

**STAFF REPORT**

**CASE NUMBER:** VAC2019-00010 - Request to vacate a portion of platted floodway easement

**APPLICANT/AGENT:** Andy and Hope Buessing

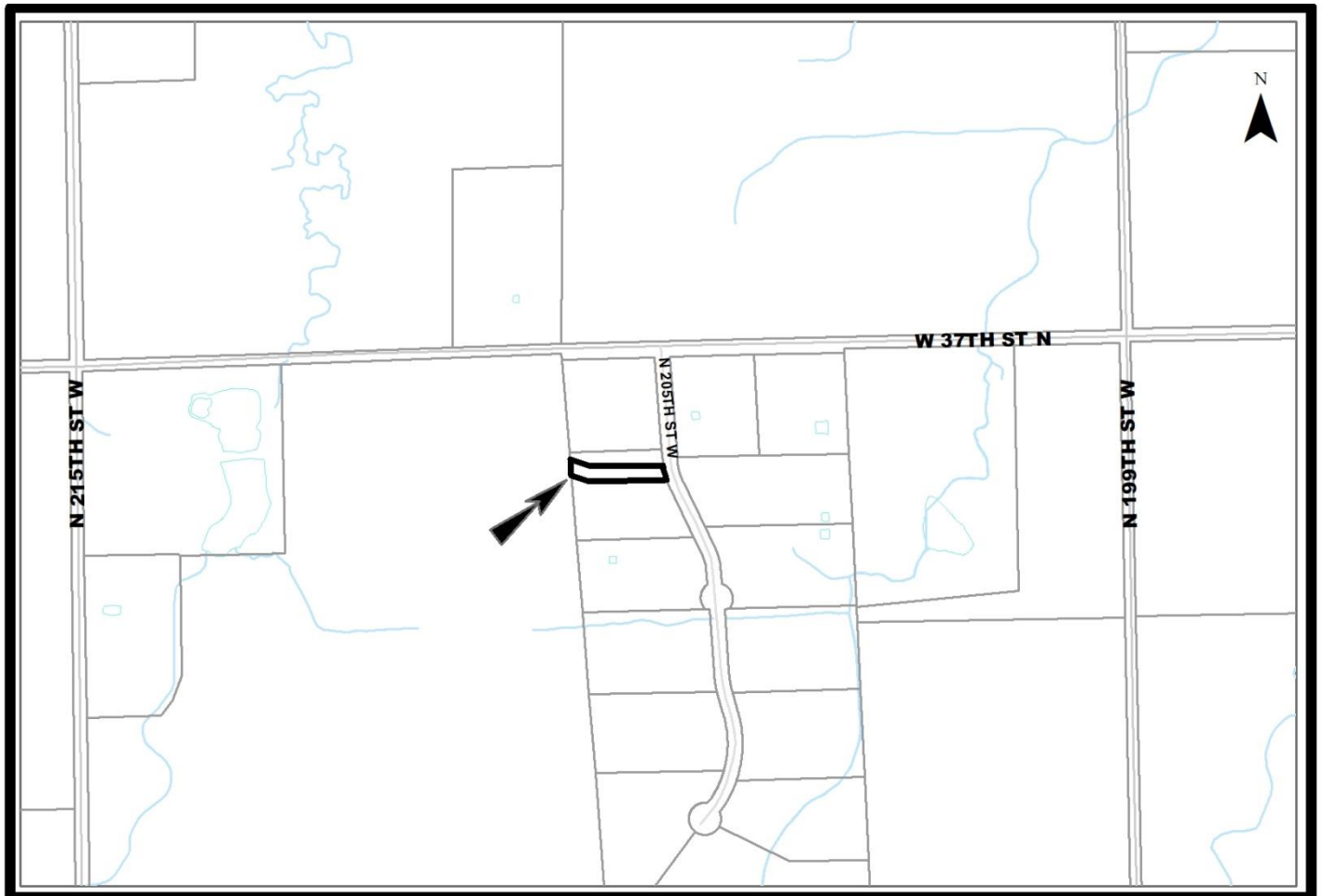
**LEGAL DESCRIPTION:** Generally described as vacating a portion of the platted floodway easement located on the north side of Lot 2, Block A, Martin Addition, Sedgwick County, Kansas.

**LOCATION:** Generally located south of West 37<sup>th</sup> Street North and approx. ½ mile west of North 199<sup>th</sup> Street West. (BoCC #3)

**REASON FOR REQUEST:** To allow a single-family residence to be built

**CURRENT ZONING:** The site and all abutting and adjacent properties are zoned RR Rural Residential.

**VICINITY MAP:**



The applicant proposes to vacate a portion of the platted floodway easement located on the north side of the 4.48-acre Lot 2, Block A, Martin Addition. The plattor's text states the platted floodway is for "Floodway purposes and shall be the responsibility of the owner of each of the lots until such time as the governing body exercising jurisdiction elects to assume the responsibility for maintenance and improvement of drainage." The plattor's text also states that "no structure shall be constructed on or within said Floodway, nor shall any fill, change of grade, creation of channel or other work be carried out without the permission of the Engineer of the appropriate governing body." The proposed vacated portion of the floodway easement is located outside of the FEMA Flood Plains.

The applicant wishes to build a single-family residence within the proposed vacated floodway easement. The applicant also intends to dedicate a drainage easement along the north property line in lieu of the floodway easement. The site is located in Sedgwick County Rural Water District #4. A septic sewer system will be required onsite when the proposed single family home is constructed. There are no utilities located within the area of the vacation. The Martin Addition was recorded with the Register of Deeds June 19, 2003.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from County Public Works, 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 the platted drainage reserve.

- 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 16, 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 floodway easement 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) Vacate that portion platted floodway easement, as approved by County Public Works. Provide Planning Staff with a legal description of the approved vacated portion of the platted drainage reserve on a Word document, via e-mail, to be used on the Vacation Order and Vacation Petition. Provide all to Planning prior to the case going to the Board of County Commission for final action.
- (2) Dedicate a drainage easement by separate instrument with original signatures to be recorded with the Vacation Order at the Register of Deeds. This must be provided to Planning prior to this case going to the Board of County Commission for final action.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.

- (4) All improvements shall be according to County Standards and at the applicant's expense, including all required County plans, permits, inspections and the construction of the drainage easement.
- (5) 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. Areal Image
2. Site Plan
3. FEMA Flood zone Exhibit



