



Wichita-Sedgwick County Metropolitan Area Planning Department

July 25, 2008

McDonalds
10801 Mastin Blvd.
Overland Park, KS 66210

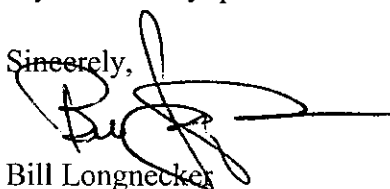
Re: **VAC2008-00017** – Request to vacate a setback dedicated by separate instrument, generally located on the southeast corner of 47th Street South and Broadway Avenue.

Dear Ladies and Gentlemen:

At its regular meeting on Tuesday, July 22, 2008, 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
Julianne Kallman, Public Works Engineering, Mailstop 1-71
Ozark Civil Engineering, Earl Hacker, 11285 Strang Line Rd., Lenexa, KS 66215
Pizza Hut of America, Inc., %Pizza Hut #301046, Louisville KY 40232-5370
Stelbar Oil corporation, Inc., 1625 N. Waterfront Pkwy, Ste. 200, Wichita, KS 67206-6602
South City Wichita Partners, LLC, %MIKA Realty Group, 837 Traction Ave., Ste. 400, Los Angeles CA 90013-1868
Regal Hotels, LLC, 607 E. 47th Street South, Wichita, KS 67216-1701
David M. Wong, %Wong Enterprises, Inc., 6636 E. Murdock, Wichita, KS 67206-1554
Taco Tico, Inc., 2118 N. Tyler, Bldg. B. Ste 100, Wichita, KS 67212
Scott & Kathleen Freeman, %Burke & Nickel, 3336 E. 32nd Street, #217, Tulsa, OK 74135-4442
S & S Storage Center, Inc., 1928 E. 47th Street South, Wichita, KS 67216-3158
City Hall • 10th Floor • 455 North Main • Wichita, Kansas 67202-1688



Sedgwick County
Register of Deeds - Bill Meek
DOC #/FLM-PG: 28993419

Receipt #: 1693913
Pages Recorded: 2
Cashier Initials: AL

Authorized By:  Recording Fee: 00¢

Date Recorded: 7/23/2008 2:22:17 PM



CITY CLERK'S ORIGINAL
RETURN TO CITY CLERK

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

Approved / Accepted By City Council

7-22-08th

IN THE MATTER OF THE VACATION OF
A SETBACK DEDICATED BY
SEPARATE INSTRUMENT

GENERALLY LOCATED
ON THE SOUTHEAST CORNER OF 47TH STREET
SOUTH AND BROADWAY AVENUE

Case No. VAC2008-00017

MORE FULLY DESCRIBED BELOW

VACATION ORDER

NOW on this 22nd day of July 2008 comes on for hearing the petition for vacation filed by McDonalds Corporation c/o Howard Johnson praying for the vacation of the following described front setback dedicated by separate instrument, to-wit:

The 35-foot setback dedicated by separate instrument (MISC BOOK 663/PAGE 217) that runs parallel to the west 165.50 feet of the north lot line of Lot 3, Noland's Gardens Addition, Wichita, Sedgwick County, Kansas and parallel to 47th Street South.

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 the Derby Reporter on May 29, 2008, which was at least 20 days prior to the public hearing.

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Vacation Order
 VAC200800017

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2. No private rights will be injured or endangered by the vacation of the above described front setback dedicated by separate instrument, and the public will suffer no loss or inconvenience thereby.
3. A 20- foot front setback will run parallel to the west 165.50 feet of the north lot line of Lot 3, Noland's Gardens Addition and parallel to 47th Street South. The 35-foot setback that runs parallel to the west lot line of Lot 3, Noland's Garden Addition and Broadway Avenue will extend north to its intersection with the above mentioned 20-foot front setback, all in Wichita, Sedgwick County, Kansas.
4. In justice to the petitioner(s), the prayer of the petition ought to be granted.
5. 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.
6. The vacation of the front setback dedicated by separate instrument described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 22nd day of July 2008 ordered that the above described front setback dedicated by separate instrument 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.



[Signature]
 Carl Brewer, Mayor

ATTEST:

[Signature]
 Karen Sublett, City Clerk

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 23 day of July 2008.

Approved as to Form:

[Signature]
 Gary Rebenstorf, Director of Law



STAFF REPORT

CASE NUMBER: VAC2008-00017 Request to vacate a portion of a setback dedicated by separate instrument

OWNER/AGENT: MacDonalds Ozark Civil Engineering, c/o Earl Hacker

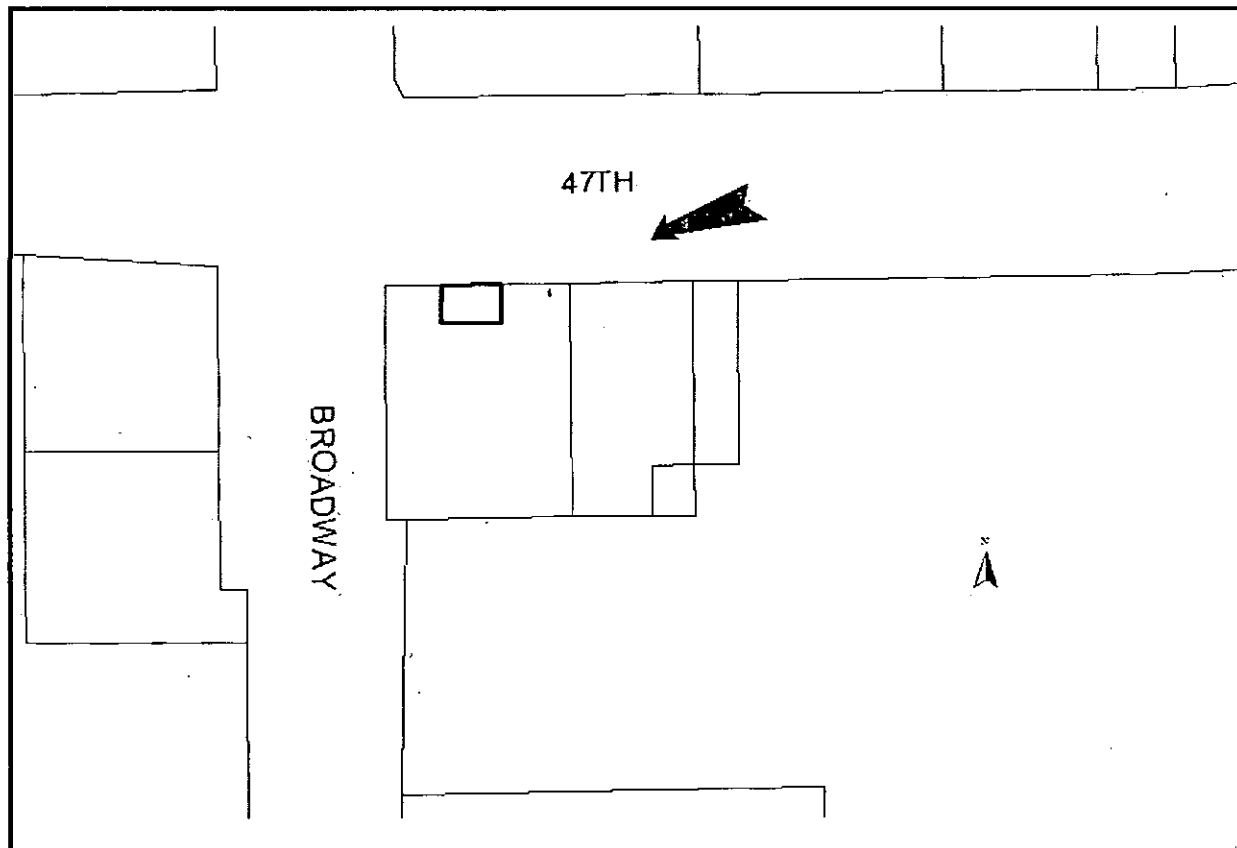
LEGAL DESCRIPTION: Generally described as the platted 35-foot front yard setback that runs parallel to 47th Street South on the north side of west half of Lot 3, Nolan's Garden Addition, Wichita, Sedgwick County, Kansas, as recorded on MISC BOOK 663/PAGE 217.

LOCATION: Generally located on the southeast corner of 47th Street South and Broadway Avenue (WCC #III)

REASON FOR REQUEST: Rebuild the MacDonalds

CURRENT ZONING: The site and the abutting eastern property are zoned GC General Commercial ("GC"). The abutting southern and adjacent northern and western properties are zoned LC Limited Commercial ("LC").

VICINITY MAP:



The applicant proposes to vacate the described 35-foot front yard setback and replace it with the GC zoning district's 20-foot front yard setback. There is a 20-foot sanitary easement (Court Condemnation case #C-17046) within the proposed 20-foot setback, which has manholes and sewer line in it. There are no utilities located within the vacated portion of the described setback. The site is not part of the abutting (south and east sides of the site) CUP DP-48. There are CUP overlays on properties located west of the site, across Broadway Avenue, and north of the site, across 47th Street South. The Nolan's Garden Addition was recorded with the Register of Deeds December 21, 1925. The Lot Split of Lot 3, Nolan's Garden Addition was recorded with the Register of Deeds October 19, 2000.

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 of the vacation of the described portion of the described 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 May 29, 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 portion of the setback dedicated by separate instrument 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 setback dedicated by separate instrument described in the petition should be approved with conditions;

- (1) Vacate the 35-foot setback and replace with the GC General Commercial zoning district's 20-foot front yard 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 City 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) Vacate the 35-foot setback and replace with the GC General Commercial zoning district's 20-foot front yard 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 City 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

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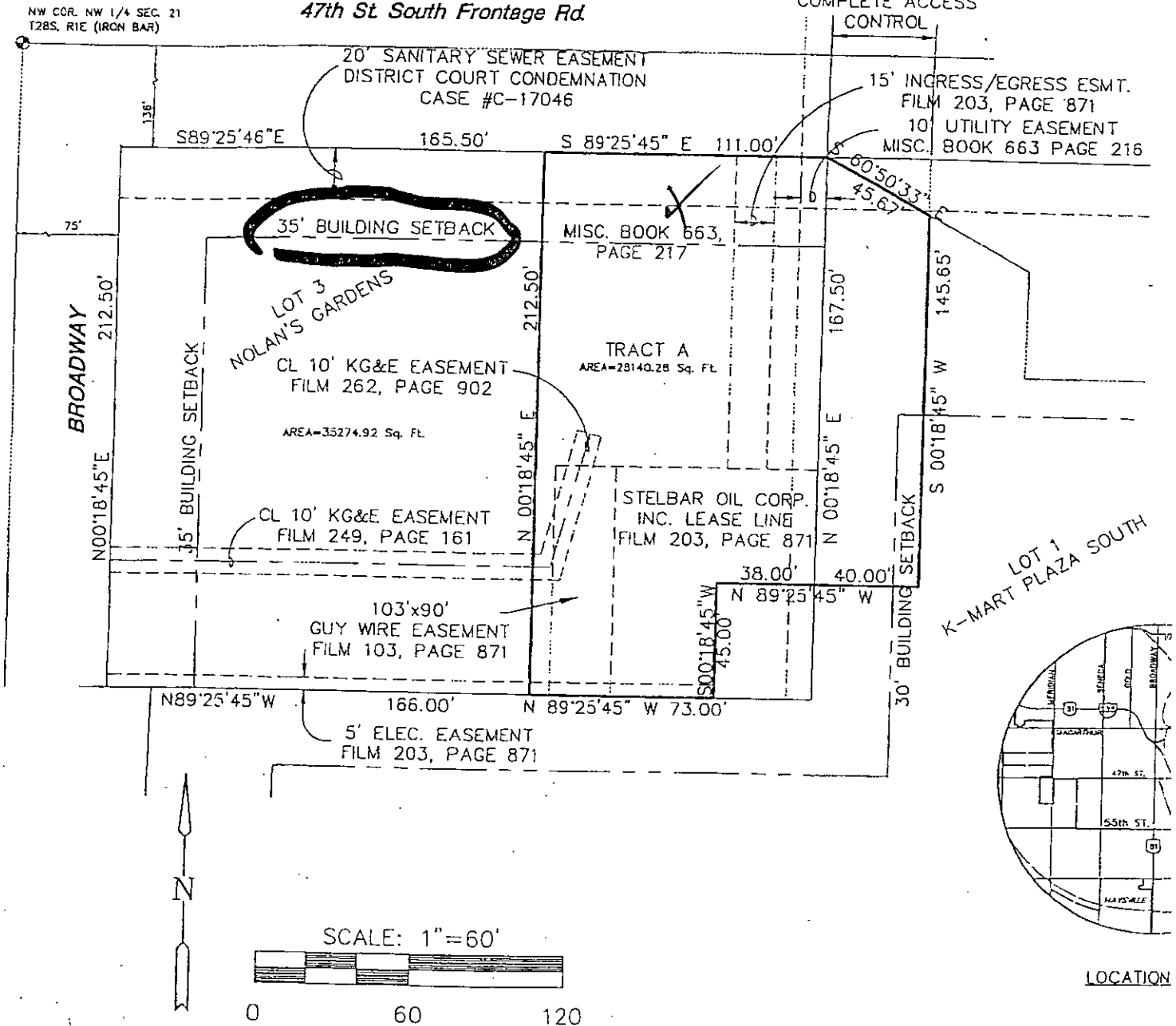
STATE OF KANSAS } SS
SEDCWICK COUNTY }

OCT 19 .11 24 AM '00

**MICROFILMED
OF RECORD**

Judy Paget
Deputy

BILL MEEK
REGISTER OF DEEDS



800
Ct

City Clerk