



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

March 24, 2009

Tony Blake  
1425 E. Douglas  
Wichita, KS 67211

Re: **VAC2009-00001** - Request to vacate a platted setback, generally located midway between Washington and Hydraulic Avenues, on the northwest corner of Kellogg Drive and Lulu Avenue.

Dear Blake:

At its regular meeting on Tuesday, March 24, 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

A handwritten signature in black ink, appearing to read 'Bill Longnecker'.

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  
First Church of the Nazarene, 1400 E. Kellogg, Wichita KS 67211



Sedgwick County  
 Register of Deeds - Bill Meek  
 DOC.#/FLM-PG: 29047658

Receipt #: L714012  
 Pages Recorded: 2  
 Cashier Initials: MLM

Authorized By:  Recording Fee: 00H

Date Recorded: 3/26/2009 4:15:28 PM



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

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

**GENERALLY LOCATED )  
 MIDWAY BETWEEN WASHINGTON AND )  
 HYDRUALIC AVENUES, ON THE NORTHWEST )  
 CORNER OF KELLOGG DRIVE AND LULU )  
 AVENUE )**

**Case No. VAC2009-00001**

**MORE FULLY DESCRIBED BELOW )**

**VACATION ORDER**

NOW on this 24<sup>th</sup> day of March, 2009 comes on for hearing the petition for vacation filed by Tony Blake praying for the vacation of the following described portion of a platted setback to-wit:

The north 12 feet of the platted 20-foot setback that runs parallel to the south lot line of the east 101.13 feet of Lot 13, Brookside Addition and Kellogg Drive, 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 January 29, 2009, 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 24<sup>th</sup> day of March 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, City Clerk

Approved as to Form:

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

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 24th day of March, 2009  
*[Handwritten Signature]* City Clerk



STAFF REPORT

CASE NUMBER: VAC2009-00001 Request to vacate a portion of a platted setback

OWNER/APPLICANT: Tony Blake

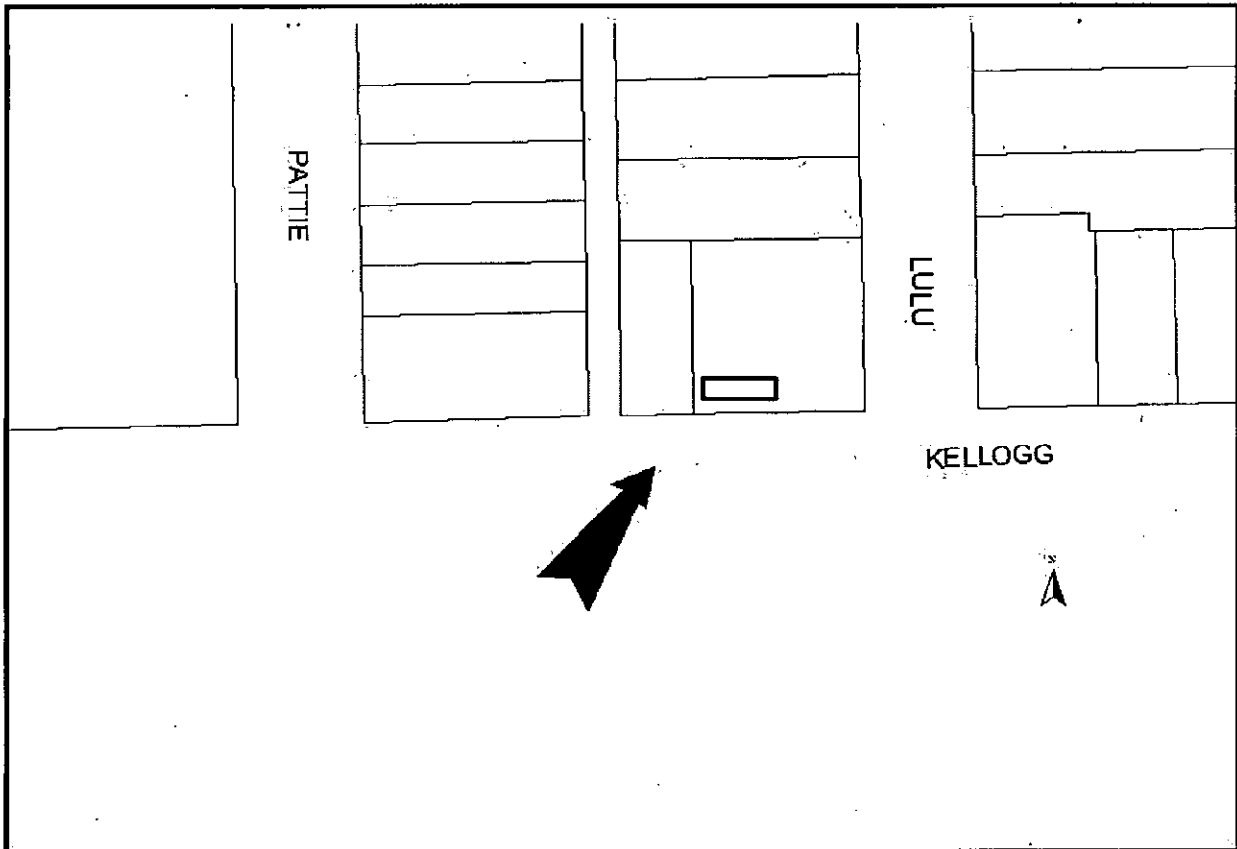
LEGAL DESCRIPTION: The north 12 feet of the platted 20-foot setback that runs parallel to the south lot line of the east 101.13 feet of Lot 13, Brookside Addition and Kellogg Drive, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located midway between Washington and Hydraulic Avenues, on the northwest corner of Lulu Avenue and Kellogg Drive (WCC #1)

REASON FOR REQUEST: Expansion of existing building

CURRENT ZONING: Subject property, abutting and adjacent northern and western properties are zoned LI Limited Industrial ("LI"). Adjacent eastern property is zoned GC General Commercial ("GC") and.

VICINITY MAP:



The applicant proposes to vacate the north 12 feet of the platted 20-foot setback, on the described LI zoned corner lot, thus making an 8-foot street side yard setback. This setback is located along Kellogg Drive. The Unified Zoning Code (UZC) has no minimum street side yard setback for the LI zoning district. Per the UZC (Art.III, Sec.III-E, e (6)), the short side of a corner lot shall have the front yard setback. The short side of this lot is the Kellogg Drive side, by 8.82 feet. However because of the small difference between the lot's Kellogg and Lulu street frontages, the applicant's proposed direction for expansion of the existing building (towards Kellogg), whose parking and entrance is off of Lulu, and the adjacent eastern and abutting western properties' buildings expanding out towards Kellogg, OCI has recognized the lot's Kellogg frontage as the street side yard. The proposed expansion will not go beyond the adjacent eastern and abutting western properties' buildings. The applicant will not lose any parking with the proposed expansion, nor will the existing trees be removed. 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. The Brookside Addition was recorded with the Register of Deeds September 19, 1903. A subsequent Lot Split (May 19, 1981; see packet) shows the platted setbacks. The Lot Split also references the vacation of Lulu Avenue, Ord. 4876, which probably established the platted setbacks.

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 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, of notice of this vacation proceeding one time January 29, 2009 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 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 platted street side yard setback described in the petition should be approved with conditions;

- (1) Vacate the north 12 feet of the platted 20-foot setback that runs parallel to the south lot line of the east 101.13 feet of Lot 13, Brookside Addition and Kellogg Drive. 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 east lot line of Lot 13, Brookside Addition, Wichita, Sedgwick County, Kansas, and Lulu 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 north 12 feet of the platted 20-foot setback that runs parallel to the south lot line of the east 101.13 feet of Lot 13, Brookside Addition and Kellogg Drive. 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 east lot line of Lot 13, Brookside Addition, Wichita, Sedgwick County, Kansas, and Lulu 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.



