

Planning Agenda # _____

City of Wichita
City Council Meeting
January 14, 2003

Agenda Report # _____

TO: Mayor and City Council

SUBJECT: VAC2002-00038 - REQUEST TO VACATE A PORTION OF PENNSYLVANIA AVENUE GENERALLY LOCATED BETWEEN ELM STREET AND THE ST. LOUIS-SAN FRANCISCO RAILROAD RIGHT-OF-WAY.
(District I)

INITIATED BY: Metropolitan Area Planning Department *DM*

AGENDA ACTION: Planning

Staff Recommendation: Approve.

MAPC Recommendation: Approve. (unanimous)

The applicant proposes to turn this section of Pennsylvania Avenue into a private drive to have more control over access into the applicant's property, which is on both sides of this section of Pennsylvania. The Traffic Engineer has determined that vacating this portion of Pennsylvania would have a minimal impact on traffic through the area. The Fire Department has determined that vacating this portion of Pennsylvania would have a minimal impact on its ability to provide services to this area.

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.

Legal Considerations: A certified copy of the Vacation Order will be recorded with the Register of Deeds. Other documents to be recorded with the Register of Deeds include a covenant tying that portion of the 30-foot Pennsylvania Avenue ROW vacated, Lots 1-29 odd, Shirk's 3rd Addition and Lot 2, Hardy Addition together as one property and dedication by separate instrument an additional 2.6-feet to the 16-foot alley that abuts the west side of Lots 1-29 odd Shirks 3rd Addition, for utility easement. Other considerations include, retaining the western 10-feet of the Pennsylvania Avenue ROW as a utility easement, if the Weststar Energy equipment is not moved, retaining the west 20-feet of the Pennsylvania ROW for easement if the water line is not relocated, provide access on the

vacated portion of Pennsylvania with a gate approved by the Wichita Fire Department; KNOX Box or SOS type as advised by the Fire Department and the hydrant on the northwest corner of the Elm Street – Pennsylvania Avenue intersection needs to remain accessible to the Fire Department; no fencing allowed that would screen the hydrant from Elm Street.

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

this JAN 14 2003

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

**IN THE MATTER OF THE VACATION OF)
A PORTION OF PENNSYLVANIA AVENUE)
BETWEEN ELM STREET AND THE ST LOUIS)
& SAN FRANCISCO RAILROAD)
RIGHT-OF-WAY)**

**GENERALLY LOCATED NORTH OF THE)
ELM STREET - PENNSYLVANIA AVENUE)
INTERSECTIOIN)**

Case No. VAC2002-00038

RECEIVED
JAN 17 2003
METROPOLITAN PLANNING
ROUTE _____

MORE FULLY DESCRIBED BELOW)

VACATION ORDER

NOW on this 14th day of January 2003, comes on for hearing the petition for vacation filed by Michaelis Oil, c/o Mick Michaelis, praying for the vacation of the following described portion of Pennsylvania Avenue between Elm Street & the St. Louis – San Francisco Railroad Right-of-Way, to-wit:

That section of Pennsylvania Avenue north of Elm Street, south of the St Louis & San Francisco RR ROW and abutting the east sides of Lots 1 –29, odd, Shirks 3rd Addition and abutting the west side of Lot 2, Hardy 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 Wichita Eagle on October 31, 2002, 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 Pennsylvania Avenue between Elm Street on its south side & the St. Louis-San Francisco RR right-of-way on its north side, 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 portion of Pennsylvania Avenue between Elm Street on its south side & the St. Louis-San Francisco RR right-of-way on its north side, described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 14th day of January 2003, ordered that the above-described portion of Pennsylvania Avenue between Elm Street on its south side & the St. Louis-San Francisco RR right-of-way on its north side 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
Pat Graves, City Clerk

Bob Knight
Bob Knight, Mayor

Approved as to Form:

Gary Rebenstorf
Gary Rebenstorf, Director of Law

ELM ST

MATHEWSON AVE

NEW YORK AVE

PENNSYLVANIA AVE

HYDRAULIC AVE

CENTRAL

