

STAFF REPORT

CASE NUMBER: VAC2021-00039 - City request to vacate a portion of a street right-of-way created by Condemnation Case No. 69499

APPLICANTS: Kenneth & Denise Gardner (applicant) Savoy Company, PA, c/o Mark Savoy (agent)

LEGAL DESCRIPTION: Generally described as vacating a portion of East Waterman Street that abuts the south side of Lot 75, Hyde's Addition, 4.7 feet of South Pattie Avenue on the east side of said Lot & 1.9 feet of the platted north-south alley on the west side of said Lot, Wichita, Sedgwick County, Kansas

LOCATION: Generally located three blocks east of South Washington Avenue, on the northwest corner of East Waterman Street and South Pattie Avenue (District I)

REASON FOR REQUEST: Remove encroachment of building into East Waterman Street right-of-way

CURRENT ZONING: The site is public street right-of-way. The abutting north, east and west properties are zoned Central Business District (CBD). The abutting south properties, across East Waterman Street, are zoned Limited Industrial (LI).

VICINITY MAP:



On May 28, 1928 Condemnation Case No. 69499 (Sedgwick County District 4 Court) acquired a 4.7 foot to 1.9-foot wide (x) 140-foot long portion of the south side of Lot 75 (abutting Pattie Avenue), Hyde's Addition for the widening of the East Waterman public street right-of-way (ROW). The applicant is requesting that this portion of ROW be vacated to remove a building's encroachment into the ROW. The application has stated that the building was constructed in 2020 and at that time there was no record of the condemnation case found with the title to the property. Subsequently the building was built to what was thought to be the Central Business District (CBD) zoned property's minimum, zero, street side yard building setback; the building was placed on what was thought to be Lot 75's south property line.

This portion of ROW abuts Pattie Avenue on its east side, a platted 20-foot wide alley on its west side and Lot 75, Hyde's Addition on its north side. The platted alley and South Pattie Avenue are also recorded as part of the Hyde's Addition, which was recorded May 13, 1884. At the time the Hyde's Addition was recorded, Waterman Street was named Division Street with 34.5 feet of half street ROW. There is no reference in the condemnation case when Division Street became Waterman Street. East Waterman Street is a two residential lane street at this location with a currently listed 38 feet of half street ROW.

There are power poles, power lines, right-of-way trees and a fire hydrant located on the outside of a sidewalk in the East Waterman ROW. Everygy has no objections. Abby Brungardt is the Everygy contact for this area and may be contacted at 316-261-6357. A water line, storm water, sewer lines and manholes are located in the ROW. There has been no reported encroachments into the sidewalk portion of the ROW by the applicant's building. There has been no reported building over utilities. Conditions #3, #4 and #5 cover all utilities.

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 portion of East Waterman Street public street ROW created Condemnation Case No. 69499.

- 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 September 16, 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 portions of the East Waterman public right-of-way created Condemnation Case No. 69499, 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) Provide an approved legal description of the vacated portion of East Waterman Street on a Word document that can be copied and used on the Vacation Order.
- (2) Provide a restrictive covenant, with original signatures, binding and tying the described vacated portion of East Waterman public street right-of-way to the abutting north property, Lot 75 (abutting Pattie Avenue), Hyde's Addition. This covenant is binding on the Declarant, the Declarant's heirs, successors and assigns and is a covenant running with the land binding on all successors in title to the property. This must be provided to Planning prior to the case going to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.

- (3) As needed provide utilities with any needed project plans for the relocation of utilities for review and approval. Any relocation/reconstruction of utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number(s) to Planning prior to the case going to City Council for final action.
- (4) Provide any needed easements for utilities prior to the case going to City Council for final action.
- (5) All improvements shall be according to City Standards and at the applicants' expense.
- (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.

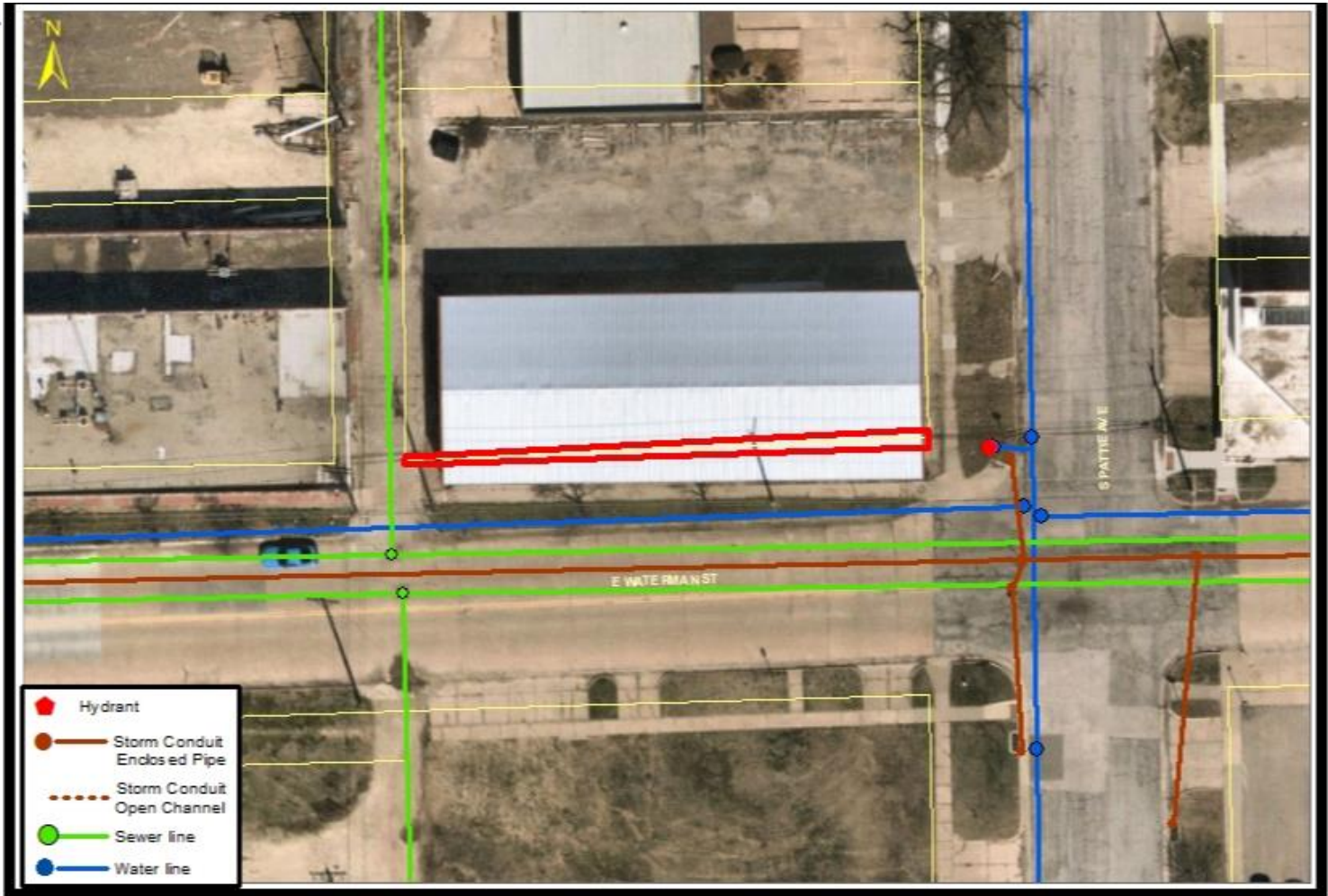
SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

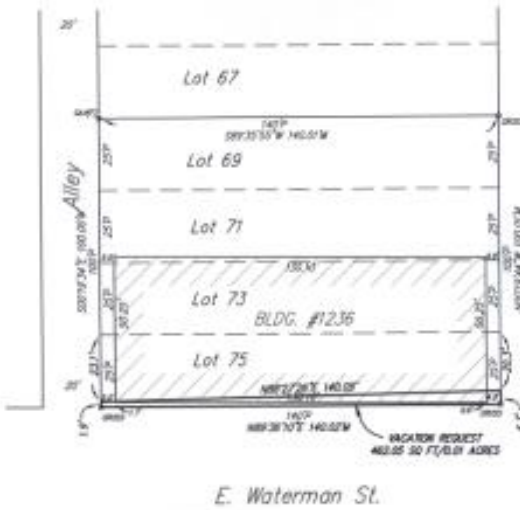
The Subdivision Committee recommends approval subject to the following (but not limited to) conditions :

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Attachments:

- Aerial showing public utilities & location of proposed vacated right-of-way
- Exhibit & legal description





S. Pattie Ave.

E. Waterman St.

PROJECT NO. 21020476 BSR

OWNERSHIP DESCRIPTION:

Lots 69, 71, 73 and 75 on Pattie Ave., Hyde's Addition to the City of Wichita, Sedgwick County, Kansas.

CONDEMNATION DESCRIPTION:

A strip off of the south side of Lot 75 on Pattie Avenue, Hyde's Addition to the City of Wichita, Sedgwick County, Kansas, being four and seven-tenths (4.7) feet wide of Pattie Avenue and one and nine-tenths (1.9) feet wide of the alley west of Pattie Avenue.

VACATION DESCRIPTION:

A strip off of the south side of Lot 75 on Pattie Avenue, Hyde's Addition to the City of Wichita, Sedgwick County, Kansas, being four and seven-tenths (4.7) feet wide of Pattie Avenue and one and nine-tenths (1.9) feet wide of the alley west of Pattie Avenue as originally condemned by Case No. 69499.

N



1" = 20'

LEGEND:

= Station

= Measure

C = Copied

Pa = Proposed

- CROSS ——— DENSED CROSS (FOUND, PREVIOUSLY SET)
- S&T ——— 1/2" ROAD #/SAVOR CAP (FOUND)



Savoy Company, P.A.
Land Surveyors

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431 S. Hydewalk, Wichita, KS 67213-1912 www.savoy.com 24 August 2021