

**STAFF REPORT**

**CASE NUMBER:** VAC2020-00037 - City Vacation of portions of a platted 20-foot utility easement and 35-foot drainage easement.

**APPLICANT/AGENT:** Saliba Wissam and Samar Kazan (Applicants)/ MKEC Engineering, Inc. (Agent)

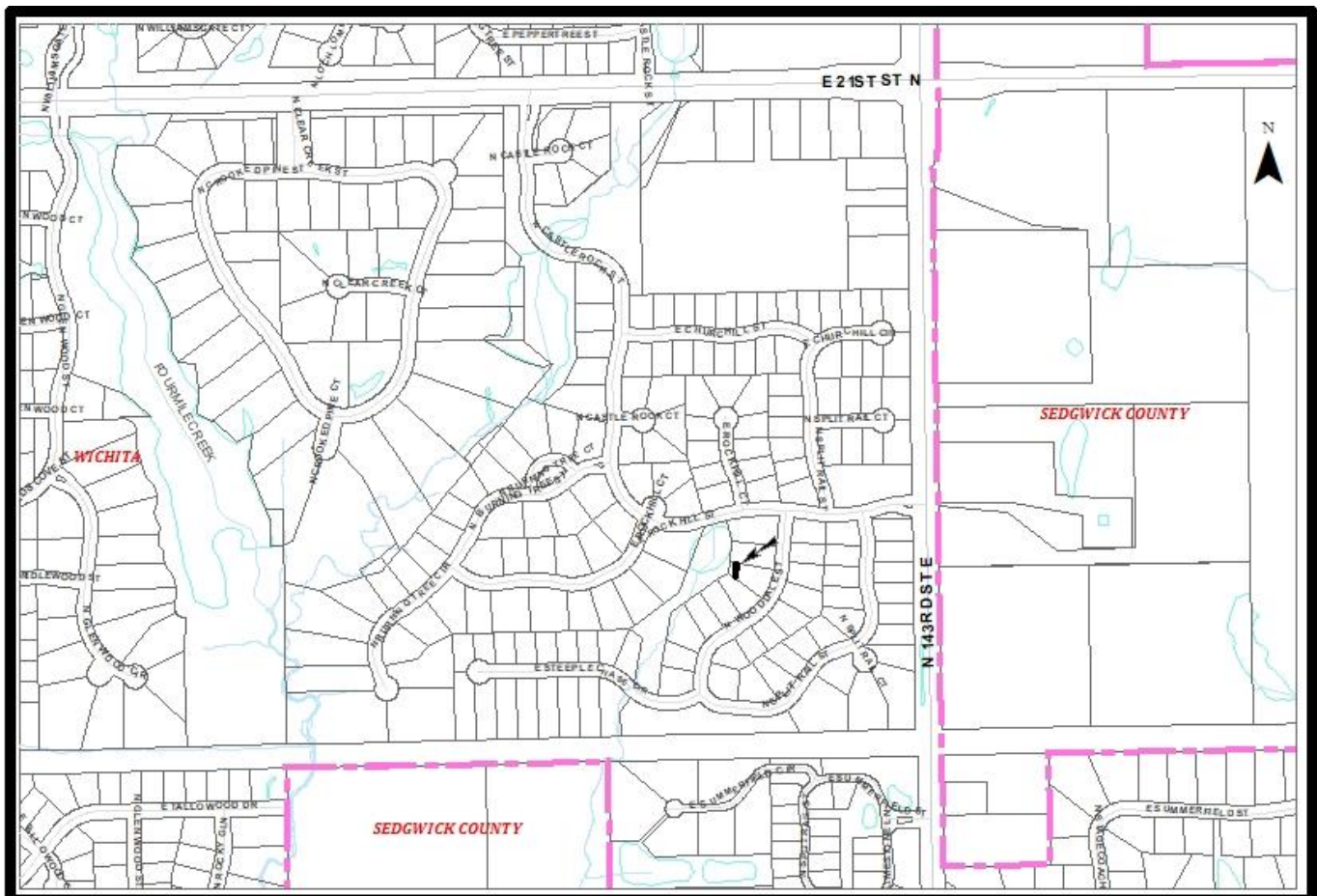
**LEGAL DESCRIPTION:** The east 10.00 feet of the west 35.00 feet of Lot 35, Block 2, Krug South Addition, an addition to Wichita, Sedgwick County, Kansas, EXCEPT the southerly 5.00 feet thereof.

**LOCATION:** Generally located southwest of East 21<sup>st</sup> Street North and North 143<sup>rd</sup> Street East (1901 North Woodale, Street).

**REASON FOR REQUEST:** To allow for the construction of an elevated pool.

**CURRENT ZONING:** SF-5 Single Family Residential

**VICINITY MAP:**



The applicant has requested the vacation of a 10-foot portion of a 20-foot utility and a 35-foot drainage easement on property address 1901 North Woodale. The property is zoned SF-5 Single Family Residential and is generally located southwest of East 21<sup>st</sup> Street North and North 143<sup>rd</sup> Street East. The purpose of this vacation is to construct an elevated pool. The subject easements overlap, and the applicant is requesting to vacate the eastern 10 feet. Therefore, there will be 10 feet remaining of the 20-foot utility easement and 25 feet remaining of the 35-foot utility easement. The applicant has been in contact with franchise utility companies. In doing so, it was discovered that there is an AT&T line in the portion of the easements they are requesting to vacate. The applicant and AT&T have come to an agreement on a private easement for the AT&T line. In discussion with Everygy and Cox, it was determined that their utility lines were laid outside to the west of either of the easements. Therefore, the applicant is proposing to dedicate an easement extending to the west of the current 35-foot drainage easement to cover those utility lines. Finally, there is a public sewer line in the remaining portion of the 35-foot drainage easement. By dedicating additional easement, this will provide additional space to access the public sewer line.

Everygy has reviewed the request and has no objection. Heide Bryan, Subdivision Representative, has been working with the agent for the applicant regarding the vacation and the dedication of additional easement to cover the Everygy lines outside of the existing easement. Heide can be reached at 316-261-6354 with any questions. Cox has lines in the easement, but has no objection. Any relocation of equipment is at the applicant's expense. City Public Works commented regarding the portion of the pool apron encroaching over the remaining portion of the 20-foot utility easement. If the encroachment is over three feet, or is a total of 100 square feet, the applicant shall obtain a use of easement permit. In addition, the applicant shall provide a joint in the concrete pad on or as close as they can get to the easement line so Public Works can cut on that joint if it needs to be removed of future access to the easement. Krug South Addition was recorded March 1, 2007.

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 portion 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 1, 2020, 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 and drainage easements 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) Dedicate a utility easement, by separate instrument, to cover the franchise utilities outside the existing easements. The applicant may record the easement on their own and provide proof of recording to Planning, or provide the easement, with original signatures to Planning prior to this case going to City Council for final action.
- (2) If any utility services are found to be located within the area of the proposed Vacation, these services shall be relocated at the owner’s expense, to city standards, and the applicant shall provide Planning with the dedication of utility easements by separate instruments to go with the Vacation Order to be filed with the Register of Deeds. If relocation is not possible then this Vacation shall be rendered void as the current easement must remain in place.
- (3) 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 per staff recommendations.

Attachments

1. Aerial Map
2. Site Plan



