CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

February 6, 2007

Marilyn J. Patry
2318 N. Covington
Wichita, KS 67205

Re: **VAC2006-00030** - Request to vacate a portion of a platted setback, generally located west of Hydraulic Avenue, on the southeast corner of MacArthur Road & Ellis Avenue.

Dear Ms. Patry:

At its regular meeting on Tuesday, February 6, 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
Michele Webster, TerraTech Land Surveying, Inc., 22200 W. 63rd Street South, Viola KS 67149
Marilyn J & Harold M Patry Revocable Trust, 2318 N. Covington, Wichita, KS 67205
Gary L & Patricia K Tracy, 4010 Ellis, Wichita, KS 67216

RECEIVED
FEB 22 2007
METROPOLITAN PLANNING
DIVISION

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

IN THE MATTER OF THE VACATION OF A PLATTED SETBACK	)	
GENERALLY LOCATED WEST OF HYDRAULIC AVENUE, ON THE SOUTHEAST CORNER OF MACARTHUR AVENUE & ELLIS AVENUE	)	**Case No. VAC2006-00030**
MORE FULLY DESCRIBED BELOW	)	

VACATION ORDER

NOW on this 6th day of February, 2007 comes on for hearing the petition for vacation filed by Marilyn J. Patry praying for the vacation of the following described platted setback (associated with the "SF-5 Single-family Residential Lot Split: FILM/PAGE # 28809627), to-wit:

The platted 30-foot setback located on the west side of Lot 1, Block 2, the Louis 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 August 17, 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 platted setback, and the public will suffer no loss or inconvenience thereby.

3. Replace the platted 30-foot setback with the Unified Zoning Code's minimum street side yard setback, per the zoning of the site.

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 platted setback described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 6th day of February 2007 ordered that the above-described a portion of a platted setback 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:

Deputy

Karen Sublett, City Clerk

Approved as to Form:

Gary Rebenstorf, Director of Law

METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 4-1
September 7, 2006

STAFF REPORT

CASE NUMBER: **VAC2006-00030** Request to vacate a portion of a platted setback

APPLICANT/OWNER: Marilyn J Patry

AGENT: Terra Tech Land Surveying c/o Michele Webster

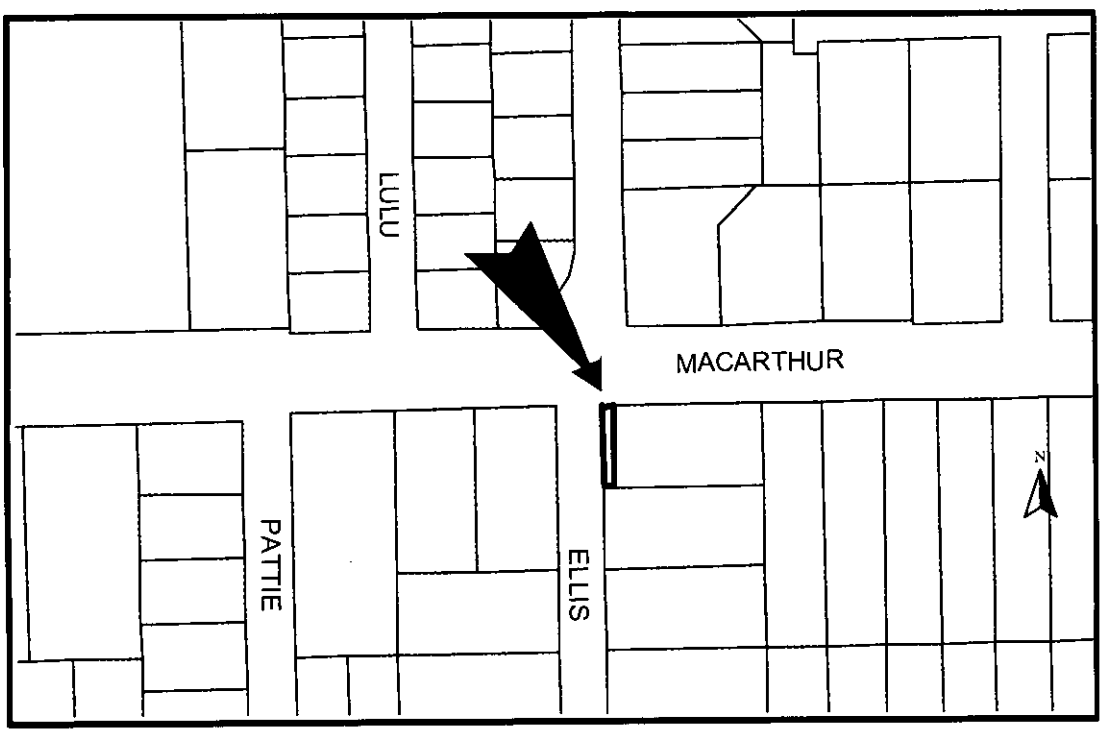
LEGAL DESCRIPTION: The west 15-feet of the platted 30-foot setback, that runs parallel to the west lot line of Lot 1, Block 2, Louis Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located west of Hydraulic Avenue, on the southeast corner of MacArthur Road & Ellis Avenue (WCC #III)

REASON FOR REQUEST: Additional room for development

CURRENT ZONING: Site, abutting eastern and southern properties and adjacent eastern property are zoned "SF-5" Single-family Residential. Adjacent northern properties are zoned "LC" Limited Commercial and "MF-29" Multi-family Residential.

VICINITY MAP:



The applicant proposes to vacate the described portion of the platted 30-foot setback on Lot 1, Block 2, Louis Addition, which is a key corner lot. This case is associated with SUB2006-64, a lot split of Lot 1, Block 2, Louis Addition. The proposed lot split will create Parcels 1 (subject site) & 2. Parcel 1 is the

smaller western portion of Lot 1 and remains a key corner lot. The short side of Parcel 1 is on the Ellis Avenue side, where the platted 30-foot setback becomes a street side yard setback, while the MacArthur Road side becomes the front of the lot, per the UZC. The UZC requires a minimum of a 15-foot street side yard setback (the Ellis side) and 25-foot front yard setback (the MacArthur side). The applicant's request is to replace what was a platted 30-foot front setback with the UZC's minimum street side yard set back. There is a platted 10-foot setback along the MacArthur side of the site that will be eliminated/vacated by a 10-foot street dedication on the Lot Split. There are no platted easements, manholes, sewer line or water located in the subject platted setback. The Louis Addition was recorded with the Register of Deeds October 22, 1948.

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 portion of the platted 30-foot street side yard setback, as described and 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 August 17, 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 the platted street side yard 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 30-foot street side yard setback, described in the petition should be approved with conditions;

(1) Prior to final action by the WCC, complete the Lot Split and have it recorded with the Register of Deeds. Provide Planning Staff with a copy of the recorded Lot Split. Staff will use the recorded Lot Split for the new legal description of the vacation request

(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 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:

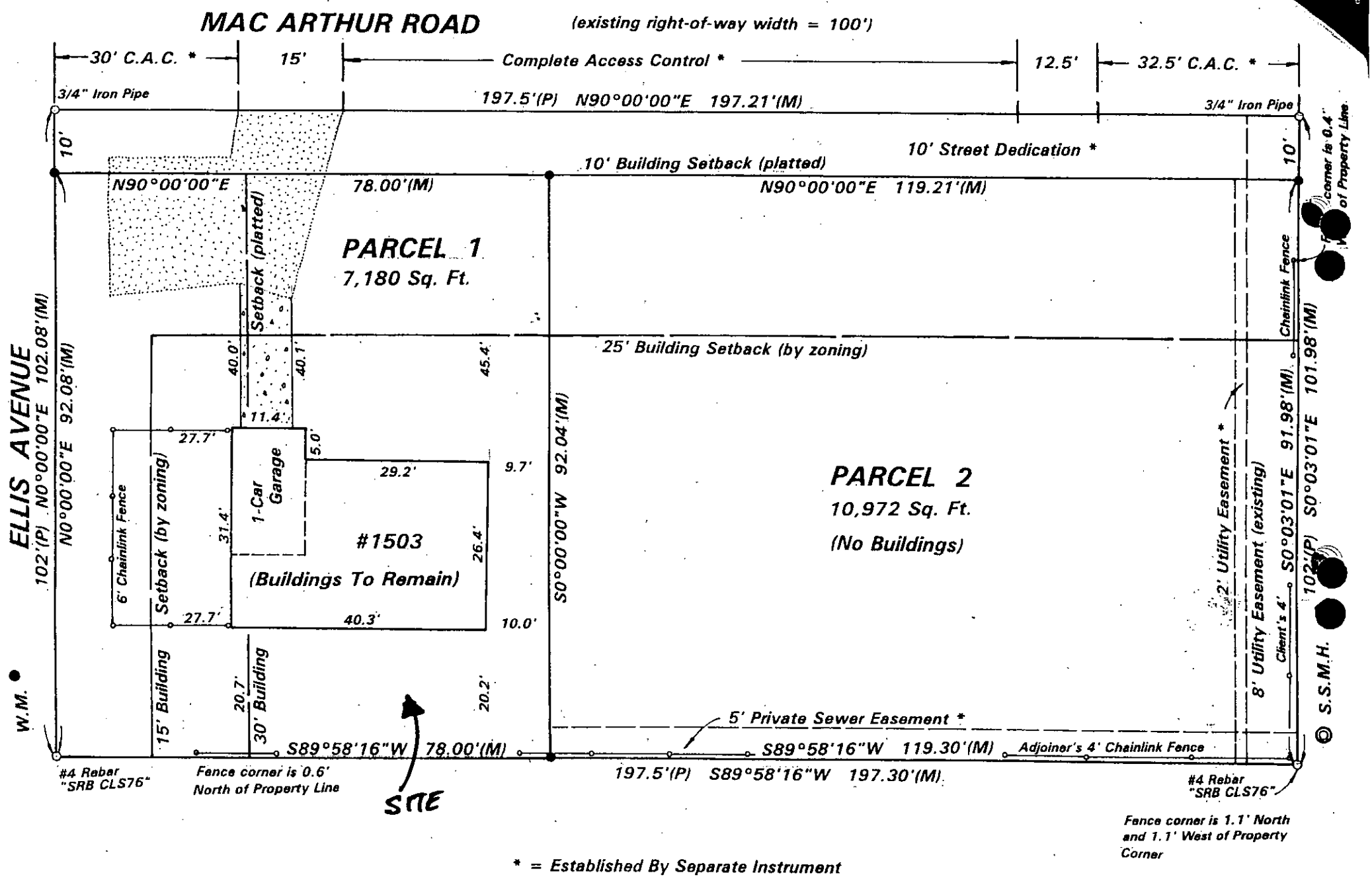
(1) Prior to final action by the WCC, complete the Lot Split and have it recorded with the Register of Deeds. Provide Planning Staff with a copy of the recorded Lot Split. Staff will use the recorded Lot Split for the new legal description of the vacation request

(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 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

Lot split & site VAC2006-30



* = Established By Separate Instrument

C.A.C. = Complete Access Control

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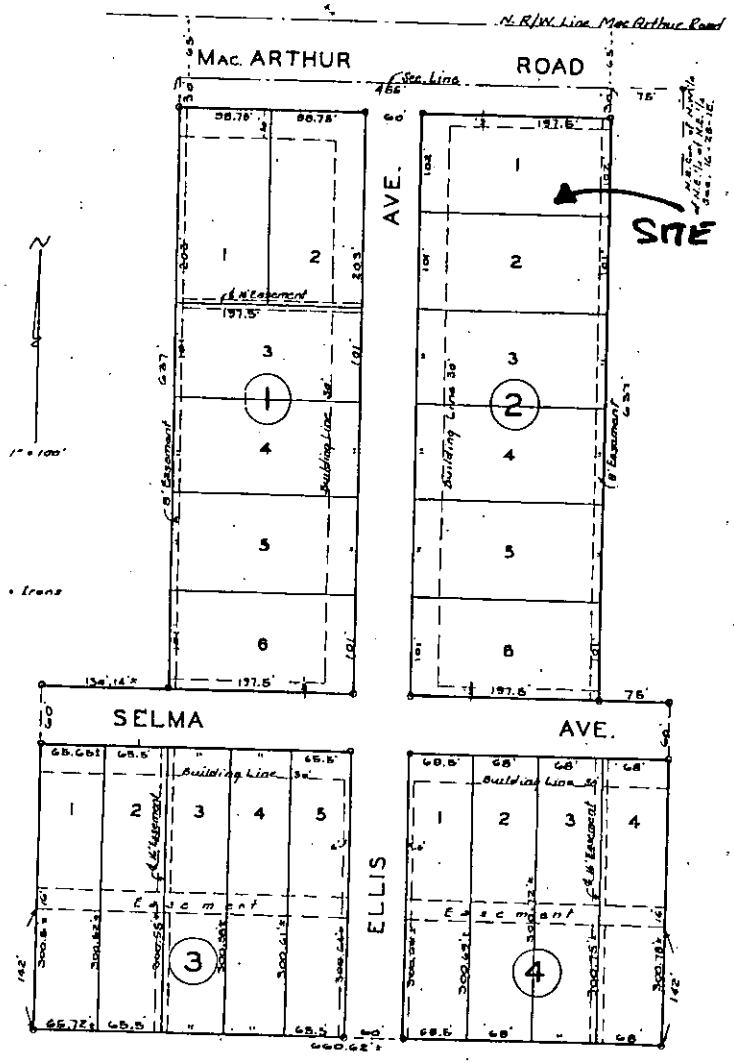
VAC2006-30

LOUIS ADDITION

TO

SEDGWICK COUNTY, KANSAS.



State of Kansas } S.S.
County of Sedgwick

I, Clyde M. Baughman, surveyor in and for said county and state do hereby certify that I, have surveyed and platted "LOUIS ADDITION" to Sedgwick County Kansas and that the accompanying plat is a true and correct exhibit of the property surveyed, described as follows:

Beginning 75 feet west of the N.E. Cor. of the N.W. 1/4 of N.E. 1/4 of N.E. 1/4 of Sec. 16 - Twp. 28S. R. 1-E. of the 6th. P.M., thence south parallel to the east line of the west one-half (1/2) of the N.E. 1/4 of said N.E. 1/4, 637 feet; thence east 75 feet; thence South 360.78 feet to S.E. Corner of N. 1/2 of S.W. 1/4 of N.E. 1/4 of said N.E. 1/4; thence west 660.62 feet more or less to the S.W. Cor. of the N. 1/2 of the S.W. 1/4 of the N.E. 1/4 of said N.E. 1/4; thence north along west line of the N.E. 1/4 of said N.E. 1/4 360.6 feet more or less to a point 637 feet south of the north line of said N.E. 1/4; thence east parallel with north line of said N.E. 1/4 to a point 530 feet west of the east line of the west 1/2 of the N.E. 1/4 of the said N.E. 1/4; thence north parallel with the east line of West 1/2 of the N.E. 1/4 of said N.E. 1/4, 637 feet to North line of said N.E. 1/4; thence east 455 feet to place of beginning.

Clyde M. Baughman Surveyor

Know all men by these presents that we Roy Louis and Selma Louis, his wife, have caused the land described in the surveyors certificate to be platted into lots, blocks and streets to be known as "LOUIS ADDITION" to Sedgwick County, Kansas. Easements are hereby granted, as indicated on the plat, for the construction and maintenance of all public utilities. The streets are hereby dedicated to and for the use of the public.

Roy Louis Selma Louis

State of Kansas }
Sedgwick County } S.S.

Be it remembered that on this 2 N.D. day of OCTOBER 1948, before me a notary public in and for said county and state came Roy Louis and Selma Louis, his wife, 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 [illegible]