



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

FILE COPY

September 14, 2023

K.E. Miller Engineering, P.A.
Attn: Kirk Miller
117 E. Lewis St.
Wichita, KS 67202

Ref: VAC2023-00032: Vacation request in the City to vacate the north 126 feet of an existing 30-foot driveway easement on property zoned LC Limited Commercial District, generally located north of East 21st Street North and West of Pinecrest Avenue (5110 East 21st Street North).

Kirk,

At the **Thursday, September 14, 2023**, meeting of the Metropolitan Area Planning Commission (MAPC), the above-referenced vacation request was approved subject to the following conditions:

- (1) As needed provide Planning with dedication of easements by separate instruments with original signatures to go with the Vacation Order to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds. All to be provided to the Planning Department prior to this case going to City Council for final action.
- (2) All improvements shall be according to City Standards and at the applicants' expense.
- (3) Vacation of the north 126 feet of the 190-foot driveway easement dedicated by separate instrument located on Lot 5, University Gardens 2nd Addition, is contingent on approval by the Traffic Engineer and the Fire Department.
- (4) 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.

When all of the above conditions have been completed and there are no other documents requested; this case will be scheduled for final action by the Wichita City Council at the first appropriate date after **September 28, 2023**, (end of the two-week protest period). This letter also serves as a reminder that the vacation notification signs should now be removed from the property. If you have any questions concerning this case, please contact our office at 268-4421.

VAC2023-00032: Vacation request in the City to vacate the north 126 feet of an existing 30-foot driveway easement on property zoned LC Limited Commercial District, generally located north of East 21st Street North and West of Pinecrest Avenue (5110 East 21st Street North).

September 14, 2023

Page 2

Sincerely,


Philip Zevenbergen
Current Plans Division Manager

PZ:kw

cc: B Dev 1 LLC, B Gartner, 150 N Market St, Wichita KS 67202
Ward Family Trust, Thomas C Ward, 2609 Gardi St, Duarte CA 91010



Sedgwick County
Register of Deeds - Tonya Buckingham
Doc.#/Flm-Pg: 30270870

Receipt #: 2401258
Pages Recorded: 2

Recording Fee: \$0.00

Cashier: vbunch

Authorized By: Tonya Buckingham

Date Recorded: 10/19/2023 02:10:53 PM



**BEFORE THE CITY COUNCIL OF THE
CITY OF WICHITA, SEDGWICK COUNTY, KANSAS**

**IN THE MATTER OF THE VACATION OF A PORTION
OF A DRIVEWAY EASEMENT DEDICATED BY
SEPARATE INSTRUMENT**

**GENERALLY LOCATED ON THE NORTH SIDE OF
EAST 21ST STREET NORTH AND WITHIN ONE-
QUARTER MILE EAST OF NORTH OLIVER AVENUE**

VAC2023-00032

MORE FULLY DESCRIBED BELOW

VACATION ORDER

NOW on this 17th day of October 2023, comes on for hearing the petition for vacation filed by B Dev 1, LLC (owner) praying for the vacation of a portion of a driveway easement dedicated by separate instrument, to wit:

Vacation of the north 126 feet of the 190-foot driveway access easement dedicated by separate instrument on DOC#/FLM-PG: 2681514.

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, in The Wichita Eagle on August 24, 2023, 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 described portion of a driveway easement 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.

October 17, 2023
VAC2023-00032

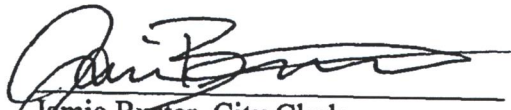
4. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.

5. The vacation of the described portion of a driveway easement dedicated by separate instrument should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 17th day of October 2023, ordered that the above-described portion of a driveway easement dedicated by separate instrument is hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall send this original Vacation Order to the Sedgwick County Register of Deeds for recording.

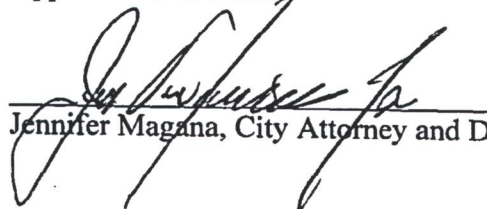

Brandon J. Whipple, Mayor, City of
Wichita

ATTEST:


Jamie Buster, City Clerk



Approved as to Form;


Jennifer Magana, City Attorney and Director of Law

**BEFORE THE CITY COUNCIL OF THE
CITY OF WICHITA, SEDGWICK COUNTY, KANSAS**

**IN THE MATTER OF THE VACATION OF A PORTION)
OF A DRIVEWAY EASEMENT DEDICATED BY)
SEPARATE INSTRUMENT)
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**GENERALLY LOCATED ON THE NORTH SIDE OF)
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VAC2023-00032

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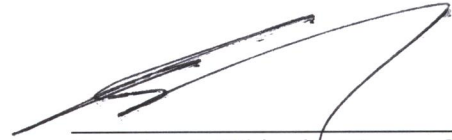
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3. In justice to the petitioner(s), the prayer of the petition ought to be granted.

October 17, 2023
VAC2023-00032

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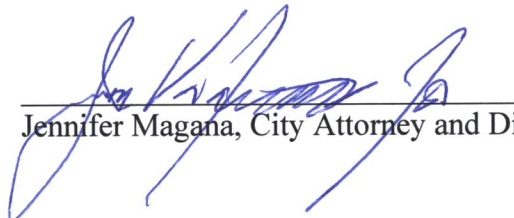
Brandon J. Whipple, Mayor, City of
Wichita

ATTEST:



Jamie Buster, City Clerk

Approved as to Form:



Jennifer Magana, City Attorney and Director of Law



Wichita-Sedgwick County Metropolitan Area Planning Department

October 18, 2023

B Dev 1, LLC
150 North Market Street
Wichita, KS 67202

Kirk Miller
K. E. Miller Engineering, P.A.
117 East Lewis Street
Wichita, KS 67202

RE: VAC2023-00032: Request in the City to vacate a portion of a driveway easement dedicated by separate instrument on property zoned LC Limited Commercial with CUP DP-8, generally located on the north side of East 21st Street North and within one-quarter mile east of North Oliver Avenue.

Dear Applicant;

At its regular meeting on **October 17, 2023**, the Wichita City Council considered the above captioned request. The action of the City Council was to **APPROVE** the vacation request.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Philip Zevenbergen'.

Philip Zevenbergen, AICP
Current Plans
Division Manager



Beaufort Gazette
Belleville News-Democrat
Bellingham Herald
Bradenton Herald
Centre Daily Times
Charlotte Observer
Columbus Ledger-Enquirer
Fresno Bee

The Herald - Rock Hill
Herald Sun - Durham
Idaho Statesman
Island Packet
Kansas City Star
Lexington Herald-Leader
Merced Sun-Star
Miami Herald

el Nuevo Herald - Miami
Modesto Bee
Raleigh News & Observer
The Olympian
Sacramento Bee
Fort Worth Star-Telegram
The State - Columbia
Sun Herald - Biloxi

Sun News - Myrtle Beach
The News Tribune Tacoma
The Telegraph - Macon
San Luis Obispo Tribune
Tri-City Herald
Wichita Eagle

AFFIDAVIT OF PUBLICATION

Account #	Order Number	Identification	Order PO	Amount	Cols	Depth
16399	457830	Print Legal Ad-IPL01362800 - IPL0136280		\$227.06	3	90 L

Attention: MANDY HEBERT
CITY OF WICHITA/PLANNING DEPT
271 WEST THIRD ST., 2ND FL, SU 203
WICHITA, KS 67202

MHEBERT@wichita.gov

OCA 150004
Published in The Wichita Eagle on August 24, 2023
(One Time Only)
MAPC/EZA September 14, 2023
OFFICIAL HEARING NOTICE

NOTICE IS HEREBY GIVEN that on Thursday, September 14, 2023, no earlier than 1:30 p.m., the Wichita-Sedgwick County Metropolitan Area Planning Commission/Board Zoning Appeals will consider the following applications. The meeting will be held at the Ronald Reagan Building, 271 West Third Street, 2nd Floor, Wichita, KS 67202. Public participation may also occur through virtual methods (specified at the end of this notice). If you have any questions regarding the meeting or items on this notice, please call the Wichita-Sedgwick County Metropolitan Area Planning Department at (316) 268-4421.

WZA2023-00045: Request for Variance in the City to have zero setback on a through street and to increase height of off-site sign to 54.14 feet on a property zoned GI General Industrial; generally located on the west side of North Hydraulic Avenue and East of I-135.

CON2023-00036: Conditional Use in the City to amend CON2022-00010 and expand Vehicle and Equipment Sales, Outdoor for the entire property in accordance to the revised site plan; generally located on the northeast corner of West Central Avenue and North Hoover Road (5534 West Central Avenue).

CON2023-00038: Conditional Use request in the City to permit live music and entertainment (defined as Nightclub in the City) as an accessory use to hotels and restaurants; generally located on the northeast corner of North Webb Road and Waterfront Pkwy (1720 North Webb Road).

CON2023-00039: Conditional Use request in the City for accessory apartment on property zoned SF-5 Single-Family Residential; generally located 400 feet north of West 25th Street West and 660 feet west of North Meridian Avenue (2642 North Edwards Street).

CUP2023-00027: CUP Amendment in the City to DP-218 to develop a Warehouse Self-Storage facility on property zoned LC Limited Commercial; located approximately 225 feet north of West 21st Street North and on the east side of North 119th Street West.

DIR2023-00004: Unified Zoning Code amendment to the Old Town Overlay to allow Tattoo and Body Piercing Facility as a permitted use within the Old Town Overlay District, located between North Santa Fe Avenue and North Washington Avenue, and between East Douglas Avenue and East 3rd Street North.

VAC2023-00029: Vacation request in the City to vacate a portion of a sanitary easement by separate instrument on property zoned PUD Planned Unit Development and located at the southwest corner of South Seneca St. and West MacArthur Rd.

VAC2023-00030: Vacation request in the City to vacate a 15-foot platted utility easement on property zoned LC Limited Commercial; located on the south side of East Kellogg Drive and within one-half mile east of South Rock Road (southeast corner of East Kellogg Dr. and South Eastern Ave).

VAC2023-00031: Vacation request in the City to vacate access control of right in and right out movements on Towne East Mall Drive on property zoned LC Limited Commercial District; generally located north of Kellogg Drive and Towne East Mall Drive.

VAC2023-00032: Vacation request in the City to vacate the north 126 feet of an existing 30-foot driveway easement on property zoned LC Limited Commercial District; generally located north of East 21st Street North and West of Pinecrest Avenue (5110 East 21st Street North).

Complete legal descriptions are available for public inspection at the Metropolitan Area Planning Department, 271 W. Third St., 2nd Floor, Wichita, Kansas 67202. As provided in Section V of the Wichita-Sedgwick County Unified Zoning Code, the same will then and there be discussed and considered by the said MAPC, and all persons interested in said matters will be heard at this time concerning their views and wishes in the premises, and any protest against any of the provisions of the proposed changes to the zoning regulations will be considered by the MAPC as by law provided.

Options to participate (see below):

- 1) Participate virtually
- 2) Attend in-person at the Ronald Reagan Building
- 3) Submit comments ahead of time

Participate Virtually

Join Zoom Meeting

<https://us06web.zoom.us/j/4089866967?pwd=a0k3bW0ySjBnbFJQTDFyV0xPVDhXUT09>

Meeting ID: 408 986 6967

Passcode: 094136

One tap mobile

+16099006833,4089866967#,,*094136# US (San Jose)

+17193594580,4089866967#,,*094136# US

Meeting ID: 408 986 6967

Passcode: 094136

Find your local number: <https://us06web.zoom.us/j/4089866967>

Attend In-Person

You may also participate in the hearing in-person at the Ronald Reagan Building, 271 West Third Street, 2nd Floor, Wichita, Kansas 67202. The in-person option is primarily intended for those without other technology options, and who have not previously submitted recorded audio or video comments. If you have any written or visual materials you wish to present, please contact Planning Department Graphics staff (316-268-4464) by 5pm, 3 days prior to the meeting.

Submit Comments Ahead of Time

You can submit comments regarding items on the Planning Commission agenda to the Wichita-Sedgwick County Metropolitan Area Planning Department (Planning Department). Comments must be received by the Planning Department no later than 5pm 3 days prior to the meeting. Please be sure to provide ample time for delivery. The comments can be submitted in the following formats: email; letter; video; and audio message (mp3, etc.). The comment should indicate which item they pertain to and be less than three (3) minutes in duration. The comments should be submitted to Planning Department staff using the contact information below. The comments received ahead of the submission deadline will be shared with the MAPC, prior to or during the meeting.

Email

Planning@wichita.gov

Mailing Address

Wichita-Sedgwick County Metropolitan Area Planning Department

Attn: Scott Wadle

271 W. 3rd Street - Suite 201

Wichita, KS 67202

Phone

316.268.4421

Fax

316.858.7764

WITNESS MY HAND on August 24, 2023

Scott Wadle, Secretary

Wichita-Sedgwick County

Metropolitan Area Planning Commission

IPL0136280

Aug 24 2023

In The STATE OF KANSAS
In and for the County of Sedgwick

1 insertion(s) published on:

08/24/23

STATE OF KANSAS)

SS

County of Sedgwick)

Hayley Martin, of lawful age, being first duly sworn, deposeth and saith: That he is Record Clerk of The Wichita Eagle, a daily newspaper published in the City of Wichita, County of Sedgwick, State of Kansas, and having a general paid circulation on a daily basis in said County, which said newspaper has been continuously and uninterruptedly published in said County for more than one year prior to the first publication of the notice hereinafter mentioned, and which said newspaper has been entered as second class mail matter at the United States Post Office in Wichita, Kansas, and which said newspaper is not a trade, religious or fraternal publication and that a notice of a true copy is hereto attached was published in the regular and entire Morning issue of said The Wichita Eagle from 08/24/2023 to 08/24/2023.

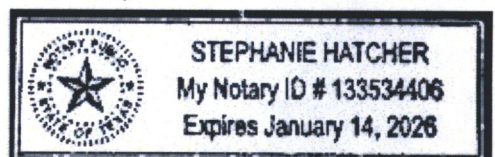
M. Hayley

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

DATED: 08/24/2023

Stephanie Hatcher

Notary Public in and for the state of Texas, residing in
Dallas County



Extra charge for lost or duplicate affidavits.
Legal document please do not destroy!



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

FILE COPY

August 21, 2023

K.E. Miller Engineering, P.A.
Attn: Kirk Miller
117 E. Lewis St.
Wichita, KS 67202

Ref: VAC2023-00032: Vacation request in the City to vacate the north 126 feet of an existing 30-foot driveway easement on property zoned LC Limited Commercial District, generally located north of East 21st Street North and West of Pinecrest Avenue (5110 East 21st Street North).

Kirk,

Your request to vacate the above referenced **30-foot driveway easement** will be considered by the Subdivision Committee (SD) of the Metropolitan Area Planning Commission (MAPC) at their **Thursday, September 7, 2023**, virtually allowing participation remotely or by attending in-person:

Remote Participation: Join the meeting from your computer, tablet or smartphone through **ZOOM MEETING**

<https://us06web.zoom.us/j/4089866967?pwd=a0k3bW0ySIBNbFJQTDFyV0xPVDBXUT09>

Meeting ID: 408 986 6967 | Passcode: 094136

One tap mobile: +16699006833,,4089866967#,,,,*094136# US (San Jose)

+17193594580,,4089866967#,,,,*094136# US

Meeting ID: 408 986 6967 | Passcode: 094136

Find your local number: <https://us06web.zoom.us/j/kc65codfb1>

Those without technology options can attend by going to the Ronald Reagan Building, 271 W. 3rd Street – 2nd Floor, Suite 203, Wichita, Kansas. Please note masks may be needed and social distancing will be observed.

Submit Comments Ahead of Time: you can submit comments regarding items on the Planning Commission - Subdivision and Utility Advisory Committee Agenda to the Wichita-Sedgwick County Metropolitan Area Planning Department. Comments must be received by the Planning Department no later than 5:00 pm, 3 days prior to the Subdivision Committee meeting.

The MAPC will also consider your request in a public hearing on **Thursday, September 14, 2023. The meeting will begin at 1:30 p.m. virtually and in person (see instructions above).**

VAC2023-00032: Vacation request in the City to vacate the north 126 feet of an existing 30-foot driveway easement on property zoned LC Limited Commercial District, generally located north of East 21st Street North and West of Pinecrest Avenue (5110 East 21st Street North).

August 21, 2023

Page 2

You should participate virtually or attend the on-site location for both of these meetings and expect to address questions about this vacation request. Those neighboring property owners who are receiving a copy of this letter may also attend either the SD meeting or the MAPC public hearing meeting in order to express their views about this vacation request. This notification letter is a policy of the Metropolitan Area Planning Department. Should you have any questions, please feel free to call me at 268-4421.

Sincerely,

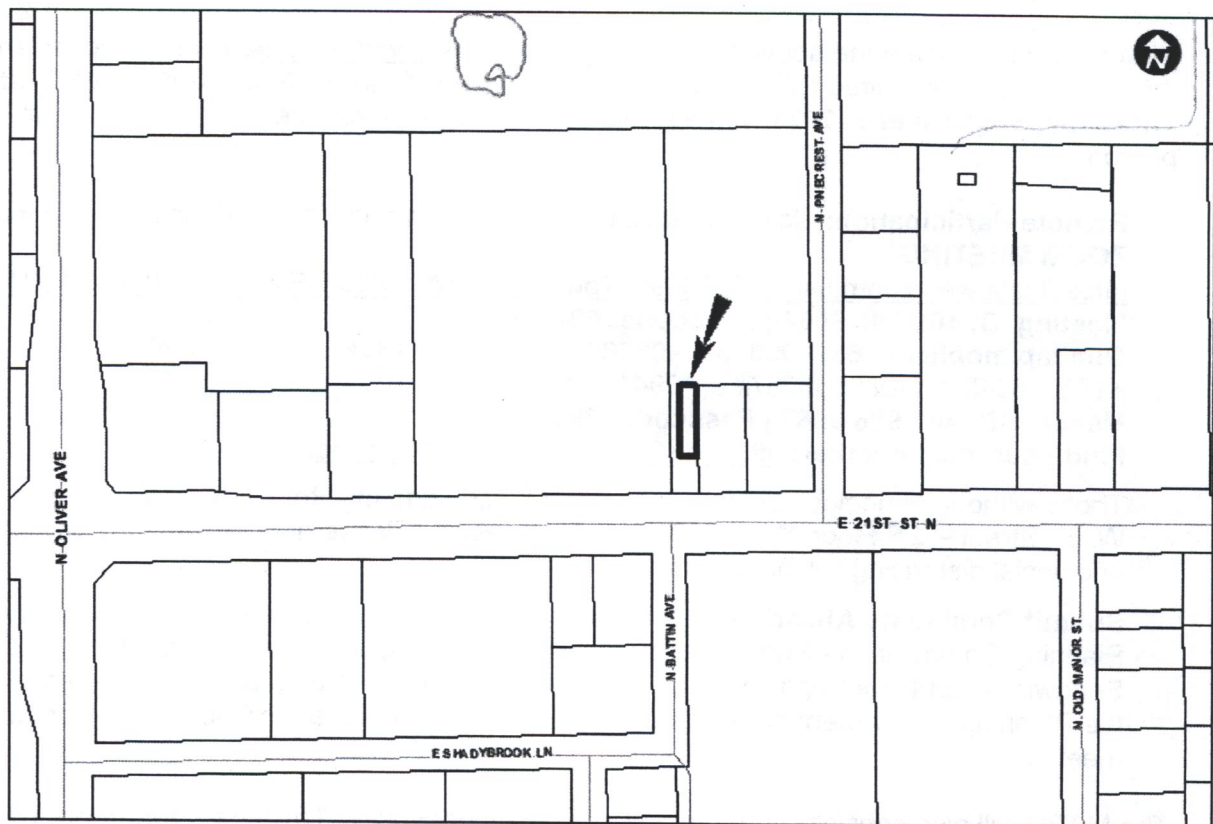


Philip Zevenbergen
Current Plans Division Manager

PZ:kw

cc: B Dev 1 LLC, B Gartner, 150 N Market St, Wichita KS 67202
Ward Family Trust, Thomas C Ward, 2609 Gardi St, Duarte CA 91010

VICINITY MAP



STAFF REPORT

CASE NUMBER: VAC2023-00032 – Request to vacation a portion of a driveway easement dedicated by separate instrument.

OWNER/APPLICANT: B Dev 1, LLC (applicant)/ K.E. Miller Engineering. P.A. (agent)

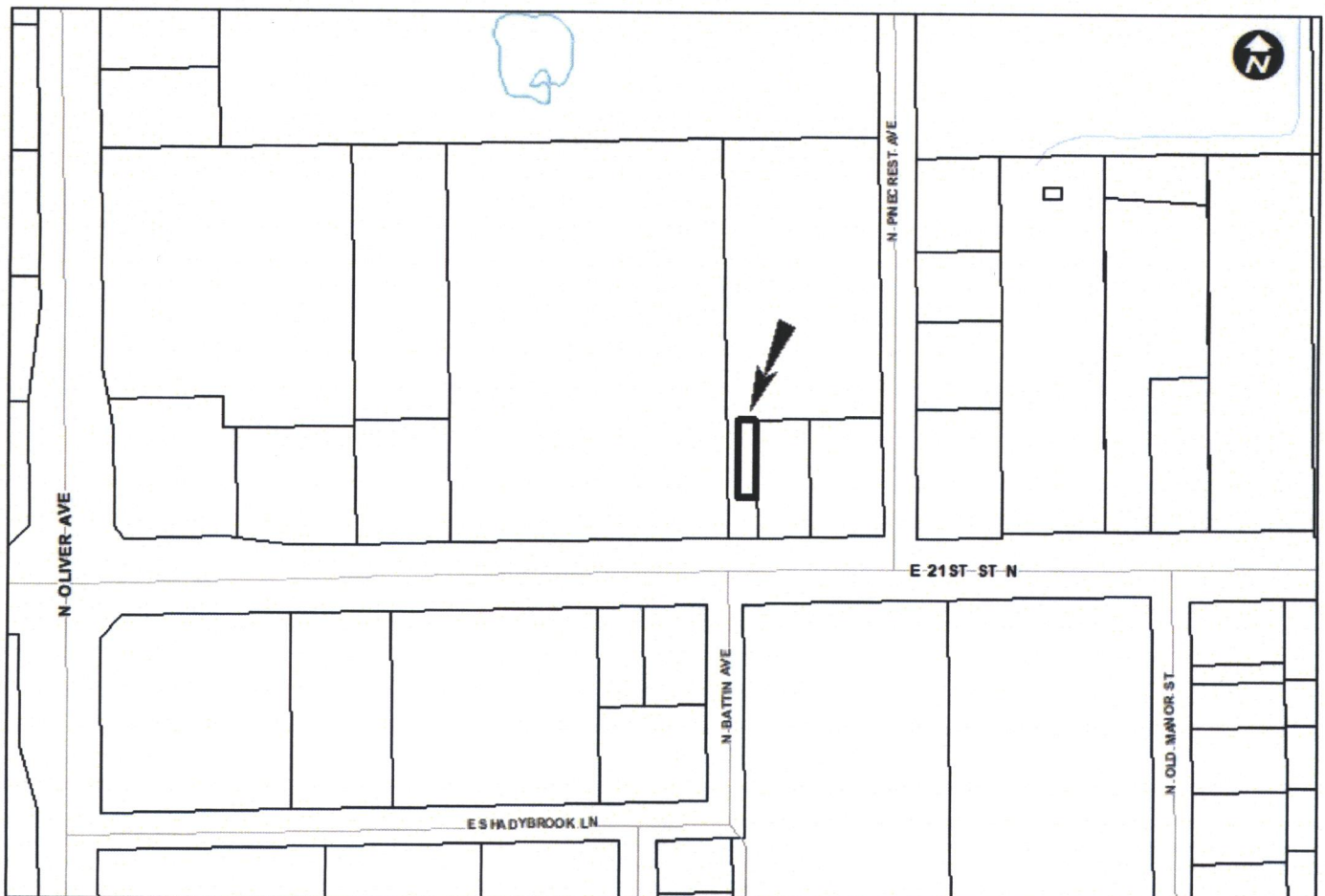
LEGAL DESCRIPTION: Generally described as vacating the north 126 feet of the 190-foot driveway access easement dedicated by separate instrument located on the east property line of Lot 5, University Gardens 2nd Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located on the north side of East 21st Street North and within one-quarter mile east of North Oliver Avenue. (WCC I)

REASON FOR REQUEST: To permit the construction of a building at this location.

CURRENT ZONING: The subject site and all surrounding properties are zoned LC Limited Commercial District with CUP DP-8 and are developed with commercial uses.

VICINITY MAP:



The applicant is requesting to vacate a portion of driveway easement dedicated by separate instrument on DOC#/FLM-PG: 2681514. Specifically, the request is to vacate the north 126 feet of the 190-foot driveway easement dedicated on the east property line of Lot 5, University Gardens 2nd Addition in order to construct a building on this portion of the subject site. The driveway easement is 30 feet wide and was dedicated in 1977 to ensure cross lot access throughout the University Gardens 2nd Addition. The greatest benefactor of this easement is the commercial property to the east. If the vacation is approved, the south 64 feet of the easement will remain. This portion of the easement maintains access rights across the east property line of Lot 5, where an existing drive exists to the property to the east. If this is approved, no parcel within the CUP will be deprived access. Access to the rear/north portion of Lot 5 is available from Lot farther north.

There are no public utilities in the subject easement. Everygy has no objection to this vacation request and does not have equipment and lines in or near the easement they are requesting to vacate for development. Conditions 1-3 covers Everygy. Standard language will apply. Any relocation or removal of existing Everygy equipment will be at the applicant's expense. LaDonna Vanderford, Area Design Representative for this area will be the contact for this item and can be contacted at (316) 261-6290 for this vacation request and any project related to it. The University Gardens 2nd Addition was recorded March 3, 1977

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, Fire, 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 portion of the driveway easement dedicated by separate instrument.

- 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, of notice of this vacation proceeding one time August 24, 2023, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described portion of a driveway easement dedicated by separate instrument and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) As needed provide Planning with dedication of easements by separate instruments with original signatures to go with the Vacation Order to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds. All to be provided to the Planning Department prior to this case going to City Council for final action.
- (2) All improvements shall be according to City Standards and at the applicants' expense.
- (3) Vacation of the north 126 feet of the 190-foot driveway easement dedicated by separate instrument located on Lot 5, University Gardens 2nd Addition, is contingent on approval by the Traffic Engineer and the Fire Department.
- (4) 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.

VAC2023-00032 – City request to vacate a portion a driveway easement dedicated by separate instrument.

September 14, 2023

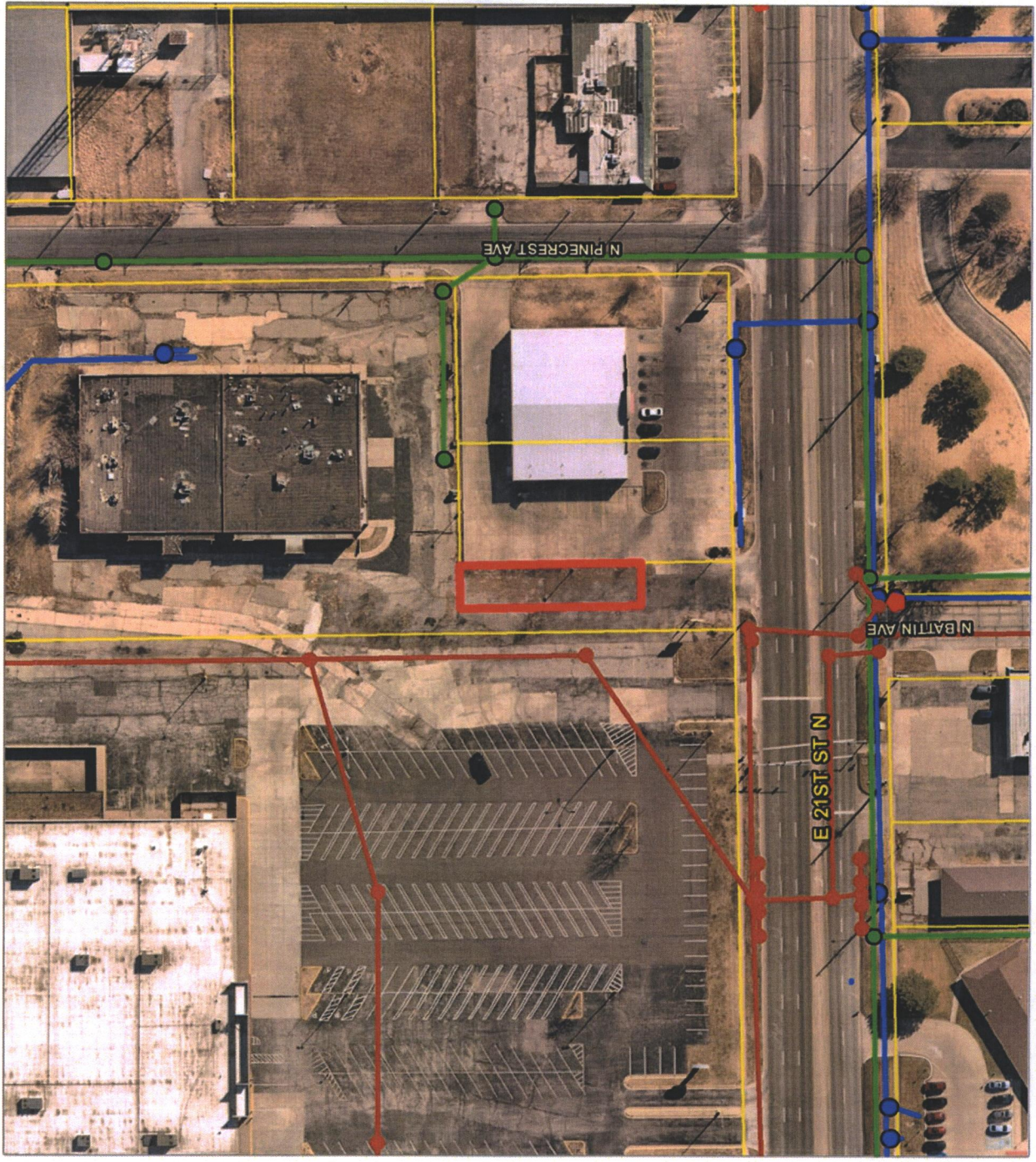
Page 3

Attachments:

1. Aerial Map
2. Applicant's Exhibit
3. DOC#/FLM-PG: 2681514 Excerpt

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval per staff recommendations.

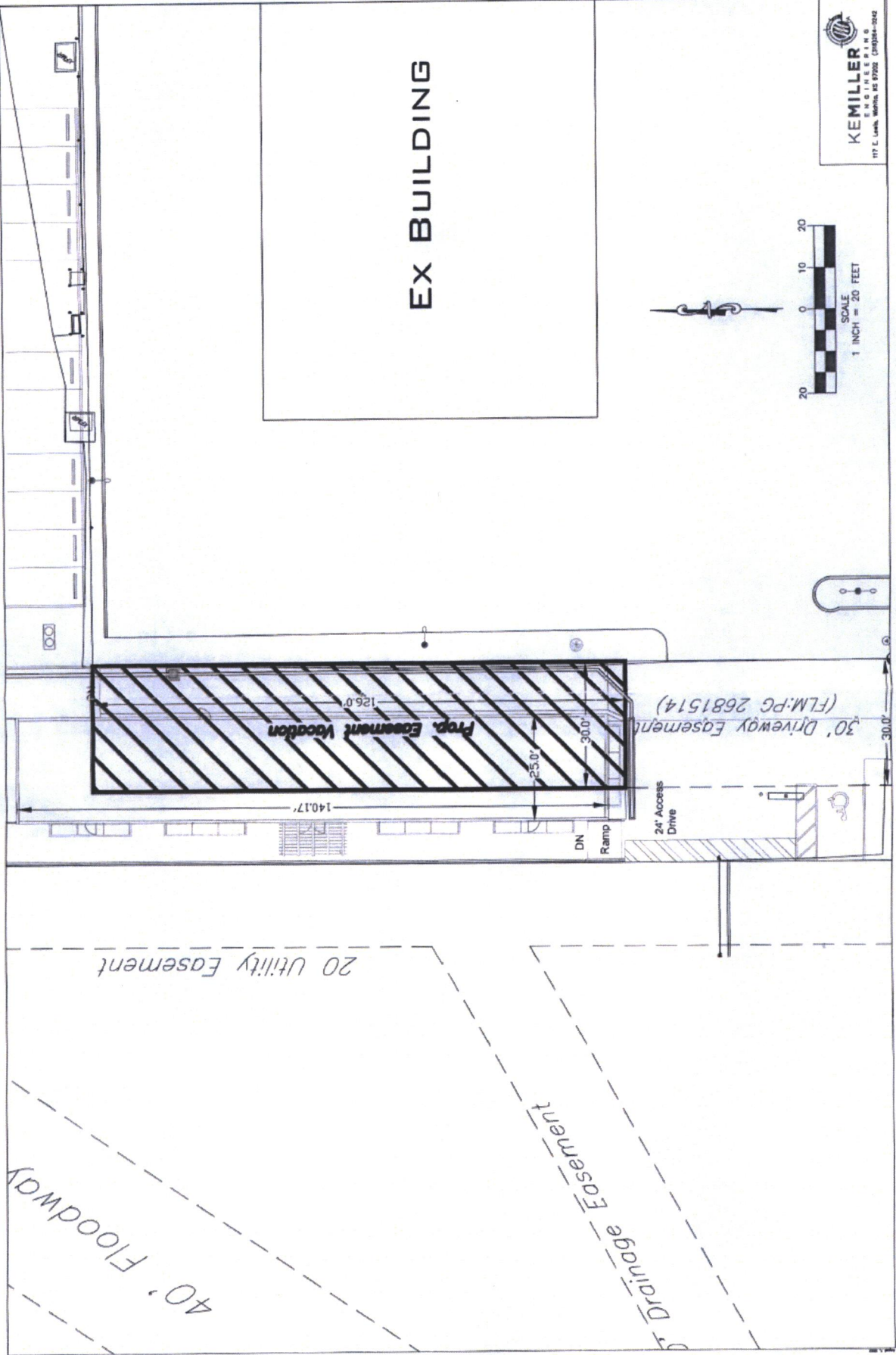


- VAC2023-00032
- Storm Structures
- Enclosed Gravity Pipe
- Force Main
- - - Open Channel
- Siphon
- ◆ Water Hydrants
- Sewer Manholes
- Sewer Mains
- Water Valves
- Water Mains



Software: ArcGIS
 Map Data Sources:
 City of Wichita
 Sedgwick County
 Prepared: 8/8/2023

It is understood that while the City of Wichita Data Center Geographical Information Systems Department have no indication and reason to believe that there are inaccuracies in information incorporated in the base map, the Data Center GIS personnel make no warranty or representation, either expressed or implied, with respect to the information or data displayed on this map. The information is provided as a reference only and is not intended to be inclusive.



FILM 268 PAGE 1514

DRIVEWAY EASEMENT DEDICATION

In consideration of \$10.00 and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, The Oliver Partnership, owner of the following described property:

Lot 5, UNIVERSITY GARDENS 2ND ADDITION, Wichita,
Sedgwick County, Kansas,

does hereby grant a non-exclusive driveway easement for ingress and egress over the following portion thereof:

The East 30 feet of the South 190 feet of Lot 5,
UNIVERSITY GARDENS 2ND ADDITION, Wichita, Sedgwick
County, Kansas,

for the benefit of the following described property:

All of UNIVERSITY GARDENS 2ND ADDITION, Wichita,
Sedgwick County, Kansas.

The costs and expenses of the construction and maintenance of any asphalt driveway constructed on said easement shall be at the expense of the owner of said Lot 5.

This dedication shall be binding upon the grantor, its successors and assigns and shall run with the incumbered land.

Executed this 28th day of September 1977.

THE OLIVER PARTNERSHIP

By Lindy Andeel
Lindy Andeel, General Partner

STATE OF KANSAS
SEDGWICK COUNTY

STATE OF KANSAS
SEDGWICK COUNTY
FILED FOR RECORD AT
SEP 30 1977
3 51517

BY
JETTE F. MCCART
NOTARY PUBLIC
7/1/77

BE IT REMEMBERED that on this 28th day of September, AD, 1977, before me the undersigned, a Notary Public in and for the County and State aforesaid, came Lindy Andeel, General Partner of The Oliver Partnership, to me personally known to be the same person who executed the foregoing instrument, and duly acknowledged the execution of the same, for and on behalf, and as the act and deed of said partnership.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, the day and year last above written.



William G. Malone
Notary Public

Term expires

FTG 4-52-95 52