



Wichita-Sedgwick County Metropolitan Area Planning Department

August 24, 2004

James Fox
1332 Dougherty
Wichita, KS 67212

Re: **VAC2004-00033** - Request to vacate a portion of a platted setback generally located on the southwest corner of 43rd Street south & Dodge Street.

Dear Mr. Fox:

At its regular meeting on August 19, 2004 the Metropolitan Area Planning Commission considered the above-captioned request. The action of the MAPC was to **DENY** the request.

This is a reminder that the zoning notification signs should now be removed from the property. If you have any questions concerning this case please contact our office at 268-4494.

Sincerely,

Bill Longnecker
Senior Planner

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cc: Jim Armour, Acting City Engineer, Public Works Department, Mail Stop 1-71
Carla Jones / Paul Gunzelman, Public Works Engineering, Mail Stop 1-71
G. Kevin Patrick 1332 N. Dougherty, Wichita, KS 67212
Richard Bendit, 2718 N. Keith, Wichita, KS 67205
Jaquelyn Bendit, 2718 N. Keith, Wichita, KS 67205
Sharon A Hopson, 3105 W. 27th St South, Wichita, KS 67217
Victor W. Trillo, 1224 W. 43rd St South, Wichita, KS 67217
John W. Raida, 1220 W. 43rd St South, Wichita, KS 67217
Janell D. Williams, 1214 W. 43rd St South, Wichita, KS 67217
Chad L Harman, 1210 W. 43rd St South, Wichita, KS 67217
Marjorie A. Woods, 1120 W. 43rd St South, Wichita, KS 67217
Poorman Partnership, 1400 E. Douglas, Wichita, KS 67214

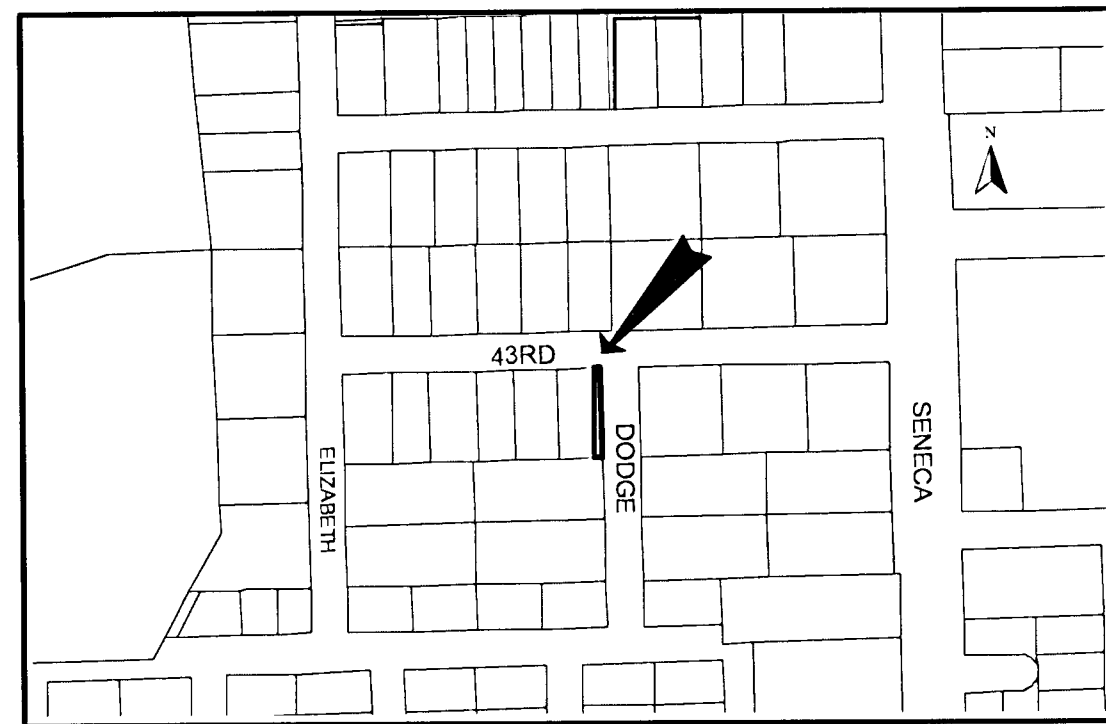
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STAFF REPORT

- CASE NUMBER:** VAC2004-00033: Request to vacate a portion of a platted setback
- OWNER/APPLICANT:** James Fox (owner) Richard & Jacquelyn Bendit (applicants)
Kevin Patrick (agent)
- LEGAL DESCRIPTION:** Vacate the west 15-feet of the platted 30-foot street side setback as recorded on Parcel #2, the E1/2 of Lot 3, Block C, Vilm Gardens 2nd Addition, Wichita, Sedgwick County, Kansas.
- LOCATION:** Generally located midway between 47th Street South and MacArthur Road, more specifically on the southwest corner of the 43rd Street South and Dodge Street intersection.
- REASON FOR REQUEST:** Allow additional space to build a duplex.
- CURRENT ZONING:** Subject property and properties north, south and west are zoned "MF-18" Multi-family Residential. Properties north and east are zoned "SF-5" Single-family Residential
- VICINITY MAP:**



The applicant is requesting vacation of the west 15-feet of the platted 30-foot street side setback. This setback runs parallel to Dodge Street on the east side of the Parcel #2, the E1/2 of Lot 3, Block C, the Vilm Gardens 2nd Addition. Parcel #2 was created by a Lot Split of Lot 3, Block C, the Vilm Gardens 2nd Addition February 2, 1998. The approximately 10,458.30-square foot site

(71-feet (x) 147.5) is a corner lot, with the front yard running parallel to 43rd Street South and, as previously mentioned, the street side yard running parallel to Dodge Street. The applicant proposes to build a duplex on the site. The Unified Zoning Code's standard for a street side yard setback for the "MF-18" zoning district is 20-feet. The UZC's standard for a street side yard setback for the "TF-3" Two-family residential (duplex) zoning district is 15-feet. The "TF-3" street side setback is the same as the UZC's standard for the "SF-5" zoning district. Development within the area's "MF-18" zoning is primarily as single-family residential with a few duplex and four-plex residences. There are no franchised utilities, water or sewer in the setback. The Vilm Gardens 2nd Addition was recorded July 27, 1953. It has been brought to Staff's attention that this area was one of several hit by a tornado in the 1990s and that there has been infill redevelopment in the area.

There were protests to the vacation of the street side set back. Issues included:

- (a) The proposed duplex not lining up with the protesting house on the property to the south. **The protesting single-family residence south of the site was built within the same platted 30-foot setback on a 0.48-acre lot. The applicant's site is an approximately 0.24-acre site.**
- (b) The proposed height of the duplex. **The MF-18 zoning district allows 45-foot maximum height, although the applicant has not indicated that he would build to this height.**
- (c) The location of the front yard, which would determine the location of the back yard and its proximity to the protesting property to the south. **Per Art III, Sec. III-E, #6 of the UZC, the front setback on a corner lot is located along the shorter street frontage, which in this case would be the 43rd Street South frontage. The unplatted rear yard setback (20-feet in the MF-18 zoning district) would be the south side of the subject site. The interior side setback is not platted and per the UZC would be 6-feet. OCI will provide written verification of this.**
- (d) The placing of the duplex up to the proposed 15-foot setback along Dodge would be a public safety issue in regards to emergency service vehicles locating the protesting property south of the site. **The Fire Department stated that the location of the duplex up to the proposed 15-foot setback would not affect their ability to provide service, as they locate property by address.**
- (e) The zoning of the subject site and abutting properties. **The zoning of the subject site and the abutting southern and western properties as stated in Staff report are "MF-18", not single family residential.**

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 west 15-feet of the platted 30-foot setback as described in the legal description.

- 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, by publication in the Wichita Eagle of notice of this vacation proceeding one time July 29, 2004 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 platted setback 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 a portion of the platted setback described in the petition should be approved with conditions;

- (1) Vacate the west 15-feet of the platted 30-foot street side setback on Parcel #2, the E1/2 of Lot 3, Block C, the Vilm Gardens 2nd Addition, stopping at its point of intersection with the platted easement and the platted front yard setback on the site.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be responsibility of the applicant.
- (3) All improvements shall be according to City Standards.
- (4) All conditions to be completed within 6 months of approval by the MAPC or the vacation application request will be considered null and void.
- (5) Move the proposed duplex north up against the platted 30-foot setback running parallel, away from the protesting property south of the site. **Note: The City Law Department has confirmed that we have the discretion to impose this as a condition of the vacation.**

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate 5-feet of the platted 25-foot front yard setback on Lots 5 & 12, Block 3, The Moorings Addition, stopping at their point of intersection with the platted easements on the sites.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (3) All improvements shall be according to City Standards.
- (4) All conditions to be completed within 6 months of approval by the MAPC or the vacation application request will be considered null and void.

- (5) Move the proposed duplex north up against the platted 30-foot setback running parallel, away from the protesting property south of the site. **Note: The City Law Department has confirmed that we have the discretion to impose this as a condition of the vacation.**