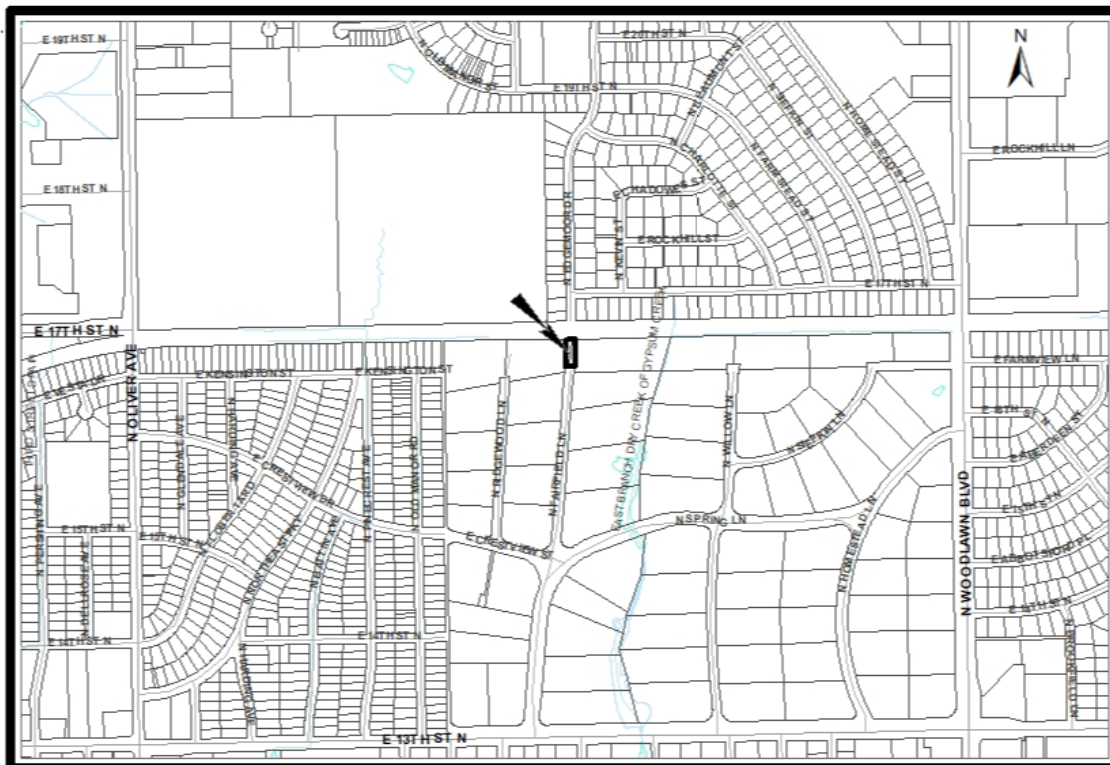


STAFF REPORT

- CASE NUMBER:** VAC2021-00053 - Request in the City to vacate an easement created by a previous vacation
- APPLICANTS:** Calvin McMillan & Madeline Hill Akers (applicants), Baughman Company, PA c/o Russ Ewy (agent)
- LEGAL DESCRIPTION:** Generally described as vacating the west 25-foot wide (x) 180-foot long portion of North Fairfield Lane & the east 35-foot wide (x) 180-foot long utility easement created by a previous vacation. All lots and streets referenced this in report were recorded on the Replat of the Spring Acres Addition, Wichita, Sedgwick County, Kansas
- LOCATION:** Generally located midway between North Oliver Avenue & North Woodlawn Boulevard, north of East 13th Street North & north of the North Fairfield Lane – East Farmview Lane intersection (City District I)
- REASON FOR REQUEST:** Remove remnant street right-of-way & revert to private property & remove the encumbrance of the easement
- CURRENT ZONING:** This section of North Fairfield Lane is undeveloped public street ROW right-of-way & easement. Sand and gravel North Fairfield Lane abuts its south side and the Redbud Bicycle Path abuts its north side. SF-5 Single-Family Residential zoned single-family residences abut its east and west sides.

VICINITY MAP:



The applicants are asking for the vacation of the east 30-foot wide (x) 180-foot long utility easement located on and running parallel to the the west side of Lot 30A, the Replat of the Spring Acres Addition. The subject easement also runs parallel to the east side of Lot 2A, abuts the south side of the Redbud Bicycle path, and abuts the north side of the sand and gravel North Fairfield Lane.

On April 16, 1957, the City Planning Commission approved the vacation of this north 180-foot long (x) 60-foot wide portion of North Fairfield Lane with conditions; excerpt from the City Planning Commission April 16, 1957, minutes.

Conditions of approval were:

- The west 25-foot wide (x) 180-foot long portion of North Fairfield Lane abutting the east side of Lot 2A, the Replat of the Spring Acres Addition was not vacated but remained public street ROW for Fire.
- The east 35-foot wide (x) 180-foot long portion of North Fairfield Lane abutting the west side of Lot 30A, the Replat of the Spring Acres Addition was vacated but retained as a utility easement.

On April 30, 1957, the Board of County Commissioners approved the vacation of this north 180-foot long (x) 60-foot wide portion of North Fairfield Lane with conditions, which differed from the City Planning Commission; Misc. Book 427, pages 423-426.

- The east 30-foot wide (x) 180-foot long portion of North Fairfield Lane abutting the west side of Lot 30A, the Replat of the Spring Acres Addition was vacated but retained as a utility easement.

The Commissioners did not dedicate a portion of the subject street as public ROW for Fire.

The applicants exhibit shows a car port in the subject easement. No properties would be denied direct access onto public street ROW if the vacation request is approved. Water and sewer do not appear to be located in the subject utility easement. Everyg has no equipment located in the either the remnant subject ROW or the subject utility easement. Conditions #1, #2 and #3 cover all utilities. Vehicular traffic, pedestrian traffic and public safety will not be impacted by this vacation request, if approved with the recommended conditions.

The Replat of the Spring Acres Addition was recorded with the Register of Deeds August 2, 1955. Lots located in the Replat of the Spring Acres Addition appear to be approximately +/-1.5-acre to +/-2.5-acres in size, which is uniquely large for this area due to its development happening because the plat was located in the County.

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 utility easement created by prior vacation.

- 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 December 16, 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 the utility easement created by a previous vacation, 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) As needed dedicate utility easement(s) by separate instrument, with original signatures, to cover the to cover utilities, including Storm Water, located in the vacated easement. 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) 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 City Standards and at the applicants' expense.
- (4) Provide Planning with an approved legal description of the vacated the utility easement created by a prior vacation case on a Word document by E-mail that can be copied and used on the Vacation Order. This must be provided to Planning prior to the vacation case going to City Council for final action.
- (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.

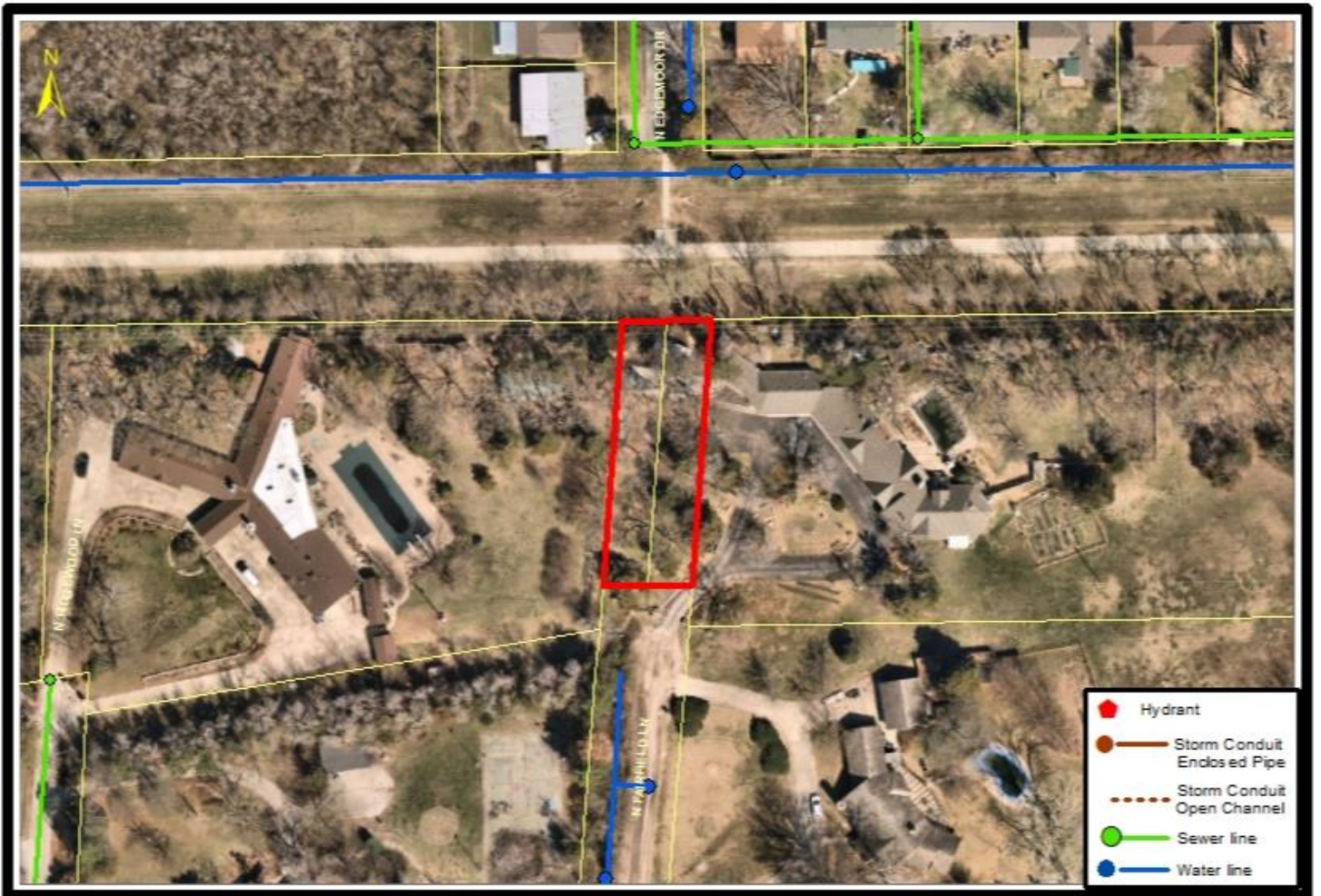
SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

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

- (1) As needed dedicate utility easement(s) by separate instrument, with original signatures, to cover the to cover utilities, including Storm Water, located in the vacated easement. 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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- (3) All improvements shall be according to City Standards and at the applicants' expense.
- (4) Provide Planning with an approved legal description of the vacated the utility easement created by a prior vacation case on a Word document by E-mail that can be copied and used on the Vacation Order. This must be provided to Planning prior to the vacation case going to City Council for final action.
- (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.

Attachments:

- Aerial with water, sewer, and drainage
- Applicant's exhibit
- Legal description
- Excerpt from the Replat of the Spring Acres Addition showing subject road and abutting Lots.







Fairfield Lane Street Right of Way Vacation - Legal Description

The North 180 feet of Fairfield Lane, as dedicated by the Replat of Spring Acres Addition, Sedgwick County, Kansas.

