CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

April 19, 2007

BF Owner LLC
150 N. Market
Wichita, KS 67202

Re: VAC2006-00043 - Request to vacate a portion of platted setbacks, generally located south of 21st Street North, on the northeast corner of the Rock Road – Bradley Fair Parkway intersection.

Dear Ladies and Gentlemen:

At its regular meeting on Tuesday, April 17, 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
PEC c/o Rob Hartman, 303 S. Topeka, Wichita, KS 67202
Bradley Fair One, LLC, c/o George Laham, 150 N. Market, Wichita, KS 67202
Bradley Fair One LLC, c/o The Gap Inc Real Estate, 40 First Plaza NW, Albuquerque, NM 77102
Bradley Fair One LLC, c/o Eddie Bauer, Inc., PO Box 97014, Redmond, WA 98073
Prom Motor Hotel Inc., c/o Outback Steakhouse, #1711, #500, 2202 N. Wstshore Blvd, Tampa, FL 33607
Bradley Fair B I LLC, c/o Chilis of Kansas, Inc., 6820 LBJ Freeway, Dallas TX 75240
Kellen Store Kompany LLC, P O Box 609, Andover, KS 67002
Big Sur Restaurant Inc., 14841 Dallas Parkway, Dallas, TX 75254
Clarks LTD, 2191 N. Rock Road, Wichita, KS 67206
Sundance Kansas Associates LLC, 3200 Sunset Avenue, Suite 202, Ocean, NJ 07712
Millstein Industries LLC, Cherry Creek Commons, Armbrust Road, Youngwood, PA 15697
KIR E Wichita, LP, 3333 New Hyde Park Road, Suite 1000, New Hyde Park, NY 11042
JHS Properties LTD, 2611 N. Wilderness Ct., Wichita, KS 67226

RECEIVED
APR 18 2007
METROPOLITAN PLANNING
ROUTE

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

IN THE MATTER OF THE VACATION OF PORTIONS OF PLATTED SETBACKS	)	
GENERALLY LOCATED SOUTH OF 21ST STREET NORTH, ON THE NORTHEAST CORNER OF ROCK ROAD AND BRADLEY FAIR PARKWAY	)	**Case No. VAC2006-00043**
MORE FULLY DESCRIBED BELOW	)	

VACATION ORDER

NOW on this 17th day of April, 2007 comes on for hearing the petition for vacation filed by BF Owner, L.L. C. praying for the vacation of the following described portions of platted setbacks, to-wit:

> The east 25-feet of the platted 50-foot setback, on the south 240-feet (parallel to Rock Road) and the north 10-feet of the platted 35-foot setback, on the west 210-feet (parallel to Bradley Fair Parkway) all on Lot 1, all in Block 1, the Bradley Fair 2nd 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 November 30, 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 portions of platted setbacks, and the public will suffer no loss or inconvenience thereby.

3. Retain all easements.

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 the platted setbacks described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 17th day of April 2007 ordered that the above-described portions of platted setbacks 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.

Carl Brewer Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary Rebenstorf, Director of Law

METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 3-1
December 21, 2006

STAFF REPORT

CASE NUMBER: **VAC2006-00043** Request to vacate portions of platted setbacks

APPLICANT/OWNER: BF Owner, L.L.C.

AGENT: PEC c/o Rob Hartman

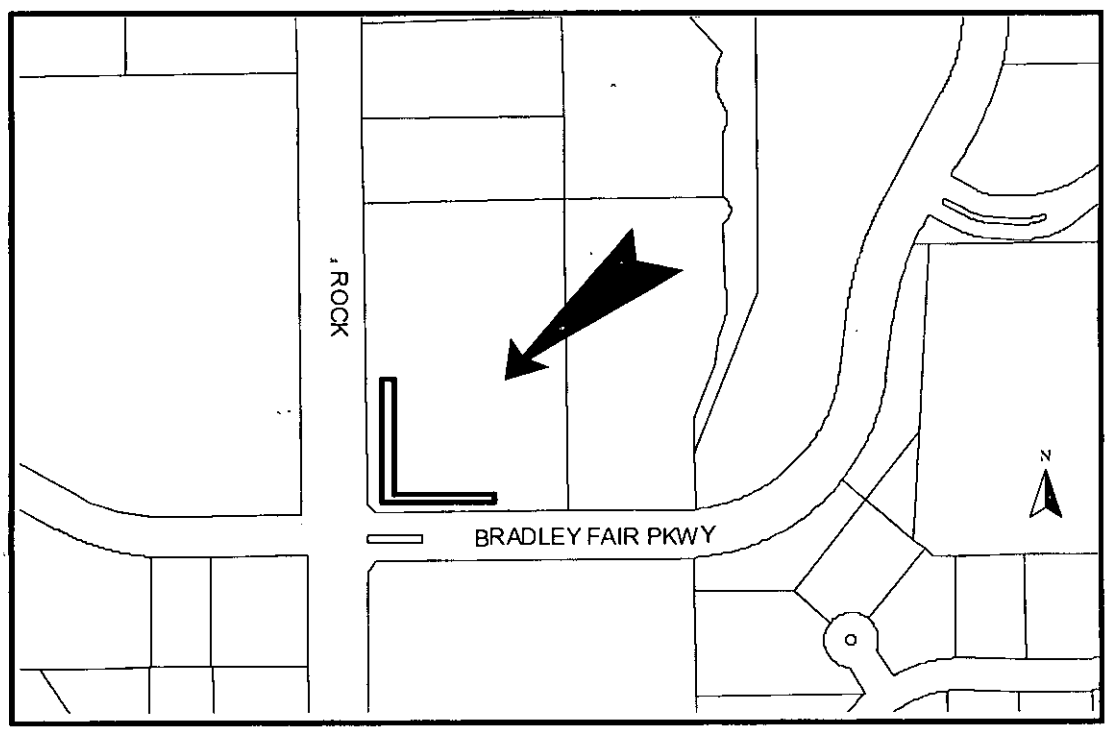
LEGAL DESCRIPTION: Generally described as the east 25-feet of a portion of the platted 50-foot setback that runs parallel to the west lot line of Lot 1 and Rock Road, and the north 10-feet of a portion of the platted 35-foot setback that runs parallel to the south lot line of Lot 1 and Bradley Fair Parkway, all in Block 1, the Bradley Fair 2nd Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located south of 21st Street North, on the northeast corner of Rock Road & Bradley Fair Parkway (WCC #II)

REASON FOR REQUEST: Additional room for redevelopment

CURRENT ZONING: Site, abutting eastern and northern properties and adjacent southern property are zoned "LC" Limited Commercial. These properties are all part of CUP DP-191. Adjacent western properties are zoned "MF-18" Multi-family Residential and "GO" General Office.

VICINITY MAP:



The applicant proposes to vacate 25-feet of a southern portion of the platted 50-foot setback which runs parallel to the site's Rock Road frontage and 10-feet of the platted 35-foot setback which runs parallel to the site's Bradley Fair Parkway frontage, all on Lot 1, Block 1, the Bradley Fair 2nd Addition, which is a key corner lot. This case is associated with CUP2006-50, DP-191, a proposed amendment, which will reduce the CUP's setbacks (which are these platted setbacks) to allow the expansion of the maximum building coverage and gross floor area on the site, referred to as Parcel 7. The Unified Zoning Code's (UZC's) minimum street side setback for a CUP is 35-feet. Per the UZC, the MAPC or the Governing Body may modify or waive the setback and lot coverage requirements as part of an amendment of the CUP, as directed in Art.III, Sec.III-2(d) of the UZC. This is the first requested reduction of the CUP's/platted setbacks that run parallel to the CUP's street frontage. The base zoning of the CUP is "LC." The UZC requires a minimum of a 10-foot street side yard setback (the Rock Road side) and 20-foot front yard setback (the Bradley Fair Parkway side). There are no platted easements, manholes or sewer line located in the described portion of the platted setback. There appears to be a water line in the described portion of the platted setback: the applicant must confirm that there is an easement dedicated by separate instrument (and give the film and page number of the recorded easement) that will remain in effect. Comments from franchised utilities have not been received and are needed to determine if they have utilities and easements in the described portion of the setbacks. The Bradley Fair 2nd Addition was recorded with the Register of Deeds June 10, 1996.

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 of the vacation of the described portions of the platted setbacks (from 50-feet to 25-feet and from 35-feet to 25-feet), 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, by publication in the Wichita Eagle of notice of this vacation proceeding one time November 30, 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 setbacks 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 setbacks, described in the petition should be approved with conditions;

(1) Prior to final action on the vacation request by the WCC, the proposed amendment, CUP2006-50, to CUP DP191 must be approved by the MAPC, after which the proposed vacation will proceed to the WCC with the approved amendment. The proposed vacation will reflect the same reduction of the

setbacks as the approved amendment to the CUP. If the proposed amendment to the CUP is denied the vacation request will be null and void. Provide Planning with a legal description of the approved vacated portions of the setbacks on a Word document via e-mail.

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

(3) All improvements shall be according to City standards and at the applicant's expense.

(4) 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:

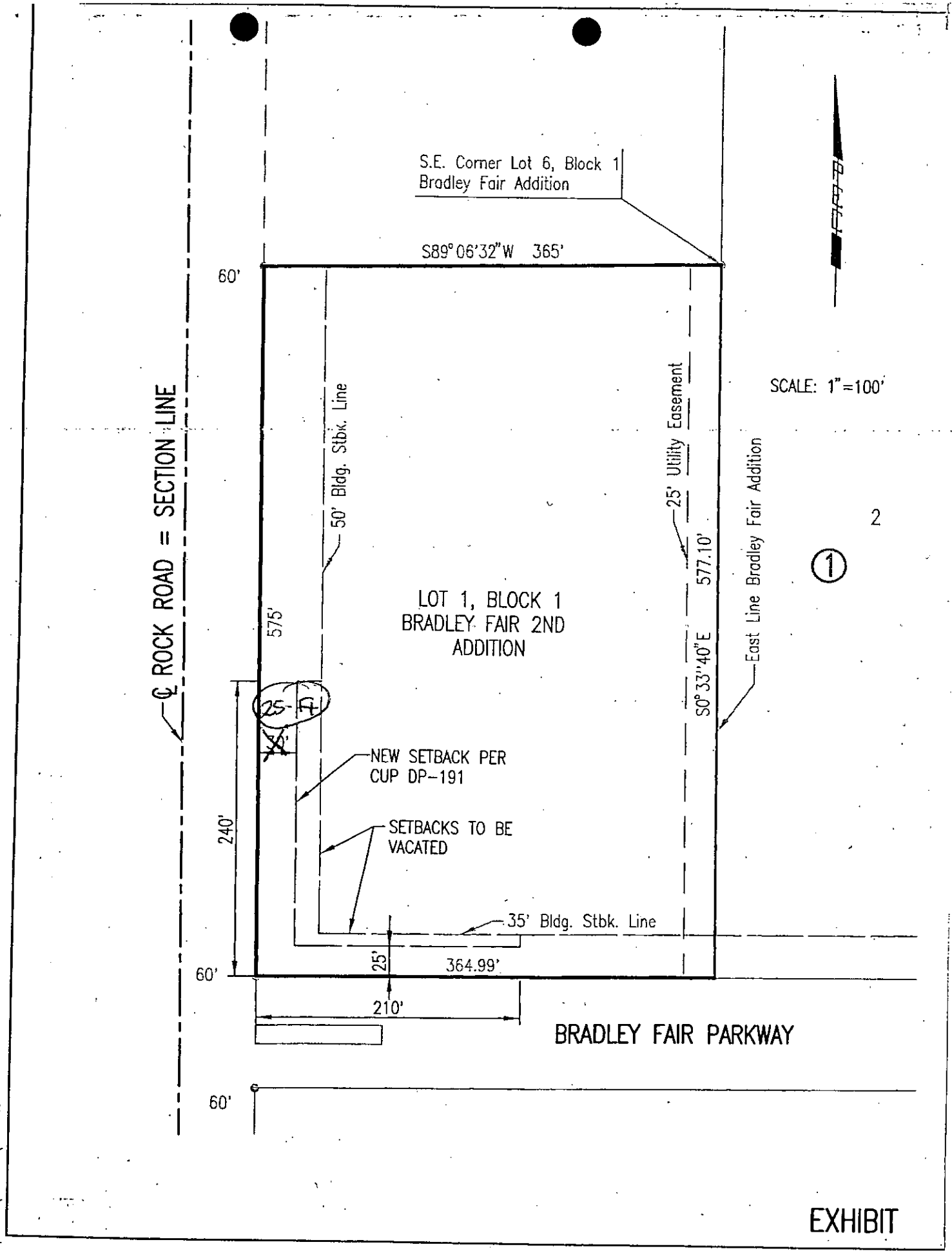
The Subdivision Committee recommends approval subject to the following conditions:

(1) Prior to final action on the vacation request by the WCC, the proposed amendment, CUP2006-50, to CUP DP191 must be approved by the MAPC, after which the proposed vacation will proceed to the WCC with the approved amendment. The proposed vacation will reflect the same reduction of the setbacks as the approved amendment to the CUP. If the proposed amendment to the CUP is denied the vacation request will be null and void. Provide Planning with a legal description of the approved vacated portions of the setbacks on a Word document via e-mail.

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

(3) All improvements shall be according to City standards and at the applicant's expense.

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