



Wichita-Sedgwick County Metropolitan Area Planning Department

June 7, 2006

ABC LLC
358 N. Rock Rd
Wichita, KS 67206

Re: **VAC2006-00021** - Request to vacate a platted easement, generally located east of Rock Road, on the north side Kellogg Avenue and west of Heather Road.

Dear Ladies and Gentlemen:

At its regular meeting on Tuesday, June 6, 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
KE Miller Engineering, PA, 516 S. Market, Wichita, KS 67202
City of Wichita, Property Management Office, 455 N. Main, 13th Floor, City Hall, Mailstop 1-134
Heath A & Sarah J Wallis, 8127 Peach Tree lane, Wichita, KS 67207
Larry D & Sonya M Saylor, 8121 Peach Tree Lane, Wichita, KS 67207

RECEIVED

JUN 09 2006

METROPOLITAN PLANNING
ROUTE ☐ _____

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

**IN THE MATTER OF THE VACATION OF
A PLATTED UTILITY EASEMENT**

**GENERALLY LOCATED
EAST OF ROCK ROAD, ON THE NORTH SIDE OF)
KELLOGG AVENUE AND WEST OF HEATHER)
ROAD)**

Case No. VAC2006-00021

MORE FULLY DESCRIBED BELOW

VACATION ORDER

NOW on this 6th day of June, 2006 comes on for hearing the petition for vacation filed by ABC LLC, c/o Dave Bayouth praying for the vacation of the following described platted utility easement, to-wit:

The platted 10-foot wide utility easement, located in the west 10-feet of the west 135-feet, except the north 10-feet, all in Lot 1, the McDonald's First 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 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 utility easement, 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.

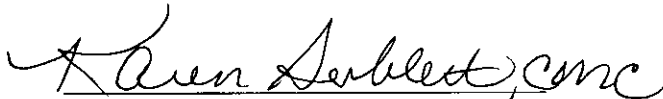
4. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.

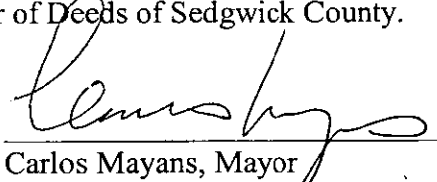
5. The vacation of the platted utility easement described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 6th day of June 2006 ordered that the above-described platted utility easement 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.

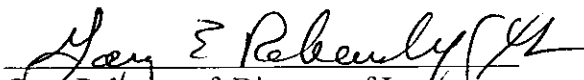


ATTEST:


Karen Sublett, City Clerk


Carlos Mayans, Mayor

Approved as to Form:


Gary Rebenstorf, Director of Law

STAFF REPORT

CASE NUMBER: VAC2006-00021 Request to vacate a platted utility easement

APPLICANT: AGENT ABC LLC
KE Miller Engineering, PA c/o Kirk Miller

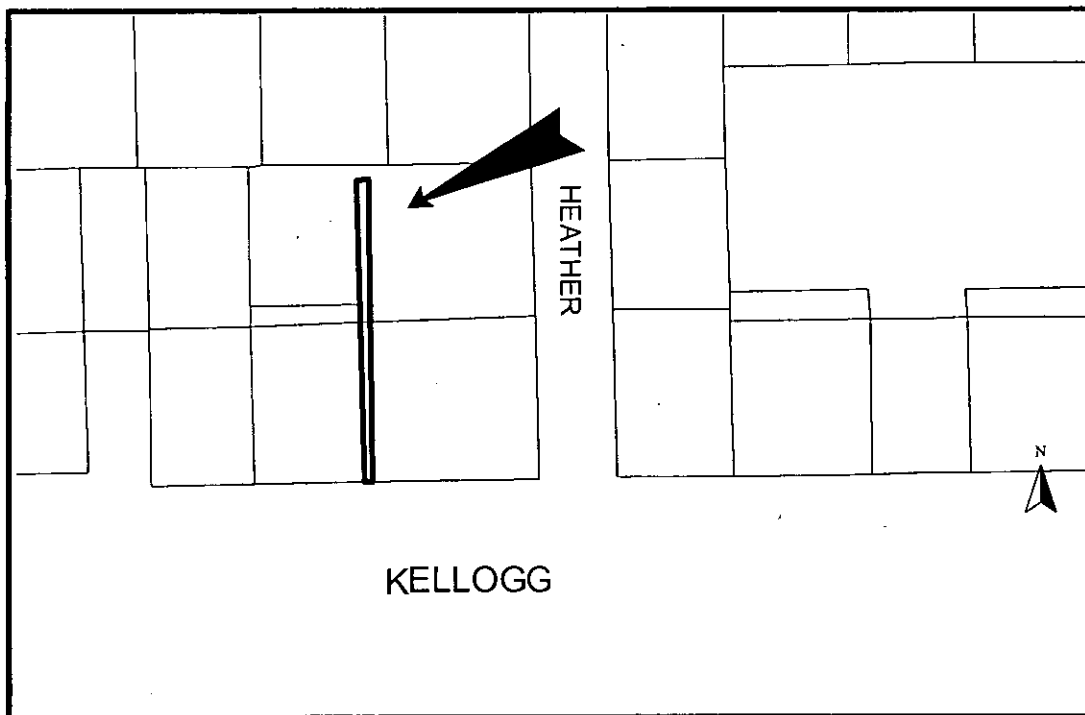
LEGAL DESCRIPTION: The platted 10-foot wide utility easement, located in the west 10-feet of the west 135-feet, except the north 10-feet, all in Lot 1, the McDonald's First Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located east of Rock Road, on the north side of Kellogg Drive and west of Heather Road (WCC #II)

REASON FOR REQUEST: Due to Kellogg Street expansion, easement is no longer used

CURRENT ZONING: The site and the abutting western properties are zoned "LC" Limited Commercial. The adjacent northern properties are zoned "SF-5" Single-family residential. The abutting southern property is public street right-of-way (ROW): Kellogg Drive and Kellogg Street. The abutting eastern property is undeveloped, dead-end public ROW: Heather Road

VICINITY MAP:



The applicant is requesting vacation of the described platted utility easement. The recent expansion of Kellogg Street has reconfigured and reduced the size of its abutting northern properties and moved utilities along this portion of the ROW's north frontage. There are no manholes, sewer or water lines in the platted utility easement. Sewer appears to be located in the platted 10-foot utility easement located along the site's north lot line. Water appears to be located in the newly expanded Kellogg ROW. Comments from franchised utilities have not been received and are needed to determine if they have utilities in the easement. The McDonald's First Addition was recorded with the Register of Deeds May 13, 1984.

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 platted 10-foot wide utility easement, 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, 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 platted utility easement 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 ingress/egress easement dedicated by separate instrument described in the petition should be approved with conditions;

- (1) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
- (2) All improvements shall be according to City Standards and at the applicant's expense.
- (3) Retain the easement until comments have been received from all utility companies. Provide any needed easements for relocated utilities.
- (4) Access control will be per the current Traffic Management Standards.
- (5) All conditions to be completed within 6 months 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 or franchised utilities and recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

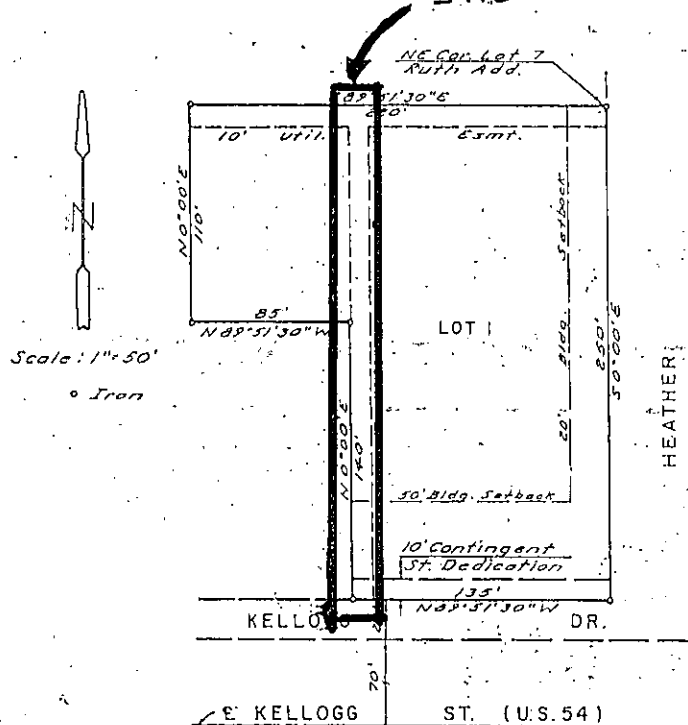
The Subdivision Committee recommends approval subject to the following conditions:

- (1) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
- (2) All improvements shall be according to City Standards and at the applicant's expense.
- (3) Retain the easement until comments have been received from all utility companies. Provide any needed easements for relocated utilities.
- (4) Access control will be per the current Traffic Management Standards.
- (5) All conditions to be completed within 6 months 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 or franchised utilities and recorded with the Register of Deeds.

McDONALD'S FIRST ADDITION

WICHITA, KANSAS

SITE



State of Kansas, S.S. We, Baughman Company, P.A., Surveyors in aforesaid county and state, do hereby certify that we have surveyed and platted "McDONALD'S FIRST ADDITION", Wichita, Kansas, and that the accompanying plat is a true and correct exhibit of the property surveyed, described as a replat of the east 220 feet of Lot 7, Ruth Addition to Wichita, Kansas, located in the SW 1/4 of Section 20, T27S, R2E, except the west 85 feet of the south 140 feet thereof.

Date Feb. 1, 1984 Baughman Company, P.A.



John E. Lundblake Surveyor

Know all men by these presents, that we, the undersigned, have caused the land described in the surveyors certificate to be platted into a lot to be known as "McDONALD'S FIRST ADDITION", Wichita, Kansas. The easements are hereby granted as indicated for the construction and maintenance of public utilities. The Contingent Street

This plat of "McDONALD'S FIRST ADDITION", Wichita, Kansas, has been submitted to and approved by the Wichita-Sedgwick County Metropolitan Area Planning Commission, Wichita, Kansas, Dated this 30th day of June, 1983.

Wichita-Sedgwick County Metropolitan Area Planning Commission

David Bayne Chairman
Robert A. Lakin Secretary

This plat approved and all dedications shown hereon accepted by the Board of City Commissioners, Wichita, Kansas, this 1st day of May, 1984.

Robert G. Knight Mayor
Barbara E. Dister City Clerk

This plat approved and all dedications shown hereon accepted by the Board of County Commissioners, Sedgwick County, Kansas, this 30th day of May, 1984.

Donald B. Hagg Chairman
Commissioners
County Clerk

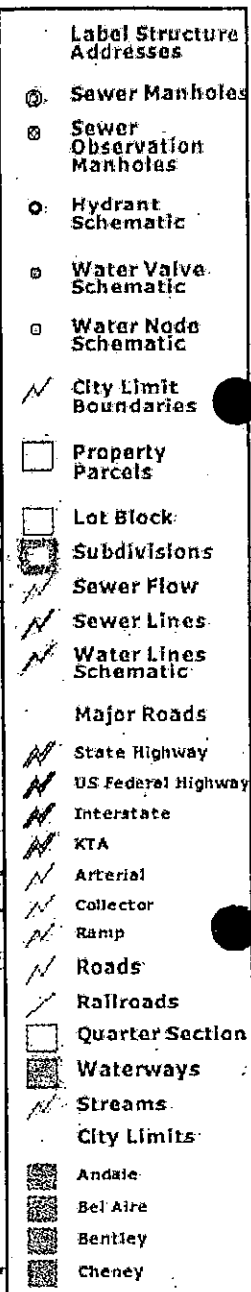
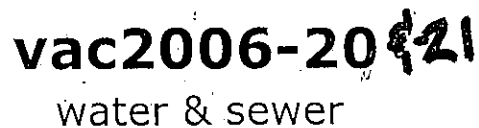
Entered on transfer record this 3rd day of May, 1984.

Barbara E. Dister County Clerk

#693566

State of Kansas, S.S. This is to certify that this

5-3 6-34



Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.

