

Passed: November 26, 2019
Published: December 4, 2019

ORDINANCE NO. 2411

AN ORDINANCE VACATING THAT PART OF A 20 FT. UTILITY EASEMENT LOCATED IN LOT 1 EXCEPT EAST 180 FT. THEREOF, BLOCK G, THE OAKS, AN ADDITION TO DERBY, SEDGWICK COUNTY, KANSAS.

WHEREAS, NAK Development (“Applicant”) has requested vacation of the following described portion of a platted utility easement:

That part of the 20.00 foot utility easement described, granted and conveyed in the document entitled Utility Easement recorded in the Office of the Sedgwick County Register of Deeds in DOC. # / FLM-PG: 28891560, lying in Tract A as described in the Lot Split of Lot 1, Block G, The Oaks, an Addition to Derby, Sedgwick County, Kansas, recorded in the Office of the Sedgwick County Register of Deeds in DOC. # / FLM-PG: 28927614, said Tract A being described as follows: Lot 1, Block G, The Oaks, an Addition to Derby, Sedgwick County, Kansas, EXCEPT the East 180 feet thereof.

WHEREAS, the applicant intends and agrees to re-dedicate a new easement to replace the existing easement; and

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 November 7, 2019 to determine the advisability of the proposed vacation, at which time, all interested persons in attendance were provided an opportunity to be 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 and re-dedication, 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 and re-dedication 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 a utility easement more particularly described as:

That part of the 20.00 foot utility easement described, granted and conveyed in the document entitled Utility Easement recorded in the Office of the Sedgwick County Register of Deeds in DOC. # / FLM-PG: 28891560, lying in Tract A as described in the Lot Split of Lot 1, Block G, The Oaks, an Addition to Derby, Sedgwick County, Kansas, recorded in the Office of the Sedgwick County Register of Deeds in DOC. # / FLM-PG: 28927614, said Tract A being described as follows: Lot 1, Block G, The Oaks, an Addition to Derby, Sedgwick County, Kansas, EXCEPT the East 180 feet thereof.

is hereby ordered to be vacated subject to the following reservation(s) and requirements:

1. Re-dedication and recording of a new easement in a form acceptable to the Director of Planning & Engineering; and
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 the utility easement are hereby reserved to the city and the owners of any lesser property rights for public utilities.

Section 2. 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 3. 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 4. 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 20th day of November, 2019, and **SIGNED** by the Mayor.



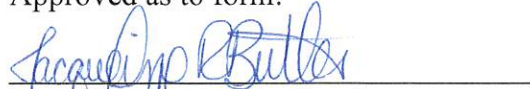
Randy White, Mayor

Attest:



Hillary Lawrence, City Clerk

Approved as to form:



Jacqueline R. Butler, City Attorney

