

Planning Agenda # \_\_\_\_\_

City of Wichita  
City Council Meeting  
February 6, 2001

Agenda Report # \_\_\_\_\_

**TO:** Mayor and City Council

**SUBJECT:** VAC2000-00060 - REQUEST TO VACATE A PORTION OF THE PLATTED 25-FOOT UTILITY EASEMENT LOCATED AT THE SOUTHWEST CORNER OF CENTRAL AND CEDAR DOWNS CIRCLE. (District V)

**INITIATED BY:** Metropolitan Area Planning Department <sup>MK</sup>

**AGENDA ACTION:** Planning

---

Staff Recommendation: Disapprove vacation of a portion of the platted 25-foot utility easement.

MAPC Recommendation: Approve vacation of a portion of the platted 25-foot utility easement. (9-3)

Background: The applicant is requesting to vacate a portion of the platted utility easement to expand site width for proposed home. His agent indicated that he received a conditional permit to construct a foundation for the home that encroaches 4-feet into the easement, and that, while recognizing that the vacation might not be approved, the distance between the proposed new building line and an existing sewer in the easement was not unusual.

Water and Sewer staff spoke in opposition to this request at the MAPC's advertised public hearing. They expressed concern that the sewer line would be too close to the home 4.5 feet to allow trenching without damage to the home. They also pointed out that, while sewer lines may be as close to building lines in other situations, those are usually in rear and not side yards, and homes are not normally built to the rear building line. Following considerable discussion, the MAPC voted to approve the vacation. MAPD staff is recommending that the vacation be disapproved. The applicant could sign a "Hold Harmless" agreement that would allow the home to be built, but protect the City from liability in the event that the home is damaged in the process of repairing or replacing the sewer line. The other option would be to remove the foundation and revise the building plans. No written protests have been filed.

Legal Considerations: A certified copy of the Vacation Order will be recorded with the Register of Deeds if the Council approves the vacation.

Recommendations/Actions:

1. Approve the Vacation Order, as recommended by the MAPC, and authorize the necessary signatures, or
2. Deny the Vacation petition, as recommended by staff.

**METROPOLITAN AREA PLANNING COMMISSION**

**AGENDA ITEM NO. 3-1**  
**December 21, 2000**

**CASE NUMBER:** VAC2000-00060 - Request to vacate a portion of the platted 25-foot utility easement

**OWNER/APPLICANT:** RCK Construction, Inc. c/o Randy Ketzner

**AGENT:** Phil Meyer, Baughman Company, P.A.

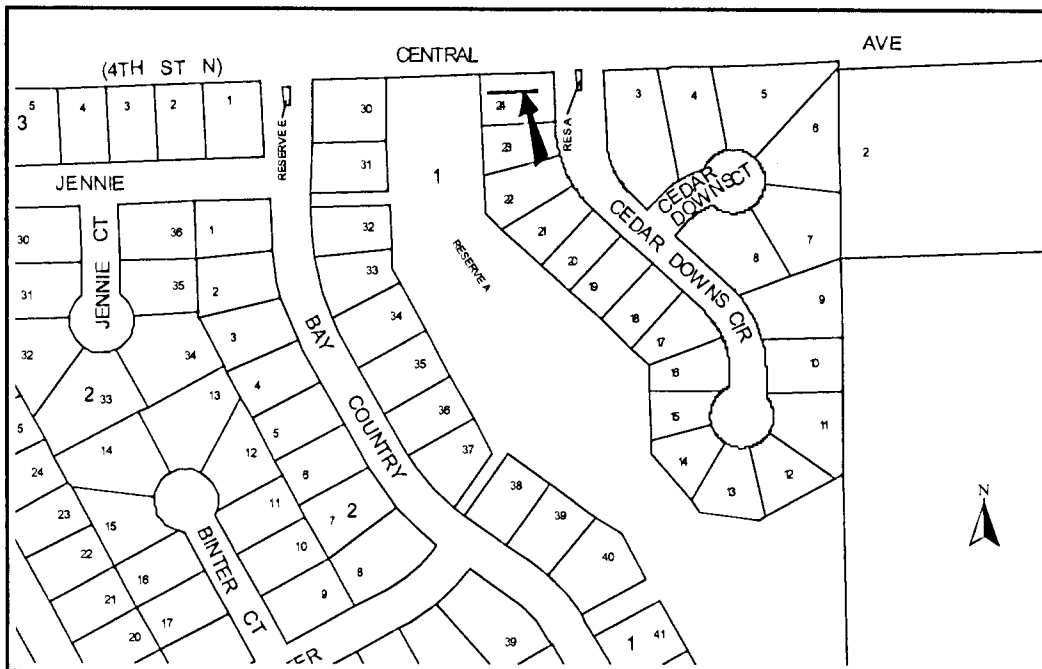
**LEGAL DESCRIPTION:** The south 4.00 feet of the north 30.00 feet of the west 80.00 feet of the east 105.00 feet of Lot 24, The Havens, an Addition to Wichita, Sedgwick County, Kansas

**LOCATION:** Southwest corner of Central and Cedar Downs Circle

**REASON FOR REQUEST:** To vacate a portion of the platted utility easement to expand site width for proposed home.

**CURRENT ZONING:** "SF-6" Single-Family Residential

**VICINITY MAP:**



The applicant is requesting to vacate a portion of the platted utility easement to expand site width for proposed home.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- 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 November 28, 2000, 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 utility easements, 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.
- B. Therefore, the vacation of the utility easements described in the petition should be approved subject to the following conditions:
1. The applicant shall submit a modified "Hold Harmless" agreement to the Water and Sewer staff subject to review and concurrence by the City's Law Department.
  2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

1. The applicant shall submit a modified "Hold Harmless" agreement to the Water and Sewer staff subject to review and concurrence by the City's Law Department.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.