



Wichita-Sedgwick County Metropolitan Area Planning Department

March 6, 2006

Parkway Partners, L.L.C.
150 N. Market
Wichita, KS 67202

Re: **VAC2005-00044** - Request to vacate easement dedicated by separate instrument, generally located south of 21st Street North & west of Webb Road, southwest of the Wilson Estate Parkway - Webb Road intersection

Dear Ladies and Gentlemen:

At its regular meeting on Tuesday, February 28, 2006 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
PEC, c/o Rob Hartman, 303 S. Topeka, Wichita, KS 67202
PSC Holdings, LLC, 825 N Hillside, Wichita, KS 67214
Moeller Real Estate Company, LLC, 1911 N Webb Road, Wichita, KS 67203



Sedgwick County
Register of Deeds - Bill Meek
DOC #/FLM-PG: 28762807
Receipt #: 1615169
Pages Recorded: 2
Recording Fee: 0
Cashier Initials: MKF
Authorized By:
Date Recorded: 3/10/2006 3:08:14 PM

CITY CLERK'S ORIGINAL
RETURN TO CITY CLERK

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

Approved / Accepted by City Council

This 02-28-06

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

GENERALLY LOCATED
SOUTH OF 21ST STREET NORTH, WEST OF
WEBB ROAD, & SOUTHWEST OF THE WILSON
ESTATES PARKWAY - WEBB ROAD
INTERSECTION

Case No. VAC2005-00044

MORE FULLY DESCRIBED BELOW

VACATION ORDER

NOW on this 28th day of February, 2006 comes on for hearing the petition for vacation filed by Parkway Partners, LLC c/o Rob Hartman praying for the vacation of the following described utility easement dedicated by separate instrument, to-wit:

The 20-foot utility easement dedicated by separate instrument, Film/Page 28589615, located on Lots 5 & 4, the Wilson Estates Medical Park 2nd 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:

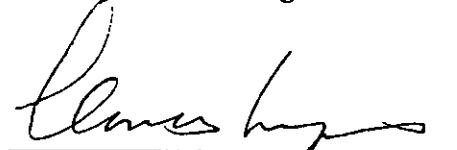
1. That due and legal notice has been given by publication as required by law, by publication in The Wichita Eagle on December 1, 2005, which was at least 20 days prior to the public hearing.

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06-0212

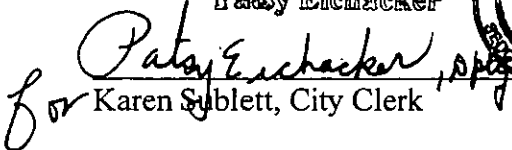
2. No private rights will be injured or endangered by the vacation of the above-described utility easement dedicated by separate instrument, and the public will suffer no loss or inconvenience thereby.
3. Dedicate a 20-foot wide utility easement by separate instrument to be recorded with the Register of Deeds.
4. In justice to the petitioner(s), the prayer of the petition ought to be granted.
5. 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.
6. The vacation of the utility easement dedicated by separate instrument described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 28th day of February 2006 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

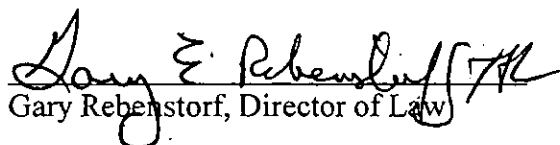
ATTEST:

Patsy Eichacker


for Karen Sublett, City Clerk



Approved as to Form:


Gary Rebenstorf, Director of Law

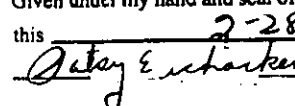


State of Kansas
Sedgwick County
City of Wichita

I, **Patsy Eichacker** 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

 **2-28-06**
Patsy Eichacker Deputy City Clerk

STAFF REPORT

CASE NUMBER: VAC2005-00044: Request to vacate a utility easement dedicated by separate instrument

OWNER/APPLICANT: Parkway Partners, LLC

AGENT: PEC c/o Rob Hartman

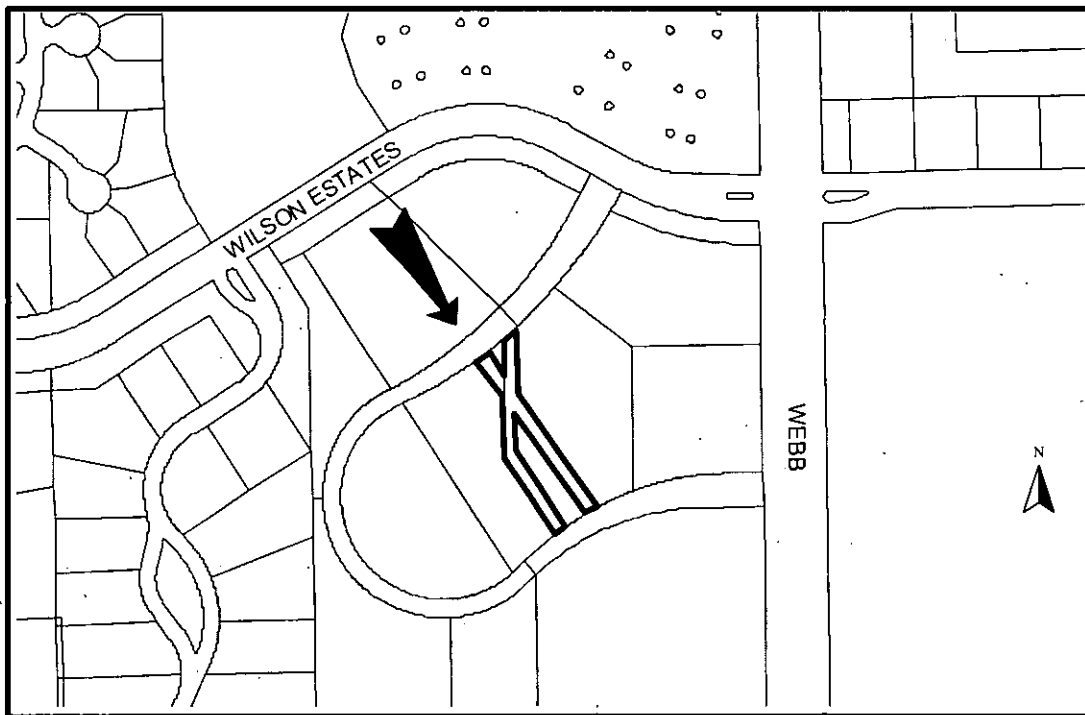
LEGAL DESCRIPTION: Generally described as the 20-foot utility easement (see attached legal), dedicated by separate instrument (Film/Page 28589615) on Lots 5 & 4, the Wilson Estates Medical Park 2nd Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located south of 21st Street north and west of Webb Road, southwest of the Wilson Estates Parkway and Webb Road intersection(WCC District #II)

REASON FOR REQUEST: Change in development plans

CURRENT ZONING: Subject property and all abutting and adjacent properties are zoned "GO" General Office

VICINITY MAP:



The applicant is requesting consideration for the vacation of a 20-foot utility easements dedicated by separate instrument as described. The easement that is proposed to be vacated was dedicated and recorded as a condition for VAC2004-24. Because this easement was filed with the register of Deeds with no notice to planning, VAC2004-24 was never completed, thus the platted easement that was petitioned for vacation in VAC2004-24 was never vacated. As a follow up, VAC2004-24 will be sent to WCC for final action (along with a copy of the recorded easement) closing it out and VAC2005-44 will then vacate the recorded easement that was a requirement of VAC2004-24. There are no utilities, manholes, sewer or water lines in the easement. The Wilson Estates Medical Park 2nd Addition was recorded with the Register of Deeds January 8, 2004.

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 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 December 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 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, as approved by City Water & Sewer/Public Works. Provide Planning Staff the approved legal description of the vacated portion of easement, via e-mail on a Word document.
- (2) If needed provide a City Water & Sewer/Public Works with another easement. Provide Planning Staff with the original easement that has been reviewed and approved by Public Works/Water & Sewer; this document will go with the Vacation Order to WCC for final action and subsequent recording with the register of Deeds.

- (3) Retain the easement until all utilities have been relocated and provided with easement and/or any other conditions to be met are completed per the standards of all utility companies.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (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, as approved by City Water & Sewer/Public Works. Provide Planning Staff the approved legal description of the vacated portion of easement, via e-mail on a Word document.
- (2) If needed provide a City Water & Sewer/Public Works with another easement. Provide Planning Staff with the original easement that has been reviewed and approved by Public Works/Water & Sewer; this document will go with the Vacation Order to WCC for final action and subsequent recording with the register of Deeds.
- (3) Retain the easement until all utilities have been relocated and provided with easement and/or any other conditions to be met are completed per the standards of all utility companies.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (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

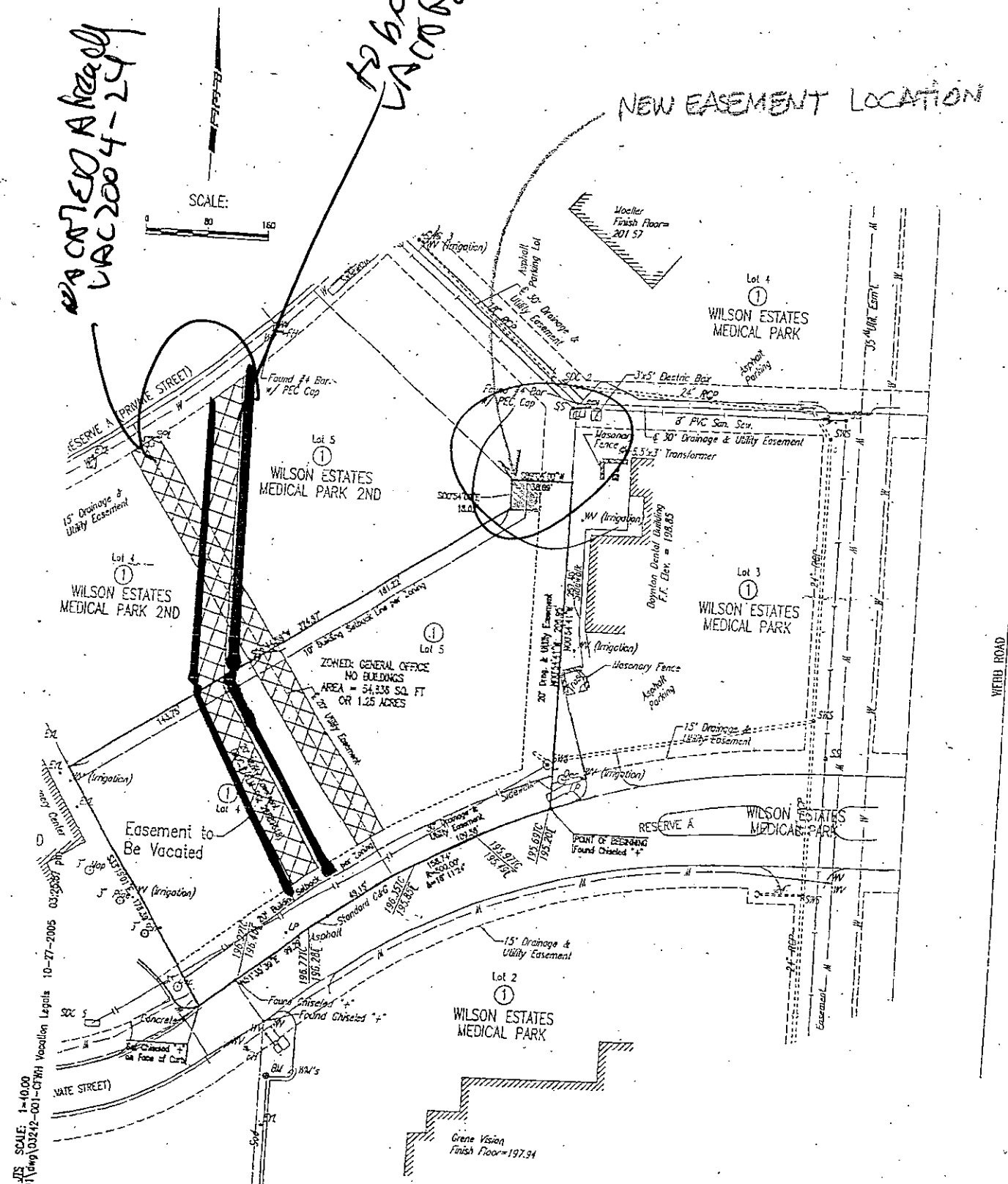
County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

VAC 2005-44

WAC 2004-24
Hearings Already

29/07/20

NEW EASEMENT LOCATION



DSNR: JTS OPER: JTS SCALE: 1=40.00
Q:/2003/03242/001/dwg/03242-001-CADD