

Planning Agenda # _____

**City of Wichita
City Council Meeting
October 3, 2000**

Agenda Report # _____

TO: Mayor and City Council

SUBJECT: VAC2000-00016 -REQUEST TO VACATE STREET RIGHT-OF-WAY LOCATED ON OSAGE STREET BETWEEN 2nd STREET AND MCLEAN BOULEVARD.
(District IV)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning



Staff Recommendation: Approve vacation of street right-of-way.

MAPC Recommendation: Approve vacation of street right-of-way. (unanimous)

Background: The applicants are requesting to vacate a portion of Osage Street right-of-way to provide extra surface parking for the adjoining properties. This request is in conjunction with the sale of City property to Fenix Company for expansion of their building and business west of the existing Osage Street right-of-way. The contract for the sale of this property outlines several requirements, conditions, and restrictions, which include, but are not restricted to:

1. that there shall be no access between the property and McLean Boulevard,
2. that the property shall have a minimum 30-foot building setback from McLean Boulevard right-of-way
3. that a minimum 20-foot permanent landscape easement shall be installed on the north 20 feet of the property,
4. that the property and parking lot be properly screened, AND
5. that the property shall not have outdoor advertising signs, portable signs, banners, pennants, or string-type lighting.

The ownership of the west half of the right-of-way shall revert to Fenix Company, Inc., Heating and Cooling, while the east half shall be retained by the City of Wichita for use as parking with their facility at 740 W. Second Street.

No one spoke in opposition to this request at the MAPC's advertised public hearing, and the MAPC voted to approve the vacation, adopting the findings of fact that are incorporated in the Vacation Order, subject to the applicants dedicating complete access control along the north boundary of the vacated right-of-way, maintaining landscaping and screening consistent with the properties to the west and east, as stipulated in prior agreements between Fenix Company, Inc., Heating and Cooling and The City of Wichita, submitting by separate instrument a joint access agreement between the two adjacent property owners for use of the joint parking area (previously Osage right-of-way), submitting a guarantee for the removal of curb returns along 2nd Street and the construction of a single private shared access driveway, dedicating by separate instrument a utility and drainage easement that includes all the existing street right-of-way, and filing a restrictive covenant that ties the subject parcels together. No written protests have been filed.

Legal Considerations: A certified copy of the Vacation Order, Dedication of access control, joint access agreement, utility and drainage easement, and restrictive covenant will be recorded with the Register of Deeds.

Recommendations/Actions: Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

Page 1

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

**IN THE MATTER OF THE VACATION OF
STREET RIGHT-OF-WAY**

**GENERALLY LOCATED
OSAGE STREET BETWEEN 2ND AND MCLEAN
BOULEVARD**

MORE FULLY DESCRIBED BELOW

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) **Case No. VAC2000-00016**
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VACATION ORDER

NOW on this 3rd day of October, 2000, comes on for hearing the petition for vacation filed by City of Wichita, c/o John Philbrick; JBR Associates (Fenix Company), praying for the vacation of the following described street right-of-way, to-wit:

Osage Street from North line of 2nd Street to the South line of McLean Boulevard with 35 feet of street right-of-way to be vacated to each of the adjoining property owners

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 May 24, 2000, 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 street right-of-way, 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.

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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 street right-of-way described herein should be approved subject to the following conditions:

- A) The applicants shall dedicate complete access control along the north boundary of the vacated right-of-way.
- B) The applicants shall maintain landscaping and screening consistent with the properties to the west and east, as stipulated in prior agreements between Fenix Company, Inc. Heating and Cooling and The City of Wichita.
- C) The applicants shall submit, by separate instrument, a joint access agreement between the two adjacent property owners for use of the joint parking area (previously Osage right-of-way).
- D) The applicants shall submit a guarantee for the removal of curb returns along 2nd Street and the construction of a single private shared access driveway.
- E) The applicants shall dedicate, by separate instrument, a utility and drainage easement that includes all the existing street right-of-way.
- F) The applicants shall file a restrictive covenant that ties the following parcels together:

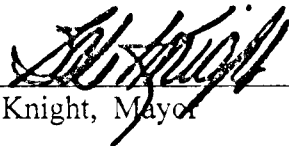
Odd Lots 111 through 121, together with the east 7.5 feet of the vacated alley adjoining said lots on the West, and the West 20 feet of vacated Osage adjoining on the East, on Osage;
TOGETHER WITH

All of Odd Lots 123 through 131, together with the East ½ of the vacated alley adjoining said lots on the West and the West 20 feet of vacated Osage adjoining said lots on the East;
TOGETHER WITH

The East 80 feet of Lots 133 and 135, together with the East 7.5 feet of the vacated adjoining said lots on the West, all on Osage; AND

The East 33 feet of the West 45 feet of Lots 133 and 135, on Osage.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 3rd day of October 2000, ordered that the above-described street right-of-way 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.



Bob Knight, Mayor

ATTEST:



Pat Burnett, City Clerk

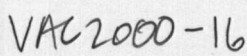


Approved as to Form:



Gary Rebenstorf, Director of Law

1



THIS SHEET PREPARED UNDER