CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

November 18, 2008

Phomma Chounramany
4400 Hemlock
Wichita, KS 67216

Re: **VAC2008-00027** - County vacation request to vacate a portion of a platted setback, generally located west of K-15, north of 47th Street South, southeast of the Sunview Avenue - Juniper Place intersection, on the north side of Hemlock Avenue.

Dear Ladies and Gentlemen:

At its regular meeting on Tuesday, November 4, 2008, the Wichita City Council considered the request. The action of the City Council was to APPROVE subject to the recommendation by the MAPC.

At its regular meeting on Wednesday, November 12, 2008, the Board of County Commission considered request. The action of the Board of County Commissioners 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

Sedgwick County
Register of Deeds - Bill Meek
DOC.#/FLM-PG: 29019238
Receipt #: 1702983
Pages Recorded: 2
Cashier Initials: SL
Recording Fee: 0.00
Authorized By:
Date Recorded: 11/7/2008 2:19:17 PM

CITY CLERK'S ORIGINAL
RETURN TO CITY CLERK

Approved / Accepted By City Council
This 11-4-08

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

IN THE MATTER OF THE VACATION OF OF A PLATTED SETBACK	)	
GENERALLY LOCATED APPROXIMATELY 1/2-MILE NORTH OF 47TH STREET SOUTH, WEST OF K-15, SOUTHEAST OF THE SUNVIEW AVENUE – JUNIPER PLACE INTERSECTION, ON THE NORTH SIDE OF HEMLOCK AVENUE, SEDGWICK COUNTY, KANSAS	)	**CASE NO. VAC2008-00027**
MORE FULLY DESCRIBED BELOW	)	

VACATION ORDER

NOW on this 4th day of November, 2008 comes on for hearing the petition for vacation filed by Phomma Chounramany praying for the vacation of the following described platted front yard setback, to-wit:

The platted 20-foot front yard setback, located on Lot 49, Block 30, Oaklawn Subdivision in Sedgwick County, Kansas will be replaced with a 20-foot non platted setback; the zoning of the subject site is SF-5 Single-family Residential ("SF-5"). The Wichita- Sedgwick County Unified Zoning Code requires a minimum 25-foot front yard setback in the SF-5 zoning district. If this was not a platted setback the applicant could have applied for an Administrative Adjustment, which would reduce the SF-5 zoning district's 25-foot front yard setback by 20% or five feet, resulting in a 20-foot setback, which is the site's platted front setback. The requested vacation can only replace the platted setback with a 20-foot created by the Vacation Order.

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 and Derby Reporter on September 4th, 2008, 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 platted front yard setback, 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 platted front yard setback described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 4th day of November 2008 ordered that the above described platted front yard 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.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, Director of Law

State of Kansas)
Sedgwick County)
City of Wichita)

I, Karen Sublett City Clerk of the City of Wichita, Kansas, hereby certify that the document to which this is affixed is a true and correct copy of the original on file in the office of the City Clerk.
Given under my hand and seal of the City of Wichita, Kansas this 4th day of November, 2008

City Clerk

METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 3-2
SEPTEMBER 25, 2008

STAFF REPORT

CASE NUMBER: **VAC 2008-27:** Request to Vacate a Portion of a Platted Building Setback

APPLICANT/OWNER: Phomma Chounramany

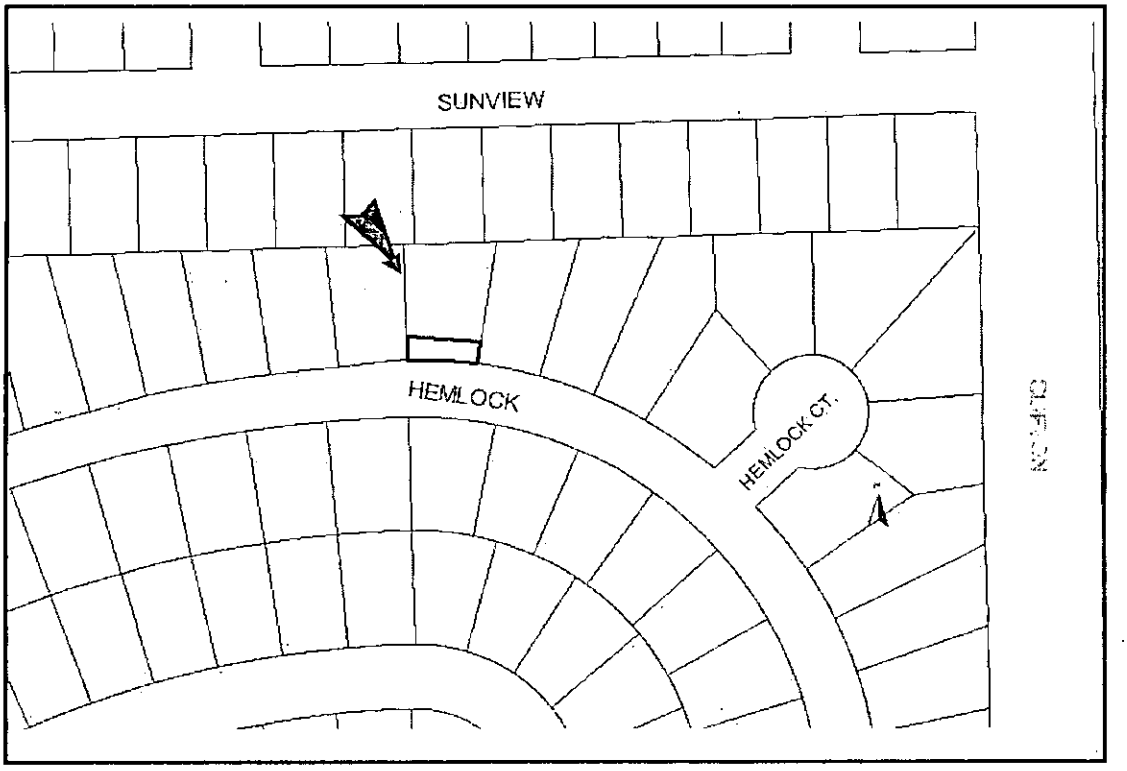
LEGAL DESCRIPTION: Lot 49, Block 30, Oaklawn Subdivision in Sedgwick County, Kansas

LOCATION: Generally located north of 47th Street South, west of K-42 and on the north side of Juniper Avenue (BoCC #V)

REASON FOR REQUEST: Existing encroachment into setback

CURRENT ZONING: Site and all abutting and adjacent northern, eastern and western properties are zoned SF-5 Single-family Residential ("SF-5").

VICINITY MAP:



There is a portion of the primary residence encroaching 6 feet into the platted 20-foot front setback. The zoning of the subject site is SF-5. The Unified Zoning Code (UZC) requires a minimum of a 25-foot front yard setback for the SF-5 zoning district. If this was not a platted setback the applicant could have applied for an Administrative Adjustment, which would reduce the SF-5 zoning district's 25-foot front yard setback by 20% or five feet, resulting in a 20-foot setback, which is the site's platted front setback. The requested vacation can only reduce the platted setback to 20 feet. Further reduction of the setback would require a variance. The applicant has filed a request for a variance from the Board of Zoning Appeals for a 14-foot building setback (BZA2008-29). There are no utilities within the described portion of the platted setback. The Oaklawn Subdivision was recorded with the Register of Deeds on December 5, 1951.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from County Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval of the vacation of the described portion of the platted setback 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 and the Derby Reporter, of notice of this vacation proceeding one time September 4, 2008, 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 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 platted setback described in the petition should be approved with conditions;

(1) The requested vacation will only remove the platted 20-foot front setback and re-establish it as a non platted 20-foot front setback; The Unified Zoning Code (UZC) requires a minimum of a 25-foot front yard setback for the SF-5 zoning district. If this was not a platted setback the applicant could have applied for an Administrative Adjustment, which would reduce the SF-5 zoning district's 25-foot front yard setback by 20% or five feet, resulting in a 20-foot setback. Further reduction of this 20-foot non platted front setback is contingent upon approval of BZA2008-29, which could result in a 14-foot front setback.

(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 County standards and at the applicant's expense.

(4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests 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) The requested vacation will only remove the platted 20-foot front setback and re-establish it as a non platted 20-foot front setback; The Unified Zoning Code (UZC) requires a minimum of a 25-foot front yard setback for the SF-5 zoning district. If this was not a platted setback the applicant

could have applied for an Administrative Adjustment, which would reduce the SF-5 zoning district's 25-foot front yard setback by 20% or five feet, resulting in a 20-foot setback. Further reduction of this 20-foot non platted front setback is contingent upon approval of BZA2008-29, which could result in a 14-foot front setback.

(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 County standards and at the applicant's expense.

(4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests 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.

VAC 2008-27

LOT 49

1574-2 of 10-57

S. W. 1/4 SEC. 14 TWP. 28S

PART OF SUNVIEW HEIGHTS SUBDIVISION

JUNIPER PLACE

JUNIPER AVE.

CEDARDALE AVE.

WILLOW WAY

HEMLOCK CT.

HEMLOCK AVE.

MEADOWVIEW DRIVE

ELMHURST DRIVE

JADE

CHESTNUT

COUNTY ROAD 825 1/2 - U - DATED 6-5-58

R/W Film 715 Pg. 486

K-15 CONDEMNATION CASE A-29960

STATE HIGHWAY

A.T.&S.F. R.R.

KEELER PART 2

KEELER PART 3

INDUSTRIAL TRACTS 4 OF 5

TRACTS 6

OPPORTUNITY CENTER ADD.

RI-214-1