

**STAFF REPORT**

- CASE NUMBER:** VAC2020-00050 - Request to vacate a platted utility easement
- OWNER/APPLICANT:** Stuhlsatz Holdings, LLC (applicant), Mark D. Kiefer (agent)
- LEGAL DESCRIPTION:** Generally described as vacating a platted 10-foot wide utility easement located on Lot 5, Block A, Osbeck Addition, Wichita, Sedgwick County, Kansas
- LOCATION:** Generally located on the North side of West Harry Street, and 1770 feet West of South Tyler Road (9440 West Harry Street) (WCC #IV)
- REASON FOR REQUEST:** In order to sell part of the property to an adjacent land owner.
- CURRENT ZONING:** The site is zoned LI Limited Industrial. The abutting property to the north is zoned GC General Commercial. The abutting property to the east, the property to the south across West Harry Street and the property to the west across South Seville Avenue are all zoned SF-5 Single Family Residential.

**VICINITY MAP:**



The applicant proposes to vacate a platted 10-foot wide utility easement located on Lot 5, Block A, Osbeck Addition. This easement is located on the east side of the developed subject site; see exhibit and legal description. If approved the vacation will allow the owner to sell part of the area of the easement to the property owner to the east. There are no public utilities in the subject easement being vacated. Comments from state: "Evergy has no objection to this request but we have equipment in the area near where they are requesting to vacate and will need to either needs to maintain the area as easement or remove or relocate at their expense. Standard comments will apply, any removal and relocation of existing equipment for this vacation request will be at the applicant's expense. Ennidh Garcia is the Area Representative and will be the contact for this item and can be reached at 316-261-6359." Comments from Cox state: "Cox has no plant in the requested Vacate area." The Osbeck Addition was recorded September 27, 2005.

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) 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.
- (3) All improvements shall be according to City Standards and at the applicants' expense.

- (4) Per the approval of Public Works, vacate the platted 10 foot utility easement located on Lot 5, Block A, Osbeck Addition, Wichita, Sedgwick County, Kansas.
- (5) Provide Planning with a legal description of the vacated platted utility 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.
- (6) 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:

- (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) 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.
- (3) All improvements shall be according to City Standards and at the applicants' expense.
- (4) Per the approval of Public Works, vacate the platted 10 foot utility easement located on Lot 5, Block A, Osbeck Addition, Wichita, Sedgwick County, Kansas.
- (5) Provide Planning with a legal description of the vacated platted utility 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.
- (6) 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.



