



Wichita-Sedgwick County Metropolitan Area Planning Department

July 9, 2008

Terry D. Klein
Jody B. Klein
14001 Castle Rock
Wichita, KS 67230

Mervyn L. & Marcia A. Criser
14101 E. Castle Rock
Wichita, KS 67230

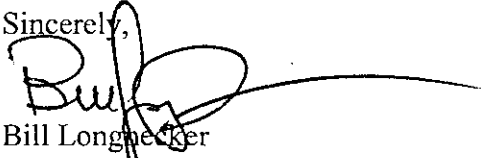
Re: **VAC2007-00035** - Request to vacate a portion of a platted easement and the restriction of uses allowed within that easement, generally located on the west side of 143rd Street East and on the north side of 13th Street North.

Dear Mr. & Mrs. Klein:

At its regular meeting on Tuesday, July 8, 2008, 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
Julianne Kallman, Subdivision Engineer - Public Works Engineering, Mail Stop 1-71



Date Recorded: 7/11/2008 2:48:07 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 7-8-08 #13

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

**GENERALLY LOCATED
WEST OF 143RD STREET EAST ON THE
NORTH SIDE OF 13TH STREET NORTH**

MORE FULLY DESCRIBED BELOW

**MAPD CASE NO.
VAC2007-00035**

VAC 2007-35

VACATION ORDER

COMES NOW your petitioner(s), Mervyn L. and Marcia A. Criser and Terry D. and Jody B. Klein and pray(s) for the vacation of the following described portion of a platted utility easement, to wit:

PARCEL A

That part of Lot 8, Block 1, Savanna at Castle Rock Ranch 4th Addition, Sedgwick County, Kansas, described as beginning at the SW corner thereof; thence N00°04'45"E along the west line of said Lot 8, 5.00 feet; thence N89°37'38"E, parallel with the south line of said Lot 8, 184.96 feet; thence S00°22'22"E, 5.00 feet to the south line of said Lot 8; thence S89°37'38"W, 185.00 feet to the point of beginning.

PARCEL B

That part of Lot 8, Block 1, Savanna at Castle Rock Ranch 4th Addition, Sedgwick County, Kansas, described as beginning at the SE corner thereof; thence S89°37'38"W along the south line of said Lot 8, 40.00 feet; thence N00°22'22"W, 5.00 feet; thence N89°37'38"E, parallel with the south line of said Lot 8, 41.12 feet to the east line of said Lot 8; thence S12°15'39"W, 5.12 feet to the point of beginning.

PARCEL C

That part of Lot 9, Block 1, Savanna at Castle Rock Ranch 4th Addition, Sedgwick County, Kansas, described as beginning at the SW corner thereof; thence N12°15'39"E along the west line of said Lot 9, 5.12 feet; thence N89°37'38"E, parallel with the south line of said Lot 9, 135.27; thence S00°22'22"E, 5.00 feet to the south line of said Lot 9; thence S89°37'38"W, 136.39 feet to the point of beginning.

PARCEL D

That part of Lot 9, Block 1, Savanna at Castle Rock Ranch 4th Addition, Sedgwick County, Kansas, described as beginning at the SE corner thereof; thence S89°37'38"W along the south line of said Lot 9, 53.00 feet; thence N00°22'22"W, 5.00 feet; thence N89°37'38"E, parallel with the south line of said Lot 9, 53.88 feet to the east line of said Lot 9; thence S09°37'38"W, 5.08 feet to the point of beginning.

All in 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:

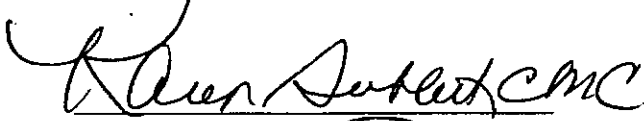
1. That due and legal notice has been given by publication as required by law, by publication in The Wichita Eagle and the Derby Reporter on November 15, 2007, which was at least 20 days prior to the public hearing.
2. No private rights will be injured or endangered by the vacation of the above described portion of a platted utility, and the public will suffer no loss or inconvenience thereby.
3. Retain the south 5 feet of the platted 40-foot utility easement as a wall easement.
4. Hold Harmless agreements will be recorded with the Sedgwick County Register of Deeds.
5. In justice to the petitioner(s), the prayer of the petition ought to be granted.
6. 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.
7. The vacation of the portion of the platted utility easement described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 8th day of July 2008 ordered that the above described portion of the 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.

Vacation Order
VAC2007-00035

Page 2 of 2

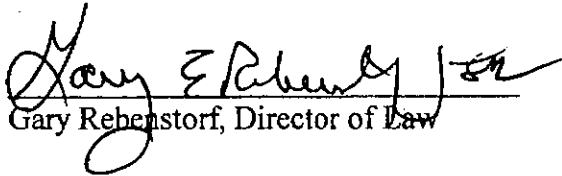
ATTEST:

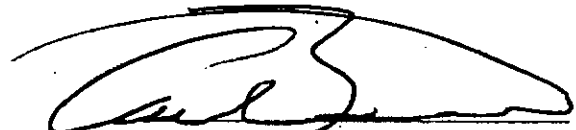


Karen Sublett, City Clerk



Approved as to Form


Gary Rehenstorf, Director of Law


Carl Brewer, Mayor



State of Kansas
Sedgwick County
City of Wichita

I, **Karen Sublett**

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 11th day of 08 2008

 City Clerk

STAFF REPORT

CASE NUMBER: VAC2007-00035: Request to vacate a portion of a platted easement and the restriction of uses to allow masonry wall.

OWNER/AGENT: Terry D & Jody B Klein. Mervyn L & Marcia A Criser

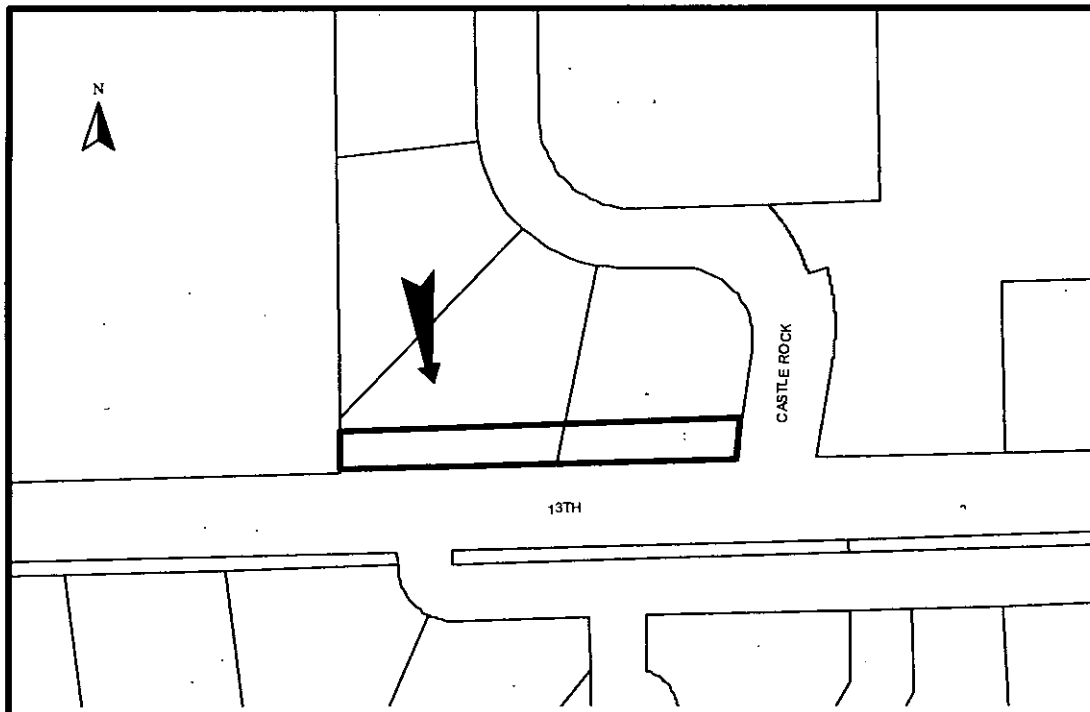
LEGAL DESCRIPTION: Generally described as the south 5 to 10-feet of the platted 40-foot utility easement, that is located along the south lot lines of Lots 8 & 9, Block 1, the Savanna at Castle Rock Ranch 4th Addition, Wichita, Sedgwick County, Kansas, and to retain it as a wall easement.

LOCATION: Generally located on the west side of 143rd Street East and on the north side of 13th Street North. (WCC #II)

REASON FOR REQUEST: Masonry wall to buffer properties from traffic along 13th Street North

CURRENT ZONING: Subject properties and abutting northern and adjacent eastern properties are zoned "SF-5" Single-family Residential. Abutting western and adjacent southern properties are zoned "SF-20" Single-family Residential and (southern) "SF-5."

VICINITY MAP:



The applicants are requesting consideration for the vacation of the described portions of the platted utility easement. The applicants are proposing to finish construction of masonry wall to buffer them from traffic noise and traffic on 13th Street North. The applicants have provided a letter from the homeowner's association approving the proposed masonry wall. The letter also approves of landscaping and irrigation outside of the wall. This could be an issue in that the south 5 to 10-feet of the utility easement is to be retained as a wall easement. A typical wall easement is 5-feet in width, which would place the proposed landscaping and irrigation into the 13th Street North ROW. A 10-foot wall easement would have to be approved by all utilities, with the wall located on the north (minimum) 10-feet of the easement and the remaining south 5-feet for landscaping and irrigation, an extremely tight fit. It may be that the landscaping and irrigation will have to be placed inside the wall, to avoid encroaching into the 13th ROW. Sewer appears to be located within the north portion of the platted 40-foot utility easement. Water is located in both the 13th and Castle Rock Streets ROW. Westar has utilities in located within the described easement, that serves both subject properties. The Savanna at Castle Rock Ranch 4th Addition was recorded with the Register of Deeds June 9, 1993.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, Storm Water, franchised utility representatives, and other interested parties, Planning Staff recommends approval to vacate the portion of the platted utility easement 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 and the Derby Reporter of notice of this vacation proceeding one time November 15, 2007 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 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.
- B. Therefore, the vacation of a portion of the platted utility easement described in the petition should be approved subject to the following conditions:
- (1) Vacate the approved southern 5-foot to 10-foot portion of the platted 40-foot utility easement that runs parallel to the south back yard lot line of Lots 8 & 9, Block 1, the Savanna at Castle Rock Ranch 4th Addition. Retain it as a wall easement. Westar has utilities in the described easement that will run under the proposed wall. Retain that portion of the utility easement as a wall & utility easement. Provide Westar with a hold harmless agreement, stating that Westar will not be liable to any damage done to the proposed wall and its footing/foundation if Westar has to maintain, repair or replace its equipment that runs under the wall. Have a surveyor provide an approved metes and bounds description of the portion of the easement that will cover the Westar equipment, on a Word document, via e-mail to Planning. This must be provided prior to this case going to WCC for final action.

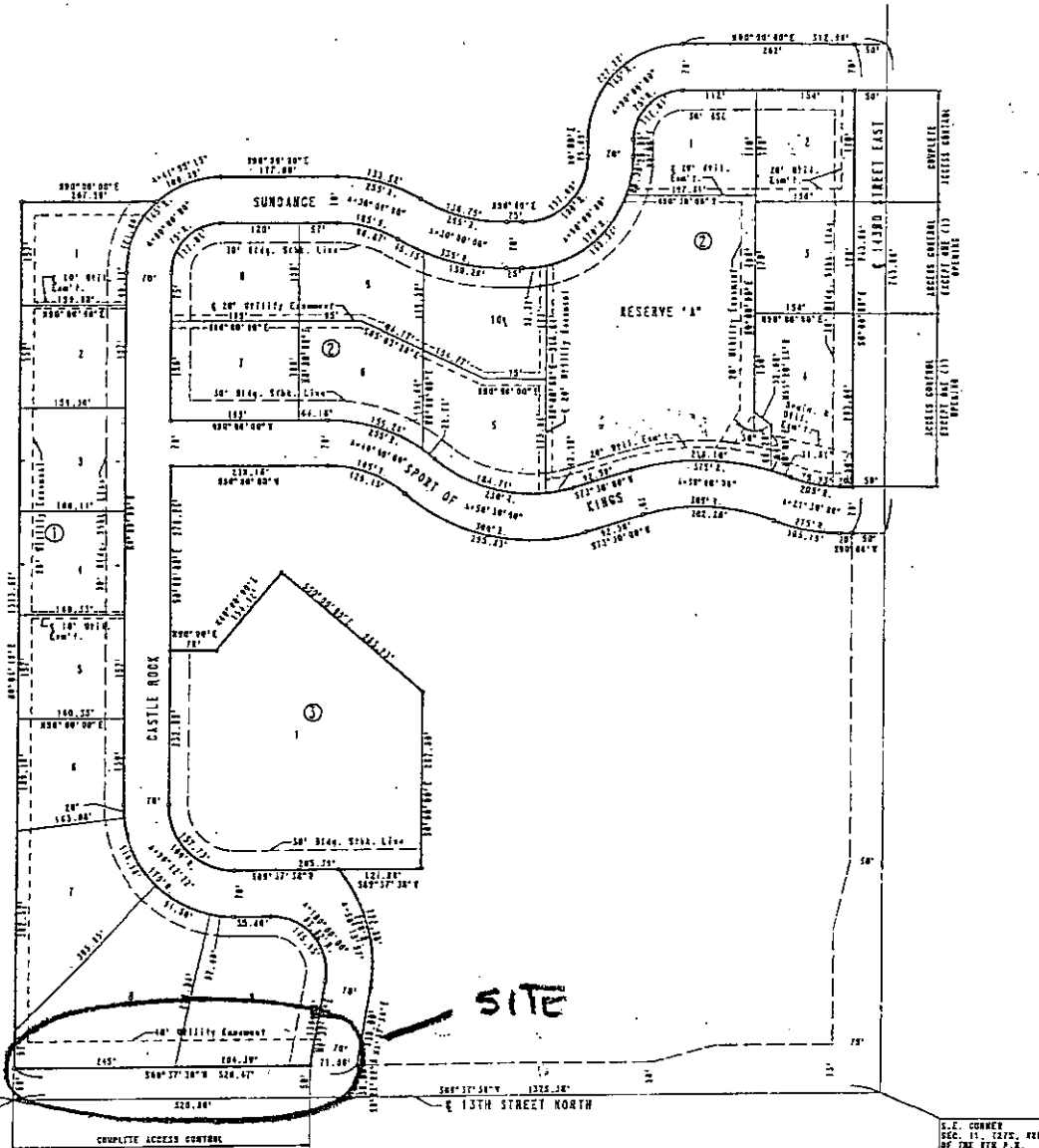
- (2) If approved the landscaping and irrigation for the landscaping may be allowed within the wall easement. No landscaping or irrigation for landscaping is allowed in the 13th Street North ROW.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (4) All improvements shall be according to City Standards and at the applicants' expense, including all permits and inspections for the proposed masonry wall.
- (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:

- (1) Vacate the approved southern 5-foot to 10-foot portion of the platted 40-foot utility easement that runs parallel to the south back yard lot line of Lots 8 & 9, Block 1, the Savanna at Castle Rock Ranch 4th Addition. Retain it as a wall easement. Westar has utilities in the described easement that will run under the proposed wall. Retain that portion of the utility easement as a wall & utility easement. Provide Westar with a hold harmless agreement, stating that Westar will not be liable to any damage done to the proposed wall and its footing/foundation if Westar has to maintain, repair or replace its equipment that runs under the wall. Have a surveyor provide an approved metes and bounds description of the portion of the easement that will cover the Westar equipment, on a Word document, via e-mail to Planning. This must be provided prior to this case going to WCC for final action.
- (2) If approved the landscaping and irrigation for the landscaping may be allowed within the wall easement. No landscaping or irrigation for landscaping is allowed in the 13th Street North ROW.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (4) All improvements shall be according to City Standards and at the applicants' expense, including all permits and inspections for the proposed masonry wall.
- (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

SAVANNA AT CASTLE ROCK RANCH 4TH ADDITION TO SEDGWICK COUNTY, KANSAS



SCALE: 1"=100'
= 1/4" IRON SET
= 1000' FOUND

N.B. - S.W. SPIKE IN W.L.P. 62' S.E. OF
S.W. CORNER SEC. 15, T27S, R2E.
ELEV. +1502.07 M.S.L.
ELEV. +105.17 CITY DATUM

SHIRING FOR ELEVATION (LARGEST OPENING)
FOR LOTS 1 THROUGH 9 AND LOT 10 IN
BLOCK 2 SHALL BE ELEV. 1343.0 M.S.L.

S.E. CORNER
SEC. 15, T27S, R2E
OF THE 6TH P.M.

VAC2007-35

PC 37-8B

