



Wichita-Sedgwick County Metropolitan Area Planning Department

May 15, 2015

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

Ref: VAC2014-00051: City request to vacate that portion of Santa Fe right-of-way located north of Douglas Avenue and south of a platted east to west alley.

Dear Mr. Miller:

At its regular meeting on Tuesday, May 12, 2015, the Wichita City Council considered the above-referenced 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 268-4421.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bill Longnecker', written over the word 'Sincerely,'.

Bill Longnecker
Senior Planner

BL:klw

cc: Kindel Investments LLC, 124 N Saint Francis, Wichita Ks 67202



Wichita-Sedgwick County Metropolitan Area Planning Department

January 27, 2015

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

Ref: VAC2014-00051: City request to vacate that portion of Santa Fe right-of-way located north of Douglas Avenue and south of a platted east to west alley.

Dear Mr. Miller,

At the Thursday, January 22, 2015, meeting of the Metropolitan Area Planning Commission (MAPC), the above-referenced vacation request was **approved** subject to the following conditions:

- (1) Provide restrictive covenants (with original signatures) binding and tying the vacated portion of the street right-of-way to the abutting properties. This will go with the Vacation Order to City Council for final action and recording with the Register of Deeds and subsequent recorded with the Appraiser's Office.
- (2) Provide a dedication for a temporary public access easement (with original signatures to continue to allow the walking connection between Downtown and Central Avenue. This easement will no longer be in effect if the east portion of Santa Fe Avenue can continue through the structural wall (currently in place) to Douglas Avenue; a walking connection from Santa Fe Avenue to Douglas must be maintained. This will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.
- (3) Provide any needed easements (with original signatures) to cover utilities that are currently located within the proposed vacated street right-of-way. If the easement is for public utilities it will go with the Vacation Order to City Council for final action and recording with the Register of Deeds. If it is for franchised utilities, including Westar, provided written confirmation from the franchised utilities that the required easement has been provided.
- (4) Provide a legal description of the vacated street right-of-way, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds.

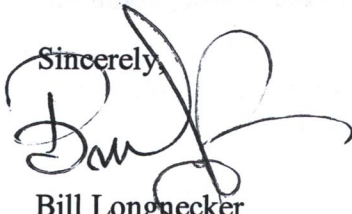
January 27, 2015

Page 2

- (5) All improvements shall be according to City Standards and at the applicant's expense. If needed, provide required guarantees or approved projects to ensure relocation and/or relocation of utilities, including, but not limited to, sidewalks, drainage and continuation of curb and gutter. All provided prior to the vacation case going to City Council for final action.
- (6) Any relocation or reconstruction of utilities, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (7) 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.

This case will be scheduled for final action by the Wichita City Council at the first appropriate date after February 5, 2015 (end of the two-week protest period), when all of the above conditions have been completed. This is a reminder that the vacation notification signs should now be removed from the property. If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,



Bill Longnecker
Senior Planner

BL:kw

cc: Kindel Investments LLC, 124 N Saint Francis, Wichita Ks 67202



Sedgwick County
Register of Deeds - Bill Meek
Doc.#/Flm-Pg: 29526927

Receipt #: 1933722
Pages Recorded: 3

Recording Fee: \$0.00

Authorized By:

Cashier: chowell

Date Recorded: 05/18/2015 04:35:17 PM



Please do not remove this cover page, it has become part of this document

Grantor	WICHITA CITY OF
Grantee	J R MEADS ADDITION
Type of Document	PLAT.VORD
Recording Fees	\$0.00
Mtg Reg Tax	\$0.00
Total Amount	\$0.00
Return Address	WICHITA CITY CLERK

29526927

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

**IN THE MATTER OF THE VACATION OF A PORTION)
OF PLATTED PUBLIC STREET RIGHT-OF-WAY)**

**CITY CLERK'S ORIGINAL
RETURN TO CITY CLERK**

**GENERALLY LOCATED NORTH OF DOUGLAS)
AVENUE AND WEST OF THE BNSF RAILROAD)
EASEMENT)**

VAC2014-00051

MORE FULLY DESCRIBED BELOW)

VACATION ORDER

NOW on this 12th day of May, 2015, comes on for hearing the petition for vacation filed by Kindel Investments LLC, c/o John R Kindel (applicant), praying for the vacation of the following described portion of the platted Santa Fe public street right-of-way, to-wit:

The west 24.7 feet of Santa Fe Ave adjacent to Lots 2,4,6,8, and 10 and 5.3 feet on east J.R. Mead's Addition to Wichita, 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, in The Wichita Eagle on January 29, 2015, 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 the platted public street right-of-way and the public will suffer no loss or inconvenience thereby.
3. A covenant binding and tying the described vacated portion of Santa Fe to the applicant's property and a temporary public access easement dedicated by separate instrument will be filed with this Vacation Order at the 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.

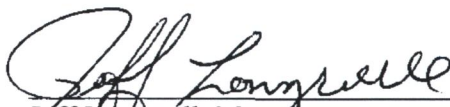
May 12, 2015
VAC2014-00051

Approved / Accepted by City Council
This 572-15

20526927

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

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 12th day of May, 2015, ordered that the above-described portion of the platted public street right-of-way is hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall send this original Vacation Order to the Register of Deeds of Sedgwick County.

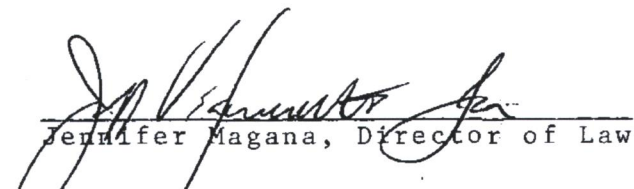

Jeff Longwell, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:


Sharon Dickgrafe, Interim City Attorney


Jennifer Magana, Director of Law





Sedgwick County
Register of Deeds - Bill Meek
Doc.#/Flm-Pg: 29527329

Receipt #: 1933889
Pages Recorded: 2

Recording Fee: \$20.00

Cashier: chowell

Authorized By:

Date Recorded: 05/19/2015 03:36:57 PM



Please do not remove this cover page, it has become part of this document

Grantor	KINDEL INVESTMENTS LLC
Grantee	J R MEADS ADDITION
Type of Document	PLAT.MISC
Recording Fees	\$20.00
Mtg Reg Tax	\$0.00
Total Amount	\$20.00
Return Address	WICHITA CITY CLERK

25527329

COVENANT

CITY CLERK'S ORIGINAL
RETURN TO CITY CLERK

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED, Kindel Investments, LLC, is the owner of the following described real estate, to-wit:

Lots 2,4,6,8, and 10 and 5.3 feet on east J.R. Mead's Addition, to Wichita, Sedgwick County, Kansas.

NOW THEREFORE, in consideration of receiving approval from the appropriate government authorities for the vacation (vacation case VAC2014-00051) of that part of the west 24.7 feet of Santa Fe Ave adjacent to Lots 2,4,6,8, and 10 and 5.3 feet on east J.R. Mead's Addition, the undersigned agrees covenants that the aforementioned vacated right-of-way & lots shall be retained, held and bound together.

It is also understood that this covenant shall be binding upon the undersigned, his successors and assigns, and shall run with the land until such time as the said properties are replatted.

Date this 23 day of February, 2015

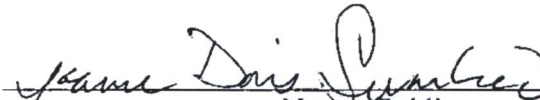


John Kindel, Managing Member, Kindel Investments, LLC

STATE OF KANSAS)
SEDGWICK COUNTY)

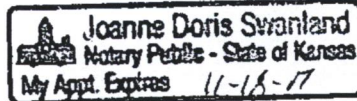
BE IT REMEMBERED, that on this 23rd day of February, 2015, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came John Kindel, Managing Member, Kindel Investments, LLC, who is personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same, for and on behalf of the corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written



Notary Public

My Commission Expires 11-18-17



Approved / Accepted By City Council
Date 5-12-15

2

VAC 2014-00051



Sedgwick County
Register of Deeds - Bill Meek
Doc.#/Flm-Pg: 29527330

Receipt #: 1933889
Pages Recorded: 2

Recording Fee: \$20.00

Authorized By 

Cashier: chowell

Date Recorded: 05/19/2015 03:36:58 PM



Please do not remove this cover page, it has become part of this document

Grantor	KINDEL INVESTMENTS LLC
Grantee	PUBLIC
Type of Document	MISC.EASE
Recording Fees	\$20.00
Mtg Reg Tax	\$0.00
Total Amount	\$20.00
Return Address	WICHITA CITY CLERK

29527330

TEMPORARY PUBLIC ACCESS EASEMENT

CITY CLERK'S ORIGINAL
RETURN TO CITY CLERK

This Easement made this 12th day of May, 2015, by and between Kindel Investments, LLC, parties of the first part and the City of Wichita, party of the second part.

WITNESSETH: That the said first party, in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, does hereby grant and convey unto the said second party a perpetual easement for the purpose of constructing, maintaining and repairing a pedestrian path or bike path within a vacated street right-of-way, Wichita, Sedgwick County, Kansas, to-wit:

The south 5.00 feet of the west 24.7 feet of Santa Fe Ave adjacent to Lots 2,4,6,8, and 10 and 5.3 feet on east J.R. Mead's Addition, to Wichita, Sedgwick County, Kansas.

And said second party is hereby granted the right to enter upon said premises at any time for the purposes of constructing, operating, maintaining and repairing pedestrian path or bike path. The easement will no longer be in effect once the east portion of Santa Fe Avenue can continue through the structural wall to Douglas Avenue.

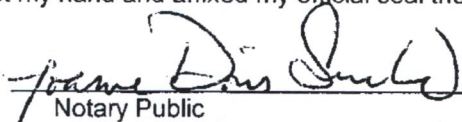
IN WITNESS WHEREOF, the said first party has signed these presents the day and year first above written.


John Kindel, Managing Member, Kindel Investments, LLC

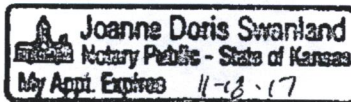
STATE OF KANSAS)
COUNTY OF SEDGWICK) SS:

BE IT REMEMBERED, that on this 23rd day of February, 2015, before me the undersigned, a Notary Public, in and for the County and State aforesaid, came John Kindel, Managing Member, Kindel Investments, LLC personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same.


IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

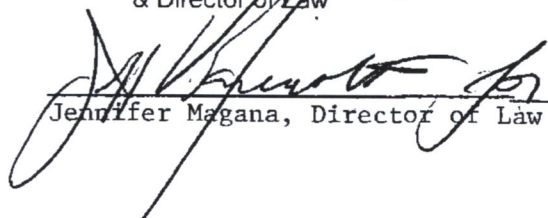

Notary Public

(My Commission Expires: 11-18-17)



APPROVED AS TO FORM:


Sharon L. Dickgrafe, Interim City Attorney
& Director of Law


Jennifer Magana, Director of Law

Approved / Accepted By City Council
This 5-12-15

AFFIDAVIT

STATE OF KANSAS \
- SS.
County of Sedgwick /

Mark Fletchall, 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 for 1 issues, that the first publication of said notice was

made as aforesaid on the 1st of

January A.D. 2015, with

subsequent publications being made on the following dates:

And affiant further says that he has personal knowledge of the statements above set forth and that they are true.

Mark Fletchall

Subscribed and sworn to before me this

1st January, 2015



JRB
Notary Public Sedgwick County, Kansas

Printer's Fee : \$42.60

LEGAL PUBLICATION

Published in The Wichita Eagle on
January 1, 2015 (3331799)
MAPC January 9, 2015
OFFICIAL HEARING NOTICE

NOTICE IS HEREBY GIVEN that on Thursday, January 22, 2015 no earlier than 1:30 p.m., the Wichita-Sedgwick County Metropolitan Area Planning Commission will consider the following applications in the Planning Department Conference Room, 10th Floor, Wichita City Hall, 455 N. Main St., Wichita, Kansas. 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.

- CON2014-00033 City Conditional Use, request to permit rock crushing on G1 General Industrial zoned property located east of Broadway Avenue at 302 East 25th Street North.
- CON2014-00034 City Conditional Use request for outdoor car sales on LC Limited Commercial zoned property generally located west of Sheridan/Zoo Boulevard on the north side of Central Avenue.
- CUP2014-00042 City request for a minor amendment to Parcel 8 and General Provision 28 of the LC Limited Commercial zoned CUP DP-313 to allow a convenience store on property generally located on the southeast corner of Central Avenue and 127th Street East.
- PUD2014-00003 County request for a Planned Unit Development on 21-acres of RR Rural Residential property generally located mid-mile between 263rd and 247th Streets West on the south side of 63rd Street South.
- VAC2014-00051 City request to vacate that portion of Santa Fe right-of-way located north of Douglas Avenue and south of a platted east to west alley.

Complete legal descriptions are available for public inspection at the Metropolitan Area Planning Department, Wichita City Hall - 10th Floor. 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.

WITNESS MY HAND on December 29, 2014
John L. Schlegel, Secretary
Wichita-Sedgwick County
Metropolitan Area Planning Commission

STAFF REPORT

CASE NUMBER: VAC2014-00051- City request to vacate a portion of the platted Santa Fe public street right-of-way

APPLICANT/AGENT: Kindel Investments LLC, c/o John R Kindel (applicant), KE Miller Engineering, PA, c/o Kirk Miller (agent)

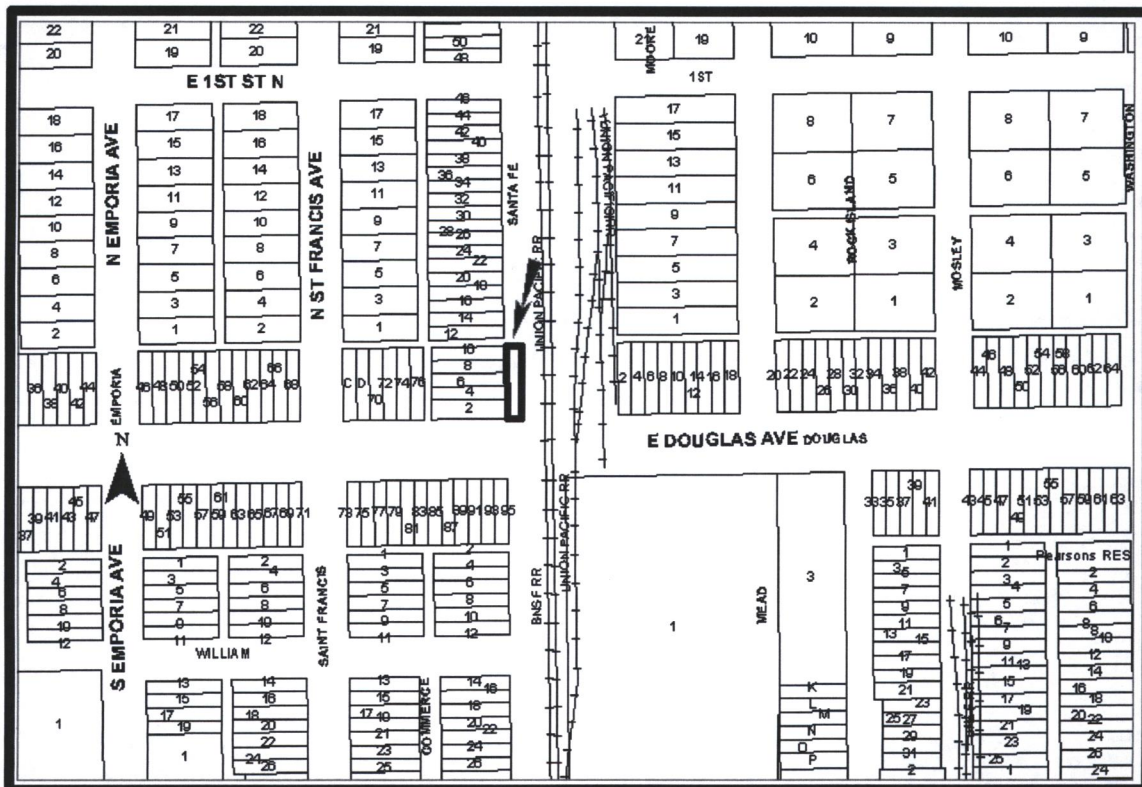
LEGAL DESCRIPTION: Generally described as vacating the west 24.7 feet of the Santa Fe street right-of-way abutting Lots 2, 4, 6, 8, and 10, JR Mead's Addition (plus an additional 5.3 feet on the east sides of said lots), on its west side, BNSF Railroad easement on its east side, Douglas Avenue on its south side, and endings at its intersection with a platted east-west alley on its north side, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located north of Douglas Avenue and west of the BNSF Railroad easement (WCC VI)

REASON FOR REQUEST: Parking and patio for west abutting building

CURRENT ZONING: The subject site is platted street right-of-way. Abutting west and adjacent northwest and southwest properties are zoned CBD Central Business District. Abutting east railroad easement is zoned LI Limited Industrial

VICINITY MAP:



The applicant is requesting the vacation of the west 24.7 feet of the Santa Fe Avenue street right-of-way abutting Lots 2, 4, 6, 8, and 10, JR Meads Addition (plus an additional 5.3 feet on the east sides of said lots), on its west side, the BNSF Railroad easement on its east side, Douglas Avenue on its south side, and endings at its intersection with a platted 35-foot wide east- west alley on its north side. This west portion of Santa Fe right-of-way appears to be approximately 35 feet wide and is a sand and gravel road with a full curb where it abuts the BNSF Railroad easement on its east side. A raised railroad track is located in the BNSF Railroad easement. This portion of Santa Fe Avenue dead-ends on its south side before its intersection with Douglas Avenue. This portion of Douglas Avenue goes underneath the raised railroad track, which required it to be lower than Santa Fe Avenue, with a structural wall (part of the Douglas – raised railroad track overpass) blocking Santa Fe Avenue from intersecting Douglas Avenue along its east half. The west half of Santa Fe is blocked off from Douglas Avenue by a decorative wrought iron fence. There is an opening in the west most portion of the decorative wrought iron fence for walking access to Douglas Avenue, via a partially covered (with sand and gravel) sidewalk abutting the east sides of the subject/applicant's lots.

The 'Project Downtown Master Plan for Wichita' calls for this portion of Santa Fe to be a walking connection between Downtown and Central Avenue. Planning is requesting a temporary public access easement to continue to allow the walking connection between Downtown and Central Avenue. The easement could become permanent, if no other walking access can be provided from this portion of Santa Fe to Douglas Avenue; a determining factor will be if any modifications can be made to the noted wall that would allow access through the east side of Santa Fe Avenue to Douglas Avenue.

There are power poles, utility meters, and a utility box located in the north end of this portion of Santa Fe abutting and adjacent to the east sides of the subject/applicant's lots. Westar has equipment in Santa Fe that serve the Intrust Arena and has requested that an easement be dedicated to cover that equipment. Contact Shane Price at 316-261-6315 to resolve Westar's requirement. More utilities appear to be located in both the east portion of the street right-of-way, closer to the Railroad right-of-way. There is a manhole in this portion of Santa Fe that does not serve utilities, but appears to have been used in the past as the entrance to a coal shoot to the applicant's building.

The JR Meads Addition was recorded with the Register of Deeds September 9, 1870.

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 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, of notice of this vacation proceeding one time January 1, 2015, 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 the platted street right-of-way 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) Provide restrictive covenants (with original signatures) binding and tying the vacated portion of the street right-of-way to the abutting properties. This will go with the Vacation Order to City Council for final action and recording with the Register of Deeds and subsequent recorded with the Appraiser's Office.
- (2) Provide a dedication for a temporary public access easement (with original signatures to continue to allow the walking connection between Downtown and Central Avenue. This easement will no longer be in effect if the east portion of Santa Fe Avenue can continue through the structural wall (currently in place) to Douglas Avenue; a walking connection from Santa Fe Avenue to Douglas must be maintained. This will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.
- (3) Provide any needed easements (with original signatures) to cover utilities that are currently located within the proposed vacated street right-of-way. If the easement is for public utilities it will go with the Vacation Order to City Council for final action and recording with the Register of Deeds. If it is for franchised utilities, including Westar, provided written confirmation from the franchised utilities that the required easement has been provided.
- (4) Provide a legal description of the vacated street right-of-way, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds.
- (5) All improvements shall be according to City Standards and at the applicant's expense. If needed, provide required guarantees or approved projects to ensure relocation and/or relocation of utilities, including, but not limited to, sidewalks, drainage and continuation of curb and gutter. All provided prior to the vacation case going to City Council for final action.
- (6) Any relocation or reconstruction of utilities, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (7) 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) Provide restrictive covenants (with original signatures) binding and tying the vacated portion of the street right-of-way to the abutting properties. This will go with the Vacation Order to City Council for final action and recording with the Register of Deeds and subsequent recorded with the Appraiser's Office.
- (2) Provide a dedication for a temporary public access easement (with original signatures to continue to allow the walking connection between Downtown and Central Avenue. This easement will no longer be in effect if the east portion of Santa Fe Avenue can continue through the structural wall (currently in place) to Douglas Avenue; a walking connection from Santa Fe Avenue to Douglas must be maintained. This will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.
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- (4) Provide a legal description of the vacated street right-of-way, on a Word document, via E-Mail, to Planning, prior to the case going to City Council for final action and subsequent recording with the Register of Deeds.
- (5) All improvements shall be according to City Standards and at the applicant's expense. If needed, provide required guarantees or approved projects to ensure relocation and/or relocation of utilities, including, but not limited to, sidewalks, drainage and continuation of curb and gutter. All provided prior to the vacation case going to City Council for final action.
- (6) Any relocation or reconstruction of utilities, made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (7) 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.