

TRIP NO. S/D 75-98 TRIP NO. 5449

NAME CONSTANCE M. KENNEY ADDITION

LOCATION: In an area south of 21st St. North and  
between Waco and Fairview Avenues

ENGINEER K. O. Taylor

OWNER Urban Renewal Agency

APPLICATION FILED 10-16-75

SKETCH PLAN FILED 10-16-75 *no recommendation*

PRELIMINARY FILED \_\_\_\_\_

S/D ACTION \_\_\_\_\_

FINAL FILED 11-24-75

S/D ACTION 12-18-75 *approved*

MAPC ACTION 11-13-75 *40' by ROW for 21st + 40' and 50' setbacks*

REC ACTION 12-9-75 *Approved the recommendation*

RECORDED May 11, 1976 *MAPC*

REMARKS \_\_\_\_\_

MAPC - 1-8-76 *Approved*

S/D 75-98 - CONSTANCE M. KENNEY  
ADDITION - in an area on the south  
side of 21st St. North, between  
Waco and Fairview Aves., by  
K.O. Taylor

# ACTION

	DATE
S/D COMMITTEE (S/O) <i>no recommendation</i>	<u>11-6-75</u>
M.A.P.C. <i>Request 40' of Hwy ROW for 21st St. more ft. Waco plus 40' - 50' setback.</i>	<u>11-13-75</u>
B.C.C. / <del>B.C.C.</del> <i>approval submitted as Appeal of Setback</i>	<u>12-9-75</u>
S/O. <i>approved</i>	<u>12-18-75</u>
M.A.P.C. <i>Approval</i>	<u>1-8-76</u>
B.C.C. <i>approved as recommended</i>	<u>5-4-76</u>

Map No. 5449  
Sec. No. 8  
Twp. No. 27  
Range D-4

Subdivision Report and Progress

S/D No.: 75-98

Name: CASA VIA Constance M. Kenney Addition

General Location: In an area south of 21st St. North and between Waco and Fairview Avenues.

Owner: Urban Renewal Agency  
Address: 104 S. Broadway, Wichita, Ks. 67202 Phone: 267-8242  
Subdivider: Constance M. Kenney  
Address: 1502 N. Broadway, Wichita, Ks. 67214 Phone: 683-3194  
Engineer/Surveyor: K.O. Taylor Alan M. McHenry  
Address: 1542 S. St. Francis; 318 Century Plaza Phone: 265-1872

Application Received 10-16-75  
Conf. with Applicant 10-16-75  
Sketch Plat Received 10-16-75 *no accom-*  
Present Zoning A-1C *moderation*  
\* Proposed Zoning LC  
Letter of Intent none

FINAL PLAT RECEIVED 11-24-75  
S/D Comm. Action 12-15-75 *approved*

PREL. PLAT RECEIVED none submitted  
S/D Comm. Action N/A

Dept. Report on Final 12-19-75  
M.A.P.C. ACTION 11-13-75 *20' strip of Prop Row for*  
Dept. Report on Final 11-13-75 *was plan*  
*approved by the 4-30-76 action*  
Letter on Irons Received N/A  
Title/Taxes Rec'd & Reviewed 1-23-76  
Final Review 4-28-76  
Referral to B.C.C. 4-29-76  
B.C.C. 12-9-75 *approved sketch*  
B.C.C. ACTION 5-4-76 *approved as rec'd.*

Dept. Report on Prel. N/A

TRACING PROGRESS:  
Received 1-13-76  
Released \_\_\_\_\_  
Received \_\_\_\_\_  
Released \_\_\_\_\_

Recorded \_\_\_\_\_  
S/D 12-18-75 *approved*  
NAPC 1-8-76 *approved*

Comments:

No real contact M. Henry  
1/13/76 print for M-FC  
683-3194 - M. Henry  
\* associated zone case 7-1734 "A" to "LC"  
Sidewalk requirement card sent to Bob Vinson 5-4-76  
5-6 prints  
5-6 tracing released to Bill Kenney  
12

REGISTER OF DEEDS

SEDGWICK COUNTY, KANSAS

CONSTANCE M. KENNEY ADDITION was

filed for record on May 11, 1976

Robert J. McCall  
Register Of Deeds

3/12/80

REQUIREMENTS OF 2/13/80 LETTER NOT  
MET. ASSOCIATED VACATION CASE (V-1013)  
APPROVED BY S/D COMM. ON 2/6/80.

ADVISED ENGINEERING TO COLLECT ON  
\$200.00 L OF C, BUT THEY CHOOSE  
NOT TO.

SINCE GUARANTEE HAS EXPIRED, CASE  
WAS CLOSED FROM GUARANTEE FILE  
ON 2/12/80

F.L.N.

February 13, 1980

Mr. William Kenney  
1502 N. Broadway  
Wichita, Kansas 67214

Re: Letter of credit guaranteeing the closing of one curb cut on the south side of 21st Street - Constance M. Kenney Addition - S/D 75-98 (Credit Number 120677)

Dear Mr. Kenney:

The purpose of this letter is to advise you that our Department has not, as of this date, received the vacation application required for initiating a vacation request for the platted access control that makes necessary the above referenced curb cut closure and associated letter of credit.

Since your letter of credit expires on March 9, 1980 and, since March 13 is the earliest date that the Planning Commission could consider this matter (assuming the application was filed on or before February 22 and was favorably reviewed by the Subdivision Committee on March 6), it is necessary that you now take one of two actions. These alternative actions are as follows:

- 1.) Contact Southwest National Bank and have them provide this office with an amendment to your existing \$300.00 letter of credit. In this regard, we can accept a 60 day extension of your present \$300.00 guarantee provided that the new maturity or negotiation date is amended to read May 9, 1980.

or

- 2) Provide this office with a revised letter of credit as outlined in our letter of January 18, 1980 (i.e., one year time extension with provision for inflationary cost increases - (\$600.00).

If we have not received either the authorized amendment to your existing letter of credit or the revised letter of credit by March 3, 1980, we will proceed to turn your existing guarantee over to City Engineering for collection. It is imperative that you take action on this matter or your existing guarantee will be forfeited.

A

Mr. William Kenney  
2-13-80  
Page 2

Should you have any questions about this matter, please call me  
at 268-4405.

Sincerely,

Forrest L. Nagley  
Junior Planner

FLN:bh

cc: N. R. Estep, Executive Vice President, Southwest National  
Bank, 400 E. Douglas, 67202

Alan McHenry, 437 S. Water, 67202

January 18, 1980

Mr. William Kenney  
1502 N. Broadway  
Wichita, Kansas 67214

Re: Letter of credit guaranteeing the closing of one curb cut  
on the south side of 21st Street - Constance M. Kenney  
Addition - S/D 75-98 (Credit Number 120677)

Dear Mr. Kenney:

Since our January 14th telephone conversation regarding the above referenced matter, I have met with your architect, Alan McHenry. Mr. McHenry has advised me that it is your desire to request an extension of time to close the curb cut that presently exists within an area of platted "complete access control."

I have talked with City Public Works about your request for a time extension and we find that a one year extension of time is acceptable. However, in order to allow for inflationary cost increases, it is necessary for a revised letter of credit to be issued for the amount of \$600.00.

I have enclosed with this letter a new irrevocable letter of credit form for your use when renewing this guarantee. Please complete the form with a default date of January 8, 1981 (Line 6) and a negotiation date of March 9, 1981. Please return the completed revised letter of credit to the Planning Department. After our receipt, we will authorize the release of your present \$300.00 guarantee.

Should you have any questions about this matter, please do not hesitate to call me at 268-4405.

Sincerely,

Forrest L. Nagley  
Junior Planner  
FLN:hh

Enclosure:

cc: N. R. Estep, Executive Vice President, Southwest National  
Bank, 400 E. Douglas, 67202  
Alan McHenry, 437 South Water, 67202

January 4, 1980

Ms. Constance M. Kenney  
1502 N. Broadway  
Wichita, Ks. 67214

Re: Letter of credit guaranteeing the closing of one curb  
cut on the south side of 21st Street - Constance M.  
Kenney Addition -S/D 75-98 (Credit Number 120677)

Dear Ms. Kenney:

Your letter of credit from Southwest National Bank in the amount of \$300.00 guaranteeing the closing of the above referenced curb cut is nearing expiration. Our files indicate that a portion of the access controls to 21st Street from this plat was vacated (V-0905) in favor of two openings. However, a field check of the site shows an old curb cut within an area platted as "complete access control." Specifically, this curb cut is within the 40 feet of "complete access control" to the west of the 21st Street and Fairview intersection. This area of complete access control was not included as part of the above mentioned vacation case and, therefore, any curb cuts within this area must be closed.

The purpose of this letter is to bring this situation to your attention and advise you that your letter of credit expires on January 8, 1980, with a negotiation date of March 9, 1980.

Please contact me about this matter at your earliest convenience. My telephone number is 268-4405. I have attached a copy of your letter of credit for your reference and information.

Sincerely,

Forrest L. Nagley  
Junior Planner

FLN:bh

Attachment

cc: N. R. Estep, Executive Vice-President, Southwest National  
Bank, 400 East Douglas, 67202

ASSOC. VAC. CASE - V-0905

B.C.C. - 12/19/78

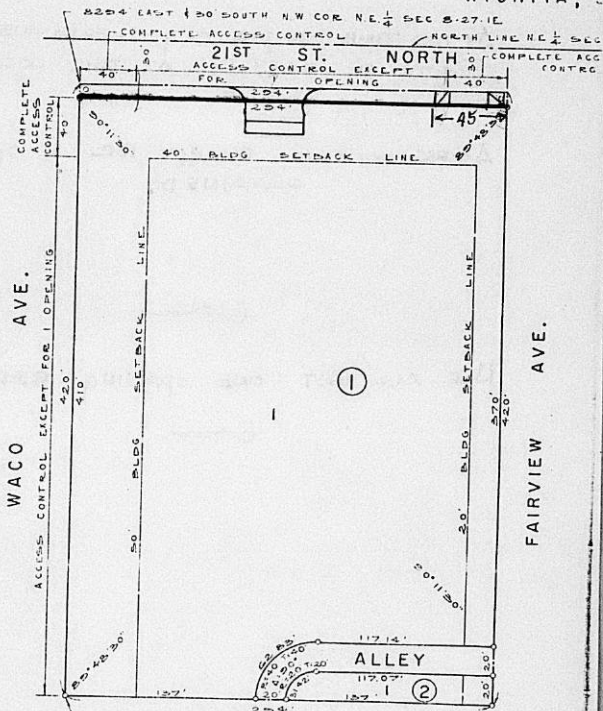
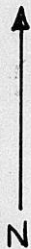
M.A.P.C. - 8/17/78

S/D - 8/10/78

4/5 75-98 Approved subject to conditions as set forth in letter dated 12/27/75. See back. JC.

# CONSTANCE

WICHITA, KANSAS



SW COR. LOT 2-4 ON WACO, FREEDOM & OGDHAM ADD., WICHITA, SEDGWICK COUNTY, KANSAS.

This plat approved and all dedications shown hereon accepted by the Board of County Commissioners of Sedgwick County, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_, Chairman

\_\_\_\_\_, Commission

\_\_\_\_\_, Commission

\_\_\_\_\_, County Clerk

Entered on transfer record this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_, County Cl

AT THE TIME OF PLATTING THERE WERE 2 CURB  
CUTS TO 21<sup>ST</sup> ST. AT THIS LOCATION.

ACCESS CONTROL EXCEPT FOR 1 OPENING WAS  
OBTAINED.

HAS ALL BUT ONE OPENING BEEN CLOSED?

4. V-0905 - W. R. Kenney requests vacation of platted access control legally described as: The platted access control adjacent to 21st Street and adjacent to Waco on Lot 1, Block 1, Constance M. Kenney Addition. Generally located at the southeast corner of 21st Street and Waco Avenue.

MOTION: That the Planning Commission recommend to the City Commission that this vacation request be approved subject to:

- A. The applicant shall submit by separate instrument a dedication of access control permitting two openings to 21st Street and two to Waco in the areas which now are restricted to one opening.
- B. Any relocation or reconstruction of utilities necessitated by this vacation being at the sole expense of the applicant.
- C. All proceedings being without cost to the City, County, or any utility company.

Bell moved, Bayouth seconded and it carried unanimously. Hennessy and Savina were absent.

5. S/D 77-143 - Final plat of Gas-N-Go Addition, generally located at the southwest corner of Seneca and Merton.

MOTION: That the Planning Commission recommend to the City Commission that this final plat be approved subject to:

- A. A 35-foot building setback from Seneca and a 20-foot building setback from Merton shall be shown on the plat.
- B. "Access control except for two openings" shall be indicated on Seneca. The applicant shall guarantee by letter of credit, bond, cash or actual construction the closing of the third opening.
- C. The applicant shall submit a lot grading plan to the Maintenance-Flood Control Office for review and approval.
- D. The 15 feet being dedicated for Seneca Street adjacent to the existing gas pump may be a contingent dedication. The dedication should become effective upon removal of the gas pump or upon the City's need for the right-of-way, whichever occurs first.
- E. Recording of the plat within 30 days after approval by the Board of City Commissioners.

the applicant be required to amend their vacation request application to vacate only the west 100' of the easement which is where the building will be constructed, and that they make satisfactory arrangements with Public Works for the abandonment of an existing sewer line in that 100', and also guarantee to construct a man hole where the line will be terminated, and concluded by recommending approval subject to those conditions.

The applicant was present but had no further comments to add, and had no objection to the staff comments.

There was no further discussion.

MOTION: GREIDER moved, BELL seconded (Savina was absent) and it carried unanimously that the request be approved subject to:

- A. The vacation ordinance shall reflect that the west 100 foot of the 162 foot long easement is being vacated.
- B. The applicant shall guarantee the abandonment of the existing sewer line in the west 100 foot of the easement and the construction of a new manhole to terminate the remaining portion of the sewer. The City Engineer shall be contacted regarding this matter.
- C. Any relocation or reconstruction of utilities necessitated by this vacation being at the sole expense of the applicant.
- D. All proceedings being without cost to the City, County or any utility company.

- 
4. V-0905 - W. R. Kenney requests vacation of platted access control legally described as: The platted access control adjacent to 21st Street and adjacent to Waco on Lot 1, Block 1, Constance M. Kenney Addition. Generally located at the southeast corner of 21st Street and Waco Avenue.

NEWBY outlined the area on the map and advised that when this area was platted, it was platted with an access point on Waco and one on 21st Street with 40 feet of complete access control back each way from the corner of Waco and 21st Street. He explained that the applicant was now building a Quick Trip shop on the corner of Waco and 21st and they wanted one more access point on 21st and one more on Waco to serve the new store. He concluded by recommending approval subject to the two standard utility clauses.

ALAN McHENRY, agent for the applicant, showed a drawing of the completed store and the requested additional two access points. BELL asked what the dimensions were and NEWBY responded that on

21st Street, there is 294 feet of frontage and on Waco, there is 110 feet of frontage. BELL asked how many openings there would have to be theoretically, if the street was vacated, and NEWBY said there could be an access point about every 60 to 70 feet.

NEWBY also pointed out that there is complete access control 40' back each way on the plat from the corner and stated that the 40' areas of complete access control should be retained. He said that the 40' is to allow for some stacking of vehicles and not blocking driveways at the stop lights. He concluded that the staff had no objection to the applicant obtaining one more access point on each street.

Under questioning from BELL, NEWBY stated that the only other way they could get the additional access was to replat which was a much longer process.

McHENRY told the Committee that in order to get the Quick Trip leased, they needed the additional access points they had requested and further explained that it was necessary for their gas station. He pointed out that there is a nearby apartment complex which could cause a lot of traffic congestion when added to the gas service traffic.

There was no further discussion.

MOTION: GREIDER moved, BELL seconded (Savina was absent) and it carried unanimously that the vacation request be approved subject to:

- A. The applicant shall submit by separate instrument a dedication of access control permitting two openings to 21st Street and two to Waco in the areas which now are restricted to one opening.
- B. Any relocation or reconstruction of utilities necessitated by this vacation being at the sole expense of the applicant.
- C. All proceedings being without cost to the City, County, or any utility company.

- 
5. S/D 77-108 - Final plat of Rainbow Lakes West Third Addition, generally located on the northeast corner of 135th Street West and Maple.

NEWBY outlined the area on the map and reminded the Committee that one of the conditions of approval on the preliminary plat had been that the applicant submit a drainage plan for approval. He commented that the drainage plan has been submitted but it has

December 21, 1977

Donald C. Gisick, City Clerk

Jack H. Galbraith, Chief Planner

Irrevocable Letter of Credit Renewal for Constance M. Kenney  
Addition

Attached is a letter of credit which guarantees the closing of a driveway opening in the Constance M. Kenney Addition before January 8, 1980. This \$300 letter replaces a \$1,200 letter which was filed several years ago. The sanitary sewer manhole guaranteed by the first letter of credit has been built. At such time as this new letter of credit has been filed, the original letter (Credit No. 042276) may be released at the request of the purchaser, Constance M. Kenney, or the bank, Southwest National Bank.

It is our understanding that the filing of this renewed letter of credit requires no action by the Board of City Commissioners.

\_\_\_\_\_  
Jack H. Galbraith  
Chief Planner

JHG:LO:et

cc:

W. R. Kenney, 1502 North Broadway, Wichita, Kansas 67214  
N. R. Estep, Executive Vice-President, Southwest National Bank,  
400 East Douglas, Wichita, Kansas 67202

IRREVOCABLE LETTER OF CREDIT

Southwest National Bank  
(Name and address of bank)

Date: December 6, 1977

THE CITY OF WICHITA  
WICHITA, KANSAS

Dear Sirs:

We hereby open our irrevocable credit in your favor available by your drafts at sight on us for a sum not exceeding \$ 300.00 for the account of Constance M. Kenney

(PURCHASER), to be accepted by your signed statement that drawing is due to default or failure to perform by PURCHASER, the following improvements on or before January 8, 1980 (6)  
(Insert date two years from MAPC approval of plat)

1. Close Drive Opening on 21st Street, North.
- 2.
- 3.

in Constance M. Kenney, a subdivision of the City of Wichita, Kansas.

Acting through the City Engineer, you will notify us when either:

1. The improvements have been timely completed and the credit may be released, or
2. The purchaser has failed to perform or is in default hereunder.

All drafts drawn hereunder must be marked: "Drawn under Southwest National Bank, Credit No. 120677, dated December 6, 1977.  
(Name of bank)

The amount of any draft drawn under this credit must, concurrently with negotiation, be endorsed on the reverse side hereof and the presentment of any such draft shall be a warranty by the negotiating bank that such endorsement has been made and that documents have been forwarded as herein required.

Except so far as otherwise expressly stated herein, this credit is subject to the uniform customs and practices for commercial documentary credits fixed by the 13th Congress of the International Chamber of Commerce.

We hereby agree with the drawers, endorsers and bona fide holders of drafts under and in compliance with the terms of this credit that the same shall be duly honored on due presentation and delivery of documents as specified if negotiated on or before March 9, 1980  
(insert a date at least 60 days after the date on line 6)

Very truly yours,

(CORPORATE SEAL)

SOUTHWEST NATIONAL BANK, Wichita, Kansas  
(Name of bank)

By: N. R. Estep  
(Authorized signature)  
N. R. Estep, Executive Vice President

12-2-77 letter of credit form sent to  
W.R. Kenney 1502 N. Broadway

November 29, 1977

Ms. Constance M. Kenney  
1502 North Broadway  
Wichita, Kansas 67214

Re: Irrevocable Letter of Credit Associated with S/D 75-98  
Constance M. Kenney Addition

Dear Ms. Kenney:

As you will recall, in April, 1976, you submitted to the City of Wichita a letter of credit (Credit No. 042276) in the amount of \$1,200.00 as guarantee that a sanitary sewer manhole would be constructed and an existing driveway opening would be closed. These requirements were conditions of approval of the plat located at the southeast corner of Waco and 21st Street North (Constance M. Kenney Addition). This work was guaranteed to be completed before January 8, 1978.

The manhole has been constructed but the driveway located approximately 150 feet east of Waco has not been closed. This driveway must be closed before January 8, 1978 or the City Treasurer will have to contact Southwest National Bank to collect on the letter of credit. A permit for closing the curb at this driveway location may be obtained from the Administration Division of the Department of Public Works, 7th floor, City Hall. If the work is completed and inspected before January 8, 1978, we will be able to release your letter of credit.

If you have any questions regarding this matter, please call me at 268-4421.

Sincerely,

Louise Olivarez  
Junior Planner

LO:et

cc:

N. R. Estep, Executive Vice-President, Southwest National Bank,  
400 East Douglas, Wichita, Kansas 67202

May 18, 1976

Donald C. Gisick, City Clerk

Jack H. Galbraith, Chief Planner

Z-1734 - Zone change from "A" to "B", "BB" & "LC"; and  
✓ S/D 75-98 - Constance M. Kenney Addition

At the regular meeting of the Board of City Commissioners on September 30, 1975, the above captioned request for zone change was considered and approved, and the City Clerk was instructed to withhold publication of the ordinance effectuating the zone change until such time as the plat had been recorded. The associated plat was approved by the Board of City Commissioners on December 9, 1975.

This is to advise you that the final plat of Constance M. Kenney Addition was recorded with the Register of Deeds on May 11, 1976, and therefore, the ordinance effectuating the zone change may now be published.

Also, please note that the ordinance previously sent to you was in error, therefore, attached hereto are the corrected copies for publication.

Jack H. Galbraith  
Chief Planner

JHG:el

Enc.

RECOMMENDATION FROM METROPOLITAN AREA PLANNING COMMISSION TO  
BOARD OF CITY COMMISSIONERS

SUBDIVISION APPROVAL

S/D Number 75-98 Name CONSTANCE M. KENNEY ADDITION  
Application & Sketch Filed: 10-16-75  
Preliminary Plat Filed: N/A Approved by S/D: N/A  
Final Plat Filed: 11-24-75 Approved by S/D: 12-18-75  
Approved by Metropolitan Area Planning Commission: 1-8-76

DESCRIPTION

General Location: South side of 21st Street  
between Waco and Fairview

Surveyor or Engineer: K. O. Taylor  
Owner: Urban Renewal Agency  
Address: 104 South Broadway 67202

- |   |                         |                          |
|---|-------------------------|--------------------------|
| 1. Gross Acreage of Plat <u>2.8</u>     | 6. Access Control       |                          |
| 2. Number of Lots:                      | St. <u>21st St. No.</u> | No. Openings <u>1</u>    |
| Residential _____                       | St. <u>Waco</u>         | No. Openings <u>1</u>    |
| Commercial <u>2</u>                     | St. _____               | No. Openings _____       |
| Industrial _____                        | 7. Req'd Improvements   |                          |
| Other _____                             | St. Paving _____        | Water _____              |
| Total Number of Lots: <u>2</u>          | Sidewalk <u>X</u>       | Drainage _____           |
| 3. Minimum Lot Area: <u>2</u> Acres     | Sewer <u>Manhole</u>    | Other <u>Alley pave-</u> |
| 4. Existing Zoning <u>"AA" and "LC"</u> |                         | <u>ment close curb</u>   |
| 5. Special Problems Discussed _____     |                         | <u>return</u>            |

An irrevocable letter of credit in the amount of \$1,200 has been submitted guaranteeing the construction of a sanitary sewer manhole and the closing of a driveway curb return. Valid petitions have been submitted guaranteeing the reconstruction of a sidewalk on the south side of 21st Street and the paving of an alley. A certificate has also been submitted certifying the petitions.

Planning Commission Recommendation:

That this plat be approved subject to recording of the plat within 30 days after approval by the Board of City Commissioners. Gragg moved, Goebel seconded and it carried unanimously. Porter was absent.

NOTE: The associated zone Case Z-1734, "A" to "LC", has been approved by the Board of City Commissioners subject to platting.

ACTION: Receive and file the irrevocable letter of credit, approve the petitions and instruct the Director of Law to prepare the necessary resolutions, instruct the City Clerk to file the certificate with the Register of Deeds, the publication and filing costs of which shall be billed to the applicant; and approve the plat as approved by the Metropolitan Area Planning Commission and authorize the Mayor to sign.

**CERTIFICATE**

City of Wichita)  
Sedgwick County) ss  
State of Kansas)

I, Urban Renewal Agency, owner and plat-  
tor of Constance M. Kenney Addition, do hereby  
certify that petitions for the following improvements have been  
submitted to the Board of Commissioners of the City of Wichita,  
Kansas:

1. Sidewalk petition
2. Concrete alley pavement petition
- 3.
- 4.
- 5.
- 6.
- 7.

As a result of the above-mentioned petitions for im-  
provements, lots within Constance M. Kenney Addition  
may be subject to special assessments assessed thereto for the  
cost of constructing the above-described improvements.


Signed this 2nd day of March, 1976.

[Signature]  
Steven L. Roberts for URA.  
[Signature]  
Kenneth H. Kitchen, URA Secretary  
[Signature]  
Othello H. Curry, URA Chairman

City of Wichita)  
Sedgwick County) ss  
State of Kansas)

Be it remembered that on this 11th day of March,  
1976, before me, a notary public in and for said County and State,  
came Othello H. Curry, Chairman, to me personally  
known to be the same person who executed the fore-going instrument  
of writing and duly acknowledged the execution of same.

In Testimony Whereof, I have hereunto set my hand and  
affixed my notarial seal the day and year above written.

  
SHIRLEY ANN STUCKY  
NOTARY PUBLIC  
Sedgwick County, Ks.  
My Commission Expires  
November 13, 1976

[Signature]  
Notary Public

## IRREVOCABLE LETTER OF CREDIT

SOUTHWEST NATIONAL BANK

(Name of bank)

Date: April 22, 1976THE CITY OF WICHITA  
WICHITA, KANSAS

Dear Sirs:

We hereby open our irrevocable credit in your favor available by your drafts at sight on us for a sum not exceeding \$ 1,200.00 for the account of Constance M. Kenney

(PURCHASER), to be accepted by your signed statement that drawing is due to default or failure to perform by PURCHASER, the following improvements on or before January 2, 1978  
(Insert date two years from MAPC approval of plat)

1. Sanitary Sewer Manhole
2. Close Drive Opening on 21st Street, North.
- 3.

in Constance M. Kenney Addition, a subdivision of the City of Wichita, Kansas.

Acting through the City Engineer, you will notify us when either:

1. The improvements have been timely completed and the credit may be released, or
2. The purchaser has failed to perform or is in default hereunder.

All drafts drawn hereunder must be marked: "Drawn under Southwest National Bank, Wichita, Kansas, Credit No. 042276, dated April 22, 1976  
(Name of bank)

The amount of any draft drawn under this credit must, concurrently with negotiation, be endorsed on the reverse side hereof and the presentment of any such draft shall be a warranty by the negotiating bank that such endorsement has been made and that documents have been forwarded as herein required.

Except so far as otherwise expressly stated herein, this credit is subject to the uniform customs and practices for commercial documentary credits fixed by the 13th Congress of the International Chamber of Commerce.

We hereby agree with the drawers, endorsers and bona fide holders of drafts under and in compliance with the terms of this credit that the same shall be duly honored on due presentation and delivery of documents as specified if negotiated on or before January 15, 1978.

Very truly yours,

SOUTHWEST NATIONAL BANK, Wichita, KS  
(Name of bank)

By: N. R. Estep  
(Authorized signature)  
N. R. Estep, Executive Vice President

(CORPORATE SEAL)

4-22-76

Talked with Brewer in Eng. re guarantee for closing curb openings as Alon McHenry says all existing curb openings are going to be used in redevelopment. Brewer checked construction plans on file in Central Inspection. Plans show all existing curb cuts to be used except one. Brewer then asked Dick Levin about guarantee. Dick says that Central Inspection will be notified that closing of curb return is to be ~~included~~ included in construction permit and that guarantee is still required.

Curly



## W. B. CARTER CONSTRUCTION CO., INC.

OFFICE:  
6015 No. Broadway  
Phone: 744-1247

MUNICIPAL CONSTRUCTION  
SEWER, GAS, WATER AND PAVING  
P. O. Box 2237      AREA CODE 316  
WICHITA, KANSAS 67201

WAREHOUSE & SHOP  
2550 South Hoover Rd.  
Phone: 942-4331

ALLEN M. MC HENRY ARCHITECT  
318 CENTURY PLAZA BUILDING  
WICHITA, KANSAS 67202

APRIL 1, 1976

RE: CASA VIA

WE WILL CONSTRUCT NEW SANITARY SEWER MANHOLE AT 21ST & WACO

FOR A LUMP SUM COMPLETE      \$ 900.00

THIS IS A BID  
W. B. CARTER CONSTRUCTION CO., INC.

*Jack K. Stamp*  
JACK STAMP  
VICE PRESIDENT

April 22, 1976

Mr. Bill Kenney  
1502 North Broadway  
Wichita, Kansas 67214

Re: CONSTANCE M. KENNEY ADDITION.

Dear Mr. Kenney:

This is to advise you that your plat has been scheduled for final consideration before the City Commission on May 4, 1976.

If you have any questions concerning this matter, please do not hesitate to call.

Sincerely,

Curtis L. Newby  
Junior Planner

CLN:rme

# CHICAGO TITLE INSURANCE COMPANY

## COMMITMENT FOR TITLE INSURANCE

CHICAGO TITLE INSURANCE COMPANY, a corporation of Missouri, herein called the Company, for a valuable consideration, hereby commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest covered hereby in the land described or referred to in Schedule A, upon payment of the premiums and charges therefor; all subject to the provisions of Schedules A and B and to the Conditions and Stipulations hereof.

This Commitment shall be effective only when the identity of the proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A hereof by the Company, either at the time of the issuance of this Commitment or by subsequent endorsement.

This Commitment is preliminary to the issuance of such policy or policies of title insurance and all liability and obligations hereunder shall cease and terminate six months after the effective date hereof or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue such policy or policies is not the fault of the Company.

IN WITNESS WHEREOF, Chicago Title Insurance Company has caused this Commitment to be signed and sealed as of the effective date of Commitment shown in Schedule A, the Commitment to become valid when countersigned by an authorized signatory.

Issued by:  
THE SECURITY ABSTRACT &  
TITLE COMPANY, INC.  
434 North Main Street  
Wichita, Kansas 67202  
(316) AM 7-8371

CHICAGO TITLE INSURANCE COMPANY

*Alvin W. Long*  
President.

ATTEST:

*Chester C. McCullough*  
Secretary.

*R. Bell*  
Authorized Signatory



SCHEDULE A

Number  
232941

Effective Date  
January 15, 1976 @ 7:00 A. M.

1. Owners Policy to be issued: ALTA Form B - 1970  
(Amended 10-17-70) Amount: \$30,100.00  
Proposed Insured:  
Constance M. Kenney

Loan Policy to be issued: ALTA Form 1970  
(Amended 10-17-70) Amount:  
Proposed Insured:

2. The estate or interest in the land described or referred to in this Commitment and covered herein is a fee simple and title thereto is at the effective date hereof vested in:

Urban Renewal Agency

3. The land referred to in this Commitment is described as follows:

Lots 2 through 34 even on Waco Street, and Lots 1 through 33 odd on Wichita, now Fairview Street in Brooks and Oldhams Addition to the City of Wichita, Sedgwick County, Kansas.

*When sending instruments for  
filing please include the above  
referenced commitment number*

## SCHEDULE B

Upon payment of the full consideration to, or for the account of, the grantors or mortgagors, and recording of the necessary deeds and/or mortgages in insurable form, the policy or policies will be issued containing exceptions in Schedule B thereof to the following matters (unless the same are disposed of to the satisfaction of the Company):

1. If an owner's policy is to be issued, the mortgage encumbrance, if any, created as part of the purchase transaction.
2. Defects, liens, encumbrances, adverse claims or other matters, if any created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by this commitment.
3. Rights or claims of parties in possession not shown by the public records.
4. Encroachments, overlaps, boundary line disputes, and any other matters which would be disclosed by an accurate survey and inspection of the premises.
5. Easements or claims of easements not shown by the public records.
6. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
7. Taxes or special assessments which are not shown as existing liens by the public records.
8. General and special taxes and assessments as hereafter listed, if any (all amounts shown being exclusive of interest, penalties and costs): Year 1975 Taxes; Exempt. Key #A-2702 & A-2711.
9. Taxes or special assessments which have not been certified to the Office of the County Treasurer and entered on the tax rolls thereof prior to the date hereof.
10. Restrictive Covenants filed April 17, 1973, on Film 55, Page 964.

January 12, 1976

Mr. Kenneth O. Taylor  
1542 South St. Francis  
Wichita, Kansas 67211

Re: S/D 75-98 - Final Plat of  
CONSTANCE M. KENNEY ADDITION

Dear Mr. Taylor:

At the regular meeting of the Metropolitan Area Planning Commission on January 8, 1976, the above-captioned plat was considered. The action of the Commission was to recommend that the plat be approved as recommended by the Subdivision Committee, subject to the conditions stated in our letter of December 22, 1975.

In addition to complying with those conditions, it is necessary that you meet the following requirements before this plat can be forwarded to the Board of City Commissioners for consideration:

1. Compliance with the requirements of the Metropolitan Area Planning Commission.

- Submission of the fully completed and signed tracing of the subdivision to the Metropolitan Area Planning Department.
- Certification by an attorney that fee title is vested in the plattor.
- Certification that all taxes due and payable for 1975 and prior years have been paid.

Please call if you have any question.

Sincerely,

Jack H. Galbraith  
Chief Planner

JHG:ber

cc: Constance M. Kenney, 1502 North Broadway 67214  
Steven L. Potucek, Urban Renewal Agency  
Alan McHenry, Architect, 318 Century Plaza Bldg. 67202  
Dean Sellers, Assistant City Engineer

December 22, 1975

Kenneth O. Taylor  
1542 South St. Francis  
Wichita, Kansas 67211

Re: S/D 75-98 - Final plat of  
CONSTANCE M. KENNEY ADDITION.

Dear Mr. Taylor:

At the regular meeting of the Subdivision Committee of the Metropolitan Area Planning Commission, December 18, 1975, the above captioned plat was considered. The action of the Committee was to recommend that this plat be approved, subject to:

- 1. The applicant shall guarantee the termination of the existing sanitary sewer located within the alley and installation of a manhole. The Engineering Department shall be contacted regarding this addition.
- 2. The applicant shall be advised that the development of subject property shall comply with Section 28.04.160, K, screening provisions of the zoning ordinance.  
*petition - not returned from Eng.*
- 3. The applicant shall guarantee the reconstruction of the sidewalk on 21st Street adjacent to the new property line.  
*petition - not returned from Eng.*
- 4. The applicant shall guarantee the paving of the east-west alley indicated on the plat.
- 5. The applicant shall guarantee the closing of all existing driveway openings not to be utilized in the redevelopment of subject property.
- 6. The engineers certificate shall be amended to include a statement certifying that the irons shown on the plat have been set and statement that the alley is being vacated by virtue of KSA 1970 Supp. 512(B).

S/D 75-98  
December 22, 1975  
Page 2

- G. Recording of the plat within 30 days after approval by the Board of City Commissioners.

Enclosed with the applicant's copy of this letter is a list of the five methods which have been adopted as being acceptable for guaranteeing improvements required in the approval of plats. Forms for the bond and irrevocable letter of credit are available from this office.

The enclosed "marked" copy of the final plat is for your information and files.

This matter will be forwarded to the Planning Commission for its consideration on Thursday, January 8, 1976, at 1:30 p.m. If you should have any questions concerning this matter, please call.

Sincerely,

Curtis L. Newby  
Junior Planner

CLN:rme  
Encl.

cc: Constance M. Kenney, 1502 North Broadway, 67214  
Steven L. Potucek, Urban Renewal Agency  
Alan McHenry, Architect, 318 Century Plaza Bldg., 67202  
Dean Sellers, Assistant City Engineer

FINAL PLAT  
SUBDIVISION REPORT

SUBDIVISION COMMITTEE  
METROPOLITAN AREA  
PLANNING COMMISSION

S/D NO. 75-98 Name CONSTANCE M. KENNEY ADDITION  
Date Application Rec'd. 11-24-75 Preliminary Approval N/A  
Scheduled S/D Meeting 12-18-75

DESCRIPTION

General Location In an area south of 21st Street North and between  
Waco and Fairview Avenues.

Owner Urban Renewal Agency  
Surveyor/Engineer Kenneth O. Taylor  
Address 1542 South St. Francis Phone 264-4072

- |  |   |
|--|---|
| 1. Gross Acreage of Plat <u>2.8</u>  | 7. Lineal Feet of New Streets:                            |
| 2. Number of Lots:   | a. <u>10</u> R/W <u>294</u> ft.                           |
| Residential _____  | b. _____ R/W _____ ft.                                    |
| Commercial <u>2</u>  | c. _____ R/W _____ ft.                                    |
| Industrial _____   | d. _____ R/W _____ ft.                                    |
| Other _____  | e. _____ R/W _____ ft.                                    |
| Total Number of Lots <u>2</u>  | TOTAL <u>294</u> ft.                                      |
| 3. Minimum Lot Frontage <u>294</u> ft.   | 8. Sidewalk adjacent to all                               |
| 4. Minimum Lot Area <u>114,600 sq.</u> ft.   | streets? <input checked="" type="checkbox"/> yes _____ no |
| 5. Existing Zoning <u>AA &amp; LC</u>  |   |
| 6. Proposed Zoning <u>LC</u>   |   |
| 9. Public Water Supply <input checked="" type="checkbox"/> (Yes-No), Name <u>City of Wichita</u>     |   |
| 10. Public Sanitary Sewers <input checked="" type="checkbox"/> (Yes-No), Name <u>City of Wichita</u> |   |
| 11. Health Department Approval (where applicable) <u>No</u> (Yes-No)                                 |   |
| 12. City of Wichita <input checked="" type="checkbox"/> : Three-Mile Area _____                      |   |

STAFF COMMENTS:

- A. It is noted that the final plat indicates an additional 10 feet of right-of-way for 21st Street. The Board of City Commissioners approved 10 feet of additional right-of-way for 21st Street as an outright dedication in their approval of the street right-of-way requirements for this plat.
- B. The applicant shall be advised that the development of subject property shall comply with Section 28.04.160, K, screening provisions of the zoning ordinance.
- C. The applicant shall guarantee the reconstruction of the sidewalk on 21st Street adjacent to the new property line.
- D. The applicant shall guarantee the paving of the east-west alley indicated on the plat.
- E. The applicant shall guarantee the closing of all existing driveway openings not to be utilized in the redevelopment of subject property.
- F. The engineers certificate shall be amended to include a statement certifying that the irons shown on the plat have been set and statement that the alley is being vacated by virtue of KSA 1970 Supp. 512(B).
- G. Recording of the plat within 30 days after approval by the Board of City Commissioners.

NOTE: This plat has been submitted in final form only, as provided for in Article 4, Part 5 of the MAPC Subdivision Regulations. The Utility Advisory Committee should be prepared to comment on existing utilities and other various improvements, or discuss the feasibility of the applicant extending and/or installing same.

December 9, 1975

Mr. Alan McHenry, Architect  
318 Century Plaza Building  
Wichita, Kansas 67202

Re: S/D 75-98 - Sketch Plat of  
CONSTANCE M. KENNEY.

Dear Mr. McHenry:

The Board of City Commissioners on December 9, 1975, considered the above captioned sketch plat which was formerly known as Casa Via Addition. It was the action of the City Commission to concur in the recommendation of the Planning Commission pertaining to street dedications and building setback lines as reported to you in our letter dated November 24, 1975. Based on this action, and inasmuch as we have already received the final plat, this is to advise you that we are scheduling this plat on the next regular meeting of the Subdivision Committee which will be held on December 18, 1975, in the Public Meeting Room on the 1st Floor of City Hall.

If you have any questions concerning this plat, please advise.

Sincerely,

Jack H. Galbraith  
Chief Planner

JHG:rme

cc: Steven L. Potucek, Urban Renewal Agency  
Constance M. Kenney, 1502 North Broadway, 67214  
Bill Kenney, 1502 North Broadway, 67214  
K. O. Taylor, 1542 South St. Francis, 67211

Map No.: 5449  
Section No.: 8  
Twp. No.: 27  
Range: \_\_\_\_\_

S/D No. 75-98

**APPLICATION FOR SUBDIVISION APPROVAL**

Name of Subdivision: Constance M. Kenney Addition  
General Location: S. Side 21st St. between Waco & Fairview

Name of Property Owner: Urban Renewal Agency Phone: 267-8242  
Address: Union National Building  
Name of Subdivider: Conbet Inc. to Allan McHenry Phone: 265-1872  
Address: Century Plaza Bldg.  
Name of Agent/Surveyor: R. O. Taylor Phone: 264-4072  
Address: 1542 S. St. Francis  
Date of Application: Nov. 24, 1975

**SUBDIVISION INFORMATION:**

1. Gross Acreage of Plat 2.8
2. Number of Lots:  
Residential \_\_\_\_\_  
Commercial 2  
Industrial \_\_\_\_\_  
Other \_\_\_\_\_  
Total Number of Lots 2
- \* 3. Minimum Lot Frontage 294 (10) ft.
- \* 4. Minimum Lot Area 114,600 (265) ft.
5. Existing Zoning AA+LC
6. Proposed Zoning LC
9. Public Water Supply Yes (Yes-No), Name City of Wichita
10. Public Sanitary Sewers Yes (Yes-No), Name City of Wichita
11. Health Department Approval (where applicable) No (Yes-No)
12. City of Wichita  Three-Mile Area

7. Lineal Feet of New Streets:  
a. 10 R/W 294 ft.  
b. \_\_\_\_\_ R/W \_\_\_\_\_ ft.  
c. \_\_\_\_\_ R/W \_\_\_\_\_ ft.  
d. \_\_\_\_\_ R/W \_\_\_\_\_ ft.  
e. \_\_\_\_\_ R/W \_\_\_\_\_ ft.  
TOTAL 294 ft.
8. Sidewalk adjacent to all streets?  yes \_\_\_\_\_ no

\* Figures in parenthesis are for parking area - Lot 1, Block 2

The owner herein agrees to comply with the Subdivision Regulations for the Wichita-Sedgwick County Metropolitan Area, as approved, and all other pertinent ordinances of the City of Wichita and/or Resolutions of Sedgwick County, Kansas, and Statutes of the State of Kansas. He further agrees that he waives the 60-day statutory period in which the Planning Commission or governing body must act. In addition, it is agreed that all costs of recording the plat and supplemental documents thereto with the Register of Deeds, as well as all costs of publication of initiating resolutions approving any petition for improvements, such as streets, sewer, sidewalks, etc. shall be assumed and paid by the owner when billed. The undersigned further states that he is the owner of the property proposed for platting.

Owner's Signature: [Signature]  
Constance M. Kenney

Wichita-Sedgwick County Metropolitan Area  
Planning Commission, Room 402, City Building  
Annex, 104 South Main Street, Wichita, Kansas

Received by [Signature]  
Date 11/24/75  
Fee Submitted 50.00

Form 021

**PAYMENT NOTICE**

City of Wichita

**PAY AT TREASURER'S OFFICE - FIRST FLOOR**

Bldg & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hse. Mvr.	Hse. Moving	Licse.	Mech.
Oil Well	Pav. Cuts	Plan.	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer	750.00	

DESCRIPTION

AMOUNT

*Suburban Application*

Name

*C. M. Keary*

Address

*URA*

Type

*11-47103*

Due Date

Comments:

Date

*11/24/75*

By

*Carl Hinds*

Item 15

December 4, 1975

Ralph Wulz, City Manager

Jack H. Galbraith, Chief Planner

S/D 75-98 - Sketch plat of Casa Via Addition - Appeal of street right-of-way dedication requirements. (Associated with zone case E-1734 "A" to "LC", "BB" and "E", generally located on the south side of 21st Street between Waco and Fairview).

On September 11, 1975, the Metropolitan Area Planning Commission considered the above referred to zone case and recommended approval subject to replatting the property in order to secure dedication of the appropriate street rights-of-way for 21st Street North and Waco; and to establish building setback lines and access control. On September 30, 1975, the Board of City Commissioners approved the zone case as recommended by the Planning Commission. Since that time the Urban Renewal Agency, owner of the property, has submitted a sketch plat on behalf of the proposed developer, Mr. Bill Kenney. This sketch plat did not provide for the replatting of all the land involved in the Waco School site nor did it provide for the appropriate street right-of-way dedications for 21st Street North and for Waco.

When advised of this zone case approval requirement by the Planning Staff, Mr. Kenney agreed to expand the plat to include all the property being developed, but requested an appeal of the street dedication requirements.

In accordance with the provisions of the M.A.P.C. Subdivision Regulations appeal procedures, Mr. Kenney's sketch plat was scheduled for consideration by the Subdivision Committee of the Planning Commission, who after hearing the matter on November 6, 1975, forwarded the sketch plat with no recommendation to the Planning Commission. On November 13, 1975, the Planning Commission considered the matter. The action of the Commission was to recommend that only 10 feet of additional right-of-way be required on 21st Street and no additional right-of-way be required on Waco; and that a 40 foot building setback line from 21st Street and a 50 foot building setback line from Waco be established.

This appeal of the street right-of-way requirements should be placed on the agenda for the December 9, 1975 City Commission meeting for a final determination by the Board of City Commissioners.

Ralph Wuls, City Manager  
December 4, 1975  
Page 2

Attached herewith are copies of the Planning Commission minutes consideration of this case. If you have any questions concerning this matter, please call.

-----  
Jack H. Galbraith  
Chief Planner

APPROVED BY:

-----  
Robert A. Lakin  
Director of Planning

JHG:CLN:rme  
Attachments

cc: Steven L. Potucek, Urban Renewal Agency  
Bill Kenney, 1502 North Broadway, 67214  
John Dekker, Director of Law  
Ray Bruggeman, Director of Public Works  
Dick Linn, City Engineer

EXCERPT FROM PLANNING COMMISSION MINUTES OF NOVEMBER 13, 1975:

18. S/D 75-98 - Sketch Plat of CASA VIA ADDITION, generally located on the south side of 21st Street between Waco and Fairview.

GALBRAITH pointed out the area on the map and reviewed the following staff report which had been provided the Commissioners prior to the meeting:

The above referred to appeal of approval conditions was considered by the Subdivision Committee on November 6, 1975.

The proposed developers of the property stated that they wished to appeal the requirement for additional street right-of-way dedication of 20 feet for 21st Street North and 15 feet for Waco Avenue on subject property. They said that the street dedication would eliminate parking spaces vital to their development. It was pointed out by staff that the dedications were the normal requirement for major street rights-of-way, that both 21st Street and Waco are arterials and that the street right-of-way requirements were pointed out at the Planning Commission consideration of the associated zone case Z-1734 from "A" to "B", "BB" and "LC". The Urban Renewal Agency, owner of the land, was represented at the Planning Commission meeting as well as the architect for the developer, and both were aware of the street dedication requirements.

It was the decision of the Subdivision Committee to forward this matter to the Planning Commission so that the full Commission could consider the appeal request.

In further explanation of this matter, GALBRAITH said the zoning change was requested in order to develop the property as commercial shops, offices and apartments, and in the approval of the zone change, replatting of the entire ownership was discussed since it is in one ownership, however, the north 150 feet of the subject area is presently zoned "LC", the rezoning being only for area to the south of the 150-foot tract.

GALBRAITH pointed out that a revised site development plan was submitted to the Planning Commission and City Commission when the zoning change was considered, showing that additional right-of-way and setback requirements could be complied with on both major streets. After the zoning was approved, however, a sketch plat was submitted which did not show the development as originally submitted, there being no indication of additional right-of-way being dedicated. The applicant has appealed the Subdivision Regulations requirement for the normal dedications, and the Subdivision Committee has considered the matter and forwarded the appeal to the Planning Commission as a whole for

a decision on rights-of-way for 21st Street and Waco. GALBRAITH pointed out that the sketch plat as submitted is not as the zoning change was approved and if the staff had felt that the standard street right-of-way would not be dedicated, there would not have been a favorable recommendation on the zone change.

GALBRAITH explained that the north-south alley in the block will be partially vacated and rededicated to the east or west at the south side of subject tract to create an "L" alley.

It was pointed out by Galbraith that 21st and Waco is a major street "T" intersection and since it is not a four way major intersection, the usual 150-foot of right-of-way is not necessary that only the standard 100 feet (50 half) is necessary. After the Subdivision Committee meeting, the Public Works and Traffic Engineering staff stated they still needed the 100 feet of right-of-way on both streets, which means the applicant would have to dedicate 15 feet on Waco and 20 feet on 21st Street.

*all new* ALAN MCHENRY, architect for the applicant, pointed out that this is basically a rehabilitation project involving two story structures with commercial and offices on the first floor and apartments on the second, and when completed will involve an investment of about a million dollars. He said that the dedications requested would reduce the developable area by 7,000 square feet and the number of apartments from 80 to 70. McHenry submitted photos of the area and the site development plan.

KAMEN stated that it was his recollection that as originally considered by the Commission, everyone was in agreement as far as street dedications. MCHENRY agreed, but said that upon further consideration of the economic hardship created, the picture changed considerably because it would result in 10% of the commercial area being eliminated for development and reduce the number of apartments. MCHENRY said it involves both building location and parking, which will be affected by the required dedications. He pointed out that the proposed development requires the entire site for the buildings and parking proposed, that there is no surplus area as far as the lender is concerned.

BILL KENNEY, the proposed developer, said they were agreeable to all conditions except the one of dedications. He said he was gone when this matter was considered previously, and had been advised of events that had transpired between the staff and the architect when he returned. He continued that he did not realize the magnitude of the word "dedication", but now realized that it reduces the parking by 20%, which causes the entire project to be redesigned and the economics of the situation cannot continue as originally expected.

It was brought out by KENNEY that there has been very little new commercial or apartments built in the area between Central and 25th Street, except for the Holiday Inn Midtown in the north

Page 3

core area in the past 50 years, apparently because it was generally considered that North Wichita was not the place to be; however, there is definitely a difference of opinion now and the residential areas are "dressing up" and a great deal of rehabilitation is occurring. Further, there is a change in the general attitude of combining residential, retail and office space, and it is projected generally that the downtown area should contain new retail, deluxe office space and living quarters. He stated that while subject area is not a part of the downtown core area, it is a part of the north core area and the proposal for development is a combination of retail, office and living units. He said this type of development has been successful in other cities and one of which he had knowledge was three times the size and involved retail and office space and 1,200 apartment units.

Referring back to the subject proposal, KENNEY said if the dedications are required, it was very doubtful that development could occur as proposed. He pointed out that at present, the City has 16 feet and 6 inches of parking area on Waco, measured from inside the curb to inside of the sidewalk. Waco is four lanes with parking prohibited on both sides of the street morning and evening. In view of the present area owned by the City on Waco, he felt that there is already provision for widening of the street on both sides if and when necessary to result in a six lane street.

Referring then to 21st Street, KENNEY reported that the City now has a parking area 6 feet 8 inches on each side of the street, and there is the possibility of widening the street 5 feet without disturbing any existing building for two blocks to the east or west. He asked that the Commission limit dedication requirement on 21st Street from subject property to 5 feet and definitely not more than 10 feet, and to completely eliminate a dedication requirement on Waco where the city already owns sufficient property to widen the street.

KENNEY said if the project is to be financed and developed then they will have to have more parking area than the minimum requirement, and from approximately 120,000 square feet of property the city is asking for 12,000 or 10%. He stated that the original dimensions were given to him for the full property and with no indication of possible dedications, and the project for development was prepared on that basis, and they were involved in the plan drawing before realizing they would not have the same physical property as in the beginning. He urged the Commission to limit the dedication requirements as much as possible.

PORTER asked how much assistance it would be to eliminate a dedication on Waco but require the one on 21st Street. KENNEY said it would help in that one of the major problems is the east-west dimension. He did not feel that there is a possibility that 21st Street is going to be widened and if only 5 feet is required, he felt the present proposal could go forward basically intact.

He said they were told at first to design the development around 5 major trees and any more than 5 feet for dedication and moving the sidewalk would eliminate all the trees. When asked who asked that the project be developed around the trees, KENNEY said that was his understanding from the architect that this was necessary in order to retain a desirable green area.

GALBRAITH explained that the required right-of-way for streets is not paved in full, that there is additional street right-of-way utilized for utilities, sidewalk, street and traffic signs, etc. GALBRAITH said it was pointed out in the Subdivision Committee meeting that there have been other recent developments and replatting in the vicinity of 14th and Waco and 8th and 9th and Waco where the usual dedications were made; it is the standard policy and a requirement of the Subdivision Regulations, and the need for such right-of-way was discussed fully in 1968 when the Regulations were adopted, and in his opinion there is no reason for deviating from the requirement in this case. Regarding the trees, GALBRAITH said he did not know if that was a requirement of the Urban Renewal Agency or not, but he did recall on the site plan an area 50 x 25 feet adjacent to the south property line that would be the normal landscaping area, but did not know if trees were involved in this location or not.

KENNEY told the Commission that if in the future 21st Street is widened, their building will be back far enough not to be involved, and until that time, it is possible that they would have acquired additional property, but right now there is none available to compensate for what they are being required to dedicate.

GRAGG recalled that at the Subdivision Committee meeting, the staff and developer were asked to meet and attempt a compromise, in that Public Works staff doubted that they could agree to a lesser dedication on 21st Street than normally required. He asked if that meeting was held. KENNEY said it was and that he attended and he was advised that 50 feet of half street right-of-way was the standard and that is what the Public Works staff wanted.

*in line of 25'*

The possibility of making the dedication and then utilizing the area under a "minor street permit" was suggested to the applicant, GALBRAITH reported, and that by the time the city needed the right-of-way for widening, perhaps the applicant would have acquired other land for parking purposes. He thought this approach was favored by the Public Works staff as the general opinion was to avoid having to condemn street right-of-way later when the Urban Renewal Agency is now the owner and it can be dedicated now as required of every other developer.

When asked if he had checked on the possibility of a minor street privilege, KENNEY said that once something is dedicated, an investor would not consider it when negotiating a loan.



Date 5

*Suburban*

SAVINA asked if there had been any recent dedication on 21st Street east or west of subject site. GALBRAITH said there had not been as there had not been any requests for zone changes or replats.

KENNEY pointed out that in the zoning request, they had specifically not included the first 150 feet of the land included in this plat because it is already zoned commercial and platted; the zoning request only involved the 175 feet south of that already zoned "LC", and he had no idea they would be required to replat the entire ownership in connection with the zone change, and had assumed that 21st Street right-of-way was set.

GALBRAITH said his dealings on this matter have been with Steven Potucek with the Urban Renewal Agency, and Alan McHenry, the architect, and he felt sure they were aware of the policy of requiring replatting of a total ownership adjacent to a major street when an owner is requesting to deepen his development.

There was more discussion with respect to a reasonable dedication and setback requirements and the need to satisfy the parking requirements, and to also satisfy the investor. KENNEY felt that if only minimum requirements could be made at this time, that possibly by the time the streets were improved, he would have acquired other property to be utilized along with subject site.

SAVINA commented that apparently the loan would be in jeopardy if there is not the proper amount of ground for parking at this time. TAYLOR thought there were only two possibilities - either the dedications and minor street permit, or redesign of the proposed development. She considered it most unfortunate that all those involved were not aware of all possibilities, but was in favor of adhering to the regulations. KAMEN noted that apparently the project can be made in spite of the dedications, but the loan company apparently views it in a different light.

KENNEY reminded the Commission that they could use the north 150 feet already zoned light commercial for usual type development, but had desired to undertake a more energetic, and larger and more desirable overall development. He stated that in order to carry out their plans they would need help from the City, and they are anxious to construct the development in this area which has had no new projects for many years.

SAVINA questioned the policy of requiring replatting of a total ownership when only a portion is involved in rezoning. KAMEN said it was a standard policy in order not to encourage commercial uses down side streets and to have development split by two plats and also to acquire additional street dedication where required and to establish appropriate setbacks and access control. SAVINA thought some of the requirements should be revised.

MICROFILMED  
FROM THE BEST  
AVAILABLE COPY

75  
5

GRAGG was somewhat critical of the staff because the Sub-division Committee had asked that a compromise be developed, but apparently the staff has been very inflexible on this matter, whereas the developer is willing to invest a million dollars. He thought the staff should have been flexible in attempting to work out something that is reasonable in order to have improvement of the area generally.

TAYLOR pointed out that the staff is supposed to carry out the policies of the Planning Commission and City Commission and she did not see the staff role as making decisions adverse to adopted policies or regulations, and any deviation of policies or regulations would be the prerogative of the Planning and City Commissions.

GOEBEL thought it might be possible for the proposed development to occur even with the dedications, but was favorable to a compromise on both street dedications, and he asked if there was any surplus space at all. KENNEY said they had tried to fit the development in three different ways and it simply is not feasible from the east-west dimension; the 400 foot width north and south does give a little more room. He suggested that unless developed as proposed, the only type of development that might be reasonable would be something like a Quik Shop and gas pumps.

No one appeared in opposition.

MOTION: That the Planning Commission authorize the preparation of a preliminary plat including all of the lots in the former Waco School site subject to only 10 feet of right-of-way being required on 21st Street and no additional right-of-way being required on Waco, and further, to require the establishment of a 40-foot building setback from 21st Street and a 50-foot setback line from Waco.

Savina moved, Hennessy seconded and it carried by a vote of 5 in favor (Savina, Hennessy, Goebel, Gragg and Collier) and 3 opposed (Porter, Taylor and Kamen).

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November 24, 1975

Mr. Alan McHenry, Architect  
318 Century Plaza Building  
Wichita, Kansas 67202

Re: S/D 75-98 - Sketch Plat of  
CASA VIA ADDITION

Dear Mr. McHenry:

The Planning Commission, at its regular meeting of November 13, 1975, considered the above-captioned sketch plat. The issue of appeal was whether or not additional right-of-way should be required on the plat for Waco and 21st Street. This condition was outlined in our letter to Steve Potucek dated October 17, 1975 as requirement #2. After considerable discussion, the action of the Commission was to recommend that only 10 feet of right-of-way be required on 21st Street and no additional right-of-way be required on Waco, however, the Planning Commission also required the establishment of a 40-foot building setback line from 21st Street and a 50-foot setback line from Waco. As there was no appeal on the additional conditions of our letter dated October 17, 1975, those conditions will still apply in the preparation of the preliminary plat.

This is to advise you, and those receiving copies of this letter, that this recommendation regarding street right-of-way will be forwarded on to the Board of City Commissioners for their consideration at the regular meeting of December 9, 1975, the meeting to start at 9:00 a.m. in the City Commission Chambers, First Floor, City Hall, 455 North Main.

Please call if you have any questions.

Sincerely,

Jack H. Galbraith  
Chief Planner

JHG:ber

cc: Steven L. Potucek, Urban Renewal Agency  
Constance M. Kenney, 1502 North Broadway 67214  
Bill Kenney, 1502 North Broadway 67214  
K. O. Taylor, 1542 South St. Francis 67211

WICHITA-SEDGWICK COUNTY

DATE

**METROPOLITAN AREA PLANNING DEPARTMENT**

November 7, 1975

**TO** Wichita-Sedgwick County Metropolitan  
Area Planning Commission  
**FROM** Jack H. Galbraith, Chief Planner

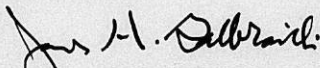
**SUBJECTS/D** 75-98 - Sketch Plat of CASA VIA ADDITION -  
Request for Appeal of Conditions of Sketch  
Plat Approval

The above referred to appeal of approval conditions was considered by the Subdivision Committee on November 6, 1975.

The proposed developers of the property stated that they wished to appeal the requirement for additional street right-of-way dedication of 20 feet for 21st Street North and 15 feet for Waco Avenue on subject property. They said that the street dedications would eliminate parking spaces vital to their development. It was pointed out by staff that the dedications were the normal requirement for major street rights-of-way, that both 21st Street and Waco are arterials and that the street right-of-way requirements were pointed out at the Planning Commission consideration of the associated zone Case Z-1734 from "A" to "B", "BB" and "LC". The Urban Renewal Agency, owners of the land, was represented at the Planning Commission meeting as well as the architect for the developer, and both were aware of the street dedication requirements.

It was the decision of the Subdivision Committee to forward this matter to the Planning Commission so that the full Commission could consider the appeal request.

Attached herewith is a copy of a letter setting forth the conditions of the plat approval, which was sent to the developer after his sketch plat had been reviewed. If you have any question or comments concerning this matter prior to the Planning Commission meeting of November 13, 1975, please call.

  
Jack H. Galbraith  
Chief Planner

JHG:CLN:ber  
Attachment

cc: Steven L. Potucek, URA  
Constance M. Kenney, 1502 South St. Francis 67211  
Alan M. McHenry, 318 Century Plaza 67202

October 17, 1975

Mr. Steven L. Potucek  
Real Estate Officer  
Urban Renewal Agency  
104 South Broadway, Suite 300  
Wichita, Kansas 67202

Re: S/D 75-98 - Casa Via -  
South of 21st Street North  
between Waco and Fairview.

Dear Mr. Potucek:

We are in receipt of your submitted subdivision plat application signed by you on behalf of the Urban Renewal Agency, the owner of the property. The contract purchaser's signature should not have been on the application unless the transfer of title is expected to occur prior to the recording of the plat.

As we have previously discussed, the sketch plat was submitted in a form not consistent with the "Ground Floor Plan" presented to the Planning Commission by the applicant when the associated zone case was considered, nor is it consistent with the discussion and motion of the Planning Commission and final action of the City Commission.

Specifically the Planning Department report to the Planning Commission pointed out that the Waco School site was adjacent to two major streets, both of which had substandard street right-of-way. Waco has 35 feet of half street right-of-way, and 21st has 30 feet of half street right-of-way where 50 feet is required. The action of the Planning Commission was to recommend the approval of the request subject to replatting in order to secure the dedication of street right-of-way for 21st and Waco, to establish building setback lines and access control and in the event the plat was not recorded in one year from the date of approval by the Board of City Commissioners, the zone case was to be marked "denied and closed". The minutes of the Planning Commission do not reflect any concern expressed by either the Urban Renewal Agency or the agent for the contract purchaser. The City Commissioners approved the zone change request as recommended.

Mr. Steven L. Potucek  
October 17, 1975  
Page 2

Therefore, based on the action of the Governing Body, we expect to see a replat of the entire Waco School site showing the dedication of 50 feet of half street right-of-way for both 21st and Waco Streets as required for arterial streets in Article 7 of the Subdivision Regulations. Thirty-five foot building setback lines should be reflected on the plat from both 21st and Waco, as they are arterial streets and we will support a 20 foot setback from Fairview.

A one lot replat of the Waco School site will vacate the north-south 14 foot alley. As we understand, you are of the opinion that the alley south of your site cannot be vacated as there are those who use the alley. It would therefore seem that two solutions are possible. Either terminate the alley in a cul-de-sac or "L" the alley out to either Waco or Fairview. We will have to notify all property owners to the south that the alley is proposed to be vacated in the north portion of the block and we will use the abstract ownership list submitted with the zone case file for the appropriate names and addresses.

Based on these comments this is to advise you that the submitted sketch plat is rejected, however, we authorize the preparation and submission of a preliminary plat subject to the following conditions:

1. The preliminary plat shall include all of the lots in the former Waco School site, which will require the twelve lots to the north to be in the replat.
2. An additional street dedication of 15 feet shall be reflected for Waco and an additional 20 feet for 21st Street which will provide for 50 feet of half street right-of-way.
3. The 35 foot building setback lines from the new right-of-way line for Waco and the 20 foot setback line from Fairview will be extended to the north to intersect with a 35 foot building setback from the new right-of-way line on 21st.
4. The north-south alley shall either terminate in an appropriate cul-de-sac, or it shall be dedicated to "L" out to either Waco or Fairview. The direction this alley goes should be dependent on the level of activity expected. If higher volumes are expected to use the alley, it should intersect with Waco rather than Fairview. In the event the determination is made to "L" the alley out, the Planning Department and Engineering Department shall be contacted relative to indicating the appropriate geometrics for the alley on the preliminary plat. The Engineering Department should be contacted relative to the appropriate radius for the cul-de-sac.

Mr. Steven L. Potucek  
October 17, 1975  
Page 3

5. The 14 foot alley abutting Lots 1-12 shall be vacated with the revised plat.
6. "Access Control" indicating the number of access points presented to the Planning Commission should be reflected on the Preliminary Plat. The number of points indicated will be discussed in further detail at the Subdivision Committee meeting.
7. The applicant shall reconstruct or guarantee the reconstruction of sidewalks adjacent to the new property lines on 21st Street and Waco Avenue.
8. The applicant shall guarantee the closing of the existing driveways. The Engineering Department shall be contacted relative to this matter.
9. Any relocation or reconstruction of existing utilities necessitated by this plat shall be at the sole expense of the applicant.
10. Requirements for a preliminary plat (See Article 5, Part 3 of the M.A.P.C. Subdivision Regulations).

Please contact our office if you have any questions regarding this matter.

Sincerely,

Jack H. Galbraith  
Chief Planner

JHG:rne

cc: Urban Renewal Agency, 104 South Broadway, 67202  
Constance M. Kenney, 1502 North Broadway, 67214  
Kenneth O. Taylor, 1542 South St. Francis, 67211  
Alan H. McHenry, 318 Century Plaza, 67202

November 7, 1975

Wichita-Sedgwick County Metropolitan  
Area Planning Commission

Jack H. Galbraith, Chief Planner

S/D 75-98 - Sketch Plat of CASA VIA ADDITION -  
Request for Appeal of Conditions of Sketch  
Plat Approval

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It was the decision of the Subdivision Committee to forward this matter to the Planning Commission so that the full Commission could consider the appeal request.

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Jack H. Galbraith  
Chief Planner

JHG:CLN:ber  
Attachment

cc: Steven L. Potucek, URA  
Constance M. Kenney, 1502 South St. Francis 67211  
Alan M. McHenry, 318 Century Plaza 67202

Bill Kenny

October 17, 1975

Mr. Steven L. Potucek  
Real Estate Officer  
Urban Renewal Agency  
104 South Broadway, Suite 300  
Wichita, Kansas 67202

Re: S/D 75-98 - Casa Via -  
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Mr. Steven L. Potucek  
October 17, 1975  
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Vacate  
14' alley

cul-de-sac

A one lot replat of the Waco School site will vacate the north-south 14 foot alley. As we understand, you are of the opinion that the alley south of your site cannot be vacated as there are those who use the alley. It would therefore seem that two solutions are possible. Either terminate the alley in a cul-de-sac or "L" the alley out to either Waco or Fairview. We will have to notify all property owners to the south that the alley is proposed to be vacated in the north portion of the block and we will use the abstract ownership list submitted with the zone case file for the appropriate names and addresses.

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Mr. Steven L. Potucek  
October 17, 1975  
Page 3

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9. Any relocation or reconstruction of existing utilities necessitated by this plat shall be at the sole expense of the applicant.
10. Requirements for a preliminary plat (See Article 5, Part 3 of the M.A.P.C. Subdivision Regulations).

Please contact our office if you have any questions regarding this matter.

Sincerely,

Jack H. Galbraith  
Chief Planner

JHG:rme

cc: Urban Renewal Agency, 104 South Broadway, 67202  
Constance H. Kenney, 1502 North Broadway, 67214  
Kenneth O. Taylor, 1542 South St. Francis, 67211  
Alan H. McHenry, 318 Century Plaza, 67202

October 31, 1975

The Subdivision Committee and Utility  
Advisory Committee  
Curtis L. Newby, Junior Planner

S/D 75-98 - Sketch plat of Casa Via Addition.  
Generally located on the south side of 21st  
Street between Waco and Fairview.

The developers of the above described plat of a tract of land being purchased from the Urban Renewal Agency have requested that their sketch plat be placed on your agenda for the meeting of November 6, 1975, so that they might appeal some of the approval requirements established on the sketch plat. There is an associated zone case for a portion of the subject property (Z-1734 "A" to "B", "BB", and "LC") which was recently approved subject to replatting of all of the property, dedication of street right-of-way for 21st Street North and Waco; and establishing building setback lines and access controls. We trust that the zone case approval conditions were passed on to the developers by the Urban Renewal Agency who handled the zone change request and are familiar with the Subdivision Regulations and platting policies of the City. However, the developers want to discuss with you the street right-of-way dedication requirements for the two major streets, 21st Street North and Waco; and the requirement to plat all the property involved in the development, which they feel will be detrimental to their proposed development.

If you have any questions or wish to discuss this matter prior to the November 6 meeting, please call.

Curtis L. Newby, Junior Planner

CLN:rme

WARNER, BAILEY, O'HARA & FITTS

ATTORNEYS AT LAW  
622 NORTH BROADWAY  
WICHITA, KANSAS 67214

G. LEROY WARNER  
ROBERT F. BAILEY  
T. L. O'HARA  
BRUCE B. FITTS  
ANDREW E. BUSCH

October 24, 1975

285-6624  
AREA CODE 316

Mr. Jack Galbraith  
Wichita-Sedgwick County  
Metropolitan Area Planning Commission  
City Building Annex, 104 South Main  
Wichita, Kansas 67202

Re: Lots 13, 15, 17, 19, 21, 23, 25, 27, 29,  
31, and 33, on Wichita Street, now Fair-  
view Avenue, and  
Lots 14, 16, 18, 20, 22, 24, 26, 28, 30,  
32, and 34, Waco Avenue  
All as platted in Brooks and Oldham's  
Addition to the City of Wichita, Sedgwick  
County, Kansas

Dear Mr. Galbraith:

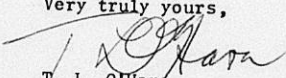
This office represents Mrs. Connie Kenney, the pur-  
chaser of the above entitled property located on the South  
side of 21st Street between Fairview and Waco Streets in the  
City of Wichita.

Mr. Allen McHenry, the architect for Mrs. Kenney, has  
submitted your letter to Mrs. Kenney wherein you are requesting  
that the plat be changed to some of your staff's recommendations.

Mrs. Kenney wishes to appeal the staff's changes to  
the preliminary plat as submitted by the architect to the Sub-  
division Committee of the Metropolitan Area Planning Commission.

We would like to have this presented to the Subdiv-  
ision Committee at their next meeting if at all possible.

Very truly yours,

  
T. L. O'Hara

TLO'H/pmh

Map No.: \_\_\_\_\_  
Section No.: \_\_\_\_\_  
Twp. No.: \_\_\_\_\_  
Range: \_\_\_\_\_

S/D No. 75-98

**APPLICATION FOR SUBDIVISION APPROVAL**

Name of Subdivision: Casa Via Constance M. Kenney addition

General Location: South east corner 21st and Waco

Name of Property Owner: Urban Renewal Agency

Address: 104 S. Broadway, Wichita, Kans 67202 Phone: 267-8242

Name of Subdivider: Constance M. Kenney

Address: 1502 N. Broadway, Wichita, Kansas 67214 Phone: 683-3194

Name of Agent/Surveyor: K. O. Taylor Alan M. McHenry

Address: 1542 S. St. Francis; 318 Century Plaza Phone: 265-1872

Date of Application: Oct. 10, 1975

**SUBDIVISION INFORMATION:**

1. Gross Acreage of Plat 1.856
2. Number of Lots:
  - Residential \_\_\_\_\_
  - Commercial 1
  - Industrial \_\_\_\_\_
  - Other \_\_\_\_\_Total Number of Lots \_\_\_\_\_
3. Minimum Lot Frontage 275 ft.
4. Minimum Lot Area 80,850 ft.
5. Existing Zoning \_\_\_\_\_
6. Proposed Zoning LC; BB; B
7. Lineal Feet of New Streets:
  - a. none R/W \_\_\_\_\_ ft.
  - b. \_\_\_\_\_ R/W \_\_\_\_\_ ft.
  - c. \_\_\_\_\_ R/W \_\_\_\_\_ ft.
  - d. \_\_\_\_\_ R/W \_\_\_\_\_ ft.
  - e. \_\_\_\_\_ R/W \_\_\_\_\_ ft.
  - TOTAL none \_\_\_\_\_ ft.
8. Sidewalk adjacent to all streets?  yes  no
9. Public Water Supply yes (Yes-No), Name City of Wichita
10. Public Sanitary Sewers yes (Yes-No), Name City of Wichita
11. Health Department Approval (where applicable) \_\_\_\_\_ (Yes-No)
12. City of Wichita  Three-Mile Area

The owner herein agrees to comply with the Subdivision Regulations for the Wichita-Sedgwick County Metropolitan Area, as approved, and all other pertinent ordinances of the City of Wichita and/or Resolutions of Sedgwick County, Kansas, and Statutes of the State of Kansas.\* He further agrees that he waives the 60-day statutory period in which the Planning Commission or governing body must act. In addition, it is agreed that all costs of recording the plat and supplemental documents thereto with the Register of Deeds, as well as all costs of publication of initiating resolutions approving any petition for improvements, such as streets, sewer, sidewalks, etc. shall be assumed and paid by the owner when billed. The undersigned further states that he is the owner of the property proposed for platting. Owner does not agree to voluntarily dedicate land for streets or other purposes.

Owner's Signature: Constance M. Kenney

Wichita-Sedgwick County Metropolitan Area  
Planning Commission, Room 402, City Building  
Annex, 104 South Main Street, Wichita, Kansas

Received by [Signature]  
Date 10/14/75 2:55 P.M.  
Fee Submitted 720 fee is

required as Urban Renewal  
is the owner of the  
property.

EXCERPT FROM PLANNING COMMISSION MINUTES OF NOVEMBER 13, 1975:

18. S/D 75-98 - Sketch Plat of CASA VIA ADDITION, generally located on the south side of 21st Street between Waco and Fairview.

GALBRAITH pointed out the area on the map and reviewed the following staff report which had been provided the Commissioners prior to the meeting:

The above referred to appeal of approval conditions was considered by the Subdivision Committee on November 6, 1975.

The proposed developers of the property stated that they wished to appeal the requirement for additional street right-of-way dedication of 20 feet for 21st Street North and 15 feet for Waco Avenue on subject property. They said that the street dedication would eliminate parking spaces vital to their development. It was pointed out by staff that the dedications were the normal requirement for major street rights-of-way, that both 21st Street and Waco are arterials and that the street right-of-way requirements were pointed out at the Planning Commission consideration of the associated zone case Z-1734 from "A" to "B", "BB" and "LC". The Urban Renewal Agency, owner of the land, was represented at the Planning Commission meeting as well as the architect for the developer, and both were aware of the street dedication requirements.

It was the decision of the Subdivision Committee to forward this matter to the Planning Commission so that the full Commission could consider the appeal request.

In further explanation of this matter, GALBRAITH said the zoning change was requested in order to develop the property as commercial shops, offices and apartments, and in the approval of the zone change, replatting of the entire ownership was discussed since it is in one ownership, however, the north 150 feet of the subject area in presently zoned "LC", the rezoning being only for area to the south of the 150-foot tract.

GALBRAITH pointed out that a revised site development plan was submitted to the Planning Commission and City Commission when the zoning change was considered, showing that additional right-of-way and setback requirements could be complied with on both major streets. After the zoning was approved, however, a sketch plat was submitted which did not show the development as originally submitted, there being no indication of additional right-of-way being dedicated. The applicant has appealed the Subdivision Regulations requirement for the normal dedications, and the Subdivision Committee has considered the matter and forwarded the appeal to the Planning Commission as a whole for

Page 2

a decision on rights-of-way for 21st Street and Waco. GALBRAITH pointed out that the sketch plat as submitted is not as the zoning change was approved and if the staff had felt that the standard street right-of-way would not be dedicated, there would not have been a favorable recommendation on the zone change.

GALBRAITH explained that the north-south alley in the block will be partially vacated and rededicated to the east or west at the south side of subject tract to create an "L" alley.

It was pointed out by Galbraith that 21st and Waco is a major street "T" intersection and since it is not a four way major intersection, the usual 150-feet of right-of-way is not necessary that only the standard 100 feet (50 half) is necessary. After the Subdivision Committee meeting, the Public Works and Traffic Engineering staff stated they still needed the 100 feet of right-of-way on both streets, which means the applicant would have to dedicate 15 feet on Waco and 20 feet on 21st Street.

ALAN MCHENRY, architect for the applicant, pointed out that this is basically a rehabilitation project involving two story structures with commercial and offices on the first floor and apartments on the second, and when completed will involve an investment of about a million dollars. He said that the dedications requested would reduce the developable area by 7,000 square feet and the number of apartments from 80 to 70. MCHENRY submitted photos of the area and the site development plan.

KAMEN stated that it was his recollection that as originally considered by the Commission, everyone was in agreement as far as street dedications. MCHENRY agreed, but said that upon further consideration of the economic hardship created, the picture changed considerably because it would result in 10% of the commercial area being eliminated for development and reduce the number of apartments. MCHENRY said it involves both building location and parking, which will be affected by the required dedications. He pointed out that the proposed development requires the entire site for the buildings and parking proposed, that there is no surplus area as far as the lender is concerned.

BILL KENNEY, the proposed developer, said they were agreeable to all conditions except the one of dedications. He said he was gone when this matter was considered previously, and had been advised of events that had transpired between the staff and the architect when he returned. He continued that he did not realize the magnitude of the word "dedication", but now realized that it reduces the parking by 20%, which causes the entire project to be redesigned and the economics of the situation cannot continue as originally expected.

It was brought out by KENNEY that there has been very little new commercial or apartments built in the area between Central and 25th Street, except for the Holiday Inn Midtown in the north

core area in the past 50 years, apparently because it was generally considered that North Wichita was not the place to be; however, there is definitely a difference of opinion now and the residential areas are "dressing up" and a great deal of rehabilitation is occurring. Further, there is a change in the general attitude of combining residential, retail and office space, and it is projected generally that the downtown area should contain new retail, deluxe office space and living quarters. He stated that while subject area is not a part of the downtown core area, it is a part of the north core area and the proposal for development is a combination of retail, office and living units. He said this type of development has been successful in other cities and one of which he had knowledge was three times the size and involved retail and office space and 1,200 apartment units.

Referring back to the subject proposal, KENNEY said if the dedications are required, it was very doubtful that development could occur as proposed. He pointed out that at present, the City has 16 feet and 6 inches of parking area on Waco, measured from inside the curb to inside of the sidewalk. Waco is four lanes with parking prohibited on both sides of the street morning and evening. In view of the present area owned by the City on Waco, he felt that there is already provision for widening of the street on both sides if and when necessary to result in a six lane street.

Referring then to 21st Street, KENNEY reported that the City now has a parking area 6 feet 8 inches on each side of the street, and there is the possibility of widening the street 5 feet without disturbing any existing building for two blocks to the east or west. He asked that the Commission limit dedication requirement on 21st Street from subject property to 5 feet and definitely not more than 10 feet, and to completely eliminate a dedication requirement on Waco where the city already owns sufficient property to widen the street.

KENNEY said if the project is to be financed and developed then they will have to have more parking area than the minimum requirement, and from approximately 120,000 square feet of property the city is asking for 12,000 or 10%. He stated that the original dimensions were given to him for the full property and with no indication of possible dedications, and the project for development was prepared on that basis, and they were involved in the plan drawing before realizing they would not have the same physical property as in the beginning. He urged the Commission to limit the dedication requirements as much as possible.

PORTER asked how much assistance it would be to eliminate a dedication on Waco but require the one on 21st Street. KENNEY said it would help in that one of the major problems is the east-west dimension. He did not feel that there is a possibility that 21st Street is going to be widened and if only 5 feet is required, he felt the present proposal could go forward basically intact.

He said they were told at first to design the development around 5 major trees and any more than 5 feet for dedication and moving the sidewalk would eliminate all the trees. When asked who asked that the project be developed around the trees, KENNEY said that was his understanding from the architect that this was necessary in order to retain a desirable green area.

GALBRAITH explained that the required right-of-way for streets is not paved in full, that there is additional street right-of-way utilized for utilities, sidewalk, street and traffic signs, etc. GALBRAITH said it was pointed out in the Subdivision Committee meeting that there have been other recent developments and replatting in the vicinity of 14th and Waco and 8th and 9th and Waco where the usual dedications were made; it is the standard policy and a requirement of the Subdivision Regulations, and the need for such right-of-way was discussed fully in 1968 when the Regulations were adopted, and in his opinion there is no reason for deviating from the requirement in this case. Regarding the trees, GALBRAITH said he did not know if that was a requirement of the Urban Renewal Agency or not, but he did recall on the site plan an area 50 x 25 feet adjacent to the south property line that would be the normal landscaping area, but did not know if trees were involved in this location or not.

KENNEY told the Commission that if in the future 21st Street is widened, their building will be back far enough not to be involved, and until that time, it is possible that they would have acquired additional property, but right now there is none available to compensate for what they are being required to dedicate.

GRAGG recalled that at the Subdivision Committee meeting, the staff and developer were asked to meet and attempt a compromise, in that Public Works staff doubted that they could agree to a lesser dedication on 21st Street than normally required. He asked if that meeting was held. KENNEY said it was and that he attended and he was advised that 50 feet of half street right-of-way was the standard and that is what the Public Works staff wanted.

The possibility of making the dedication and then utilizing the area under a "minor street permit" was suggested to the applicant, GALBRAITH reported, and that by the time the city needed the right-of-way for widening, perhaps the applicant would have acquired other land for parking purposes. He thought this approach was favored by the Public Works staff as the general opinion was to avoid having to condemn street right-of-way later when the Urban Renewal Agency is now the owner and it can be dedicated now as required of every other developer.

When asked if he had checked on the possibility of a minor street privilege, KENNEY said that once something is dedicated, an investor would not consider it when negotiating a loan.

SAVINA asked if there had been any recent dedication on 21st Street east or west of subject site. GALBRAITH said there had not been as there had not been any requests for zone changes or replats.

KENNEY pointed out that in the zoning request, they had specifically not included the first 150 feet of the land included in this plat because it is already zoned commercial and platted; the zoning request only involved the 175 feet south of that already zoned "LC", and he had no idea they would be required to replat the entire ownership in connection with the zone change, and had assumed that 21st Street right-of-way was set.

GALBRAITH said his dealings on this matter have been with Steven Potucek with the Urban Renewal Agency, and Alan McHenry, the architect, and he felt sure they were aware of the policy of requiring replatting of a total ownership adjacent to a major street when an owner is requesting to deepen his development.

There was more discussion with respect to a reasonable dedication and setback requirements and the need to satisfy the parking requirements, and to also satisfy the investor. KENNEY felt that if only minimum requirements could be made at this time, that possibly by the time the streets were improved, he would have acquired other property to be utilized along with subject site.

SAVINA commented that apparently the loan would be in jeopardy if there is not the proper amount of ground for parking at this time. TAYLOR thought there were only two possibilities - either the dedications and minor street permit, or redesign of the proposed development. She considered it most unfortunate that all those involved were not aware of all possibilities, but was in favor of adhering to the regulations. KAMEN noted that apparently the project can be made in spite of the dedications, but the loan company apparently views it in a different light.

KENNEY reminded the Commission that they could use the north 150 feet already zoned light commercial for usual type development, but had desired to undertake a more energetic, and larger and more desirable overall development. He stated that in order to carry out their plans they would need help from the City, and they are anxious to construct the development in this area which has had no new projects for many years.

SAVINA questioned the policy of requiring replatting of a total ownership when only a portion is involved in rezoning. KAMEN said it was a standard policy in order not to encourage commercial uses down side streets and to have development split by two plats and also to acquire additional street dedication where required and to establish appropriate setbacks and access control. SAVINA thought some of the requirements should be revised.

GRAGG was somewhat critical of the staff because the Sub-division Committee had asked that a compromise be developed, but apparently the staff has been very inflexible on this matter, whereas the developer is willing to invest a million dollars. He thought the staff should have been flexible in attempting to work out something that is reasonable in order to have improvement of the area generally.

TAYLOR pointed out that the staff is supposed to carry out the policies of the Planning Commission and City Commission and she did not see the staff role as making decisions adverse to adopted policies or regulations, and any deviation of policies or regulations would be the prerogative of the Planning and City Commissions.

GOEBEL thought it might be possible for the proposed development to occur even with the dedications, but was favorable to a compromise on both street dedications, and he asked if there was any surplus space at all. KENNEY said they had tried to fit the development in three different ways and it simply is not feasible from the east-west dimension; the 400 foot width north and south does give a little more room. He suggested that unless developed as proposed, the only type of development that might be reasonable would be something like a Quik Shop and gas pumps.

No one appeared in opposition.

MOTION: That the Planning Commission authorize the preparation of a preliminary plat including all of the lots in the former Waco School site subject to only 10 feet of right-of-way being required on 21st Street and no additional right-of-way being required on Waco, and further, to require the establishment of a 40-foot building setback from 21st Street and a 50-foot setback line from Waco.

Savina moved, Hennessy seconded and it carried by a vote of 5 in favor (Savina, Hennessy, Goebel, Gragg and Collier) and 3 opposed (Porter, Taylor and Kamen).

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WICHITA-SEDGWICK COUNTY

DATE

METROPOLITAN AREA PLANNING DEPARTMENT

November 7, 1975

TO Wichita-Sedgwick County Metropolitan  
Area Planning Commission

FROM Jack H. Galbraith, Chief Planner

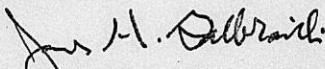
SUBJECTS/D 75-98 - Sketch Plat of CASA VIA ADDITION -  
Request for Appeal of Conditions of Sketch  
Plat Approval

The above referred to appeal of approval conditions was considered by the Subdivision Committee on November 6, 1975.

The proposed developers of the property stated that they wished to appeal the requirement for additional street right-of-way dedication of 20 feet for 21st Street North and 15 feet for Waco Avenue on subject property. They said that the street dedications would eliminate parking spaces vital to their development. It was pointed out by staff that the dedications were the normal requirement for major street rights-of-way, that both 21st Street and Waco are arterials and that the street right-of-way requirements were pointed out at the Planning Commission consideration of the associated zone Case Z-1734 from "A" to "B", "BB" and "LC". The Urban Renewal Agency, owners of the land, was represented at the Planning Commission meeting as well as the architect for the developer, and both were aware of the street dedication requirements.

It was the decision of the Subdivision Committee to forward this matter to the Planning Commission so that the full Commission could consider the appeal request.

Attached herewith is a copy of a letter setting forth the conditions of the plat approval, which was sent to the developer after his sketch plat had been reviewed. If you have any question or comments concerning this matter prior to the Planning Commission meeting of November 13, 1975, please call.

  
Jack H. Galbraith  
Chief Planner

JHG:CLN:ber  
Attachment

cc: Steven L. Potucek, URA  
Constance M. Kenney, 1502 South St. Francis 67211  
Alan M. McHenry, 318 Century Plaza 67202

October 17, 1975

Mr. Steven L. Potucek  
Real Estate Officer  
Urban Renewal Agency  
104 South Broadway, Suite 300  
Wichita, Kansas 67202

Re: S/D 75-98 - Casa Via -  
South of 21st Street North  
between Waco and Fairview.

Dear Mr. Potucek:

We are in receipt of your submitted subdivision plat application signed by you on behalf of the Urban Renewal Agency, the owner of the property. The contract purchaser's signature should not have been on the application unless the transfer of title is expected to occur prior to the recording of the plat.

As we have previously discussed, the sketch plat was submitted in a form not consistent with the "Ground Floor Plan" presented to the Planning Commission by the applicant when the associated zone case was considered, nor is it consistent with the discussion and motion of the Planning Commission and final action of the City Commission.

Specifically the Planning Department report to the Planning Commission pointed out that the Waco School site was adjacent to two major streets, both of which had substandard street right-of-way. Waco has 35 feet of half street right-of-way, and 21st has 30 feet of half street right-of-way where 50 feet is required. The action of the Planning Commission was to recommend the approval of the request subject to replatting in order to secure the dedication of street right-of-way for 21st and Waco, to establish building setback lines and access control and in the event the plat was not recorded in one year from the date of approval by the Board of City Commissioners, the zone case was to be marked "denied and closed". The minutes of the Planning Commission do not reflect any concern expressed by either the Urban Renewal Agency or the agent for the contract purchaser. The City Commissioners approved the zone change request as recommended.

Mr. Steven L. Potucek  
October 17, 1975  
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Therefore, based on the action of the Governing Body, we expect to see a replat of the entire Waco School site showing the dedication of 50 feet of half street right-of-way for both 21st and Waco Streets as required for arterial streets in Article 7 of the Subdivision Regulations. Thirty-five foot building setback lines should be reflected on the plat from both 21st and Waco, as they are arterial streets and we will support a 20 foot setback from Fairview.

A one lot replat of the Waco School site will vacate the north-south 14 foot alley. As we understand, you are of the opinion that the alley south of your site cannot be vacated as there are those who use the alley. It would therefore seem that two solutions are possible. Either terminate the alley in a cul-de-sac or "L" the alley out to either Waco or Fairview. We will have to notify all property owners to the south that the alley is proposed to be vacated in the north portion of the block and we will use the abstract ownership list submitted with the zone case file for the appropriate names and addresses.

Based on these comments this is to advise you that the submitted sketch plat is rejected, however, we authorize the preparation and submission of a preliminary plat subject to the following conditions:

1. The preliminary plat shall include all of the lots in the former Waco School site, which will require the twelve lots to the north to be in the replat.
2. An additional street dedication of 15 feet shall be reflected for Waco and an additional 20 feet for 21st Street which will provide for 50 feet of half street right-of-way.
3. The 35 foot building setback lines from the new right-of-way line for Waco and the 20 foot setback line from Fairview will be extended to the north to intersect with a 35 foot building setback from the new right-of-way line on 21st.
4. The north-south alley shall either terminate in an appropriate cul-de-sac, or it shall be dedicated to "L" out to either Waco or Fairview. The direction this alley goes should be dependent on the level of activity expected. If higher volumes are expected to use the alley, it should intersect with Waco rather than Fairview. In the event the determination is made to "L" the alley out, the Planning Department and Engineering Department shall be contacted relative to indicating the appropriate geometrics for the alley on the preliminary plat. The Engineering Department should be contacted relative to the appropriate radius for the cul-de-sac.

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5. The 14 foot alley abutting Lots 1-12 shall be vacated with the revised plat.
6. "Access Control" indicating the number of access points presented to the Planning Commission should be reflected on the Preliminary Plat. The number of points indicated will be discussed in further detail at the Subdivision Committee meeting.
7. The applicant shall reconstruct or guarantee the reconstruction of sidewalks adjacent to the new property lines on 21st Street and Waco Avenue.
8. The applicant shall guarantee the closing of the existing driveways. The Engineering Department shall be contacted relative to this matter.
9. Any relocation or reconstruction of existing utilities necessitated by this plat shall be at the sole expense of the applicant.
10. Requirements for a preliminary plat (See Article 5, Part 3 of the M.A.P.C. Subdivision Regulations).

Please contact our office if you have any questions regarding this matter.

Sincerely,

Jack H. Galbraith  
Chief Planner

JHG:rme

cc: Urban Renewal Agency, 104 South Broadway, 67202  
Constance M. Kenney, 1502 North Broadway, 67214  
Kenneth O. Taylor, 1542 South St. Francis, 67211  
Alan H. McHenry, 318 Century Plaza, 67202

