

**STAFF REPORT**

**CASE NUMBER:** VAC2021-00024 - City request to vacate a portion of a platted 20-foot rear yard setback

**APPLICANT/AGENT:** Teresa M. Craddock (owner/applicant), Herndon Roofing & Construction c/o Greg R. Herndon (agent)

**LEGAL DESCRIPTION:** Generally described as vacating the east 4.9 feet of the platted 20-foot rear yard setback located on the east side the Lot 42, Block 1, Reflection Ridge Addition, Wichita, Sedgwick County, Kansas (see site plans)

**LOCATION:** Generally located midway between North Tyler & North Ridge Roads, approximately a third of a mile north of West 21<sup>st</sup> Street North and northeast of the West Reflection Ridge Road – North Morning Dew Street intersection (2408 N Morning Dew Street, WWC #V).

**REASON FOR REQUEST:** Proposed roof over existing patio

**CURRENT ZONING:** The site, all abutting and adjacent properties are zoned SF-5 Single Family Residential

**VICINITY MAP:**



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The applicants propose to vacate approximately 4.9 feet of a platted 20-foot rear yard setback located on the east side of the SF-5 Single Family Residential zoned property; Lot 42, Block 1, Reflection Ridge Addition, 2408 North Morning Dew Street. The applicants propose to build a roof over a patio, as shown on the site plans. The roof will be attached to the applicant's house.

The SF-5 zoned subject property is included in the overlay of the Reflection Ridge Residential CUP Community Unit Plan DP-170. Provision #4 of the CUP states that setbacks would be determined at the time of platting depending on land use or generally the minimum setbacks shall be shown on a chart on the CUP. The chart calls for 20-foot rear setbacks for all development in DP-170. The UZC Unified Zoning Code establishes a 20-foot rear setback, for the SF-5 zoning district; Sec.III-B.5.d.4. Per the UZC the recorded platted setback is the minimum setback; Sec.III-E.1.(4).

If the rear setback was not platted the applicant could have applied for a variance that could have reduced the rear setback by more than 20%. However if the vacation request is approved it would establish a setback of 15.1 feet only where the proposed roof for the patio is shown on the site plans. The subject lot is not unique in its configuration or size in reference to the other lots along this portion of North Morning Dew Street. However, none of the lots on this portion of North Morning Dew Street are rectangular or square in their shape, they all have a 'dog leg' bend leading to their rear yards. There is 10 feet of a platted 20-foot utility easement with a sewer line located in the rear yard setback. The proposed vacation will not encroach into the platted easement. There is a platted 5-foot maintenance and access easement running parallel to the subject site's north property line. This is not shown on the site plans, but per those plans the proposed roof does not appear to encroach into it.

The Reflection Ridge Addition was recorded with the Register of Deeds October 7, 1987.

Evergy has no objection to this request but does have equipment and underground lines in the in the platted 20-foot utility easement of which 10 feet is located in the back yard in the area/setback they want to vacate. Condition # 3 will cover Evergy. Richard Aiken Design Representative is the contact for this item and can be reached at 316-261-6334. There have been no objections from utilities or other entities that may have an interest in this request.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from Public Works, Storm Water, 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 platted front yard 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 May 27, 2021, 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 rear yard setback, and that the public will suffer no loss or inconvenience thereby.

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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 portion of the platted 20-foot rear yard setback as described in an approved legal description. Provide Planning with the approved legal description on a Word document via E-mail for use on the Vacation Order. This must be completed prior to the case going to City Council for final action.
- (2) Note VAC2021-00024 and its change on Lot 42, Block 1, Reflection Ridge Addition's rear setback on CUP DP-170.
- (3) Confirm that the proposed roof does not encroach into the platted 5-foot maintenance and access easement running parallel to the subject site's north property line.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. All improvements shall be according to City Standards and will be at the applicant's expense. Approval of plans for the relocation of any and all utilities by Public Works and/or franchised utilities must be completed prior to the case going to City Council for final action. Provide Planning with letters of approval or E-mails of approval.
- (5) Provide Planning with any required easement(s) dedicated by separate instrument(s) with original signatures for recording with the Register of Deeds. These original dedications will go with the Vacation Order to City Council for final action and filing with the Sedgwick County Register of Deeds.
- (6) 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 Sedgwick County Register of Deeds.

#### **SUBDIVISION COMMITTEE'S RECOMMENDED ACTION**

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

- (1) Vacate the portion of the platted 20-foot rear yard setback as described in an approved legal description. Provide Planning with the approved legal description on a Word document via E-mail for use on the Vacation Order. This must be completed prior to the case going to City Council for final action.
- (2) Note VAC2021-00024 and its change on Lot 42, Block 1, Reflection Ridge Addition's rear setback on CUP DP-170.

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- (3) Confirm that the proposed roof does not encroach into the platted 5-foot maintenance and access easement running parallel to the subject site's north property line.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. All improvements shall be according to City Standards and will be at the applicant's expense. Approval of plans for the relocation of any and all utilities by Public Works and/or franchised utilities must be completed prior to the case going to City Council for final action. Provide Planning with letters of approval or E-mails of approval.
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#### Attachments

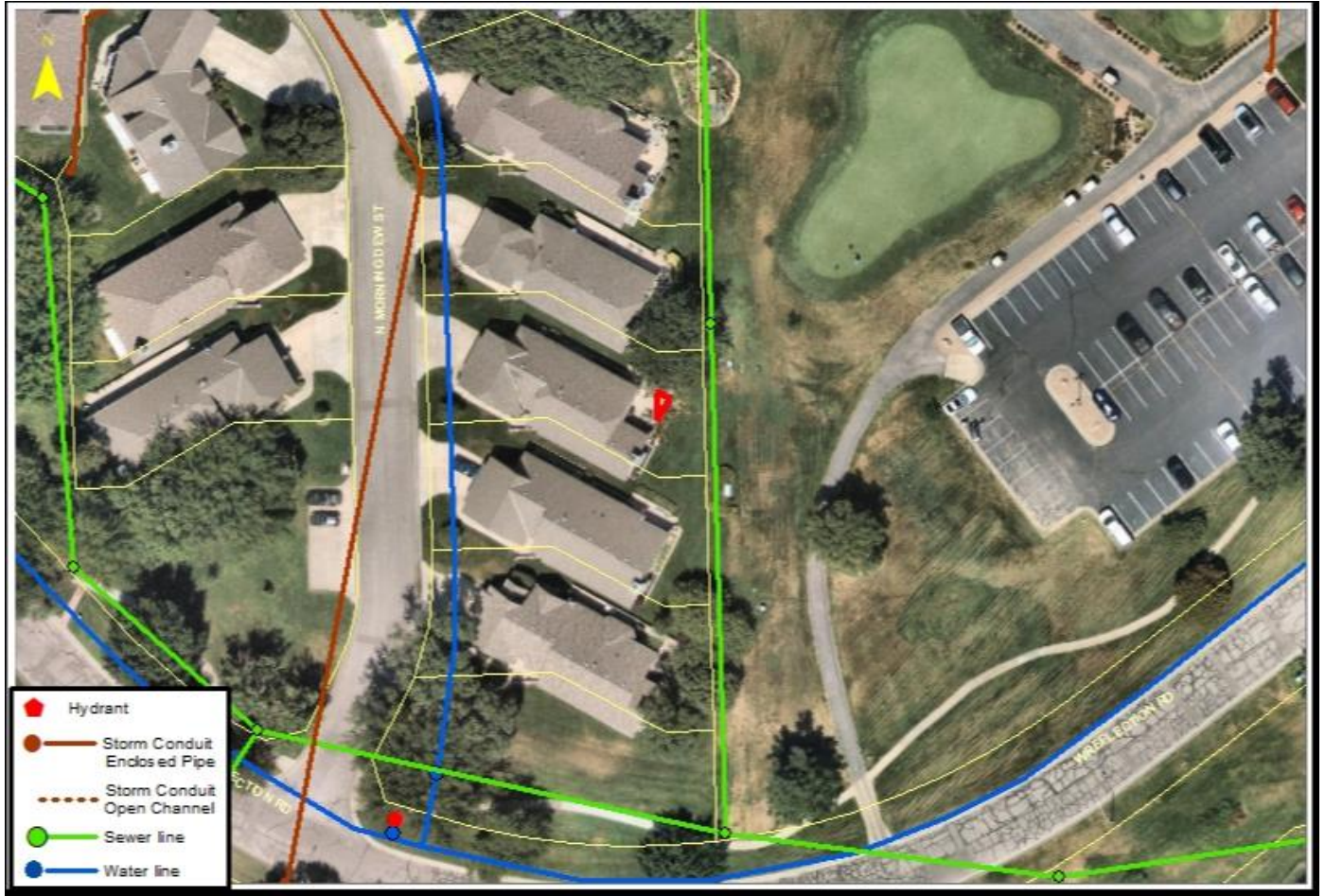
Water, Sewer & Storm water

Site Plans

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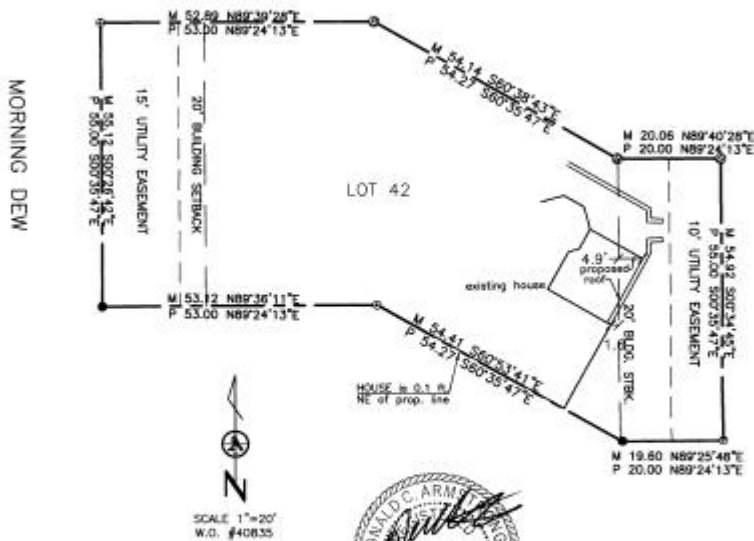


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### PLOT PLAN



W.O. #20056-2

LEGAL DESC.— Lot 42, Blk 1, Reflection Ridge Add.  
ADDRESS: 2408 Morning Dew

ARMSTRONG LAND SURVEY, P.A.  
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