Sedgwick County
Register of Deeds - Tonya Buckingham
Doc.#/Flm-Pg: 30221916
Receipt #: 2369075
Pages Recorded: 2
Recording Fee: $0.00
Authorized By
Cashier: jlwheele
Date Recorded: 02/17/2023 03:05:41 PM

BEFORE THE CITY COUNCIL OF THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS

IN THE MATTER OF THE VACATION OF A PORTION OF A CONTINGENT STREET DEDICATION AND A PORTION OF A PLATTED FRONT SETBACK	)	
GENERALLY LOCATED NORTH OF EAST U.S. 54/400 AND WITHIN ONE-QUARTER MILE WEST OF SOUTH 159TH STREET EAST	)	**VAC2021-00029**
MORE FULLY DESCRIBED BELOW	)	

VACATION ORDER

NOW on this 14th day of February, 2023, comes on for hearing the petition for vacation filed by RR Business Properties, LLC (owner), praying for the vacation of a described portion of a portion of a contingent street dedication and a portion of a platted front setback, to wit:

Contingent Street Dedication:

Vacating that portion of the contingent dedication of East Kellogg Drive public right-of-way that abuts the west side of Lot 2, Block 2, the north and east sides of Reserve B and the south side of East Willowbrook Circle all in the Belle Terre South Addition, Wichita, Sedgwick County, Kansas.

Platted Front Setback:

Vacating the south 10 feet of the platted 35-foot front yard setback located along the west portion of Lot 2, Block 2, Belle Terre South Addition Wichita, Sedgwick County, Kansas

The City Council, after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, makes the following findings:

1. That due and legal notice has been given by publication, as required by law, in The Wichita Eagle on August 19, 2021, which was at least 20 days prior to the public hearing.

2. No private rights will be injured or endangered by the vacation of the described portion of the contingent street dedication and portion of the front yard setback, and the public will

suffer no loss or inconvenience thereby.

3. Dedications of utility easements, by separate instrument, encompassing the area of the vacated street dedication shall be recorded with the Vacation Order at the Register of Deeds of Sedgwick County.

4. Restrictive Covenants binding and tying the vacated street contingent street dedication to abutting properties shall be recorded with the Vacation Order at the Register of Deeds of Sedgwick County.

5. In justice to the petitioner(s), the prayer of the petition ought to be granted.

6. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.

7. The vacation of the described portion of the contingent street dedication and portion of the front yard setback, should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 14th day of February, 2023, ordered that the described portion of the contingent street dedication and portion of the front yard setback is hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall send this original Vacation Order to the Register of Deeds of Sedgwick County.

CITY OF WICHITA, KANSAS

Brandon J. Whipple, Mayor

ATTEST:

Jamie Buster, City Clerk

Approved as to Form:

Jennifer Magana, City Attorney and Director of Law

METROPOLITAN AREA PLANNING COMMISSION

AGENDA REPORT No. 3-1
September 9, 2021

STAFF REPORT

CASE NUMBER: **VAC2021-00029 -** City request to vacate a portion of a contingent dedication of East Kellogg Drive public street right-of-way and a portion of a platted front yard setback

APPLICANTS: RR Business Properties, LLC, c/o Rick Wessley (applicant), KE Miller Engineering, PA c/o Kirk Miller (agent)

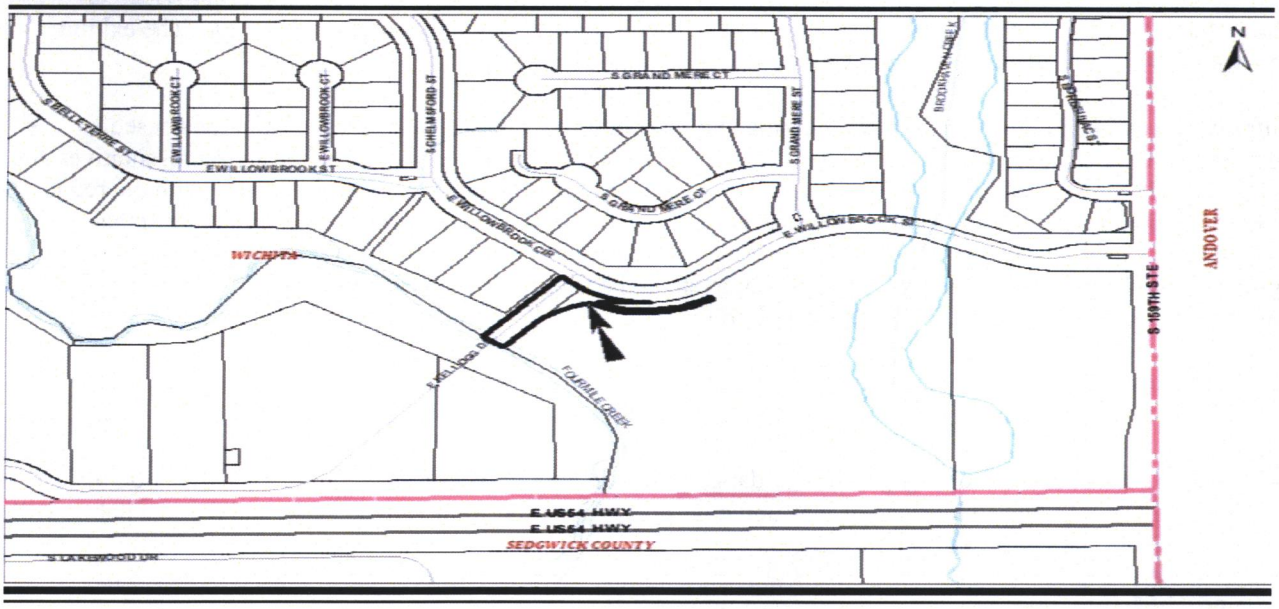
LEGAL DESCRIPTION: Generally described as vacating that portion of the contingent dedication of East Kellogg Drive public right-of-way that abuts the west side of Lot 2, Block 2, the north and east sides of Reserve B and the south side of East Willowbrook Circle all in the Belle Terre South Addition, & vacating the south 10 feet of the platted 35-foot front yard setback located along a west portion of Lot 2, Block 2, Belle Terre South Addition Wichita, Sedgwick County, Kansas

LOCATION: Generally located north of East Kellogg/US 54 Highway and approximately a quarter-mile west of North 159th Street East on the south side of East Willowbrook Circle (District II)

REASON FOR REQUEST: The south abutting Belle Terre Commercial Addition plat vacated the south portion of East Kellogg Drive leaving the subject portion of East Kellogg Drive a dead end right-of-way.

CURRENT ZONING: The subject site is an undeveloped, dead end +58-foot wide public street ROW right-of-way. Property abutting the east side of the subject ROW is zoned LC Limited Commercial & contains the subject platted setback. Property abutting the south side of the subject ROW is zoned PUD Planned Unit Development. Property abutting the west side of the subject ROW is a SF-5 Single-Family Residential zoned platted reserve. Public Street ROW abuts the north end of the subject ROW.

VICINITY MAP:



The applicant is requesting the vacation of the contingent dedication of East Kellogg Drive public street ROW right-of-way as recorded on the Belle Terre South Addition. The Belle Terre South Addition was recorded with the Register of Deeds August 22, 1997. The later platting (recorded December 16, 2016) of the south abutting PUD Planned Unit Development zoned Belle Terre Commercial Addition vacated the southern portion of the subject ROW, which was to have continued to the East Kellogg frontage road and onto Kellogg/US 54 Highway. The approval of the Belle Terre South Addition plat made the subject ROW an unimproved dead end ROW. No properties would be denied direct access onto public street ROW if the vacation request is approved.

Reversion rights go to the subject property, the LC Limited Commercial zoned Lot 2, Block 2, and the SF-5 Single-Family Residential zoned Reserve B, all in the Belle Terre South Addition. Reserve B is reserved for floodways, drainage, lakes, parks, walkways, recreation facilities, entry monuments and utilities confined to easements. Reserve B was to be owned and maintained by a HOA Home Owners Association established by restrictive covenants. However, a HOA is not listed as the owner of Reserve B, the ownership list gives an LLC as the owner.

The applicant is also requesting the vacation of the south 10 feet of the platted 35-foot front yard setback along a northwest portion of the LC Limited Commercial zoned subject property, Lot 2, Block 2, Belle Terre South Addition, resulting in a 25-foot front yard setback. The site plan shows the proposed 25-foot setback extending into a portion of the proposed vacated subject ROW. The UZC Unified Zoning Code has a minimum front yard setback of 20 feet for the LC zoning district. The applicant proposes to build a home on the LC zoned subject site. Single-family residential development is permitted by right in the LC zoning district. However, the subject property is also subject to the standards of the commercial Community Unit Plan CUP-226. CUP-226 does not permit single-family residential development.

There are two sewer lines that meet in a manhole located in the subject ROW. Easements per City standards need to be dedicated to cover Sewer and any other utilities located in the subject easement. Conditions #1, #3 and #6 cover all utilities.

The applicant proposes to file an adjustment to CUP-226 and a Lot Split located on the northwest corner of the subject lot after the vacation. The adjustment will be to allow single-family residential development on that portion of the subject lot that will be defined in the Lot Split and the vacated setback is for the part being split out. The applicant has provided an exhibit that shows the Lot Split. The exhibit shows half of the vacated subject ROW going to the subject lot. The exhibit shows an east – west 30-foot utility easement that would cover one of the sewer lines.

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 contingent dedication of public street right-of-way and a portion of the 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 July 15, 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 contingent dedication of East Kellogg Drive public street right-of-way and a portion of a platted front 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) Dedicate utility easements by separate instrument, with original signatures, to cover the two sewer lines and manhole. Dedicated any other needed easement(s) to cover utilities located in the subject vacated East Kellogg Drive public street right-of-way. These 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.

(2) Provide a restrictive covenant, with original signatures, binding and tying the described vacated portion of East Kellogg Drive public street right-of-way to the abutting property(s). 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 Planning with an approved legal description of the vacated portion of East Kellogg Drive and of the vacated portion of the front yard building setback on a Word document by E-mail that can be copied and used on the Vacation Order. The vacation order will not leave half street right-of-way. The applicant, Lot 2, Block 2 and the owner of Reserve B, all in the Belle Terre South Addition must agree that the reversion of the subject right-of-way will go to both the abutting applicant's property and the owner of the abutting Reserve B or all of the vacated ROW will go to the applicant. Provide Planning with a letter from the owner of Reserve B stating their intentions on reversion. This must be provided to Planning prior to the vacation case going to City Council for final action.

(5) The vacation will establish a 25-foot front yard setback contingent on approval of a Lot Split establishing a new lot on the northwest corner of the LC Limited Commercial zoned Lot 2, Block 2, Belle Terre South Addition and where said lot abuts the vacated portion of East Kellogg Drive public street right-of-way and approval of an Administrative Adjustment to CUP-226 to allow single-family residential development on the lot established by the Lot Split.

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

(7) 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 :

(1) Dedicate utility easements by separate instrument, with original signatures, to cover the two sewer lines and manhole. Dedicated any other needed easement(s) to cover utilities located in the subject vacated East Kellogg Drive public street right-of-way. These 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.

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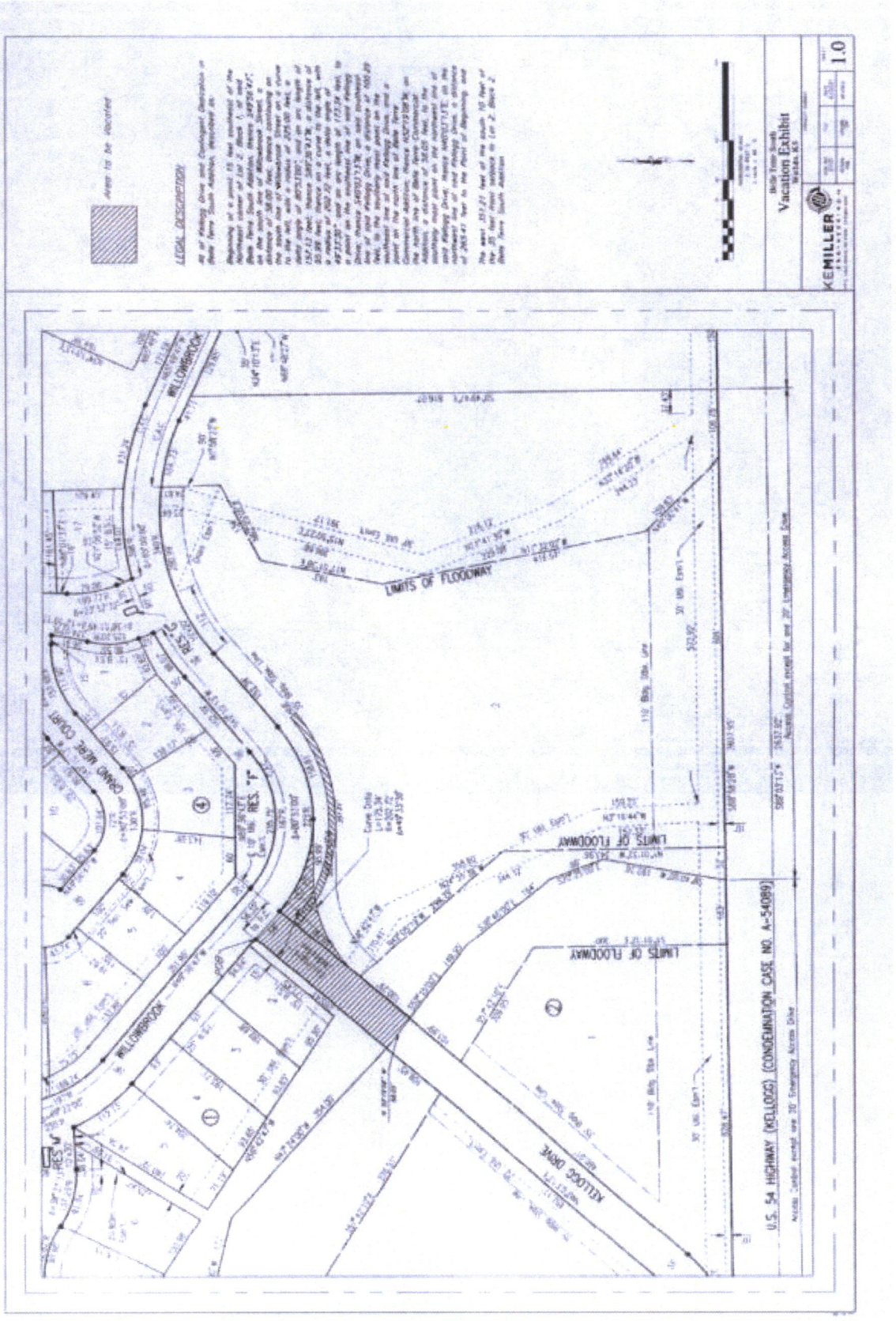
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Hydrant
Storm Conduit Enclosed Pipe
Storm Conduit Open Channel
Sewer line
Water line
N


Area to be vacated
LEGAL DESCRIPTION
Vacation Exhibit
KEMILLER
1.0
WILLOWBROOK
LIMITS OF FLOODWAY
LIMITS OF FLOODWAY
LIMITS OF FLOODWAY
KELLOGG DRIVE
U.S. 54 HIGHWAY (KELLOGG) (CONDEMNATION CASE NO. A-54089)
RES "J"
RES "I"
RES "H"
CANYON MERE COURT

STATE OF KANSAS)
COUNTY OF SEDGWICK) SS

Lot Split

Lot 2, Block 2, Belle Terre South
Wichita, Sedgwick County, Kansas

LEGAL DESCRIPTION:

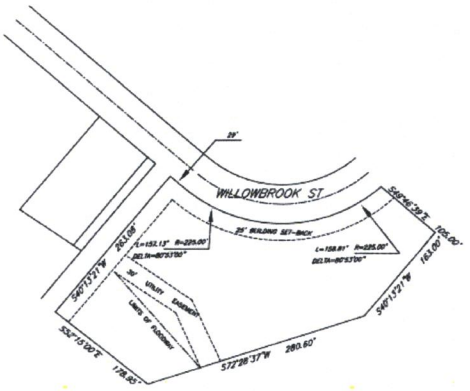
Parcel 1: Beginning at xxx, north 263.08' to edge of right of way, east 29', 315.94' along curve, southeast 105.00', southwest 163.00', southwest 280.60', northwest 178.95' ending at beginning

This parcel contains 96,647.23 square feet, more or less.

Certification:

I, Keith A. Severns, a registered land surveyor in the aforesaid County and State, do hereby certify that the following described tract of land was surveyed on February 25, 2021, and that all monuments shown hereon actually exist and their positions are true and correct to the best of my knowledge and belief.

Keith A. Severns P.S. #1355 Date
Not Original Unless Signed in Blue Ink



City of Wichita)
Sedgwick County) ss
State of Kansas)

Lot Split No. _____
Copy___of 2

I, Scott A. Wadle, Director of Planning, Wichita-Sedgwick County Metropolitan Area Planning Department, do hereby certify under the Authority granted in the Subdivision Rules and Regulations that the lot split to which this stamp is affixed has been approved

Given under my hand and seal this_____day of _____, 20_____.

Scott A. Wadle

150 75 0 150
(IN FEET)
1 inch = 150 ft.

LEGEND:
M Measured
P Platted
1/2" Rebar (found) Baughman
Found ⅝" Rebar
R4 Rebar (set) KEMPA LS#157
Found Cross on Driveway

KEMILLER ENGINEERING PA
117 E. Lewis, Wichita, KS 67202 (316)264-0242