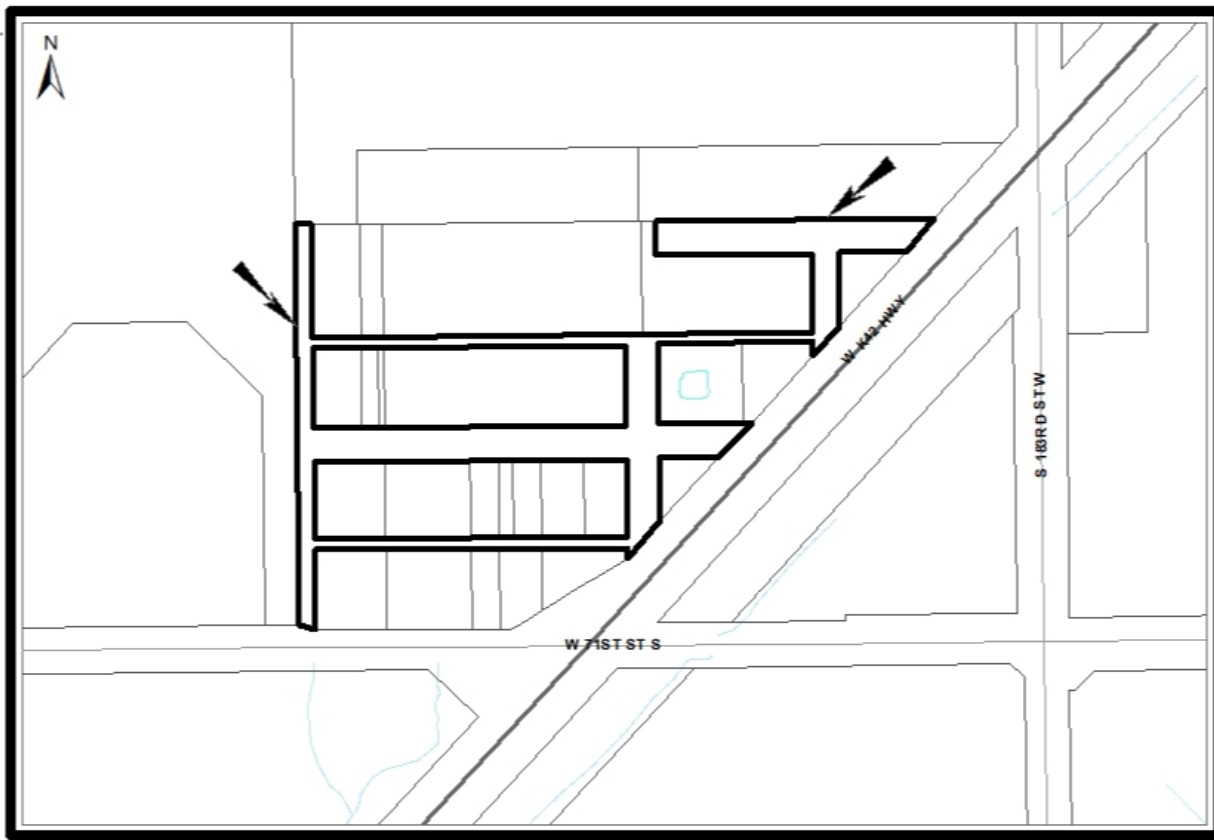


STAFF REPORT

- CASE NUMBER:** VAC2021-00051 – Request in the County to vacate multiple platted public streets & alleys
- APPLICANT:** Catholic Diocese of Wichita, c/o Bryan R. Coulter, Clonmell Community Club, Inc., c/o James L. Armour, & Carolyn Seiter (applicants) Baughman Company PA, c/o Philip J. Meyer (agent)
- LEGAL DESCRIPTION:** Generally described as vacating all of the unimproved platted Church & Orchard Streets, the remaining portions of the unimproved platted Cashel & Washington Streets and all of the unimproved platted alleys in the Wall’s Addition to Clonmell, Sedgwick County, Kansas
- LOCATION:** Generally located on the northwest corner of West 71st Street South & West K-42 Highway (County District III)
- REASON FOR REQUEST:** Expansion of existing development
- CURRENT ZONING:** The sites are public streets and alleys. All abutting and adjacent properties are zoned RR Rural Residential.
- VICINITY MAP:**



The applicants propose to vacate all of the platted unimproved Church Street, Orchard Street, and all of platted unimproved alleys. The applicants are also proposing to vacate the remaining portions of the platted unimproved Washington Avenue and Cashel Street, left over from VAC2008-00024. All of the subject streets have 60 feet of ROW right-of-way, except Orchard Street which has 30 feet of half-street ROW. All of the alleys are 20 feet wide. If approved all of the platted lots will remain. All of the referenced streets, alleys and avenue are recorded on the Wall's Addition to Clonmell, which appears to have been recorded in April 1907.

The Wall's Addition to Clonmell is located in the small, rural, unincorporated community of RR Rural Residential zoned Clonmell and the surrounding RR zoned area. The only development in this addition in Clonmell appears to be the Catholic Church's buildings, a cemetery (CON2008-00035), and a civic club. Aerials show the current development in Clonmell is basically the same as in 2008, with the exception of some expansion of the cemetery. If approved the vacation would eliminate all of the platted streets and alleys in the Wall's Addition to Clonmell. The applicants have noted that the unimproved streets and alleys have never been used for vehicular or pedestrian traffic. The proposed vacation does not deny access to public street ROW for the applicants' properties, which appears to be all the properties in the Wall's Addition to Clonmell.

Sedgwick County Rural Water District #4 has water lines located in portions of the subject ROWs. The applicant needs to locate those water lines and provide the dedication of 20-foot wide easement to cover them. The site is located in the Sedgwick County Electric Coop service area. The Coop has no objections to the request per Conditions #3 and #4 Tim Rosenhagen is the Staking Engineer for Sedgwick County Electric Coop and can be contacted at 316-542-3131. Sewer for the existing buildings does not appear to be in any ROW.

Sedgwick County Public Works requires drainage easements on Cashel Street between Blocks 1 & 4 and in the vacated 30-foot wide Orchard Street. Sedgwick County Fire District #1 has no objections with the vacation request as long the Church maintains both entrances to the parking lot; this condition will be in the Vacation Order. Conditions #3 and #4 cover all utilities. Vehicular traffic, pedestrian traffic and public safety will not be impacted by this vacation request, if approved with the recommended conditions.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from County Traffic, Public Works/Water & Sewer/Storm water, 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 portions of the platted streets 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 Derby Informer, of notice of this vacation proceeding one time December 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 portions of platted public street right-of-way and 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 Planning staff with an approved legal description of the vacated the platted streets and alleys on a Word document, via e-mail, to be used on the Vacation Order. This must be provided to Planning prior to the case going to the County Commission for final action.

- (2) Provide restrictive covenants with original signatures binding and tying the vacated streets and alley to the abutting lots. These restrictive covenants must be provided to Planning and will go with the Vacation Order to the County Commission for final action and subsequent recording at the Register of Deeds.
- (3) 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 County 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 the County Commission for final action. Provide Planning with letters of approval or E-mails of approval.
- (4) Provide a cross lot circulation agreement, with original signatures, to Planning. The cross lot circulation agreement will go with the Vacation Order to the County Commission for final action and subsequent recording at the Register of Deeds.
- (5) Provide Planning with any required easement(s) dedicated by separate instrument(s) with original signatures for recording with the Register of Deeds. All original dedications will go with the Vacation Order to the County Commission for final action and filling 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 Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

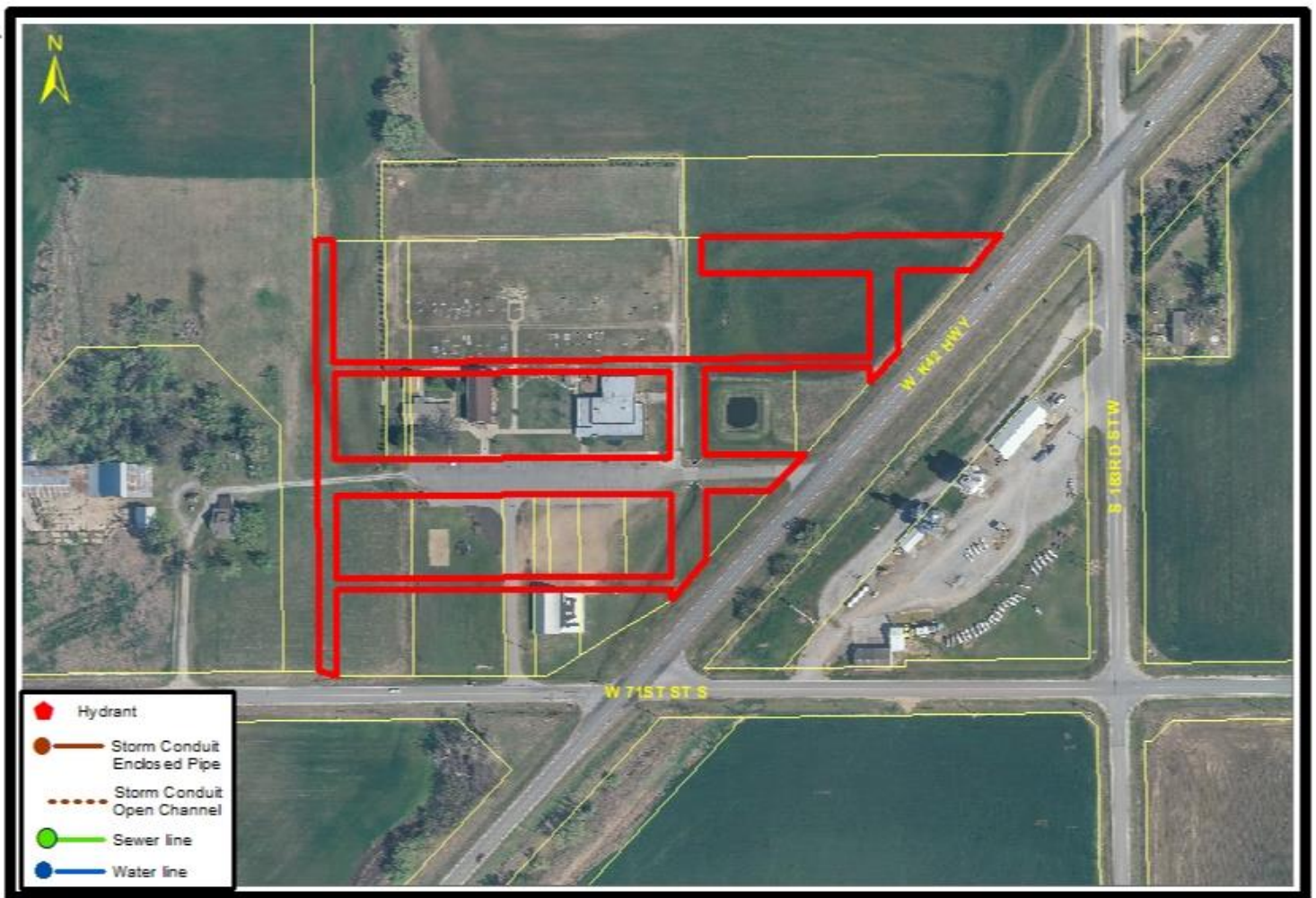
The Subdivision Committee recommends approval subject to the following (but not limited to) conditions :

- (1) Provide Planning staff with an approved legal description of the vacated the platted streets and alleys on a Word document, via e-mail, to be used on the Vacation Order. This must be provided to Planning prior to the case going to the County Commission for final action.
- (2) Provide restrictive covenants with original signatures binding and tying the vacated streets and alley to the abutting lots. These restrictive covenants must be provided to Planning and will go with the Vacation Order to the County Commission for final action and subsequent recording at the Register of Deeds.
- (3) 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 County 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 the County Commission for final action. Provide Planning with letters of approval or E-mails of approval.
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- (5) Provide Planning with any required easement(s) dedicated by separate instrument(s) with original signatures for recording with the Register of Deeds. All original dedications will go with the Vacation Order to the County Commission for final action and filling 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 Register of Deeds.

Attachments:

- Aerial with area of vacation
- Exhibit
- Legal description
- Wall's Addition to Clonmell



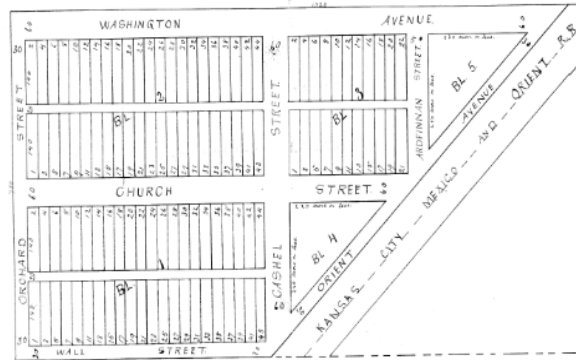


Blocks 1 through 5, Wall's Addition to Clonmell, Sedgwick County, Kansas

Vacation - Street Right of Way Legal Description

That part of Orchard Street as dedicated in Wall's Addition to Clonmell, Sedgwick County, Kansas lying north of and abutting the westerly prolongation of the north right-of-way line of Wall Street as dedicated in said Wall's Addition, the north right-of-way line of said Wall Street being 30.00 feet north of and parallel with the south line of the Southeast Quarter of Section 32, Township 28 South, Range 2 West of the Sixth Principal Meridian, Sedgwick County, Kansas, said Orchard Street extending north to and abutting the north line of said Wall's Addition, TOGETHER with that part of Cashel Street as dedicated in said Wall's Addition lying north of and abutting the northwest right-of-way line of Kansas Highway 42 as currently established and lying south of and abutting that part of said Cashel Street vacated in Vacation Order CASE NO. VAC2008-00024 recorded in the Office of the Sedgwick County Register of Deeds in DOC.#/FLM-PG: 29077752, TOGETHER with that part of Ardfinnan Street as dedicated in said Wall's Addition lying north of and abutting the northwest right-of-way line of said Kansas Highway 42 as currently established, TOGETHER with that part of Church Street as dedicated in said Wall's Addition lying west of and abutting the northwest right-of-way line of said Kansas Highway 42 as currently established, TOGETHER with that part of Washington Avenue as dedicated in said Wall's Addition lying west of and abutting the northwest right-of-way line of said Kansas Highway 42 as currently established, and lying east of and abutting the east line of that part of said Washington Avenue vacated in Vacation Order CASE NO. VAC2008-00024 recorded in the Office of the Sedgwick County Register of Deeds in DOC.#/FLM-PG: 29077752, the east line of said vacated Washington Avenue being the east line of said Cashel Street extended to the north line of said Washington Avenue, TOGETHER with all of the alley lying within Block 1 as dedicated in said Wall's Addition, TOGETHER with all of the alley lying within Block 2 as dedicated in said Wall's Addition, and TOGETHER with all of the alley lying within Block 3 as dedicated in said Wall's Addition.

WALL'S ADDITION,
 TO CLONMELL, SEDGWICK COUNTY, KANSAS.



State of Kansas }
 County of Sedgewick }

I, W. A. Bieber, County Surveyor in and for said County and state do hereby certify that I surveyed and platted a tract of land shown as follows: Commencing at the South West corner of the South East Quarter of the South East Quarter of Section Thirty Two (32), Township Twenty Eight (28) South, Range Two (2) West of the Sixth Principal Meridian. Thence South seven hundred and fifty (750) feet, Thence East to the west line of the right of way of the Kansas City, Mexico, and Orient Rail Road, Thence South east along the Right of Way of said rail Road to the section line, Thence west to place of beginning. All lots are 100 feet square. The corners of all blocks are marked by orange orange stakes. W. A. Bieber, County Surveyor

State of Kansas }
 County of Sedgewick }
 I, the undersigned Clerk of said County, do hereby certify that before me, a Notary Public, in and for said County and State, upon reading the foregoing instrument, personally known to me, to be the person who executed the attached instrument and duly acknowledged the same.
 In witness whereof I have hereunto set my hand and affix my Notary Seal, this 10th day of April, A.D. 1907.

[Signature]
 Notary Public, Kansas State,
 My Comm. Expires August 18th, 1910

State of Kansas }
 County of Sedgewick }

Know all men by these presents that we Edward Wall and Bridget Wall his wife, employed W. A. Bieber, County Surveyor, to plat the tract of land described on his certificate to the accompanying plat and plat, streets and alleys, as shown by the plat, the same to be known as Block 5 Addition to Clonmell, Sedgewick County, Kansas. The streets and alleys are hereby dedicated to and for the use of the public, and to be set out and laid out. In witness whereof we hereby subscribe our names this 6th day of April, A.D. 1906, 1907.
 Edward Wall
 Bridget Wall

State of Kansas }
 County of Sedgewick }

As it is remembered that on the 9th day of April, A.D. 1906, before me a Notary Public in and for said County and State came Edward Wall and Bridget Wall his wife personally known to me to be the persons who executed the foregoing instrument and duly acknowledged the same. In witness whereof I hereunto subscribe my name and affix my official seal. This 9th day of April, A.D. 1906, 1907.
 Sylvia Blanchard
 Notary Public

My Comm. Expires August 18th, 1910

RT. WY. Agr. N.V.L.P. 387

W. A. Bieber
 County Surveyor

WI-2-6

WI-2-6