

Passed: August 9, 2016
Publish: August 17, 2016

ORDINANCE NO. 2284

AN ORDINANCE VACATING A PORTION OF PLATTED UTILITY EASEMENT ON LOT 34A, REPLAT OF PART OF BLOCK A, DERBY HILLS EAST ADDITION, DERBY, SEDGWICK COUNTY, KANSAS, AND RESERVING TO THE CITY A 10 FT. EASEMENT AND 5 FT. EASEMENT FOR PUBLIC UTILITIES 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 PLATTED UTILITY EASEMENT.

WHEREAS, Kevin Youngers ("Applicant") has requested vacation of the following described portion of platted utility easement:

Lot 34A, Replat of Part of Block A, Derby Hills East Addition, Derby, Sedgwick County, Kansas, EXCEPT the West 20 feet thereof.

WHEREAS, such request was transmitted to affected property owners and agencies with an interest in said platted utility easement for comment; and

WHEREAS, the Planning Commission of the City conducted a public hearing on July 21, 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 utility easement, 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 utility easement more particularly described as:

Lot 34A, Replat of Part of Block A, Derby Hills East Addition, Derby, Sedgwick County, Kansas, EXCEPT the West 20 feet thereof,

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

Section 2.

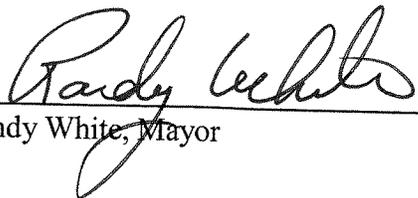
1. The east 10 feet of Lot 34A, Replat of Part of Block A, Derby Hills East Addition, Derby, Sedgwick County, Kansas is hereby reserved for public utilities; and
2. The north 5 feet of Lot 34A, Replat of Part of Block A, Derby Hills East Addition, Derby, Sedgwick County, Kansas is hereby reserved for public utilities; and
3. 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 9th day of August, 2016, and **SIGNED** by the Mayor.



Randy White, Mayor

Attest:



Jean Epperson, Deputy City Clerk

Approved as to form:



Jacqueline R. Butler, City Attorney