

City of Wichita
City Council Meeting
August 17, 2004

Agenda Report No. _____

TO: Mayor and City Council

SUBJECT: VAC2004-00009 Request to vacate a utility easement dedicated by separate instrument and a platted drainage and utility easement, generally located north of Douglas, midway between Meridian Avenue and West Street, on the northeast corner of Mt. Carmel and Sheridan.
(District VI)

INITIATED BY: Metropolitan Area Planning Department *JLS*

AGENDA: Planning (Consent)

Staff Recommendation: Approve

MAPC Recommendation: Approve (unanimously)

Background: The applicant is requesting consideration to vacate a portion of a 10-foot utility easement dedicated by separate instrument (Film 2087, Page 1526) and a portion of a platted 20-foot drainage and utility easement, all on Lot 8, Block 4, Woodlake 2nd Addition. The Woodlake 2nd Addition was recorded with the Register of Deeds May 19, 2000.

Analysis: The single-family residence located on the site encroaches approximately 4.6-feet into the 10-foot utility easement dedicated by separate instrument along the eastern portion of the property. The easement is the eastern half of a 20-foot utility easement dedicated by separate instrument that straddles Lots 7 & 8 (the site), Block 4, all in the Woodlake 2nd Addition. A condition of the vacation request required the applicant to relocate the sewer line. The relocated line should ensure that the City's liability to the site's single-family residence is minimal if any at all, in case of maintenance, repair, or removal of the sewer line. The relocated line also ensures the structural integrity of the single-family residence in case of maintenance, repair, or removal of the sewer line. Additional easement to accommodate the relocation of the sewer line was dedicated on Lot 7, Block 4, Woodlake 2nd Addition; the property abutting the site's east side. The easement (Film 2857, Page 5001) was recorded with the Register of Deeds June 1, 2004. The relocated sewer line was accepted (Project #1440 PPS) by the City July 27, 2004. An Administrative Adjustment was also required and granted to reduce the the encroachment into the site's east interior side yard setback. The applicant proposes to build a detached garage that required the vacation of the south 10 feet of a platted 20-foot drainage and utility easement that runs parallel to the site's north property line. One person spoke in opposition to this request at the MAPC's advertised public hearing. One written protest was filed. The protest was resolved.

Financial Considerations: None

Legal Considerations: A certified copy of the Vacation Order 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.

RECEIVED
AUG 24 2004
METROPOLITAN PLANNING
ROUTE 8

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

IN THE MATTER OF THE VACATION OF)
PORTIONS OF A UTILITY EASEMENT)
DEDICATED BY SEPARATE INSTRUMENT)
AND A PLATTED DRAINAGE UTILITY)
EASEMENT)

GENERALLY LOCATED NORTH OF)
DOUGLAS AVENUE, MIDWAY BETWEEN)
MERIDIAN AVENUE AND WEST STREET,)
ON THE NORTHEAST CORNER OF)
MOUNT CARMEL AND SHERIDAN STREET)

Case No. VAC2004-00009

MORE FULLY DESCRIBED BELOW)

VACATION ORDER

NOW on this 17th day of August, 2004 comes on for hearing the petition for vacation filed by Tim Malone, praying for the vacation of the following described portion of a utility easement dedicated by separate instrument and a portion of a platted drainage and utility easement, to-wit:

That part of Lot 8, Block 4, Woodlake 2nd Addition, Wichita, Sedgwick County, Kansas, described as commencing at the southeast corner of said lot; thence N00°25'E along the east line of said Lot, 33.3 feet; thence S89°54'15"W, 7.8 feet for a point of beginning; thence continuing S89°54'15"W, 2.2 feet; thence N00°25'E, 31.85 feet; thence N89°54'15"E, 2.0 feet; thence S00°05'45"E, 20.9 feet; thence N89°54'15"E, 2.4 feet; thence S00°16'49"W, 5.0 feet; thence S89°54'15"W, 2.4 feet; thence S00°05'45"E, 6.0 feet to the point of beginning.

The south 10 feet of the north 20 feet of Lot 8, Block 4, Woodlake 2nd Addition,

Wichita, Sedgwick County, Kansas, except the east 10 feet thereof.

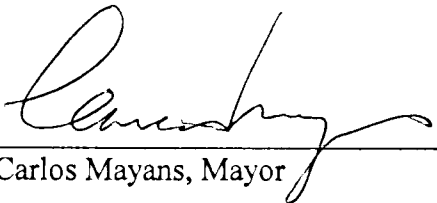
The City Council, after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, makes the following findings:

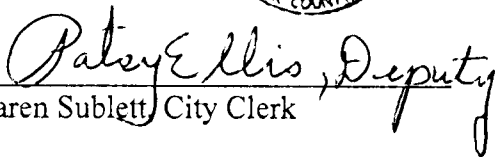
1. That due and legal notice has been given by publication as required by law, by publication in The Derby Reporter on March 18, 2004, which was at least 20 days prior to the public hearing.
2. No private rights will be injured or endangered by the vacation of the above-described portion of a utility easement dedicated by separate instrument and a portion of the platted drainage and utility easement, 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 a portion of the utility easement dedicated by separate instrument, and a portion of a platted drainage and utility easement described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 17th day of August 2004 ordered that the above-described portion of the utility easement dedicated by separate instrument and a portion of the platted drainage and utility easement 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.

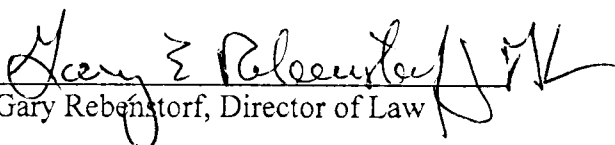


ATTEST:


Carlos Mayans, Mayor


for Patsy Ellis, Deputy
Karen Sublett, City Clerk

Approved as to Form:


Gary Rebenstorf, Director of Law



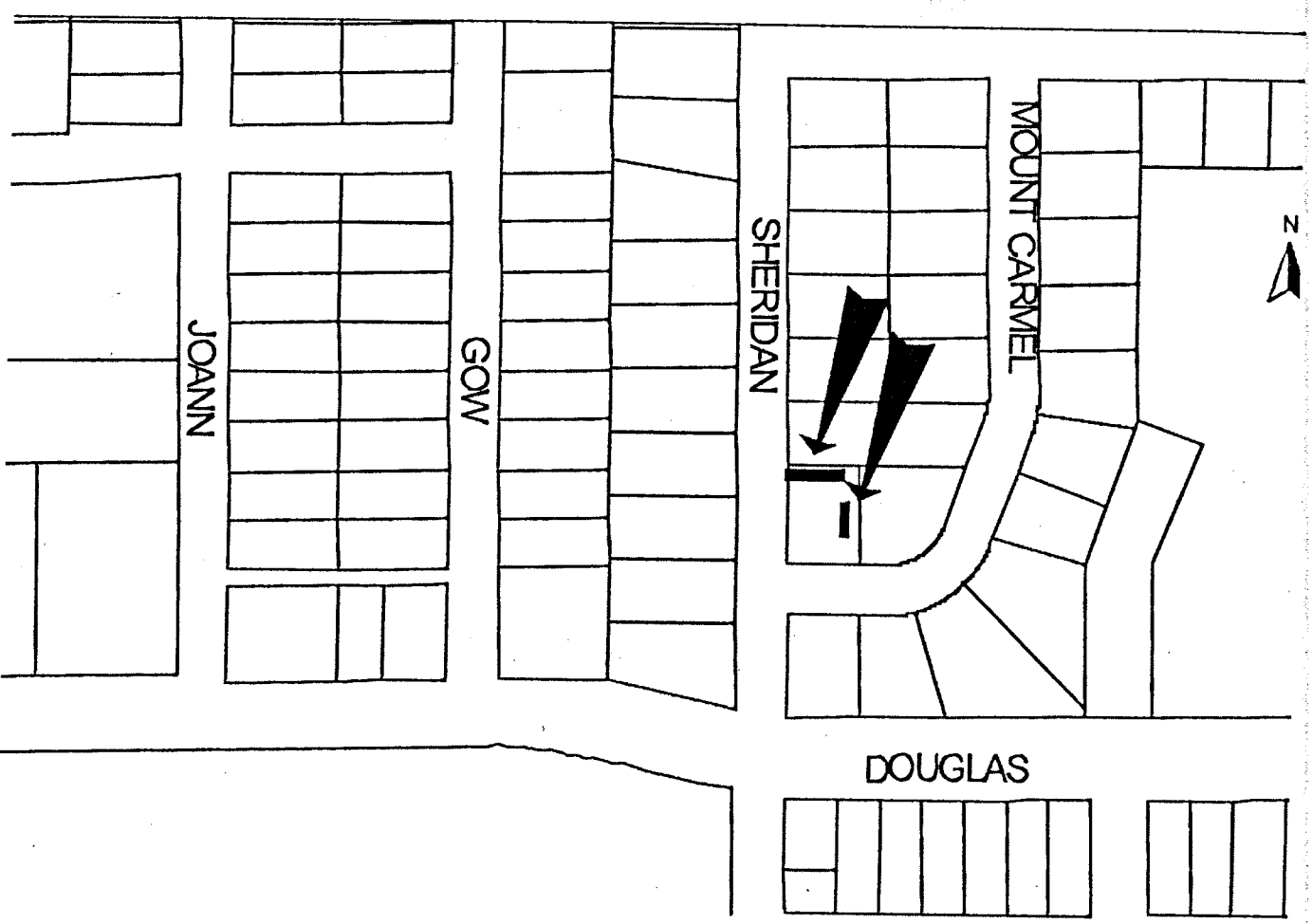
MOUNT CARMEL

SHERIDAN

DOUGLAS

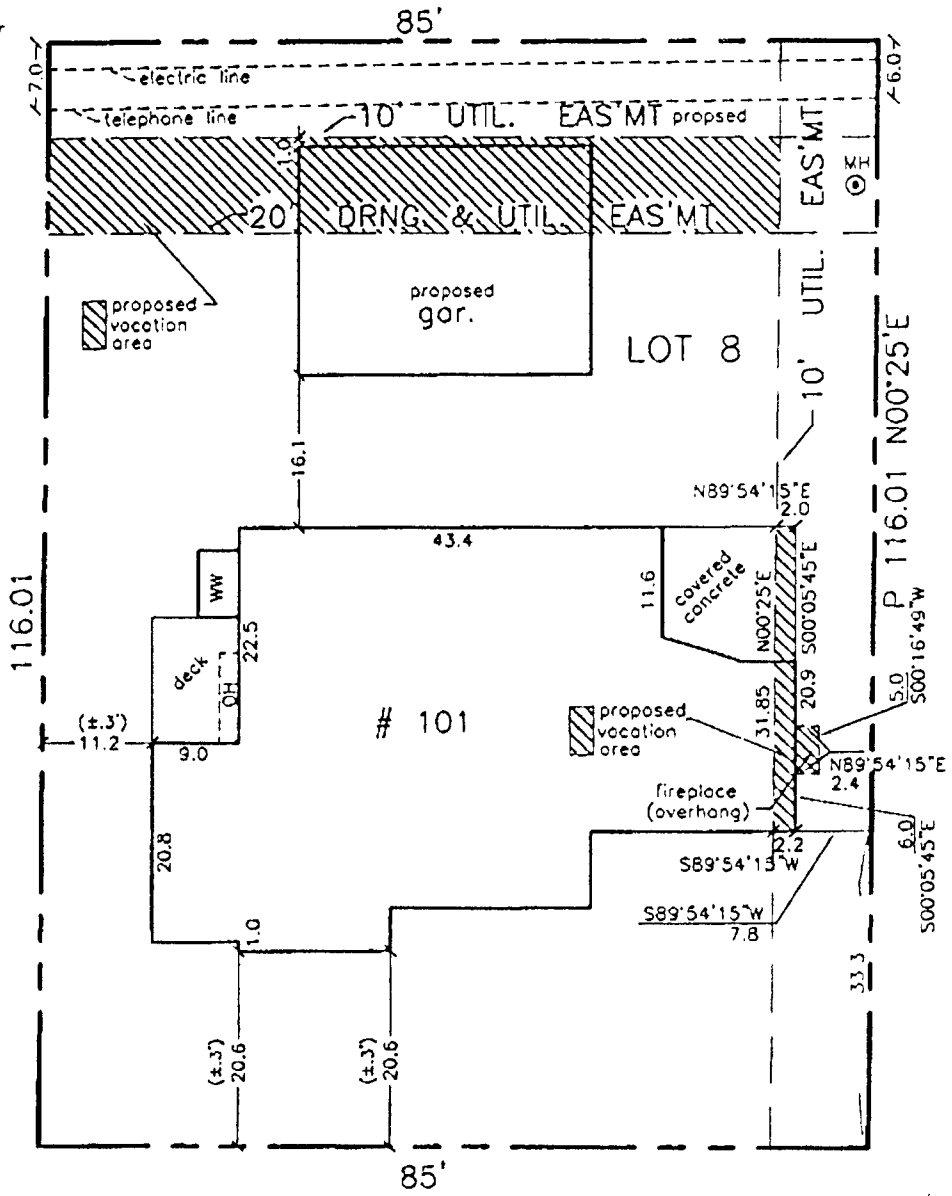
JOANN

GOW



SHERIDAN

se
lot
B



MT. CARMEL