

STAFF REPORT

CASE NUMBER: VAC2007-00022 Request to vacate portions of platted complete access control

OWNER/APPLICANTS: COF, LLC, c/o Jac Jensik Wichita Northwest Medical Properties, LLC, 37<sup>th</sup> & Ridge Development Company, LLC, c/o Mike Boyd

AGENT: Baughman Company, PA

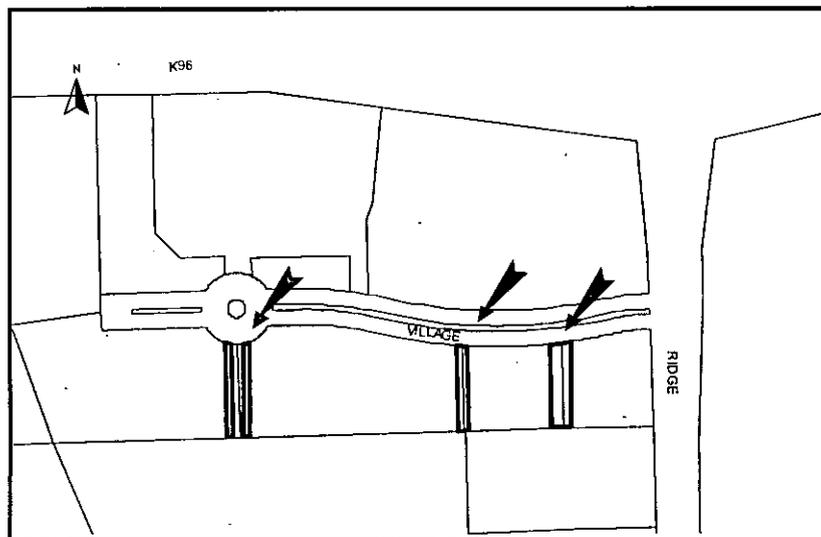
LEGAL DESCRIPTION: Reduce, by 30-feet, the platted 60-foot access easement centered on the lot line common to Lots 3 & 4 & remove the platted 60-foot access easement centered on the common lot line of Lots 1 & 2, all in Block 1, all in North Ridge Village Addition, Wichita, Sedgwick County Kansas; apply complete access control to those above described access easements. Vacate 30-feet of platted complete access control along the common lot line of Lots 3 (10-feet) and 2 (20-feet), all in Block 1, all in North Ridge Village Addition, Wichita, Sedgwick County Kansas.

LOCATION: Generally located west of Ridge Road, south of K-96 and on the south side of Village Circle (District #V)

REASON FOR REQUEST: Improve access and internal circulation on property and to satisfy the title company's requirements

CURRENT ZONING: The site and all abutting and adjacent northern and southern properties are zoned "LC" Limited Commercial. The site and the adjacent northern properties are part of CUP DP-280. The abutting western property is zoned "SF-5" Single-family Residential and is part of CUP DP-280. Adjacent eastern properties, across Ridge Road, are zoned "SF-20" Single-family Residential

VICINITY MAP:



The applicants are requesting for the described vacation of the platted complete access control, in order to relocate access the described lots. The vacation request is associated with an adjustment to CUP DP 250 & 280: CUP 2007-036. There is a sewer line located in the 30-feet (of the 60-foot total) of access easement located on Lot 1. There is a sewer line located in the remaining 30-feet (of the 60-foot total) of access easement located on the common lot lines of Lot 3 & 4. Water is located in the street right-of-way (ROW). Comments from franchised utilities have determined that they have no utilities in the access easements. The North Ridge Village Addition was recorded with the Register of Deeds April 13, 2005.

Note: At the time the North Village Addition was recorded a dedication by separate instrument for the referenced access easements was recorded. The dedication was a private contractual agreement, which the City was not a party to. Neither the plat nor the plat's text references the dedication by separate instrument and its language indicating the access easements are a private contract. Although the City has no jurisdiction over private agreements (this access easement), the lack of reference on the plat and in the plat's text to the private agreement has created an issue with the title company in reference to the subject property, thus the vacation request and subsequent Vacation Order as the document that will satisfy the title company's requirements for clear title.

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, the Traffic Engineer, franchised utility representatives and other interested parties, Planning Staff recommends approval of the requested vacation of the described portions of complete access control, with the following findings:

- 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 & the Derby Reporter of notice of this vacation proceeding one time June 28, 2007 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 platted complete access control 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 a portion of the platted complete access control described in the petition should be approved with conditions;

- (1) Allow as approved by the Traffic Engineer.
- (2) CUP2007-36 will reflect the approved vacation request VAC2007-22.
- (3) Any relocation or reconstruction of utilities made necessary by the vacation shall be the responsibility and at the expense of the applicant, including dedication of utility easements to cover the relocated utilities. If utilities, specifically the sewer lines, are to remain in their

current locations, along the common lot lines of Lots 3 & 4 and on the western portion of Lot 1, all in Block 1, all in North Ridge Village Addition, retain 30-feet of the access easements as a sewer/utility easement, as directed by Public Works/Water & Sewer/Storm Water/franchised utilities.

- (4) All improvements shall be to the City's standards and at the owner'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:**

- (1) Allow as approved by the Traffic Engineer.
- (2) CUP2007-36 will reflect the approved vacation request VAC2007-22.
- (3) Any relocation or reconstruction of utilities made necessary by the vacation shall be the responsibility and at the expense of the applicant, including dedication of utility easements to cover the relocated utilities. Any dedication of public utility easements must be approved by Public Works and will be forwarded to Planning to go with the Vacation Order to the Wichita City Council. If utilities, specifically the sewer lines, are to remain in their current locations, along the common lot lines of Lots 3 & 4 and on the western portion of Lot 1, all in Block 1, all in North Ridge Village Addition, retain 30-feet of the access easements as a sewer/utility easement, as directed by Public Works/Water & Sewer/Storm Water/franchised utilities.
- (4) All improvements shall be to the City's standards and at the owner'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.

