

**THE CITY OF WICHITA
METROPOLITAN AREA PLANNING DEPARTMENT**

DATE: August 23, 1988

TO: Subdivision Committee and Utility Advisory Committee

FROM: Jack H. Galbraith, Chief Planner

SUBJECT: Item No. _____ on the September 8, 1988 Agenda: Appeal
of Condition of Approval for Bratcher Addition,
S/D-83-95

This item is scheduled for review by the Subdivision and Utility Advisory Committees because a property owner desires to have the terms of a restrictive covenant lifted from three lots in his ownership. The property is located on the east side of half-street right-of-way for Doris Street in an area north of 11th Street North. The restrictive covenant was a requirement of plat approval. The property is legally described as Lots 1, 2 and 3, Block A, Bratcher Addition. Bratcher Addition was platted on July 16, 1985, and is zoned "AA".

The restrictive covenant provides for prohibition of development on the three lots until full street right-of-way for Doris Street is obtained and the street is paved. There are two reasons why the covenant was required. First, it has been a long-standing policy of avoiding new development on only a half-street right-of-way. Secondly, the area has existing drainage problems and the provision for street pavement will provide a means and route for handling drainage.

Staff recalls that its first thought regarding the half-street right-of-way was to recommend that the property abutting the half-street not be permitted to plat until full street right-of-way was available. Had this more restrictive approach to the half-street issue prevailed, it would have prevented the problem now under consideration from occurring. It would, however, set up a future platting expense for the property owner (i.e., a second Subdivision application when the full street was available).

Neither the Planning Department nor City Engineering supports the current property owner's request to have the provisions of the covenant lifted. When the full street right-of-way is made available and the street is paved, the terms of the covenant provide for its automatic release.

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Attached for the Committee's reference are the following items:

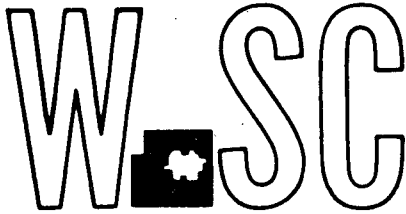
1. Letter from the current property owner to the Planning Commission. This letter states facts and circumstances which the property owner believes support his request for the covenant to be voided.
2. Copy of the recorded restrictive covenant.
3. Copy of the Subdivision Committee's minutes for when the preliminary plat was considered.
4. Map indicating the location of the three affected lots. On this map, we have indicated those lots which are developed.

In summary, this agenda item has been scheduled for the Committee's review for the purpose of obtaining a recommendation as to whether the restrictive covenant should be lifted from the property. It is staff's recommendation that the Subdivision Committee uphold the Planning Commission's original decision to prohibit development on the three lots until full street right-of-way is obtained and the street is paved.

JHG:FLN:jcm
Attachments

cc: Roger Voge, President, Voge Homes, Inc., 1627 Mars, Wichita,
KS, 67212
Mike Lindebak, City Engineer

WICHITA—SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202
(316) 268-4561

September 12, 1988

Roger Voge, President
Voge Homes, Inc.
1627 Mars
Wichita, Kansas 67212

RE: Appeal of Condition-of-Approval for S/D 83-95 Bratcher Addition.

Dear Mr. Voge:

C At the regular meeting of the Subdivision Committee of the Metropolitan Area Planning Commission on Thursday, September 8, 1988, the above-captioned agenda item was considered. The action of the Committee was to recommend that the appeal of condition-of-approval for Bratcher Addition, S/D 83-95, be denied.

O Should the applicant wish to appeal the action of the Subdivision Committee, at the applicant's request, this matter will be forwarded to the Planning Commission for consideration. If you have any questions concerning this matter, please call.

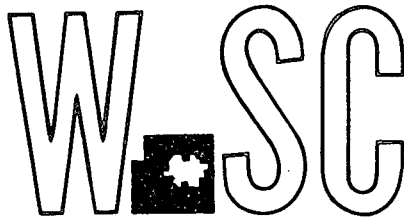
P Sincerely,

Y 
R. Timothy Bickhaus
Junior Planner

RTB:blw

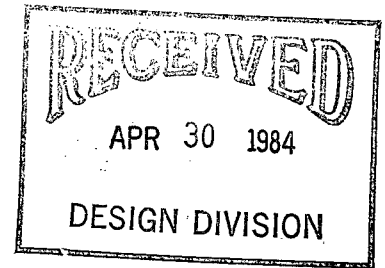
cc: Mike Lindebak, City Engineer

WICHITA - SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
COMMISSION

CITY HALL - TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202
(316) 268-4561



April 27, 1984

Baughman Company, P.A.
330 Laura
Wichita, Kansas 67211

Re: S/D 83-95 -Final plat of Bratcher Addition.

Gentlemen:

At the regular meeting of the Subdivision Committee of the Metropolitan Area Planning Commission on Thursday, April 26, 1984, the above-captioned plat was considered. The action of the Committee was to recommend that this plat be approved subject to:

- ✓ A. The applicant shall guarantee the paving of Clara Street within this plat, including construction of a permanent cul-de-sac at the north end.
- ✓ B. The applicant shall guarantee sewer extension to all lots in the block west of Clara.
- C. The applicant shall guarantee extension of the water line in Clara to the north line of this plat.
- D. Due to a lack of full street right-of-way for Doris to the south and existing drainage problems, the applicant shall submit a restrictive covenant, prohibiting development of the lots fronting on Doris Street until such time as the full right-of-way has been obtained and the street has been paved.
- E. The applicant shall attempt to obtain a valid petition for extension of water service to the lots being platted on Doris. If a valid petition cannot be obtained, the applicant shall obtain approval from the Health Department for the use of individual water wells.
- F. For improvements guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- G. The applicant shall submit an avigational easement covering all of subject property and a covenant assuring that adequate construction methods will be used to minimize noise pollution within any habitable structures built on subject property.
- H. Recording of the plat within 30 days after approval by the Board of City Commissioners.

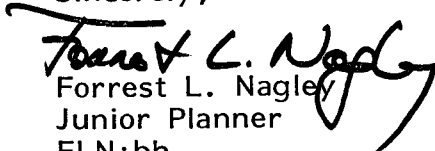
Baughman Company, P.A.
April 27, 1984
Page 2

Enclosed with the applicant's copy of this letter is a list of the five methods which have been adopted as being acceptable for guaranteeing improvements required in the approval of plats. The certificate will be required if petitions are submitted. Forms for the bond and irrevocable letter of credit are available from this office.

The enclosed "marked" copy of the final plat is for your information and files.

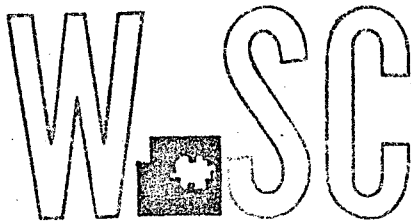
This matter will be forwarded to the Planning Commission for its consideration on Thursday, May 3, 1984, at 1:30 p.m. If you have any questions concerning this matter, please call.

Sincerely,


Forrest L. Nagley
Junior Planner
FLN:bh

cc: Paul T. Boyer, c/o Michael T. Bratcher, 1238 Doris, 67212
X Mike Lindebak, City Engineer

WICHITA - SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL -- TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4561

November 14, 1983

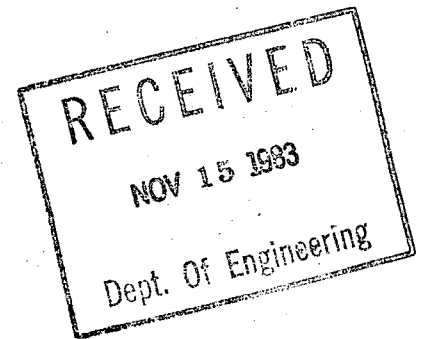
Baughman Company, P.A.
330 Laura
Wichita, Ks. 67211

Re: S/D 83-95 - Preliminary plat of Bratcher Addition

Gentlemen:

At the regular meeting of the Subdivision Committee of the Metropolitan Area Planning Commission, November 10, 1983, the above-captioned plat was considered. The action of the Committee was to approve the preliminary and authorize preparation of the final plat, subject to the following:

- A. The applicant shall guarantee the paving of Clara Street within this plat, including construction of a permanent cul-de-sac at the north end.
- B. The applicant shall guarantee sanitary sewer extension to all lots in the block west of Clara.
- C. The applicant shall guarantee extension of the water line in Clara to the north line of this plat.
- D. As requested by the City Engineer, the final plat shall indicate an outright cul-de-sac dedication for Clara as well as a contingent dedication of right-of-way for Clara from the cul-de-sac to the north line of this plat. The contingency shall be based on the need to extend the street to the north. Appropriate reference shall be made in the plattor's text.
- E. Due to a lack of full street right-of-way for Doris to the south and existing drainage problems, the applicant shall submit a restrictive covenant prohibiting development of the lots fronting on Doris Street until such time as the full right-of-way has been obtained and the street has been paved.
- F. The applicant shall attempt to obtain a valid petition for extension of water service to the lots being platted on Doris. If a valid petition cannot be obtained, the applicant shall obtain approval from the Health Department for the use of individual water wells.



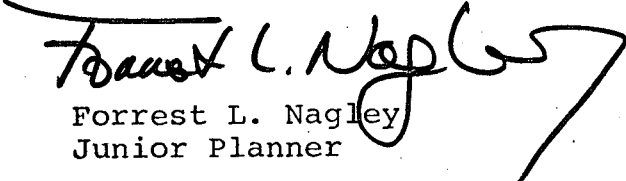
Baughman Company, P.A.
11-14-83
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- G. For improvements guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- H. The applicant shall submit an avigational easement covering all of subject property and a covenant assuring that adequate construction methods will be used to minimize noise pollution within any habitable structures built on subject property.
- I. The final plat tracing shall indicate a 5-foot utility easement adjacent to the north 5 feet of this addition.
- J. 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.
- K. Requirements for a final plat (see pages 20-25, Part 4, Article 5 of the MAPC Subdivision Regulations).

Enclosed herewith is the "marked" copy of the preliminary plat for your information and files.

If you should have any questions concerning this matter, please call.

Sincerely,


Forrest L. Nagley
Junior Planner

FLN:bh

cc: Paul T. Boyer, c/o Michael D. Bratcher, 1238 N. Doris,
67212
~~X~~ Mike Lindebak, City Engineer



BAUGHMAN COMPANY, P.A.

SURVEYING & ENGINEERING

316/262-7271 • 330 LAURA • WICHITA, KANSAS 67211

CONFIRMATION MEMO

PROJECT BRATCHER ADDITION

DATE 10-31-83

JOB NO. _____

COPIES TO:

TO Chris Breitenstein

FROM B. Wooten

REFERENCE Drainage Plan

Preliminary plat is scheduled for subdivision for Nov. 10, 1983. Lots will be residential lots. Runoff factor will be 0.50 for all areas. Lots will drain to the streets as indicated.

Both Doris and Clara are unpaved at this time and will eventually drain south to 11th St. which is paved and drains east.