TO: Mayor and City Council

SUBJECT: VAC2016-00046 - Request to Vacate a Portion of Platted Complete Access Control, a Portion of a Platted Building Setback and a Portion of a Drainage and Utility Easement Dedicated by Separate Instrument on Property Generally Located South of West 29th Street North on the East Side of North Tyler Road (District V)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

**Staff Recommendation:** Staff recommends approval of the vacation request.

**MAPC Recommendation:** The Metropolitan Area Planning Commission recommends approval of the vacation request (11-0).
**Background:** The applicant proposes to vacate the west 35.48 feet portion of the drainage and utility easement dedicated by separate instrument; Film 2509, Page 14. This portion of the easement is located on the east side of the undeveloped subject site, Lot 1, Block B, Fossil Rim Estates. There is a sewer line and manhole located in the subject easement. The portion of the subject easement located in the east abutting Reserve G, Fossil Rim Estates will remain in effect.

In addition, the applicant is requesting vacation of the south 30 feet of the north 154 feet of the platted access control to allow an additional drive onto Tyler Road. Currently the site is permitted one drive onto Tyler Road on its south 100 feet. That permitted drive has not been constructed. The proposed vacation will allow the existing drive onto the subject site to remain in its current location.

The applicant is also requesting the vacation of the inside 5 feet of the 20-foot platted front yard building setback lying east of and parallel with the west property line of the NO Neighborhood Office (NO) zoned subject site. The proposed vacation of the subject setback reduces the setback to the NO zoning district’s 15-foot street side yard building setback. Westar has no existing facilities in the subject setback. Westar does not show electrical service to the subject site. The Fossil Rim Estates Addition was recorded May 31, 2002.

**Analysis:** The Metropolitan Area Planning Commission (MAPC) voted (11-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC’s advertised public hearing or its Subdivision Committee meeting.

**Financial Considerations:** All improvements are to City standards and at the applicant’s expense.

**Legal Considerations:** The Law Department has reviewed and approved, as to form, the Vacation Order and the partial dedication of abutter’s rights by separate instrument. The Law Department concurs that the approval of the Vacation Order and the dedication of abutter’s rights by separate instrument are in accordance with City policy. The original Vacation Order and the partial dedication of abutter’s rights by separate instrument will be recorded with the Sedgwick County Register of Deeds.

**Recommendation/Actions:** It is recommended that the City Council follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order (simple majority of four votes required) and authorize the necessary signatures.

**Attachments:**
- Vacation Order
- Partial dedication of abutter’s rights by separate instrument