



FILE COPY

Wichita-Sedgwick County Metropolitan Area Planning Department

CORRECTION ON CITY COUNCIL HEARING DATE

May 23, 2007

Joe Konnesky
461 N. Brookside
Wichita, KS 67208

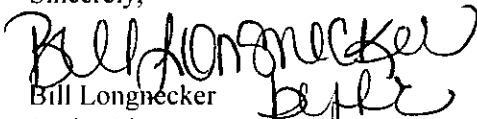
Re: **VAC2007-00009** - Request to vacate a portion of platted complete access control, generally located approximately 900-feet east of Edgemoor Avenue, on the southwest corner of Brookside Parkway & Central Avenue.

Dear Mr. Konnesky:

At its regular meeting on Tuesday, May 22, 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
Neal Dornbusch & Lucy Dome, 4610 Meadowlark, Wichita, KS 67216
J Jerald Branson Trust, P.O. Box 782318, Wichita, KS 67278
Central Plains Development LLC, 6126 E. Rockwood, Wichita, KS 67208
Joseph P. Konnesky Jr Trust, 461 N. Brookside, Wichita, KS 67208
Stephen D. & Patricia Diane Gordon, 243 N. Pinecrest, Wichita, KS 67208
La Verne N. Lambertz, 812 N. Waco, Wichita, KS 67203
G. Allen Fitzner, 2728 Driftwood, Wichita, KS 67204
Mary Catherine Farney, Revocable Trust, c/o James D. & Lucia M. Biehler, 12914 W. Alderny, Wichita, KS 67235
Bradley S. Smith, 5731 E. Central, Wichita, KS 67208
Philip M. & Carina P. Michel, 6903 E. Aberdeen, Wichita, KS 67206

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

**IN THE MATTER OF THE VACATION OF)
A PORTION OF PLATTED COMPLETE ACCESS)
CONTROL)**

**GENERALLY LOCATED)
APPROXIMATELY 900-FEET EAST OF)
EDGEMOOR DRIVE, ON THE SOUTHWEST)
CORNER OF CENTRAL AVENUE AND)
BROOKSIDE PARKWAY)**

Case No. VAC2007-00009

MORE FULLY DESCRIBED BELOW

VACATION ORDER

NOW on this 22nd day of May, 2007 comes on for hearing the petition for vacation filed by Joseph P. Konnesky, Steven D Gordon and Patricia Diane Gordon praying for the vacation of the following described portion of platted complete access control, to-wit:

The area occupied by the existing 24-foot wide drive onto Central Avenue, from Lot 2, Atkisson Addition, Wichita, Sedgwick County, Kansas, that begins approximately 60-feet west of the Brookside Parkway right-of-way.

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 March 29, 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 complete access control, and the public will suffer no loss or inconvenience thereby.

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

4. 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.

5. The vacation of the portion of platted complete access control described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 22nd day of May 2007 ordered that the above-described portion of platted complete access control 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.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary Rebenstorf, Director of Law

STAFF REPORT

CASE NUMBER: VAC2007-00009 Request to vacate a portion of platted complete access control

OWNER/APPLICANT: Kitchen Design, Inc., c/o Joseph P Konnesky

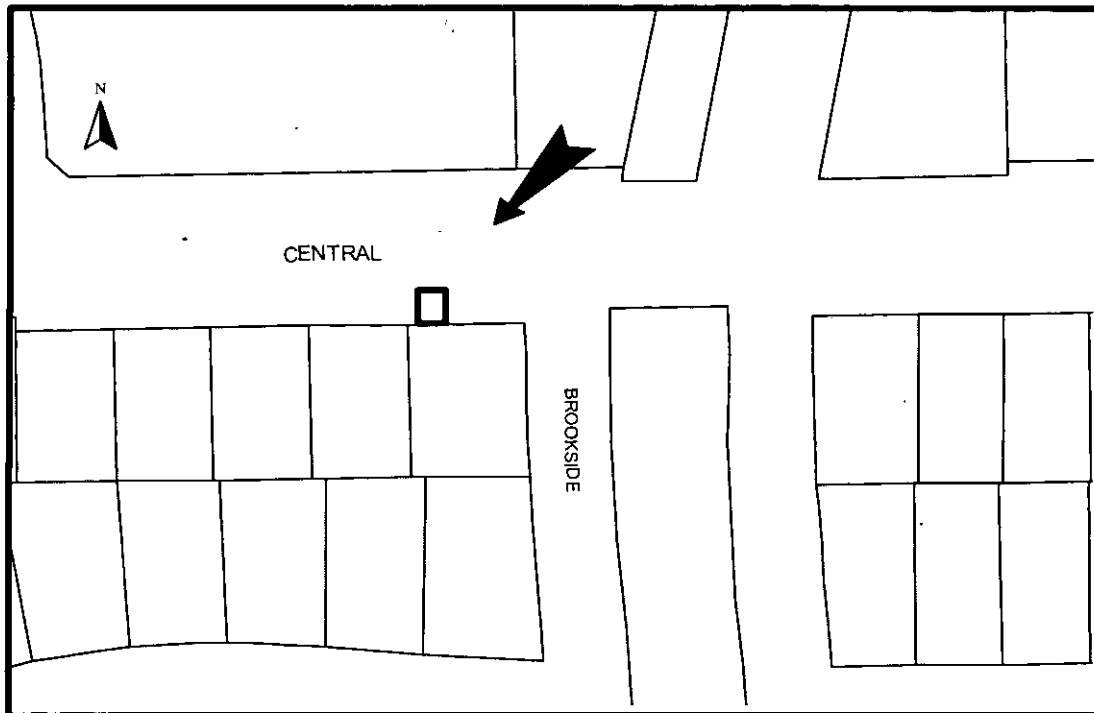
LEGAL DESCRIPTION: Generally described as the existing 24-foot wide drive onto Central, located along the west side of Lot 2 (minus the west 70-feet of Lot 2), Atkisson Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located approximately 900-feet east of Edgemoor Drive, on the southwest corner of Central Avenue and Brookside Parkway (District #11)

REASON FOR REQUEST: Wants to keep existing drive

CURRENT ZONING: The site, adjacent eastern and abutting western properties are zoned "GO" General Office. Abutting southern properties are zoned "SF-5" Single-family Residential. Adjacent northern properties are zoned "LC" Limited Commercial.

VICINITY MAP:



The applicant has applied for vacation of complete access control along the site's Central frontage. The applicant, Kitchen Design, wants to keep a driveway that originally served what was a single-family residence, prior to the rezoning and replatting of the site. Z-2805 and Z-2804 (Published 6-30-88: see NOTE) rezoned Lots 5, 6, 7, 8 and 9 (the site's original legal), Block 4, Oakwood Estates from "AA" One Family Residential to "BB" Office ("GO" General Office), contingent on replatting within 1-year, with conditions and a restrictive covenant, COV#3. A condition of the replatting was the grouping of these residential lots into larger and fewer lots, with consideration of joint access and circulation to rear parking lots. The replatting resulted in the Atkisson Addition being recorded with the Register of Deeds June 16, 1988. The Atkisson Addition consists of Lots 1 & 2 (the site's current legal), containing the original five single-family residences/lots, of which only one remains residential. The Atkisson Addition shows complete access control on Lot 2's Central frontage, except for shared access located between Lots 1 & 2, which does not include the applicants' existing drive: 30' (x) 70' shared ingress/egress dedicated by separate instrument, Film 966, Page 679.

Besides the drive onto Central that the applicant wants to keep, the applicant also has a drive onto Brookside Parkway. The Brookside drive is located on the applicant's east property line and is connected to the applicant's Central drive as well as the neighboring business' Central drive by a 'common' front yard parking area. The neighboring business' Central drive is mostly located in the shared ingress/egress shown on the Atkisson Addition plat. The rest of this drive is located on the east side of Lot 1, which, at this location has the lone remaining residence in this subdivision. Public Works is currently making improvements on Central Avenue, at this location, and is in the process of bringing businesses located in the Atkisson Addition into compliance with the requested zoning and required replatting. This process has been complicated by the fact that redevelopment of the single-family residences into office or neighborhood retail businesses has been slow and uneven. Cooperation among neighbors/owners in the development of their individual businesses has been uncertain, perhaps because of lack of understanding the zoning and platting conditions on their business site. 19 years after the rezoning and replatting of the 20 business sites, 8 of them remain residential, breaking up any continuous, shared redevelopment of the businesses.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from Public Works, the Traffic Engineer, franchised utility representatives and other interested parties, Planning Staff recommends approval of the requested vacation of complete access control, based on the following findings:

- 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 March 29, 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 complete access control and the platted wall easement 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 a portion of the platted complete access control described in the petition should be approved with conditions;

- (1) Obtain the signatures of the owner of the west half of Lot 2, Atkisson Addition, before the vacation request proceeds to Council for final action
- (2) Any relocation or reconstruction of utilities made necessary by the vacation shall be the responsibility and at the expense of the applicant.
- (3) All improvements shall be to the City's standards and at the owner'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;

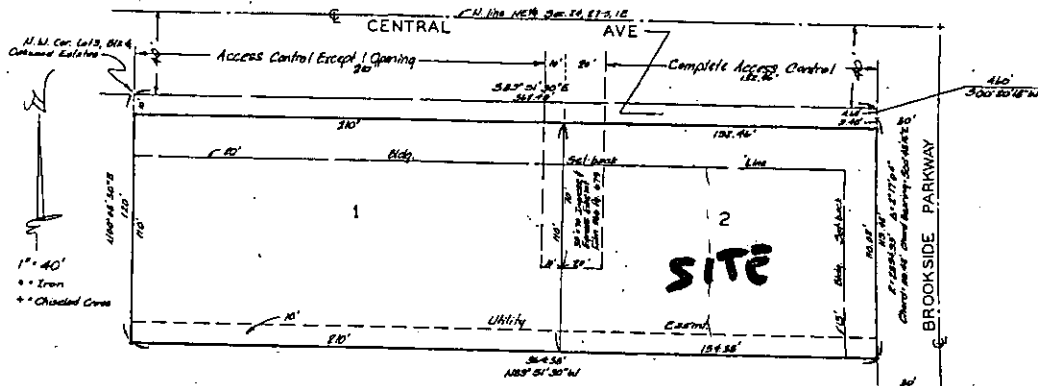
- (1) Obtain the signatures of the owner of the west half of Lot 2, Atkisson Addition, before the vacation request proceeds to Council for final action
- (2) Any relocation or reconstruction of utilities made necessary by the vacation shall be the responsibility and at the expense of the applicant.
- (3) All improvements shall be to the City's standards and at the owner'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.

WICHITA, KANSAS

UAC 2007-09



E 2-35



We, the undersigned, holders of a mortgage on portions of the above described property do hereby consent to the plat of "ATRISSON ADDITION," Wichita, Kansas.

Continental Illinois National Bank and Trust

Bill Smith President
Fidelity Savings Assoc.

Mid Kansas Federal Savings and Loan Association of Wichita, Inc.

Mark L. Hager Sr. Vice Pres.

First National Bank of Wichita

Paul J. Johnson VICE PRESIDENT

Imperial Savings

Olivia L. Van Horn ASST. VICE PRESIDENT

State of Kansas, Sedgewick County, ss. We, Baughman Company, P.A., Surveyors in aforesaid county and state do hereby certify that we have surveyed and platted "ATRISSON ADDITION," Wichita, Kansas, and that the accompanying plat is a true and correct exhibit of the property surveyed, described as and being a replat of Lots 5, 6, 7, 8 and 9, Block 4, Oakwood Estates to Wichita, Kansas. Easements and building setback lines being vacated by virtue of K.S.A. 12-512(b). Being situated in the NE 1/4 of Sec. 24, Twp 27-S, R-1-E of the 6th P.M., Sedgewick County, Kansas.

4/4/1988
Date

Baughman Company, P.A.



Gregory F. Keating Surveyor

This plat of "ATRISSON ADDITION," Wichita, Kansas, has been submitted to and approved by the Wichita-Sedgewick County Metropolitan Area Planning Commission, Wichita, Kansas.
Dated this 17th day of March, 1988
Wichita-Sedgewick County Metropolitan Area Planning Commission

Ellen Parsons Chairman
Morris Skrent Secretary

This plat approved and all dedications shown hereon accepted by the City Council of the City of Wichita, Kansas; this 21st day of May, 1988



Sharon Kammer Ms. or
Dale E. Propp City Clerk

Entered on transfer record this 16th day of June, 1988

Ronald H. Miller County Clerk

Know all men by these presents that we, the undersigned, have caused the land described in the surveyors certificate to be platted into lots and street to be known as "ATRISSON ADDITION," Wichita, Kansas. The utility easement is hereby granted as indicated for the construction and maintenance of all public utilities. The street is hereby dedicated to and for the use of the public. All abutters rights of access to or from Central Ave, over and across the west 200 feet of the north line of Lot 1, and over and across the east 132.46 feet of the north line of Lot 2 are hereby granted to the City of Wichita, provided however that the west 200 feet of Lot 1 shall have access to Central Ave, at one opening as shall be determined by the City Engineer of Wichita, Kansas.

Mark A. Werbin *Bridget Werbin*

JoAnne Butler

James D. Atkinson, Jr.

Gorges Enterprises, a general partnership of

Mark F. Gorges Partner

State of Kansas, Sedgewick County, ss. The foregoing instrument acknowledged before me this 12th day of April, 1988, by Mark A. Werbin and Bridget Werbin, his wife, Don L. Butler and JoAnne Butler, his wife, James D. Atkinson, Jr., single person, and Mark F. Gorges, partner of Gorges Enterprises a general partnership.

State of Kansas, Sedgewick County, ss. This is to certify that this plat has been filed for record in the office of the Register of Deeds this 17th day of JUNE, 1988 at 9:00 o'clock A.M. and is duly recorded.

Pat Butler Register of Deeds

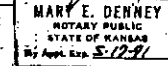
Ed Reed Deputy

953192

State of Kansas, Sedgewick County, ss. The foregoing instrument was acknowledged before me this 11th day of April, 1988, by Mark A. Werbin and Bridget Werbin, his wife, Don L. Butler and JoAnne Butler, his wife, James D. Atkinson, Jr., single person, and Mark F. Gorges, partner of Gorges Enterprises a general partnership.

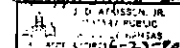
State of Kansas, Sedgewick County, ss. The foregoing instrument acknowledged before me this 11th day of April, 1988, by Bill Smith, President of Continental Illinois National Bank and Trust, on behalf of the bank, Fidelity Savings Assoc., servicing.

Mary E. Denney Notary Public



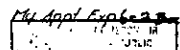
State of Kansas, Sedgewick County, ss. The foregoing instrument acknowledged before me this 11th day of April, 1988, by Mark A. Werbin, Sr. Vice Pres. of Mid Kansas Federal Savings and Loan Association of Wichita, Inc., on behalf of the corporation.

J. D. Atkinson, Jr. Notary Public



State of Kansas, Sedgewick County, ss. The foregoing instrument acknowledged before me this 11th day of April, 1988, by Dale E. Propp, City Clerk of First National Bank of Wichita, on behalf of the bank.

J. D. Atkinson, Jr. Notary Public



State of Kansas, Sedgewick County, ss. The foregoing instrument acknowledged before me this 25th day of April, 1988, by Olivia L. Van Horn, Asst. Vice Pres. of Imperial Savings.

Judith L. Brun Notary Public

My Appl. Exp. 1-1-92

