

**STAFF REPORT**

- CASE NUMBER:** VAC2021-00044 - City request to vacate the remaining portions of a platted street side yard setback and a street side yard setback established by Vacation Ordinance on LI Limited Industrial zoned property; a reprocessing of VAC2021-00013
- APPLICANT/AGENT:** Harper Trucks, Inc. (applicant) Phillip G Ruffin (owner) Young & Associates, PA (agent)
- LEGAL DESCRIPTION:** Generally described as vacating the remaining portions of the platted 35-foot street side yard setback and the 34-foot street side yard setback, established by Vacation Ordinance, both running parallel to South West Street, on Lot 1, Townsend Addition, Wichita, Sedgwick County, Kansas
- LOCATION:** Generally located on the northwest corner of South West Street and West Harry Street (1551 & 1501 South West Street, WCC #IV)
- REASON FOR REQUEST:** Correcting previous legal description
- CURRENT ZONING:** The site and all abutting and adjacent properties are zoned LI Limited Industrial.
- VICINITY MAP:**



The applicant proposes to vacate the remaining portions of the platted 35-foot street side yard setback and the 34-foot street side yard setback established by V-1151, Vacation Order 38-067. Both street side yard setbacks are located on the east side of Lot 1, Townsend Addition and run parallel to the abutting South West Street. The remaining portion of those setbacks is approximately 80.2-feet long. If approved this vacation would result in all of the subject corner property's street side yard setback that runs parallel to South West Street to zero feet. This request is a reprocessing of VAC2021-00013, which vacated all but the current remaining 80.2-feet (long) of the platted 35-foot street side yard setback and the 34-foot street side yard setback established by V-1151, Vacation Order 38-067. VAC2021-00013 was approved by the MAPC April 22, 2021 and the Wichita City Council June 22, 2021.

NOTE: Below are 'notes' from the April 22, 2021 MAPC report for VAC2021-00013.

'The applicant proposes to vacate all of the platted 35-foot setback located on the east side of the LI Limited Industrial zoned properties Lot 1, Sanderson Addition and the north portion of Lot 1, Townsend Addition and all of the 34-foot setback located on south portion of Lot 1, Townsend Addition, all which runs parallel to South West Street. V-1151, Vacation Ordinance 38-067, vacated the west one foot of the platted 35-foot located on Lot 1, Townsend Addition, thus establishing the current 34-foot street side yard setback; recorded August 11, 1983. The South West Street frontage of the two lots (subject site) is 580.9 feet. The subject site also has 290 feet of frontage on West Monroe Street (north side) and 290 feet of frontage on West Harry Street (south side).

The applicant's business occupies both of the described properties which establishes it as a corner lot; Unified Zoning Code, UZC, Sec.II-B, 7f. The UZC establishes a corner lot's front yard setback along its shorter street frontage, in this case either West Monroe or West Harry Streets; Sec.III, E.1e.6. The LI zoning district provides a 20-foot front yard setback and zero rear, side and street side yard setbacks. Per this definition the subject site's street side yard setback is located along its South West Street frontage. As previously noted this is the setback the applicant proposes to vacate.'

The current applicants are the same applicants for VAC2021-00013. Conditions on the subject site have not changed; the applicant still proposes to expand an existing building. The Townsend Addition was recorded with the Register of Deeds March 22, 1967.

There are no public utilities located within the described street side yard setbacks. Franchised utilities have no equipment in the described street side yard setbacks. Evergy has lines in the South West Street right-of-way, which are protected by Conditions #2 and #3. Contact information for Evergy is Ennidh Garcia at 316-261-6334. All utilities are covered by Conditions #2 and #3.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from Public Works, Storm Water, Water and Sewer, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described street side yard setbacks.

- 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 28, 2021, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by vacating the described portions of the platted street side yard setback and the street side yard setback established by Vacation Ordinance, and that the public will suffer no loss or inconvenience thereby.

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

Conditions (but not limited to) associated with the request:

- (1) Vacate all of the described portions of the platted 35-foot street side yard setback and the 34-foot street side yard setback established by Vacation Ordinance 38-06, all located on Lot 1, Townsend Addition and as described in an approved legal description. Provide Planning with the approved legal description on a Word document via E-mail for use on the Vacation Order. This must be completed prior to the case going to City Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Approval of plans for the relocation of any and all utilities by Public Works and/or franchised utilities must be completed prior to the case going to City Council for final action. Provide Planning with letters of approval or E-mails of approval. All improvements shall be according to City Standards and will be at the applicant's expense.
- (3) Provide Planning with any needed easements with original signatures to be recorded with the Vacation Order at the Register of Deeds. These documents must be provided to planning prior to the case going to City Council for final action
- (4) Per MAPC Policy Statement #7, all conditions shall 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 Sedgwick County Register of Deeds.

#### **SUBDIVISION COMMITTEE'S RECOMMENDED ACTION**

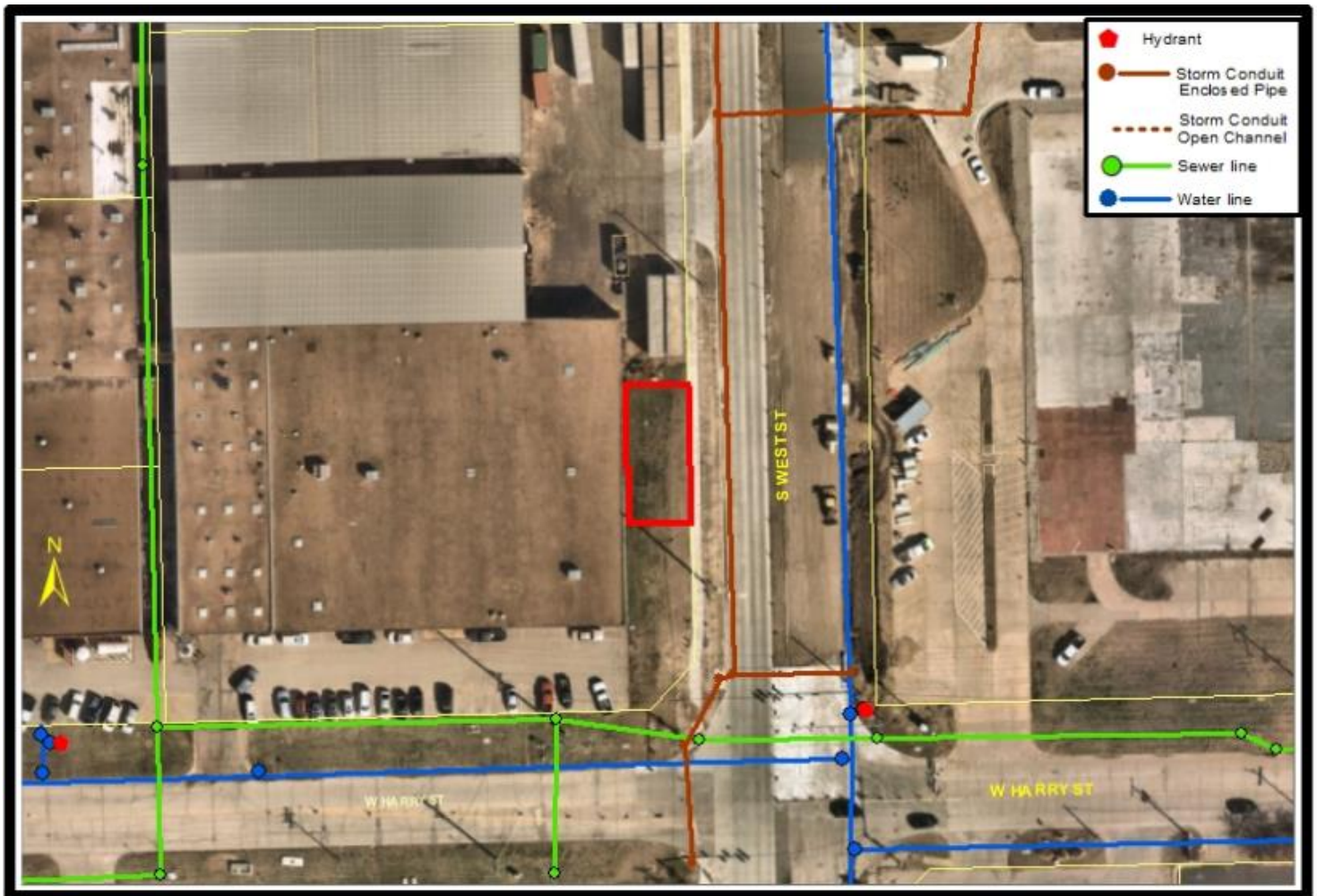
The Subdivision Committee recommends approval subject to the following (but not limited to) conditions:

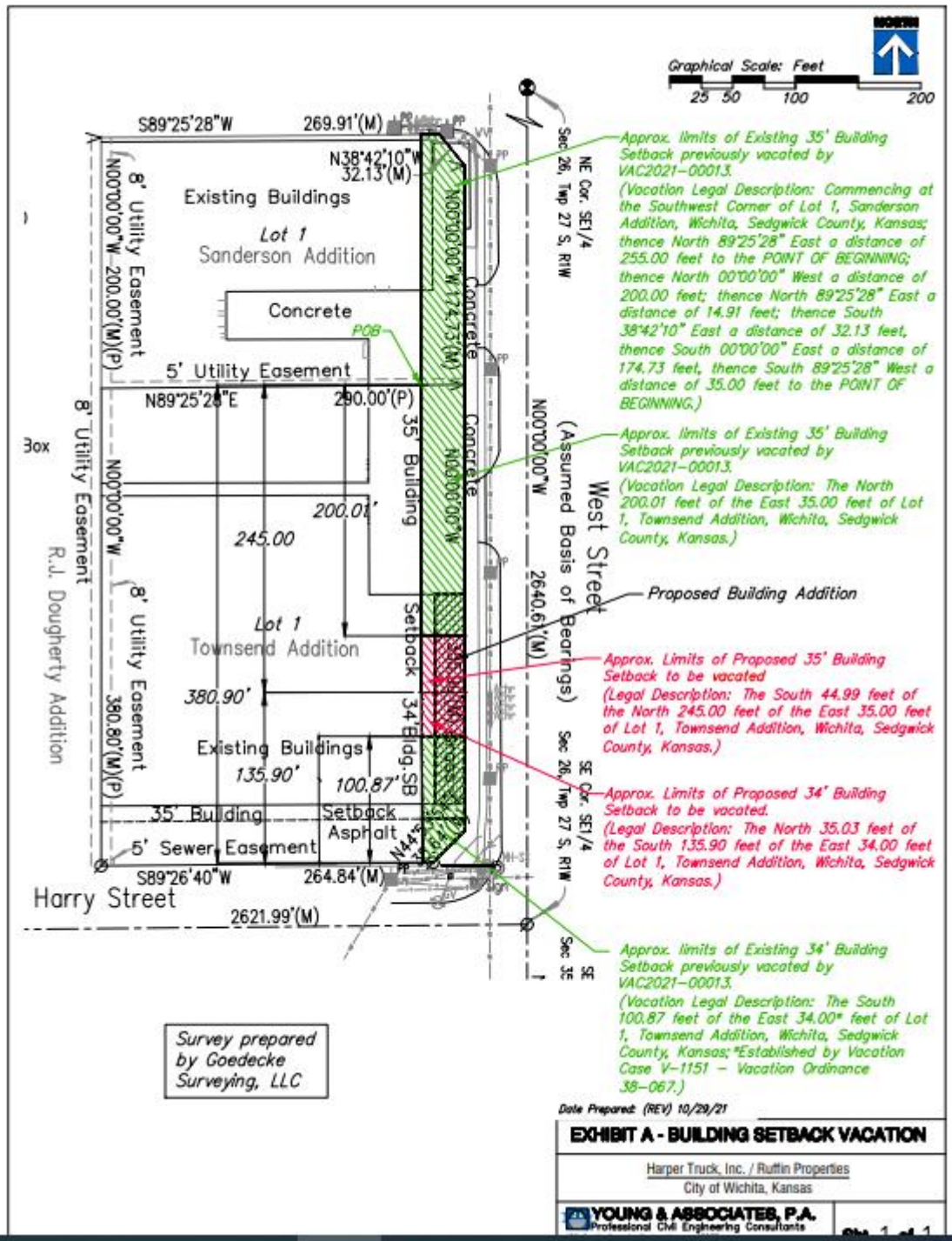
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and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Sedgwick County Register of Deeds.

Attachments:

- Aerial with public water, sewer & storm water
- Site Plan
- Legal description





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Building Setback Vacation Corrected Descriptions (Rev. 11/02/2021)

The South 44.99 feet of the North 245.00 feet of the East 35.00 feet of Lot 1, Townsend Addition, Wichita, Sedgwick County, Kansas

And

The North 35.03 feet of the South 135.90 feet of the \*East 34.00 feet of Lot 1, Townsend Addition, Wichita, Sedgwick County, Kansas;  
\*Established by Vacation Case V-1151 – Vacation Ordinance 38-067