



Wichita-Sedgwick County Metropolitan Area Planning Department

May 26, 2006

Slawson East, Inc.
727 N. Waco
Ste. 400
Wichita, KS 67203

Re: **VAC2006-00018** - Request to vacate an easement dedicated by separate instrument and platted access control, generally located southeast of the 21st Street North - Greenwich Road intersection.

Dear Ladies and Gentlemen:

At its regular meeting on Tuesday, May 23, 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
Slawson East, Inc., P.O. Box 2907, Wichita, KS 67201
Sonic Restaurants, Inc., 300 Johnny Bench Drive, Oklahoma City, OK 73104
Boeing Wichita Credit Union, P.O. Box 789757, Wichita, KS 67228
Greenwich Investment Group, LLC, P O box 780149, Wichita, KS 67278
Community State Bancshares, Inc., c/o Community Bank of Wichita, 11330 E. 21st N,
Wichita, KS 67206
Kensington Gardens, LLC, 11500 E. 21st at K-96, Wichita, KS 67206

MAY 23 2006

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

MORE FULLY DESCRIBED BELOW

The 40.00 Feet Right In/Right Out Only Access Opening Centered On The Common Lot Line Of Lots 5 And 6, Block 1, Cross Pointe, An Addition To Wichita, Sedgwick County, Kansas.

CROSS POINTE 20' UTILITY EASEMENT TO BE VACATED

Beginning At The Northwest Corner Of Lot 6, Block 1, Cross Pointe, An Addition To Wichita, Sedgwick County, Kansas; Thence Bearing N89°16'46"E, Along The North Line Of Said Lot 6, A Distance Of 10.00 Feet; Thence Bearing S00°43'14"E, Parallel With The West Line Of Said Lot 6, A Distance Of 295.00 Feet; Thence Bearing S89°16'46"W, Parallel With The South Line Of Lot 6, Extended A Distance Of 20.00 Feet; Thence Bearing N00°43'14"W, Parallel With The West Line Of Lot 6, A Distance Of 295.00 Feet To The North Line Of Lot 5, Block 1, Of Said Addition; Thence Bearing N89°16'46"E, Along The North Line Of Said Lot 5, A Distance Of 10.00 Feet To The Point Of Beginning.

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:

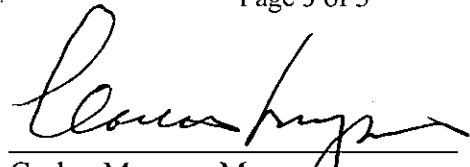
1. That due and legal notice has been given by publication as required by law, by publication in The Wichita Eagle on April 13, 2006, which was at least 20 days prior to the public hearing.
2. No private rights will be injured or endangered by the vacation of the above-described platted access control and easement dedicated by separate instrument, and the public will suffer no loss or inconvenience thereby.
3. Dedications, by separate instruments, of access control and a utility easement will 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 platted access control and easement dedicated by separate instrument described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 23rd day of May 2006 ordered that the above-described platted access control and an easement dedicated by separate instrument are 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.

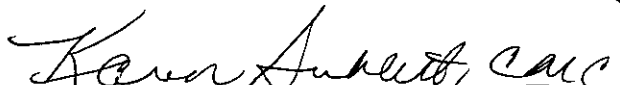
Vacation Order
VAC2006-00018

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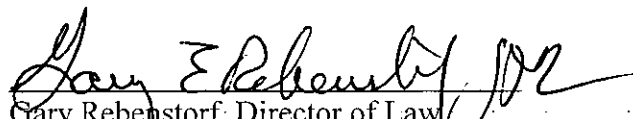

Carlos Mayans, Mayor

ATTEST:


Karen Sublett, City Clerk



Approved as to Form:


Gary Rebenstorf, Director of Law

STAFF REPORT

CASE NUMBER: VAC2006-00018 Request to vacate platted access control and a utility easement dedicated by separate instrument

APPLICANTS/OWNERS: Slawson East, Inc.

AGENT: PEC, c/o Rob Hartman

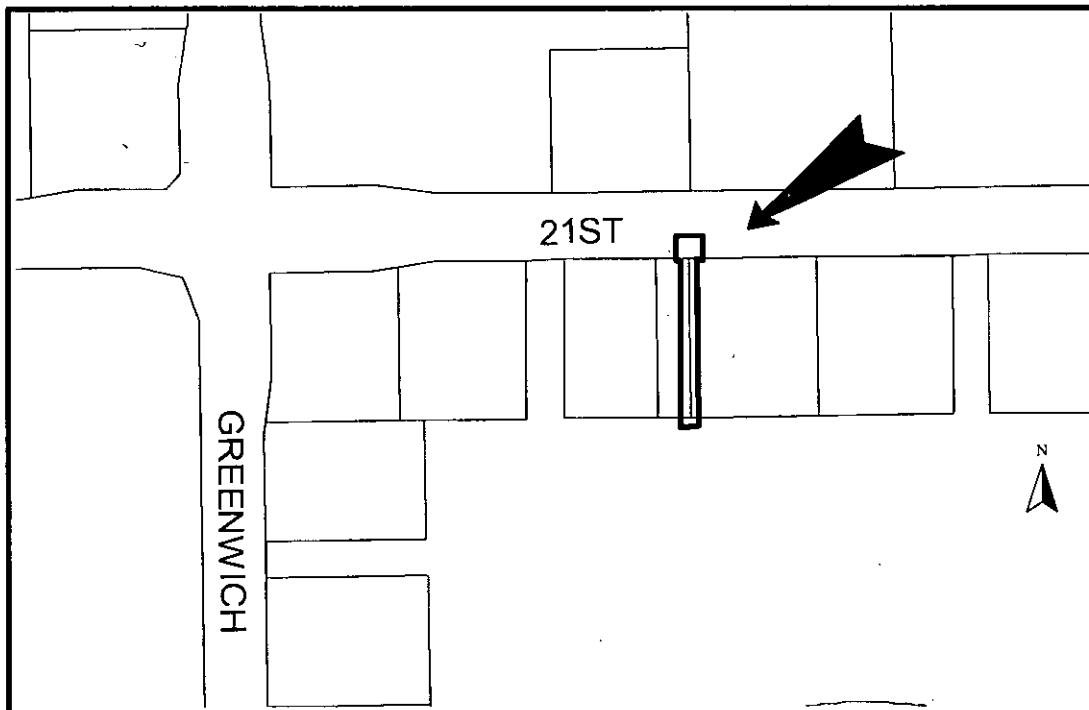
LEGAL DESCRIPTION: Generally described as the platted 40-foot right-in – right-out access control located between Lots 5 & 6 and the 20-foot wide easement dedicated by separate instrument (Film 1716, Page 940) located within the platted access control requesting vacation all in the Cross Pointe Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located on the southeast corner of the 21st Street North – Greenwich Road intersection (WCC District #II)

REASON FOR REQUEST: Boundary shift

CURRENT ZONING: The site and all abutting and adjacent properties are zoned “LC” Limited Commercial. The site is part of CUP DP-279

VICINITY MAP:



The applicant has applied for the vacation of the described platted complete access control along the site's 21st Street North frontage. The request will remove the platted drive and relocate it approximately 10-feet east of its current location as right-out only. The subject site is part of CUP DP-279, which has integrated access, circulation and parking, including six (6) existing/permitted platted access/drives, including 3 with full movement, onto 21st Street North. At this location 21st is a four-lane arterial with a center turn lane. North of the site, across 21st, is the largely undeveloped Manhattan Addition, which has permitted, per the plat, three (3) drives onto 21st, one of them being full movement. There are manholes and a sewer line located in an easement dedicated by separate instrument, which the applicant has requested to be vacated. Comments from franchised utilities have not been received and are needed to determine if they have utilities in the easement and 40-foot drive. The applicant proposes a 20-foot replacement easement. The Cross Pointe Addition was recorded with the Register of Deeds July 22, 2005.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the platted access control, per the approval of the Traffic Engineer, and the easement dedicated by separate instrument, 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, by publication in the Wichita Eagle of notice of this vacation proceeding one time April 13, 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 platted complete access control and the 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 a portion of the platted complete access control and the easement dedicated by separate instrument described in the petition should be approved with conditions;

- (1) Vacate that portion of platted access control along the site's 21st Street frontage, as approved by the Traffic Engineer to realign the drive. Provide Staff with an e-mail word document of the metes and bounds description of the location of the new drive (movement on the drive to be approved by the Traffic Engineer) and provide Staff with dedication of access control over the old drive's location.
- (2) There are manholes and sewer line in the easement dedicated by separate instrument. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. Provide staff with a

petition/guarantee to relocate the manholes and sewer line. Provide staff with an easement to be recorded with the Register of Deeds. Retain the easement until all utilities have been relocated or a petition/guarantee to relocate all utilities.

- (3) All improvements shall be according to City Standards, including any driveways from private property onto public ROW. All improvements shall be at the applicant's expense.
- (4) 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 platted access control along the site's 21st Street frontage, as approved by the Traffic Engineer to realign the drive. Provide Staff with an e-mail word document of the metes and bounds description of the location of the new drive (movement on the drive to be approved by the Traffic Engineer) and provide Staff with dedication of access control over the old drive's location.
- (2) There are manholes and sewer line in the easement dedicated by separate instrument. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. Provide staff with a petition/guarantee to relocate the manholes and sewer line. Provide staff with an easement to be recorded with the Register of Deeds. Retain the easement until all utilities have been relocated or a petition/guarantee to relocate all utilities.
- (3) All improvements shall be according to City Standards, including any driveways from private property onto public ROW. All improvements shall be at the applicant's expense.
- (4) 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.

Cross Pointe Addition

Site Plan

-C 21ST STREET NORTH

Complete Access Control
188.04'

Right In/ Right Out
Only
40'

Access to be Vacated.

40' Right Out Only to
be Dedicated By
Separate instrument.

Complete Access Control

SCALE: 1"=40'

565' to E of
Greenwich Road

①

LOT 6

LOT 5

20' Utility Esmt (by sep. instr.)

270:

70 00'

N00°43'14"W

20' Utility Esmt to be Vacated

(Film 1716, Pg. 940.)

270'

Proposed Property Line (E. Line of Arby's property)

30' Utility Easement $\Rightarrow$

25.00