



Wichita-Sedgwick County Metropolitan Area Planning Department

February 10, 2009

Price Suchan, LLC
c/o William Suchan
P.O. Box 1302
Derby, KS 67037

Re: **VAC2008-00038** - Request to vacate a portion of a platted setback, generally located on the east side of St. Francis and north of Pawnee Avenue.

Dear Mr. Suchan:

At its regular meeting on Tuesday, February 10, 2009, 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
Babu Bhai & Ramila Ben B. Patel, 532 E. Pawnee, Wichita, KS 67211
Elmer W. Colgrove, c/o Paul A. & Linda Colgrove, 2302 S. St. Francis, Wichita, KS 67211
Carole J. Penny, 2308 S. St. Francis, Wichita, KS 67211
Myrtle & James L. Minson, 2314 S. St. Francis, Wichita, KS 67211
Steven F. & Sherry P. Rousch, 4842 S. Minneapolis, Wichita, KS 67216
Connie M. Smith, 2326 St. Francis, Wichita, KS 67211
John Scott Hislop, 5218 W. 44th St. S. Ct., Wichita, KS 67215
Joshua A. Buttry, 2338 S. St. Francis, Wichita, KS 67211
Curtis P. Mertens, 2301 S. St. Francis, Wichita, KS 67211

City Hall • 10th Floor • 455 North Main • Wichita, Kansas 67202-1688

T 316.268.4421 F 316.268.4390

www.wichita.gov



Sedgwick County
Register of Deeds - Bill Meek
DOC. #/FLM-PG: 29037678

Receipt #: L710318
Pages Recorded: 2
Cashier Initials: AL

Recording Fee: 00H
Authorized By: *[Signature]*

Date Recorded: 2/17/2009 8:34:42 AM



**CITY CLERK'S ORIGINAL BEFORE THE CITY COUNCIL OF THE
RETURN TO CITY CLERK CITY OF WICHITA, SEDGWICK COUNTY, KANSAS**

Approved / Accepted By City Council
This 2-10-09 7-2

**IN THE MATTER OF THE VACATION OF)
A PORTION OF A PLATTED SETBACK)**

**GENERALLY LOCATED)
ON THE EAST SIDE OF ST. FRANCIS AVENUE)
AND NORTH OF PAWNEE AVENUE)**

Case No. VAC2008-00038

MORE FULLY DESCRIBED BELOW)

VAC 2008-38

VACATION ORDER

NOW on this 10th day of February, 2009 comes on for hearing the petition for vacation filed by Price Suchan, LLC c/o William Suchan praying for the vacation of the following described portion of a platted setback to-wit:

The east 20 feet of the platted 35-foot street side yard setback, which runs parallel to the west lot line of Lot 1, TKC Addition and the west side of Saint Francis Avenue, 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 and the Derby Reporter on December 18, 2008, 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 portion of the platted setback, and the public will suffer no loss or inconvenience thereby.
- 3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
- 4. 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.
- 5. The vacation of the described portion of the platted setback described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 10th day of February 2009 ordered that the above described portion of the 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.



[Handwritten Signature]
Carl Brewer, Mayor

ATTEST

[Handwritten Signature: Karen Sublett, CMC]
Karen Sublett, City Clerk

State of Kansas
Sedgwick County }
City of Wichita
I, *[Handwritten Signature: 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 *[Handwritten Date: 10th day of February 2009]*
[Handwritten Signature: Karen Sublett] City Clerk

Approved as to Form:

[Handwritten Signature: Gary Rebenstorf]
Gary Rebenstorf, Director of Law



STAFF REPORT

CASE NUMBER: VAC2008-00038 Request to vacate a portion of a platted setback

OWNER/APPLICANT: Price Suchan Group, LLC, c/o William Suchan

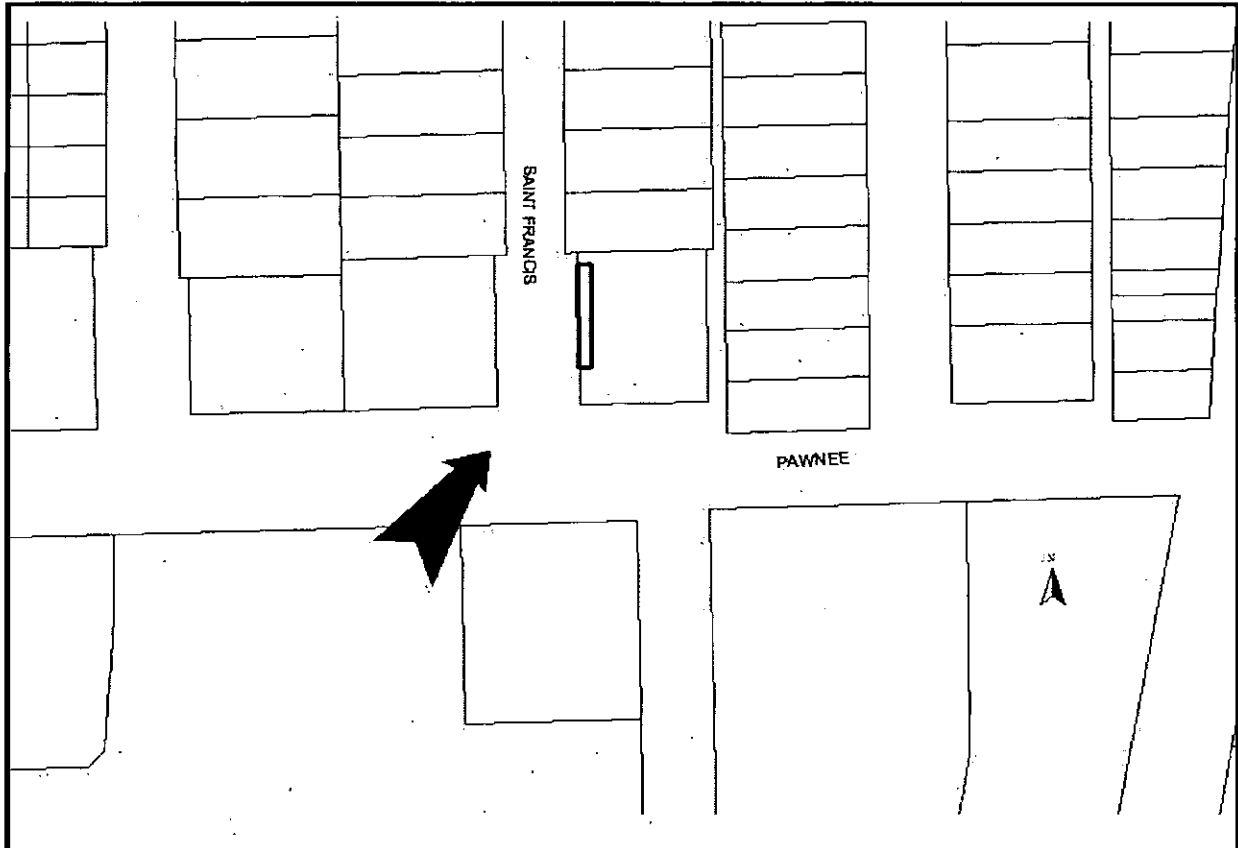
LEGAL DESCRIPTION: A portion of the platted 35-foot setback that runs parallel to the west lot line of Lot 1, TKC Addition, Wichita, Sedgwick County, Kansas, and St. Francis Avenue

LOCATION: Generally located on the east side of Saint Francis Avenue and on the north side of Pawnee Avenue (WCC #III)

REASON FOR REQUEST: Additional space for development

CURRENT ZONING: Subject property and adjacent western property are zoned LC Limited Commercial ("LC"). Abutting and adjacent northern, eastern and western properties are zoned TF-3 Two-family Residential ("TF-3"). Adjacent southern properties are zoned GC General Commercial ("GC") and LI Limited Industrial ("LI").

VICINITY MAP:



The applicant proposes to vacate the east 20 feet of the platted 35-foot street side yard setback, making a 15-foot street side yard setback. This setback is located along St Francis Avenue, which is the short side of the subject key corner lot. Per the Unified Zoning Code (UZC, Art.III, Sec.III-E, e (6)), a key corner lot recorded after March 25, 1996 shall have a front yard setback along all street exposures. The UZC's minimum front yard setback for the LC zoning district is 20 feet. However, The TKC Addition was recorded with the Register of Deeds March 13, 1974, thus the request for the UZC's minimum 15-foot street side yard setback for the LC zoned lot. Per the applicant's exhibit (prepared by Skinner Design Studios, Landscape Architecture & Planning), the requested 15-foot setback would be in line with the abutting northern TF-3 zoned property's 25-foot front yard setback along St. Francis Avenue. This is the result of the subject site being 10 feet narrower along St Francis than the abutting TF-3 property; see staff's utility map showing 80-foot and 60-foot ROWs along the just mentioned properties. There are no platted easements within the platted setback. There are no utilities, manholes, sewer or water lines within the described portion of the platted setback.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works/Water & Sewer/Storm Water, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described portion of the platted setback.

- 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 December 18, 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 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.

Considerations (but not limited to) associated with the request to vacate the described portion of the platted setback have been identified, therefore, the vacation of the portion of the platted setback described in the petition should be approved with conditions;

- (1) Vacate the east 20 feet of the platted 35-foot setback that runs parallel to the west lot line of Lot 1, TKC Addition, Wichita, Sedgwick County, Kansas, and St. Francis Avenue. The approved legal description of the vacated portion of the platted setback, will only be where the proposed expansion of the existing building will be located, this will preserve the platted 35-foot setback that runs parallel to the south lot line of Lot 1, TKC Addition, Wichita, Sedgwick County, Kansas, and Pawnee Avenue. Send the approved legal description to Planning on a Word document, via e-mail.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (3) All improvements shall be according to City Standards and at the applicant's expense.

- (4) Per MAPC Policy Statement #7, all conditions shall 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.

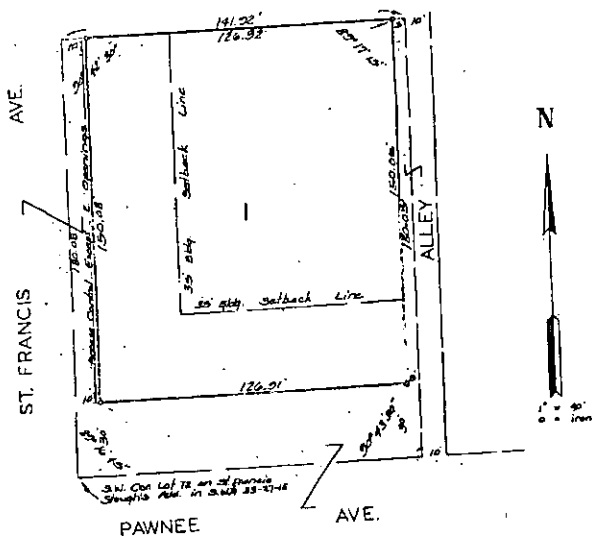
SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the east 20 feet of the platted 35-foot setback that runs parallel to the west lot line of Lot 1, TKC Addition, Wichita, Sedgwick County, Kansas, and St. Francis Avenue. The approved legal description of the vacated portion of the platted setback, will only be where the proposed expansion of the existing building will be located, this will preserve the platted 35-foot setback that runs parallel to the south lot line of Lot 1, TKC Addition, Wichita, Sedgwick County, Kansas, and Pawnee Avenue. Send the approved legal description to Planning on a Word document, via e-mail.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (3) All improvements shall be according to City Standards and at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions shall 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.

T. K. C. ADDITION

WICHITA, KANSAS



This plat of "T.K.C. ADDITION" Wichita, Kansas, has been submitted to and approved by the Wichita-Sedgwick County Metropolitan Area Planning Commission, Wichita, Kansas. Dated this 24 day of MAY 1973.

Wichita-Sedgwick County Metropolitan Area Planning Commission.

Alvin J. Hennessy Chairman
Alvin J. Hennessy
Robert A. Lubin Secretary
Robert A. Lubin

This plat approved and all deductions shown hereon accepted by the Board of Commissioners of the City of Wichita, Kansas, this 19 day of February 1974.

James M. Donnell Mayor
James M. Donnell
Robert C. Eberly City Clerk
Robert C. Eberly

This plat approved and all deductions shown hereon accepted by the Board of Commissioners of Sedgwick County, Kansas, this 13 day of March 1974.

Tom Spear Chairman
Tom Spear
Elmer Peters Commissioner
Elmer Peters
Carl E. Rush Commissioner
Carl E. Rush
Marie Warden County Clerk
Marie Warden

Entered on transfer record this 13 day of March 1974.

Marie Warden County Clerk
Marie Warden

185296

State of Kansas, s.s. This is to certify that this Sedgwick County plat was filed for record in the office of the Register of Deeds this 15 day of March 1974, at 11:00 o'clock P.M.; and is duly recorded.

John Hale Register of Deeds
John Hale
Pearl B. Gilbert Deputy
Pearl B. Gilbert

State of Kansas, s.s. Be it remembered that on this 15 day of March 1974 before me a notary public in aforesaid county and state came Elwood Jones, President and Dale W. Esmond, Executive Vice-President of Farmers and Merchants State Bank of Derby, Kansas, 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.

L. Dona C. Schumaker Notary Public
L. Dona C. Schumaker
Not. Comm. Exp. Nov. 27, 1974 L. DONA C.

State of Kansas, s.s. We, Baughman Company, Surveyors in aforesaid county and state do hereby certify that we have surveyed and platted "T.K.C. ADDITION" Wichita, Kansas and that the accompanying plat is a true and correct exhibit of the property surveyed, described as and being a replat of the south 1/2 of Lot 58 and all of Lots 60, 62, 64, 66, 68, 70, 72 on St. Francis, Sloughs Addition to Wichita, Kansas.

Baughman Company



William L. Karber Surveyor
William L. Karber

Know all men by these presents that we Keith E. Parker and Jacquelyn K. Parker, his wife, have caused the land described in the surveyors certificate to be platted into a lot, streets and alley to be known as "T.K.C. ADDITION", Wichita, Kansas. The streets and alley are hereby dedicated to and for the use of the public. All abutters rights of access to or from St. Francis Ave. over and across the west line of lot 1, are hereby granted to the City of Wichita, provided, however, that lot 1 shall have access to St. Francis Ave. at two (2) points as shall be determined by the City Engineer of the City of Wichita, Kansas.

Keith E. Parker Jacquelyn K. Parker
Keith E. Parker Jacquelyn K. Parker

State of Kansas, s.s. Be it remembered that on this 7 day of December 1973, before me a notary public in aforesaid county and state, came Keith E. Parker and Jacquelyn K. Parker, 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. In testimony whereof, I have hereunto set my hand and affixed my notarial seal the day and year above written.

Bonnie Lamberson Notary Public
Bonnie Lamberson
Not. Comm. Exp. 7-8-74



We, Farmers and Merchants State Bank of Derby, Kansas, holders of a mortgage on the above described property do hereby consent to this plat of "T.K.C. ADDITION", Wichita, Kansas.

Farmers and Merchants State Bank of Derby, Kansas.

Elwood Jones president
Elwood Jones
Dale W. Esmond Executive Vice-President
Dale W. Esmond