



Wichita-Sedgwick County Metropolitan Area Planning Department

June 20, 2005

MC Properties, Inc.,
3525 Esthner
Wichita, KS 67213

Re: **VAC2005-00016** - Request to vacate a utility easement dedicated by separate instrument, generally located south of Harry Street and west of Southwest Boulevard, more specifically on the southwest corner of Knight and Esthner Avenues.

Dear Ladies and Gentlemen:

At its regular meeting on Tuesday, June 14, 2005, the Wichita City Council considered the request. The action of the City Council was to APPROVE subject to the recommendation by the MAPC.

If you have any questions about this matter, please call 268-4494.

Sincerely,


Bill Longnesker
Senior Planner

BL:le

cc: Jim Armour, City Engineer, Public Works Department, Mail Stop 1-71
Paul Gunzelman/Carla Jones, Public Works Engineering, Mail Stop 1-71
Sedgwick County Electric Coop, Attention: Allen Henning & Wayne Voss, P.O. Box 220, Cheney, KS, 67205-0220
Mark A. Savoy, 535 S. Emporia, Suite 104, Wichita, Ks 67202
William E. & Corine E. Porter, 645 N. McLean, Wichita, KS 67203
Investment Development Group, LLC, 1999 N. Amidon, #208, Wichita, KS 67203
Castle Investment, LLC, 1608 S. Washington, Wichita, KS 67211
Coleman Ventures, LLC, 3333 W. Harry, Wichita, KS 67213
Ferguson Paving, Inc., 3645 W. Esthner, Wichita, KS 67213

RECEIVED

JUN 20 2005

METROPOLITAN PLANNING
ROUTE ☐

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

**IN THE MATTER OF THE VACATION OF
A UTILITY EASEMENT DEDICATED BY
SEPARATE INSTRUMENT**

**GENERALLY LOCATED
SOUTH OF HARRY STREET AND WEST OF
SOUTHWEST BOULEVARD, MORE
SPECIFICALLY ON THE SOUTHWEST
CORNER OF KNIGHT AND ESTHNER AVENUES**

Case No. VAC2005-00016

MORE FULLY DESCRIBED BELOW

VACATION ORDER

NOW on this 14th day of June, 2005 comes on for hearing the petition for vacation filed by MC Properties, Inc., c/o Chris Squires, praying for the vacation of the following described utility easement dedicated by separate instrument, to-wit:

All of the 20-foot utility easement, except for the west 20-feet, dedicated by separate instrument, Film 274, Pages 813 & 814, that runs parallel to the common lot line of Lots 40 & 41, the Freeman's Addition, Wichita, Sedgwick County, Kansas.

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

1. That due and legal notice has been given by publication as required by law, by publication in The Wichita Eagle on April 21, 2005, which was at least 20 days prior to the public hearing.

2. No private rights will be injured or endangered by the vacation of the above-described utility easement dedicated by separate instrument, and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

4. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.

5. The vacation of the utility easement dedicated by separate instrument described herein should be approved.

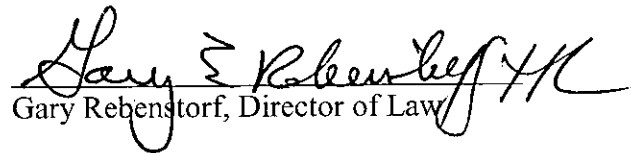
IT IS, THEREFORE, BY THE CITY COUNCIL, on this 14th day of June 2005 ordered that the above-described utility easement dedicated by separate instrument is hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall certify a copy of this order to the Register of Deeds of Sedgwick County.

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:


Gary Rebenstorf, Director of Law

STAFF REPORT

CASE NUMBER: VAC2005-00016: Request to vacate a portion of a utility easement dedicated by separate instrument

OWNER/APPLICANT: MC Properties

AGENT: Savoy Company, PA , c/o Mark Savoy

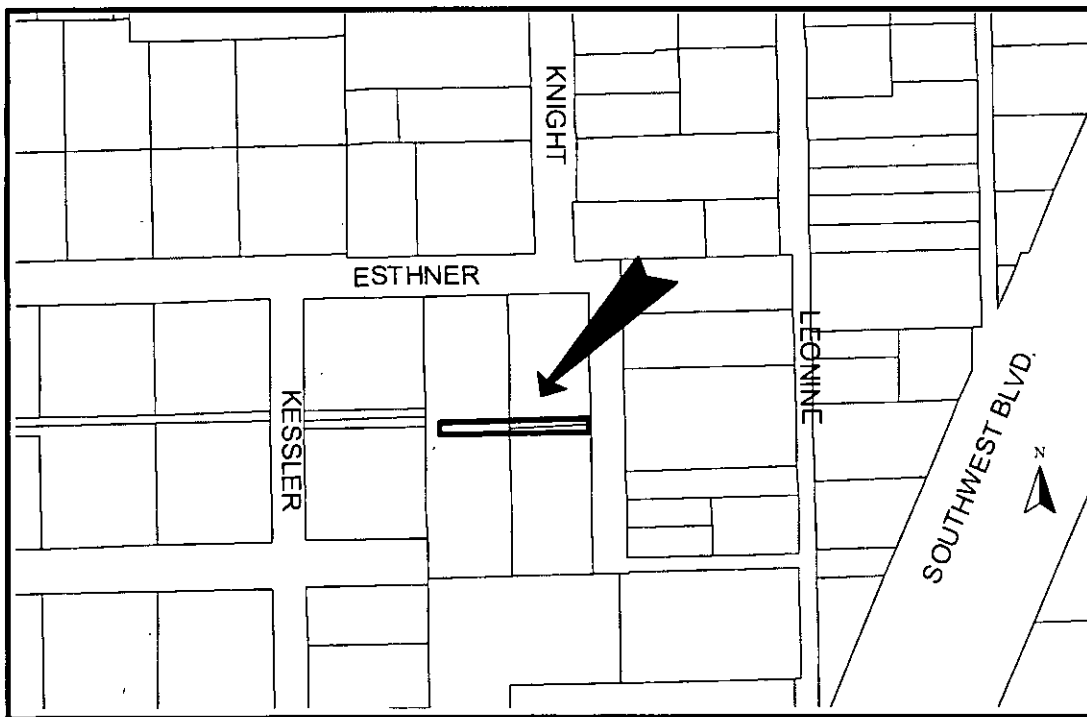
LEGAL DESCRIPTION: All of the 20-foot utility easement, except for the east 20-feet, dedicated by separate instrument, Film 274, Pages 813 & 814, that runs parallel to the common lot line of Lots 40 & 41, the Freeman's Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located south of Harry Street and west of Southwest Boulevard, more specifically on the southwest corner of the Esthner Avenue – Knight Avenue intersection.

REASON FOR REQUEST: Expansion of existing building

CURRENT ZONING: Subject property and all abutting and adjacent properties are zoned "LI" Limited Industrial.

VICINITY MAP:



The applicant is requesting consideration for the vacation of a portion of a 20-foot utility easement dedicated by separate instrument as described. There is a sewer line in the portion of the

easement the applicant wants to vacate. The applicant has provided an Engineer's Certificate of Completion in regards to the sewer line located in the easement having been abandoned per City Standards. There are no water lines in the easement. The Freeman Addition appears to have been recorded with the Register of Deeds in 1910.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the utility easement dedicated by separate instrument as described in the legal description with the following conditions.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time April 21, 2005, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described portion of the utility easement dedicated by separate instrument and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

Therefore, the vacation of the portion of the utility easement dedicated by separate instrument described in the petition should be approved with conditions;

- (1) Vacate only that portion of the easement dedicated by separate instrument as described in the legal description.
- (2) Public Works/Water & Sewer must approve the sanitary sewer abandonment project.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (4) If needed provide the public and franchised utilities with all required replacement easements. Retain the easement dedicated by separate instrument until all utilities in the easement have been relocated/abandoned and approved by the public and franchised utilities
- (5) All improvements shall be according to City Standards.
- (6) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All

vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

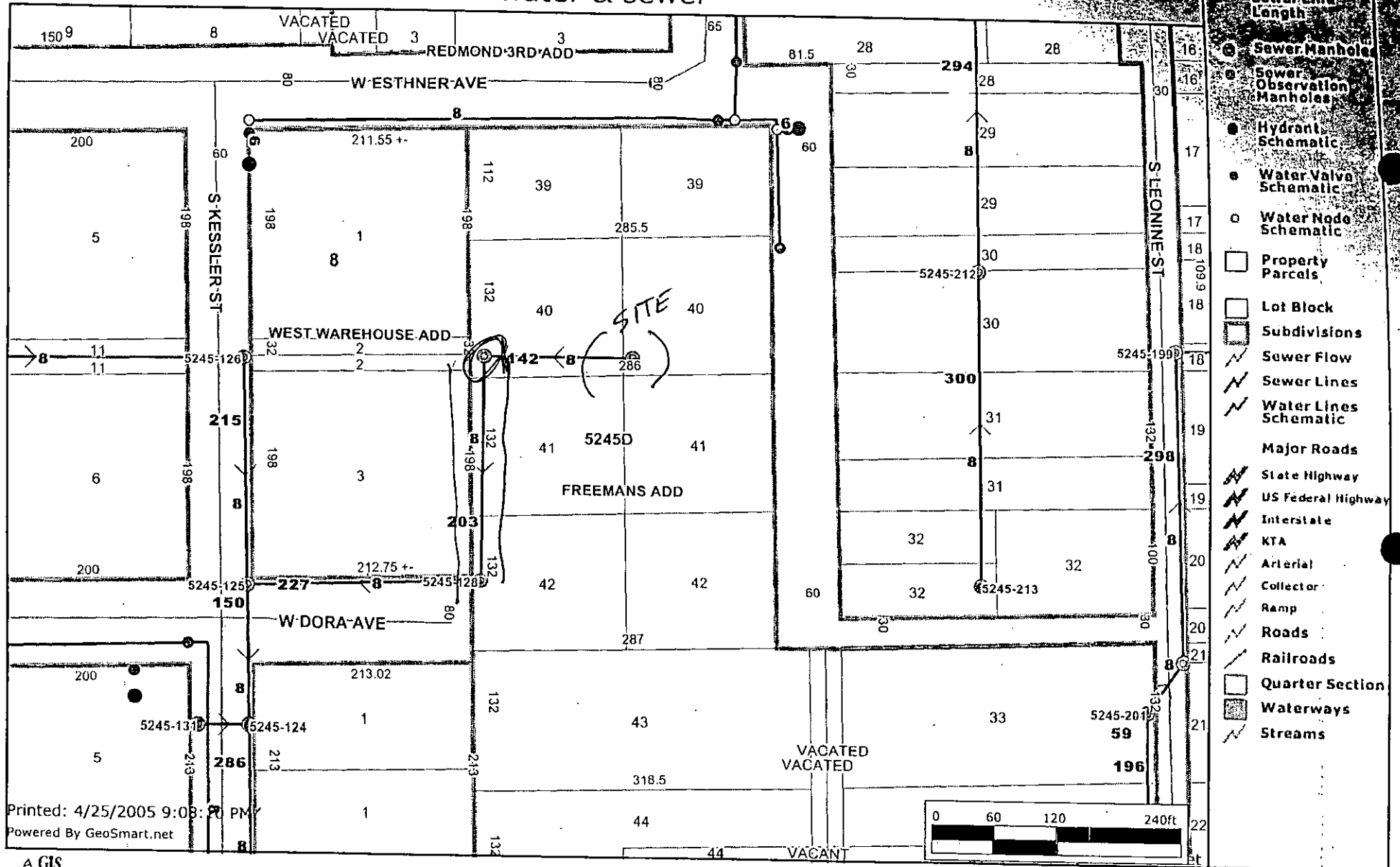
The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate only that portion of the easement dedicated by separate instrument as described in the legal description.
- (2) Public Works/Water & Sewer must approve the sanitary sewer abandonment project.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant. If needed provide the public and franchised utilities with all required replacement easements.
- (4) Retain the easement dedicated by separate instrument until all utilities in the easement have been relocated/abandoned and approved by the public and franchised utilities.
- (5) All improvements shall be according to City Standards.
- (6) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.



Vac2005-16

water & sewer



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