

I N T E R O F F I C E M E M O R A N D U M

Printed by: Betty Morgan
Date: 23-Jun-1993 02:58pm CDT
From: Dale Miller
MILLER_D
Dept: Planning
Tel No:

TO: Betty Morgan

(MORGAN_BJ)

Subject: Yellow Frieght

Could you (Vicki H.) attend a meeting tomorrow at 10:00 with a representative of Yellow Freight? He is arriving from K.C. with what I consider to be a bad attitude. He doesn't understand: why he has to plat; why he should improve any of the streets; why he is being asked to carry a petition, and why he has so little time to respond to staff's comments. I tried to answer these questions over the phone, but he seems to think he needs a face to face meeting.

SUBDIVISION COMMITTEE
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 7

June 24 1993

STAFF REPORT
(Final Plat)

CASE NUMBER: S/D 93-37 - YELLOW FREIGHT ADDITION

OWNER/APPLICANT: Yellow Freight Systems, Inc., 10990 Roe Avenue, Overland Park, KS 66211

SURVEYOR/ENGINEER: Babar M. Khan, R.L.S., Municipal Engineers, 254 Laura - Suite 201, Wichita, KS 67211

LOCATION: West of Hydraulic and north of 49th Street South

SITE SIZE: 7.5 Acres

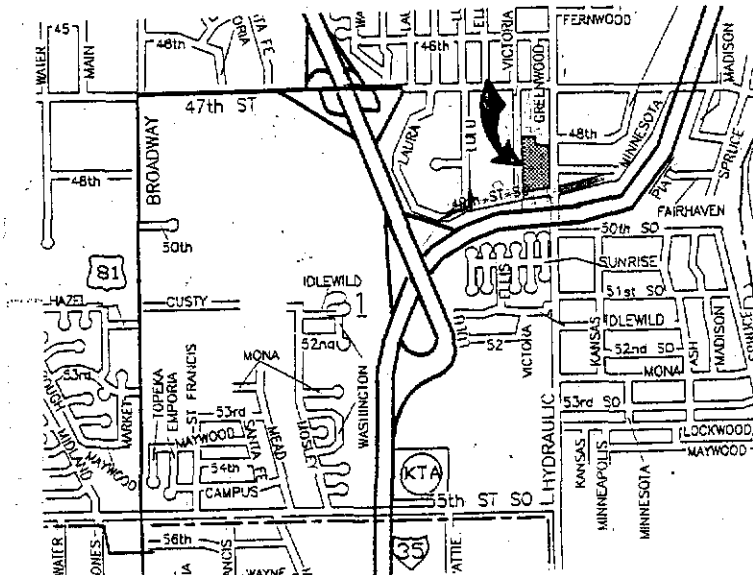
NUMBER OF LOTS

Residential:	
Office:	
Commercial:	
Industrial:	1
Total:	1

MINIMUM LOT AREA: 7.5 Acres

CURRENT ZONING: "E"

VICINITY MAP:



NOTE: Although this site is unplatted, it was developed with structures already located on the site. In order to redevelop and expand, the site is now being platted. Much of the area to the west and north of the site is zoned Light Industrial and has been developed with such uses. Although the local streets immediately adjacent to this site are unpaved, other streets in this area, including 49th Street South, have been paved.

STAFF COMMENTS:

- A. City Engineering needs to indicate if any guarantees for sanitary sewer, water or drainage are required for this site.
- B. The applicant shall guarantee the paving of 49th St. South adjacent to this site and shall also attempt to obtain a valid petition for the paving of 49th St. South from Victoria to Lulu. If the applicant cannot obtain a valid petition, then he shall request in writing that the City Council order in the pavement as a missing link between two sections of existing pavement as provided for by K.S.A. 12-6a04. This written request shall accompany this plat to the City Council.

In terms of Victoria, the applicant shall attempt to obtain a valid paving petition from 49th St. South to 47th St. South.
- C. As indicated by this plat, one access opening is being provided to Hydraulic. The applicant shall therefore guarantee the closure of those drives (two (2)) in excess of the access control being established to Hydraulic.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. On plats to the west of this site, and as required by "E" Zoning, 49th Street South has been platted as a 70-foot wide street. The final plat tracing shall therefore indicate the dedication of sufficient right-of-way from this site to provide 70-feet of right-of-way for 49th Street South.
- F. As required under "E" zoning of side type streets, a 20-foot building setback shall be platted from 49th Street South. The setback to Victoria should remain at 25-feet since it better matches the 35-foot setback used on the Overholt Addition to the west of this plat.
- G. As indicated in the plat's text, this site is establishing access control, except for one (1) opening, to Hydraulic. This access control shall also be indicated on

the face of the final plat tracing.

- H. Since this plat is dedicating street right-of-way, the plat's text shall note that "the streets are being dedicated to and for the use of the public".
- I. The applicant shall submit a copy of the instrument which establishes the Williams Pipeline Easement on this property. The applicant's agent shall determine any setback requirements from the pipeline by researching the text of the pipeline agreement. If a setback from the pipeline easement is provided for in the pipeline easement agreement, it shall be indicated on the face of the plat.
- J. The final plat tracing shall indicate the recording information for the pipeline easement on this site.
- K. Any relocation, lowering or encasement of the pipeline, made necessary by this development, will not be at the expense of the City.
- L. On the final plat tracing, the centerline of Hydraulic shall be labeled.
- M. On the final plat tracing, all appropriate names shall be printed below the signature lines of this plat's certificates or approval blocks.
- N. Prior to this plat being released for recording, the applicant shall provide proof that all applicable property taxes (1992's) have been paid.
- O. The applicant's agent needs to indicate the nature of an easement listed in the platting binder as recorded on Film 1214 and Page 1918. That is, is this easement on this site and if so, why it is not being shown or rededicated (granted) by this plat.
- P. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations.
- Q. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- R. Perimeter closure computations shall be submitted with the final plat tracing. Section 5-101(c).
- S. Recording of the plat within 30 days after approval by the City Council.

T. The representative from City Engineering should be prepared to comment on the status of the applicant's drainage plan.

Note: This plat has been submitted in final form only.

I N T E R O F F I C E M E M O R A N D U M

Printed by: Mike Lindebak
Date: 19-Aug-1993 08:58am CDT
From: Marvin Krout
KROUT_M
Dept: Planning
Tel No: 268-4425

TO: Mike Lindebak

(LINDEBAK_M)

Subject: please review this/comments before I send to Mngr

Here are some more details about the plat on next Tuesday's agenda at 49th Street South and Hydraulic. I think it would be helpful to provide this information to Councilmember Reeser before the meeting.

This property is owned by Yellow Freight Company, who operated their business on this unplatted tract for some 30 years. Their building was lost in a fire, and they are required to plat the property in order to obtain a building permit to rebuild.

Normal conditions of platting include providing guarantees for improvement of perimeter streets to the proper standard. This property has two abutting streets - 49th Street South and Victoria - both of which are unpaved. On 49th Street South, the property across the street is the Kansas Turnpike, so this owner alone would need to be responsible for paving the block between Victoria and Hydraulic. His engineer estimated a cost of \$100,000. Our Engineering office believes that the cost would be less than that, and would agree to a lesser than standard width, but the expense would still be considerable.

In addition to his "hardship" of rebuilding at this location, the applicant also claims that he does not need and does not use this street for access, and may consider requesting that the street be vacated. Engineering agrees that the street does not appear to get much use today, and since there is still access to this general area at three points along 47th Street, they would not object to vacating the street. But if the street is not paved and not vacated, Engineering would recommend that the City close the street.

His engineer also claims that there is a sight distance problem at the intersection with Hydraulic, due to the Turnpike bridge. Engineering disagrees with that assertion.

Regarding Victoria, we asked, as we do customarily in cases like this, for the owner to attempt to obtain a valid petition to pave Victoria from 47th to 49th Street. He reported that none of the other abutting owners would agree to sign a petition. So instead, we required that the owner sign an agreement not to object to a future paving project.

Engineering sent us a copy of your memo indicating Councilmember Reeser's interest in paving this block of Victoria, and 49th Street from Hydraulic west along this block and the next block west, to Lulu. The remainder of the streets in this area are all paved. However, as I understand it from Engineering, because neither of these unpaved segments is one block between paved streets, paving could be blocked by a petition of a simple majority of the abutting owners. Given what we know about Yellow Freight and the other owners in this area, I don't think it's realistic to expect that the Council can order in these streets. If Yellow Freight was forced to pave 49th Street between Hydraulic and Victoria, then I believe the remaining

segments would have a better chance of being ordered in.

Here is an explanation of the issues surrounding the Yellow Freight plat on next Tuesday's agenda at 49th Street South and Hydraulic. Councilmember Reeser asked that copies of this information be supplied to the other Councilmembers before Tuesday's meeting.

The property being platted is owned by Yellow Freight Company, who operated their business on this unplatted tract for some 30 years. Their building was lost in a fire, and they are required to plat the property in order to obtain a building permit to rebuild.

Normal conditions of platting include providing guarantees for improvement of perimeter streets to the proper standard. This property has two abutting streets - 49th Street South, between Hydraulic and Victoria, and Victoria Street - both of which are unpaved. This tract is in a general area where most of the streets are paved, with the exception of these street segments plus one more block of 49th Street, west from Victoria to Lulu.

On 49th Street South, the property across the street is the Kansas Turnpike, which cannot be assessed, so this owner alone would need to be responsible for paving the block between Victoria and Hydraulic. His engineer estimated a cost of \$100,000. Our Engineering office believes that the cost would be less than that, and would agree to a lesser than standard width, but the expense would still be considerable.

In addition to his "hardship" of rebuilding at this location, the applicant also claims that he does not need and does not use this street for access, and may consider requesting that the street be vacated. From a planning standpoint, it would be desirable to provide access to this industrial area from Hydraulic as well as 47th Street South, to allow more flexibility for service and emergency vehicles and to reduce congestion on 47th Street. However, Engineering indicates that 49th Street does not appear to get much use today, and since there is still access to this general area at three points along 47th Street, they would not object to vacating the street. But if the street is not paved and not vacated, Engineering would recommend that the City close the street.

The applicant's engineer also claims that there is a sight distance problem at the intersection with Hydraulic, due to the Turnpike bridge. Engineering disagrees with that assertion.

Regarding Victoria, we asked, as we do customarily in subdivision cases like this, that the owner attempt to obtain a valid petition to pave Victoria from 47th to 49th Street. He reported that none of the other abutting owners would agree to sign a petition. So instead, we required that the owner sign an agreement not to object to a future paving project.

Before he heard about the upcoming plat, Councilmember Reeser

had requested that Public Works prepare for a hearing to order in the paving Victoria from 47th to 49th Street and two blocks of 49th Street, from Hydraulic west across Victoria to Lulu. I believe his chief concern is that children and teachers at Funston School, which has frontage along Victoria as well as 47th Street South, suffers from the dust from traffic along Victoria.

As I understand it from Engineering and Law, if the Council required that 49th between Hydraulic and Victoria be paved as a condition of platting, then the remaining street segments in this area could be ordered in without any fear of protests. However, if the paving is waived as a part of the plat approval, then because neither of these unpaved segments is one block between parallel paved streets, paving could be blocked by a petition of a majority of the abutting owners. Yellow Freight, by their agreement signed as a part of the plat approval, cannot object to paving Victoria (an agreement like this has never been tested in court, but appears to be legal). However, if all of the remainder of property owners along Victoria protested an order to pave that street (including the school district on the east side of Victoria, and a church, freight company, and undeveloped property on the west side), then the paving could be prevented. If the school district does not protest, then the street could be ordered in without question.

So, in order to ensure that Victoria is paved, either the block of 49th Street between Hydraulic and Victoria should first be paved by Yellow Freight, or else the Council should receive some assurance from the school district that they will not object to an order to pave the street.

I should also point out that the unpaved block of 49th Street to the west, between Victoria and Lulu, if it is ordered in, would be assessed entirely to American Freight Company, just like the block adjoining Yellow Freight would be assessed to that owner. If the Council waives the paving requirement for Yellow Freight on Tuesday, and then later orders in the paving of the block of 49th Street to the west, adjoining American Freight, which could be done despite American Freight's objection, once Victoria is paved, American Freight would have some justification for claiming unfair treatment.

I N T E R O F F I C E M E M O R A N D U M

Printed by: Carolyn Swoboda
Date: 23-Aug-1993 04:12pm CDT
From: Carolyn Swoboda
SWOBODA C
Dept: Public Works
Tel No: 268-4266

TO: Marvin Krout

(KROUT_M)

Subject: Plat-49th Street South and Hydraulic

I have been-out of the office so I have just now read the paper copy of your EM dated Aug. 19, 1993. It appears OK to me, per our discussion.

Mike Lindebak
by Carolyn Swoboda