



Wichita-Sedgwick County Metropolitan Area Planning Department

February 15, 2007

FBN Corporation
Attn: Perry Duncan
5901 S. Webb Rd
Derby, KS 67037


Re: **VAC2006-00040** - Request to vacate an easement dedicated by separate instrument, generally located on the east side of Webb Road, midway between Harry & Lincoln Streets

Dear Mr. Duncan:

At its regular meeting on Tuesday, February 13, 2007, 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
Baughman Company, P.A., c/o Phil Meyer, 315 Ellis, Wichita, KS 67211
Joel Associates, LLC, Attn: Len Marotte, 1999 N. Amidon, Suite 375, Wichita, KS 67203-2121

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)
A UTILITY EASEMENT DEDICATED BY)
SEPARATE INSTRUMENT)**

**GENERALLY LOCATED)
ON THE EAST SIDE OF WEBB ROAD AND)
SOUTH OF LINCOLN STREET)**

Case No. VAC2006-00040

MORE FULLY DESCRIBED BELOW)

VACATION ORDER

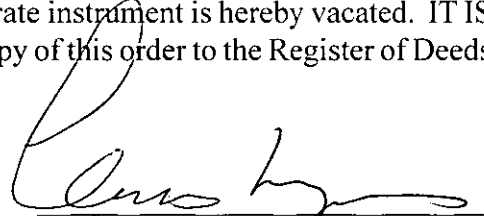
NOW on this 13th day of February, 2007 comes on for hearing the petition for vacation filed by FBN Corporation, c/o Perry Duncan and Joel Assoc., LLC, c/o Len Marrotte praying for the vacation of the following described utility easement dedicated by separate instrument (Film/Page 28770416), to wit:

That part of Lot 1, Harrison Park 3rd Addition, Wichita, Sedgwick County, Kansas described as follows: Commencing at the SW corner of said Lot 1; thence N00degrees46'01"W along the west line of said Lot 1, 255.90-feet for a point of beginning; thence continuing N00degrees46'01"W along the west line of said Lot 1, 20.00-feet; thence N89degrees15'14"E 260.00-feet; thence N00degrees46'01"W, 140.60-feet to the SE corner of Lot 2 in said Harrison Park 3rd Addition; thence continuing N00degrees46'01"W along the east line of said Lot 2, 14.97-feet; thence N88degrees56'02"E, 20.00-feet; thence S00degrees46'01"E, 175.68-feet; thence S89degrees15'14"W, 280.00-feet to the point of beginning.


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 26, 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 utility easement dedicated by separate instrument, and the public will suffer no loss or inconvenience thereby.
3. An easement dedicated by separate instrument will be recorded with the 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 utility easement dedicated by separate instrument described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 13th day of February 2007 ordered that the above-described utility easement dedicated by separate instrument 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.

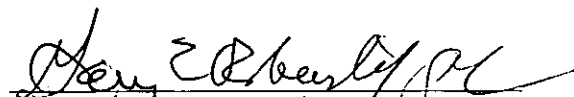

Carlos Mayans, Mayor

ATTEST:


Karen Sublett, City Clerk

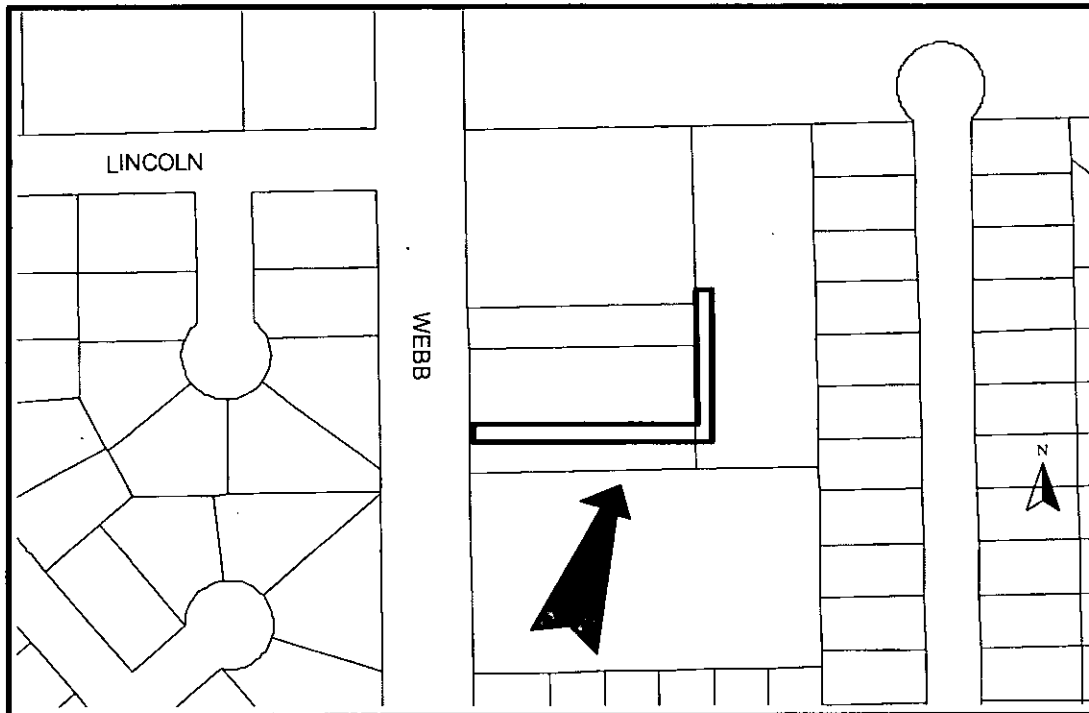


Approved as to Form:


Gary Reberstorf, Director of Law

STAFF REPORT

- CASE NUMBER:** VAC2006-00040 Request to vacate a utility easement dedicated by separate instrument
- APPLICANTS/OWNERS:** FBN Corporation, c/o Perry Duncan Joel Assoc., LLC, c/o Len Marrotte
- AGENT:** Baughman Company, PA c/o Phil Meyer
- LEGAL DESCRIPTION:** Generally described as the 20-foot wide easement dedicated by separate instrument (Film/Page 28770416, see Exhibit provided by applicant) located along a south and east portion of Lot 1, Harrison Park 3rd Addition, Wichita, Sedgwick County, Kansas
- LOCATION:** Generally located on the east side of Webb Road and south of Lincoln Street. (WCC District #II)
- REASON FOR REQUEST:** Development and encroachment into a portion of easement
- CURRENT ZONING:** The site and abutting southern, northern and eastern sites are zoned "LC" Limited Commercial. Property west and across Webb Road is zoned "SF-5" Single-family Residential
- VICINITY MAP:**



The applicant has applied for the vacation of the described easement dedicated by separate instrument. There is a projected water line in the east portion of the easement, Project #448-90188. There are no sewer lines or manholes in the easement. Comments from franchised utilities have not been received and are needed to determine if they have utilities in the easement. The Harrison Park 3rd Addition was recorded with the Register of Deeds September 7, 2000. There is an associated Lot Split of Lot 1, Harrison Park 3rd Addition, SUB2006-67, approved October 2, 2006.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the easement dedicated by separate instrument, 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, in the Wichita Eagle, of notice of this vacation proceeding one time October 26, 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 portion of easement dedicated by separate instrument 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 portion of the easement dedicated by separate instrument described in the petition should be approved with conditions;

- (1) A projected water line is in the eastern portion of the easement dedicated by separate instrument. Any relocation or reconstruction of water/utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. Provide Public Works with any necessary plans for review and approval of relocated water line. Provide Public Works with a petition/guarantee to relocate the water line. Provide Planning with an easement to be recorded with the Register of Deeds. Retain the easement until all utilities have been relocated or provide a temporary easement to Planning to go with the vacation order to WCC. If the water line is to remain in this portion of the easement dedicated by separate instrument, retain that portion of the easement. If the water line reverts to a private line provide Public Works with required plans for review and approval and any required guarantee/petition. Provide Planning staff with a legal description of the approved vacated (portion) of the easement on a word document via e-mail.
- (2) All improvements shall be according to City Standards, at the applicant's expense.
- (3) 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 requests 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:

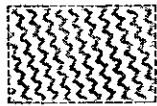
The Subdivision Committee recommends approval subject to the following conditions:

- (1) A projected water line is in the eastern portion of the easement dedicated by separate instrument. Any relocation or reconstruction of water/utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. Provide Public Works with any necessary plans for review and approval of relocated water line. Provide Public Works with a petition/guarantee to relocate the water line. Provide Planning with an easement to be recorded with the Register of Deeds. Retain the easement until all utilities have been relocated or provide a temporary easement to Planning to go with the vacation order to WCC. If the water line is to remain in this portion of the easement dedicated by separate instrument, retain that portion of the easement. If the water line reverts to a private line provide Public Works with required plans for review and approval and any required guarantee/petition. Provide Planning staff with a legal description of the approved vacated (portion) of the easement on a word document via e-mail.
- (2) All improvements shall be according to City Standards, at the applicant's expense.
- (3) 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 requests 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.

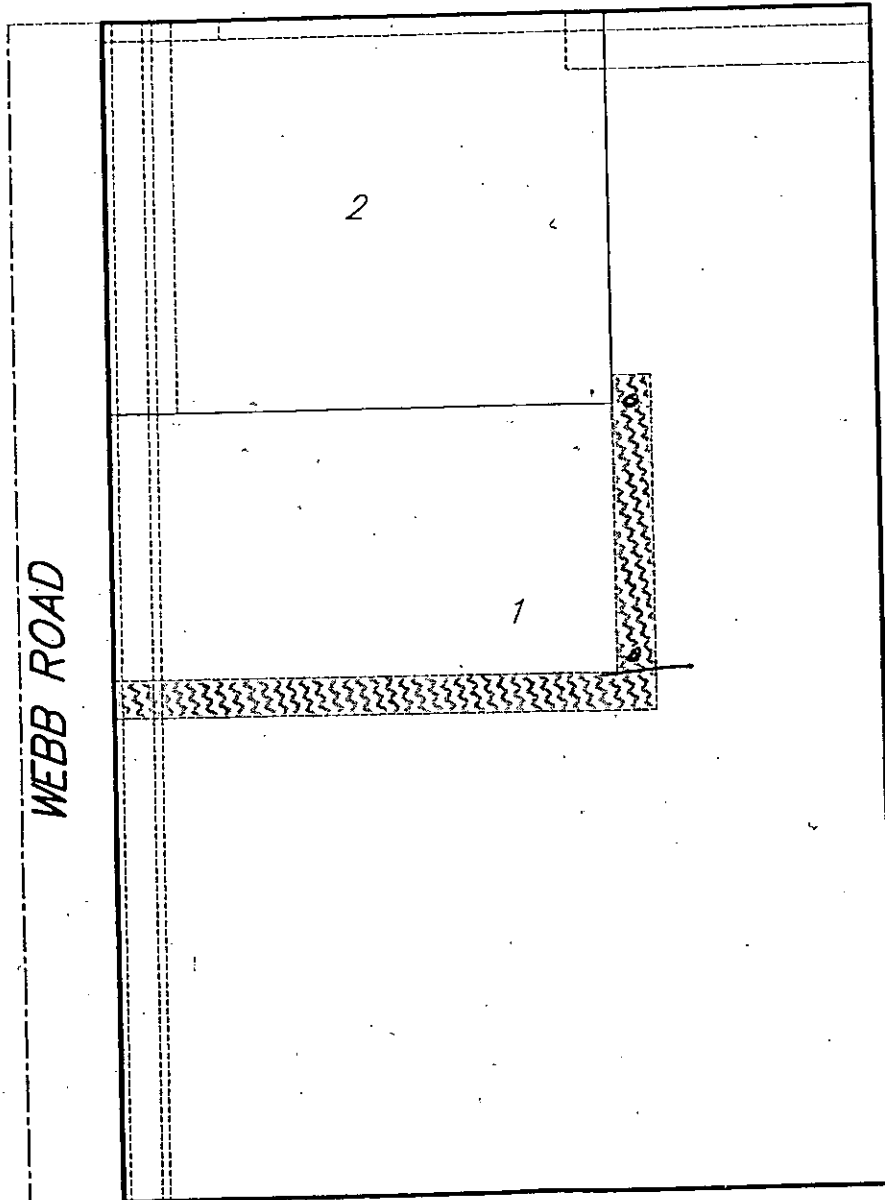
VAC2006-40

EXHIBIT

**PART OF LOT 1,
HARRISON PARK 3RD ADDITION**



INDICATES UTILITY EASEMENT,
(DOC.#/FLM-PG: 28770416),
TO BE VACATED



3 OCT 2006

 **Baughman Company, P.A.**
315 Ellis St. Wichita, KS 67211 P 316-262-7271 F 316-262-0149
Baughman ENGINEERING | SURVEYING | PLANNING | LANDSCAPE ARCHITECTURE

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