

City of Wichita
City Council Meeting
August 5, 2003

Agenda Report No.

TO: Mayor and City Council

SUBJECT: VAC2003-00019 REQUEST TO VACATE BYRON AVENUE LOCATED
SOUTHWEST OF THE TYLER ROAD - KELLOGG (US 54) INTERSECTION.
(District IV)

INITIATED BY: Metropolitan Area Planning Department *JLS*

AGENDA: Planning

Staff Recommendation: Approve

MAPC Recommendation: Approve (unanimous)

Background: The applicants are requesting to vacate the Byron Street right-of-way, south of Kellogg/US-54, for the future development as a parking lot. Reversion rights would be to the abutting properties, all in the Westport Addition, which was recorded May 28, 1953.

Analysis: Byron Street is an unimproved ROW, at this location, that dead ends into Reserve A of the Westport Addition and has uncontrolled access onto Kellogg Drive. The ROW is 65.7-foot wide and 250-foot deep. A portion of Byron north of Kellogg to Dubon Street was previously vacated, V-1102, which prevents Byron from being a through ROW across Kellogg. Byron abuts a drainage easement on its south side, which abuts Railroad ROW, all of which appears to prevent any development south of Byron. Property south of Byron has access off of Tyler to the east.

A portion of this section of Byron was proposed to be vacated, V-1483, but denied by the WCC on 07-26-1988. At that time future plans for improvements to the Kellogg - Tyler Road interchange required a need for additional but undetermined ROW off of Byron. This undetermined need made the request for vacation premature and thus the denial. Drainage and utilities were in the ROW at that time and remain in the ROW now.

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 will be recorded with the Register of Deeds, Retain that a portion of the vacated street ROW as a utility and drainage easement as described in the approved survey

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

RECEIVED

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METROPOLITAN PLANNING
ROUTE _____

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

**IN THE MATTER OF THE VACATION OF)
PLATTED STREET RIGHT-OF-WAY)**

**GENERALLY LOCATED)
SOUTHWEST OF THE KELLOGG AVENUE -)
TYLER ROAD INTERSECTION)**

Case No. VAC2003-00019

MORE FULLY DESCRIBED BELOW)

VACATION ORDER

NOW on this 5th day of August, 2003, comes on for hearing the petition for vacation filed by Roger Overstreet (contract purchaser), praying for the vacation of the following described platted street right-of-way, to-wit:

All of Byron Avenue, lying east of and adjacent to Lot 1, Block N and lying west of and adjacent to Lot 4, Block M, Westport Addition, Wichita, Sedgwick County.

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 15, 2003, which was at least 20 days prior to the public hearing.

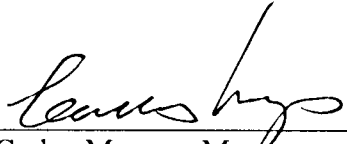
2. No private rights will be injured or endangered by the vacation of the above-described platted street right-of-way, and the public will suffer no loss or inconvenience thereby.
3. Retain a portion of the Byron Avenue as described in the survey as drainage and utility easement.
4. In justice to the 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 platted street right-of-way described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 5th day of August 2003, ordered that the above-described 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.



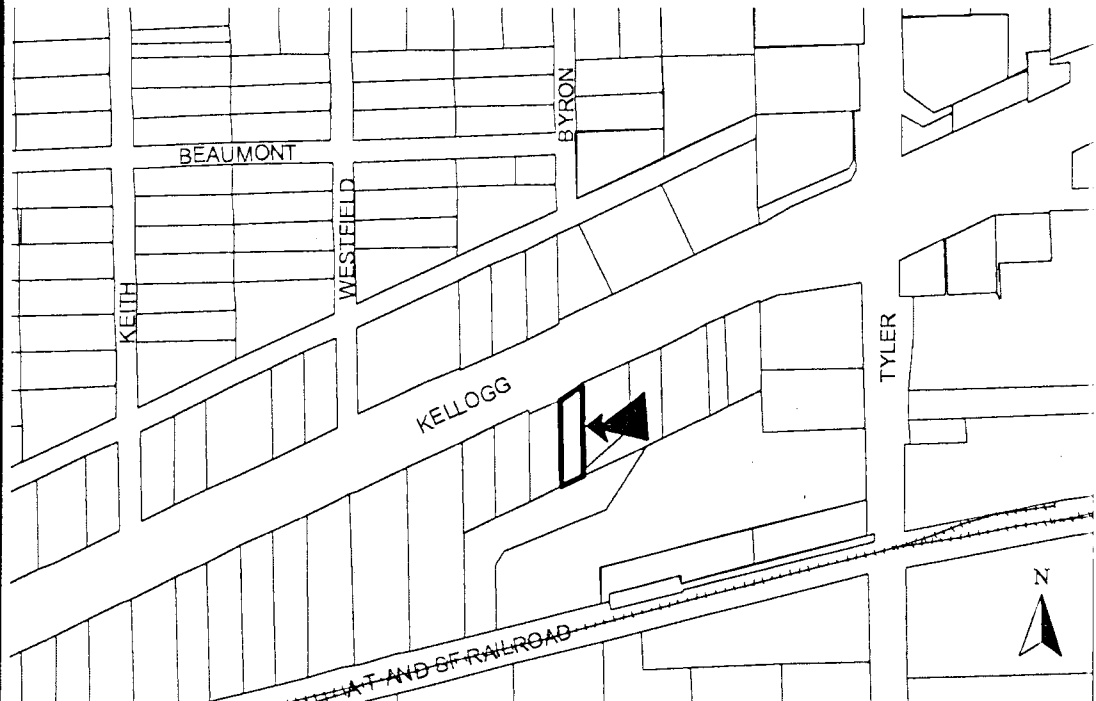
ATTEST:


Pat Graves, City Clerk


Carlos Mayans, Mayor

Approved as to Form:


Gary Rebenstorf, Director of Law



BEAUMONT

KEITH

WESTFIELD

BYRON

KELLOGG

TYLER

AT AND SF RAILROAD

