CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

November 9, 2005

USD 259
Attention: Joe Hoover
3850 N. Hydaulic
Wichita, KS 67219

Re: **VAC2005-00033** - Request to vacate a sanitary sewer easement dedicated by separate instrument, generally located east of Hillside Avenue, between 1st Street-Rutan Avenue-Mildred Street-Clifton Avenue.

Dear Mr. Hoover:

At its regular meeting on Tuesday, November 1, 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 Longnecker
Senior Planner

BL:le

cc: Jim Armour, City Engineer, Public Works Department, Mail Stop 1-71
Paul Gunzelman/Carla Jones, Public Works Engineering, Mail Stop 1-71
Unified School District 239, 201 N. Water, Wichita, KS 67202

Sedgwick County
Register of Deeds - Bill Meek
DOC.#/FLM-PG: 28735491
Receipt #: 1604996
Pages Recorded: 2
Recording Fee: 0
Cashier Initials: DH
Authorized By:
Date Recorded: 11/23/2005 3:55:36 PM

CITY CLERK'S ORIGINAL
RETURN TO CITY CLERK

Approved / Accepted By City Council
This 11-1-05

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 EAST OF HILLSIDE AVENUE, BETWEEN 1ST STREET-RUTAN AVENUE-MILDRED STREET CLIFTON AVENUE	)	**Case No. VAC2005-00033**
MORE FULLY DESCRIBED BELOW	)	

VACATION ORDER

NOW on this 1st day of November, 2005 comes on for hearing the petition for vacation filed by USD 259 c/o Connie Dietz praying for the vacation of the following described utility easement dedicated by separate instrument (Film-Page: 28656482), to-wit:

Being located in both Lots 3 & 4, the College Hill Addition, Wichita, Sedgwick County, Kansas: The centerline of a 20' utility easement being 10' either side of a line being described as; Beginning at a point 159.8' East and 182.4' North of the centerlines of 1st Street North and Rutan, thence East, perpendicular to the centerline of Rutan, a distance of 218.26', thence Southeasterly on a 45 degree angle, a distance of 30'.

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 September 1, 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 1st day of November 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
City of Wichita, Kansas

ATTEST:

Karen Sublett, City Clerk
City of Wichita, Ks

Approved as to Form:

Gary Rebenstorf, Director of Law

State of Kansas)
Sedgwick County)
City of Wichita)

I, Patsy E... Deputy City Clerk of the City of Wichita, Kansas, hereby certify that the document to which this is affixed is a true and correct copy of the original on file in the office of the City Clerk.

Given under my hand and seal of the City of Wichita, Kansas this 11-1-05

Patsy E... Deputy City Clerk

AGENA ITEM NO. 6-2

METROPOLITAN AREA PLANNING COMMISSION

September 22, 2005

STAFF REPORT

CASE NUMBER: **VAC2005-00033:** Request to vacate a utility easement dedicated by separate instrument

OWNER/APPLICANT: USD 259 c/o Joe Hoover

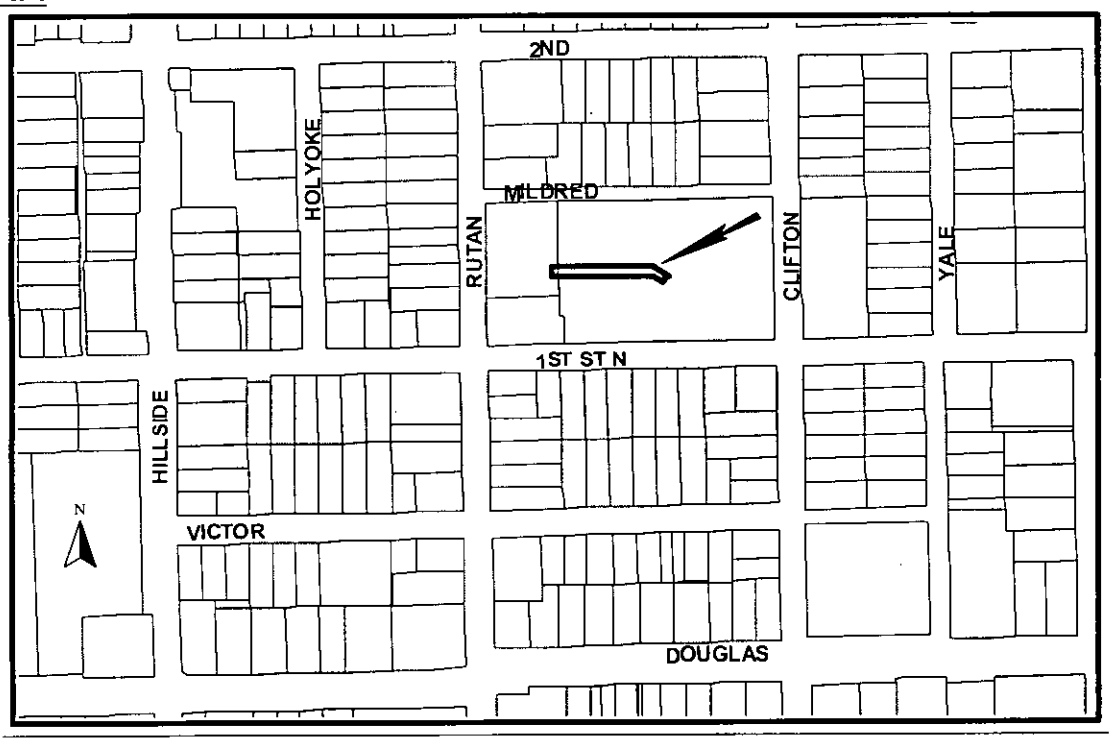
LEGAL DESCRIPTION: Vacate one of the 20-foot utility easements (see attached legal), as dedicated by separate instrument, Film/Page 28556482, (recorded 3-16-2005) on Lots 3 & 4, the College Hill Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located east of Hillside Avenue, between 1st Street-Rutan Avenue-Mildred Street-Clifton Avenue.

REASON FOR REQUEST: Change in building plans

CURRENT ZONING: Subject property is zoned "SF-5" Single Family Residential and "TF-3" Duplex Residential. All adjacent properties are zoned "SF-5" & "TF-3", except for one property zoned "B" Multi-family Residential.

VICINITY MAP:



The applicant is requesting consideration for the vacation of one of the 20-foot utility easements dedicated by separate instrument as described. The existing sewer line and manhole running parallel to the easement has been confirmed to a private line by Water & Sewer. There are no

water lines in the easement. There are no franchised utilities in the easement. The College Hill Addition was recorded with the Register of Deeds September 30, 1884.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works/Water & Sewer, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the one 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 September 1, 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 one of the utility easements 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) City Water & Sewer/Public Works have accepted the sanitary sewer line and manhole running parallel to the subject easement as a private line or abandoned.

(3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.

(4) All improvements shall be according to City Standards.

(5) 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:

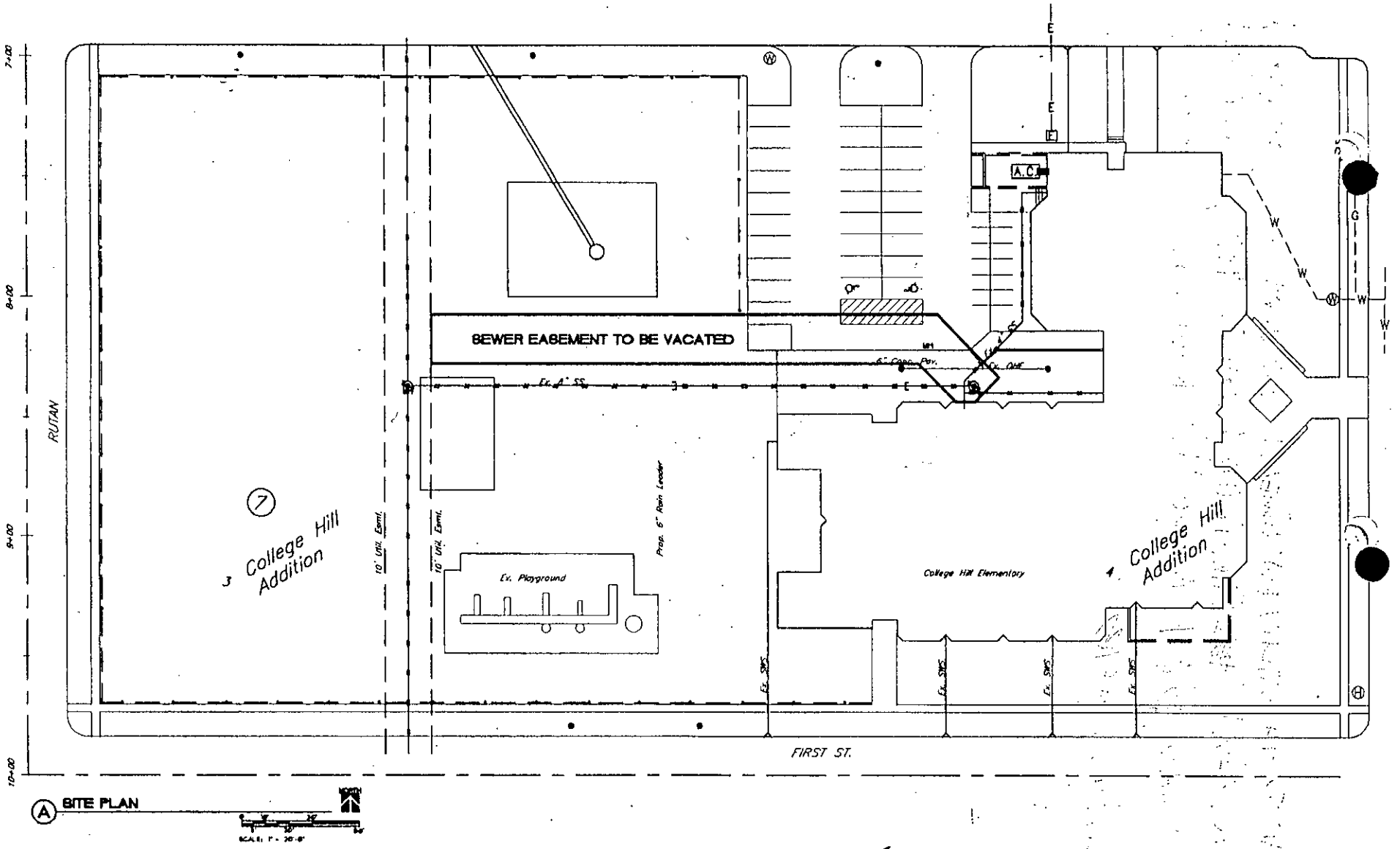
(1) Vacate only that portion of the easement dedicated by separate instrument as described in the legal description.

(2) City Water & Sewer/Public Works have accepted the sanitary sewer line and manhole running parallel to the subject easement as a private line.

(3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.

(4) All improvements shall be according to City Standards.

(5) 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.



A SITE PLAN

SCALE: 1" = 20'-0"

VAC 2005-33