



**Wichita-Sedgwick County Metropolitan Area Planning Department.**

December 29, 2005

Steve Peacock  
2858 S. 127<sup>th</sup> East.  
Wichita KS 67210

Re: **VAC2005-00036** - Request to vacate a platted easement, generally located east of Rock Road, south of Pawnee Avenue and on the north side of Oak Knoll Street.

Dear Mr. Peacock:

At its regular meeting on Tuesday, December 20, 2005, the Wichita City Council considered the 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 Armour, City Engineer, Public Works Department, Mail Stop 1-71  
Paul Gunzelman/Carla Jones, Public Works Engineering, Mail Stop 1-71  
Cherry Hills Partners, LP, 2200 S. Rock Road, Wichita, KS 67207  
Kansas Gas & electric Co., c/o Harvey Siemens, Box 208, Wichita, KS 67201  
WSRS, LLC, 2858 S. 127<sup>th</sup> E, Wichita, KS 67210  
Dale & Norma Hecox Living Trust & Pamela Ball, 9414 W. Central, Wichita, KS 67212  
Norma J Hecox Revocable Trust, 3064 Bluebird Dr., Wichita, KS 67204

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Sedgwick County  
Register of Deeds - Bill Maak  
DOC.#/FLM-PG: 28744488

Receipt #: 1608064  
Pages Recorded: 2

Recording Fee: 0.00

Cashier Initials: MKF  
Date Recorded: 12/28/2005 11:56:13 AM

Authorized By:



Approved / Accepted By City Council

This 12-20-05

CITY CLERK'S ORIGINAL  
RETURN TO CITY CLERK

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

**IN THE MATTER OF THE VACATION OF )  
A PORTION OF A PLATTED )  
UTILITY EASEMENT )**

**GENERALLY LOCATED )  
EAST OF ROCK ROAD, SOUTH OF PAWNEE )  
AVENUE AND ON THE NORTH SIDE OF OAK )  
KNOLL STREET )**

**Case No. ~~VAC2005~~00036**

**MORE FULLY DESCRIBED BELOW )**

VAC 2005

**VACATION ORDER**

NOW on this 20<sup>th</sup> day of December, 2005 comes on for hearing the petition for vacation filed by Steve Peacock praying for the vacation of the following described portion of a platted utility easement, to-wit:

A 10 foot utility easement to be vacated in Lots 1 and 2, Block 1, The Plaza at Cherry ✓  
Creek Hills, Wichita, Sedgwick County, Kansas, being more particularly described as:

Beginning at the Southwest corner of Lot 2, Block 1; thence N 0° E, on the west line of  
said plat, a distance of 285.16 feet; thence N 89° 43' W, a distance of 50 feet; thence  
N 0° E, a distance of 148 feet, to the Northwest corner of Lot 1; thence S 89° 43' E, a  
distance of 310 feet.

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:

000287443

1. That due and legal notice has been given by publication as required by law, by publication in The Wichita Eagle on October 13, 2005, 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 platted 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 the portion of the platted utility easement described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 20<sup>th</sup> day of December 2005 ordered that the above-described portion of the platted utility easement 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:

Karen Sublett  
Karen Sublett, City Clerk

Approved as to Form:

Gary E Rebenstorf  
Gary Rebenstorf, Director of Law

Carlos Mayans  
Carlos Mayans, Mayor



State of Kansas )  
Sedgwick County )  
City of Wichita )

I, Patsy Ellis Deputy City Clerk of the City of Wichita, Kansas, hereby certify that the document to which this is affixed is a true and correct copy of the original on file in the office of the City Clerk.

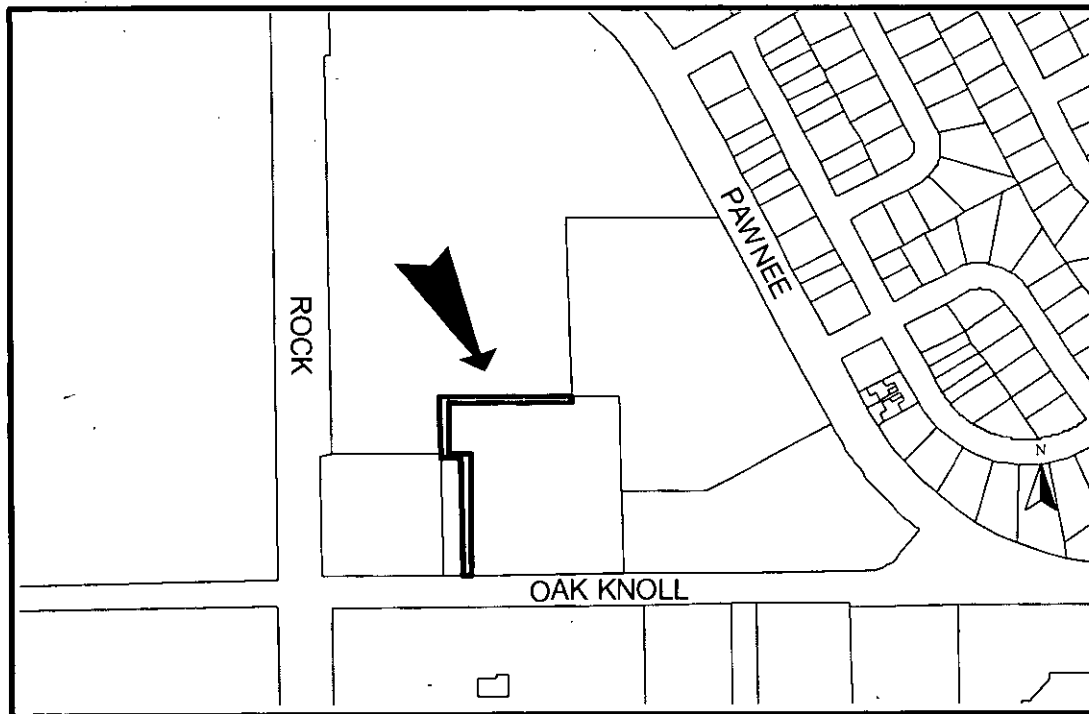
Given under my hand and seal of the City of Wichita, Kansas this 12-20-05

Patsy Ellis Deputy City Clerk  
Patsy Ellis

STAFF REPORT

- CASE NUMBER:** VAC2005-00036: Request to vacate a portion of a platted utility easement
- OWNER/APPLICANT:** Steve Peacock
- LEGAL DESCRIPTION:** Generally described as that portion of the platted 10-foot utility easement, located along the west lot line of Lots 1 & 2, and a portion of the north lot line of Lot 1, all in Block 1, all in the Plaza at Cherry Creek Hills Addition, Wichita, Sedgwick County, Kansas
- LOCATION:** Generally located east of Rock Road, south of Pawnee Avenue and on the north side of Oak Knoll Street
- REASON FOR REQUEST:** No utilities in easements
- CURRENT ZONING:** Subject property and eastern abutting property are zoned "OW" Office Warehouse. Abutting properties north and west of the site are zoned "B" Multi-family Residential. Southern adjacent property (across Oak Knoll Street) is zoned "LI" Limited Industrial.

**VICINITY MAP:**



The applicant is requesting the vacation of a portion of the platted 10-foot utility easement that runs parallel to its west lot lines of what was Lots 1 & 2 and a portion of the north lot line of Lot 1, all in block 1, all in The Plaza at Cherry Creek Hills Addition. There are no manholes or water and sewer lines in the platted easement. Sewer to the lots is provided by a sewer line located in a 20-foot easement, dedicated by separate instrument (Film 2863, Page 1950), located in the eastern portion of the lot. The easement dedicated by separate instrument was a requirement of a Lot Split (June 6, 2005) on The Plaza at Cherry Creek Hills Addition. No parcel or tract number was given for the new lot, which is where the proposed vacated easements are located. Comments from franchised utilities have not been received and are needed to determine if they have utilities in the easement. The Plaza at Cherry Creek Hills Addition was recorded with the Register of Deeds July 30, 1999.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from Public Works, Storm Water, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the platted 10-foot easement as described in the legal description with the following conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC 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 of notice of this vacation proceeding one time October 13, 2005, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted easement and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.

Therefore, the vacation of the platted easement described in the petition should be approved with conditions;

- (1) Vacate the platted 10-foot utility easement, as described in the legal description, contingent upon approval by Public Works, Water & Sewer, Storm Water, Westar and any other the franchised utility companies. Retain any easement needed for existing utilities, as recommended by public and franchised utilities. Provide an accurate legal description of the applicant's site and the vacated portion of the easement on a word document, via e-mail.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. Provide any recommended easements for relocated utilities. If utilities are to be relocated, retain the easement until they are relocated.
- (3) All improvements shall be according to City Standards.

- (4) Per the MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the platted 10-foot utility easement, as described in the legal description, contingent upon approval by Public Works, Water & Sewer, Storm Water, Westar and any other the franchised utility companies. Retain any easement needed for existing utilities, as recommended by public and franchised utilities. Provided an accurate legal description of the applicant's site and the vacated portion of the easement on a word document, via e-mail.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. Provide any recommended easements for relocated utilities.
- (3) If utilities are to be relocated, retain the easement until they are relocated. All improvements shall be according to City Standards.
- (4) Per the MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

