



Wichita-Sedgwick County Metropolitan Area Planning Department

April 11, 2008

Joel T. & Susan P. Perry
171 S. Fountain St.
Wichita, KS 67218

Re: **VAC2007-00038** - Request to vacate portions of a platted street right-of-way, generally located west of Oliver Avenue, north of Douglas Avenue, between Fountain Avenue and Willow Street.

Dear Ladies & Gentlemen:

At its regular meeting on Tuesday, April 8, 2008, the Wichita City Council considered the request. The action of the City Council was to APPROVE subject to the recommendation by the MAPC.

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

Sincerely,

Bill Longnecker
Senior Planner

BL:le

cc: Jim Armour, City Engineer, Public Works Department, Mail Stop 1-71
Paul Gunzelman/Carla Jones, Public Works Engineering, Mail Stop 1-71
Linda Firsching, Public Works, Mail Stop 1-71
Kurt Schroeder, OCI Superintendent, Mail Stop 1-72
Mike Gable, OCI, Mail Stop 1-72
Susan Schlapp, City Council, Mail Stop 1-13
LaShonda Porter, District Advisory Board II
F. Jane Dooling, 4003 E. English, Wichita, KS 67218
Darrell L. McBride, 4007 E. English, Wichita, KS 67218
Paul J. & Sharon Becker, 4037 E. English, Wichita, KS 67218
Megumi P. Dold, 4004 E. English, Wichita, KS 67218
Tim & Mary Kay Chavez, 4010 E. English, Wichita, KS 67218
Rod Jones, 39905 Willow Dr., Wichita, KS 67218

City Hall • 10th Floor • 455 North Main • Wichita, Kansas 67202-1688

T 316.268.4421 F 316.268.4390

www.wichita.gov

S79°33'48"E, 18.54 feet to a point on the center line of said vacated Willow Street; thence S01°37'03"W along said center line 9.10 feet; thence N79°33'48"W, 20.24 feet to a point on a none tangent curve, said point being the Northeasterly corner of said Lot 10; thence along a curve to the right having an arc length 41.11 feet a radius of 342.78 feet, having a central angle of 06°52'15" (chord bearing N74°09'49"W, chord length of 41.08 feet) to the point of beginning. The West ½ of vacated Willow Street retained as a Utility Easement. Containing 537.12 sq. ft. more or less.

That part of English Street lying South of Lots 9, and 10, Block 2, Merriman Park Second Place, Wichita, Sedgwick County, Kansas. Described as follows: Beginning at the Southeasterly corner of said Lot 10, thence S00°26'04"E as extended Southerly from the common Lot line between Lots 10, and 11, in said addition, 14.80 feet; thence N78°50'14"W, 75.85 feet to a point on the Westerly line of said Lot 9 as extended South from the P.C. of a curve; thence N04°09'24"E, 66.19 feet to the P.C. of a curve; thence Southerly, Southeasterly and Easterly along a curve to the left having an arc length of 84.45 feet a radius of 58.30 feet, having a central angle of 82°59'38" (chord bearing S37°20'25"E chord length of 77.26 feet) to the P.T. of said curve; thence S78°50'14"E along the Southerly line of said Lot 10, 23.08 feet to the point of beginning. Containing 1,636.28 sq. ft. more or less.

That part of English Street lying North of Lots 8, and 9, Block 3, Merriman Park Second Place, Wichita, Sedgwick County, Kansas. Described as follows: Beginning at the Northwesterly corner of said Lot 8, thence N11°03'24"E as extended Northeasterly from the common Lot lines between Lots 7, and 8, Block 3, in said addition, 15.00 feet; thence S79°33'48"E parallel to the Northerly line of said Lots 8, and 9, 50.00 feet to a point on the East line of said Lot 9 as extended Northeasterly; thence S11°03'24"W, 15.00 feet to the Northeasterly corner of said Lot 9; thence N79°33'48"W along the North line of said Lots 8, and 9, 50.00 feet to the point of beginning. Containing 750.00 sq. ft. more or less.

That part of English Street lying Northerly of Lot 2, Hammond Terrace Addition, Wichita, Sedgwick County, Kansas. Described as follows: Beginning at the Northwesterly corner of said Lot 2; thence N11°03'24"E as extended Northeasterly from the common lines between Lots 1, and 2, in said addition, 15.00 feet; thence S79°33'48"E parallel to the Northerly line of said Lots 2, 20.70 feet to a point on a none tangent curve, said point being 15.00 feet Northerly of the Northerly line of said Lot 2; thence Southeasterly along a curve to the right having an arc length of 29.83 feet, a radius of 112.00 feet, having a central angle of 15°15'28" (chord bearing S69°05'00"E, chord length of 29.74 feet) to a point on the common line of Lots 2, and 3, in said addition as extended Northeasterly; thence S11°03'24"W, 9.59 feet to the Northeasterly corner of said Lot 2; thence N79°33'48"W along the Northerly line of said Lot 2, 50.00 feet to the point of beginning. Containing 690.43 sq. ft. more or less.

That part of English Street lying South of Lot 25, Block 2, Except the West 53.00 feet thereof

and that part of Fountain Avenue lying East of the South ½ of Lot 23, Block 2, Except the West 53.00 feet thereof and Lots 24, and 25, Block 2, Except the West 53.00 feet thereof Merriman Park Second Place, all in Wichita, Sedgwick County, Kansas. Described as follows: Commencing at the Southwest corner of said Lot 25: thence S78°50'14"E, 54.10 feet to the point of Beginning, said point being the Southwest corner of Lot 25 Except the West 53.00 feet thereof; thence continuing S78°50'14"E along the Southerly line of said Lot 25, 100.98 feet to the P.C. of a curve; thence Easterly, Northeasterly and Northerly along a curve to the left, said curve having an arc length of 67.86 feet a radius of 35.00 feet, having a central angle of 111°05'33" (chord bearing N45°37'02"E, chord length of 57.72 feet) to a point on a none tangent reverse curve; thence Northerly along a curve to the right having an arc length of 33.03 feet, a radius of 505.10 feet, having a central angle of 3°44'47" (chord bearing N08°09'00"W, chord length of 33.02 feet) to the Northeast corner of the South ½ of Lot 23, Except the West 53.00 feet thereof in said addition; thence S89°56'54"E as extended East from the North line of the South ½ of Lot 23, Except the West 53.00 feet thereof in said addition, 4.09 feet; thence S10°23'03"E 22.97 feet to the P.C. of a curve; thence along a curve to the right having an arc length of 101.36 feet a radius 52.06 feet having a central angle of 111°32'50" (chord bearing S45°23'21"W, chord length of 86.10 feet) to the P.T. of said curve, said point being 13.00 feet South of the South line of said Lot 25, Except the West 53.00 feet thereof in said addition; thence N78°50'14"W parallel to and 13.00 feet South of the South line of Said Lot 25, Except the West 53.00 feet thereof, 84.07 feet to a point 13.27 feet South of the West line of said Lot 25, Except the West 53.00 feet thereof as extended South; thence N00°26'04"W, 13.27 feet to the point of beginning. Reserving the Westerly 10.00 feet for a Utility Easement. Containing 1,770.00 sq. ft. more or less.

That part of English Street lying North of Lot 1, Hammond Terrace Addition, Wichita, Sedgwick County, Kansas. Described as follows: Beginning at the Northwesterly corner of said Lot 1, thence N11°03'24"E as extended Northeasterly from the Westerly line of said Lot 1, 15.00 feet; thence S79°33'48"E parallel to the Northerly line of said Lot 1, 50.00 feet to a point on the East line of said Lot 1 as extended Northeasterly; thence S11°03'24"W, 15.00 feet to the Northeasterly corner of said Lot 1; thence N79°33'48"W along the Northerly line of said Lot 1, 50.00 feet to the point of beginning. Containing 750.00 sq. ft. more or less.

That part of English Street lying South of Lots 11, and 12, Block 2, Merriman Park Second Place, Wichita, Sedgwick County, Kansas. Described as follows: Beginning at the Southwest corner of said Lot 11, thence S00°26'04"E as extended Southerly from the common Lot line between Lots 10, and 11, in said addition, 14.80 feet; thence S78°50'14"E parallel to and 14.50 feet South of the Southerly line of said Lots 11, and 12, 51.04 feet to a point on the Easterly line of said Lot 12 as extended Southerly; thence N00°26'04"W, 14.80 feet to the Southeasterly corner of said Lot 12; thence N78°50'14"W along the Southerly line of said Lots 11, and 12, 51.04 feet to the point of beginning. Containing 740.11 sq. ft. more or less.

That part of English Street lying Northerly of Lot 3, Hammond Terrace an Addition to Wichita, Sedgwick County, Kansas, and that part of Fountain Avenue lying East of said Lot 3, described as follows: Beginning at the Northwesterly corner of said Lot 3, thence $N11^{\circ}03'24''E$ as extended Northeasterly from the common line between Lots 2, and 3, in said addition, 9.59 feet to a point on a curve; thence Southeasterly and South along a curve to the right having an arc length of 112.52 feet a radius of 112.00 feet and having a central angle of $57^{\circ}33'45''$ (chord bearing $S32^{\circ}40'24''E$, chord length of 107.85 feet) to P.C. of a none tangent curve; thence $S00^{\circ}09'38''E$ parallel to and 7.00 feet East of the East line of said Lot 3, 49.16 feet to a point on the common line of said Lots 3, and 7, in said addition as extended East; thence $S89^{\circ}57'11''W$, 7.00 feet to the Southeast corner of said Lot 3; thence $N00^{\circ}09'38''W$, 49.15 feet to the P.C. of a curve; thence Northerly and Northwesterly along a curve to the left having an arc length of 89.52 feet a radius of 102.30 feet having a central angle of $50^{\circ}08'22''$ (chord bearing $N25^{\circ}13'49''W$, chord length of 86.69 feet) to a point on the Northerly line of said Lot 3; thence $N79^{\circ}33'48''W$ along the Northerly line of said Lot 3, 16.38 feet to the point of beginning. Reserving the South 5.00 feet for a Utility Easement. Containing 855.49 sq. ft. more or less.

That part of English Street lying South of Lots 13, and 14, Block 2, Merriman Park Second Place, Wichita, Sedgwick County, Kansas. Described as follows: Beginning at the Southwest corner of said Lot 13, thence $S00^{\circ}26'04''E$ as extended Southerly from the common Lot line between Lots 12, and 13, in said addition, 14.80 feet; thence $S78^{\circ}50'14''E$ parallel to and 14.50 feet South of the Southerly line of said Lots 13, and 14, 51.04 feet to a point on the Easterly line of said Lot 14 as extended Southerly; thence $N00^{\circ}26'04''W$, 14.80 feet to the Southeasterly corner of said Lot 14; thence $N78^{\circ}50'14''W$ along the Southerly line of said Lots 13, and 14, 51.04 feet to the point of beginning. Containing 740.11 sq. ft. more or less.

That part of English Street lying South of Lots 15, and 16, Block 2, Merriman Park Second Place, Wichita, Sedgwick County, Kansas. Described as follows: Beginning at the Southwest corner of said Lot 15, thence $S00^{\circ}26'04''E$ as extended Southerly from the common Lot line between Lots 14, and 15, in said addition, 14.80 feet; thence $S78^{\circ}50'14''E$ parallel to and 14.50 feet South of the Southerly line of said Lots 15, and 16, 51.04 feet to a point on the Easterly line of said Lot 16 as extended Southerly; thence $N00^{\circ}26'04''W$, 14.80 feet to the Southeasterly corner of said Lot 16; thence $N78^{\circ}50'14''W$ along the Southerly line of said Lots 15, and 16, 51.04 feet to the point of beginning. Containing 740.11 sq. ft. more or less.

That part of English Street lying South of the West 53.00 feet of Lot 25, Block 2, Merriman Park Second Place, Wichita, Sedgwick County, Kansas Described as follows: Beginning at the Southwest corner of said Lot 25, thence $S00^{\circ}26'04''E$ as extended Southerly from the common Lot line between Lots 16, and 25, in said addition, 14.80 feet; thence $S78^{\circ}50'14''E$, parallel to and 14.50 feet South of the Southerly line of said West 53.00 feet of Lot 25, 54.10

feet to a point on the East line of said West 53.00 feet of Lot 25 as extended Southerly; thence N00°26'04"W, 14.80 feet to the Southeast corner of said West 53.00 feet of said Lot 25; thence N78°0'14"W along the Southerly line of said West 53.00 Feet of Lot 25, 54.10 feet to the point of beginning. Reserving the Westerly 10.00 feet and the Easterly 5.00 feet for Utility Easements. Containing 784.52 sq. ft. more or less.

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 and the Derby Reporter on November 15, 2007 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 above described portions of a platted street right-of-way, and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
4. 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.
5. The vacation of the described portions of the platted street right-of-way described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 8th day of April ordered that the above described portions of the platted street right-of-way are hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall certify a copy of this order to the Register of Deeds of Sedgwick County.



[Signature]
Carl Brewer, Mayor

ATTEST:

[Signature]
Karen Sublett, City Clerk

State of Kansas
Sedgwick County
City of Wichita
I, **Karen Sublett**

City Clerk of the City of Wichita, Kansas, hereby certify that the document to which this is affixed is a true and correct copy of the original on file in the office of the City Clerk.
Given under my hand and seal of the City of Wichita, Kansas this **APR 8** 2008

Approved as to Form:

[Signature]
Gary Rebenstorf, Director of Law

[Signature]
City Clerk



STAFF REPORT

CASE NUMBER: VAC2007-00038 Request to vacate a portion of a platted street right-of-way.

APPLICANTS: Merriam P Dold, Timothy A & Mary Kay Chavez, William F & Deborah H Frailey, Brian L White, Joel T & Susan P Perry, Phillip W Smith, Florence J Dooling Revocable Trust, Darrell L McBride, Paul J & Sharon H Becker, Linda K Smith, & Richard D Warren

AGENTS: Greenstreet & Mark Savoy

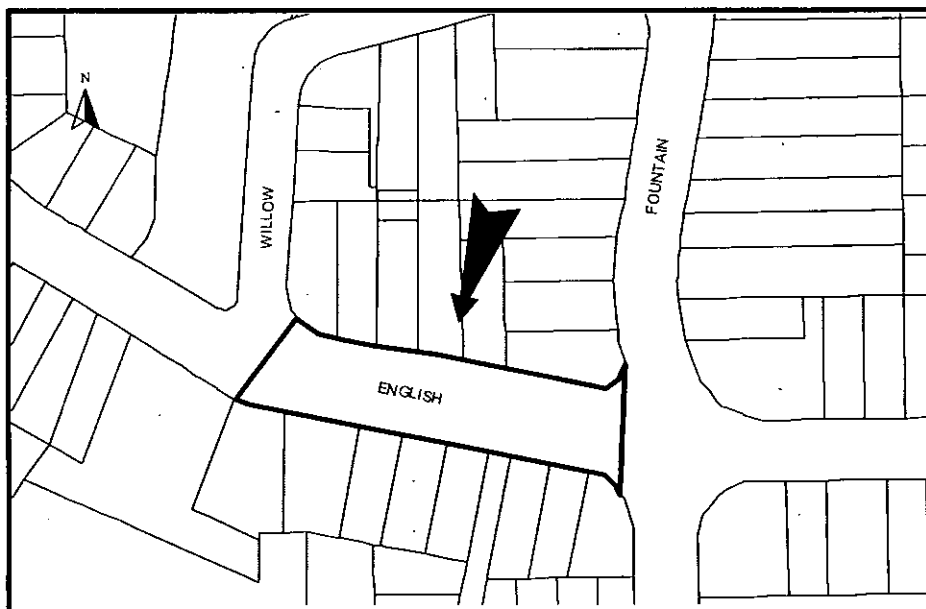
LEGAL DESCRIPTION: Generally described the north 20-feet and the south 20-feet of the platted 100-foot English Street right-of-way (ROW) between Willow Street (west) and Fountain Avenue, except for that portion that abuts the north sides of Lots 1-7 (all) Block 3, Merriam Park Second Place Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located west of Oliver Avenue, south of Douglas Avenue, between Fountain Avenue and Willow Street (WCC #II).

REASON FOR REQUEST: Retaining wall built into ROW & property owners want to revert ROW to private property.

CURRENT ZONING: The site is a platted, developed public street ROW, all abutting properties are zoned "SF-5" Single-family Residential & "TF-3" Two-family Residential.

VICINITY MAP:



The applicants are requesting the vacation of what can be generally described as the north and south 20-feet of the platted 100-foot English Street ROW: never going below 60-feet of ROW, while retaining the sidewalks as being located in the ROW. The proposed vacation will essentially bring most if not all of the applicants' front yards up to the inside edge of the sidewalks on both sides of English. It will also remove a partially constructed retaining wall located on Lot 25, Block 2, Merriman Park Second Place Addition from public street ROW. There are three property owners located in the middle of the south properties, that did not sign the application to vacate the ROW: Lots 1, 2, 3, 4, 5, 6, & 7, Block 3, Merriman Park Second Place Addition. After the MAPC public hearing meeting these three nonparticipating property owners will not be eligible to make this application. The three nonparticipating property owners are not a 'deal killer' for the application, as no access to ROW is being denied, but their nonparticipation will leave a minimum of 20-feet of English ROW jutting beyond their neighbors' eastern and western yards. There are no platted setbacks, therefore all setbacks for the "SF-5" & "TF-3" zoned participating properties will move forward with the newly established property lines. The properties zoning will also follow the new property lines. Water appears to be located on the outside edge of the south sidewalk. Additional easement may have to be dedicated to provide access to a sewer line located between Lot 16 (west) and Lots 23, 24 & 25 (east), all in Block 2, all in the Merriman Park Second Place Addition. Westar has utilities in located within the described ROW. The Merriman Park Second Place Addition was recorded with the Register of Deeds May 16, 1912. The OA White's Addition in Merriman Addition was recorded with the Register of Deeds March 15, 1917. The Hammond Terrace Addition was recorded with the Register of Deeds October 20, 1917.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the platted street ROW, as described with conditions.

- 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 November 15, 2007 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described platted street ROW and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Therefore, the vacation of the platted street ROW described in the petition should be approved with conditions;

- (1) Provide staff with an accurate survey of the vacated ROW showing the location of the existing sidewalks and utilities and verify that they remain within the English Street ROW. Provide staff with an accurate legal description on a word document via e-mail. Provide all to staff prior to the case going to Council for final action. Retain any of English Street as needed for utilities.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility

and at the expense of the applicants. If necessary dedicate additional easement to provide access from the English Street ROW to the sewer line located between Lot 16 (west) and Lots 23, 24 & 25 (east), all in Block 2, all in the Merriman Park Second Place Addition. Provide all to staff prior to the case going to Council for final action.

- (3) Retain a portion of the ROW as easement for Westar's equipment located on the northeast and northwest portions of the ROW. Provide a survey showing the location of the Westar equipment and the size of the easement, whose location/retention will be located/reflected in the metes and bounds description of the approved vacated ROW, as dictated in condition one.
- (4) All improvements shall be according to City Standards, including the completion of the retaining wall located on Lot 25, Block 2, Merriman Park Second Place Addition.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request 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:

- (1) Provide staff with an accurate survey of the vacated ROW showing the location of the existing sidewalks and utilities and verify that they remain within the English Street ROW. Provide staff with an accurate legal description on a word document via e-mail. Provide all to staff prior to the case going to Council for final action. Retain any of English Street as needed for utilities.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. If necessary dedicate additional easement to provide access from the English Street ROW to the sewer line located between Lot 16 (west) and Lots 23, 24 & 25 (east), all in Block 2, all in the Merriman Park Second Place Addition. Provide all to staff prior to the case going to Council for final action.
- (3) Retain a portion of the ROW as easement for Westar's equipment located on the northeast and northwest portions of the ROW. Provide a survey showing the location of the Westar equipment and the size of the easement, whose location/retention will be located/reflected in the metes and bounds description of the approved vacated ROW, as dictated in condition one.
- (4) All improvements shall be according to City Standards, including the completion of the retaining wall located on Lot 25, Block 2, Merriman Park Second Place Addition.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request 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

MERRIMAN PARK SECOND PLACE

SEDGWICK COUNTY,
KANSAS.

DOUGLAS AVE.

State of Kansas 3.5
Sedgwick County

I, Ransom H. Brown, a civil engineer in said county and state do hereby certify that I have surveyed and platted Merriman Park Second Place, and that the accompanying plat is a true and correct exhibit of said survey, described as follows: Lots 1 and 2 Block X, Lots 1, 3 and 4, Block 15 and Lots 1 and 3, Block P, Merriman Park, Sedgwick County, Kansas. Original stones marked thus ■. Ransom H. Brown.

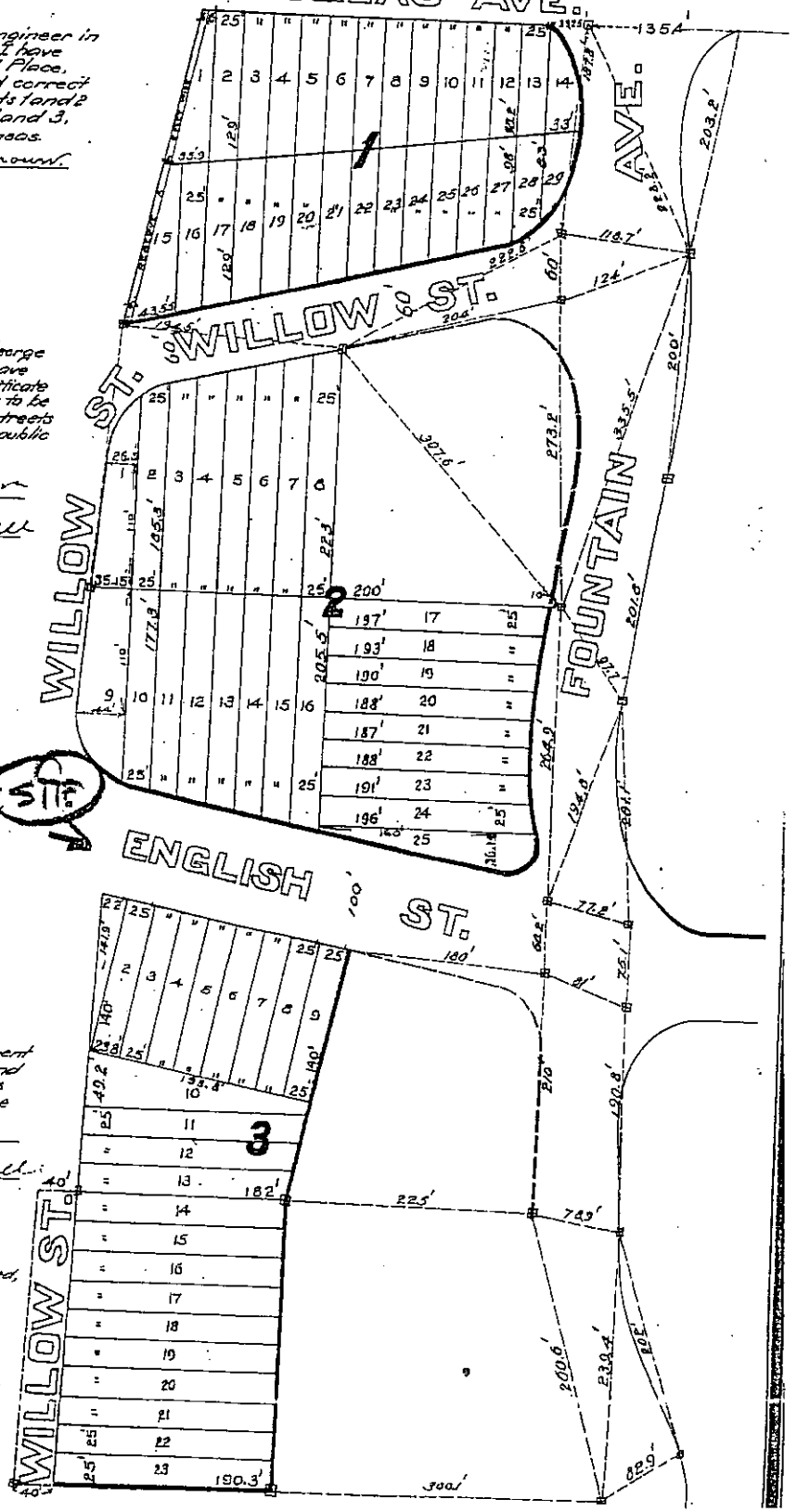
STATE OF KANSAS
SEDGWICK COUNTY

Notary Public
Joseph H. ...
Notary of Law

Know all men by these presents that we, George B. Merriman and Lettie Merriman, his wife, have caused the land described in the surveyor's certificate to be surveyed and platted into lots and streets to be known as Merriman Park Second Place. The streets are hereby dedicated to and for the use of the public and the lots are intended for sale.

George B. Merriman
Lettie Merriman

VAC 2007-38



State of Kansas 3.5
Franklin County

Be it remembered that on this 2nd day of May 1912, before me, a Notary Public in and for said county and state, came George B. Merriman and Lettie Merriman, his wife, who are personally known to me to be the same persons who executed the foregoing instrument of writing and duly acknowledged the execution of the same.

R. E. Rowland
Notary Public.

My commission expires April 11 1916

The city of Wichita is hereby granted an easement for sewer gas and water pipes and telephone and electric light lines on the rear ten feet of all lots which abut on the side lines of other lots and on the rear five feet of all other lots.

George B. Merriman
Lettie Merriman

State of Kansas 3.5
Franklin County

Be it remembered that on this 13th day of May 1912, before me, the undersigned, a Notary Public in and for said County and State, came George B. Merriman and Lettie Merriman, his wife, who are personally known to me to be the same persons who signed the foregoing easement and they duly acknowledge the same.

R. E. Rowland
Notary Public.

My commission expires April 11 1916

Wichita To Abolitionists
Franklin County Ed. Ottaway

W. 1/4 SEC. 23 TWP. 27 R. 1 E.

