



Wichita-Sedgwick County Metropolitan Area Planning Department

January 14, 2009

Howard A. Johnson
1025 W. 35th St. North
Wichita, KS 67204

Re: **VAC2008-00036** - Request to vacate a portion of right-of-way dedicated by separate instrument, generally located west of Arkansas Avenue, west of Armstrong Avenue on the south side of 35th Street North.

Dear Mr. Johnson:

At its regular meeting on Tuesday, January 13, 2009, 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, Mailstop 1-71
Julianne Kallman, Public Works Engineering, Mailstop 1-71
Thomas D. Harris, P.O. Box 355, Valley Center, KS 67147
RDX Rental Properties, 2055 N. Mosley, Wichita, KS 67214
Epigmenio & Adriana Paredes, 1101 W. 35th St. N., Wichita, KS 67204
Kent E. & Elizabeth A. Slocum, 1104 W. 35th St. N., Wichita, KS 67204
Arthur D. & Elizabeth J. Wihite, 1120 W. 35th St. N., Wichita, KS 67204
Mervin J. & Grace E. Bontrager, and Harold & Donald L. Goddard, 3608 N. Burns,
Wichita, KS 67204



Sedgwick County
Register of Deeds - Bill Meek
DOC.#/FLM-PG: 29032420

Receipt #: 1708189
Pages Recorded: 2
Cashier Initials: KV

Authorized By:

Recording Fee: DDH

Date Recorded: 1/21/2009 2:46:07 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 1-13-09 5-3

**IN THE MATTER OF THE VACATION OF
STREET RIGHT-OF-WAY DEDICATED BY
SEPARATE INSTRUMENT**

**GENERALLY LOCATED
WEST OF ARKANSAS AVENUE, WEST OF
ARMSTRONG AVENUE, ON THE SOUTH SIDE OF
35TH STREET NORTH**

MORE FULLY DESCRIBED BELOW

Case No. VAC 2008-00036

VAC 2008-310

VACATION ORDER

NOW on this 13th day of January, 2009 comes on for hearing the petition for vacation filed by Howard A. Johnson (applicant)/Thomas D. Harris (agent) praying for the vacation of the following described street right-of-way dedicated by separate instrument, to-wit:

The undeveloped 10-foot wide (x) 250-foot long public street right-of-way, which was dedicated by separate instrument; FILM 175/PAGE 1696, recorded June 6, 1991, Wichita, Sedgwick County, Kansas. This undeveloped public street right-of-way is located within Lot 16, Walnut Grove Addition, which was recorded with the Register of Deeds December 20, 1912 and abuts the south side of 35th Street North.

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 13, 2008, which was at

least 20 days prior to the public hearing.

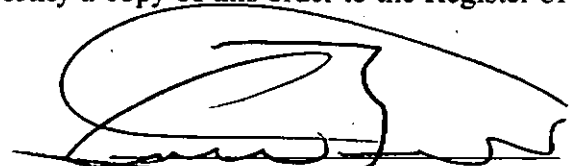
2. No private rights will be injured or endangered by the vacation of the above described street right-of-way dedicated by separate instrument, and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

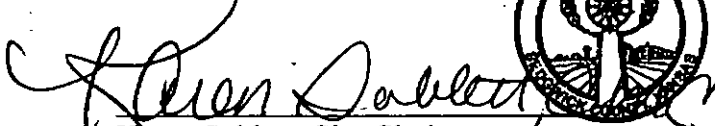
4. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.

5. The vacation of the street right-of-way dedicated by separate instrument described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 13th day of January 2009 ordered that the above described street right-of-way dedicated by separate instrument 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.

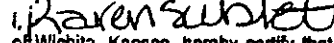

Carl Brewer, Mayor

ATTEST:

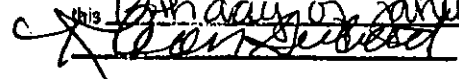

Karen Sublett, City Clerk



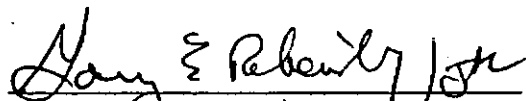
State of Kansas
Sedgwick County
City of Wichita

I,  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 13th day of January, 2009
 City Clerk

Approved as to Form:


Gary Rebenstorf, Director of Law



STAFF REPORT

CASE NUMBER: VAC2008-00036 Request to vacate street right-of-way dedicated by separate instrument.

APPLICANT/AGENT: Howard A. Johnson (applicant)/Thomas D Harris (agent)

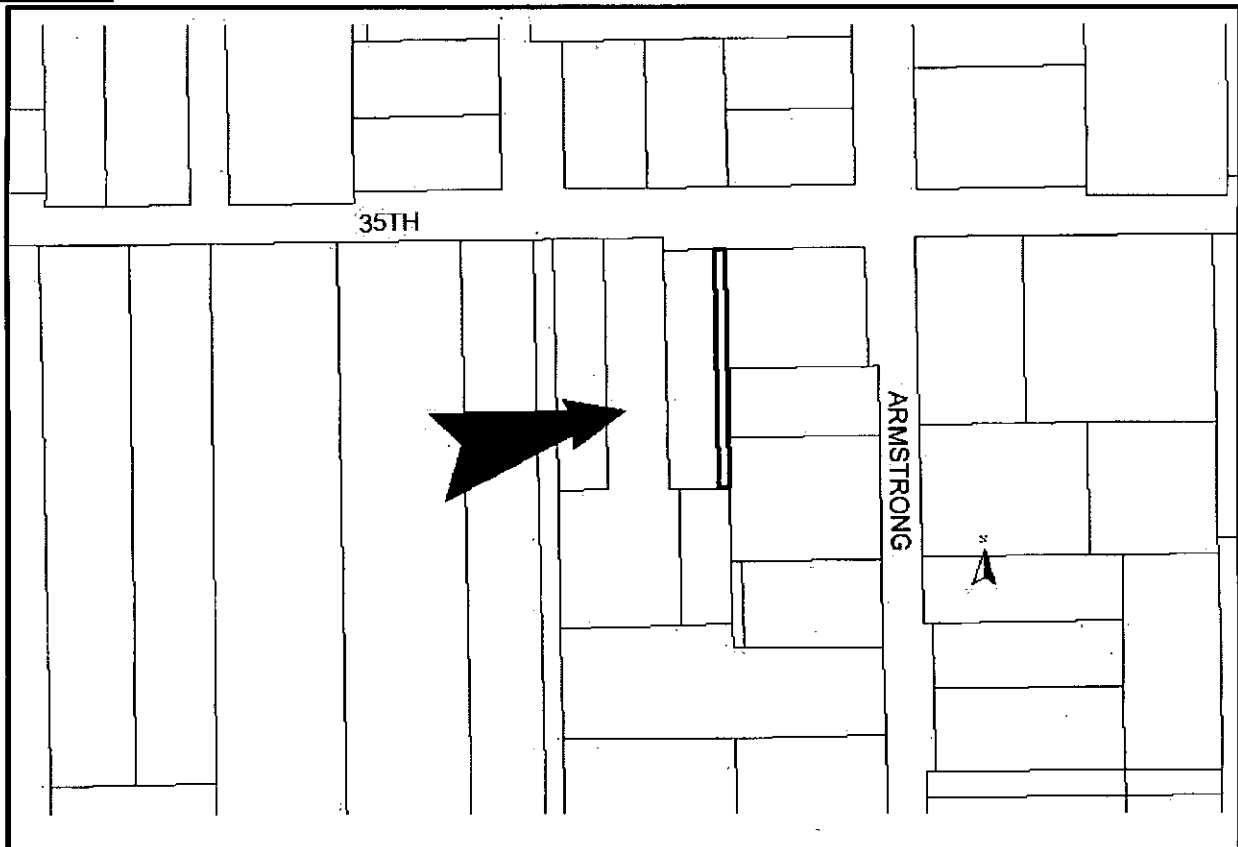
LEGAL DESCRIPTION: Generally described as a 10-foot wide (x) 250-foot long portion of dead end right-of-way (ROW) dedicated by separate instrument; FILM 175/PAGE 1696, recorded June 6, 1991, Wichita, Sedgwick County, Kansas. (See the attached dedication).

LOCATION: Generally located west of Arkansas Avenue, west of Armstrong Avenue, on the south side of 35th Street North (WCC #VI).

REASON FOR REQUEST: ROW never been utilized

CURRENT ZONING: The site is an undeveloped, substandard, dead end public street ROW. All abutting and adjacent properties are zoned SF-5 Single-family Residential ("SF-5").

VICINITY MAP:



The applicant is requesting the vacation of the undeveloped 10-foot wide (x) 250-foot long, dead end public street ROW. The applicant owns all but one of the abutting properties; the other abutting property owner will need to sign the petition to vacate. No one will be denied access with the vacation request. There are no water or sewer lines within the proposed vacated ROW. GIS shows possible encroachment of a garage into the ROW. Comments from franchised utilities have not been received and are needed to determine if they have utilities located within the described ROW. The abutting properties are part of Lot 16, Walnut Grove Addition, which was recorded with the Register of Deeds December 20, 1912. Lot 16 has been split multiple times by the selling of portions of it.

Note: The 10-foot width is 20 feet short of the current standard of 30 feet for half street residential roads. The ¼-section map shows no other dedication lining up with the subject ROW, with the exception of the Burns Circle cul-de-sac located approximately 680 feet south. The subject ROW is located approximately 145-150 feet from the Armstrong Avenue (east) and Burns Street (west) ROWS. The ¼-section map shows an area riddled with dead end and half street or less than half street width ROWs, with no north-south streets extending through the ¼-section, except Arkansas Avenue and Seneca Street on its east and west edges. Armstrong (Woodland) is the north-south, local street with the best chance to extend through the ¼-section.

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, the Traffic Engineer, Fire, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the public street ROW dedicated by separate instrument, as described with conditions.

- (1) Retain those portions of the vacated street ROW as utility and drainage easements as determined by City Public Works/Storm Water and franchised utilities. Provide/dedicate additional easement if needed. Provide Planning staff with a legal description of the approved vacated ROW on a word document via e-mail. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants.
- (2) Obtain the other abutting property owner's signature.
- (3) Retain all public ROW until all utilities have been relocated, as needed. Provide Planning staff with conformation of this requirement being completed or suitable guarantees have been provided, as needed.
- (4) All improvements shall be according to City Standards and at the applicant's expense, including any new driveways from private property onto public ROW, the continuation or providing new curb and gutter and drainage lines, as needed. Provide Public Works with all needed guarantee to ensure that those improvements will be made, prior to this vacation case going to City Council for final action, as needed.
- (5) 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

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N.W. 1/4 SEC. 32 TWP. 26 S. R. 1 E. →

