

STAFF REPORT

CASE NUMBER: VAC2022-00017 – Request in the City to vacate a portion of a platted utility easement

APPLICANTS: Matthew D. & Crosby S. Jones (applicants/owners)

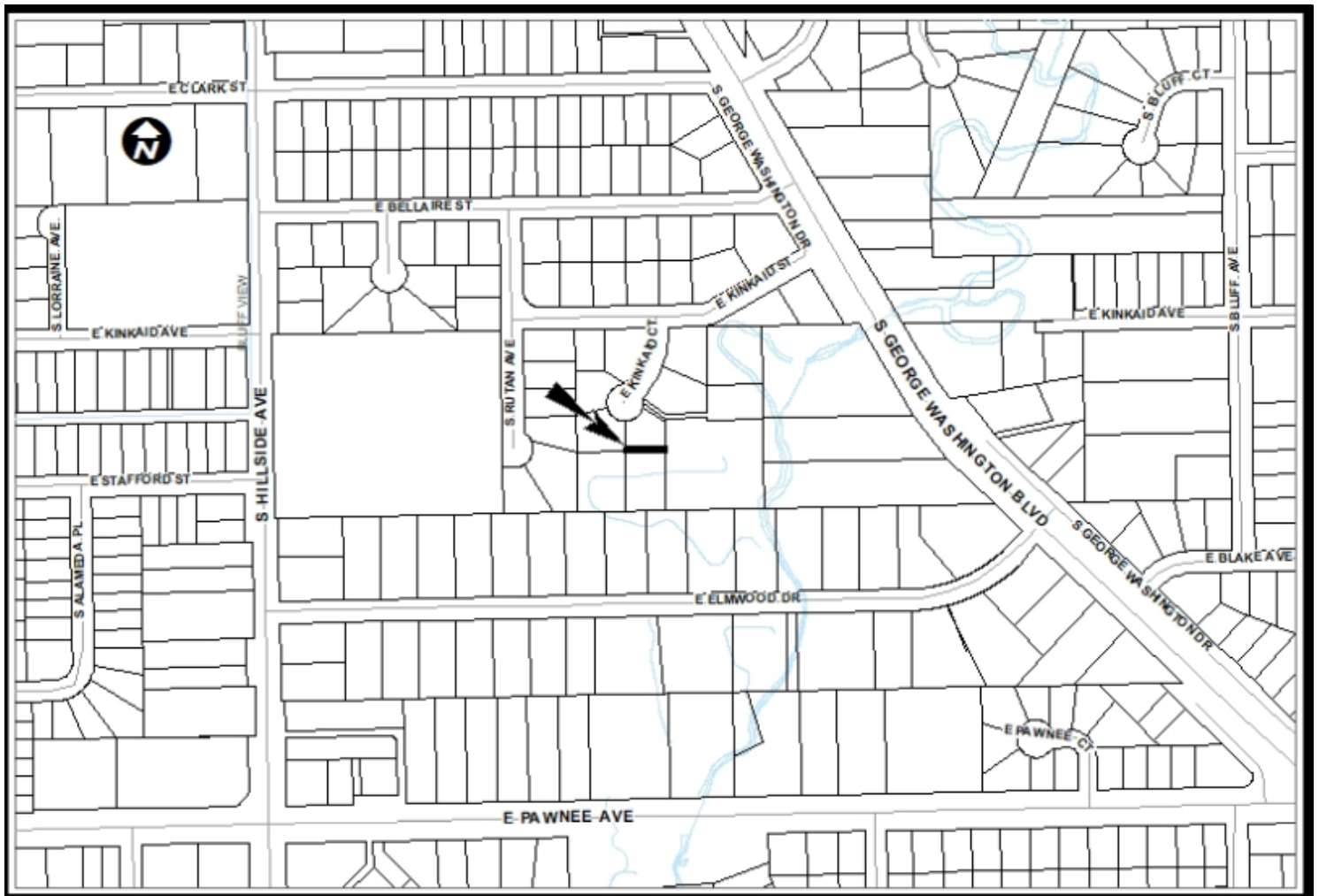
LEGAL DESCRIPTION: Generally described as vacating the platted 8-foot wide utility easement running parallel to the south, lot line of Lot 5, Block C, Elmwood Park Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located two-blocks north of East Pawnee Avenue, midway between South Hillside Avenue & South George Washington Boulevard on the south side of East Kinkaid Court (3437 East Kinkaid Court - District III)

REASON FOR REQUEST: Remove single-family residence from easement & to provide more room for additional building(s)

CURRENT ZONING: The subject site and all abutting and adjacent properties are zoned SF-5 Single-Family Residential & are developed with single-family residences

VICINITY MAP:



VAC2022-00017 – Request in the City to vacate a platted utility easement on SF-5 Single-Family Residential zoned property generally located midway between South Hillside Avenue & South George Washington Boulevard, two-blocks north of East Pawnee Avenue, on the south side of East Kinkaid Court (District III)

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The applicant proposes to vacate all of the platted 8-foot wide utility easement running parallel to the south lot line of the SF-5 Single-Family Residential zoned subject site; Lot 5, Block C, Elmwood Park Addition. The applicant's single-family residence encroaches into the platted subject easement. The single-family residence was built in 1957. The Elmwood Park Addition was recorded July 29, 1953. The subject site is located two-blocks north of East Pawnee Avenue, midway between South Hillside Avenue and South George Washington Boulevard on the south side of East Kinkaid Court

The subject platted easement was recorded on Lot 5, Block C, Elmwood Park Addition, however the applicant's property extends south of Lot 5's lot line into an abutting unplatted tract. The addition of this unplatted tract to Lot 5 places the subject platted easement between Lot 5 and the abutting unplatted tract. There are no easements shown on this unplatted tract and the applicant has not provided any easement(s) dedicated by separate instrument attached to the unplatted tract. There are easements in place that would allow extension of utilities to east abutting and west adjacent unplatted tracts.

Water and Sewer are located in the East Kinkaid Court ROW right-of-way. Stormwater has no equipment in the subject easement. Everygy has no lines or equipment in the subject easement. Abby Brungardt is the Everygy Design Representative for this area and can be reached at (785) 508-2715 Conditions #1, #2, #3, and #4 cover all utilities. Vehicular traffic, pedestrian traffic and public safety will not be impacted by this vacation request if approved with the conditions listed.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from Public Works, Stormwater, Water and Sewer, Traffic, Fire, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations (but not limited to) associated with the request to vacate the described 8-foot wide platted utility easements.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time May 26, 2022, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described portion of the platted utility easement, and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Provide Planning with an approved legal description of the vacated south 8-foot wide platted utility easement on a Word document that can be copied and used on the Vacation Order.
- (2) As needed provide easements dedicated by separate instrument(s), with original signatures. This must be provided to Planning prior to the case going to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (3) As needed provide utilities with project plans for relocation of utilities for review and approval. Relocation of the utilities will be the responsibility and at the expense of the applicant and to City standards. The approved project number must be provided to Planning prior to the case goes to City Council for final approval.
- (4) All improvements shall be according to City Standards and at the applicants' expense.

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- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order, and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE’S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following (but not limited to) conditions:

- (1) Provide Planning with an approved legal description of the vacated south 8-foot wide platted utility easement on a Word document that can be copied and used on the Vacation Order.
- (2) As needed provide easements dedicated by separate instrument(s), with original signatures. This must be provided to Planning prior to the case going to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (3) As needed provide utilities with project plans for relocation of utilities for review and approval. Relocation of the utilities will be the responsibility and at the expense of the applicant and to City standards. The approved project number must be provided to Planning prior to the case goes to City Council for final approval.
- (4) All improvements shall be according to City Standards and at the applicants’ expense.
- (5) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order, and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

Attachments:

- 2021 Aerial showing water, sewer, storm water & location of proposed vacated utility easement
- Exhibit showing Lot 5, Block C, Elmwood Park Addition
- Excerpt from Quarter Section map showing Lot 5, Block C, Elmwood Park Addition & south abutting unplatted tract
- Applicant’s exhibit
- Google photo of subject site

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