



Wichita-Sedgwick County Metropolitan Area Planning Department

CORRECTION ON CITY COUNCIL HEARING DATE

May 23, 2007

Re: **VAC2006-00019** - Request to vacate portions of platted easements, generally located southwest of the Seneca Street - 31st Street South intersection, on the northeast corner of the 32nd Street South - Exposition Avenue intersection.

Dear Ladies and Gentlemen:

At its regular meeting on Tuesday, May 22, 2007, 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, Mail Stop 1-71
Dillon Companies, Inc., 2700 E. Fourth, Hutchinson, KS 67501
Pickering Firm, Inc., 6775 Lenox Center Court, Suite 300, Memphis, TN 38115
Kenneth Whitmer, 1208 W. 32nd Street South, Wichita, KS 67217
Said Miremadi, P.O. Box 161005, Wichita, KS 67216-8005
Dillon Companies, Inc., %Tax Department, 1014 Vine Street, Cincinnati, OH 45202



Sedgwick County
Register of Deeds - Bill Meek
OC. #/FLM-PG: 28888027
Receipt #: 1657607-
Pages Recorded: 5
Cashier Initials: MKF
Authorized By: *[Signature]*
Recording Fee: 0.01

Date Recorded: 6/4/2007 3:28:20 PM



*Restrictive
Covenant
attached*

Approved / Accepted By City Council
This 5-22-07

CITY CLERK'S ORIGINAL
RETURN TO CITY CLERK

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

IN THE MATTER OF THE VACATION OF)
A PORTION OF MULTIPLE PLATTED UTILITY)
EASEMENTS AND EASEMENTS DEDICATED)
BY SEPARATE INSTRUMENT)

GENERALLY LOCATED)
SOUTHWEST OF THE SENECA STREET - 31ST)
STREET SOUTH INTERSECTION, ON THE)
NORTHWEST CORNER OF EXPOSITION)
AVENUE AND 32ND STREET SOUTH)

Case No. VAC2006-00019

MORE FULLY DESCRIBED BELOW

VACATION ORDER

NOW on this 22nd day of May, 2007 comes on for hearing the petition for vacation filed by Dillon Real Estate Co., Inc., c/o Richard Russell, Kenneth Whitmer, Said Miremadi and Said Miremadi & Kathy L. Bakhtiar and Syed M. Bakhitar & Kristin Bakhitar praying for the vacation of the following described a portion of multiple platted utility easements and easements dedicated by separate instruments, to-wit:

BEING A LEGAL DESCRIPTION OF PART OF AN EXISTING 20-FOOT WIDE UTILITY EASEMENT LOCATED ON LOT 1 AND LOT 2, DILLION 10TH ADDITION, WICHITA, SEDGWICK COUNTY, KANSAS, OF RECORD IN DRAWER M-1, DOCUMENT 2-26 IN THE OFFICE OF SEDGWICK COUNTY, KANSAS REGISTER OF DEEDS, SAID PROPERTY SITUATED NEAR THE NORTHEAST CORNER OF 32ND STREET SOUTH AND EXPOSITION AVENUE IN WICHITA, SEDGWICK COUNTY, KANSAS, SAID EASEMENT BEING MORE PARTICULARLY DESCRIBED AS

FOLLOWS:

COMMENCING AT A POINT IN THE NORTH LINE OF 32ND STREET SOUTH (30 FEET FROM CENTERLINE) 187.50 FEET SOUTH 89 DEGREES 59 MINUTES 36 SECONDS EAST FROM THE INTERSECTION OF SAID LINE WITH THE EAST LINE OF EXPOSITION AVENUE (30 FEET FROM CENTERLINE); THENCE NORTH 00 DEGREES 05 MINUTES 30 SECONDS EAST ALONG THE EAST LINE OF LOT 6, LOMA-LINDA GARDENS, AN ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS OF RECORD IN DRAWER L, DOCUMENT 1-12, OF SAID OFFICE OF THE REGISTER OF DEEDS, SEDGWICK COUNTY, KANSAS A DISTANCE OF 90.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00 DEGREES 05 MINUTES 04 SECONDS EAST ALONG THE EAST LINE OF SAID LOT 6 AND IT'S NORTHERLY EXTENSION - 20.00 FEET; THENCE NORTH 89 DEGREES 59 MINUTES 41 SECONDS EAST - 84.00 FEET; THENCE NORTH 00 DEGREES 05 MINUTES 05 SECONDS EAST - 58.97 FEET; THENCE SOUTH 89 DEGREES 48 MINUTES 48 SECONDS EAST - 171.04 FEET; THENCE SOUTH 00 DEGREES 11 MINUTES 12 SECONDS WEST - 20.00 FEET; THENCE NORTH 89 DEGREES 48 MINUTES 48 SECONDS WEST - 151.00 FEET; THENCE SOUTH 00 DEGREES 05 MINUTES 05 SECONDS WEST - 58.90 FEET; THENCE SOUTH 89 DEGREES 59 MINUTES 41 SECONDS WEST - 104.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 6,279 SQUARE FEET OR 0.1441 ACRES, MORE OR LESS.

&

BEING A LEGAL DESCRIPTION OF PART OF AN EXISTING 10-FOOT WIDE UTILITY EASEMENT LOCATED ON LOT 1, DILLION 10TH ADDITION, WICHITA, SEDGWICK COUNTY, KANSAS, OF RECORD IN DRAWER M-1, DOCUMENT 2-26 IN THE OFFICE OF SEDGWICK COUNTY, KANSAS REGISTER OF DEEDS, SAID PROPERTY SITUATED NEAR THE NORTHEAST CORNER OF 32ND STREET SOUTH AND EXPOSITION AVENUE IN WICHITA, SEDGWICK COUNTY, KANSAS, SAID EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT IN THE EAST LINE OF EXPOSITION AVENUE (30 FEET FROM CENTERLINE) 149.87 FEET NORTH 00 DEGREES 05 MINUTES 30 SECONDS EAST FROM THE INTERSECTION OF SAID LINE WITH THE NORTH LINE OF 32ND STREET SOUTH (30 FEET FROM CENTERLINE), SAID POINT OF COMMENCEMENT BEING THE SOUTHWEST CORNER OF LOT 1 OF SAID DILLON 10TH ADDITION AND ALSO BEING THE NORTHWEST CORNER OF LOT 8, LOMA-LINDA GARDENS, AN ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS OF RECORD IN DRAWER L, DOCUMENT 1-12, OF SAID OFFICE OF THE REGISTER OF DEEDS, SEDGWICK COUNTY, KANSAS; THENCE RUN SOUTH 89 DEGREES 48 MINUTES 52 SECONDS EAST ALONG THE SOUTH LINE OF SAID LOT 1 (NORTH LINE OF SAID LOT 8) - 12.90 FEET TO THE POINT OF BEGINNING; THENCE

NORTH 00 DEGREES 11 MINUTES 08 SECONDS EAST - 10.00 FEET; THENCE SOUTH 89 DEGREES 48 MINUTES 52 SECONDS EAST - 171.08 FEET; THENCE SOUTH 00 DEGREES 05 MINUTES 04 SECONDS WEST - 49.26 FEET; THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS EAST - 3.50 FEET; THENCE SOUTH 00 DEGREES 05 MINUTES 04 SECONDS WEST - 10.0 FEET TO A CORNER OF SAID LOT 1 AND BEING THE NORTHEAST CORNER OF LOT 6 OF SAID LOMA-LINDA GARDENS; THENCE SOUTH 89 DEGREES 59 MINUTES 41 SECONDS WEST ALONG THE NORTH LINE OF LOT 6 (A SOUTH LINE OF LOT 1) - 13.5 FEET TO AN INTERIOR CORNER OF LOT 1 AND LOT 6; THENCE NORTH 00 DEGREES 05 MINUTES 04 SECONDS EAST ALONG AN EAST LINE OF LOT 6 (A WEST LINE OF LOT 1) - 49.29 FEET TO A NORTHEAST CORNER OF LOT 6 (AN INTERIOR CORNER OF LOT 1); THENCE NORTH 89 DEGREES 48 MINUTES 52 SECONDS WEST ALONG THE NORTH LINE OF LOTS 6, 7 AND 8 OF SAID LOMA-LINDA GARDENS (A SOUTH OF SAID LOT 1) - 161.10 FEET TO THE POINT OF BEGINNING.

CONTAINING 2,239 SQUARE FEET OR 0.0514 ACRES, MOR OR LESS.

&

BEING A LEGAL DESCRIPTION OF PART OF AN EXISTING 10-FOOT WIDE UTILITY EASEMENT LOCATED ON LOTS 6, 7 AND 8, LOMA-LINDA GARDENS, AN ADDITION TO, WICHITA, SEDGWICK COUNTY, KANSAS, OF RECORD IN DRAWER L, DOCUMENT 1-12 IN THE OFFICE OF THE SEDGWICK COUNTY, KANSAS REGISTER OF DEEDS, SAID PROPERTY SITUATED NEAR THE NORTHEAST CORNER OF 32ND STREET SOUTH AND EXPOSITION AVENUE IN WICHITA, SEDGWICK COUNTY, KANSAS, SAID EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT IN THE EAST LINE OF EXPOSITION AVENUE (30 FEET FROM CENTERLINE) 149.87 FEET NORTH 00 DEGREES 05 MINUTES 30 SECONDS EAST FROM THE INTERSECTION OF SAID LINE WITH THE NORTH LINE OF 32ND STREET SOUTH (30 FEET FROM CENTERLINE), SAID POINT OF COMMENCEMENT BEING THE SOUTHWEST CORNER OF LOT 1 OF SAID DILLON 10TH ADDITION, OF RECORD IN DRAWER M-1, DOCUMENT 2-26, AND ALSO BEING THE NORTHWEST CORNER OF LOT 8, LOMA - LINDA GARDENS, AN ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS OF RECORD IN DRAWER L, DOCUMENT 1-12, OF SAID OFFICE OF THE REGISTER OF DEEDS, SEDGWICK COUNTY, KANSAS; THENCE RUN SOUTH 89 DEGREES 48 MINUTES 52 SECONDS EAST ALONG THE SOUTH LINE OF SAID LOT 1 (NORTH LINE OF SAID LOT 8) - 12.90 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89 DEGREES 48 MINUTES 52 SECONDS EAST ALONG A SOUTH LINE OF LOT 1 (BEING THE NORTH LINE OF LOTS 8, 7 AND 6) A DISTANCE OF 161.10 FEET TO A NORTHEAST CORNER OF LOT 6 BEING AN INTERIOR CORNER OF LOT 1; THENCE SOUTH 00 DEGREES 05 MINUTES 04 SECONDS WEST ALONG AN EAST

LINE OF LOT 6 (WEST LINE OF LOT 1) – 49.29 FEET TO A SOUTHWEST CORNER OF LOT 1 (INTERIOR CORNER OF LOT 6); THENCE NORTH 89 DEGREES 59 MINUTES 41 SECONDS EAST ALONG A NORTH LINE OF LOT 6 (SOUTH LINE OF LOT 1) – 13.50 FEET TO THE EASTERNMOST NORTHEAST CORNER OF LOT 6; THENCE SOUTH 00 DEGREES 05 MINUTES 04 SECONDS WEST A DISTANCE OF 10.0 FEET; THENCE SOUTH 89 DEGREES 59 MINUTES 41 SECONDS WEST – 23.5 FEET; THENCE NORTH 00 DEGREES 05 MINUTES 04 SECONDS EAST – 49.32 FEET TO A POINT; THENCE NORTH 89 DEGREES 48 MINUTES 52 SECONDS WEST – 151.12 FEET TO A POINT; THENCE NORTH 00 DEGREES 11 MINUTES 08 SECONDS EAST – 10.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 2,239 SQUARE FEET OR 0.0514 ACRES, MORE OR LESS.

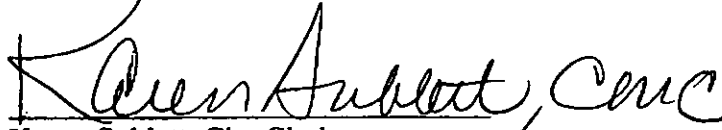
The City Council, after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in The Wichita Eagle on April 13, 2006, 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 portion of multiple platted utility easements and easements dedicated by separate instrument, and the public will suffer no loss or inconvenience thereby.
3. A Restrictive Covenant binding and tying Lots 1 & 2, Dillon 10th Addition as one undivided parcel will be recorded with 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 a portion of multiple platted utility easements and easements dedicated by separate instruments described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 22nd day of May 2007 ordered that the above-described a portion of multiple platted utility easements and easements dedicated by separate instruments 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.

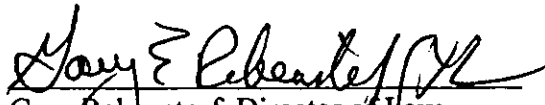

Carl Brewer, Mayor

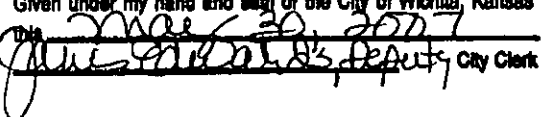
ATTEST:


Karen Sublett, City Clerk

Approved as to Form:




Gary Rebenstorf, Director of Law

State of Kansas
Sedgwick County
City of Wichita
I,  Deputy 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 May 30, 2007
 Deputy City Clerk



STAFF REPORT

CASE NUMBER: VAC2006-00019: Request to vacate a portion of multiple platted utility easements and easements dedicated by separate instruments

OWNER/APPLICANT: Dillon Real Estate Co., Inc.

AGENT: Pickering Inc., c/o Cara Martin, PE

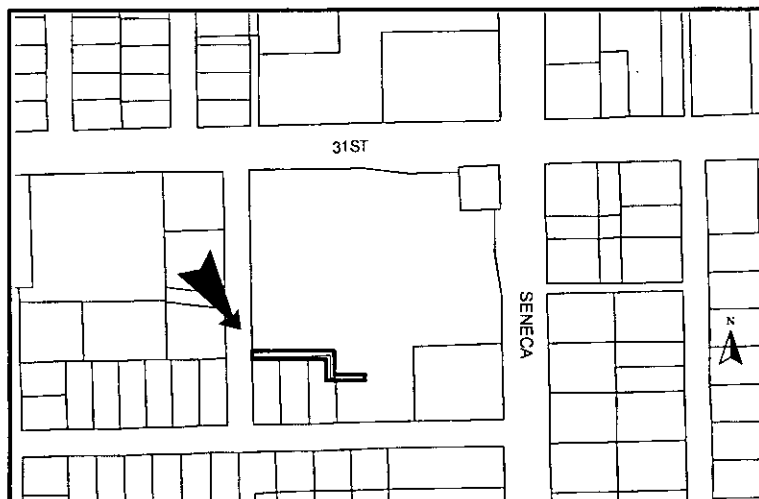
LEGAL DESCRIPTION: See legal & exhibit: Generally described as the platted 8-foot & 10-foot utility easements running along the common lot lines of 6, 7, & 8, Block A, Loma-Linda Gardens Addition and Lot 1, Dillon 10th Addition, the 2-foot easement (ZON2005-50), dedicated by separate instrument, running parallel to the platted 8-foot easement running along the north lot lines of 6, 7, & 8, Block A, Loma-Linda Gardens Addition, and the west portion of the platted 20-foot utility easement, located on Lot 1, Dillon 10th Addition, all in Wichita, Sedgwick County, Kansas.

LOCATION: Generally located southwest of the Seneca Street – 31st Street South intersection, on the northwest corner of Exposition Avenue and 32nd Street South (WCC #IV)

REASON FOR REQUEST: Proposed expansion of existing building

CURRENT ZONING: Portions of the subject properties are zoned "LC" Limited Commercial, "GO" General Office, "SF-5" Single-family Residential, & "TF-3", Duplex Residential. Property east of the site is zoned "LC". Public right-of-way abuts the site's west (Exposition Avenue), north (31st Street South) and south (32nd Street South) sides.

VICINITY MAP:



The applicant proposes to vacate the described portions of the platted and dedicated by separate instrument easements, as shown on the applicant's exhibit. There appears to be manholes and sewer lines in the easements. The Loma-Linda Gardens Addition recorded with the Register of Deeds September 13, 1955. The Dillon 10th Addition was recorded with the Register of Deeds August 16, 1984.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the described portions of platted and dedicated by separate instrument easements with 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, by publication in the Wichita Eagle of notice of this vacation proceeding one time April 13, 2006 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 portions of platted and dedicated by separate instrument easements 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 portions of the platted easements and easement dedicated by separate instrument described in the petition should be approved with conditions;

- (1) Provide Staff with a copy of any required additional public easements (with original signatures) dedicated by separate instrument, as needed and approved by Public Works, Water & Sewer, Storm Water and franchised utilities. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities with any needed plans for review for location of utilities. Provide a petition/guarantee for the relocation of the sewer line and manholes.
- (3) Retain the easements until all utilities have been relocated or a petition/guarantee for relocation of the utilities has been accepted by the City and the new easements for the relocated utilities has been recorded with the Register of Deeds.
- (4) All improvements shall be according to City Standards and at the applicant's expense.

- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request 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:

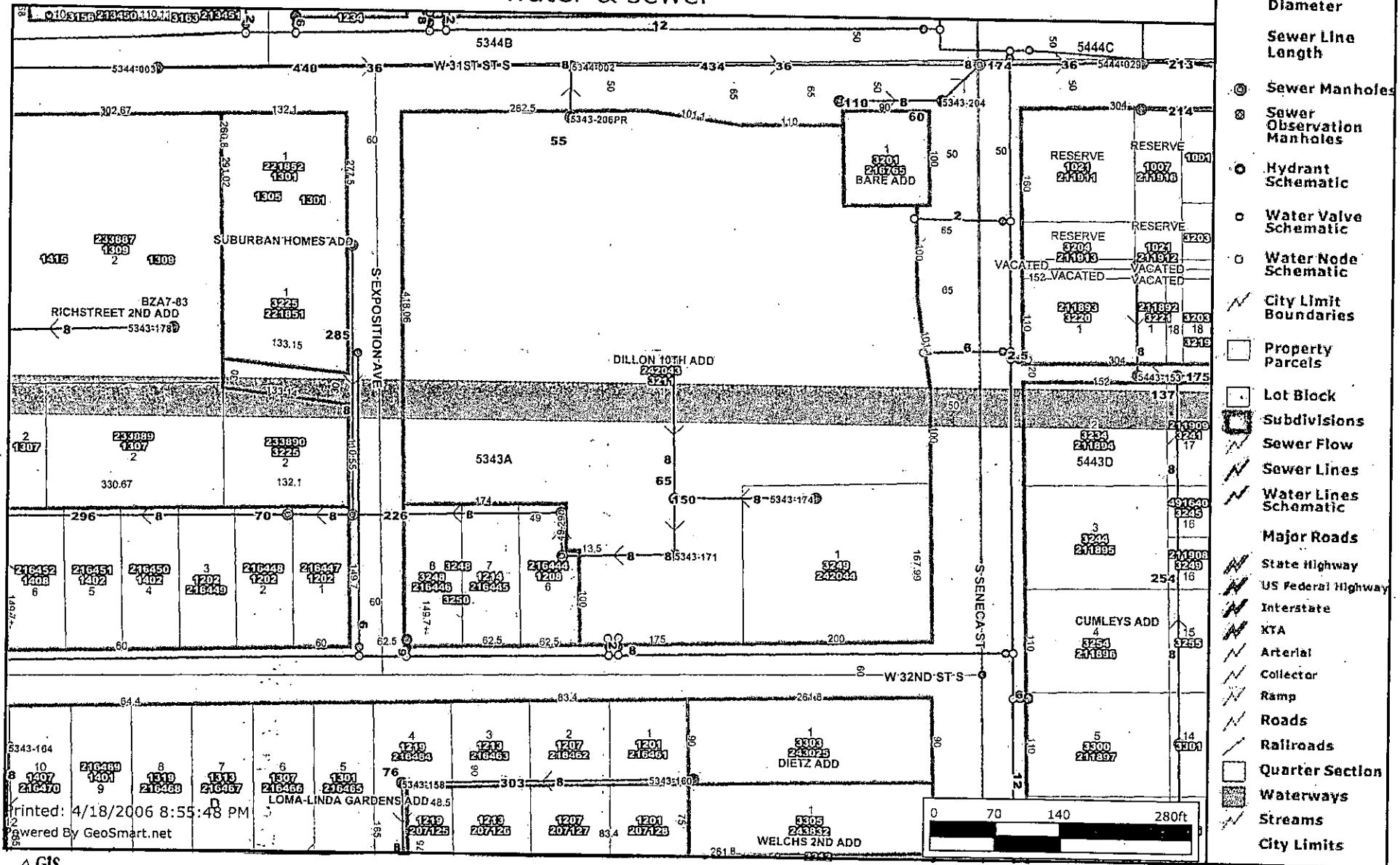
The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide Staff with a copy of any required additional public easements (with original signatures) dedicated by separate instrument, as needed and approved by Public Works, Water & Sewer, Storm Water and franchised utilities. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities with any needed plans for review for location of utilities. Provide a petition/guarantee for the relocation of the sewer line and manholes.
- (3) Retain the easements until all utilities have been relocated or a petition/guarantee for relocation of the utilities has been accepted by the City and the new easements for the relocated utilities has been recorded with the Register of Deeds.
- (4) All improvements shall be according to City Standards and at the applicant's expense.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request 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



vac2006-19

water & sewer

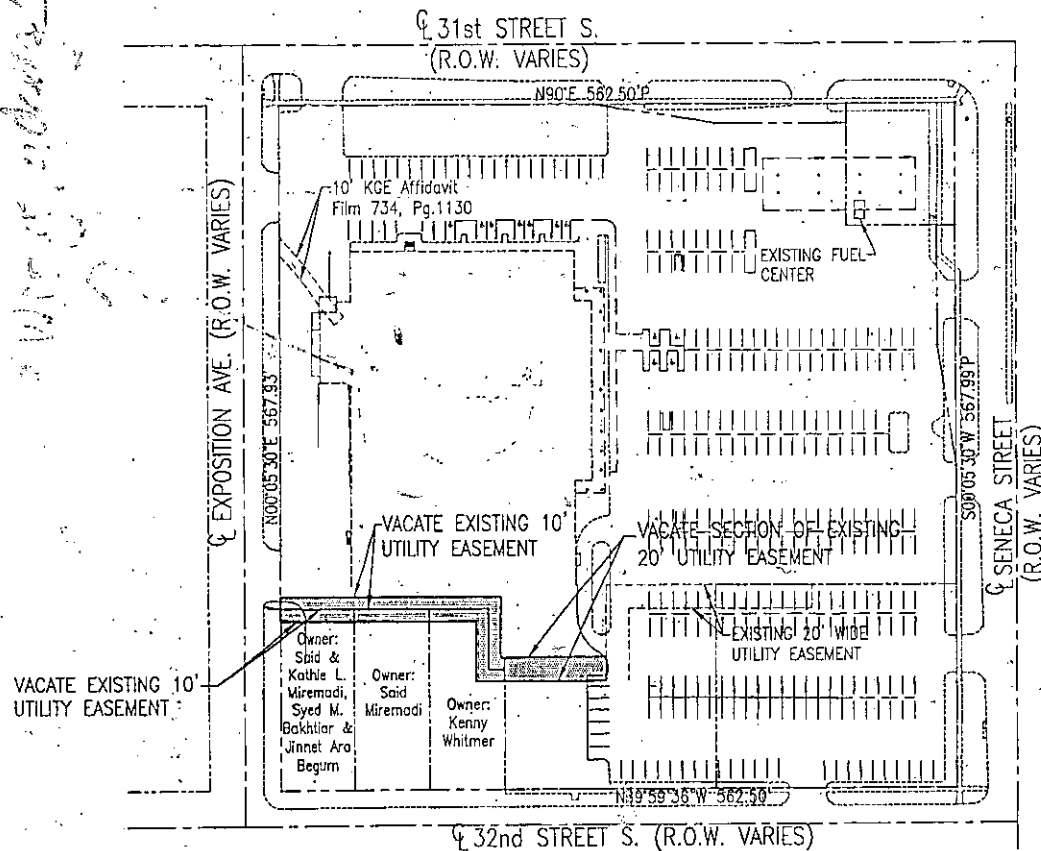
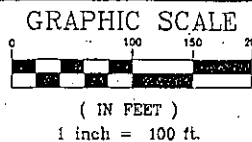
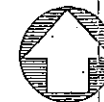


Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.



WICHITA

VAC2006-19



Planning Architecture
Engineering Management
8775 Lenox Center Court
Memphis, TN 38115
901.796.0810
901.272.6911 fax



DILLONS FOOD STORE
EASEMENT VACATIONS

WICHITA, KS

PROJECT / 21047.03

DATE 1/03/06

DESCRIPTION
EASEMENT VACATIONS

SCALE 1"=100'

DOCUMENT /

SHEET /

C-1

R.I.E.

VAC 2006-19

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