



Wichita-Sedgwick County Metropolitan Area Planning Department

December 20, 2005

119th & Kellogg Associates LLC
Attn: Grant Tidemann
150 N. Market
Wichita, KS 67202-1900

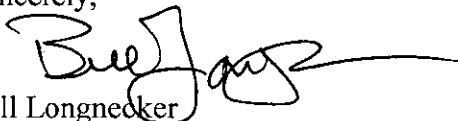
Re: **VAC2005-00035** - Request to vacate a portion of platted street right-of-way, generally located north of U.S. Highway 54/Kellogg Avenue, between 119th Street West and Hornecker Drive.

Dear Mr. Tidemann:

At its regular meeting on Tuesday, December 13, 2005, the Wichita City Council considered the request. The action of the City Council was to APPROVE subject to the recommendation by the MAPC.

If you have any questions about this matter, please call 268-4494.

Sincerely,


Bill Longnecker
Senior Planner

BL:le

cc: Jim Armour, City Engineer, Public Works Department, Mail Stop 1-71
Paul Gunzelman/Carla Jones, Public Works Engineering, Mail Stop 1-71
Baughman Company, P.A., Attn: Phil Meyer, 315 Ellis, Wichita, KS 67211
Elinor J. Martens, 435 S. Broadway, Wichita, KS 67202



Sedgwick County
Register of Deeds - Bill Meek
DOC.#/FLM-PG: 28744487

Receipt #: 1608064
Pages Recorded: 2

Recording Fee: 0.00

Cashier Initials: MKF

Authorized By:

Date Recorded: 12/28/2005 11:56:12 AM



Associated with

D 17718 +

D 17719

**BEFORE THE CITY COUNCIL OF THE
CITY OF WICHITA, SEDGWICK COUNTY, KANSAS**

**IN THE MATTER OF THE VACATION OF
PORTIONS OF PLATTED STREET RIGHT-
OF-WAY AND PLATTED SETBACK**

**GENERALLY LOCATED
NORTH OF US HIGHWAY-54/KELLOGG
AVENUE, BETWEEN 119TH STREET WEST
AND HORNECKER DRIVE**

Case No. VAC2005-00035

MORE FULLY DESCRIBED BELOW

VACATION ORDER

NOW on this 13th day of December, 2005 comes on for hearing the petition for vacation filed by 119th & Kellogg Associates, c/o Grant Tidemann praying for the vacation of the following described portions of platted street right-of-way and platted setback, to-wit:

That portion of the platted Harry Drive right-of-way as dedicated on the Wheatridge ✓ Addition, that abuts the south sides of Lots 6 & 7, and a southwest portion of Lot 5, all in Block 2, all in the Wheatridge Addition, Wichita, Sedgwick County, Kansas.

That portion of the platted 35-foot setback on the south sides Lots 6 & 7 and the southwest portion of Lot 5, that runs parallel to platted Harry Drive right-of-way as dedicated on the Wheatridge Addition, which abuts the south sides of Lots 6 & 7, and a southwest portion of Lot 5, all in Block 2, all in the Wheatridge Addition, Wichita, Sedgwick County, Kansas.

The City Council, after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, makes the following findings:

1. That due and legal notice has been given by publication as required by law, by

publication in The Wichita Eagle on September 25, 2005, which was at least 20 days prior to the public hearing

2. No private rights will be injured or endangered by the vacation of the above-described portions of platted street right-of-way and platted setback, and the public will suffer no loss or inconvenience thereby.

3. Dedicate by separate instruments a restrictive covenant binding and tying that portion of the described vacated Harry Drive right-of-way to Lots 6 & 7, Block 2, the Wheatridge Addition to make them one property until replatted, a cross lot access easement and a utility easement to be recorded with the Register of Deeds.

4. Replace the described vacated 35-foot setback with another 35-foot setback that will run parallel with the new south lot lines of Lots 5, 6, & 7, Block 2, all in the Wheatridge Addition, as established by conditions of the vacation process.

5. In justice to the petitioner(s), the prayer of the petition ought to be granted.

6. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.

7. The vacation of the portions of platted street right-of-way and platted setback described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 13th day of December 2005 ordered that the above-described portions of platted street right-of-way and platted setback are hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall certify a copy of this order to the Register of Deeds of Sedgwick County.

ATTEST:



Karen Sublett
Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebanstorf
Gary Rebanstorf, Director of Law

Carlos Mayans
Carlos Mayans, Mayor



State of Kansas)
Sedgwick County)
City of Wichita)

I, Patsy Ellis, Deputy City Clerk of the City of Wichita, Kansas, hereby certify that the document to which this is affixed is a true and correct copy of the original on file in the office of the City Clerk.

Given under my hand and seal of the City of Wichita, Kansas this 12-13-05

Patsy Ellis City Clerk
Patsy Ellis Deputy

STAFF REPORT

CASE NUMBER: VAC2005-00035 Request to vacate a portion of platted street right-of-way (ROW) and platted setback

APPLICANTS/AGENT: 119th & Kellogg Associates, c/o Grant Tidemann
Baughman Company, PA, c/o Phil Meyer

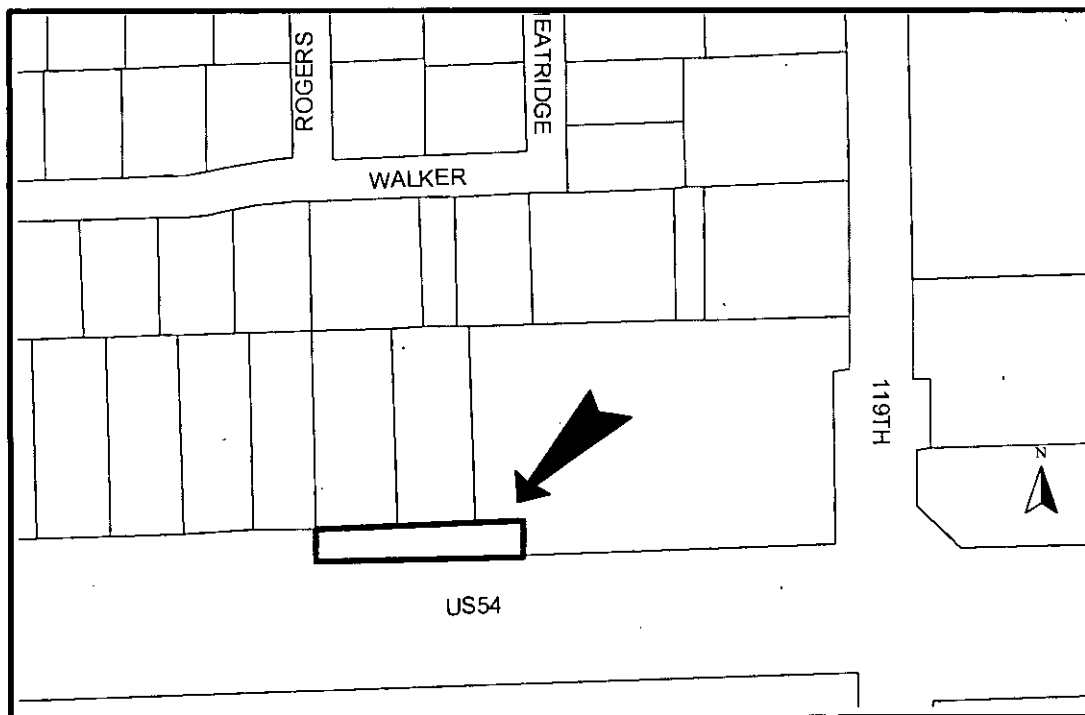
LEGAL DESCRIPTION: Generally described as that portion of the Harry Drive ROW as dedicated on the Wheatridge Addition, that abuts the south sides of Lots 6 & 7, and a southwest portion of Lot 5, all in Block 2, all in the Wheatridge Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located north of US Highway-54/Kellogg Avenue, between 119th Street West and Hornecker Drive (Council District V)

REASON FOR REQUEST: Revert to private property

CURRENT ZONING: The site is public right-of-way. The abutting properties are zoned "GC" General Commercial. US Highway-54/Kellogg Avenue is south of the site

VICINITY MAP:



The applicant is requesting vacation of the eastern 320-foot long (x) 50-foot wide, portion of Harry Drive ROW. From the proposed vacated portion, there is another 759.3-feet of Harry Drive that continues west to Hornecker Street. Hornecker Street immediately intersects, south, with US-54/Kellogg Avenue. The proposed vacated eastern portion of Harry Drive dead ends 80-feet deep into Lot 5, Block 2, the Wheatridge Addition. This abrupt ending of Harry Drive in Lot 5 leaves it approximately 470.07-feet short of intersecting with 119th Street West; see the exhibit of the recorded Wheatridge Addition. There is a platted 35-foot setback that runs parallel to the proposed vacated ROW on Lots 5, 6, & 7, Block 2, Wheatridge Addition. There are no water, sewer or other utilities in the proposed vacated portion of ROW. The Wheatridge Addition was recorded with the Register of Deeds April 8, 1968.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the Harry Drive ROW and platted setback, as described with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time September 29, 2005 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of platted street ROW and platted setback and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Therefore, the vacation of the portion of the platted Harry Drive ROW and platted setback described in the petition should be approved with conditions;

- (1) Provide staff with a restrictive covenant tying and binding Lots 6 & 7, Block 2, all in the Wheatridge Addition, and to the abutting vacated portion of the platted Harry Drive ROW. Access to Lots 6 & 7, Block 2, will be from Lot 5, Block 2, all in the Wheatridge Addition. Provide staff with a restrictive covenant tying and binding Lot 5, Block 2, the Wheatridge Addition to the abutting vacated portion of the platted Harry Drive ROW
- (2) Retain platted access control along the south sides of Lots 5, 6 & 7, Block 2, all in the Wheatridge Addition.
- (3) Vacate the platted 35-foot setback on the south sides of Lots 5, 6 & 7, Block 2, all in the Wheatridge Addition, where they abut the vacated portion of Harry Drive. Replace with another 35-foot setback that runs parallel to the new south lot lines of those lots, as created by the vacation of the Harry Drive ROW.

- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants.
- (5) Dedicate additional utility easement to extend the platted easements that run parallel to the west side of Lot 7, and in between Lots 5 & 6, all in Block 2, all in the Wheatridge Addition.
- (6) All improvements shall be according to City Standards.
- (7) All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County or franchised utilities and recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide staff with a restrictive covenant tying and binding Lots 6 & 7, Block 2, all in the Wheatridge Addition, and to the abutting vacated portion of the platted Harry Drive ROW. Access to Lots 6 & 7, Block 2, will be from Lot 5, Block 2, all in the Wheatridge Addition. Provide staff with a restrictive covenant tying and binding Lot 5, Block 2, the Wheatridge Addition to the abutting vacated portion of the platted Harry Drive ROW.
- (2) Retain platted access control along the south sides of Lots 5, 6 & 7, Block 2, all in the Wheatridge Addition.
- (3) Vacate the platted 35-foot setback on the south sides of Lots 5, 6 & 7, Block 2, all in the Wheatridge Addition, where it abuts the vacated portion of Harry Drive. Replace with another 35-foot setback that runs parallel to the new south lot lines of those lots, as created by the vacation of the Harry Drive ROW.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants.
- (5) Dedicate additional utility easement to extend the platted easements that run parallel to the west side of Lot 7, and in between Lots 5 & 6, all in Block 2, all in the Wheatridge Addition.
- (6) All improvements shall be according to City Standards.
- (7) All conditions to be completed within 6 months of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been

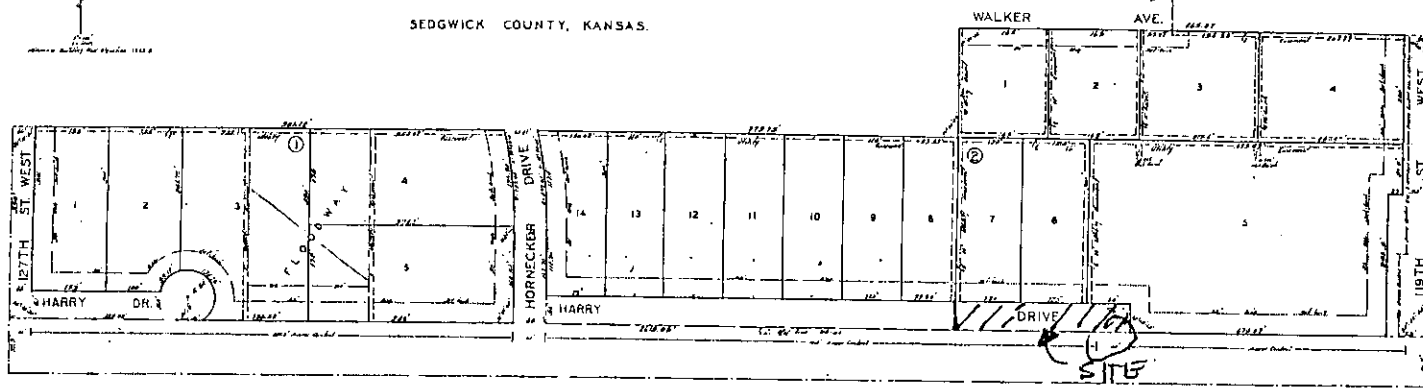
provided to the City, County or franchised utilities and recorded with the Register of Deeds.

M-1-8-13

VAC2005-35

WHEATRIDGE ADDITION

SEDGWICK COUNTY, KANSAS.



State of Kansas) ss. We, Buehman Company,
Surveyors in Sedgwick County and state, do hereby
certify that we have surveyed and plotted the above
addition, Sedgwick County, Kansas, and that the
accompanying plat is a true and correct exhibit of
the property surveyed, described as beginning at
the intersection of the north right-of-way line of
US-50 Highway (expressed in case it exists) with
the east line of the S26 of Sec. 25, Twp. 27 S., R. 14 W.;
thence north along the east line of said S26, 250
feet; thence west parallel with the north right-of-way
line of said Highway, 148.07 feet; thence south
parallel with the east line of said S26, 250 feet;
thence west parallel with the north right-of-way
line of said Highway, 148.07 feet; thence more or less to
the west line of said S26, thence south along
said west line, 250 feet; thence east along the
north right-of-way line of said Highway, 148.07 feet
to the place of beginning. Except hereafter
Hornacker Drive be platted in C. Dale Addition
to Wheatridge, Sedgwick County, Kansas.

Buehman Company

James O. Buehman, Surveyor

State of Kansas) ss. Be it remembered that on this
Sedgwick County) ss. day of October, 1927, before me a notary public
in Sedgwick County and state came, Edward
Hornacker and Laura Hornacker, his wife, and Ruth
Hornacker, his daughter, and Ray M. Buehman, for husband,
and Helen Hornacker, his wife, and Robert L. Tansing,
his husband, and Howard R. Moore and Margaret
Ann Moore, his wife, to me known to be the same
persons who executed the foregoing instrument of
writing, and duly acknowledged the execution of
the same. In testimony whereof, I have hereunto
set my hand and affixed my notarial seal the
day and year above written.

James O. Buehman, Notary Public
My Commission Expires October 1, 1928

Know all men by these presents
that we, Charles Hornacker and Laura Hornacker,
his wife, and Ruth Hornacker, his daughter, and Ray
M. Buehman, her husband, and Helen Hornacker,
his wife, and Robert L. Tansing, her husband, and
Howard R. Moore and Margaret Ann Moore, his
wife, have caused the land described in the
subscript certificate to be platted into lots, blocks,
streets and drives to be known as "WHEATRIDGE
ADDITION", Sedgwick County, Kansas. Commencing
are hereby granted as indicated for the construction
and maintenance of all public utilities. The streets
and drives are hereby dedicated to and for the use
of the public. All abutting rights of ways to lots
shall over and across the east line of Lot 1, Block
2, except the 148.07 feet, and across the east line of
Lot 2, Block 2, except the 148.07 feet, which shall be
north of the south lot line, which may be de-
termined by the appropriate governing bodies or survey
granted to the appropriate governing bodies. All lots
shall have a minimum building pad elevation of 1325.5
feet above elevation. The roadway shall be the respon-
sibility of the owners of the property in the subdivision
until such time as the governing body exercising
jurisdiction shall be assuming responsibility for main-
tenance and improvement of the roadway provided
further, that no building shall be constructed on
or within said roadway, nor shall any pile change
of grade, creation of channel, or other work be
carried on without the permission of the Wichita,
Sedgwick County Road Control Office, or their successors
in office.

Edward Hornacker
Laura Hornacker
Ruth Hornacker
Ray M. Buehman
Helen Hornacker
Robert L. Tansing
Howard R. Moore
Margaret Ann Moore

Association of Wichita, ss. We, American Savings
Association of Wichita, do hereby certify that a map of a
portion of the above described property is hereby
consent to the plat of "WHEATRIDGE ADDITION", Sedgwick
County, Kansas.

American Savings Association of Wichita
President
Vice President
Secretary

State of Kansas) ss. As it is remembered that on this
Sedgwick County) ss. day of October, 1927, before me a
notary public in Sedgwick County and state came
David M. Chisholm, President and Richard T.
Patterson, Vice President of American Savings
Association of Wichita, to me known to be the same
persons who executed the foregoing instrument of
writing, and duly acknowledged the execution of
the same. In testimony whereof, I have hereunto
set my hand and affixed my notarial seal the
day and year above written.

James O. Buehman, Notary Public
My Commission Expires October 1, 1928

This plat of "WHEATRIDGE
ADDITION", Sedgwick County, Kansas, has been approved
by the Wichita-Sedgwick County Metropolitan Planning
Commission, Wichita, Kansas, and is hereby transmitted
to the Board of City Commissioners, Wichita, Kansas,
with the recommendation that such plat be approved
as proposed.

Called this 14th day of October, 1927.
Wichita-Sedgwick County Metropolitan Planning Commission
Chairman
Secretary

Approved by the Board
of City Commissioners this 14th day of October,
1927.
Mayor
City Clerk

Approved by the Board
of County Commissioners this 14th day of October,
1927.
Chairman
Commissioners
County Clerk

record this 14th day of October, 1927.
County Clerk

State of Kansas) ss. This is to certify that this
Sedgwick County) ss. plat was filed for record in the office of the
Register of Deeds this 14th day of October,
1927, at Wichita, at 10:00 A.M., and is duly recorded
in Book 14, page 100.
Register of Deeds
Deputy

