

**City of Wichita
City Council Meeting
November 18, 1997**

Agenda Report # _____

TO: Mayor and City Council

SUBJECT: PUBLIC HEARING V-2008 REQUEST TO VACATE A PLATTED 16 FOOT WALK EASEMENT AND UTILITY EASEMENT AND TO VACATE THE "NO FENCING" RESTRICTION ON PROPERTY LOCATED IN AN AREA NORTH OF 13TH STREET NORTH AND WEST OF GOVERNEOUR.
(District #2)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning

*(you can
initial
for me
I don't need
to see it again)*

Staff Recommendation: Deny the vacation request.

MAPC Recommendation: Approve the vacation of the 16-foot walkway easement and remove the "No Fencing" restriction. Retain the 16-foot utility easement.
(11-2)

*along the side
lot line for*

Background: This is a request to vacate a 16-foot walkway and utility easement ~~between~~ Lots 10 and 11 in Block 1 of the Rockhurst Addition. The purpose of the request is to be able to remove the walkway and fence off the property so it is no longer accessible. The applicants indicate the presence of the walkway provides too much accessibility to their property and harms their safety and security. They have presented documentation of "incidents" occurring on their properties and in the neighborhood that they attribute to the presence of the walkway. They claim that by removing the walkway and closing the access the safety and security of their properties and the neighborhood will be restored.

This case was first heard by the Subdivision Committee on December 12, 1996, and was recommended for approval for vacation of the walkway easement and "No Fencing" restriction by a vote of 3 to 1 ~~(Larry Ross opposed)~~. The utility easement was recommended to be retained.

The case then appeared before the MAPC on December 19, 1996. At this meeting other owners in the neighborhood appeared and opposed the vacation. They felt such an action would not resolve the "problems" of the applicants and in the neighborhood. They proposed to work with the

administration of Coleman Middle School and the Police Department to develop other alternatives. The case was continued to February 13, 1997, in order for the neighborhood to attempt to resolve the issue without proceeding with the vacation. At the February 13, 1997 meeting the applicants requested the case be continued to the October 16, 1997, meeting to further work toward an amicable solution.

The case was heard again by the MAPC on October 16, 1997. The applicants reported on the efforts of the neighborhood to find alternative solutions, but indicated that none were found. They reaffirmed their request to vacate the walkway and remove the "No Fencing" restriction. There was still opposition from some in the neighborhood to this request, and the staff was also opposed. Following considerable discussion, the MAPC voted to recommend the vacation of the walkway and removing the "No Fencing" restriction, but retaining the utility easement.

and submitted supporting letters from most of the other homeowners who live on Timborn Hill and Stonegate lanes.

At the request of the City Manager's Office, this case has been submitted to CPO-2 for review and comment. The report from CPO-2 was not available at the time this report was prepared.

Recommendations/Actions:

1. Close the public hearing; approve the vacation; authorize the Mayor to sign the Vacation Order; record the certified copy of the Vacation Order; recording costs to be billed to: 150029-2909. or

Don't forget to get the police department's input on the mapping of crimes.

Close the public hearing; deny the vacation petition.

2. Close the public hearing; deny the vacation petition.

① (be sure to attach "everything" - previous staff memo & mapping of crimes, police memo, all MAPC minutes, applicants' incidents, acct of their letters of support, etc.)

② (be sure to have Doug review the vacation order - want to be sure he's OK w/ working on vacating "walk easement" and non-fencing request, and it is clear enough that "utility easement" still remains intact.)

③ talk to Doug also abt need for "findings" per my memo to him & Gary Rebenstorf, re: "no priv rights injured," & "no public inconvenience"

NOTE: There are no water or sewer lines within the area proposed for vacation.

SUBDIVISION COMMITTEE RECOMMENDATIONS:

Approve the vacation, subject to the following conditions:

STAFF COMMENTS:

- A. **City Engineering** and **Water and Sewer Department** staff need to indicate if any public utilities will be impacted by this vacation and consequently if any relocation or utility easements are needed because of this vacation.
- B. **Utility Representatives** need to indicate if any of their facilities will be impacted by this vacation.
- C. The vacation order shall indicate that the non-fencing requirement be removed should this vacation be approved.
- D. The applicants shall be responsible for any relocation or reconstruction of utilities made necessary by this vacation.