



Wichita-Sedgwick County Metropolitan Area Planning Department

December 20, 2005

119th & Kellogg Associates LLC
Attn: Grant Tidemann
150 N. Market
Wichita, KS 67202-1900

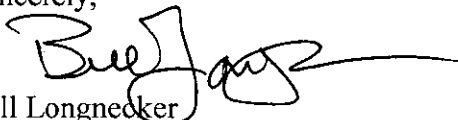
Re: **VAC2005-00035** - Request to vacate a portion of platted street right-of-way, generally located north of U.S. Highway 54/Kellogg Avenue, between 119th Street West and Hornecker Drive.

Dear Mr. Tidemann:

At its regular meeting on Tuesday, December 13, 2005, 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
Baughman Company, P.A., Attn: Phil Meyer, 315 Ellis, Wichita, KS 67211
Elinor J. Martens, 435 S. Broadway, Wichita, KS 67202

publication in The Wichita Eagle on September 25,2005, 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 portions of platted street right right-of-way and platted setback, and the public will suffer no loss or inconvenience thereby.

3. Dedicate by separate instruments a restrictive covenant binding and tying that portion of the described vacated Harry Drive right-of-way to Lots 6 & 7, Block 2, the Wheatridge Addition to make them one property until replatted, a cross lot access easement and a utility easement to be recorded with the Register of Deeds.

4. Replace the described vacated 35-foot setback with another 35-foot setback that will run parallel with the new south lot lines of Lots 5, 6, & 7, Block 2, all in the Wheatridge Addition, as established by conditions of the vacation process.

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

6. 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.

7. The vacation of the portions of platted street right-of-way and platted setback described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 13th day of December 2005 ordered that the above-described portions of platted street right-of-way and platted setback are 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.



ATTEST:

Karen Sublett
Karen Sublett, City Clerk

Carlos Mayans
Carlos Mayans, Mayor



Approved as to Form:

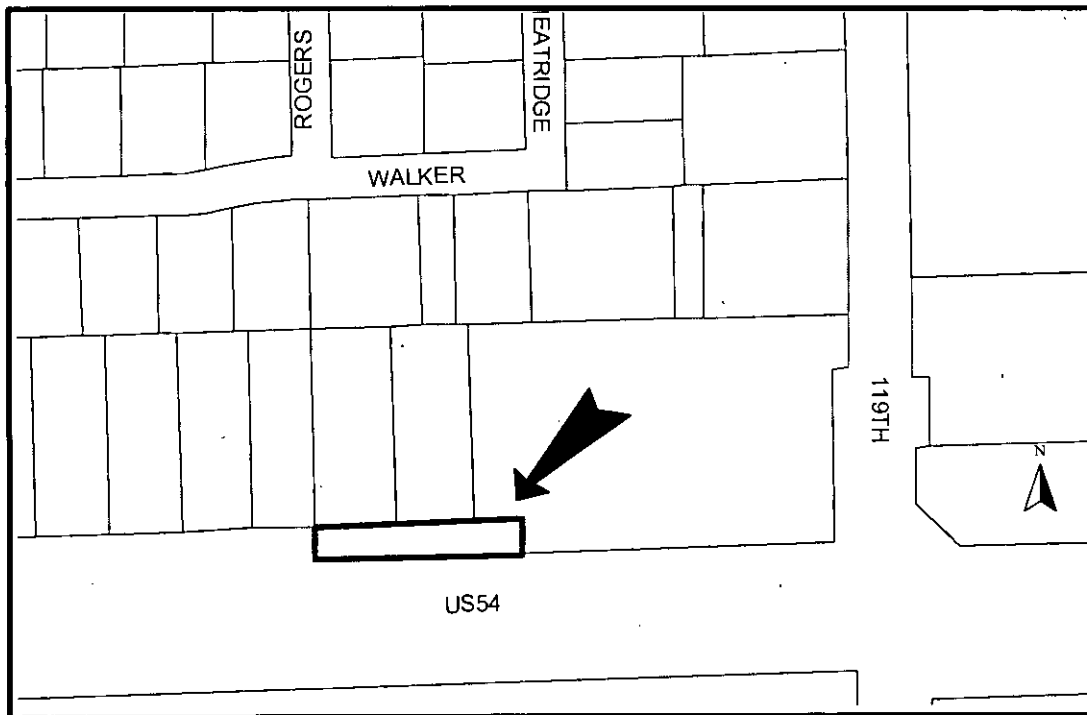
Gary Rebanstorf
Gary Rebanstorf, Director of Law

State of Kansas)
Sedgwick County)
City of Wichita)
I, Patsy Ellis Deputy 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 12-13-05

Patsy Ellis City Clerk
Patsy Ellis Deputy

STAFF REPORT

- CASE NUMBER:** VAC2005-00035 Request to vacate a portion of platted street right-of-way (ROW) and platted setback
- APPLICANTS/AGENT:** 119th & Kellogg Associates, c/o Grant Tidemann
Baughman Company, PA, c/o Phil Meyer
- LEGAL DESCRIPTION:** Generally described as that portion of the Harry Drive ROW as dedicated on the Wheatridge Addition, that abuts the south sides of Lots 6 & 7, and a southwest portion of Lot 5, all in Block 2, all in the Wheatridge Addition, Wichita, Sedgwick County, Kansas
- LOCATION:** Generally located north of US Highway-54/Kellogg Avenue, between 119th Street West and Hornecker Drive (Council District V)
- REASON FOR REQUEST:** Revert to private property
- CURRENT ZONING:** The site is public right-of-way. The abutting properties are zoned "GC" General Commercial. US Highway-54/Kellogg Avenue is south of the site
- VICINITY MAP:**



The applicant is requesting vacation of the eastern 320-foot long (x) 50-foot wide, portion of Harry Drive ROW. From the proposed vacated portion, there is another 759.3-feet of Harry Drive that continues west to Hornecker Street. Hornecker Street immediately intersects, south, with US-54/Kellogg Avenue. The proposed vacated eastern portion of Harry Drive dead ends 80-feet deep into Lot 5, Block 2, the Wheatridge Addition. This abrupt ending of Harry Drive in Lot 5 leaves it approximately 470.07-feet short of intersecting with 119th Street West; see the exhibit of the recorded Wheatridge Addition. There is a platted 35-foot setback that runs parallel to the proposed vacated ROW on Lots 5, 6, & 7, Block 2, Wheatridge Addition. There are no water, sewer or other utilities in the proposed vacated portion of ROW. The Wheatridge Addition was recorded with the Register of Deeds April 8, 1968.

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 Harry Drive ROW and platted setback, 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 September 29, 2005 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 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 the portion of the platted Harry Drive ROW and platted setback described in the petition should be approved with conditions;

- (1) Provide staff with a restrictive covenant tying and binding Lots 6 & 7, Block 2, all in the Wheatridge Addition, and to the abutting vacated portion of the platted Harry Drive ROW. Access to Lots 6 & 7, Block 2, will be from Lot 5, Block 2, all in the Wheatridge Addition. Provide staff with a restrictive covenant tying and binding Lot 5, Block 2, the Wheatridge Addition to the abutting vacated portion of the platted Harry Drive ROW
- (2) Retain platted access control along the south sides of Lots 5, 6 & 7, Block 2, all in the Wheatridge Addition.
- (3) Vacate the platted 35-foot setback on the south sides of Lots 5, 6 & 7, Block 2, all in the Wheatridge Addition, where they abut the vacated portion of Harry Drive. Replace with another 35-foot setback that runs parallel to the new south lot lines of those lots, as created by the vacation of the Harry Drive ROW.

- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants.
- (5) Dedicate additional utility easement to extend the platted easements that run parallel to the west side of Lot 7, and in between Lots 5 & 6, all in Block 2, all in the Wheatridge Addition.
- (6) All improvements shall be according to City Standards.
- (7) All conditions to be completed within 6 months 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 or franchised utilities and recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

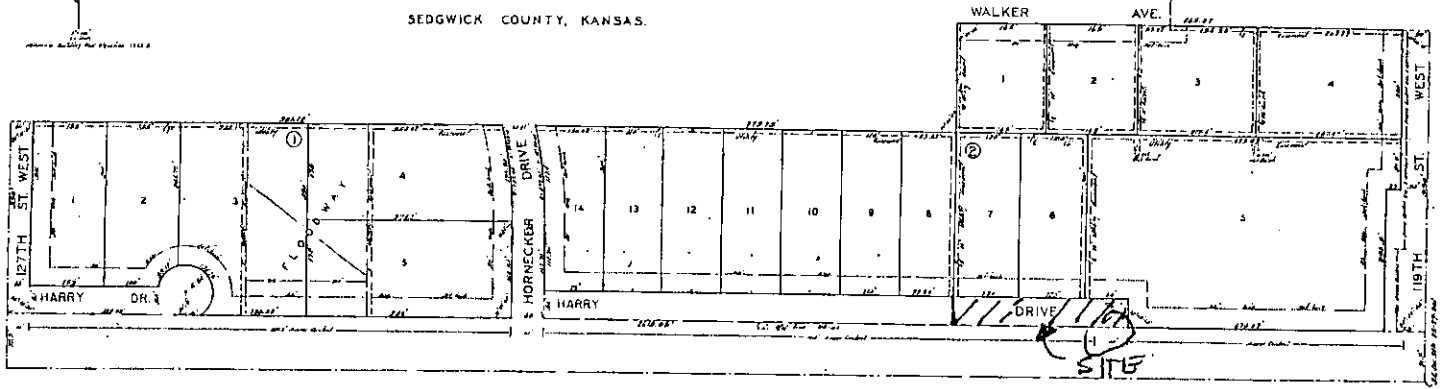
The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide staff with a restrictive covenant tying and binding Lots 6 & 7, Block 2, all in the Wheatridge Addition, and to the abutting vacated portion of the platted Harry Drive ROW. Access to Lots 6 & 7, Block 2, will be from Lot 5, Block 2, all in the Wheatridge Addition. Provide staff with a restrictive covenant tying and binding Lot 5, Block 2, the Wheatridge Addition to the abutting vacated portion of the platted Harry Drive ROW.
- (2) Retain platted access control along the south sides of Lots 5, 6 & 7, Block 2, all in the Wheatridge Addition.
- (3) Vacate the platted 35-foot setback on the south sides of Lots 5, 6 & 7, Block 2, all in the Wheatridge Addition, where it abuts the vacated portion of Harry Drive. Replace with another 35-foot setback that runs parallel to the new south lot lines of those lots, as created by the vacation of the Harry Drive ROW.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants.
- (5) Dedicate additional utility easement to extend the platted easements that run parallel to the west side of Lot 7, and in between Lots 5 & 6, all in Block 2, all in the Wheatridge Addition.
- (6) All improvements shall be according to City Standards.
- (7) All conditions to be completed within 6 months 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 or franchised utilities and recorded with the Register of Deeds.

WHEATRIDGE ADDITION

SEDDGWICK COUNTY, KANSAS.



State of Kansas) s.s. We, Baughman Company,
 Sedgewick County, Kansas, do hereby certify that we have surveyed and plotted the above
 ADDITION, Sedgewick County, Kansas, and that the
 accompanying plat is a true and correct exhibit of
 the survey, described as beginning at the intersection of the north right-of-way line of
 US-50 Highway (continued in case of extension) with
 the east line of the SW 25, Top 27 S. R. 24E.
 thence north along the east line of said SW 25, 250
 feet, thence west parallel with the north right-of-way
 line of said Highway, 125.00 feet, thence north
 parallel with the east line of said SW 25, 200 feet,
 thence west parallel with the north right-of-way
 line of said Highway, 125.00 feet, thence north
 parallel with the east line of said SW 25, 200 feet,
 thence east along the north right-of-way line of said
 Highway, 125.00 feet, thence south along
 said west line, 250 feet, thence east along the
 north right-of-way line of said Highway, 250.00 feet
 to the place of beginning, except that from
 Hornsieber Drive we follow the C. P. & G. Addition
 to Wheatridge, Sedgewick County, Kansas.

Baughman Company
Surveyor

Know all men by these presents
 that we, Charles Hornsieber and Edwin Hornsieber,
 his wife, and Ruth Hornsieber, his widow, and Roy
 McDaniel, her husband, and Helen Hornsieber,
 Thelma and Robert E. Tansing, her husband, and
 Harold R. Moore and Margaret Ann Moore, his
 wife, have caused the land described in the
 subjoined certificate to be plotted into lots, blocks,
 streets and drives to be known as "WHEATRIDGE
 ADDITION", Sedgewick County, Kansas. Condemns
 are hereby granted as indicated for the construction
 and maintenance of all public utilities. The streets
 and drives are hereby dedicated to and for the use
 of the public. All abutting rights of way to lots
 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and across the
 east line of lot 1 and Block 2, except for 2 feet
 to the north of the south lot line, which may be
 bounded by the appropriate governing bodies, is hereby
 granted to the appropriate governing bodies. All lots
 shall have a minimum building pad elevation of 1325
 feet above sea level. The floodway shall be the respon-
 sibility of the owners of the property in the subdivision
 until such time as the governing body exercising
 jurisdiction shall be aware, responsible for main-
 tenance and improvement of the drainage provided
 for them, that no building shall be constructed on
 or within said floodway, nor shall any fill, change
 of grade, creation of channel, or other work be
 carried on without the permission of the Wichita,
 Sedgewick County Flood Control Office, or their successors
 in office.

Charles Hornsieber
Edwin Hornsieber
Ruth Hornsieber
Roy McDaniel
Helen Hornsieber
Thelma Tansing
Robert E. Tansing
Harold R. Moore
Margaret Ann Moore

Association of Wichita, Wichita, Kansas, as a
 portion of the above described property, do hereby
 consent to the plat of "WHEATRIDGE ADDITION",
 Sedgewick County, Kansas.

American Savings Association of Wichita
President
Vice President

State of Kansas) s.s. as it is remembered that on this
 11th day of September, 1927, before me a
 notary public in and for said county and state came
 David W. Chisholm, President and Richard T.
 Bell, Vice President of American Savings
 Association of Wichita, 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.

David W. Chisholm
Richard T. Bell
 My Commission Expires September 11, 1928
 Notary Public

Approved by the Board
 of City Commissioners this 11th day of
September, 1927
Mayor
City Clerk

Approved by the Board
 of County Commissioners this 11th day of
September, 1927
Chairman
Commissioner
County Clerk
 record this 11th day of September, 1927
County Clerk

State of Kansas) s.s. This is to certify that this
 plat was filed for record in the office of the
 Register of Deeds this 11th day of September,
 1927, at Wichita, at 11:00 A.M. and is duly recorded
Register of Deeds
Deputy

