CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

October 10, 2006

Robert J. O'Brien
2563 N. Rock Road Court
Wichita KS 67226

Re: **VAC2006-00029** - Request to vacate a portion of platted setback, generally located west of Rock Road & north of Rock Road Court.

Dear Mr. O'Brien:

At its regular meeting on Tuesday, September 26, 2006, 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
Joni J. O'Brien, 2563 N. Rock Road, Wichita, KS 67226
Arthur J & anita W Fischer, 2559 N. Rock Road, Wichita, KS 67226
Calvery United Methodist Church, 2525 N. Rock Road, Wichita, KS 67226

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METROPOLITAN PLANNING
ROUTE

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

IN THE MATTER OF THE VACATION OF A PORTION OF A PLATTED SETBACK	)	
GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE ROCK ROAD – ROCK ROAD COURT INTERSECTION	)	**Case No. VAC2006-00029**
MORE FULLY DESCRIBED BELOW	)	

VACATION ORDER

NOW on this 26th day of September, 2006 comes on for hearing the petition for vacation filed by Robert J. O'Brien praying for the vacation of the following described portion of a platted setback, to-wit:

> The west 10-feet of the platted 35-foot street side yard setback, which runs parallel with the east lot line of Lot 16, Block 1, Sycamore Village 4th 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 July 27, 2006, 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 portion of the platted setback, and the public will suffer no loss or inconvenience thereby.

3. A contingent dedication of street right-of-way by separate instrument will be recorded with the Register of Deeds with the Vacation Order.

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

5. 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.

6. The vacation of a portion of the platted setback described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 26th day of September 2006 ordered that the above-described portion of a platted setback is 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.

THE CITY OF WICHITA SEDGWICK COUNTY, KANSAS

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, CMC
Karen Sublett, City Clerk

Approved as to Form:

Gary Rebenstorf, Director of Law

METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 3-1
August 17, 2006

STAFF REPORT

CASE NUMBER: **VAC2006-00029** Request to vacate a portion of a platted setback

APPLICANTS/OWNERS: Robert & Joni O'Brien

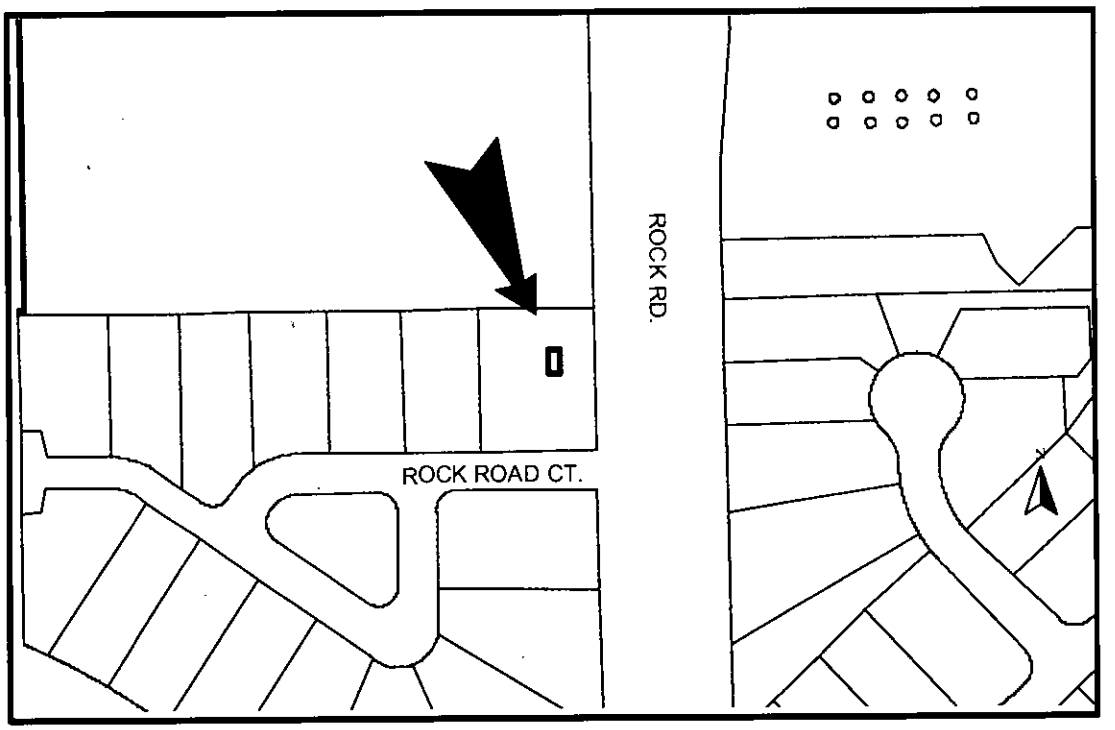
LEGAL DESCRIPTION: Generally described as the west 10-feet of the platted 35-foot setback that runs parallel to east lot line of Lot 16, Block 1, Sycamore Village 4th Addition, as recorded with Wichita, Sedgwick County, Kansas

LOCATION: Generally located on the northwest corner of the Rock Road – Rock Road Court intersection.
(WCC #2)

REASON FOR REQUEST: Additional space to build a pool and deck.

CURRENT ZONING: Site and all property in the area are zoned "SF-5" Single-family Residential.

VICINITY MAP:



The applicants require an additional 10-feet to build a pool and deck, thus the request. Per the Unified Zoning Code (UZC) the "SF-5" zoning district has a minimum 15-foot street side yard setback. The applicants' request would reduce the platted 35-foot street side yard setback to 25-feet; 10-feet more than the UZC's minimum street side yard setback. The site is located within CUP DP-73. The site is 1 of 16 residential lots located in Parcel 9A. If the request is approved the applicant will have to apply for an adjustment to the CUP to reflect the described vacated street side yard setback. There is a sewer line located in a platted 15-foot utility easement, which is contained within the described platted street side yard setback. There is no water or utilities located within the easement or the described setback. The Sycamore Village 4th Addition was recorded with the Register of Deeds May 20, 1985.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from Public Works/Water & Sewer/Storm Water, franchised utility representatives and other interested parties, Planning Staff recommends approval of the vacation of this portion of platted 35-foot setback as described.

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 July 28, 2006, 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 the 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 50-foot setbacks, described in the petition should be approved with conditions;

(1) Vacate the only that portion of the platted 35-foot street side setback, running parallel to the east lot line of Lot 16, Block 1, Sycamore Village 4th Addition, where the pool and deck will encroach. Provide staff will a metes and bounds legal of the area encroaching on a Word document, via e-mail.

(2) Apply for a CUP adjustment that will reflect the approved vacation request.

(3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.

(4) Provide Planning Staff with a dedication of 10-feet of right-of-way to run parallel to the site's east property line.

(5) All improvements shall be according to City Standards, including all the required City permits and

inspections, at the owners' expense.

(6) Per MAPC Policy Statement #7, all conditions to be completed within one year 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 and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

(1) Vacate the only that portion of the platted 35-foot street side setback, running parallel to the east lot line of Lot 16, Block 1, Sycamore Village 4th Addition, where the pool and deck will encroach. Provide staff will a metes and bounds legal of the area encroaching on a Word document, via e-mail.

(2) Apply for a CUP adjustment that will reflect the approved vacation request.

(3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.

(4) Provide Planning Staff with a dedication of 10-feet of right-of-way to run parallel to the site's east property line.

(5) All improvements shall be according to City Standards, including all the required City permits and inspections, at the owners' expense.

(6) Per MAPC Policy Statement #7, all conditions to be completed within one year 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 and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

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VAC2006-29

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SYCAMORE VILLA

AN ADDITION TO WICH

