

STAFF REPORT

CASE NUMBER: VAC2020-00044 - City vacation of a portion of platted street side setback

APPLICANT/AGENT: Tom George (applicant) / Foster Design Associates, David Foster

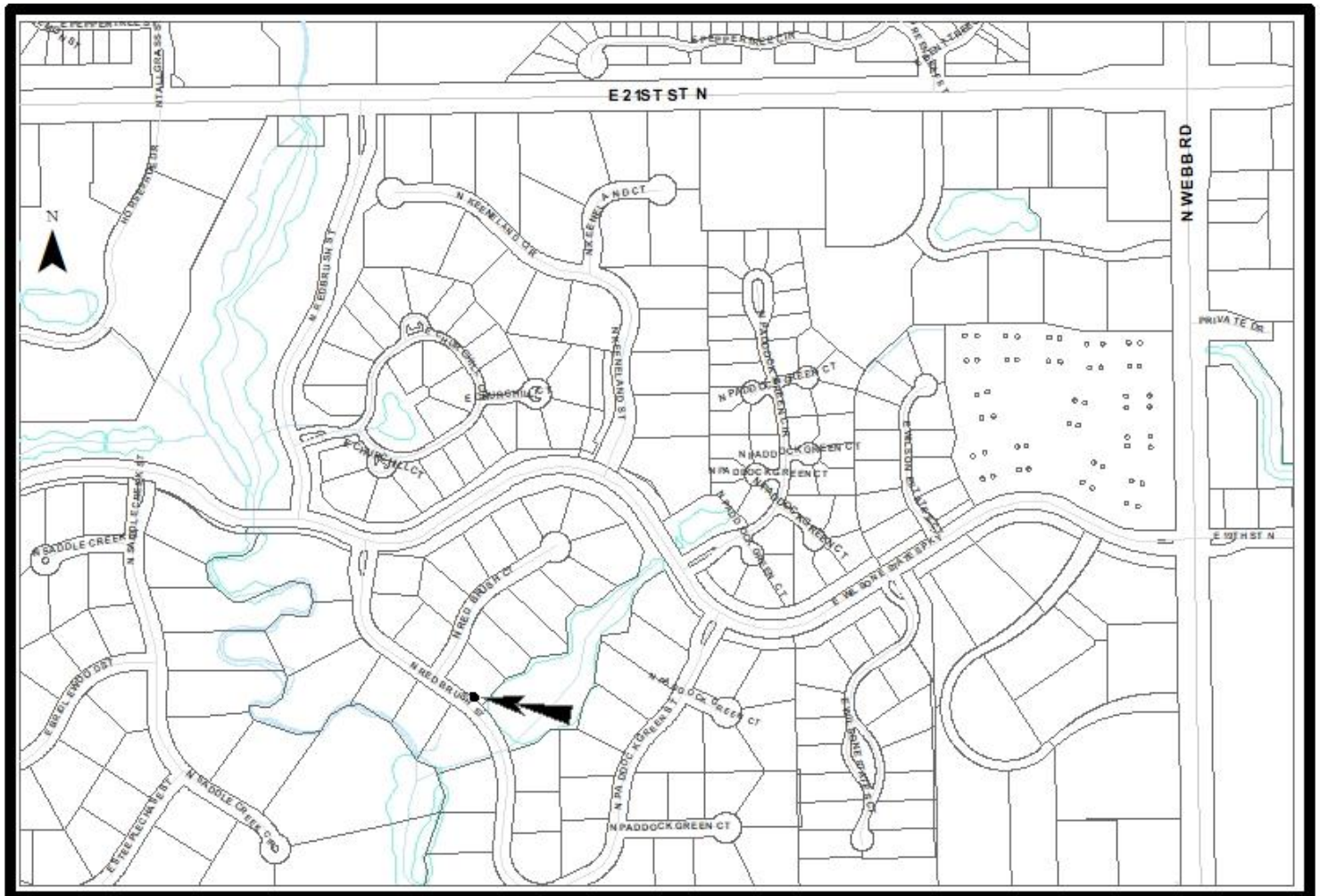
LEGAL DESCRIPTION: See Attached.

LOCATION: Generally located within one-quarter mile southwest of East 21st Street North and North Webb Road (1900 N Red Brush Ct.)

REASON FOR REQUEST: To construct an outdoor fireplace into a masonry wall

CURRENT ZONING: SF-5 Single Family Residential

VICINITY MAP:



The applicant is requesting the vacation of a portion of a platted 15-foot street side setback on property generally located within one-quarter mile southwest of East 21st Street North and North Webb Road. The property is addressed 1900 North Red Brush Court and is zoned SF-5 Single Family Residential with CUP DP-201. The purpose of this request is to construct an outdoor fireplace. The fireplace will be approximately 12.25 feet tall and will be constructed as part of a masonry screening wall. The masonry screening wall is permitted in the setback per Section III-E.1.e.1 of the Unified Zoning Code. The outdoor fireplace is being considered an accessory structure per the definition in Section II-B.1.c, which states: "Accessory Structure and Accessory Use means a Use or Structure that is subordinate to and serves a Principal use or Structure; is subordinate in purpose to the Principal Use or Structure served; contributes to the comfort, convenience or necessity of occupants of the Principal Use or Structure served; and is located on the same Zoning Lot as the Principal Use." The Unified Zoning Code sets the minimum street side setback for the SF-5 zoning district at 15-feet. The CUP states that setbacks would be set at the time of platting, and this side street setback was platted at 15 feet. Should this vacation be approved, the setback will be reduced to zero feet for only that portion of the setback related to the fireplace.

There are no public utilities in the described setback. Evergy has no equipment in the area and has no objection to the request. The Wilson Farms Addition was recorded with the Register of Deeds July 15, 1997.

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 portion of platted building setback.

- 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 29, 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 street side yard setback 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) Vacate the described portion of the platted front setback. Provide planning staff with legal descriptions of the approved vacated portion of the platted setback on a Word document, via e-mail, to be used on the Vacation Order. This must be provided to Planning prior to the case going to Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Planning with any needed easements dedicated by separate instrument with original signatures. These conditions must be completed prior to the case going to Council for final action.

- (3) All improvements shall be according to City Standards and at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions shall 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
3. Site Plan Exhibit with Legal Description
4. Elevation





