

Agenda Item No. _____

**City of Wichita
City Council Meeting
July 20, 2004**

Agenda Report No. _____

TO: Mayor and City Council

SUBJECT: VAC2004-00030 Request to vacate a portion of an easement dedicated by separate instrument located northwest of the Woodlawn Avenue intersection. (District I)

INITIATED BY: Metropolitan Area Planning Department *SLs*

AGENDA: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve. (unanimous)

Background: The applicant is requesting consideration for the vacation of a portion of a 20-foot utility easement dedicated by separate instrument, Film 407, Page 240. The easement is located on Lot 9, the Kapaun 1st Addition. The Kapaun 1st Addition was recorded with the Register of Deeds June 19, 1973.

Analysis: The easement generally runs along the south portion of Lot 9, the Kapaun 1st Addition. A survey of the property revealed that an existing building on the subject site encroaches into a portion of the easement; less than a foot at its deepest point. The site is located in CUP DP-45.

The MAPC and its Subdivision Committee voted unanimously to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing and its Subdivision Committee meeting. No written protests have been filed.

Financial Considerations: None

Legal Considerations: A certified copy of the Vacation Order and a utility easement dedicated by separate instrument will be recorded with the Register of Deeds.

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

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

**IN THE MATTER OF THE VACATION OF)
A PORTION OF AN EASEMENT DEDICATED)
BY SEPARATE INSTRUMENT)**

**GENERALLY LOCATED)
NORTHWEST OF THE WOODLAWN AVENUE -)
CENTRAL AVENUE INTERSECTION)**

Case No. VAC2004-00030

MORE FULLY DESCRIBED BELOW)

VACATION ORDER

NOW on this 20th day of July, 2004 comes on for hearing the petition for vacation filed by McCoy Associated Building Partnership, Attention: Kevin Dreiling, praying for the vacation of the following described portion of an easement dedicated by separate instrument, to-wit:

A portion of the 20 foot Utility Easement filed at Film 407, page 240, lying within Lot 9, Kapaun First Addition to Wichita, Sedgwick County, Kansas, described as commencing at the SE corner of Lot 8, in said Kapaun First Addition; thence N00°00'00"E along the east line of said Lot 8, 52.64 feet to a point on the north line of said 20 foot Utility Easement; thence N71°90'00"E along the north line of said 20 foot Utility Easement, 32.13 feet; thence S86°08'20"E, along the north line of said 20 foot Utility Easement 18.00 feet, for a point of beginning; thence continue S86°08'20"E, 45.33 feet; thence N89°55'30"W, 45.43 feet; thence N03°51'40"E, 3.00 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 June 3, 2004, 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 portion of an easement dedicated by separate instrument, 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.

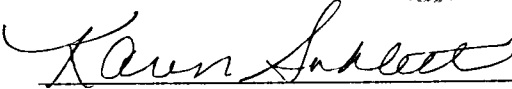
4. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.

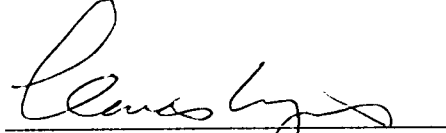
5. The vacation of the portion of an easement dedicated by separate instrument described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 20th day of July 2004 ordered that the above-described a portion of an 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.

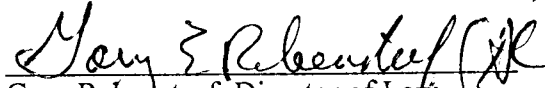
ATTEST:

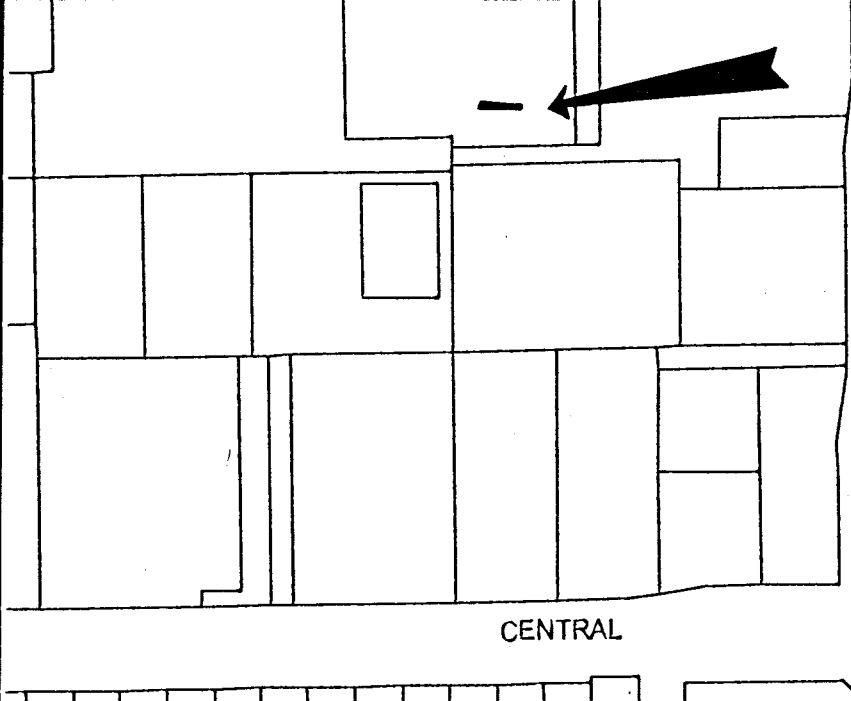



Karen Sublett, City Clerk


Carlos Mayans, Mayor

Approved as to Form:


Gary E. Reberstorf, Director of Law



WOODLAWN



CENTRAL