



**Wichita-Sedgwick County Metropolitan Area Planning Department**

March 22, 2007

Mennonite Housing  
2145 N. Topeka  
Wichita, KS 67214

Re: **VAC2006-00047** - Request to vacate a portion of platted public street right-of-way, generally located south of 27<sup>th</sup> street north, between Hillside Avenue & Chautauqua Street.

Dear Ladies & Gentlemen:

At its regular meeting on Tuesday, March 20, 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  
Andy Bias, 2145 N. Topeka, Wichita, KS 67214  
Calvary Baptist Church, 2653 N. Hillside, Wichita, KS 67219  
Calvary Baptist Church, 7600 E. 63<sup>rd</sup> St. S., Derby KS 67037  
Church of Living God, 2725 N. Hillside, Wichita, KS 67219

RECEIVED

MAR 27 2007

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 PLATTED STREET  
RIGHT-OF-WAY**

**GENERALLY LOCATED BETWEEN  
CHAUTAUQUA & LORRAINE AVENUES AND  
SOUTH OF 27<sup>TH</sup> STREET NORTH**

**Case No. VAC2006-00047**

**MORE FULLY DESCRIBED BELOW**

**VACATION ORDER**

NOW on this 20<sup>th</sup> day of March, 2007 comes on for hearing the petition for vacation filed by Mennonite Housing c/o Andrew L. Bias and Calvary Baptist Church c/o Dale Diggs Jr., praying for the vacation of the following described portion of platted street right-of-way, to-wit:

The 270-foot (x) 60-foot portion, except the east 25-feet, of the 26th Street North right-of-way, located between Chautauqua & Lorraine Avenues, as dedicated on the Agee - Hunter 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 January 11, 2007, 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 street right-of-way, and the public will suffer no loss or inconvenience thereby.

3. Retain two 20-foot wide (running east to west and back) (x) 60-foot long portions (running north to south from the Agee – Hunter Addition to the Calvary Baptist Addition and back) of the vacated street right-of-way as utility easements beginning (a) 125-feet east of the west lot line of Lot 5, Block 4, Agee Hunter Addition and continuing east for 20-feet and beginning (b) 25-feet west of the east lot line of Lot 6, Block 4, Agee Hunter Addition and continuing west for 20-feet. No fencing allowed in this east utility easement.

4. Dedicate by separate instrument 2-feet of additional utility easement that will run parallel to platted 16-foot utility easement located on the rear lot lines of Lots 4, 5, 6, 7, 8, 9, & 10, Block 4, Agee – Hunter Addition and the rear lot lines of Lots 1, 2, & 3, Block 2, Bruce Jones Addition.

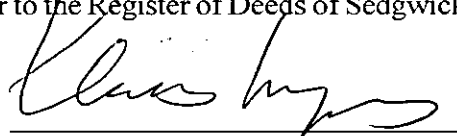
5. Provide Public Works with petitions for a water line and paving to service the proposed redevelopment of the properties from 26<sup>th</sup> to 27<sup>th</sup> Streets North and along Lorraine Avenue

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

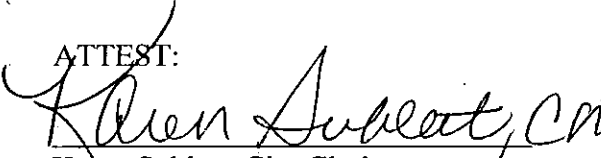
7. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.

8. The vacation of the portion of platted street right-of-way described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 20<sup>th</sup> day of March 2007 ordered that the above-described portion of platted street 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.

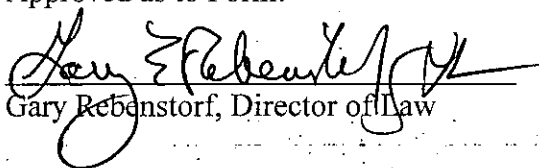
  
Carlos Mayans, Mayor

ATTEST:

  
Karen Sublett, City Clerk



Approved as to Form:

  
Gary Rebenstorf, Director of Law

STAFF REPORT

**CASE NUMBER:** VAC2006-00047 Request to vacate a portion of platted street right-of-way (ROW)

**APPLICANTS:** Mennonite Housing Calvary Baptist Church

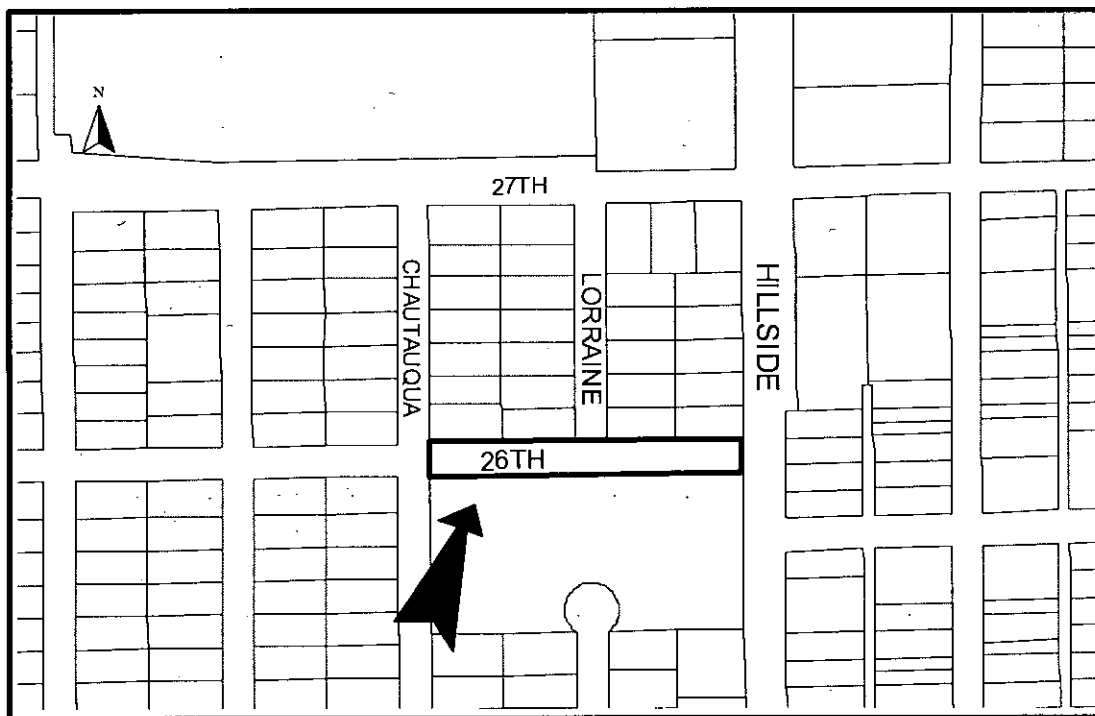
**LEGAL DESCRIPTION:** Generally described as the platted 60-foot wide undeveloped 26<sup>th</sup> Street North ROW as dedicated on the Agee - Hunter Addition, Wichita, Sedgwick County, Kansas

**LOCATION:** Generally located between Chautauqua & Hillside Avenues and south of 27<sup>th</sup> Street North (WCC II)

**REASON FOR REQUEST:** Revert to private property for redevelopment

**CURRENT ZONING:** The site is platted undeveloped public ROW. All abutting northern, & adjacent eastern & western properties are zoned "SF-5" Single-family Residential. The abutting southern property is zoned "B" Multi-family Residential.

**VICINITY MAP:**



The applicant is requesting vacation of the described platted undeveloped portion of 26<sup>th</sup> Street North. There are sewer lines and manholes in this portion of the ROW. Westar has utilities in this portion of 26<sup>th</sup>. There are no water lines in this portion of 26<sup>th</sup>. There are no platted setbacks that run parallel to the proposed vacated ROW. The owner of the property abutting the northeast portion of 26<sup>th</sup> has not signed the application or the petition to vacate: Church of the Living God, Lots 5 & 6, Block 3, Agee – Hunter Addition. Without this signature only half of the length of the ROW, from Chautauqua to Lorraine Avenues can be vacated. The Agee – Hunter Addition was recorded with the Register of Deeds June 2, 1954. The Calvary Baptist Addition, which was a replat of a portion of the Agee – Hunter Addition, was recorded with the Register of Deeds July 30, 1973.

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 26<sup>th</sup> Street North 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 January 11, 2007 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 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 26<sup>th</sup> Street North ROW described in the petition should be approved with conditions;

- (1) Provide staff with a restrictive covenant tying and binding the vacated ROW to the participating abutting, directly opposed northern and southern properties. Currently the participating abutting properties are Lots 5 & 6, Block 4, Agee – Hunter Addition (north side) and that portion of Lot 1, Calvary Baptist Addition, that is directly opposite (south side).
- (2) Retain that portion of ROW, or the entire ROW, as needed for utility easements: there is sewer line and manholes in the ROW and Westar has equipment in the ROW. Provide Planning Staff with a Public Works/Water & Sewer/franchised utilities approved legal description (on a Word document via E-Mail) of that portion of the vacated ROW needed as easement.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. If necessary provide a letter of credit, petition or whatever method Public Work's requires to ensure that utilities are relocated or reconstructed. If needed Provide Public Works/Storm Water with any necessary plans for review and approval of relocated sewer line and manholes. If needed retain the easements

until utilities have been relocated.

- (4) As needed provide Planning Staff with Public Works/Water & Sewer/franchised utilities approved original easements (to be sent with the Vacation Order to be recorded with the Register of Deeds) for any relocated public utilities.
- (5) All improvements shall be according to City Standards, including as needed cul-de-sacs and/or dedications of public access, as approved to prevent the creation of dead-end streets. Either continue the curb and gutter along Chautauqua Avenue unbroken, retain a portion (20-feet wide) 26<sup>th</sup> Street North as public ROW, or construct a private drive. Provide Public Works with a letter of credit, petition or whatever method Public Works requires to ensure the needed improvements.
- (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:

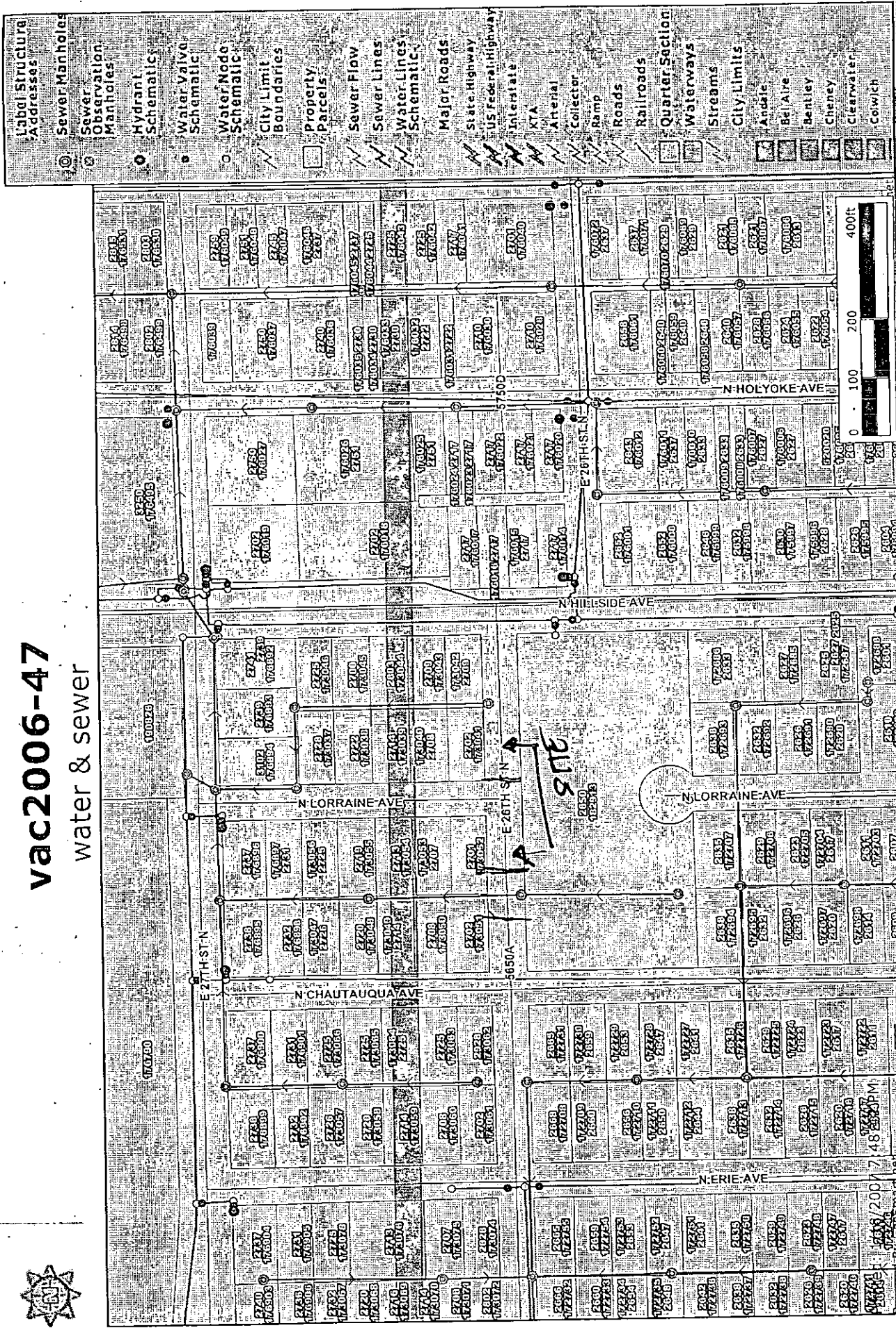
- (1) Provide staff with a restrictive covenant tying and binding the vacated ROW to the participating abutting, directly opposed northern and southern properties. Currently the participating abutting properties are Lots 5 & 6, Block 4, Agee – Hunter Addition (north side) and that portion of Lot 1, Calvary Baptist Addition, that is directly opposite (south side).
- (2) Retain that portion of ROW, or the entire ROW, as needed for utility easements: there is sewer line and manholes in the ROW and Westar has equipment in the ROW. Provide Planning Staff with a Public Works/Water & Sewer/franchised utilities approved legal description (on a Word document via E-Mail) of that portion of the vacated ROW needed as easement.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. If necessary provide a letter of credit, petition or whatever method Public Work's requires to ensure that utilities are relocated or reconstructed. If needed Provide Public Works/Storm Water with any necessary plans for review and approval of relocated sewer line and manholes. If needed retain the easements until utilities have been relocated.
- (4) As needed provide Planning Staff with Public Works/Water & Sewer/franchised utilities approved original easements (to be sent with the Vacation Order to be recorded with the Register of Deeds) for any relocated public utilities.

- (5) All improvements shall be according to City Standards, including as needed cul-de-sacs and/or dedications of public access, as approved to prevent the creation of dead-end streets. Either continue the curb and gutter along Chautauqua Avenue unbroken, retain a portion (20-foot wide) 26<sup>th</sup> Street North as public ROW, or construct a private drive. Provide Public Works with a letter of credit, petition or whatever method Public Works requires to ensure the needed improvements.
- (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.



# vac2006-47

## water & sewer



Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to change and are not guaranteed. The City of Wichita makes no warranty, representation, or guarantee as to the content, accuracy, timeliness, or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records maintained by the City of Wichita. The City of Wichita staff assumes no liability for any decisions made or actions taken, not taken, by the user of this information. The user should consult with the appropriate departmental staff member for a planning. **WICHITA**

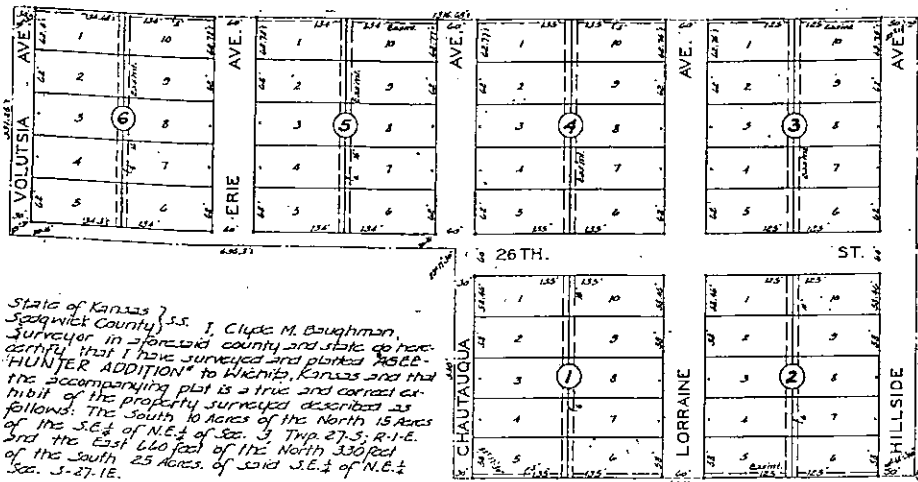
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BY: [signature]  
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A-2-8

# AGEE - HUNTER ADDITION

TO WICHITA, KANSAS.

C-11105-D  
C-11105-E



State of Kansas }  
Sedgewick County } ss. I, Clyde M. Boughman,  
Surveyor in a foreward county and state do hereby  
certify that I have surveyed and plotted AGEE-  
HUNTER ADDITION to Wichita, Kansas and that  
the accompanying plat is a true and correct ex-  
hibit of the property surveyed described as  
follows: The South 10 Acres of the North 15 Acres  
of the S.E. 1/4 of Sec. 3, Twp. 27-S, R-1-E,  
and the East 660 feet of the North 330 feet  
of the South 25 Acres of said S.E. 1/4 of N.E. 1/4  
Sec. 3-27-1E.

Clyde M. Boughman, Surveyor

Know all men by these presents  
that we, Delbert T. Agee and Christie M. Agee,  
his wife, and Jay R. Hunter and Vera A. Hunter,  
his wife, and Elta Russell Hunter, a widow,  
have caused the land described in the survey-  
ors certificate to be plotted into lots, blocks,  
streets and avenues to be known as AGEE-  
HUNTER ADDITION to Wichita, Kansas. Easements  
are hereby granted as indicated on the plat for  
the construction and maintenance of all public  
utilities, the streets and avenues are hereby de-  
clared to and for the use of the public.

Delbert T. Agee  
Christie M. Agee  
Jay R. Hunter  
Vera A. Hunter  
Elta Russell Hunter

State of Kansas }  
Sedgewick County } ss. Be it remembered that on  
this 13th day of June, 1934, before me  
a notary public in a foreward county and state  
came Delbert T. Agee and Christie M. Agee, his  
wife, and Jay R. Hunter and Vera A. Hunter, his  
wife, and Elta Russell Hunter, a widow, to me  
known to be the same persons who executed the  
foregoing instrument of writing and duly  
acknowledged the execution of the same as  
their voluntary act and deed. In testimony  
whereof I have hereunto set my hand and  
affixed my notarial seal the day and year  
above written.

Charles D. Jones Notary Public  
My Commission Expires June 11, 1935

This plat of AGEE-HUNTER  
ADDITION to Wichita, Kansas, has been sub-  
mitted to and considered by the City Planning  
Commission of Wichita, Kansas and is hereby  
transmitted to the Board of City Commissioners  
with the recommendation that such plat be  
approved as proposed. Dated this 13th day of  
June, 1934.

Thos. Bluff Chairman  
John H. Bluff Secretary

State of Kansas }  
Sedgewick County } ss. Be it remembered that on this  
13th day of June, 1934, before me a notary public in a foreward county and state came Delbert T. Agee and Christie M. Agee, his wife, and Jay R. Hunter and Vera A. Hunter, his wife, and Elta Russell Hunter, a widow, 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.

Charles D. Jones Notary Public  
My Commission Expires April 11, 1935

Approved by the Board of  
City Commissioners this 23rd day of May,  
1934.

Wm. C. Salame Mayor  
W. C. Salame City Clerk

Approved by the Board of  
County Commissioners this 22nd day of  
April, 1934.

Edw. F. Schmitt County Clerk

Entered on transfer record  
this 2nd day of June, 1934.

Edw. F. Schmitt County Clerk  
14-363

State of Kansas }  
Sedgewick County } ss. This is to certify that this  
plat was filed for record in the office of the  
Register of Deeds, this 2nd day of June,  
1934, at 2 o'clock P.M. and is duly re-  
corded.

T. H. Blumhardt Register of Deeds.

We, Monarch Inv. Co., holders  
of a certain mortgage on a portion of the above  
described property do hereby consent to the  
plat of AGEE-HUNTER ADDITION to Wichita,  
Kansas.

W. H. Pence President  
R. R. Monroe Secretary

State of Kansas }  
Sedgewick County } ss. Be it remembered that on this  
13th day of June, 1934, before me a notary public  
in a foreward county and state came Monarch  
Inv. Co., by W. H. Pence President  
and R. R. Monroe Secretary, to me  
known to be the same persons who executed the  
foregoing instrument of writing and duly acknow-  
ledged 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.

Charles D. Jones Notary Public  
My Commission Expires June 11, 1935

We, First Federal Savings & Loan Assn., holders of a  
mortgage on a portion of the above described property do hereby consent  
to the plat of AGEE-HUNTER ADDITION to Wichita, Kansas.

W. H. Pence President  
R. R. Monroe Secretary

VAC2006 47

