

**ORDINANCE NO. 2248**

**AN ORDINANCE VACATING A PORTION OF PLATTED COMPLETE ACCESS CONTROL ALONG MADISON AVENUE ABUTTING LOT 2, BLOCK A, BROOKWOOD 3RD ADDITION, DERBY, SEDGWICK COUNTY, KANSAS, AND VACATING A PORTION OF PLATTED FRONT YARD SETBACK ON LOT 2, BLOCK A, BROOKWOOD 3RD ADDITION, DERBY, SEDGWICK COUNTY, KANSAS, AND RESERVING TO THE CITY AND THE OWNERS OF ANY LESSER PROPERTY RIGHTS FOR PUBLIC UTILITIES, RIGHTS-OF-WAYS, AND EASEMENTS FOR PUBLIC SERVICE FACILITIES ORIGINALLY HELD AND CURRENTLY IN EXISTENCE WITHIN THE VACATED PORTION OF THE PLATTED FRONT YARD SETBACK.**

**WHEREAS**, Michael H. and Mary E. Thornton (“Applicants”), owners of property abutting Madison Avenue for which complete access control is platted, have requested vacation of the following described portion of said platted complete access control:

The east 20 feet of the west 40.5 feet of platted complete access control located along the north line of Lot 2, Block A, Brookwood 3rd Addition, Derby, Sedgwick County, Kansas.

**WHEREAS**, Applicants, owners of property encumbered by a platted 30-foot front yard setback, have requested vacation of the following described portion of said platted front yard setback:

The south 5 feet of the north 30 feet of Lot 2, Block A, Brookwood 3rd Addition, Derby, Sedgwick County, Kansas.

**WHEREAS**, such request was transmitted to affected property owners and agencies with an interest in said platted setback for comment, and it has been determined to be in the best interests of all interested parties; and

**WHEREAS**, the Planning Commission of the City conducted a public hearing on September 17, 2015 to determine the advisability of the proposed vacation and no written objection pursuant to K.S.A. 12-505 to the proposed vacation was received by the Planning Commission at the time of or before the hearing; and

**WHEREAS**, the Planning Commission determined that due and legal notice of the petition to vacate was given as required by law, that no private rights will be injured or endangered by such vacation, that the public will suffer no loss or inconvenience thereby, and that in justice to the petitioner, the prayer of the petitioner ought to be granted; and

**WHEREAS**, the Governing Body adopts the findings of the Planning Commission and finds that no private rights will be injured by such proposed vacation of the above-described portion of platted complete access control and above-described portion of platted front yard setback, and that the same is in the best interests of the City;

**NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DERBY, KANSAS:**

**Section 1.** The portion of platted complete access control more particularly described as:

The east 20 feet of the west 40.5 feet of platted complete access control located along the north line of Lot 2, Block A, Brookwood 3rd Addition, Derby, Sedgwick County, Kansas,

is hereby ordered to be vacated subject to the reservation(s) and condition(s) stated in Section 3 herein.

**Section 2.** The portion of platted front yard setback more particularly described as:

The south 5 feet of the north 30 feet of Lot 2, Block A, Brookwood 3rd Addition, Derby, Sedgwick County, Kansas,

is hereby ordered to be vacated subject to the reservation(s) and condition(s) stated in Section 3 herein.

**Section 3.** The findings in Sections 1 and 2 above and the vacation of the above-described portion of platted complete access control and platted front yard setback is approved subject to the following reservation(s) and condition(s);

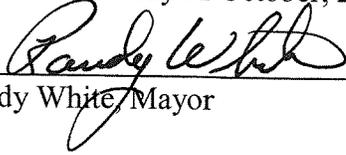
- a) Any lesser property rights, rights-of-ways, and easements for public service facilities originally held and currently in existence within the above-described portion of platted front yard setback are hereby reserved to the city and the owners of any lesser property rights for public utilities.
- b) Approval by the Board of Zoning Appeals for a concurrent request for a variance to exceed the maximum amount of paved area in a required front yard.

**Section 4.** Should any section, clause, sentence, or phrase of this ordinance be found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any remaining provisions herein.

**Section 5.** This Ordinance shall take effect and be in force from and after its passage and publication of the ordinance, or a summary thereof, once in the City's official newspaper as provided by State law.

**Section 6.** The City Clerk shall certify a copy of this Ordinance to the Register of Deeds of Sedgwick County, Kansas for filing, all in accordance with K.S.A. 12-504, *et seq.*, and amendments thereto.

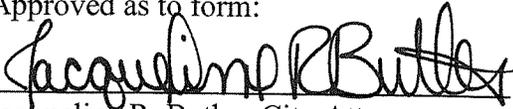
**ADOPTED BY THE GOVERNING BODY** this 13<sup>th</sup> day of October, 2015.

  
\_\_\_\_\_  
Randy White, Mayor

Attest:

  
\_\_\_\_\_  
Karen Friend, City Clerk

Approved as to form:

  
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Jacqueline R. Butler, City Attorney