

City of Wichita
City Council Meeting
October 21, 2003

Agenda Report No.

TO: Mayor and City Council

SUBJECT: VAC2003-00026 REQUEST TO VACATE EASEMENTS LOCATED
SOUTHEAST OF LINCOLN STREET AND BROADWAY STREET.
(District I)

INITIATED BY: Metropolitan Area Planning Department *JLS*

AGENDA: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve. (unanimous)

Background: The applicant is requesting consideration to vacate that portion of the easement abutting the Reserve of Zimmerly's 2nd Addition from Topeka Avenue to Emporia Avenue and abutting Lots 17 and 18, Zimmerly's 2nd Addition and abutting Lots 17 through 34, inclusive, Zimmerly's 2nd Addition. . The Zimmerly's 2nd Addition was recorded with the Register of Deeds in 1891.

Analysis: Because of a future encroachment, by proposed expansion of Lincoln Elementary, the easements are proposed to be vacated and maintained as a private sewer line. The easements were retained by the vacation of what was then a west to east alley connecting Emporia and Topeka and a north to south alley intersecting the east to west alley on the north and intersecting Bayley Street on the south; VAC-0525. The applicant owns all abutting properties. There is sewer and a manhole at approximately the point of intersection of the two easements and the length of the north to south easement. There is no water or other utilities in the easement. Portions of the USD 259 property are within a Historical Environs.

No one spoke in opposition to this request at the MAPC's advertised public hearing, and the MAPC voted to approve the vacation, adopting the findings of fact that are incorporated in the Vacation Order. No written protests have been filed.

Financial Considerations: None

Legal Considerations: A certified copy of the Vacation Order and a private sewer line agreement will be recorded with the Register of Deeds.

Recommendation/Actions: Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

ROUTE ☐ _____
☐ _____

Approved / Accepted by City Council

This OCT 21 2003

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

**IN THE MATTER OF THE VACATION OF
EASEMENTS**

**GENERALLY LOCATED
SOUTHEAST OF LINCOLN STREET AND
BROADWAY STREET**

MORE FULLY DESCRIBED BELOW

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Case No. VAC2003-00026

VACATION ORDER

NOW on this 21st day of October, 2003, comes on for hearing the petition for vacation filed by USD #259, c/o Joe Hoover, praying for the vacation of the following described easements, to-wit:

That portion of the easement abutting the Reserve of the Zimmerly's 2nd Addition from Topeka Avenue to Emporia Avenue and abutting Lots 17 and 18, Zimmerly's 2nd Addition and abutting Lots 17 through 34, inclusive, Zimmerly's 2nd Addition.

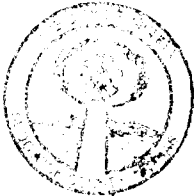
The City Council, after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter on May 29, 2003, which was at least 20 days prior to the public hearing.

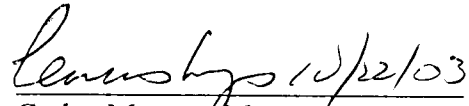
2. No private rights will be injured or endangered by the vacation of the above-described easements, and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
4. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.
5. The vacation of the easements described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 21st day of October, ordered that the above-described easements are 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.

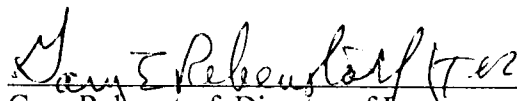
ATTEST:




Karen Schofield, City Clerk


Carlos Mayans, Mayor

Approved as to Form:


Gary Rebenstorf, Director of Law

⑥ VACATE NORTH ~~SE~~ SOUTH EASEMENT
(ends at lot 34 & 33) → private
sewer line agreement.



SITE BENCHMARK-2
"d Chiselled on Back
of Wall
Elevation = 106.34
(City Datum)

Assume Best of Burings = 500000000 1341.50 (W) & 1341.40 (P)



Wichita-Sedgwick County Metropolitan Area Planning Department

August 7, 2003

Robert B. Tafoya
7721 S. Tyler
Clearwater, KS 67026

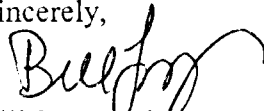
Re: **VAC2003-00028** - Request to vacate a portion of the Bayneville Plat generally located Southwest of the 71st South – Tyler intersection.

Dear Mr. Tafoya:

At its regular meeting on Wednesday, August 6, 2003, the Board of County Commission considered 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 Weber, Sedgwick County Engineer, Public Works Department, 1144 S. Seneca, Wichita, KS 67213
Jody R. Tafoya, Rt. 1, Box 72A, 7721 S. Tyler, Clearwater, KS 67026
Robert B. Tafoya; Karen E. Tafoya; Robert R. Tafoya; Perry D. Tafoya; Jody R. Tafoya, Rt. 1, Box 72A, 7721 S. Tyler, Clearwater, KS 67026
Robert R. Tafoya, Gloria J. Tafoya, 7729 S. Tyler, Clearwater, KS 67026
Pamela J. & Robert L. Grimes, Rt. 1, Box 70-A, Clearwater, KS 67026
Kevin B. Derendinger, 7665 S. Tyler Rd., Clearwater, KS 67026
Samuel J. Moser, 7655 S. Bayneville, Clearwater, KS 67026
James W. Anderson, 7665 S. Tyler, Rd., Clearwater, KS 67026



Wichita-Sedgwick County Metropolitan Area Planning Department

July 1, 2003

Robert B. Tafoya
7721 S. Tyler
Clearwater, KS 67026

Re: **VAC2003-00028** - Request to vacate a portion of the Bayneville Plat generally located Southwest of the 71st South – Tyler intersection.

Dear Mr. Tafoya:

At the regular meeting of the Subdivision Committee of the Metropolitan Area Planning Commission on Thursday, June 26, 2003, the above-captioned vacation request was considered. The action of the Committee was to recommend that this vacation be approved subject to:

- (1) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (2) All improvements shall be according to County Standards.

This matter is set for public hearing by the Metropolitan Area Planning Commission on Thursday, July 10, 2003 at 1:30 p.m. in the Planning Conference Room, Tenth Floor, City Hall, 455 North Main, Wichita, Kansas. If you have any questions, please call at 268-4494.

Sincerely,


Bill Longnecker
Senior Planner

BL:le

STAFF REPORT

CASE NUMBER: VAC2003-00028: Request to vacate a portion of a plat

OWNER/APPLICANT: Robert B Tofoya
Jody R Tofoya
Robert R & Gloria J Tofoya

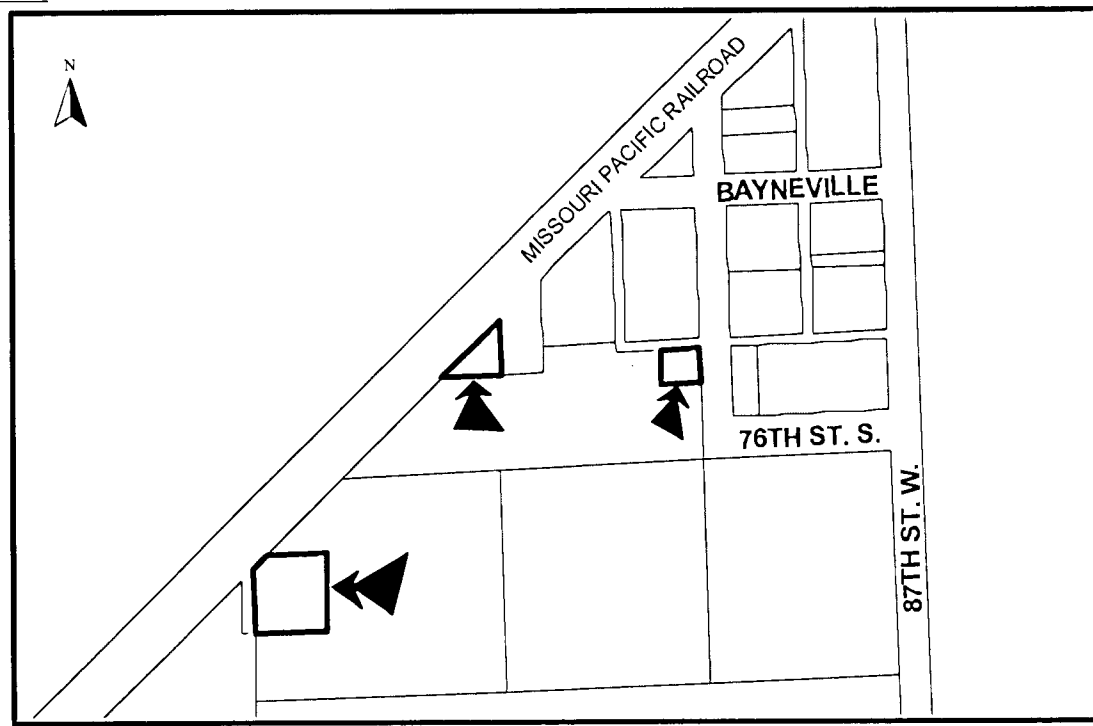
LEGAL DESCRIPTION: Lots 4, 5, 6, 7, 8 & 9, Block 12, Lots 11, 12, & 13, Block 7 and Lots 8, 9, 10, Block 6, all in the Bayneville Addition

LOCATION: Generally located between 71st Street South & 79th Street South, southwest of the Tyler Road (87th Street West) RR ROW intersection, in Sedgwick County.

REASON FOR REQUEST: Simplify tax records

CURRENT ZONING: Subject property and properties all around are zoned "RR" Rural Residential.

VICINITY MAP:



The applicants are requesting consideration for the vacation of a portion (as described in the legal description) of the Bayneville town plat. Documentation filed with the Country, shows that approximately 2/3rds of the Bayneville plat was vacated 03-20-1915. The reason given, at that time, was that the land was being used for agriculture, which did not reflect the plat's intention of

this being a town. The applicants have noted that the use and condition of the land at this site has changed little since that time and have stated that the vacation will simplify their tax records, which currently has separate documentation for their unplatted tracts (vacated 1915) and their platted property. The property proposed for vacation abuts the applicants' tracts, where they currently live. The Bayneville Addition was recorded with the Sedgwick County in 1884. The site is located in an unincorporated part of Sedgwick County and outside the 3-mile ring.

There is no water or sewer at the sites, nor does a Rural Water District serve the sites. The applicants have been advised future development on the vacated sites could require platting.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from County Public Works and other utility representatives, Planning Staff recommends approval to vacate that portion of the Bayneville plat as described in the legal description with conditions.

- A. County Public Works needs to comment on the acceptability of this vacation and if any guarantees, substitute easements and/or dedications should be required.
- B. Utility Representatives need to comment on the acceptability of this vacation and if any guarantees, substitute easements and/or dedications should be required.
- C. If recommended, any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- D. If recommended, all improvements shall be according to County Standards.

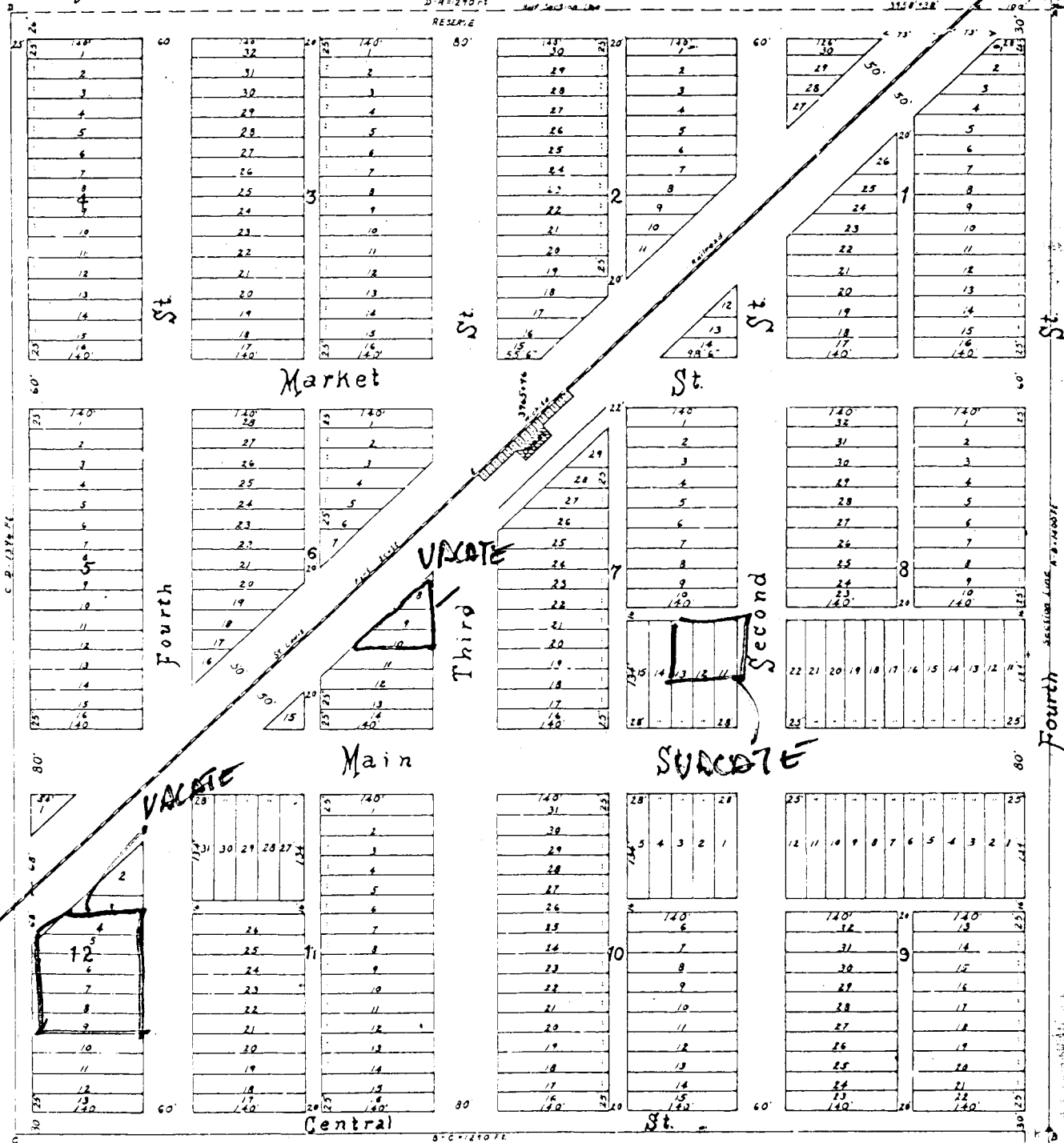
B1-3-1

Scale 100 feet to 1 inch

Raynville

July 8th 1879

Occupying 41.41 acres in the NE Corner of the S.E. 1/4 of Sec. 36 (S) Twp. 20 N. R. 12 E. S. 1/4 of Range One (N) West of 6th P.M. Dissected as follows:
Beginning at the NE Corner of the above described 1/4 Section Running thence South along section line 100 feet thence West 1290 feet thence North to the half
section line 1396 feet thence East along said half section line 1790 feet to point of Beginning thence comprising the Townsite of Raynville as surveyed and
the whole being laid off into lots, blocks, streets & alleys except a strip of land 50 feet wide upon the North side of the line of the Main Street lot to the N.E. corner
of the 1/4 Section of land 30 feet in width at the east end & 26 feet in width at the west end extending across the north end of the townsite & being adjacent to the
afore said 1/4 section line
B-A-1290 ft
D-A-290 ft
RESERVE



C.D. 11/2/79

SECTION LINE N.E. 1/4 SEC. 36

Fourth

8-C-2120 ft