

000029042523

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

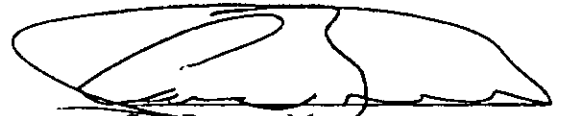
3. Dedications by separate instrument of (a) 10 feet of right away along the length of the east side of the described vacated half-street right-of-way and (b) cross lot access, to allow the south unplatted tract to use the drive, created by the described vacated half-street right-of-way. Both to be recorded with the Vacation Order at the Register of Deeds.

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

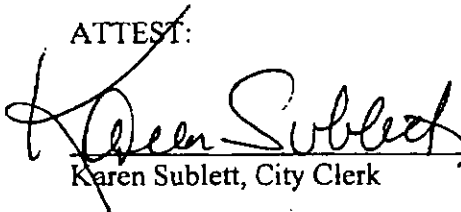
5. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.

6. The vacation of the described portion of the platted half-street right-of-way described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 3rd day of March 2009 ordered that the above described portion of platted half-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.

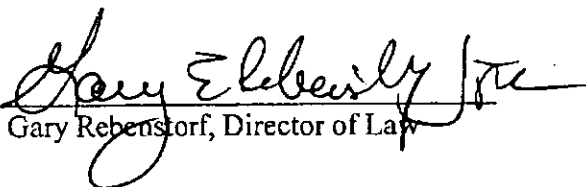

Carl Brewer, Mayor

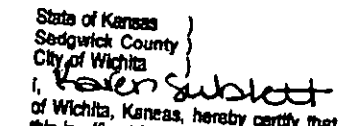
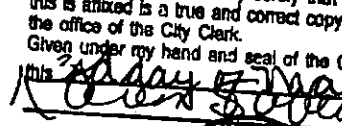
ATTEST:


Karen Sublett, City Clerk



Approved as to Form:


Gary Rebenstorf, Director of Law

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  3rd day of March, 2009.
City Clerk



STAFF REPORT

CASE NUMBER: VAC2008-00039 Request to vacate a portion of platted street right-of-way.

APPLICANTS/OWNER: Paula R. Hernandez

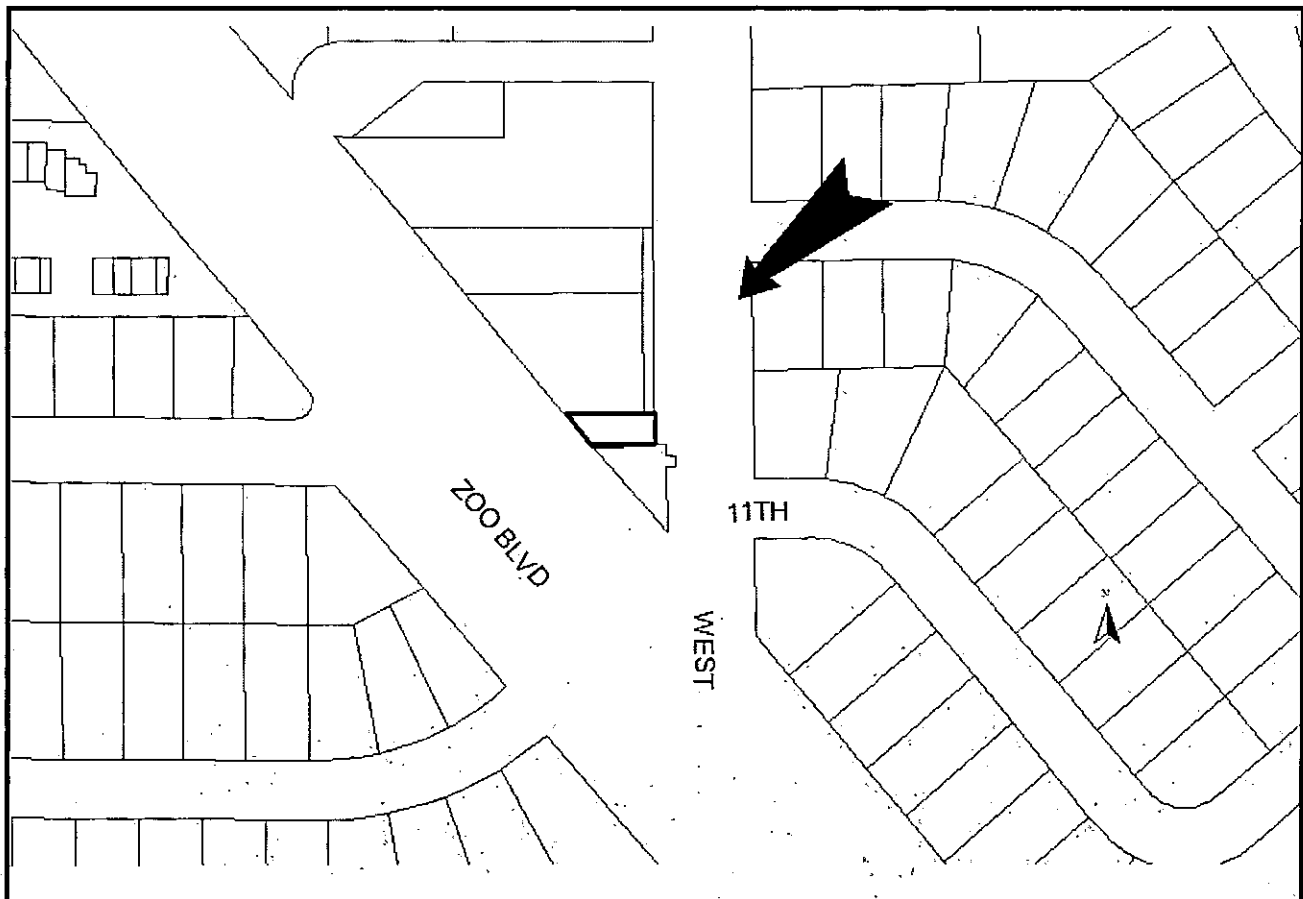
LEGAL DESCRIPTION: Generally described as the 30-foot wide 11th Street half-street-right-way, (ROW) located between West Street (east side), the Railroad ROW (west side), the south side of Lot 2, Gilberts Addition and the north side of an unplatted tract, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located on the west side of West Street and north of Zoo Boulevard (WCC #VI).

REASON FOR REQUEST: Parking lot is located in ROW

CURRENT ZONING: The site is a platted, local public street ROW. Abutting northern property is zoned LC Limited Commercial ("LC"). Abutting southern properties is zoned SF-5 Single-family Residential ("SF-5"). Abutting eastern and western properties are Railroad and public street ROWs.

VICINITY MAP:



The applicant is requesting the vacation of the described portion of platted 11th street right-of-way (ROW). This 30-foot wide, half street portion of 11th is currently a paved parking lot, being used by the applicant's business, which abuts the ROW's north side. The parking lot was in place when the applicant bought the business. The vacation of the platted 11th Street ROW, to remove the parking lot from ROW, was a condition of the applicant's Conditional Use, CON2008-55; a boarding kennel approved by the MAPC November 2, 2008. There is an improved entrance to this portion of the parking lot/11th onto West Street. There is an unplatted tract, with a billboard located on it, abutting the south side of the subject ROW. It is not know if this unplatted tract uses the improved entrance for access onto their property. There are no utilities, manholes, sewer or water lines located in the subject ROW. This portion of 11th Street will never cross the Railroad ROW it abuts on its west side, as the West and Zoo Boulevard intersection provides that crossing of the Railroad ROW. This portion of 11th was platted on the Gilberts Addition, which was recorded with the Register of Deeds December 16, 1950.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works/Water & Sewer/Storm Water, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described platted street right-of-way.

- 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 January 1, 2009 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, with conditions:
 - (1) Vacate the 30-foot wide, half street 11th Street ROW, as recorded on the Gilberts Addition.
 - (2) If needed retain those portions of the vacated street ROW as utility and drainage easements as determined by Storm Water and franchised utilities. Provide Planning staff with a legal description of the approved vacated ROW on a word document via e-mail. Provide any additional easement as needed by dedication by separate instrument, prior to this vacation case going to City Council for final action. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. Retain all public ROW until all utilities have been relocated, as needed.
 - (3) If needed dedicate cross lot access by separate instrument, to allow the use of the existing drive onto West Street, to the abutting southern property. Provide to Planning prior to this vacation case going to City Council for final action.

- (4) By separate instrument dedicate 10 feet of ROW for West Street. Provide to Planning prior to this vacation case going to City Council for final action.
- (5) All improvements shall be according to City Standards and at the applicant's expense.
- (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) Vacate the 30-foot wide, half street 11th Street ROW, as recorded on the Gilberts Addition.
- (2) If needed retain those portions of the vacated street ROW as utility and drainage easements as determined by Storm Water and franchised utilities. Provide Planning staff with a legal description of the approved vacated ROW on a word document via e-mail. Provide any additional easement as needed by dedication by separate instrument, prior to this vacation case going to City Council for final action. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. Retain all public ROW until all utilities have been relocated, as needed.
- (3) If needed dedicate cross lot access by separate instrument, to allow the use of the existing drive onto West Street, to the abutting southern property. Provide to Planning prior to this vacation case going to City Council for final action.
- (4) By separate instrument dedicate 10 feet of ROW for West Street. Provide to Planning prior to this vacation case going to City Council for final action.
- (5) All improvements shall be according to City Standards and at the applicant's expense.
- (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

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GILBERT'S ADDITION

SEDGWICK COUNTY, KANSAS

State of Kansas }
County of Sedgwick }

I, Don C. Moehring, a Civil Engineer in and for said State and County do hereby certify that I have surveyed and plotted Gilbert's Addition, Sedgwick County, Kansas and Lots and Streets. The same being accurately set forth in the accompanying plat and being described as follows: Beginning at a point on the East line of Section 14, Township 27 South, Range 1 West of the 6th P.M. and 1001.66 feet South of the North East Corner of the North East Quarter of said Section 14; Thence South on the East line of said Section 14 a distance of 317.60 feet to the South line of the North One Half of the North East Quarter of said Section 14; Thence West on said South line a distance of 1082.4 feet to the Easterly line of the Missouri Pacific Railroad Right of Way; Thence Northwest along said Right of Way to a point 1001.66 feet South of the North line of the Northeast Quarter of Section 14, Township 27, South, Range 1 West of the 6th P.M.; Thence East to the point of Beginning.

Don C. Moehring, C.E.
Don C. Moehring C.E. Consulting Civil Engineer

Know all men by these presents that we the undersigned property owners of the land set forth in the Engineers Certificate have caused the same to be surveyed and plotted into Lots and Streets. The same to be known as Gilbert's Addition, Sedgwick County, Kansas. The Streets are hereby dedicated to and for the use of the public, and easements for the construction and maintenance of public utilities are hereby granted.

Emma Gilbert *Fred Gilbert*

State of Kansas }
County of Sedgwick }

Be it remembered that on this 16th day of Dec, 1950, before me, a Notary Public in and for said State and County, came Emma Gilbert and Fred Gilbert, her husband, to me personally known to be the same persons who executed the foregoing instrument of writing and duly acknowledge the same to be their voluntary act and deed.

Notary Public *A. B. ...*
My Commission Expires May 17, 1952

This plat of Gilbert's Addition, Sedgwick County, Kansas has been submitted to and considered by The City Planning Commission of the City of Wichita, Kansas and is hereby transmitted to the Board of Commissioners of the City of Wichita, Kansas with the recommendation that said plat be approved as proposed. Dated this 6th day of Nov, 1950. The City Planning Commission of the City of Wichita, Kansas.

By: *John N. ...* Chairman
Attest: *Ernest H. Smith* Secretary

Approved by the Board of City Commissioners this 14th day of Nov, 1950.

Mayor *Earl ...*
City Clerk *...*
BASEMENT N435P 550, 551

Approved By the Board of County Commissioners this 17th day of Dec, 1950.

... County Clerk

Recorded at Register's Office this 16th day of Dec, 1950.

... County Clerk

State of Kansas }
County of Sedgwick }

This is to certify that this instrument was filed for record in the Register of Deeds office on the 16th day of Dec, 1950 at 10:00 o'clock A.M. and is duly recorded.

... Register of Deeds
Deputy

61-6-7

VAC2008-39



This digital plat record accurately reproduces in all details the original plat filed with the Sedgwick County Register of Deeds. Digitized under the supervision of Register of Deeds Bill Meek by Sedgwick County Geographic Information Systems.

Bill Meek, Register of Deeds
Digitized reproduction of original signature