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BEFORE THE COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

IN THE MATTER OF THE VACATION OF A PLATTED UTILITY EASEMENT GENERALLY LOCATED MIDWAY BETWEEN 127TH AND 143RD STREETS EAST, SOUTH OF 13TH STREET NORTH, ON THE NORTHWEST SIDE OF NORTHPOINT AND ST. ANDREWS DRIVES.	)	MAPD CASE NO. VAC2008-00033

VACATION ORDER

NOW on this 14th day of January 2009, at 9:00 o'clock A.M., comes Gene W. Foster, praying for the vacation of the following-described platted utility easement, to-wit:

The platted 10-foot utility easement located on Lot 1, Block 3, Crestview Country Club Estates North Point Addition, Sedgwick County, Kansas, that runs parallel to 13th Street North and the north lot line of Lot 1, Block 3, Crestview Country Club Estates North Point Addition, Sedgwick County, Kansas.

WHEREUPON, it is shown that proper notice has been given by publication once at least 20 days prior to the date of the public hearing in the official county newspaper, such publication having occurred on October 16, 2008; and it is further shown that proper proof of such publication has been filed herein. The Board finds that such notice is in lawful form and that it conforms to K.S.A. 58-2613 and amendments thereto.

THEREAFTER, the Board, being duly advised in the premises, finds and determines that no private rights will be injured or endangered by such vacation; that the public will suffer no loss or

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inconvenience thereby; that no written objections hereto have been filed with the Sedgwick County Clerk; and that, in justice to the petitioner, the petition's prayer should be granted.

The Board further finds that the Metropolitan Area Planning Commission held a public hearing on the 6th day of November 2008, and recommended that the vacation petition herein be approved; and on the 23rd day of December 2008, the Governing Body of the City of Wichita recommended that said petition be approved.

THEREFORE, IT IS ORDERED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, that the platted utility easement hereinabove described be the same and is hereby vacated.

DATED this 14th day of January.

BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS

Chairman

ATTEST:

Kelly B. Arnold, County Clerk

APPROVED AS TO FORM:

Robert W. Parnacott
Assistant County Counselor

Register of Deeds - Bill Meek
DOC.#/FLM-PG: 29027282
Appl #: 1706120
Pages Recorded: 2
Cashier Initials: SL
Authorized By:
Recording Fee: 0.00
Date Recorded: 12/22/2008 1:50:04 PM

CITY CLERK'S ORIGINAL
RETURN TO CITY CLERK

Approved / Accepted By City Council
This 12-16-08 V-A

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 MIDWAY BETWEEN 127TH AND 143RD STREETS EAST, SOUTH OF 13TH STREET NORTH, ON THE NORTHWEST SIDE OF NORTHPOINT AND ST. ANDREWS DRIVES.	)	**Case No. VAC2008-00033**
MORE FULLY DESCRIBED BELOW	)	

VACATION ORDER

NOW on this 23rd day of December 2008, comes on for hearing the petition for vacation filed by Gene W. Foster praying for the vacation of the following described platted utility easement, to-wit:

> The platted 10-foot utility easement located on Lot 1, Block 3, Crestview Country Club Estates North Point Addition, Sedgwick County, Kansas, that runs parallel to 13th Street North and the north lot line of Lot 1, Block 3, Crestview Country Club Estates North Point Addition, 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, on October 16, 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 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 23rd day of December 2008, 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.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary Rebenstorf, Director of Law

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 30th day of December, 2008

By Clerk

METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 3-1
November 6, 2008

STAFF REPORT

CASE NUMBER: **VAC2008-00033:** Request to vacate a platted easement

OWNER/APPLICANT: Gene W. Foster

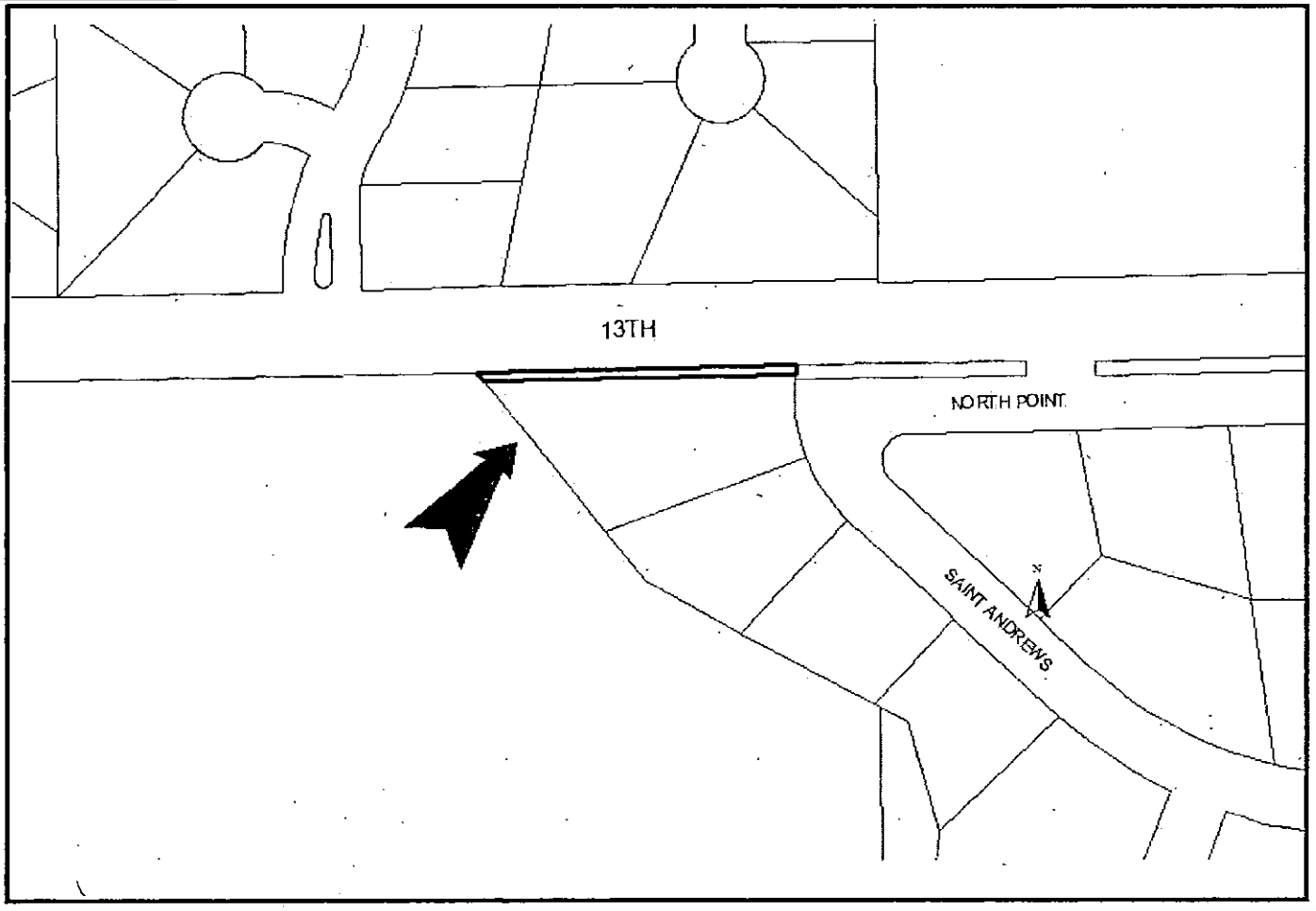
LEGAL DESCRIPTION: The platted 10-foot utility easement that runs parallel to 13th Street North and the north lot line of Lot 1, Block 3, Crestview Country Club Estates North Point Addition, Sedgwick County, Kansas.

LOCATION: Generally located midway between 127th and 143rd Streets East, south of 13th Street North, on the northwest side of Northpoint and St. Andrews Drives. (BoCC #1, 3-mile ring).

REASON FOR REQUEST: No utilities in easement

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

VICINITY MAP:



The applicant is requesting consideration for the vacation of the described platted 10-foot utility easement. There are no manholes, sewer or water lines in the platted easement; a water line is located in the 13th Street North right-of-way (ROW) and sewer is located in the southwestern portion of the subject lot, within a platted easement. Comments from franchised utilities have not been received and are needed to determine if they have utilities located within the described easement. The County Engineer and City Public Works need to comment on the proposed vacation. Because the site is located in Sedgwick County, but within the City of Wichita's 3-mile ring subdivision jurisdiction, consideration and recommendation by the Wichita City Council and consideration and final action by the Sedgwick County Board of County Commissioners is required. The Crestview Country Club Estates North Point Addition was recorded with the Register of Deeds November 23, 1970.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from the County Engineer, City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the platted easement as described in the legal description with the following 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 October 16, 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 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 platted utility easement described in the petition should be approved with conditions;

(1) Vacate only that portion of the easement as described in an approved legal description, as approved by County Engineer, City Public Works and franchised utilities. Provide Planning Staff with the approved legal description of the vacated portion of platted utility easement, via e-mail on a Word document.

(2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility, and at the expense of the applicant and per County, City and franchised utilities standards.

(3) Provide Planning Staff with all required dedications by separate instruments for public utility easements. Provide franchised utilities with any needed easements. All provided the original to planning/franchised utilities prior to the vacation case proceeding to the governing bodies final action.

(4) No structures, walls, irrigation or landscaping allowed in the 13th Street North ROW.

(5) All improvements shall be according to County and City Standards and at the applicant's expense.

(6) Per MAPC Policy Statement #7, all conditions shall 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

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

(1) Vacate only that portion of the easement as described in an approved legal description, as approved by County Engineer, City Public Works and franchised utilities. Provide Planning Staff with the approved legal description of the vacated portion of platted utility easement, via e-mail on a Word document.

(2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility, and at the expense of the applicant and per County, City and franchised utilities standards.

(3) Provide Planning Staff with all required dedications by separate instruments for public utility easements. Provide franchised utilities with any needed easements. All provided the original to planning/franchised utilities prior to the vacation case proceeding to the governing bodies final action.

(4) No structures, walls, irrigation or landscaping allowed in the 13th Street North ROW.

(5) All improvements shall be according to County and City Standards and at the applicant's expense.

(6) Per MAPC Policy Statement #7, all conditions shall 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

SITE'S Area

VAC 2008-33

