CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

February 15, 2007

Gary Wickham
1320 E. 2nd Street
Wichita, KS 67214

Re: **VAC2006-00038** - Request to vacate a portion of a platted alley, generally located between 2nd-3rd-Cleveland-Indiana Streets/Avenues.

Dear Mr. Wickham:

At its regular meeting on Tuesday, February 13, 2007, 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
Leah Wickham, 1320 E. 2nd Street, Wichita, KS 67214
Pete Schrepferman, 1641 E. 1st, Wichita, KS 67214
Gary D & Leah R Wickham Revocable Trust, 2902 Fox Pointe Circle No, Wichita, KS 67226
Rodney & Jane M Hackney, 340 Indiana, Wichita, KS 67214
David W & Pepper A Kratz, 521 N. Roosevelt, Wichita, KS 67208
Kent Dooling, P.O. Box 2238, Wichita, KS 67201
John P & Elizabeth M Smith, 356 N. Indiana, Wichita, KS 67214
Lula C. Holtzen Living Trust, 3306 Huntington Dr., Coffeyville, TX 76034
John P. Smith, 341 N. Cleveland, Wichita, KS 67214
Nellie E. Roets, 349 N. Cleveland, Wichita, KS 67214
David Scott Behrns, 1251 N. Broadway, Wichita, KS 67214

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www.wichita.gov

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

IN THE MATTER OF THE VACATION OF A PORTION OF PLATTED ALLEY RIGHT-OF-WAY	)	
GENERALLY LOCATED BETWEEN 3RD AND 2ND STREETS AND CLEVELAND AND INDIANA AVENUES	)	**Case No. VAC2006-00038**
MORE FULLY DESCRIBED BELOW	)	

VACATION ORDER

NOW on this 13th day of February, 2007 comes on for hearing the petition for vacation filed by Gary D. & Leah R. Wickham and Pete Schrepferman praying for the vacation of the following described portion of a platted alley right-of-way, to-wit:

> The portion of the platted 14.25-foot wide alley right-of-way, located between Lots 25 – 36, except for the north 22-feet of Lot 35, located between Cleveland and Indiana Avenues, all in the Mathewson's 3rd 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 October 12, 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 platted alley right-of-way, and the public will suffer no loss or inconvenience thereby.

3. Retain the described vacated alley as a utility easement.

4. Dedication of street right-of-way and additional easement, by separate instruments, will be recorded with the Register of Deeds.

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 portion of platted alley right-of-way described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 13th day of February 2007 ordered that the above-described portion of platted alley right-of-way 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.

_____
Carlos Mayans, Mayor

ATTEST:

_____
Karen Sublett, City Clerk

Approved as to Form:

_____
Gary Rebenstorf, Director of Law

METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 3-1
November 2, 2006

STAFF REPORT

CASE NUMBER: **VAC2006-00038** Request to vacate a portion of a platted alley right-of-way (ROW).

APPLICANTS: Gary & Leah Wickham Pete Schrepferman

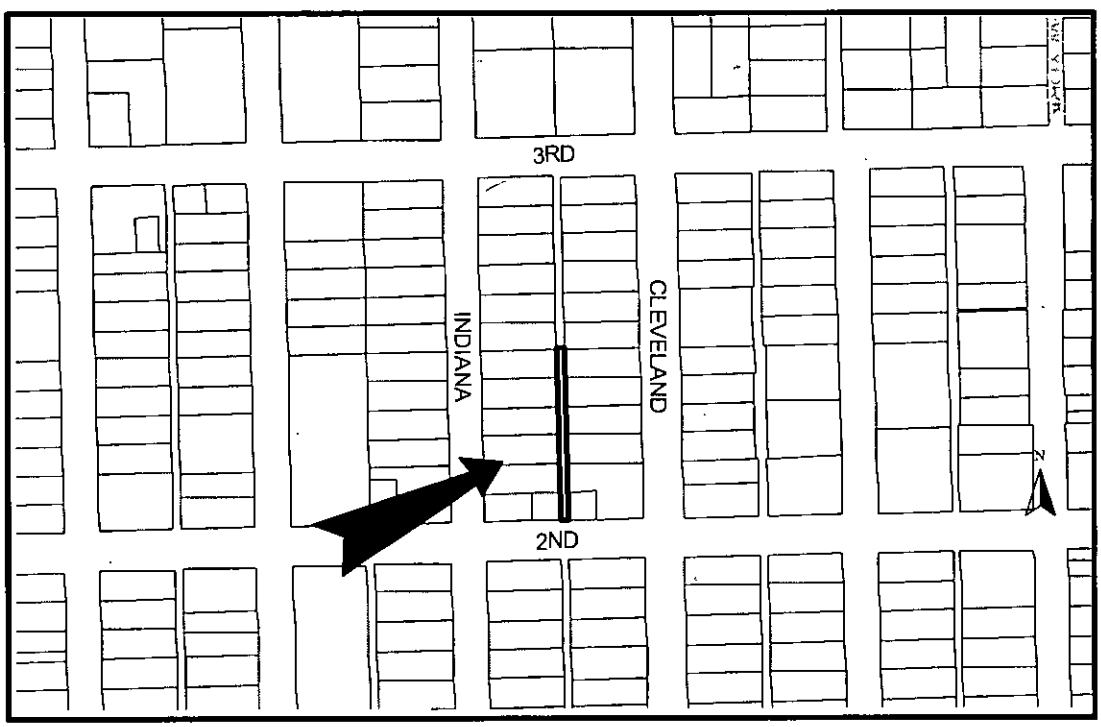
LEGAL DESCRIPTION: The portion of the platted 14.25-foot wide alley ROW located between Lots 25 – 36, all dedicated in the Mathewson 3rd Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located between 3rd and 2nd Streets and Cleveland and Indiana Avenues (WCC #I).

REASON FOR REQUEST: Revert to private property to control access to business.

CURRENT ZONING: The site is a platted, developed alley, all abutting and adjacent properties are zoned "LI" Limited Industrial

VICINITY MAP:



The applicant is requesting vacation of the approximately 300-foot long (x) 14.25-foot wide portion of the platted alley as described. This portion of the alley is the south most portion of a platted alley that runs from 3rd Street to 2nd Street. The applicant plans to redevelop/sell their property, which abuts both sides of the portion of the alley they propose to vacate. A possible redevelopment would include a loading dock, with access to the dock oriented towards Indiana Avenue. The applicant must dedicate public ROW on a portion of their property/lots to either Indiana or Cleveland Avenues to prevent the alley from becoming a dead end. A loading dock and access to it cannot be in the required dedicated public ROW that provides access to either Indiana or Cleveland Avenues. There are utilities, manholes and sewer line in this portion of the alley. The alley is in the Gilbert – Mosley district and comments are needed from Environmental Health. Comments are also needed from Storm Water in regards to any possible drainage issues. The Mathewson 3rd Addition was recorded with the Register of Deeds May 7, 1886.

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 platted alley ROW, 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 October 12, 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 platted alley ROW 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 alley ROW described in the petition should be approved with conditions;

(1) Retain the alley as an easement. Comments from Storm Water in regards to drainage & Environmental Health in regards to Gilbert – Mosley must be incorporated into the final conditions of the vacation request.

(2) Dedicate, by separate instrument, 5.75-feet of additional easement, the length of the vacated alley. This must be provided to Staff prior to the case going to WCC for final action.

(3) Dedicate, by separate instrument, a minimum of 20-feet of right-of-way, on the north side of either Lots 35 or 36, between Indiana and Cleveland Avenues, Mathewson 3rd Addition, to provide access from the remaining alley ROW to either Cleveland or Indiana Avenues. This must

remain open at all times and be completely clear of any obstructions, including no parking and cannot be used as access/staging area for a loading dock. This dedicated ROW must be constructed with concrete, per City Standards. Provide Staff with a guarantee to ensure the construction of the dedicated ROW and its entrance onto either Cleveland or Indiana Avenues. These must be provided to Staff prior to the case going to WCC for final action.

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

(5) All improvements shall be according to City Standards. If the drive onto 2nd Street is to remain open it must be constructed to City Standards and at the owner's expense. If the alley is to be closed, the continuation of the curbing and reconstruction of the sidewalk must be to City Standards and at the owner's expense. Provide the City with a guarantee/petition for these improvements. These must be provided to Staff prior to the case going to WCC for final action.

(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) Retain the alley as an easement. Comments from Storm Water in regards to drainage & Environmental Health in regards to Gilbert – Mosley must be incorporated into the final conditions of the vacation request.

(2) Dedicate, by separate instrument, 5.75-feet of additional easement, the length of the vacated alley. This must be provided to Staff prior to the case going to WCC for final action.

(3) Dedicate, by separate instrument, a minimum of 20-feet of right-of-way, on the north side of either Lots 35 or 36, between Indiana and Cleveland Avenues, Mathewson 3rd Addition, to provide access from the remaining alley ROW to either Cleveland or Indiana Avenues. This must remain open at all times and be completely clear of any obstructions, including no parking and cannot be used as access/staging area for a loading dock. This dedicated ROW must be constructed with concrete, per City Standards. Provide Staff with a guarantee to ensure the construction of the dedicated ROW and its entrance onto either Cleveland or Indiana Avenues. These must be provided to Staff prior to the case going to WCC for final action.

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

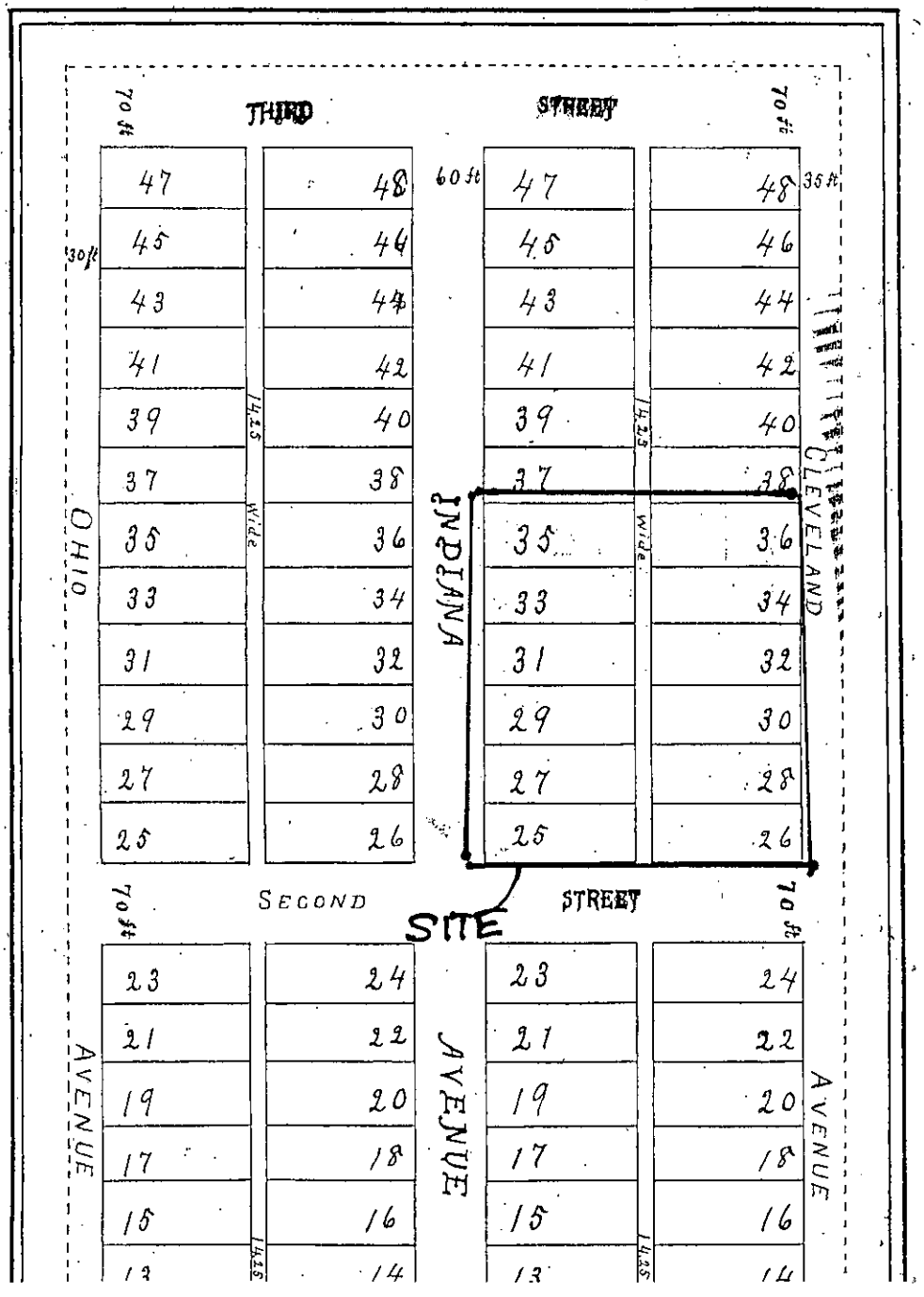
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(6) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick 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

M1-5-3

Mathewson's 3rd Addition to Wichita

VAC2006-38



Explanation.

All lots are 50 feet by 128 feet each. Streets and Alleys are indicated by figures on the plat.

I, O. Mulvey, Surveyor do hereby certify that I have surveyed and platted Mathewson's 3rd Addition to Wichita and that the accompanying map is a correct exhibit of said survey described as follows:-

Commencing at a point 640 feet South, and 661.5 feet East of the N.W. corner of N.E. 1/4 of section 21, T. 27 S, R. 1 E. of 6th P.M. Thence East 665.5 feet, thence South 1375 feet thence west 665.5 feet, thence North 1375 feet to place of beginning.

O. Mulvey
Surveyor

State of Kansas } ss.
Sedgwick County }

Know all men by these presents that I, Wm Mathewson, a single man, have caused the land described in the Surveyor's certificate above to be surveyed and platted into lots, Streets and alleys as shown on the accompanying plat, to be known as Mathewson's 3rd Addition to the City of Wichita, Kansas. The streets and alleys are hereby dedicated to and for the use of the public, and the lots as platted are intended for sale This 7th day of May 1886

Wm Mathewson. (Seal)

State of Kansas } ss.
County of Sedgwick }