Passed: June 14, 2016
Published: June 22, 2016

# ORDINANCE NO. 2275

**AN ORDINANCE VACATING A PORTION OF PLATTED COMPLETE ACCESS CONTROL ALONG TALL TREE ROAD ABUTTING LOT 1, BLOCK A, THE OAKS COMMERCIAL 2ND, AN ADDITION TO 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 COMPLETE ACCESS CONTROL.**

**WHEREAS**, Oaks Commercial, L.C. ("Applicant") has requested vacation of the following described portion of platted complete access control:

> The west 12.00 feet of the 100.00 feet of Complete Access Control along the north line of Lot 1, Block A, The Oaks Commercial 2nd, an Addition to Derby, Sedgwick County, Kansas.

**WHEREAS**, such request was transmitted to affected property owners and agencies with an interest in said platted complete access control for comment; and

**WHEREAS**, the Planning Commission of the City conducted a public hearing on May 5, 2016 to determine the advisability of the proposed vacation, at which time, all interested persons in attendance were heard; and

**WHEREAS** 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 that the same should be granted;

**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 west 12.00 feet of the 100.00 feet of Complete Access Control along the north line of Lot 1, Block A, The Oaks Commercial 2nd, an Addition to Derby, Sedgwick County, Kansas,

is hereby ordered to be vacated subject to the reservation(s) stated in Section 2 herein.

**Section 2.** 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 complete access control are hereby reserved to the city and the owners of any lesser property rights for public utilities.

**Section 3.** 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 4.** 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 5.** 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.

**PASSED** by the City Council this 14th day of June, 2016, and **SIGNED** by the Mayor.

Randy White, Mayor

Attest:

Karen Friend, City Clerk

Approved as to form:

Jacqueline R. Butler, City Attorney