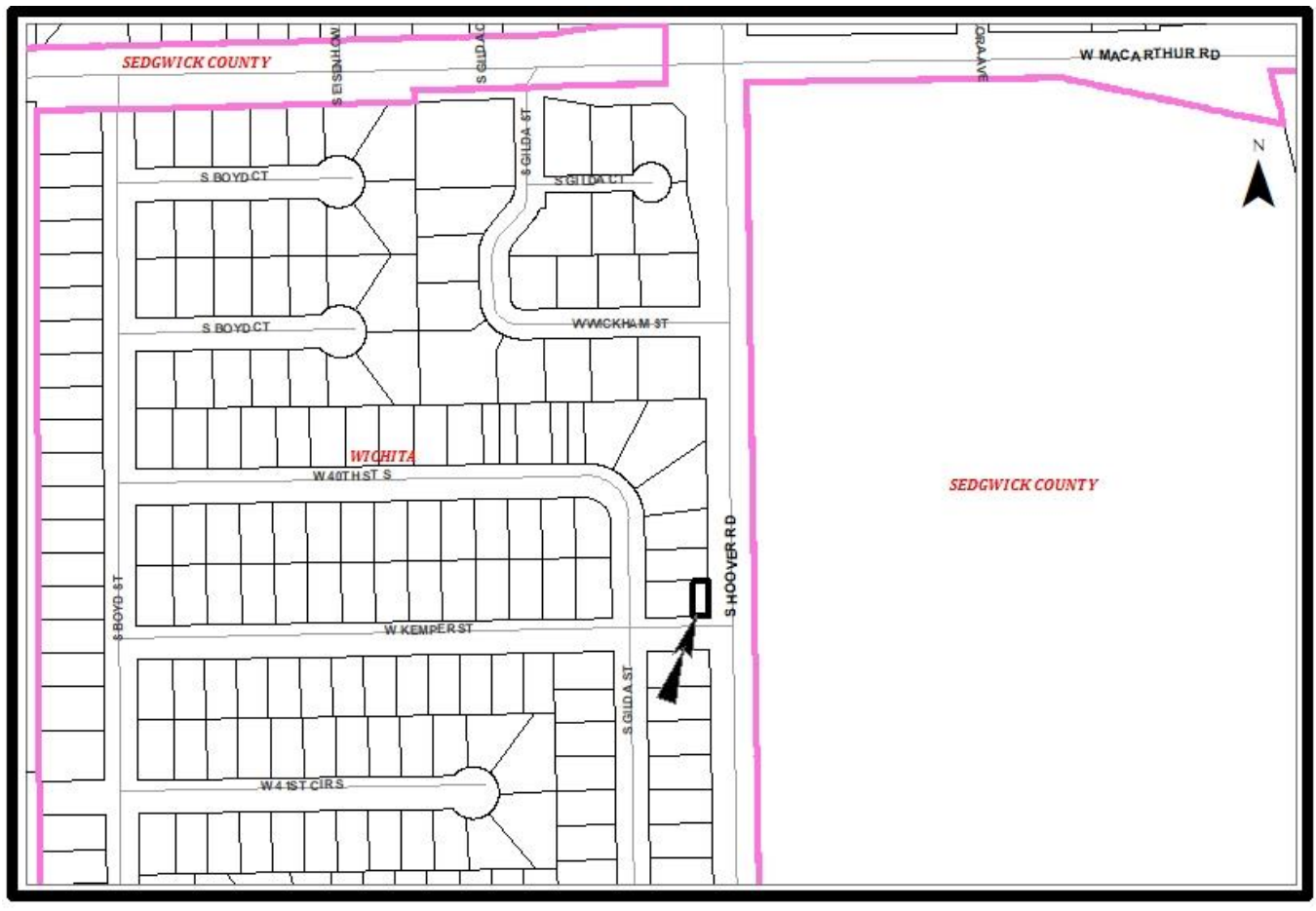


STAFF REPORT

- CASE NUMBER:** VAC2021-00001 - Request to vacate a 10-foot platted utility easement
- OWNER/APPLICANT:** William A. Stull (applicant)
- LEGAL DESCRIPTION:** Generally described as vacating a platted 10-foot wide utility easement located on Lot 47, Block A, Wheatland Addition, Wichita, Sedgwick County, Kansas
- LOCATION:** Generally located on the West side of South Hoover Road, and one quarter mile South of West MacArthur Road (4124 S. Gilda) (WCC #IV)
- REASON FOR REQUEST:** In order to build a garage.
- CURRENT ZONING:** The site is zoned SF-5 Single-Family Residential. All properties to the north, south and west are zoned SF-5 Single-Family Residential. The property to the east across South Hoover Road is zoned RR Rural Residential.

VICINITY MAP:



The applicant proposes to vacate a platted **10-foot wide** utility easement located on Lot 47, Block A, Wheatland Addition. These easements are located on the east side of the developed subject site. **If approved the vacation will allow the owner to build a garage on the site.** There are no public utilities in the subject easements being vacated. AT&T does have a line within the vacation. AT&T has no objection to the encroachment of the proposed structure into the existing rear utility easement, but the owner agrees to pay for any relocation of the AT&T facilities if deemed necessary and any damage associated with construction should it occur. Cox has no objection to this vacate. Any relocation of Cox Communications would be at the Applicants expense. Evergy does not have any objection but we need to verify if their service line is in the 10' U.E. they are requesting to vacate. The transformer that services them is located in the neighbor to the north's yard so the service line may be in that 10' U.E. We will need locates or a survey to verify. The primary lines running along Hoover Rd appear to be in ROW but the applicant's new garage will need to maintain proper clearance from those lines. Standard language will apply, **should they need to relocate any existing service or equipment it will be at their expense.** Ennidh Garcia is the area Representative and will be the contact for this item. She can be reached at 261-6359. A subsequent email from Evergy after the February 11, 2021 Subdivision Committee meeting states: "Arc map shows nothing in UE. He is at the end of the block, on the corner. We have not objections to the vacation. Will be up to ATT and Cox?" Rondee you can go ahead and let the applicant know we are OK with the vacation.

Originally this vacation request asked for vacation of the abutting Kansas Gas Service/Gas One easement. In regards to VAC2021-00001, KGS objects to the vacation of the 25 foot-wide easement owned by KGS. This easement is necessary for KGS to maintain operation of an existing pipeline. Furthermore, the vacation of this easement is outside the jurisdiction of the Planning Commission. The easement could only be vacated if KGS formally signs a partial easement release document. KGS has had discussions with the Stulls and have executed a Consent to Encroach on Easement document based on the garage construction plans. KGS has no objection to the construction of the garage but will need to retain its easement on the property. Comments from other franchised utilities have not been received and are needed to determine if they have utilities located within the subject easement. The Wheatland Addition was recorded April 30, 1993.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, 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 portions of the platted utility easement.

- 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 October 27, 2016, 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 sewer easement dedicated by separate instrument, 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:

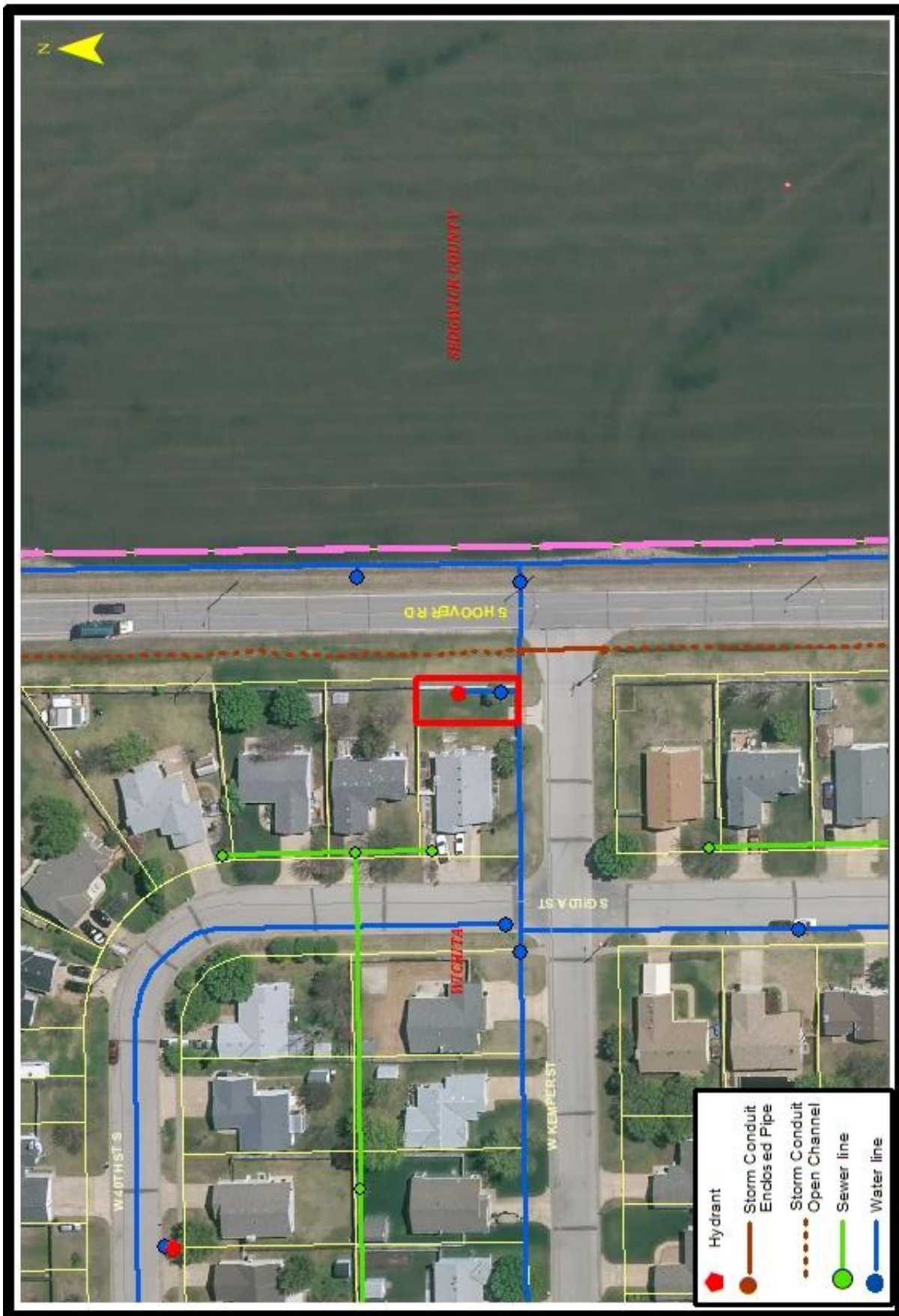
- (1) Abandonment or relocation/reconstruction of any/all utilities made necessary by the vacation of the described portion of the utility easement shall be to City Standards and shall be the responsibility and at the expense of the applicant. As needed provide approval from franchised utilities for the relocation of franchised utilities. All to be provided to the Planning Department prior to this case going to City Council for final action.
- (2) Relocation/reconstruction of any AT&T equipment shall be the responsibility and at the expense of the applicant.
- (3) As needed provide Planning with dedication of easements by separate instruments with original signatures to go with the Vacation Order to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds. All to be provided to the Planning Department prior to this case going to City Council for final action.
- (4) Provide Planning with a drawing of the proposed garage and showing with dimensions that the structure is a sufficient distance from Evergy's overhead lines and that overhead clearance complies with Evergy's guidelines given on their website.
- (5) Provide Planning with an electronic copy of the Consent To Encroach On Easement from Kansas Gas Service/Gas one to document the file.
- (6) All improvements shall be according to City Standards and at the applicants' expense.
- (7) Per the approval of Public Works, vacate the platted 10 foot utility easement and the platted 25-foot wide Kansas Gas Service/One Gas easement located on Lot 47, Block A, Wheatland Addition, Wichita, Sedgwick County, Kansas.
- (8) Provide Planning with a legal description of the vacated platted utility easement and Kansa Gas Service/One Gas easement on a Word document via E-mail that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.
- (9) 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.

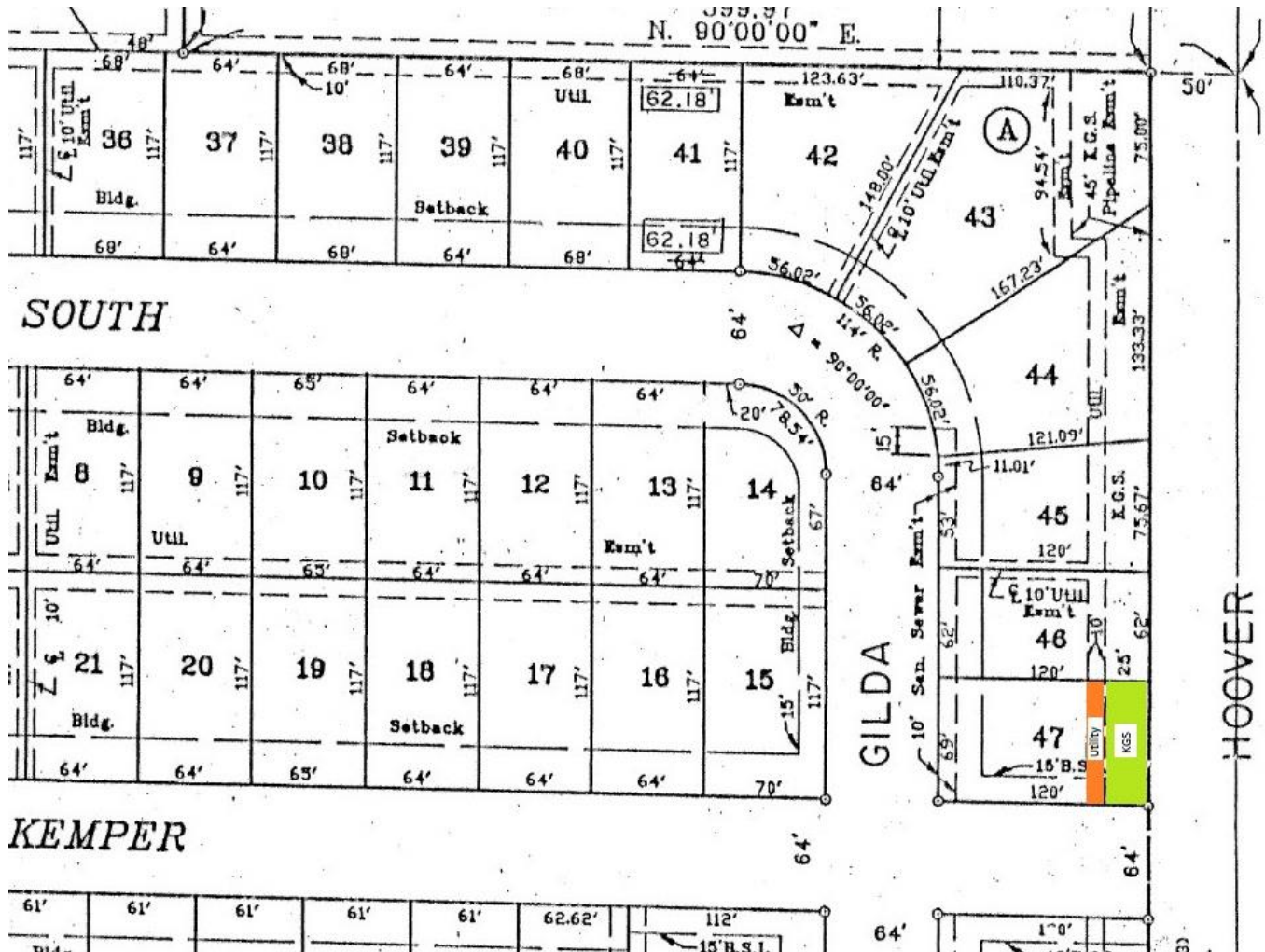
SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

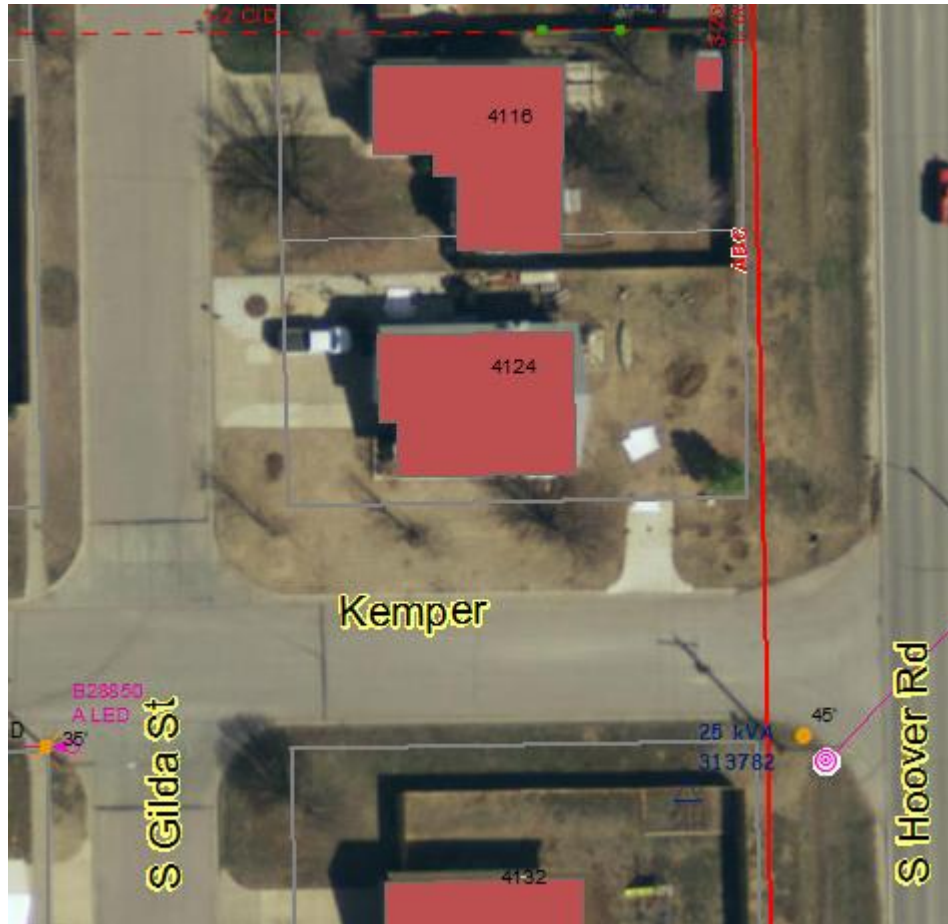
The Subdivision Committee recommends approval subject to the following conditions:

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

- (1) Abandonment or relocation/reconstruction of any/all utilities made necessary by the vacation of the described portion of the utility easement shall be to City Standards and shall be the responsibility and at the expense of the applicant. As needed provide approval from franchised utilities for the relocation of franchised utilities. All to be provided to the Planning Department prior to this case going to City Council for final action.
- (2) Relocation/reconstruction of any AT&T equipment shall be the responsibility and at the expense of the applicant.
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- (9) 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.







The overhead line, shown as a red line in this photo provided by Every, is within the right-of-way.