

D-1475 - Frank Carney, etux, dedicates temporary drainage, located west of Tara Lane, in an area north of Douglas.

posted 9-25-87
Kb

Ⓟ

L700

ACTION

DATE

COMMITTEE

M.A.P.C.

by, etux, dedicates
located west of
a north of Douglas.

6047

ACTION

COMMITTEE	DATE
_____	_____
M.A.P.C.	_____
R.C.C./B.G.G.-C. <i>Approved</i>	12/13/87

DEDICATION REPORT AND PROGRESS

MAP NO. 6047 D
SEC. NO. 20
TWP. NO. 27S
RANGE 2E

CASE NO.: D-1475

ASSOCIATED CASE: D-1347 &
V-1265

1. OFFER TO DEDICATE: Temporary drainage.

GENERALLY LOCATED: West of Tara Lane, in an area north of Douglas.

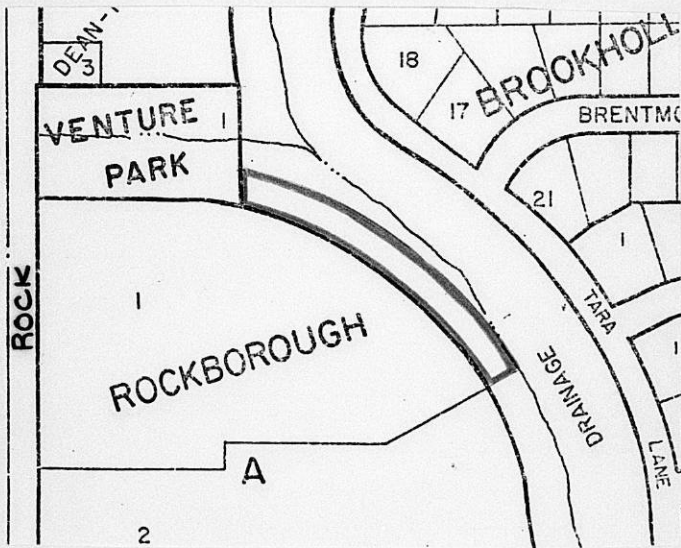
LEGALLY DESCRIBED AS:

A 62-foot wide strip of the drainage dedication platted in Brookhollow Addition, more particularly described as follows: Beginning at the southeast corner of Venture Park Addition; thence north along the east line of said Venture Park Addition, a distance of 63.55 feet to a point on a curve whose radius is 707 feet; thence southeasterly along said 707-foot radius curve to the right, a distance of 591.11 feet to its point of intersection with the southeast line of Lot 1 of Block A of Rockborough Addition extended; thence south 60 degrees west, a distance of 62 feet to the southeast corner of said Lot 1; thence northwesterly along the east line of said Lot 1, said line being a curve whose radius is 645 feet, for a distance of 525.95 feet to the point of beginning, containing 0.794 acres, more or less.

DEDICATED BY: Frank Carney, etux

PURPOSE OF DEDICATION:

II. SKETCH.



III. FILED 9/16/87
POSTED TO ATLAS _____
S/D COMM. ACTION _____
M.A.P.C. ACTION _____

B.C.C. ACTION 10/13/87 *Approved*
PLACED ON RECORD _____
CITY CLERKS NO. _____

Planning Agenda Item # _____

City of Wichita
City Council Meeting
October 13, 1987

Agenda Report # _____

TO: Mayor and City Council Members

SUBJECT: D-1475 - DEDICATION OF A TEMPORARY DRAINAGE DEDICATION,
LOCATED WEST OF TARA LANE, IN AN AREA NORTH OF DOUGLAS.

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning

Staff Recommendation: Accept the dedication.

Background: On October 9, 1984, the City Council approved the vacation of the drainage right-of-way that is subject to this temporary drainage dedication. A requirement of that past vacation case (V-1265) was the temporary dedication of the right-of-way back to the public until the applicant completed construction of the major retaining wall needed to allow vacation of the drainage right-of-way.

The expected completion date for the retaining wall was October 9, 1987. Due to delays in the applicant's plan's for construction on the adjacent property, the retaining wall has not been completed as planned. Acceptance of this temporary dedication is needed in order to grant a two-year time extension for wall construction. The wording of the "temporary drainage dedication" has been reviewed and approved by the Law Department.

The new completion date for the retaining wall is October 9, 1989. If the wall is not constructed by that date, the temporary dedication shall expire and the previously vacated drainage right-of-way will automatically revert back to an outright drainage dedication.

Financial Considerations: Bill the recording costs to:

Carney Enterprises
Attention: Frank Carney
302 N. Rock Road, Suite 210
Wichita, KS 67206

Recommendations/Actions: Accept the temporary dedication and record document.

PL/7556/5

THE CITY OF WICHITA

City of Wichita, Department of Law and City Attorney
1000 W. 21st Street, Wichita, Kansas 67202



DEPARTMENT OF LAW
OFFICE OF CITY ATTORNEY
CITY HALL - THIRTEENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202 - 1635
(316) 268-4681

September 25, 1987

Mr. M. S. Mitchell
1215 Forest
Wichita, Kansas 67203

Re: Draft Maintenance Agreement
for Executive Inn and Tempo-
rary Drainage Dedication by
Carney

Dear Mitch:

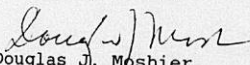
I have spoken with the Planning Department concerning the above documents and have reviewed them myself.

The temporary drainage dedication by the Carneys to the City is approved as to form.

The maintenance agreement between Executive Inn and the City is approved subject to your redrafting the document to reflect the legally correct entity which acts on behalf of the Executive Inn and a renumbering of the paragraphs to reflect the fact that you omitted the number 3.

By copy of this letter I am informing Chris Breitenstein and Forrest Nagley that we have reviewed these documents and approved them.

Very truly yours,


Douglas J. Moshier
Assistant City Attorney

DJM:cdh

cc: Chris Breitenstein, Civil Engineer
Forrest Nagley, Senior Planner

RECEIVED

OCT 01 1987

METROPOLITAN PLANNING

ROUTE _____

TEMPORARY DRAINAGE DEDICATION

KNOW ALL MEN BY THESE PRESENTS:

That, pursuant to the City Commission action of October 9, 1984 in approving Vacation Case V-1265, for and in consideration of One No/100 Dollar (\$1) and other good and valuable consideration, receipt of which is hereby acknowledged, the undersigned, Frank L. Carney and Zenda Carney, being owners of the following described real estate in the City of Wichita, Sedgwick County, Kansas, to-wit:

A 62 foot wide strip of the Drainage Dedication platted in Brookhollow Addition, more particularly described as follows: Beginning at the Southeast corner of Venture Park Addition; thence north along the East line of said Venture Park Addition a distance of 63.55 feet to a point on a curve whose radius is 707 feet; thence southeasterly along said 707 foot radius curve to the right a distance of 591.11 feet to its point of intersection with the southeast line of Lot 1 of Block A of Rockborough Addition extended; thence South 60 degrees West a distance of 62 feet to the southeast corner of said Lot 1; thence northwesterly along the east line of said Lot 1, said line being a curve whose radius is 645 feet, for a distance of 525.95 feet to the point of beginning, containing 0.794 acres, more or less,

did dedicate the above described real estate to the public as a temporary drainage easement subject to several terms and conditions, among which was the condition that dedication of the above described drainage easement was temporary only. Because of unforeseen delays in the preparation of drainage plans for the project which the retaining wall was intended to serve, the undersigned wish to extend the term of that temporary dedication from its present termination date of October 9, 1987 for a period of two additional years so that its new termination date would become October 9, 1989 and do hereby dedicate the above described real estate to the public temporarily for drainage purposes on the following terms and conditions:

A. That this dedication of a drainage easement across the above described real property is temporary only and shall be for a term ending October 9, 1989. However, the term of this dedication may be perpetuated beyond October 9, 1989 by commencement of construction, prior to that date, of the retaining wall contemplated by the City of Wichita and the undersigned and described in a separate instrument executed by Carney guaranteeing the construction of said retaining wall, and shall continue so long thereafter as it may take to construct said wall.

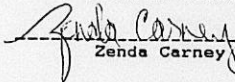
B. In the event that the term of this temporary drainage dedication is perpetuated, by construction, beyond October 9, 1989, this amended temporary drainage dedication shall cease upon the completion of said retaining wall and said retaining wall will be considered, for all purposes, completed upon an affidavit of completion being duly filed with the Register of Deeds of Sedgwick County, Kansas by the Project Engineer, retained by Carney for the purposes of designing and supervising construction of said retaining wall. Said Project Engineer to be an engineer duly licensed by the State of Kansas to design and oversee the construction of said project.

C. In the event the construction of the retaining wall has not been commenced by October 9, 1989, this temporary drainage dedication shall expire and the vacated drainage right-of-way shall automatically revert back to an outright drainage dedication.

This Temporary Drainage Dedication is executed this 16th day of September, 1987.



Frank L. Carney



Zenda Carney

State of Kansas)
) SS.
Sedgwick County)

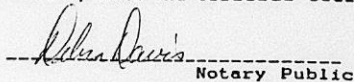
BE IT REMEMBERED, that before me, the undersigned, a Notary Public, within and for said County and State, on this 16th day of September, 1987, personally appeared FRANK L. CARNEY and ZENDA CARNEY, to me personally known to be the identical persons who executed the within and foregoing Temporary Drainage Dedication and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the date and year last above written.



My Commission Expires:

April 2, 1989



Notary Public

CARNEY ENTERPRISES / 302 N. ROCK ROAD / SUITE 210 / WICHITA, KANSAS 67206 / 316-683-4624

September 16, 1987

Mr. Marvin Krout
Director of Metropolitan Area
Planning Department
City of Wichita
455 North Main
Wichita, Kansas 67202

Re: Vacation Case #V-1265

Dear Mr. Krout:

The purpose of my letter is to request that the City Commission extend the deadline for the commencement of construction of the required retaining wall along Gypsum Creek from October 9, 1987, to October 9, 1989, thereby extending the terms and conditions of the original canal vacation.

The reasons for the request are several. Initially, we had to work out an agreement with the apartment owners south of our project regarding draining improvements, approval of plans and specifications, granting of easements, and future maintenance responsibilities. The time requirement for securing this agreement was longer than expected. During that time period the 1986 Tax Reform Law was passed which adversely affected the construction of our planned office building. The speculation regarding the impact of the law was replaced with developers trying to "rethink" their projects in light of the new law, a law which significantly changed the economics of development. A time-consuming chain reaction began to occur where lenders now had to "rethink" their view of the project.

Thirdly, the future traffic situation on North Rock Road is not resolved. We have previously petitioned for a deceleration lane but are now informed that our petition is being answered in the form of a center lane for left turns which we feel would not extend far enough south to help us. It is our understanding that this project, one which has a major impact on our new construction, is "on hold" pending a traffic study.

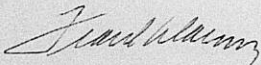
All of these things, the last two of which are completely beyond our control, have worked to delay the beginning of construction on the retaining wall. This time extension is requested in light of these situations with the thought that the additional time will allow us to restructure our development and also know the actual traffic plans for Rock Road before beginning construction.

I am enclosing the following:

- 1) A Temporary Drainage Dedication which will extend the present dedication of the subject real estate to the public until such time as we can begin construction of the retaining wall; and,
- 2) Amendment No. 2 to the Irrevocable Letter fo Credit No. C-1873 dated September 5, 1984, in the amount of \$220,000 to extend its terms to December 9, 1989.

I would appreciate your consideration of all of these factors in reviewing my request.

Yours truly,



Frank L. Carney

FLC:ba
Encl.