



**Wichita-Sedgwick County Metropolitan Area Planning Department**

July 31, 2019

Samuel J. Moser  
7655 S Bayneville  
Clearwater, KS 67026

**Ref: VAC2007-00030:** County Vacation of portions of platted street and alley right-of-way, generally located midway between 71<sup>st</sup> and 79<sup>th</sup> Streets South, on the west side of 87<sup>th</sup> Street West, south and west of Market & 2<sup>nd</sup> Streets (Bayneville) intersection.

Dear Sam,

At its regular meeting on Wednesday, July 10, 2019, the Board of County Commission considered the above-mentioned request. The action of the Board of County Commissioners was to **APPROVE** subject to the recommendation by the MAPC.

If you have any questions about this matter, please call 268-4494.

Sincerely,

A handwritten signature in black ink, appearing to read 'Philip Zevenbergen'.

Philip Zevenbergen  
Associate Planner

PZ:kw

cc: Cody Branham, 1635 N Waterfront Parkway Ste. 200, Wichita, KS 67206

**STAFF REPORT**

**CASE NUMBER:** VAC2007-00030 – County Vacation of a portion of platted public street right-of-way and a portion of a platted alley.

**APPLICANT:** Samuel Moser (applicants)

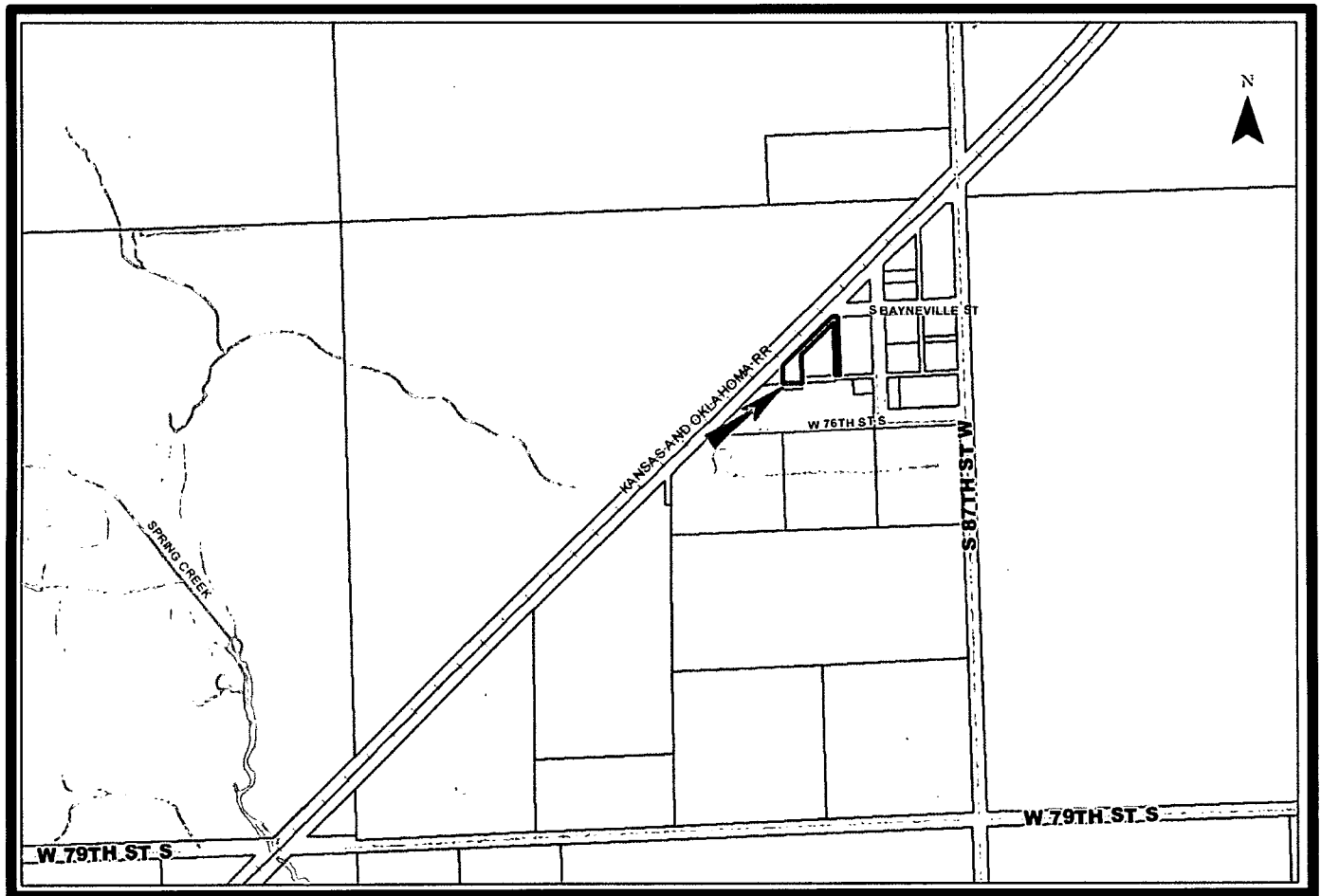
**LEGAL DESCRIPTION:** See attached.

**LOCATION:** Generally located approximately ½ mile north of West 79<sup>th</sup> Street South and approximately 575 feet west of South 87<sup>th</sup> Street West. (BOCC II)

**REASON FOR REQUEST:** To tie currently owned parcel of land together to create one contiguous property.

**CURRENT ZONING:** Abutting and adjacent properties are zoned RR Rural Residential.

**VICINITY MAP:**



The applicant is requesting the vacation of a portion a public street right-of-way and adjoining portions of platted alley ways all dedicated on the Bayneville Addition. The Bayneville Addition was originally platted in 1884, but full development of the town was never realized. The development that has taken place has single land owners owning large areas of land that span multiple platted lots and vacated rights-of-way. The majority of the original public street rights-of-way and alleys have already been vacated.

The public street right-of-way in this request is a remnant of platted First Street. Additionally, the vacation request includes an adjoining alley running parallel to the Kansas and Oklahoma Rail Road as well as a portion of the north/south, mid-block alley of Block 7 separating Lots 22-29 (inclusive) on the west from Lots 1-9 (inclusive) on the east. This request effectively, ties together land owned by the applicant on Blocks 6 and 7 creating a contiguous property. Should this vacation be approved, no property will be deprived access. There are no public utilities located in the vacation area. This area is outside of Westar Territory.

This request is a resubmittal of an original request made in 2007. This request is a modified version of the original and only includes areas to be vacated that abut the applicant's property. The original request included an additional segment of the platted First Street right-of-way; a portion of the platted Market Street right-of-way abutting Lot 1; as well as an east/west alley separating Lot 10 on the north from Lots 11-15 (inclusive) on the south, all of Block 7. Adjoining property owners were not interested in signing the required Vacation Petition or Restrictive Covenants related to the original submission.

An issue with the resubmission of this request has been discovered related to the vacation of the portion of the platted First Street right-of-way. If this vacation request is approved, a small "island" of right-of-way will be left over abutting Lot 10, Block 6 on the west, Lot 20, Block 7 of the east, and the previously vacated portion of First Street on the South (see attached exhibit). All described property is not owned by the applicant. The owner of the described property was not amendable to signing the required Vacation Petition or Restrictive Covenants of the original submission. Staff is working with Sedgwick county Public works to determine what the correct way to address this situation. It is their desire to ensure the remnant of right-of-way is not inaccessible with being surrounded by private property.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, 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 public street right-of-way and alleys.

- 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 2, 2019, 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 right-of-way and portion of platted alleys 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 a covenant, with original signatures, binding and tying the described vacated public street right-of-way and alleys to the applicants' abutting property. This must be provided to Planning prior to VAC2007-00030 proceeding to the Board of County Commission for final action and subsequent recording with the Vacation Order at the Sedgwick County Register of Deeds and the Sedgwick County Appraisers Office.

- (2) 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.
- (3) All improvements shall be according to County Standards and at the applicants' expense.
- (4) 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 per staff recommendations.

#### **Attachments:**

1. Area Map
2. Plat
3. Exhibit



Sedgwick County  
Reg. of Deeds - Tonge Buckingham  
Doc.#/Flm-Pg: 29861901

Receipt #: 2120439  
Pages Recorded: 3

Recording Fee: \$0.00

Cashion: KVENATOR

Authorized By: *Tonge Buckingham*

Date Recorded: 07/12/2019 12:17:11 PM



BEFORE THE COUNTY COMMISSIONERS  
OF SEDGWICK COUNTY, KANSAS

IN THE MATTER OF THE VACATION OF )  
PORTIONS OF PLATTED STREET AND ALLEY )  
RIGHTS-OF-WAY )

LOCATED MIDWAY BETWEEN 71<sup>ST</sup> AND 79<sup>TH</sup> )  
STREETS SOUTH ON THE WEST SIDE OF 87<sup>TH</sup> )  
STREET WEST, SOUTH AND WEST OF MARKET )  
AND 2<sup>ND</sup> STREETS (BAYNEVILLE) INTERSECTION )

CASE NO. VAC2007-00030

VACATION ORDER

NOW on this 10<sup>th</sup> day of July, 2019, at 9:00 o'clock A.M., comes the petition filed by Samuel J. Moser (owner), praying for the vacation of the following-described portion of platted street and alley rights-of-way, to-wit:

The streets and alleys between parcels owned by Samuel J. Moser described as:  
Lots 1 through 10 & Lots 22 through 29, Block 7, City of Bayneville, Sedgwick County, Kansas; and

That part of the SE/4 5-29-1 W previously known as Lots 8 & 9, Blk6, Town of Bayneville described as begin at the SE cor of Lot 9; th. W79.74' to the SW cor of Lot 9, begin a point on the Ely r/w line of RR; th. NEly along RR line 109.14' to the Nly most corner of Lot 8; th. S along E line 74.17' to begin 15-CV-3026 AND that part of the SE/4 previously known as Lot 21, Blk 7, Town of Bayneville described as being at the SE cor of said Lot 21; th. W along S line 140' to the SW cor of said Lot; th. N25" th. E 140'; th. S 25' to begin 5-29-1W.

WHEREUPON, it is shown that proper notice has been given by publication once at least 20 days prior to the date of hearing in the official county newspaper, the Derby Informer, such publication having occurred on , May 2, 2019; and it is further shown that proper proof of such publication has been filed herein. The Board finds that such notice is in lawful form and that it conforms to K.S.A. 58-2613, and amendments thereto.

THEREAFTER, the Board, being duly advised in the premises, finds and determines that no private rights will be injured or endangered by such vacation; that the public will suffer no loss or inconvenience thereby; that no written objections hereto have been filed with the Sedgwick County Clerk; and that, in justice to the petitioner, the petition's prayer should be granted.

The Board further finds that the Metropolitan Area Planning Commission held a public hearing on the 23<sup>rd</sup> day of May, 2019, and recommended that the vacation petition herein be approved.

THEREFORE, IT IS ORDERED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, that the portion of platted street and alley way rights-of-way, hereinabove described be the same and is hereby vacated. It is further ordered that County Clerk shall certify a copy of this order to the Register of Deeds of Sedgwick County.


Commissioners present and voting were:

PETER F. MEITZNER	<u>Aye</u>
MICHAEL B. O'DONNELL, II	<u>Aye</u>
DAVID T. DENNIS	<u>Aye</u>
LACEY D. CRUSE	<u>Aye</u>
JAMES M. HOWELL	<u>Aye</u>

Dated this 10 day of July, 2019.

BOARD OF COUNTY COMMISSIONERS  
OF SEDGWICK COUNTY, KANSAS

ATTEST:

*for Karen S. B.*  
KELLY B. ARNOLD, Clerk  


*[Signature]*

DAVID T. DENNIS, Chairman  
Commissioner, Third District

*[Signature]*

PETER F. MEITZNER, Chair Pro Tem  
Commissioner, First District

*[Signature]*

MICHAEL B. O'DONNELL, II  
Commissioner, Second District

APPROVED AS TO FORM:

*[Signature]*  
JUSTIN M. WAGGONER  
Assistant County Counselor

*[Signature]*

LACEY D. GRUSE  
Commissioner, Fourth District

*[Signature]*

JAMES M. HOWELL  
Commissioner, Fifth District

