his vehicles which is a practice which is commonly found in most "LC" areas. "B" zoning permits off-street parking and vehicle storage (which has been interpreted to apply to automobile class vehicles, not dump trucks, wrecked autos, etc.)

The Secretary is of the opinion that if the storage of vehicles as outlined by the applicant includes a panel truck and a pick-up truck, that it would not be too objectionable to have this type of vehicle parked on the premises. Many homes now have this. However, if storage of vehicles includes such things as trenching equipment, flat bed trucks, etc., it becomes clear that the operation would include a contractor's storage yard which it is the Secretary's opinion, is only first permissible in the "C" district. In view of the fact that the applicant has furnished no evidence nor given any indication of the types of vehicles that will be parked on the premises, it is very difficult to ascertain whether or not this particular business would be permissible in the district.

It should be pointed out that the Board is not to consider whether or not this is an appropriate area for "LC" zoning. The only thing that should be considered is whether or not the electrical contracting and retail sales business as described by the applicant, is a use that is permissible under Section 28.04.090.A.1.2 of the Zoning Ordinance.

Page 6 - Secretary's Report  
Case No. BZA 31-63

The Secretary is of the opinion that if, in fact, the new building will be used only for an office and retail sales of various electrical equipment and supplies, including the parking of one or two light service trucks, that the business is permissible in the "LC" district and consequently the appeal should be upheld. However, if trenching equipment, etc. is to be stored on the premises, the decision of the Superintendent of Central Inspection should be upheld in that the use would be classified as that of a contracting operation which is a use only first permitted in the "C" Commercial District.

Attachment #1 - Statement of Justification

PROPOSED USE UNDER SECTION III(A)

The proposed use of the property in question will be that of an electrical contractor's business office and a small retail sales outlet. The use as the office will include doing the company's book work, planning and estimating contract work and the storage of a very limited supply of small electrical supplies and equipment.

There would be no outside storage whatever and no wholesale sales of any nature or description.

The reason for very little storage is that all large quantities of supplies and materials are purchased from wholesalers and delivered directly to the job site. In the event any large amount of storage would be contemplated, this would be done on other property owned by the applicant and in an area permitting the same.

The applicant does not now sell electrical appliances and fixtures and does not intend to do so.

The retail business would consist of the sale of electrical supplies, including light fixtures, bulbs, wires, switches, etc. This, it is anticipated, would be a small part of the applicant's business. In any event, this would be purely retail and permitted in an area zoned for light commercial.

If it becomes profitable to make retail sales a major portion of the applicant's business, he would of course, do so.

The applicant contemplates a one story brick building, which of course, will comply with off-street parking and setback requirements.

The order and determination by the Superintendent of Central Inspection, which the appellant believes to be in error, and the principal points supporting the appellant's allegations are as follows:

In a letter dated October 28, 1963, written by Mr. Glen E. Lytle, Superintendent of Central Inspection, to Mr. H. J. Phillips, Jr. of Phillips Southern Electric Company, I c., he stated as follows:

"I am hereby giving in writing my decision as to the required zoning for an electrical contractor's business. It has been my decision that an electrical contractor, or any contractor, is first permitted in the "Commercial Zoning District." This decision is based on the fact that a contractor is not a purely retail business and would not be a permitted use allowed by 28.04.090.A.1.2 of the Zoning Ordinance."

It is the appellant's intention that to include a relatively small electrical contracting business in the same category as "anycontractor" is not justified. The appellant's proposed use will not encompass any outside storage as compared to building and construction contractors who store lumber, scaffolding, mixers, pipe, tile, large tools and other equipment, as well as accumulated materials from previous jobs.

The appellant's outside storage would, at most, consist of the parking of vehicles. This certainly would be less undesirable than the outside facilities at most service stations with all of the many hazards that normally exist, which are permitted in light commercial zoning.

Many small contractors are permitted and allowed to use their own residences for the same type of use involved here and this is done in areas zoned "A" and "AA".

It cannot be said that the proposed use will in any way create more business activity than is normally permitted in the light commercial zone.

At the Planning Commission hearing on October 3, 1963, Mr. Winsby noted that the use proposed would create less business activity than uses permitted in the light commercial zone.

The excerpts of that meeting also reflected that several Commissioners expressed doubt that the proposed use would require a "C" zoning, but Mr. Phillips indicated that the Superintendent of Central Inspection had interpreted the ordinance to require "C" zoning for his particular activity.

Also, from the same excerpts it shows that no one appeared in opposition at that time. The motion against "C" zoning in a strictly residential area, recited that it would deteriorate residential values in the adjacent areas. This is not the situation with regard to L.C. zoning in this area. Slightly to the north of the property in question and across the street, is a beauty salon with outdoor advertising as shown in one of the pictures presented to this Board. Across the street and northwest of the property in question, is located a trailer park, this apparently is a non-conforming use, as the whole area is zoned "AA".

To the south of this property and at the corner of Hydraulic and Wassall, the school located thereon has been closed. It is my understanding that the Board of Education now uses this building for storage and if their normal procedure is followed, the same will be boarded up and in view of the storage and warehousing facilities, will certainly be a nonconforming use. To the south and across the street from the proposed property at the corner of Hydraulic and Wassall, the area is zoned LC and there is a Standard Service Station located thereon. Continuing south therefrom, of course, lies a light commercial area, which includes South City.

If the purpose for the ruling in question is based upon the deterioration of the adjacent area, it is the appellant's position that this is unrealistic and that the facts do not substantiate such a conclusion. It is the appellant's position that zoning ordinances as such should be liberally construed and especially if the circumstances as they are here, warrant that conclusion.

In the present proposed use, none of the obnoxious features upon which the ruling is based exist.

There will be no wholesale sales or storage.

There will be no outside storage of materials or equipment other than parked vehicles.

The proposed use will not adversely effect the rights of adjacent property owners or residents and is not against the public interests.

The proposed use will not create additional traffic of a different character than that normally expected and allowed in an L.C. area. (For example, service station.)

The Board's action, if favorable to the appellant, will not establish precedent for the inclusion of heavier uses in light commercial districts. Likewise, the applicant will not be given greater rights in a "LC" zone than are other owners of such land similarly zoned located and used.

No advertising signs, except those normally permitted  
in the light commercial district will be used.

Case No. BZA 31-63  
Attachment #1 - page 4

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

November 7, 1963

NOTICE TO ADJOINING PROPERTY OWNERS

Case No. BZA 31-63

An application has been filed by Phillips Southern Electric Co., Inc., 2353 South Washington, Wichita, Kansas, by H. Jay Setter, attorney, 715 Beacon Building, Wichita, Kansas, appealing from the decision of the Superintendent of Central Inspection, who has refused to permit an electrical contractor's business in an area zoned "LC" Light Commercial, pursuant to Section 28.04.090.A.1,2, and as provided in Section 2.12,590.1, Code of the City of Wichita, on property legally described as:

The north 200 feet of Lot 14, Block 5, Classen Parked Addition, in the City of Wichita, Sedgwick County, Kansas. Generally located on the east side of Hydraulic between Rose Marie and Wassall.

This application has been assigned Case No. BZA 31-63, and will be considered by the Board of Zoning Appeals on Tuesday, November 26, 1963, at 2 P.M. in Room 401 City Building Annex, 104 South Main, Wichita, Kansas, at which time you may appear, if you so desire, either in person or by agent or attorney.

Robert A. Lakin  
Secretary

BZA 31-63 - NOTICES MAILED NOVEMBER 7, 1963 for meeting on November 26

Phillips Southern Electric Co., Inc. 2353 South Washington	Roger E. Whitcomb & Evelyn Whitcomb 2717 South Hydraulic
H. Jay Setter 715 Beacon Building	George William Babb & Judith C. Babb 1824 South Main
Lorene B. Wright 3751 Ohio	Star Lumber Company 325 South West Street
Loyd L. Downs and Edith M. Downs 2627 Rose Marie	Glenn Harmon Elrod & Claribel L. Elrod 2707 South Hydraulic
Cecil C. Jones and Margaret Jones 2633 Rose Marie	Maud M. Clyne & Sonja Kaye Clyne 2701 South Hydraulic
Earl A. Spencer & Nell G. Spencer 2639 Rose Marie	Theo L. Shuart 2659 South Hydraulic
James E. Galvin & Martha S. Galvin 205 South Bleckely	
Earl F. Leslie, Sr. & Selma L. Leslie 2649 Rose Marie	
Darrell W. Lynam & Carol L. Lynam 334 North Estelle	
Kenneth Gene, Edmiston and Florence Ethel Edmiston 2644 Rose Marie	
Samuel Lee Johnson & Pauline J. Johnson 2640 Rose Marie	
Dennis M. Galliard & Karen Lee Galliard 1201 South Woodlawn	
Jesse M. Crouch & Ruth V. Crouch 2628 Rose Marie	
Eugene K. Tennant & Marie E. Tennant 2622 Rose Marie	
Helen L. Helsel 2416 Rose Marie	

*Notice Returned  
no such no.*

THE CITY OF WICHITA, KANSAS


BOARD OF ZONING APPEALS  
104 SOUTH MAIN  
WICHITA 2, KANSAS  
ZIP CODE 67202



- Moved, left no address
- Moved, old number
- Moved, new number
- Address unknown

7 1601804

RETURN  
TO  
WRITER



James E. Galvin & Martha S. Galvin  
205 South Bleckley  
Wichita, Kansas

# THE CITY OF WICHITA



DEPARTMENT OF PUBLIC WORKS  
CENTRAL INSPECTION DIVISION  
ANNEX 2-2211 — AREA CODE 316  
CITY BUILDING ANNEX  
104 S. MAIN ST. — WICHITA 2, KANSAS

October 28, 1963

Mr. H. J. Phillips, Jr.  
Phillips-Southern Electric Company, Incorporated  
2353 South Washington  
Wichita, Kansas

Dear Mr. Phillips:

By request of your legal counsel, Mr. H. Jay Setter, I am hereby giving in writing my decision as to the required zoning for an electrical contractors business. It has been my decision that an electrical contractor, or any contractor, is first permitted in the "C" commercial zoning district. This decision is based on the fact that a contractor is not a purely retail business and would not be a permitted use allowed by 28.04.090 - A 1.2 of the zoning ordinance.

If you have any questions concerning this, please advise.

Sincerely,

Glen E. Lytle  
Superintendent of Central Inspection

GEL:ml

cc: H. Jay Setter  
Robert Lakin



ALL-AMERICA CITY

BOARD OF ZONING APPEALS  
CITY OF WICHITA, KANSAS

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

APPEAL FROM ORDER OR DECISION OF THE  
SUPERINTENDENT OF CENTRAL INSPECTION

I. NAME OF APPELLANT Phillips Southern Electric Co., Inc.  
MAILING ADDRESS 2353 So. Washington, Wichita, Ks. PHONE AM 5-4186  
NAME OF AGENT H. Jay Setter, Attorney at Law  
MAILING ADDRESS 715 Beacon Building, Wichita, Ks. PHONE AM 2-1861  
RELATIONSHIP OF APPLICANT TO PROPERTY IS THAT OF purchaser  
(OWNER, TENANT, LESSEE, OTHER).

II. THE APPELLANT HEREIN APPEALS FROM A DECISION, DETERMINATION OR AN ORDER OF THE SUPERINTENDENT OF CENTRAL INSPECTION, AS FOLLOWS:  
An Electrical Contractor's business not permitted in "L. C.". Requires "C" zoning (copy attached)  
FOR PROPERTY LOCATED AT 2708 So. Hydraulic, Wichita, Kansas  
AND LEGALLY DESCRIBED AS North 200 feet of Lot 14, Block 5, CLASSEN PARKED ADDITION to Wichita  
IN THE CITY OF WICHITA; AND WHICH IS PRESENTLY ZONED AA writing, Oct. 28, 1963.  
THE DECISION WAS RENDERED Oct. 3, 1963 and in/, AND REFERS TO SECTION 28,04,090-A 1.2, OF THE CODE OF THE CITY OF WICHITA (ZONING ORDINANCE).

III. THE APPELLANT HEREBY DECLARES THAT HE HAS SUBMITTED THE FOLLOWING REQUIRED MATERIAL, TOGETHER WITH AND AS PART OF THE APPEAL:

- A. A CLEAR AND ACCURATE DESCRIPTION OF THE PROPOSED WORK OR USE.
- B. THE ORDER, REQUIREMENT, DECISION OR DETERMINATION BY THE SUPERINTENDENT OF CENTRAL INSPECTION WHICH THE APPELLANT BELIEVES TO BE IN ERROR, AND THE PRINCIPAL POINTS SUPPORTING THE APPELLANT'S ALLEGATION OF ERRORS;
- C. SPECIFIC REFERENCE TO THAT SECTION OF THE ZONING ORDINANCE UNDER WHICH IT IS CLAIMED THE PERMIT SHOULD BE ISSUED;
- D. DRAWINGS OR PLANS FOR THE PROPOSED WORK OR USE IN RELATION TO THE ADJACENT BUILDINGS AND PROPERTY;
- E. A CERTIFIED LISTING FROM AN ABSTRACT COMPANY OF THE NAMES AND CURRENT MAILING ADDRESSES OF OWNERS OF ALL PROPERTY WITHIN A DISTANCE OF 200 FEET OF THE PROPERTY AFFECTED BY THE APPEAL.

Nancy J. Phillips, Jr.  
APPLICANT  
H. Jay Setter,  
AUTHORIZED AGENT

OFFICE USE ONLY: RECEIVED IN OFFICE OF SECRETARY, BOARD OF ZONING APPEALS, 11:15 (A.M. - P.M.), November 4, 1963, TOGETHER WITH APPROPRIATE FEE OF \$50.00.

M. Martin  
SIGNED

PROPOSED USE UNDER SECTION III (A)

The proposed use of the property in question will be that of an electrical contractor's business office and a small retail sales outlet. The use as the office will include doing the company's book work, planning and estimating contract work and the storage of a very limited supply of small electrical supplies and equipment.

There would be no outside storage whatever and no wholesale sales of any nature or description.

The reason for very little storage is that all large quantities of supplies and materials are purchased from wholesalers and delivered directly to the job site. In the event any large amount of storage would be contemplated, this would be done on other property owned by the applicant and in an area permitting the same.

The applicant does not now sell electrical appliances and fixtures and does not intend to do so.

The retail business would consist of the sale of electrical supplies, including light fixtures, bulbs, wires, switches, etc. This, it is anticipated, would be a small part of the applicant's business. In any event, this would be purely retail and permitted in an area zoned for light commercial.

If it becomes profitable to make retail sales a major portion of the applicant's business, he would of course, do so.

The applicant contemplates a one-story brick building, which of course, will comply with off-street parking and set-back requirements.

The order and determination by the Superintendent of Central Inspection, which the appellant believes to be in error, and the principal points supporting the appellant's allegations are as follows:

In a letter dated October 28, 1963, written by Mr. Glen E. Lytle, Superintendent of Central Inspection, to Mr. H. J. Phillips, Jr. of Phillips Southern Electric Company, Inc., he stated as follows:

"I am hereby giving in writing my decision as to the required zoning for an electrical contractor's business. It has been my decision that an electrical contractor, or any contractor, is first permitted in the "Commercial Zoning District". This decision is based on the fact that a contractor is not a purely retail business and would not be a permitted use allowed by ZB. 04. 090-A 1.2 of the Zoning Ordinance."

It is the appellant's intention that to include a relatively small electrical contracting business in the same category as "Any contractor" is not justified. The appellant's proposed use will not encompass any outside storage as compared to building and construction contractors who store lumber, scaffolding, mixers, pipe, tile, large tools and other equipment as well as accumulated materials from previous jobs.

The appellant's outside storage would, at most, consist of the parking of his vehicles. This certainly would be less undesirable than the outside facilities at most service stations with all of the many hazards that normally exist, which are permitted in light commercial zoning.

Many small contractors are permitted and allowed to use their own residences for the same type of use involved here and this is done in areas zoned "A" and "AA".

It cannot be said that the proposed use will in any way create more business activity than is normally permitted in the light commercial zone.

At the Planning Commission hearing on October 3, 1963, Mr. Winsby noted that the use proposed would create less business activity than uses permitted in the light commercial zone.

The excerpts of that meeting also reflected that several Commissioners expressed doubt that the proposed use would require a "C" zoning, but Mr. Phillips indicated that the Superintendent of Central Inspection had interpreted the ordinance to require "C" zoning for this particular activity.

Also, from the same excerpts it shows that no one appeared in opposition at that time. The motion against "C" zoning in a strictly residential area, recited that it would deteriorate residential values in the adjacent areas. This is not the situation with regard to L. C. zoning in this area. Slightly to the north of the property in question and across the street, is a beauty salon with outdoor advertising as shown in one of the pictures presented to this Board. Across the street and northwest of the property in question, is located a trailer park, this apparently is a non-conforming use, as the whole area is zoned "AA".

To the south of this property and at the corner of Hydraulic and Wassall, the school located thereon has been closed. It is my understanding that the Board of Education now uses this building for storage and if their normal procedure is followed, the same will be boarded up and in view of the storage and warehousing facilities, will certainly be a non-conforming use. To the south and across the street from the proposed property at the corner of Hydraulic and Wassall, the area is zoned L. C. and there is a Standard Service Station located thereon. Continuing south therefrom, of course, lies a light commercial area, which includes South City. 2007  
1/15

If the purpose for the ruling in question is based upon the deterioration of the adjacent area, it is the appellant's position that this is unrealistic and that the facts do not substantiate such a conclusion. It is the appellant's position that zoning ordinances as such should be liberally construed and especially if the circumstances as they are here, warrant that conclusion.

In the present proposed use, none of the obnoxious features upon which the ruling is based exist.

There will be no wholesale sales or storage.

There will be no outside storage of materials or equipment other than parked vehicles. What type

The proposed use will not adversely effect the rights of adjacent property owners or residents and is not against the public interests.

The proposed use will not create additional traffic of a different character than that normally expected and allowed in an L. C. area. (For example, service station.)

The Board's action, if favorable to the appellant, will not establish precedent for the inclusion of heavier uses in light commercial districts. Likewise, the applicant will not be given greater rights in a "L. C." zone than are other owners of such land similarly zoned located and used.

No advertising signs, except those normally permitted in the light commercial district will be used.

# THE CITY OF WICHITA



DEPARTMENT OF PUBLIC WORKS  
CENTRAL INSPECTION DIVISION  
AMHERST 2-8211 — AREA CODE 316  
CITY BUILDING ANNEX  
104 S. MAIN ST. — WICHITA 2, KANSAS

October 20, 1963

Mr. H. J. Phillips, Jr.  
Phillips-Southern Electric Company, Incorporated  
2253 South Washington  
Wichita, Kansas

Dear Mr. Phillips:

By request of your legal counsel, Mr. H. Jay Setter, I am hereby giving in writing my decision as to the required zoning for an electrical contractors business. It has been my decision that an electrical contractor, or any contractor, is first permitted in the "C" commercial zoning district. This decision is based on the fact that a contractor is not a purely retail business and would not be a permitted use allowed by 28.04.090 - A 1.2 of the zoning ordinance.

If you have any questions concerning this, please advise.

Sincerely,

E. Lytle  
Superintendent of Central Inspection

GEL:ml

H. Jay Setter  
Robert Lakin



ALL AMERICA CITY

OWNERSHIP LIST

LOT	BLOCK	ADDITION	OWNER
1	5	Classen Parked Addition	Mrs. Lonnie B. Wright
2	5	Classen Parked Addition	Loyd L. Downs and Edith M. Downs
3	5	Classen Parked Addition	Cecil B. Jones and Margaret Jones
4	5	Classen Parked Addition	Earl A. Spencer & Nell G. Spencer
5	5	Classen Parked Addition	James E. Galvin & Martha B. Galvin
6	5	Classen Parked Addition	Earl F. Leslie Sr. & Selma L. Leslie
7	5	Classen Parked Addition	Jerrold H. Relethford & Schrediah Relethford
8	5	Classen Parked Addition	Derrell W. Lyman & Carol L. Lyman
North 270 feet of Lot 14 Block 5 Classen Parked Addition			Aileen Mae Cousatto
Lot 14 Block 5 Classen Parked Addition Except the North 270 feet and Except the South 25 feet			Helen Marie Morgan
12	3	Classen Parked Addition	Kenneth Gene Edmiston and Florence Ethel Edmiston
13	3	Classen Parked Addition	Samuel Lee Johnson & Pauline J. Johnson
14	3	Classen Parked Addition	Dennis M. Galliard & Karen Lee Galliard
15	3	Classen Parked Addition	Jesse M. Crouch & Ruth V. Crouch
16	3	Classen Parked Addition	Eugene K. Tennant & Marie E. Tennant
17	3	Classen Parked Addition	Helen L. Helges

*no add*

*no add*

*no add*

*2006 Home Drive*

LOT	BLOCK	ADDITION	OWNER
3	E	Graber Addition	Roger E. Whitcomb & Evelyn Whitcomb
14 /	E	Graber Addition	<i>2717 S. Higdonville</i> George William Babb & Judith C. Babb
15	E	Graber Addition	<i>1824 S. Main</i> Star Lumber Company
16	E	Graber Addition	<i>525 S. West St.</i> Glenn Harmon Elrod & Claribel L. Elrod
17	E	Graber Addition	<i>3707 S. Higdonville</i> Maud M. Clyne & Sonja Kaye Clyne

Beginning at Southeast Corner of North Half of  
Southeast Quarter of Northeast Quarter North 200  
feet thence West 319.51 feet thence South 200  
feet, thence East to Beginning in Section 4,  
Township 28, Range 1 East, Sedgwick County,  
Kansas.

Theo L. Shuart  
*2657 S. Higdonville*

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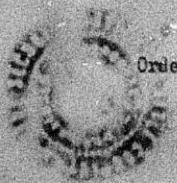
We hereby certify the foregoing to be a correct list of  
property owners within a radius of 200 feet of the North  
200 feet of Lot 14, Block 5, in Classen Parked Addition,  
in the City of Wichita, as shown by the records in the  
office of the Register of Deeds of Sedgwick County, Kansas  
this 21st day of August A. D. 1963 at 7 o'clock A. M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.

By

Order No. 106578.

Vice President.



**PAYMENT NOTICE**  
City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bld'g & Elev. \_\_\_\_\_ Elec. \_\_\_\_\_ Elev. Insp. \_\_\_\_\_  
 Exam Fees \_\_\_\_\_ Hse. Mvr. \_\_\_\_\_ Hse. Moving \_\_\_\_\_  
 Licse. \_\_\_\_\_ Mech. \_\_\_\_\_ Oil Well \_\_\_\_\_ Pav. Cuts \_\_\_\_\_  
 Plan. \_\_\_\_\_ Plb'g. \_\_\_\_\_ Plb'g. Cert. \_\_\_\_\_  
 Sanitation \_\_\_\_\_ Sewer \_\_\_\_\_ Signs \_\_\_\_\_ Sidewalk \_\_\_\_\_  
 Street \_\_\_\_\_ Trailers \_\_\_\_\_

DESCRIPTION	AMOUNT
<i>7031 Application</i>	<i>50.00</i>
<i>8-11-26</i>	

Name *George P. ...*  
 Address *7352 - ...*  
 Type \_\_\_\_\_ Due Date *11-1-26*  
 Comments \_\_\_\_\_

Date *11-4-26* By *[Signature]*

\*

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