



Wichita-Sedgwick County Metropolitan Area Planning Department

January 26, 2010

Dillon Companies, Inc.,
c/o Richard Russell
2700 E. Fourth
Hutchinson, KS 67504

Re: **VAC2006-00026** - Request to vacate portions of platted easements, generally located northwest of the Harry Street – Edgemoor Avenue intersection.

Dear Ladies and Gentlemen:

At its regular meeting on Tuesday, January 26, 2010, 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
Julianne Kallman, Public Works Engineering, Mailstop 1-71
Pickering Firm, Inc., c/o Cara Martin, PE, 6775 Lenox Center Court, Suite 300, Memphis, TN 38115
Prism Properties, LLC, 601 N. Broadway, Wichita, KS 67214
AMCap Acadis 8th Addition, LLC, c/o Kroger Supermarkets, 5500 E. Harry, Wichita, KS 67218

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

**IN THE MATTER OF THE VACATION OF)
PORTIONS OF PLATTED UTILITY EASEMENTS)**

**GENERALLY LOCATED)
NORTHWEST OF THE EDGEMOOR AVENUE -)
HARRY STREET INTERSECTION)**

Case No. VAC2006-00026

MORE FULLY DESCRIBED BELOW)

VACATION ORDER

NOW on this 26th day of January, 2010 comes on for hearing the petition for vacation filed by Dillon Companies, Inc., & Kroger Texas L.P., all c/o James E. Hodge, Vice President, praying for the vacation of the following described portions of platted utility easements to wit:

BEING A LEGAL DESCRIPTION OF A PORTION OF AN EXISTING 8-FOOT WIDE UTILITY EASEMENT LOCATED ON LOTS 13, 14, 15, 16, 17 AND 18, BLOCK 3, OF SOUTHEAST MANOR AN ADDITION TO WICHITA, KANSAS, SAID PROPERTY SITUATED IN WICHITA, KANSAS, SAID EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE INTERSECTION OF THE CENTERLINE OF BOSTON STREET (PUBLIC, ASPHALT PAVED ROAD, ROW VARIES) AND THE CENTERLINE OF PARKWOOD LANE (PUBLIC, ASPHALT PAVED ROAD, ROW VARIES); THENCE RUN SOUTH 89 DEGREES 56 MINUTES 44 SECONDS EAST ALONG THE CENTERLINE OF BOSTON STREET – 155.97 FEET TO A POINT; THENCE SOUTH 00 DEGREES 03 MINUTES 16 SECONDS WEST – 30.00 FEET TO

THE POINT OF BEGINNING IN THE SOUTH ROW LINE OF BOSTON STREET; THENCE SOUTH 89 DEGREES 56 MINUTES 44 SECONDS EAST ALONG THE SOUTH LINE OF BOSTON STREET 8.00 FEET TO THE NORTHEAST CORNER OF LOT 18, BLOCK 3, SOUTHEAST MANOR SUBDIVISION; THENCE SOUTH 00 DEGREES 00 MINUTES 32 SECONDS EAST ALONG THE EAST LINE OF LOTS 18, 17, 16, 15, AND 14 A DISTANCE OF 298.72 FEET; THENCE SOUTH 89 DEGREES 56 MINUTES 44 SECONDS WEST – 8.00 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 32 SECONDS WEST – 298.72 FEET TO THE POINT OF BEGINNING. CONTAINING 2,390 SQUARE FEET OR 0.0549 ACRES, MORE OR LESS.

&

BEING A LEGAL DESCRIPTION OF A PORTION OF AN EXISTING 10-FOOT WIDE UTILITY EASEMENT LOCATED ON LOT 1, DILLION 8TH ADDITION, AN ADDITION TO WICHITA, KANSAS, SAID PROPERTY SITUATED IN WICHITA, KANSAS, SAID EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE CENTERLINE OF BOSTON STREET (PUBLIC, ASPHALT PAVED ROAD, ROW VARIES) AND THE CENTERLINE OF PARKWOOD LANE (PUBLIC, ASPHALT PAVED ROAD, ROW VARIES); THENCE RUN SOUTH 89 DEGREES 56 MINUTES 44 SECONDS EAST ALONG THE CENTERLINE OF BOSTON STREET – 163.97 FEET TO A POINT; THENCE SOUTH 00 DEGREES 03 MINUTES 16 SECONDS WEST – 30.00 FEET TO THE POINT OF BEGINNING IN THE SOUTH ROW LINE OF BOSTON STREET; THENCE SOUTH 89 DEGREES 56 MINUTES 44 SECONDS EAST ALONG THE SOUTH LINE OF BOSTON STREET 10.00 FEET TO A POINT; THENCE SOUTH 00 DEGREES 00 MINUTES 32 SECONDS EAST A DISTANCE OF 298.72 FEET; THENCE SOUTH 89 DEGREES 56 MINUTES 44 SECONDS WEST – 10.00 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 32 SECONDS WEST – 298.72 FEET TO THE POINT OF BEGINNING. CONTAINING 2,987 SQUARE FEET OR 0.0686 ACRES, MORE OR LESS.

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 June 15, 2006, 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 portions of platted utility easements, and the public will suffer no loss or inconvenience thereby.
3. A dedication by separate instrument of an additional width of 2 feet of utility easement

(to run parallel to the platted easement located parallel the west lot line lines of Lots 13, 12, 11, & 10, Block 3, Southeast Manor Addition) will be recorded with the Sedgwick County Register of Deeds.

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 portions of platted utility easements described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 26th day of January 2010, ordered that the above described portions of plated utility 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.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary Rebenstorf, Director of Law

STAFF REPORT

CASE NUMBER: VAC2006-00026: Request to vacate portions of platted easements

OWNER/APPLICANT: Dillon Real Estate Co., Inc.

AGENT: Pickering Inc., c/o Cara Martin, PE

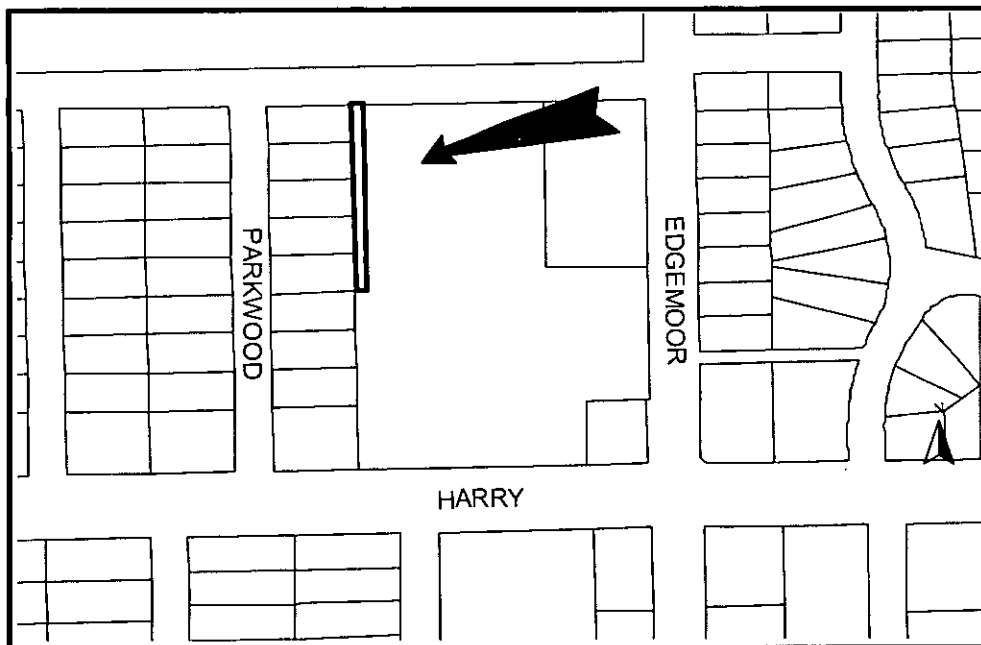
LEGAL DESCRIPTION: Generally described as the north half of the platted 10-foot wide utility easement running parallel to the west side of Lot 1, Dillon 8th Addition, and the north portion of the platted 8-foot wide easement running parallel to the east sides of Lots 14, 15, 16, 17 & 18, Block 3, Southeast Manor Addition, all in Wichita, Sedgwick County, Kansas.

LOCATION: Generally northwest of the Edgemoor Avenue - Harry Street intersection (WCC #III)

REASON FOR REQUEST: Proposed westward expansion of existing building

CURRENT ZONING: The eastern subject property is zoned "LC" Limited Commercial and the western subject properties are zoned "MF-29" Multi-family Residential. The adjacent northern property is zoned "TF-3" Duplex Residential. Adjacent properties east and south of the site are zoned "SF-5" Single-family Residential and "LC" Limited Commercial. Properties abutting the west of the site is zoned "B" Multi-family Residential.

VICINITY MAP:



The applicant proposes to vacate the portions of the platted easements, as generally described (see legal) and as shown on the applicant's exhibit. The easements have manholes and sewer line in them. There is no water line located in the easements. The applicant proposes to retain the south half of the platted easements. There are no platted interior side yard setbacks in either of the plats where the easements have been platted. The Dillon 8th Addition was recorded with the Register of Deeds April 2, 1982. The Southeast Manor Addition was recorded with the Register of Deeds July 26, 1951. This case is associated with ZON2006-00021.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portions of the platted easements, as described, with 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 June 15, 2006 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 portions of the platted easements 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 portions of the platted easements described in the petition should be approved with conditions;

- (1) Dedicate an additional 2-foot of easement to run parallel to the platted 8-foot easement located on Lots 10, 11, 12, & 13, Block 3, Southeast Manor Addition.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities with any needed plans for review for location of utilities. Provide a guarantee/petition for the relocation of the sewer line and manholes.
- (3) Retain the easements until all utilities have been relocated (or provide a guarantee/petition for relocation of the utilities that has been accepted by the City) and the new easements for the relocated utilities have been recorded with the Register of Deeds.
- (4) All improvements shall be according to City Standards and at the applicant's expense.

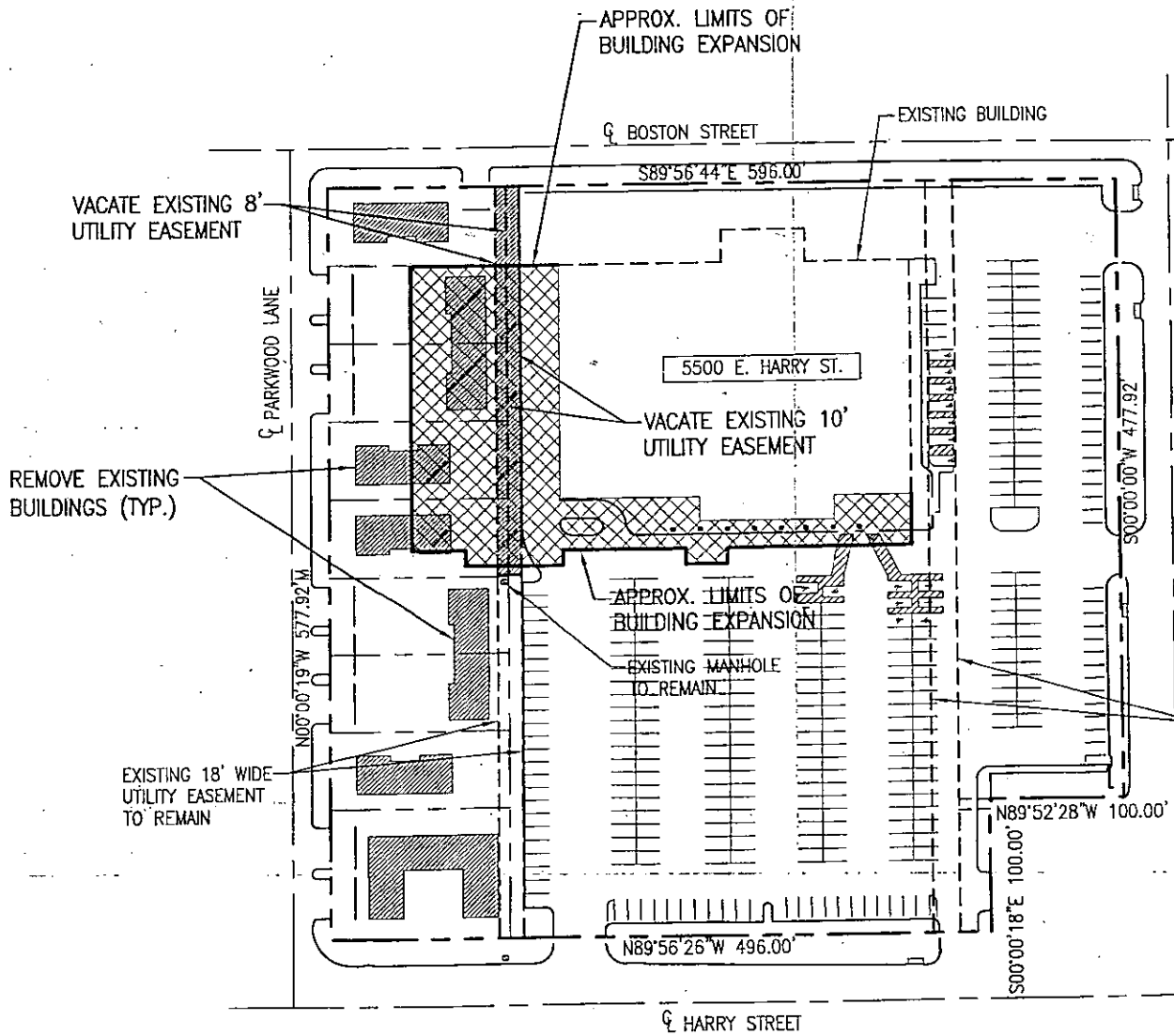
(5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final 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) Dedicate an additional 2-foot of easement to run parallel to the platted 8-foot easement located on Lots 10, 11, 12, & 13, Block 3, Southeast Manor Addition.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities with any needed plans for review for location of utilities. Provide a guarantee/petition for the relocation of the sewer line and manholes.
- (3) Retain the easements until all utilities have been relocated or a guarantee/petition for relocation of the utilities has been accepted by the City and the new easements for the relocated utilities has been recorded with the Register of Deeds.
- (4) All improvements shall be according to City Standards and at the applicant's expense.
- (5) Per 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.

VAC2006-26



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