



**Wichita-Sedgwick County Metropolitan Area Planning Department**

August 18, 2006

Inter-Faith Villa Courts, LP  
Attn: Sam Muyskens  
938 N Market  
Wichita, KS 67214

Re: **VAC2006-00013** - Request to vacate a portion of platted street right-of-way, generally located southeast of the Market Avenue-9<sup>th</sup> Street North intersection.

Dear Mr. Muyskens:

At its regular meeting on Tuesday, August 15, 2006, 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  
Inter Faith Villa Courts, LP, 829 N Market, Wichita, KS 67214  
Robert a Pickens, 1004 N Market, Wichita, KS 67214  
Wong Enterprises Inc., c/o Taco Tico – Acct Dept., Bldg B, Ste 100, 2118 N Tyler, Wichita, KS 67212  
Rottinghaus Real Estate, LLC, PO Box 356, Onalaska, WI 54650  
Amidon House, 1005 N. Market, Wichita, KS 67214  
Inter Faith Development Corp., 829 N Market, Wichita, KS 67214



in said Munger's Original Town lying east of and abutting Lot 140 on Chisholm Street in said Munger's Original Town.

**PARCEL #3:**

That part of the 20 foot alley as dedicated in Munger's Original Town of Wichita, Sedgwick County, Kansas lying east of and abutting Lots 138 and 140 on Chisholm Street, (now Market Street), further described as follows: Beginning at the NE corner of said Lot 140; thence southerly along the east line of Lots 140 and 138, 39.50 feet to a point 9.50 feet south of the NE corner of said Lot 138; thence easterly perpendicular to the east line of said Lot 138, 4.00 feet; thence northerly parallel with the east line of said Lots 138 and 140, 39.55 feet, more or less, to the intersection with the easterly extension of the north line of said Lot 140; thence westerly along said extended north line, 4.00 feet to the point of beginning.

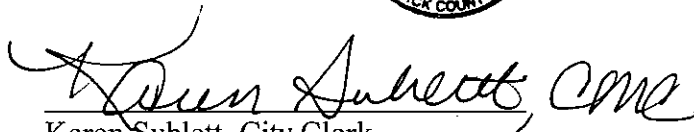
The City Council, after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, makes the following findings:

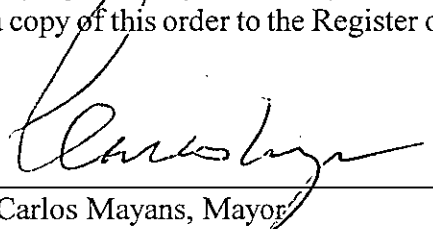
1. That due and legal notice has been given by publication as required by law, by publication in The Wichita Eagle on March 16, 2006, which was at least 20 days prior to the public hearing.
2. No private rights will be injured or endangered by the vacation of the above-described portions of platted street and platted alley right-of-ways, and the public will suffer no loss or inconvenience thereby.
3. Record dedications by separate instruments of a restrictive covenant binding and tying the described portions of vacated platted street and/or alley right-of-way to Lots 138 & 140, Munger's Original Town of Wichita Addition and a contingent alley dedication.
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 portions of platted street and alley right-of-ways described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 15<sup>th</sup> day of August 2006 ordered that the above-described portions of platted street and platted alley right-of-ways 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.

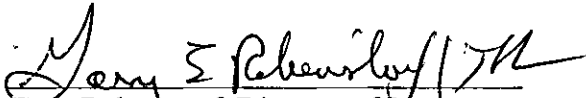


ATTEST:

  
Karen Sublett, City Clerk

  
Carlos Mayans, Mayor

Approved as to Form:

  
Gary Rebenstorf, Director of Law

STAFF REPORT

CASE NUMBER: VAC2006-00013 Request to vacate a portion of platted street and alley right-of-ways (ROWS)

APPLICANTS: Inter-Faith Villa Courts c/o Sam Muyskens

AGENT: Baughman Company, P.A. c/o Phil Myer

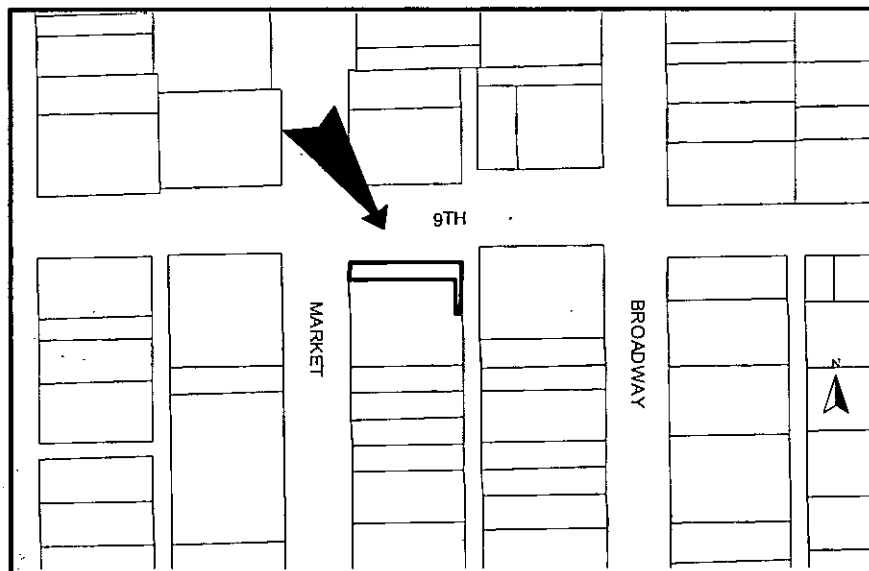
LEGAL DESCRIPTION: Generally described as the south 17-feet of 9<sup>th</sup> Street North between Market Street (west) and the platted 20-foot alley (east), a distance of approximately 131.98-feet, and the west 4-feet of the platted 20-foot alley, beginning at its north intersection of 9<sup>th</sup> Street North and going south for approximately 56.5-feet (see legal), all in the Munger's Original Town of Wichita plat, Sedgwick County, Kansas.

LOCATION: Generally located southeast of the Market Street – 9<sup>th</sup> Street North intersection (WCC #VI)

REASON FOR REQUEST: Existing encroachment

CURRENT ZONING: The site is platted street and alley right-of-ways. The abutting southern property, which is the site of the existing encroachment, is zoned "B" Multifamily Residential, as are the adjoining western and northern properties. The eastern abutting property is zoned "LC" Limited Commercial.

VICINITY MAP:



The Stoner Apartments were built in 1909 on Lots 138 & 140, the Munger's Original Town of Wichita plat. The Stoner encroaches into the street and alley ROWs as described. The Stoner has been deemed eligible for historical registration and the Historical Preservation Planner has made application. Removing the Stoner from the described ROWs is essential to this process. This portion of 9<sup>th</sup> Street North, between Broadway Avenue (east) and Water Street has had at least seven (7) approved vacations of its ROW, from 1959 - 2001. There are utilities, manholes and sewer line in this portion of the 9<sup>th</sup> Street and alley ROWs. This portion of 9<sup>th</sup> Street is classified as a residential street and the proposed vacation does not reduce its ROW to a substandard width. The Munger's Original Town of Wichita plat was recorded March 25, 1870.

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 street and alley ROWs, 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 March 16, 2006 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 and alley right-of-ways 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 9<sup>th</sup> Street and alley ROWs as described in the petition should be approved with conditions;

- (1) Provide staff with a restrictive covenant tying and binding Lots 138 & 140, the Munger's Original Town of Wichita plat to the abutting approved vacated portions of the platted 9<sup>th</sup> Street North ROWs. Provide Planning with a legal description of the approved vacated portions of the platted 9<sup>th</sup> Street North and platted alley ROWs on a Word document via e-mail.
- (2) There are no platted setbacks on Lots 138 & 140, the Munger's Original Town of Wichita plat, which is the site of the Stoner Apartments, but there are setbacks that have been established by the Unified Zoning Code. Any setbacks, which the Stoner may be encroaching into after approval of the vacation case, can be addressed by either an Administrative Adjustments or as a Variance.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants.

- (4) All improvements shall be according to City Standards.
- (5) Provide Staff with a contingent alley dedication, effective upon the removal of the Stoner Apartment building.
- (6) Retain a portion of the vacated ROWs as needed as easements
- (7) 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

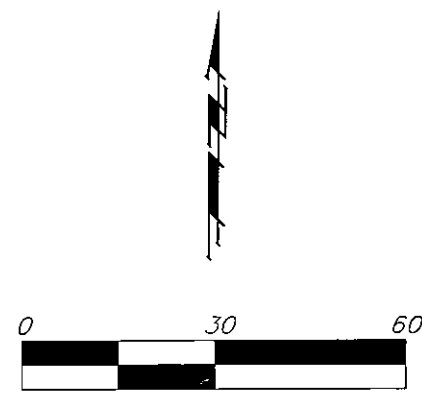
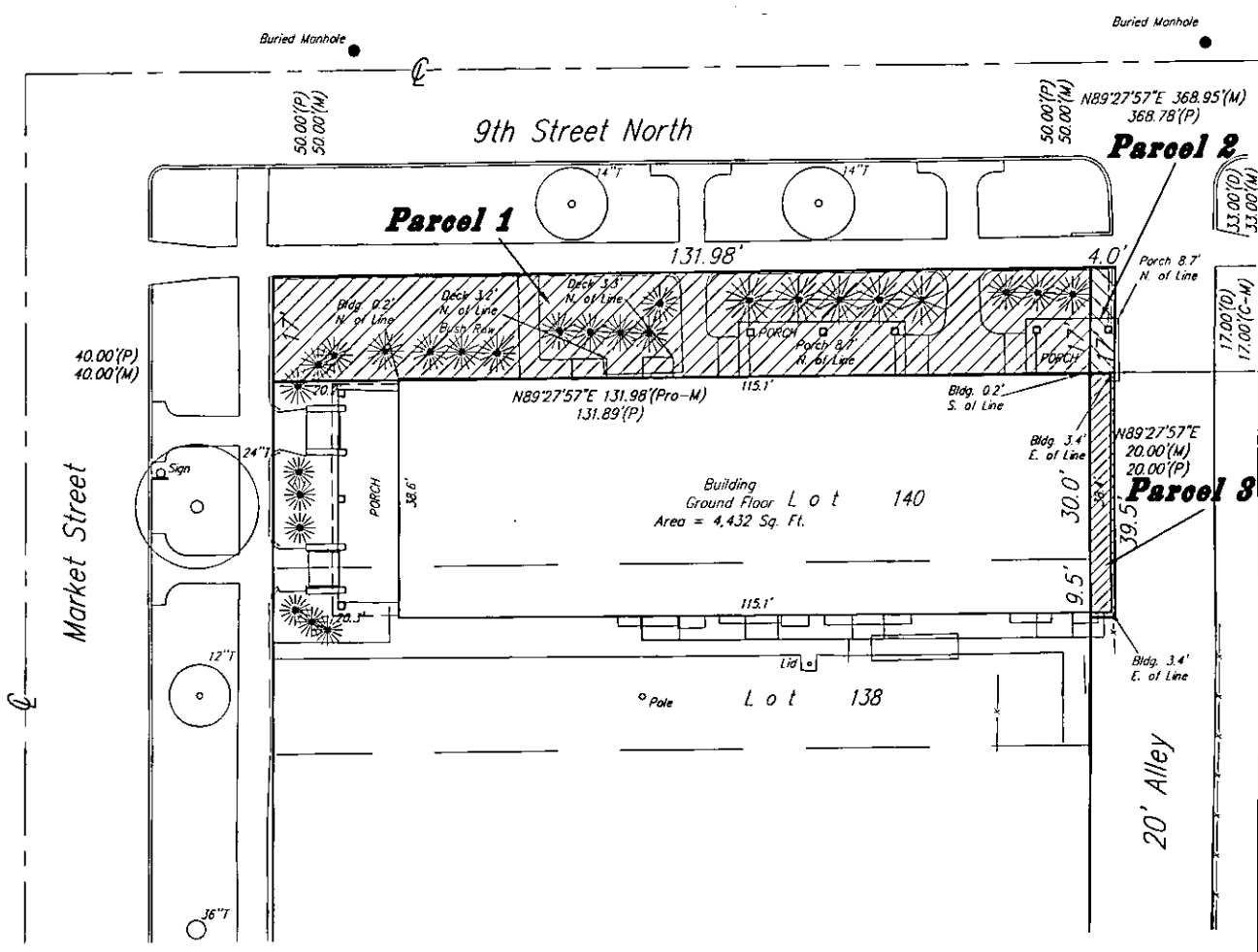
**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide staff with a restrictive covenant tying and binding Lots 138 & 140, the Munger's Original Town of Wichita plat to the abutting approved vacated portions of the platted 9<sup>th</sup> Street North ROW. Provide Planning with a legal description of the approved vacated portions of the platted 9<sup>th</sup> Street North and platted alley ROWs on a Word document via e-mail.
- (2) There are no platted setbacks on Lots 138 & 140, the Munger's Original Town of Wichita plat, which is the site of the Stoner Apartments, but there are setbacks that have been established by the Unified Zoning Code. Any setbacks, which the Stoner may be encroaching into after approval of the vacation case, can be addressed by either an Administrative Adjustments or as a Variance.
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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

# EXHIBIT



**B** Baughman Company, P.A.  
 315 Ellis St. Wichita, KS 67211 P 316-262-7271 F 316-262-0149  
**Baughman** ENGINEERING | SURVEYING | PLANNING | LANDSCAPE ARCHITECTURE

Drawing File: F:\SURVEY\ALTA\05-10-P751\dwg\05-10-P751-Exhibit.dwg