



Wichita-Sedgwick County Metropolitan Area Planning Department

March 22, 2007

Mennonite Housing
2145 N. Topeka
Wichita, KS 67214

Re: **VAC2006-00047** - Request to vacate a portion of platted public street right-of-way, generally located south of 27th street north, between Hillside Avenue & Chautauqua Street.

Dear Ladies & Gentlemen:

At its regular meeting on Tuesday, March 20, 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
Andy Bias, 2145 N. Topeka, Wichita, KS 67214
Calvary Baptist Church, 2653 N. Hillside, Wichita, KS 67219
Calvary Baptist Church, 7600 E. 63rd St. S., Derby KS 67037
Church of Living God, 2725 N. Hillside, Wichita, KS 67219

RECEIVED

MAR 27 2007

METROPOLITAN PLANNING
ROUTE ☐

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

**IN THE MATTER OF THE VACATION OF
A PORTION OF PLATTED STREET
RIGHT-OF-WAY**

**GENERALLY LOCATED BETWEEN
CHAUTAUQUA & LORRAINE AVENUES AND
SOUTH OF 27TH STREET NORTH**

Case No. VAC2006-00047

MORE FULLY DESCRIBED BELOW

VACATION ORDER

NOW on this 20th day of March, 2007 comes on for hearing the petition for vacation filed by Mennonite Housing c/o Andrew L. Bias and Calvary Baptist Church c/o Dale Diggs Jr., praying for the vacation of the following described portion of platted street right-of-way, to-wit:

The 270-foot (x) 60-foot portion, except the east 25-feet, of the 26th Street North right-of-way, located between Chautauqua & Lorraine Avenues, as dedicated on the Agee - Hunter Addition, Wichita, Sedgwick County, Kansas.

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 January 11, 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 street right-of-way, and the public will suffer no loss or inconvenience thereby.

3. Retain two 20-foot wide (running east to west and back) (x) 60-foot long portions (running north to south from the Agee – Hunter Addition to the Calvary Baptist Addition and back) of the vacated street right-of-way as utility easements beginning (a) 125-feet east of the west lot line of Lot 5, Block 4, Agee Hunter Addition and continuing east for 20-feet and beginning (b) 25-feet west of the east lot line of Lot 6, Block 4, Agee Hunter Addition and continuing west for 20-feet. No fencing allowed in this east utility easement.

4. Dedicate by separate instrument 2-feet of additional utility easement that will run parallel to platted 16-foot utility easement located on the rear lot lines of Lots 4, 5, 6, 7, 8, 9, & 10, Block 4, Agee – Hunter Addition and the rear lot lines of Lots 1, 2, & 3, Block 2, Bruce Jones Addition.

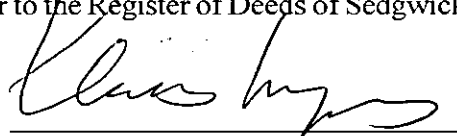
5. Provide Public Works with petitions for a water line and paving to service the proposed redevelopment of the properties from 26th to 27th Streets North and along Lorraine Avenue

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

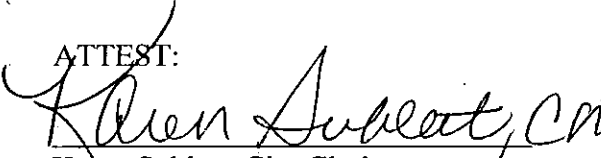
7. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.

8. The vacation of the portion of platted street right-of-way described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 20th day of March 2007 ordered that the above-described portion of platted street right-of-way 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.

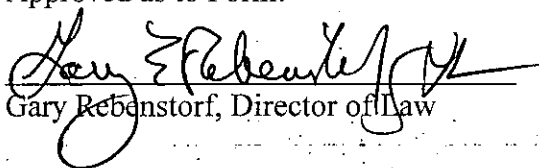

Carlos Mayans, Mayor

ATTEST:


Karen Sublett, City Clerk



Approved as to Form:


Gary Rebenstorf, Director of Law

STAFF REPORT

CASE NUMBER: VAC2006-00047 Request to vacate a portion of platted street right-of-way (ROW)

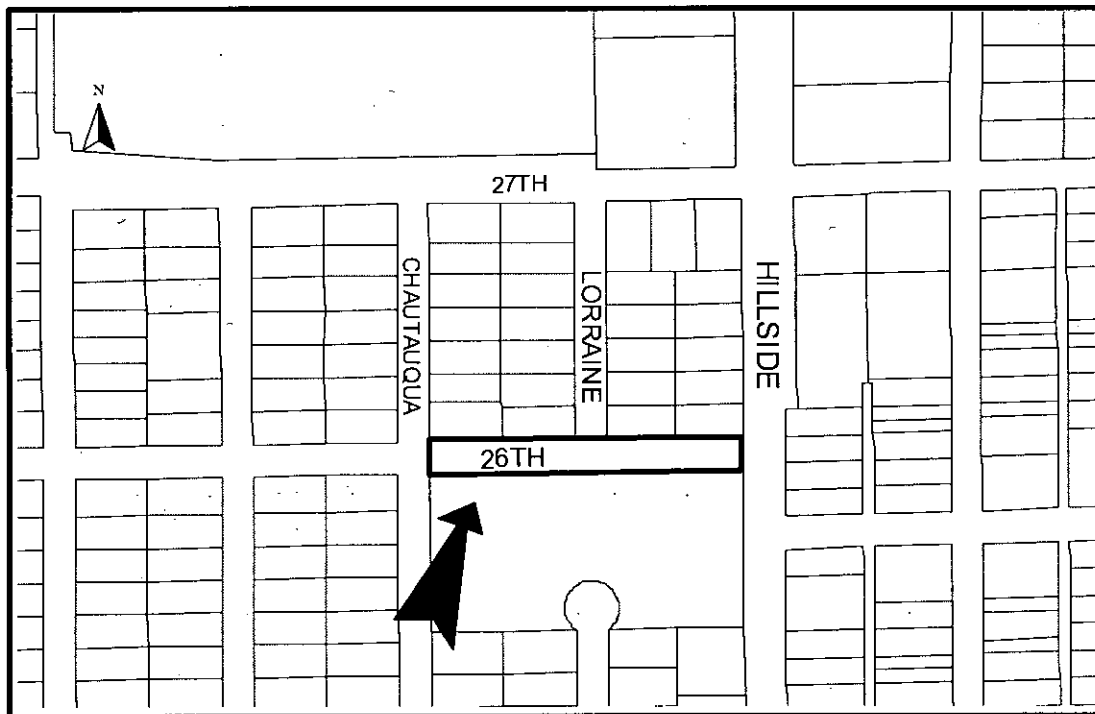
APPLICANTS: Mennonite Housing Calvary Baptist Church

LEGAL DESCRIPTION: Generally described as the platted 60-foot wide undeveloped 26th Street North ROW as dedicated on the Agee - Hunter Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located between Chautauqua & Hillside Avenues and south of 27th Street North (WCC II)

REASON FOR REQUEST: Revert to private property for redevelopment

CURRENT ZONING: The site is platted undeveloped public ROW. All abutting northern, & adjacent eastern & western properties are zoned "SF-5" Single-family Residential. The abutting southern property is zoned "B" Multi-family Residential.

VICINITY MAP:

The applicant is requesting vacation of the described platted undeveloped portion of 26th Street North. There are sewer lines and manholes in this portion of the ROW. Westar has utilities in this portion of 26th. There are no water lines in this portion of 26th. There are no platted setbacks that run parallel to the proposed vacated ROW. The owner of the property abutting the northeast portion of 26th has not signed the application or the petition to vacate: Church of the Living God, Lots 5 & 6, Block 3, Agee – Hunter Addition. Without this signature only half of the length of the ROW, from Chautauqua to Lorraine Avenues can be vacated. The Agee – Hunter Addition was recorded with the Register of Deeds June 2, 1954. The Calvary Baptist Addition, which was a replat of a portion of the Agee – Hunter Addition, was recorded with the Register of Deeds July 30, 1973.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the platted 26th Street North ROW, as described 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, of notice of this vacation proceeding one time January 11, 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 street ROW 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 portion of the platted 26th Street North ROW described in the petition should be approved with conditions;

- (1) Provide staff with a restrictive covenant tying and binding the vacated ROW to the participating abutting, directly opposed northern and southern properties. Currently the participating abutting properties are Lots 5 & 6, Block 4, Agee – Hunter Addition (north side) and that portion of Lot 1, Calvary Baptist Addition, that is directly opposite (south side).
- (2) Retain that portion of ROW, or the entire ROW, as needed for utility easements: there is sewer line and manholes in the ROW and Westar has equipment in the ROW. Provide Planning Staff with a Public Works/Water & Sewer/franchised utilities approved legal description (on a Word document via E-Mail) of that portion of the vacated ROW needed as easement.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. If necessary provide a letter of credit, petition or whatever method Public Work's requires to ensure that utilities are relocated or reconstructed. If needed Provide Public Works/Storm Water with any necessary plans for review and approval of relocated sewer line and manholes. If needed retain the easements

until utilities have been relocated.

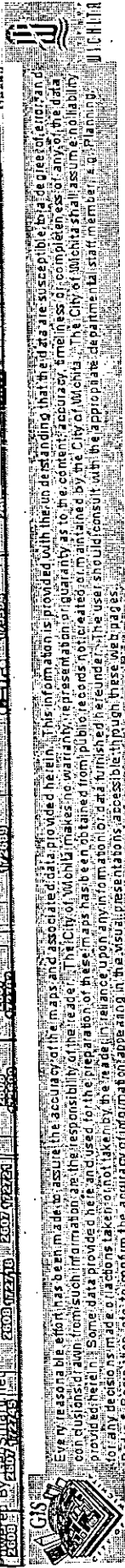
- (4) As needed provide Planning Staff with Public Works/Water & Sewer/franchised utilities approved original easements (to be sent with the Vacation Order to be recorded with the Register of Deeds) for any relocated public utilities.
- (5) All improvements shall be according to City Standards, including as needed cul-de-sacs and/or dedications of public access, as approved to prevent the creation of dead-end streets. Either continue the curb and gutter along Chautauqua Avenue unbroken, retain a portion (20-feet wide) 26th Street North as public ROW, or construct a private drive. Provide Public Works with a letter of credit, petition or whatever method Public Works requires to ensure the needed improvements.
- (6) 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) Provide staff with a restrictive covenant tying and binding the vacated ROW to the participating abutting, directly opposed northern and southern properties. Currently the participating abutting properties are Lots 5 & 6, Block 4, Agee – Hunter Addition (north side) and that portion of Lot 1, Calvary Baptist Addition, that is directly opposite (south side).
- (2) Retain that portion of ROW, or the entire ROW, as needed for utility easements: there is sewer line and manholes in the ROW and Westar has equipment in the ROW. Provide Planning Staff with a Public Works/Water & Sewer/franchised utilities approved legal description (on a Word document via E-Mail) of that portion of the vacated ROW needed as easement.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. If necessary provide a letter of credit, petition or whatever method Public Work's requires to ensure that utilities are relocated or reconstructed. If needed Provide Public Works/Storm Water with any necessary plans for review and approval of relocated sewer line and manholes. If needed retain the easements until utilities have been relocated.
- (4) As needed provide Planning Staff with Public Works/Water & Sewer/franchised utilities approved original easements (to be sent with the Vacation Order to be recorded with the Register of Deeds) for any relocated public utilities.

- (5) All improvements shall be according to City Standards, including as needed cul-de-sacs and/or dedications of public access, as approved to prevent the creation of dead-end streets. Either continue the curb and gutter along Chautauqua Avenue unbroken, retain a portion (20-foot wide) 26th Street North as public ROW, or construct a private drive. Provide Public Works with a letter of credit, petition or whatever method Public Works requires to ensure the needed improvements.
- (6) 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.



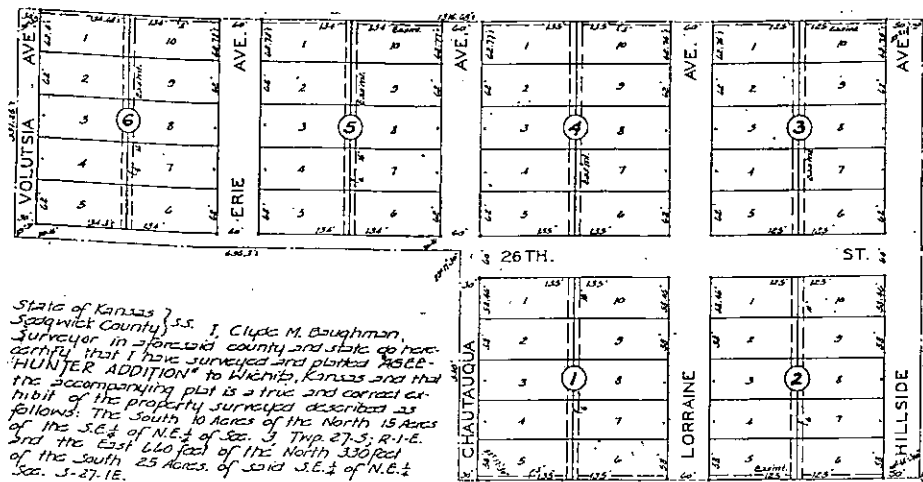
Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the user assumes all responsibility for its use. The City of Wichita makes no warranty, representation or guaranty as to the contents, accuracy, timeliness or completeness of any of the data contained herein. The City of Wichita shall assume no liability for errors or omissions in the data provided herein. Some data provided here are used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for errors or omissions in the data provided herein. The user should consult with the appropriate department staff member regarding any questions or concerns. The City of Wichita does not warrant the accuracy of the information appearing in the visual presentations accessible through these web pages.

A-2-8

AGEE - HUNTER ADDITION

TO WICHITA, KANSAS.

C-1105-D
C-1105-E



State of Kansas }
Sedgewick County } ss. I, Clyde M. Boughman,
Surveyor in a foreward county and state do hereby
certify that I have surveyed and plotted AGEE-
HUNTER ADDITION to Wichita, Kansas and that
the accompanying plat is a true and correct ex-
hibit of the property surveyed described as
follows: The South 10 Acres of the North 15 Acres
of the S.E. 1/4 of Sec. 3, Twp. 27 S., R. 1 E.
and the East 660 feet of the North 330 feet
of the South 25 Acres of said S.E. 1/4 of N.E. 1/4
Sec. 3-27-1E.

Clyde M. Boughman, Surveyor

Know all men by these presents
that we, Delbert T. Agee and Christie M. Agee,
his wife, and Jay R. Hunter and Vera A. Hunter,
his wife, and Elta Russell Hunter, a widow,
have caused the land described in the survey-
ors certificate to be plotted into lots, blocks,
streets and avenues to be known as AGEE-
HUNTER ADDITION to Wichita, Kansas. Exemptions
are hereby granted as indicated on the plat for
the construction and maintenance of all public
utilities, the streets and avenues are hereby de-
clared to and for the use of the public.

Delbert T. Agee
Christie M. Agee
Jay R. Hunter
Vera A. Hunter
Elta Russell Hunter

State of Kansas }
Sedgewick County } ss. Be it remembered that on
this 13th day of June, 1934, before me
a notary public in and for said county and state
came Delbert T. Agee and Christie M. Agee, his
wife, and Jay R. Hunter and Vera A. Hunter, his
wife, and Elta Russell Hunter, a widow, to me
known to be the same persons who executed the
foregoing instrument of writing and duly
acknowledged the execution of the same as
their voluntary act and deed. In testimony
whereof I have hereunto set my hand and
affixed my notarial seal the day and year
above written.

Charles D. Jones Notary Public
My Commission Expires June 11, 1935

This plat of AGEE-HUNTER
ADDITION to Wichita, Kansas, has been sub-
mitted to and considered by the City Planning
Commission of Wichita, Kansas and is hereby
transmitted to the Board of City Commissioners
with the recommendation that such plat be
approved as proposed. Dated this 13th day of
June, 1934.

Thos. Bluff Chairman
John H. Allen Secretary

State of Kansas }
Sedgewick County } ss. Be it remembered that on this
13th day of June, 1934, before me a notary public in and for said
county and state came Delbert T. Agee and Christie M. Agee, his
wife, and Jay R. Hunter and Vera A. Hunter, his wife, and Elta
Russell Hunter, a widow, to me known to be the same persons who
executed the foregoing instrument of writing and duly acknowledged
the execution of the same. In testimony whereof I have hereunto
set my hand and affixed my notarial seal the day and year
above written.

Charles D. Jones Notary Public
My Commission Expires April 11, 1935

Approved by the Board of
City Commissioners this 23rd day of May,
1934.

Wm. C. Salame Mayor
W. C. Salame City Clerk

Approved by the Board of
County Commissioners this 22nd day of
April, 1934.

Edw. F. Schmitt County Clerk

Entered on transfer record
this 2nd day of June, 1934.

Edw. F. Schmitt County Clerk

State of Kansas }
Sedgewick County } ss. This is to certify that this
plat was filed for record in the office of the
Register of Deeds, this 2nd day of June,
1934, at 2 o'clock P.M. and is duly re-
corded.

T. H. Blumhardt Register of Deeds.

We, Monarch Inv. Co., holders
of a certain mortgage on a portion of the above
described property do hereby consent to the
plat of AGEE-HUNTER ADDITION to Wichita,
Kansas.

W. H. Pence President
R. R. Monroe Secretary

State of Kansas }
Sedgewick County } ss. Be it remembered that on this
13th day of June, 1934, before me a notary public
in and for said county and state came Monarch
Inv. Co., by W. H. Pence President
and R. R. Monroe Secretary, to me
known to be the same persons who executed the
foregoing instrument of writing and duly acknow-
ledged the execution of the same. In testimony
whereof I have hereunto set my hand and affixed
my notarial seal the day and year above written.

Charles D. Jones Notary Public
My Commission Expires June 11, 1935

We, First Federal Savings & Loan Assn., holders of a
mortgage on a portion of the above described property do hereby consent
to the plat of AGEE-HUNTER ADDITION to Wichita, Kansas.

W. H. Pence President
R. R. Monroe Secretary

VAC2006 47

