



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

October 5, 2011

Central & Oliver Holdings, LLC  
8110 E. 32<sup>nd</sup> Street North  
Suite 150  
Wichita KS 67226

Re: **VAC2008-00018** – City request to vacate a portion of a platted street right-of-way, generally located northeast of the Oliver and Central Avenues intersection.

Dear Ladies and Gentlemen:

At its regular meeting on Tuesday, October 4, 2011, 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 (email)  
Carla Jones / Paul Gunzelman, Public Works Engineering (email)  
Julianne Kallman, Public Works Engineering (email)  
Kerry Gibson, Water & Sewer (email)  
Tim Austin, Poe & Associates, 5940 E. Central, Suite 200, Wichita, KS 67208



Register of Deeds - Bill Mack  
DOC.#/FLM-PG: 29245574

Receipt #: 1784947  
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Casher Initials: KV

Authorized By  Recording Fee: 00H

Date Recorded: 10/6/2011 3:52:39 PM



Approved / Accepted By City Council

This 10-4-2011

**BEFORE THE CITY COUNCIL OF THE**

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

**CITY OF WICHITA, SEDGWICK COUNTY, KANSAS**

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

**GENERALLY LOCATED  
NORTHEAST OF THE OLIVER AND CENTRAL  
AVENUES' INTERSECTION**

**Case No. VAC2008-00018**

**MORE FULLY DESCRIBED BELOW**

### **VACATION ORDER**

NOW on this 4<sup>th</sup> day of October, 2011 comes on for hearing the petition for vacation filed by Central and Oliver Holdings, LLC, c/o Christian Ablah, praying for the vacation of the following described a portion of a platted street right-of-way to-wit:

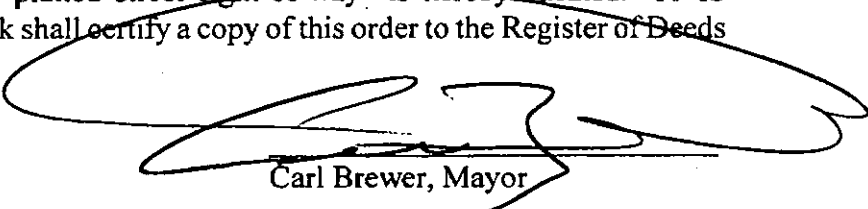
Beginning at a point on the south line of Elm Street (formerly Highland Drive) as platted in East Highlands Addition, Wichita, Sedgwick County, Kansas, said point being the northeastern most corner of the vacated portion of said Highland Drive described in the vacation order recorded on Film 679, Page 797, for a point of beginning; Thence northwesterly, along the northeast line of said vacated portion of Highland Drive for a distance of 60 feet, to the north line of said Elm Street right-of way; Thence northeasterly along the north line of said Elm Street right-of-way for a distance of 169.25 to a point of curvature to the left, (said curve having a radius of 100 feet, an arc length of 77.81 feet and a deflection angle of 44°35'); Thence northeasterly along said curve to the left for a distance of 77.81 feet, to the west line of Glendale right-of-way as platted in said Addition; Thence south along the west line of said Glendale right-of-way extended for a distance of 88.32 feet, to a point of intersection with the south line of said Elm Street right-of-way extended, said south line of Elm also being the north line of Block 14 in said Addition; Thence east along said south line of Elm

Street right-of-way extended for a distance of 79.48 feet to a point of curvature on said south line of Elm Street; Thence southwesterly along the south line of said Elm Street right-of-way along a curve to the left, said curve having a radius of 100 feet, an arc length of 79.44 feet and a deflection angle of  $45^{\circ}31'$ ; Thence southwesterly along the south line of said Elm Street right-of-way, for a distance of 160.89 feet to the point of Beginning. Said tract contains 12,403 square feet more or less.

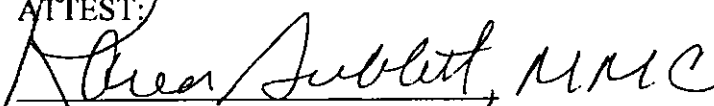
The City Council, after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in The Derby Reporter on July 3, 2008 and The Wichita Eagle on July 3, 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 a portion of a platted street right-of-way, 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 described a portion of a platted street right-of-way described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 4<sup>th</sup> day of October, 2011 ordered that the above-described a portion of a platted 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.

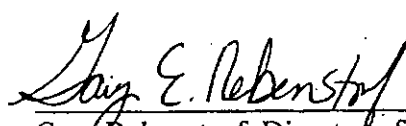
  
Carl Brewer, Mayor

ATTEST:

  
Karen Sublett, City Clerk



Approved as to Form:

  
Gary E. Rebenstorff, Director of Law.

By 

STAFF REPORT

CASE NUMBER: VAC2008-00018 Request to vacate a platted street right-of-way.

APPLICANTS/OWNERS: Central & Oliver Holdings, LLC c/o Clint Miller

AGENTS: Poe & Associates, c/o Tim Austin

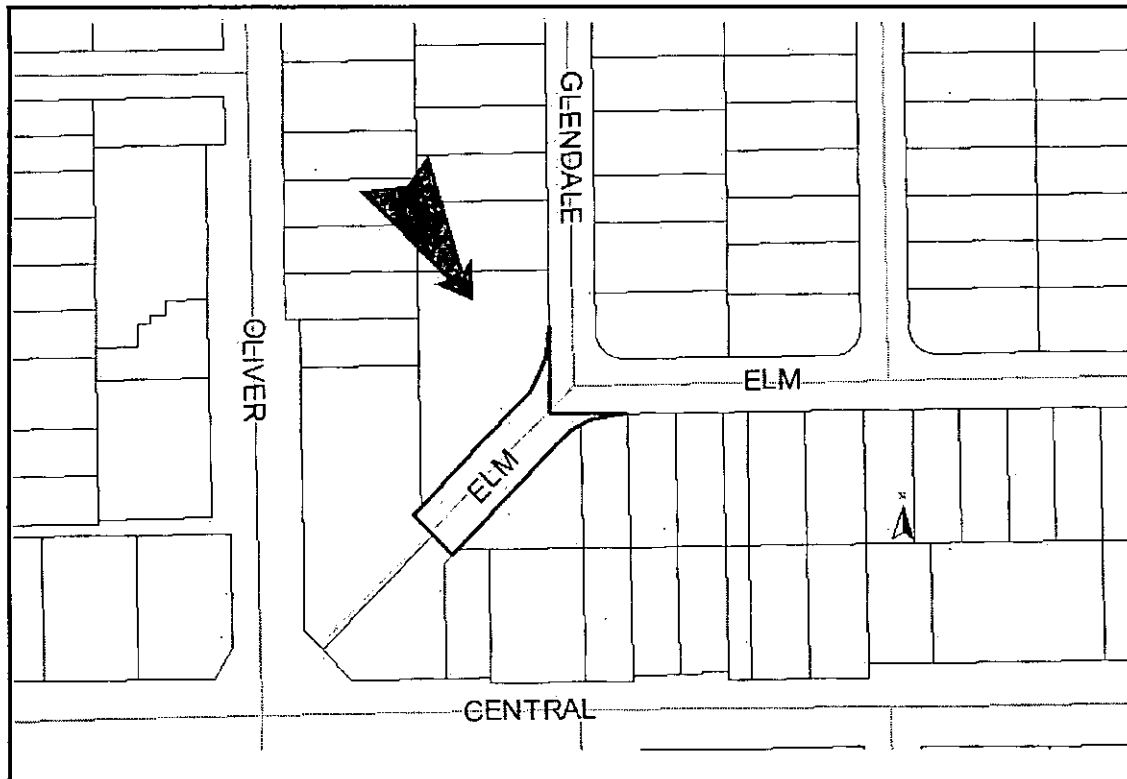
LEGAL DESCRIPTION: Generally described as remaining portion of Elm Street right-of-way (ROW) between the Glendale Avenue and the Oliver & Central Avenues intersection, as recorded in the East Highlands Addition, Wichita, Sedgwick County, Kansas. (see the attached legal & exhibit).

LOCATION: Generally located northeast of the Oliver & Central Avenues intersection (WCC #1).

REASON FOR REQUEST: Expansion of site(s) for redevelopment

CURRENT ZONING: The site is a platted, developed public street ROW. Abutting northern and adjacent western and southwestern properties (across Central & Oliver Avenues) are zoned LC Limited Commercial ("LC"). Abutting southern property is zoned LC and B Multi-family Residential ("B"). Adjacent eastern property (across Glendale Avenue) is zoned TF-3 Two-family Residential ("TF-3").

VICINITY MAP:



The applicant is requesting the vacation of the described/remaining portion of the platted Elm Street public street ROW. The half of Elm Street that intersected the Central – Oliver Avenues intersection has already been vacated; V-1250, Film 679, Page 797. This previous vacation made Elm a dead end street. There are water and sewer lines within the proposed vacated ROW. The site is within a FEMA flood zone. Comments from Storm Water have not been received and are needed to determine if they have utilities located within the described easement. Westar has utilities within the proposed vacated ROW. Fire has a Hydrant located within the proposed vacated ROW. The East Highlands Addition was recorded with the Register of Deeds August 5, 1924.

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 platted street ROW, as described 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, in the Wichita Eagle and the Derby Reporter, of notice of this vacation proceeding one time July 31, 2008 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 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.

Therefore, the vacation of the platted street right-of-way described in the petition should be approved 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 Planning staff with a legal description of the approved vacated ROW on a word document via e-mail. Provide Planning staff with a legal description of the portions of the vacated ROW utility and drainage easements as on a word document via e-mail.
- (2) 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. Provide Planning staff with conformation of this requirement being completed or suitable guarantees have been provided.
- (3) 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. Any new drives onto public ROW must be approved by the Traffic Engineer. 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.

- (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

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following 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 Planning staff with a legal description of the approved vacated ROW on a word document via e-mail. Provide Planning staff with a legal description of the portions of the vacated ROW utility and drainage easements as on a word document via e-mail.
- (2) 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. Provide Planning staff with conformation of this requirement being completed or suitable guarantees have been provided.
- (3) 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. Any new drives onto public ROW must be approved by the Traffic Engineer. 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.
- (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

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