



Wichita-Sedgwick County Metropolitan Area Planning Department

June 22, 2006

Re: **VAC2006-00008** - Request to vacate street right-of-way, generally located south of 25th Street North & west of Arkansas Avenue, more specifically between Woodland & Burns Avenues

Dear Ladies & Gentlemen:

At its regular meeting on Tuesday, June 13, 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
Mike or Laura Pivonka, 2501 N. Woodland, Wichita, KS 67204
Charles L. Dvorak, 2465 Woodland, Wichita, KS 67204
Gloria Contreas, 2502 N. Burns, Wichita, KS 67204
Florence Parish, 2458 N. Burns, Wichita, KS 67204
Fayburn W & Florence M Parish, 2458 Burns, Wichita, KS 67204
Victor C & Therese Julie Juliene Staatz, % Florianne Point Drive, Mulvane, KS 67110
Michael K & Linda F Kracke, 2457 N Burns, Wichita, KS 67204
Richard F & Nancy J Uhrich, 1820 W 30th Street North, Wichita, KS 67204
Board of Park Commissioners, mailstop 1-111

1. That due and legal notice has been given by publication as required by law, by

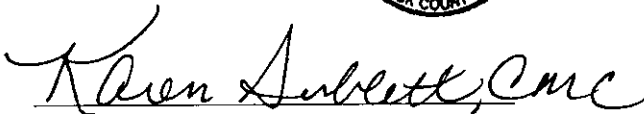
publication in The Wichita Eagle on March 16, 2006, which was at least 20 days prior to the public hearing.

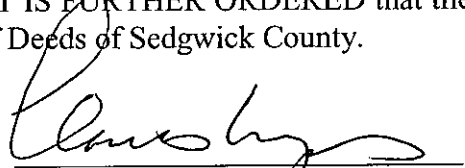
2. No private rights will be injured or endangered by the vacation of the above-described street right-of-way, and the public will suffer no loss or inconvenience thereby.
3. Retain all of the described vacated right-of-way as a utility easement.
4. Dedication of 2-feet of easement to be joined to the platted 16-foot easement located along the common rear yard lot lines of Lots 12 & 13, Block B, & of Lots 1 & 21, Block D, all in the Community Addition, to be recorded with the Sedgwick County Register of Deeds.
5. A restrictive covenant binding and tying the vacated right-of-way to the abutting Lots 12 & 13, Block B, & of Lots 1 & 21, Block D, all in the Community Addition to be recorded with the Sedgwick County Register of Deeds.
6. In justice to the petitioner(s), the prayer of the petition ought to be granted.
7. 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.
8. The vacation of street right-of-way described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 13th day of June 2006 ordered that the above-described street right-of-way 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.

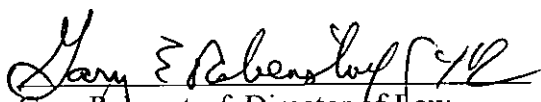


ATTEST:


Karen Sublett, City Clerk


Carlos Mayans, Mayor

Approved as to Form:


Gary Benenstorf, Director of Law

STAFF REPORT

CASE NUMBER: **VAC2006-00008** Request to vacate street right-of-way (ROW) created by condemnation

APPLICANTS: Gloria Contreras, Charles & Edith Dvorak,
Michael & Laura Pivonka, Fayburn & Florence Parish

LEGAL DESCRIPTION: (B) The undeveloped portion of 24th Street North (created by condemnation ordinance #22-783) abutting the south sides of Lots 12 & 13, Block B, Community Addition, the north sides of Lots 1 & 21, Block D, Community Addition, abutting the Burns Avenue ROW on its west side and the Woodland Avenue ROW on east side, as recorded with Wichita, Sedgwick County, Kansas

LOCATION: Generally located south of the 25th Street North & west of Arkansas Street intersection, more specifically southwest of Schell Park at 24th Street North & Woodland. (WCC #VI)

REASON FOR REQUEST: Undeveloped ROW, revert to private use

CURRENT ZONING: Site and surrounding properties are zoned "SF-5" Single-family residential

VICINITY MAP:



The applicants are requesting consideration to vacate the described undeveloped section of the 24th Street North ROW. That approximately 47-foot wide (x) 270-foot long section is located between, west to east, Burns Avenue and Woodland Avenue. Between Burns and Woodland Avenues, 24th Street North abuts two residential lots on its north side and two residential lots on its south side. All of the abutting property owners have signed the application and petition to vacate the sections of 24th Street North as previously described.

The section of 24th Street North proposed to be vacated was originally shown as an "Exception" on the Community Addition plat, which was recorded January 25, 1954. The plat's text does not mention any of the "Exceptions" shown on the plat. The City of Wichita's Board of Commissioners adopted condemnation ordinance #22-783, on April 3, 1957; this created the described portion of the 24th Street North ROW. This portion of 24th Street North was never developed, except for a curb cut and drive entrance (paved) onto Woodland. The ROW is currently grass and trees with the abutting property owners using it as access to garages or for vehicle parking/storage. 24th Street North is classified as a residential road. The portion of ROW proposed to be vacated is 47-feet wide and does not match the abutting and platted 24th Street's 60-foot width. There are sewer lines crossing, north to south, the 24th Street North ROW, but no water. Water & Sewer has requested that 20-foot of the ROW, 10-foot on either side of the sewer lines, be retained as a sewer easement, if the whole vacated ROW is not retained as an easement. There are utility poles in the ROW; retention of a portion of the ROW as easement or relocation of the utilities would be per the franchised utilities recommendation, if the whole vacated ROW is not retained as an easement. Setbacks are per the current UZC for the "SF-5" zoning district, but would become interior side yard setbacks, per the current UZC (6-foot), and would move with the new property lines created by the vacated ROW, if it is approved and the recommended conditions are met.

The portion of 24th Street North between Burns and Salina Avenues, the next block west of the subject site, was approved for vacation (VAC2004-18), with conditions, July 15, 2005 by the WCC. This portion of 24th Street North was created by the same "Exception" on the Community Addition plat and subsequent condemnation ordinance #22-783, as the subject site.

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 24th Street ROW, created by condemnation ordinance #22-783, as described with 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, in the Wichita Eagle, of notice of this vacation proceeding one time March 16, 2006 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 street ROW created by condemnation ordinance 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 street ROW created by condemnation ordinance #22-783, described in the petition should be approved with conditions;

- (1) Vacate that portion of 24th Street North between Woodland-Burns, abutting Lots 12 & 13, Block B (north) and Lots 1 & 21, Block D (south), all in the Community Addition. The vacation request will not proceed to the WCC until all listed conditions are met.
- (2) Per the recommendation of the public and franchised utilities, retain a 20-foot portion of the vacated ROW as utility easement(s), where public and franchised utilities are located or retain the whole vacated ROW as an easement. If retaining 20-feet of the vacated ROW as easement for each utility in it, provide a survey for the location of the public and franchised utilities and provide the metes and bounds description of each easement on a word documents for staff.
- (3) Dedicate by separate instrument(s) an additional 2-feet, per abutting lot to the vacated 24th Street North ROW, to the platted 16-foot utility easement, north-south, located between Lots 1 & 21, Block D and Lots 12 & 13, Block B, all in the Community Addition.
- (4) Setbacks will be the current UZC's interior side yard setbacks.
- (5) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (6) All improvements shall be according to City standards, including any driveways from private property onto public ROW; the Woodland intersection. If needed provide staff with a guarantee for construction of the drive(s) to City standards. If closing the drive onto Woodland, provide staff with a guarantee for continuation of curbing.
- (7) 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 that portion of 24th Street North between Woodland-Burns, abutting Lots 12 & 13, Block B (north) and Lots 1 & 21, Block D (south), all in the Community Addition. The vacation request will not proceed to the WCC until all listed conditions are met.
- (2) Per the recommendation of the public and franchised utilities, retain a 20-foot portion of the vacated ROW as utility easement(s), where public and franchised utilities are located or retain the whole vacated ROW as an easement. If retaining 20-feet of the vacated ROW as easement for each utility in it, provide a survey for the location of the public and franchised

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- (3) Dedicate by separate instrument(s) an additional 2-feet, per abutting lot to the vacated 24th Street North ROW, to the platted 16-foot utility easement, north-south, located between Lots 1 & 21, Block D and Lots 12 & 13, Block B, all in the Community Addition.
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- (5) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (6) All improvements shall be according to City standards, including any driveways from private property onto public ROW; the Woodland intersection. If needed provide staff with a guarantee for construction of the drive(s) to City standards. If closing the drive onto Woodland, provide staff with a guarantee for continuation of curbing.
- (7) 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.



