



Wichita-Sedgwick County Metropolitan Area Planning Department

June 24, 2011

City of Wichita
Property Management
Attn: John Philbrick
455 N. Main, 13th Floor
Wichita KS 67202

Re: **VAC2011 -00014-** City request to vacate a portion of platted street right-of-way, generally located on the northeast corner of Kellogg Street and Armour Drive

Dear Mr. Philbrick:

At its regular meeting on Tuesday, June 21, 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)
Baughman Company, Attn: Phil Meyer, 315 Ellis, Wichita KS 67211
J.P. Wigand & Sons, Attn: Doug Malone, 150 N. Market, Wichita KS 67202
Eck Properties Inc., 7310 E. Kellogg, Wichita KS 67207



Sedgwick County
Register of Deeds - Bill Meek
DOC.#/FLM-PG: 29225358

Receipt #: 1785572
Pages Recorded: 3
Cashier Initials: MLM

Authorized By: [Signature]
Recording Fee: 00H

Date Recorded: 6/23/2011 3:56:11 PM



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

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

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

**GENERALLY LOCATED
ON THE NORTHEAST CORNER OF
KELLOG STREET & ARMOUR DRIVE**

Case No. VAC 2011-00014

MORE FULLY DESCRIBED BELOW

VAC 2011-14

VACATION ORDER

NOW on this 21ST day of June, 2011 comes on for hearing the petition for vacation filed by The City of Wichita (owner), c/o John Philbrick (agent), praying for the vacation of the following described portion of platted street right-of-way to wit:

That part of Armour Drive, (now Towne East Mall Drive), as dedicated in Rockwood South Third Addition, Wichita, Sedgwick County, Kansas described as follows: Commencing at the southeast corner of Lot 2 in said Rockwood South Third Addition; thence along the south line of said Lot 2 with an assumed bearing of S89°11'49"W, 297.30 feet to the point of curvature of a tangent curve to the right; thence westerly, northwesterly, and northerly along said curve and along the easterly right-of-way line of said Armour Drive, (now Towne East Mall Drive), having a central angle of 88°33'00" and a radius of 44.10 feet, an arc distance of 68.16 feet, (having a chord length of 61.57

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Vacation Order
VAC2011-00014

feet bearing N46°31'41"W), to the point of tangency of said curve; thence N02°15'11"W along the easterly right-of-way line of said Armour Drive, (now Towne East Mall Drive), 82.19 feet for a point of beginning; thence continuing N02°15'11"W along the easterly right-of-way line of said Armour Drive, (now Towne East Mall Drive), 101.51 feet to the point of curvature of a tangent curve to the left in said easterly right-of-way line; thence northerly, northwesterly, and westerly along said curve, through a central angle of 67°51'54" and having a radius of 65.00 feet, an arc distance of 76.99 feet, (having a chord length of 72.57 feet bearing N36°11'08"W), to a point on a non-tangent curve to the left; thence southerly along said curve, through a central angle of 02°14'21" and having a radius of 3230.31 feet, an arc distance of 126.24 feet, (having a chord length of 126.23 feet bearing S04°03'14"E), to the end of said curve; thence S48°03'51"E (described), S48°02'06"E (measured), 50.99 feet to the point of beginning. Containing 4,888.03 Sq.Ft., or 0.11 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:

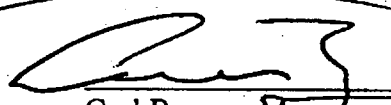
1. That due and legal notice has been given by publication as required by law, by publication in The Wichita Eagle on May 5, 2011, which was at least 20 days prior to the public hearing.
2. No private rights will be injured or endangered by the vacation of the above described portion of platted street right-of way, and the public will suffer no loss or inconvenience thereby.
3. Four dedications by separate instruments of temporary utility easements, a partial dedication by separate instrument of abutter's access rights, a drive approach closure, and a restrictive covenant, will be recorded with the Sedgwick County Register of Deeds with this Vacation Order.
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 portion of platted street right-of way described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 21st day of June, 2011, ordered that the above described portion of 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.

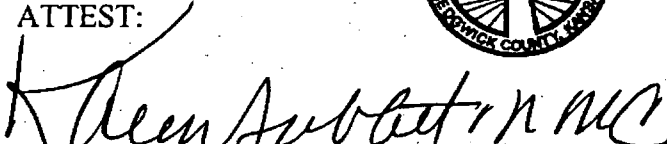
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Vacation Order
VAC2011-00014

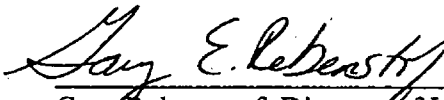


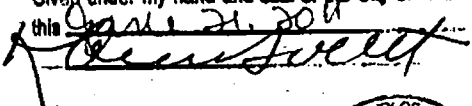

Carl Brewer, Mayor

ATTEST:


Karen Sublett, City Clerk

Approved as to Form:


Gary Rebenstorf, Director of Law
By SRS

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 attached is a true and correct copy of the original in
the office of the City Clerk.
Given under my hand and seal of the City of Wichita, Kansas
this June 21, 2011
 City Clerk



STAFF REPORT

CASE NUMBER: VAC2011-00014 - Request to vacate a portion of platted public street right-of-way

APPLICANTS/AGENT: City of Wichita, c/o John Philbrick (applicant)
Baughman Company, c/o Phil Meyer (agent)

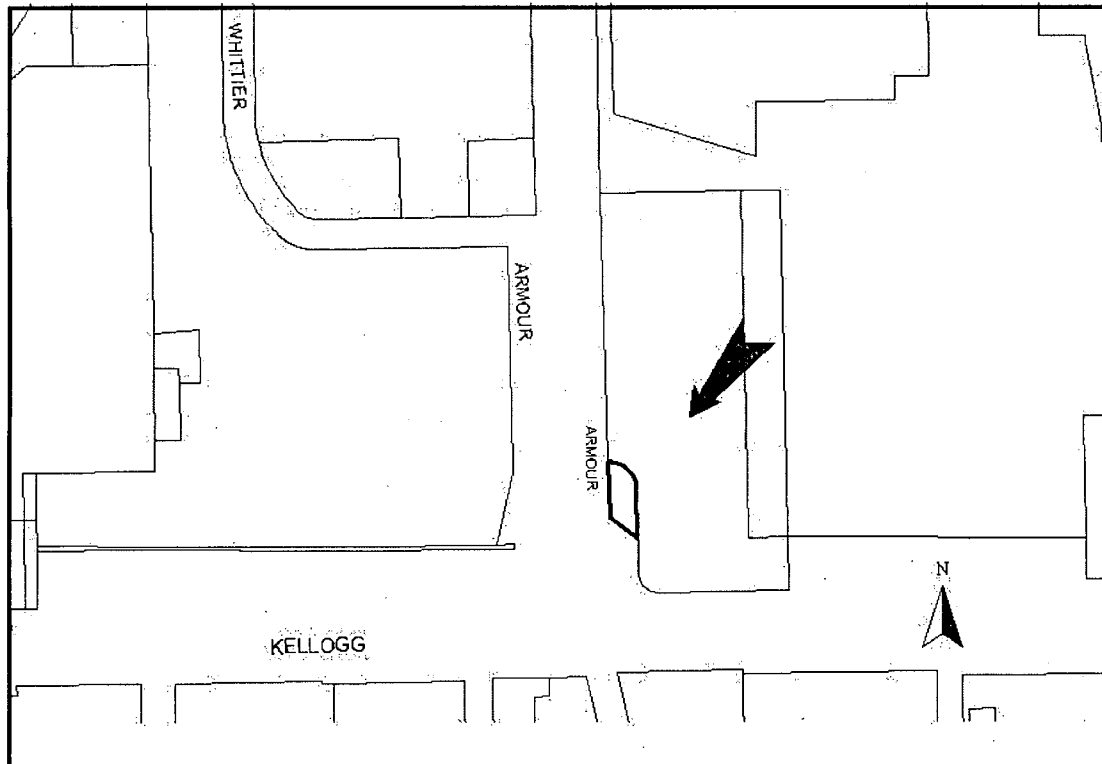
LEGAL DESCRIPTION: Generally described as an approximately (+/-) 65-foot wide portion of the platted Armour Drive street right-of-way, located along the south approximately (+/-) 165 feet of the west lot line of Lot 2, Rockwood South Third Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located at the northeast corner of Kellogg Street and Armour Drive (WCC #1)

REASON FOR REQUEST: Additional area for development of the site; Lot 2, Rockwood South Third Addition

CURRENT ZONING: The subject property is public street right-of-way. Abutting eastern (CUP DP-12) and adjacent northern and southern (across Kellogg/USA 54) properties are zoned LC Limited Commercial ("LC"). Adjacent western property is zoned PUD Planned Unit Development ("PUD").

VICINITY MAP:



The applicant is requesting the vacation of the described portion of platted public street right-of-way; see attached legal and exhibit. This portion of platted Armour Drive (dedicated on the Rockwood South Third Addition) appears to be a remnant, the result of recent improvements to Kellogg Street/US 54. The City has determined that the described platted right-of-way is "surplus" and its vacation will not compromise the current and future configuration of Kellogg/Us 54 and Armour Drive or interfere with current traffic patterns. There is storm water, manholes, and sewer line in the right-of-way. There is no water located in this portion of right-of-way. Westar has utilities located within the described portion of right-of-way. The Rockwood South Third Addition was recorded with the Sedgwick County Register of Deeds October 19, 1966.

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/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 portion of 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 May 5, 2011, 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 described portion of 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.

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

- (1) Provide Planning Staff with a legal description of the approved vacated portion of platted street right-of-way on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. Provide to Planning prior to the case going to Council for final action.
- (2) Any relocation, abandonment or reconstruction of public utilities (storm water, manholes, and sewer line) made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. If necessary provide an acceptable guarantee (including any approved projects' numbers) to public utilities for relocation of their equipment. Must be completed prior to the case going to City Council for final action.
- (3) Contact franchised utilities (including Westar) for any relocation of any utilities located in the described platted right-of-way. The applicant must provide any needed plans for review and approval and if necessary provide an acceptable guarantee to franchised utilities for relocation of their equipment. Provide Planning with written acceptance/final approval from franchised utilities for relocated equipment. Must be completed prior to the case going to City Council for final action.

- (4) Provide Staff with Sewer and Storm Water utility easements, with original signatures, dedicated by separate instrument, as needed and approved by public utilities. The easement(s) will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.
- (5) Provide franchised utilities (including Westar) with any required additional private easement(s) as needed and approved by franchised utilities. Provide Planning with written acceptance/final approval from franchised utilities for easements. Must be completed prior to the case going to City Council for final action.
- (6) Dedicate complete access control along the site's (Lot 2, Rockwood South Third Addition) Kellogg Street frontage road. Dedicate complete access control, along the site's west side onto Town East Mall Drive, but allow one full movement drive, to line up with the east – west street connecting Town east Mall Drive (east side) to Armour Drive (west side). All dedications by separate instrument with original signatures must be provided to Planning prior to the case going to Council for final action.
- (7) Provide a restrictive covenant binding and tying the vacated portions of right-of-way to Lot 2, Rockwood South Third Addition. 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.
- (8) Provide an appropriate guarantee for the continuation of the curb and gutter, prior to the case going to City Council for final action. Provide to Planning prior to the case going to Council for final action.
- (9) Make the necessary adjustment to CUP DP-12
- (10) 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:

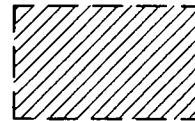
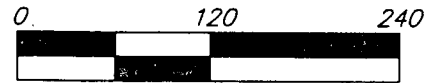
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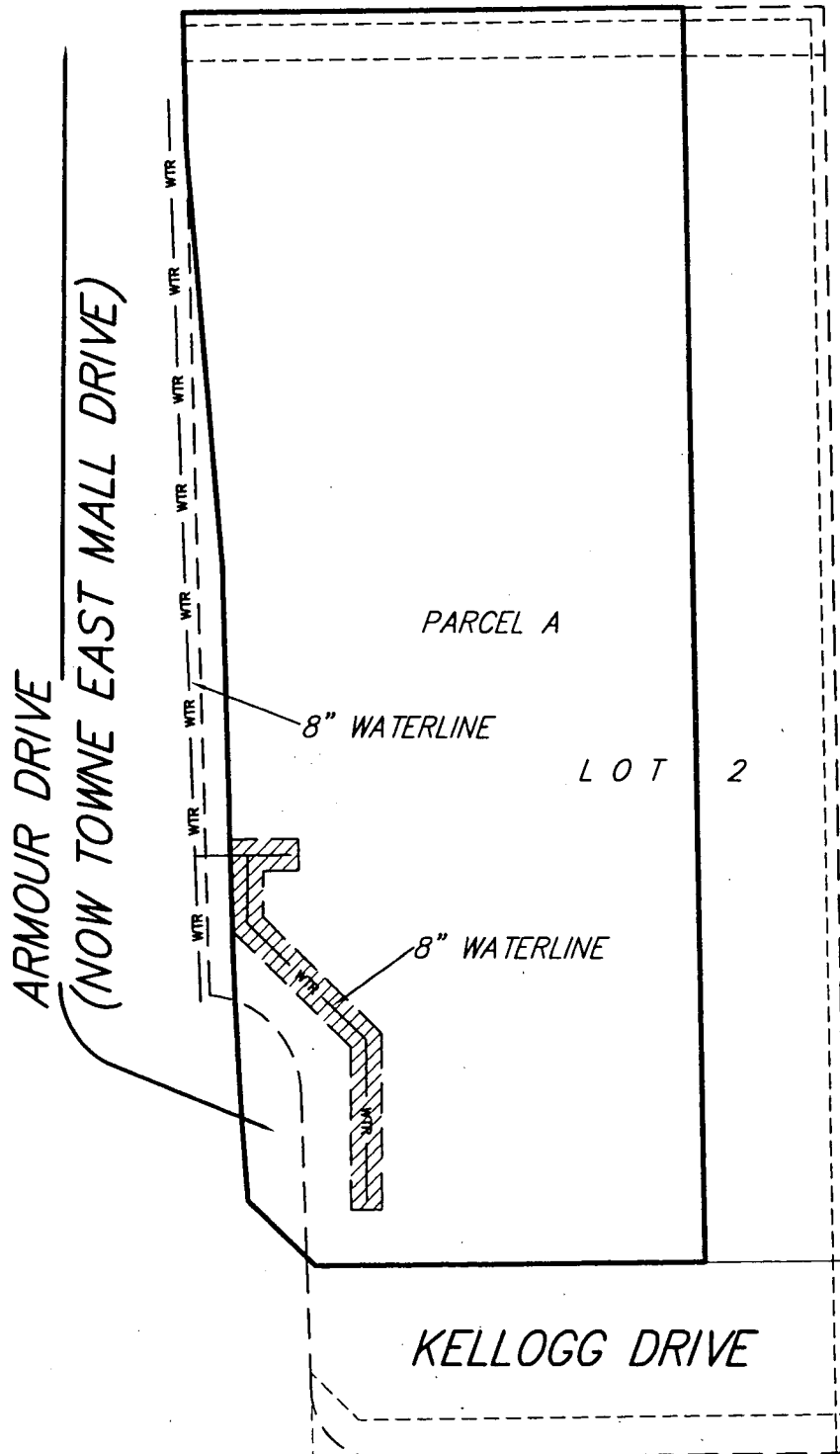
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EXHIBIT

TEMPORARY UTILITY EASEMENT ROCKWOOD SOUTH THIRD ADDITION



INDICATES AREA OF
LEGAL DESCRIPTION
FOR TEMPORARY
UTILITY EASEMENT



9 JUNE 2011