



**Wichita-Sedgwick County Metropolitan Area Planning Department**

June 18, 2008

CASA Bella Homeowners Association  
Gene Vitarelli  
P.O. Box 781974  
Wichita, KS 67278

Re: **VAC2008-00003** - Request to vacate a portion of platted public street right-of-way, generally located west of 127<sup>th</sup> Street East, on the north side of Pawnee Avenue, at the Tara Falls Court – Tara Falls Street intersection.

Dear Mr. Vitarelli:

At its regular meeting on Tuesday, June 17, 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  
Paul Gunzelman/Carla Jones, Public Works Engineering, Mail Stop 1-71  
Ruggles & Bohm, P.A., 924 N. Main, Wichita, KS 67203  
Clint Miller Properties Inc., 1907 S. Hydraulic, Wichita, KS 67211



Sedgwick County  
Register of Deeds - Bill Meek  
DOC.#/FLM-PG: 28984930  
Receipt #: 1690844  
Pages Recorded: 2  
Cashier Initials: AL  
Recording Fee: 00  
Authorized By:

Date Recorded: 6/19/2008 2:10:31 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  
File 6-17-08

**IN THE MATTER OF THE VACATION OF  
A PORTION OF PLATTED STREET RIGHT-  
OF-WAY  
  
GENERALLY LOCATED  
WEST OF 127<sup>TH</sup> STREET EAST, ON THE NORTH  
SIDE OF PAWNEE AV ENUE, AT THE TARA  
FALLS STREET - PAWNEE AVENUE  
INTERSECTION**

Case No. VAC 2008-00003

**MORE FULLY DESCRIBED BELOW**

VAC 2008-03

**VACATION ORDER**

NOW on this 17<sup>th</sup> day of June, 2008 comes on for hearing the petition for vacation filed by Casa Bella Homeowners Association, c/o Gene Vitarelli, President praying for the vacation of the following described portion of a platted street right-of-way to-wit:

That part of Tara Falls street right-of-way platted in Casa Bella, Wichita, Sedgwick County, Kansas, described as beginning 39.00 feet east of the southeast corner of Reserve "A" in said Casa Bella; thence N00°06'31"E, 53.00 feet; thence N10°53'35"E, 21.38 feet; thence S89°53'29"E, 5.00 feet; thence S00°06'31"W, 74.00 feet; thence N89°53'29"W, 9.00 feet to the place 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:

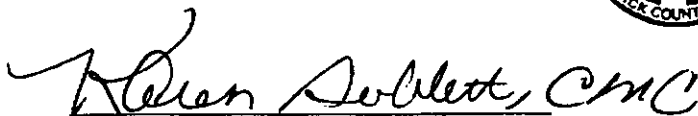
1. That due and legal notice has been given by publication as required by law, by publication in The Wichita Eagle and the Derby Reporter on February 21, 2008, which was at least 20 days prior to the public hearing.
2. No private rights will be injured or endangered by the vacation of the above described portion of the platted street right-of-way, and the public will suffer no loss or inconvenience thereby.
3. An easement dedicated by separate instrument, a reserve dedicated by separate instrument, and a restrictive covenant dedicated by separate instrument, will be recorded with the Vacation Order with Sedgwick County 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 described portion of the platted street right-of-way described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 17<sup>th</sup> day of June 2008 ordered that the above described portion of the platted 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.




  
Carl Brewer, Mayor

ATTEST:

  
Karen Sublett, City Clerk

Approved as to Form:

  
Gary Rebenstorf, Director of Law

STAFF REPORT

CASE NUMBER: VAC2008-00003 Request to vacate a portion of a platted street right-of-way.

APPLICANTS: Casa Bella Homeowners Association, c/o Gene Vitarelli, President

AGENTS: Ruggles & Bohm, PA, c/o Chris Bohm

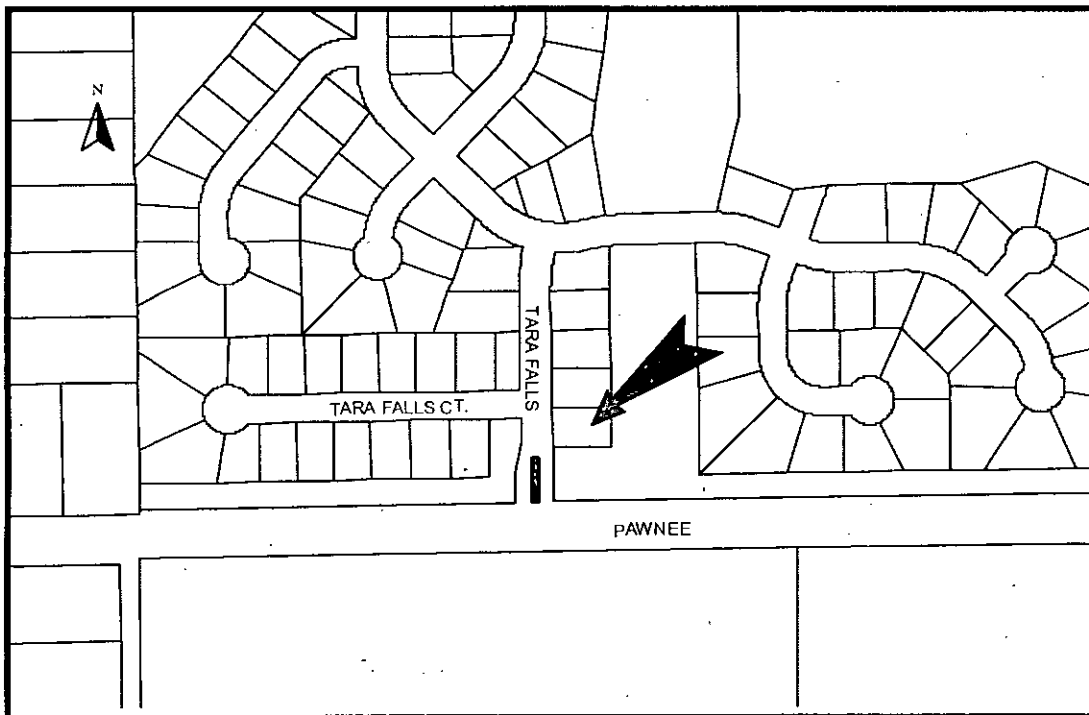
LEGAL DESCRIPTION: Generally described as the middle 18-feet of the platted 87-foot Tara Falls Street right-of-way (ROW) with its south (beginning) end being in line with the southeast corner of Reserve "A", all in the Casa Bella Addition, Wichita, Sedgwick County, Kansas (see attached legal).

LOCATION: Generally located west of 127<sup>th</sup> Street East, on the north side of Pawnee Avenue, at the Tara Falls Street – Pawnee Avenue intersection (WCC #II).

REASON FOR REQUEST: Existing entry monument located in public street ROW.

CURRENT ZONING: The site is a platted, developed public street ROW. All abutting properties are zoned "SF-5" Single-family Residential.

VICINITY MAP:



The applicant is requesting the vacation of the described portion (see attached legal and the exhibit) of the platted Tara Falls public street ROW. An entry monument (considered a permanent subdivision sign by OCI, see attached photo) has been built in the in the platted ROW. The applicant proposes to create a reserve and an easement (exhibit) around the entry monument. As proposed the reserve begins at the intersection of the Pawnee - Tara Falls intersection. As shown on the exhibit there is 15-feet of paved ROW on the east side of the proposed 18-foot wide reserve and 25-feet of paved ROW on its west side. There are 69-feet of total ROW remaining. Tara Falls is the collector street for the Casa Bella single-family subdivision, and it is also the only way in or out of the subdivision. The applicant has provided a photo of the entry monument. A sewer line runs through the north portion of the proposed reserve/easement, but there are no other utilities located in it. The Casa Bella Addition was recorded with the Register of Deeds January 19, 1996.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works; the Traffic Engineer, Fire, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate a portion of the platted street ROW, 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 and the Derby Reporter, of notice of this vacation proceeding one time February 21, 2008 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 street right-of-way 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 platted street right-of-way described in the petition should be approved with conditions;

- (1) As approved by the Traffic Engineer and Fire, provide Planning staff with an accurate legal description of the approved vacated ROW on a word document via e-mail.
- (2) Dedicate a reserve by separate instrument (with the original signatures), to be provide to Planning Staff to go with the Vacation Order to City Council, for final action and subsequent recording with the Register of Deeds. The reserve will be only for the entry monument, landscaping and utilities confined to easements.
- (3) Provide Planning Staff with a covenant (with the original signatures), that states that the ownership and maintenance of the reserve will be the responsibility of the homeowners association. This is to be providing to Planning Staff to go with the Vacation Order to City Council, for final action and subsequent recording with the Register of Deeds. Apply the language in section 7-207. Reserves (E) of the Subdivision Regulations to the covenant.

- (4) If necessary provide a hold harmless agreement for City Water & Sewer, to cover the sewer line that the existing, encroaching entry monument and the proposed reserve are built over. Provide a utility easement (with original signatures) to cover any utilities within the proposed reserve. To be provide to Planning Staff to go with the Vacation Order to City Council, for final action and subsequent recording with the Register of Deeds.
- (5) All improvements shall be according to City Standards, including certification/verification that the entry monument has been approved by OCI.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests 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:**

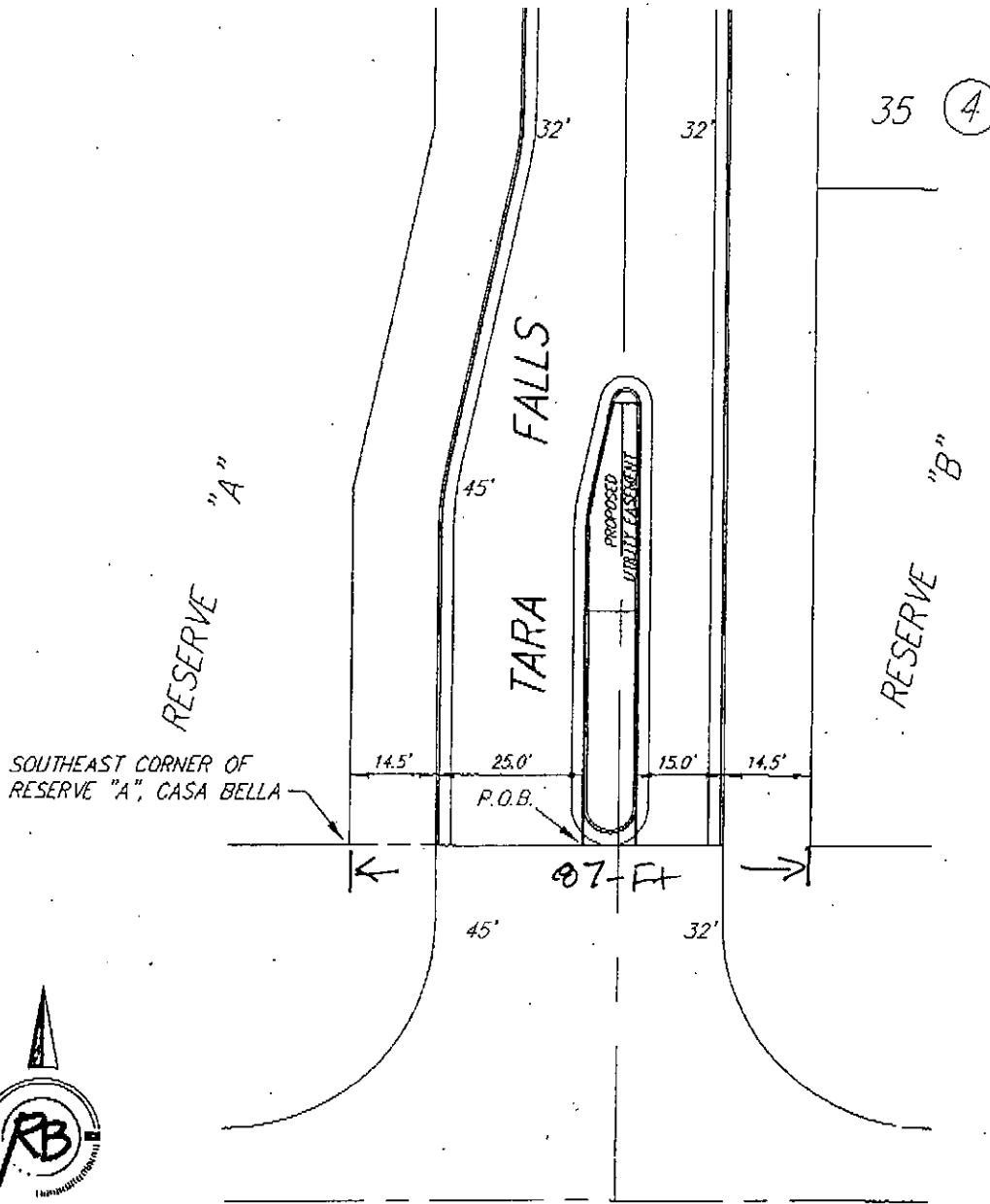
The Subdivision Committee recommends approval subject to the following conditions:

- (1) As approved by the Traffic Engineer and Fire, provide Planning staff with an accurate legal description of the approved vacated ROW on a word document via e-mail.
- (2) Dedicate a reserve by separate instrument (with the original signatures), to be provide to Planning Staff to go with the Vacation Order to City Council, for final action and subsequent recording with the Register of Deeds. The reserve will be only for the entry monument, landscaping and utilities confined to easements.
- (3) Provide Planning Staff with a covenant (with the original signatures), that states that the ownership and maintenance of the reserve will be the responsibility of the homeowners association. This is to be providing to Planning Staff to go with the Vacation Order to City Council, for final action and subsequent recording with the Register of Deeds. Apply the language in section 7-207. Reserves (E) of the Subdivision Regulations to the covenant.
- (4) If necessary provide a hold harmless agreement for City Water & Sewer, to cover the sewer line that the existing, encroaching entry monument and the proposed reserve are built over. Provide a utility easement (with original signatures) to cover any utilities within the proposed reserve. To be provide to Planning Staff to go with the Vacation Order to City Council, for final action and subsequent recording with the Register of Deeds.
- (5) All improvements shall be according to City Standards, including certification/verification that the entry monument has been approved by OCI.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests 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 2008-3

## SITE PLAN



1" = 30'

DWG FILE: CASA BELLA STREET VACATION2  
PROJECT NO. 3199V

PAWNEE