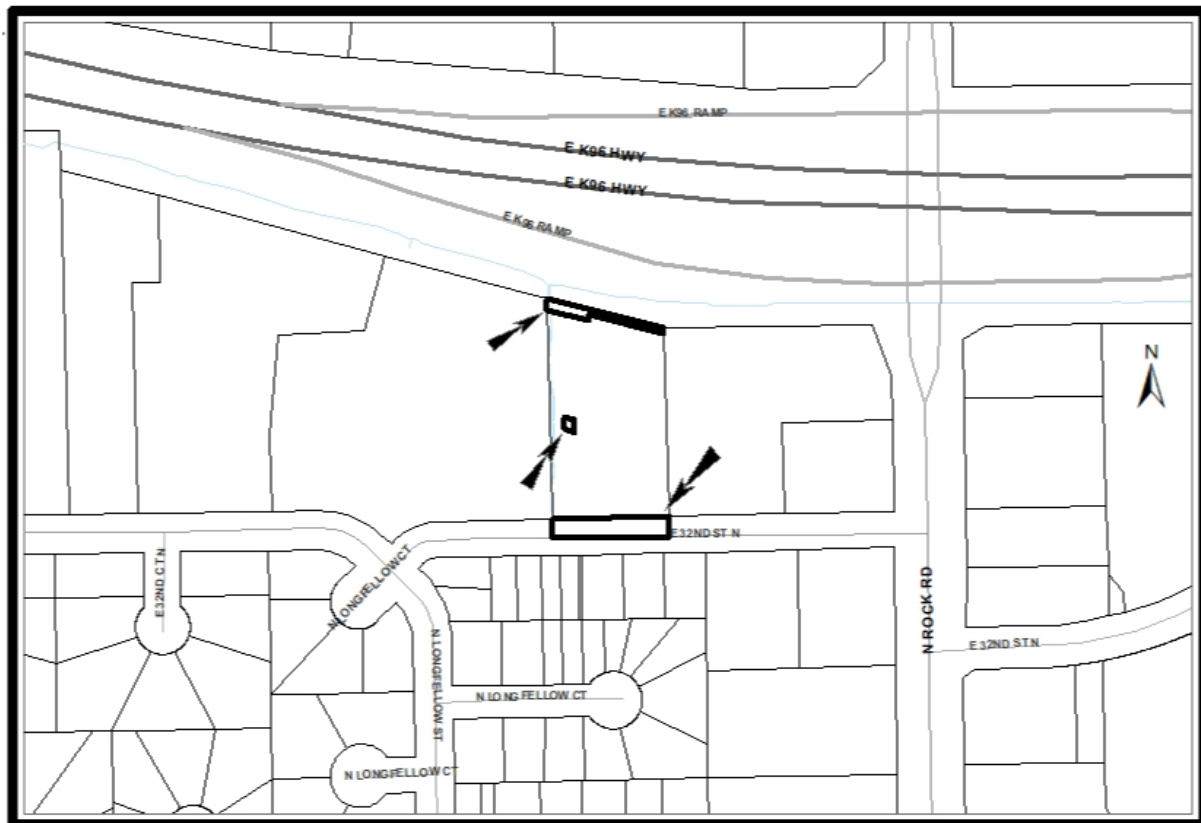


STAFF REPORT

- CASE NUMBER:** VAC2021-00055 - City request to vacate a portion of platted complete access control & platted easements
- APPLICANT:** FAM US Hospitality LLC, c/o Hasu Patel Associates LLC, (applicant/owner), MKEC Engineering, Inc., c/o Brian Lindebak (agent)
- LEGAL DESCRIPTION:** Generally described as vacating an undescribed portion of the platted complete access control located on the south 205.40 feet of Lot 1, a portion of a 20-foot wide sanitary sewer easement dedicated by separate instrument located on Lot 1, & a portion of the 20-foot – 10-foot wide platted utility easement on Lot 1, all in Block 1, of the Killarney Plaza Fourth Addition, Wichita, Sedgwick County, Kansas
- LOCATION:** Generally located west of North Rock Road on the north side of East 32nd Street North (District I)
- REASON FOR REQUEST:** To allow a driveway onto East 32nd Street North & remove utility easements
- CURRENT ZONING:** The subject site is a LC Limited Commercial zoned motel with a CUP Community Unit Plan overlay, CUP DP-158. A LC zoned car wash abuts the site’s east side and is included in CUP DP-158. A MF-18 Multi-Family Residential zoned apartment complex abuts the west side of the site. The K-96 Bicycle Path & East 32nd Street North abuts the south side of the site. TF-3 Duplex zoned duplexes and LC zoned car wash are located south of the site across East 32nd Street North. The K-96 highway exit abuts the north side of the site.

VICINITY MAP:



VAC2021-00055 – Request in the City to vacate a portion of platted complete access control & easements on LC Limited Commercial zoned property generally located west of North Rock Road on the north side of East 32nd Street North
February 3, 2022

The applicant proposes to vacate platted access control, a portion of a sanitary sewer easement dedicated by separate instrument and a platted utility easement on the LC Limited Commercial zoned subject site. The LC zoned subject site is part of CUP DP-158. The LC zoned subject site is developed with a three-story motel (built 1999). The subject site is located approximately 400 feet west of North Rock Road on the north side of East 32nd Street North. The subject site is recorded as Lot 1, Block 1, Killarney Plaza Fourth Addition. The Killarney Plaza Fourth Addition was recorded with the Register of Deeds February 7, 1990.

Note: On January 6, 2021, the MAPC approved CUP2021-00069, an approved minor amendment to CUP DP-158. CUP2021-00069 created a new parcel, 2A, out of the western portion of Parcel 2. The subject site, Lot 1, Block 1, Killarney Plaza Fourth Addition was the west portion of Parcel 2 and is now Parcel 2A. CUP2021-00069 also approved residential development on Parcel 2A, which was previously prohibited. A change in use on the subject site is planned.

Currently the site shares access onto East 32nd Street North with an east abutting LC zoned car wash; Lot 2, Block 1, Killarney Plaza Fourth Addition. The car wash site is also part of CUP DP-158. The shared access is referenced in the plattors' text, Access Agreement FLM 1089, Page 1491. The shared access provides full movement onto East 32nd Street North for the subject site and the car wash.

A wall is proposed to separate the subject site from the east abutting car wash. The wall is a security feature of the anticipated change to a residential use (as opposed to its current commercial use as a motel) in the re-purposed motel on the subject site. The wall will also separate the subject site from the shared drive, which is located on the car wash site, Lot 2, Block 1, Killarney Plaza Fourth Addition. If the request for the vacation of a portion of the 205.40 feet of platted access control is approved, the new drive would provide direct access onto East 32nd Street North exclusive to the subject site. East 32nd Street North is a paved two-lane local street (as classified by the 2030 Transportation Plan), with 64 feet of full ROW right-of-way at this location. Subdivision standards have no spacing requirements for drives onto a local street.

Approximately 80 feet separates the existing shared drive from the subject site's east property line. Another 260 feet separate the subject site from the next drive to the east and approximately 400 feet east to North Rock Road. Approximately 210 feet west of the subject site is a drive that serves an apartment complex. There are multiple driveways from duplexes onto East 32nd Street North located south of the site.

The K-96 Bicycle Path is located in the north portion of the East 32nd Street North ROW that fronts the subject site. Any alteration or damage to the Bicycle path will be at the applicant's expense per City standards. There is landscaping in the area of the vacation. ROW trees/landscaping or landscaping removed for the proposed driveway will be replaced at the applicant's expense with trees recommended by the Landscape Ordinance.

Stormwater and Evergy has equipment and underground lines in the north portion of the East 32nd Street North ROW that fronts the subject site. LaDonna Vanderford is the Evergy Design Representative for this area and can be contacted at 316-261-6290. The removal of any utilities will be at the applicant's expense as approved by utilities and per City standards. Conditions #2, #5, and #6 cover all utilities.

There is a sewer line located in the sanitary sewer easement dedicated by separate instrument; Film 991, Page 0621, recorded August 16, 1988. The east half of this sanitary sewer easement has been vacated; V-2057, recorded March 10, 2006. The applicant proposes to vacate another eastern portion of this easement, retaining the remaining western portion. Public Works must review and approve plans for the abandonment, relocation, or privatization of the sewer line. The removal of any utilities will be at the applicant's expense as approved by utilities and per City standards. Conditions #2, #5 and #6 cover all utilities.

There are no public utilities located in the 20-foot – 10-foot wide platted utility easement. The applicant proposes to vacate all of the 10-foot wide portion of the easement but retain the 20-foot wide portion of the easement. Conditions #2, #5 and #6 cover all utilities.

Vehicular traffic, pedestrian traffic and public safety will not be impacted by this vacation request.

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 described portion of platted complete access control, the sanitary sewer easement dedicated by separate instrument and the platted utility easement.

- 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 January 13, 2022, 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 platted complete access control, the sanitary sewer easement dedicated by separate instrument and the platted utility 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) Per the approval of the Traffic Engineer, vacate all of the platted complete access control along the south side of Lot 1, Block 1, Killarney Plaza Fourth Addition, to provide a full movement driveway from the subject site onto East 32nd Street North. The driveway will be constructed to City standards. Provide Planning Staff with a legal description of the vacated portion complete access control 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 Council for final action.

(2) All improvements shall be according to City Standards and at the applicant's expense, including, but not limited to; (a) the construction of the new drive from the site onto East 32nd Street North and (b) the continuation of the K-96 Bicycle Path. Provide Public Works and utilities with a guarantee (approved project/plans) to ensure that these and any other associated improvements will be made. If the drive is not being immediately constructed, provide a drive approach certificate, which will be recorded with the Register of Deeds. Either the guarantee(s) and/or the drive approach certificate must be provided to Public Works (guarantee) or Planning (drive approach certificate) prior to the case going to Council for final action.

(3) Right-of-way trees and/or landscaping removed for the proposed driveway will be replaced at the applicant's expense with trees recommended by the Landscape Ordinance. Provide Planning with a landscape plan showing compliance with these conditions. This must be provided prior to the case goes to the City Council for final action.

(4) Provide Planning with approved legal descriptions of the vacated portions of the sanitary sewer easement dedicated by separate instrument and the 20-10 foot wide platted utility easement. This must be provided prior to the case goes to the City Council for final action.

(5) 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 City 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 City Council for final action. Provide Planning with letters of approval or E-mails of approval.

VAC2021-00055 – Request in the City to vacate a portion of platted complete access control & easements on LC Limited Commercial zoned property generally located west of North Rock Road on the north side of East 32nd Street North
February 3, 2022

(6) 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 City Council for final action and filling with the Sedgwick County Register of Deeds.

(7) As needed, adjust Community Unit Plan overlay, CUP DP-158, to show the approved driveway.

(8) 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) Per the approval of the Traffic Engineer, vacate all of the platted complete access control along the south side of Lot 1, Block 1, Killarney Plaza Fourth Addition, to provide a full movement driveway from the subject site onto East 32nd Street North. The driveway will be constructed to City standards. Provide Planning Staff with a legal description of the vacated portion complete access control 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 Council for final action.

(2) All improvements shall be according to City Standards and at the applicant’s expense, including, but not limited to; (a) the construction of the new drive from the site onto East 32nd Street North and (b) the continuation of the K-96 Bicycle Path. Provide Public Works and utilities with a guarantee (approved project/plans) to ensure that these and any other associated improvements will be made. If the drive is not being immediately constructed, provide a drive approach certificate, which will be recorded with the Register of Deeds. Either the guarantee(s) and/or the drive approach certificate must be provided to Public Works (guarantee) or Planning (drive approach certificate) prior to the case going to Council for final action.

(3) Right-of-way trees and/or landscaping removed for the proposed driveway will be replaced at the applicant’s expense with trees recommended by the Landscape Ordinance. Provide Planning with a landscape plan showing compliance with these conditions. This must be provided prior to the case goes to the City Council for final action.

(4) Provide Planning with approved legal descriptions of the vacated portions of the sanitary sewer easement dedicated by separate instrument and the 20-10 foot wide platted utility easement. This must be provided prior to the case goes to the City Council for final action.

(5) 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 City 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 City Council for final action. Provide Planning with letters of approval or E-mails of approval.

(6) 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 City Council for final action and filling with the Sedgwick County Register of Deeds.

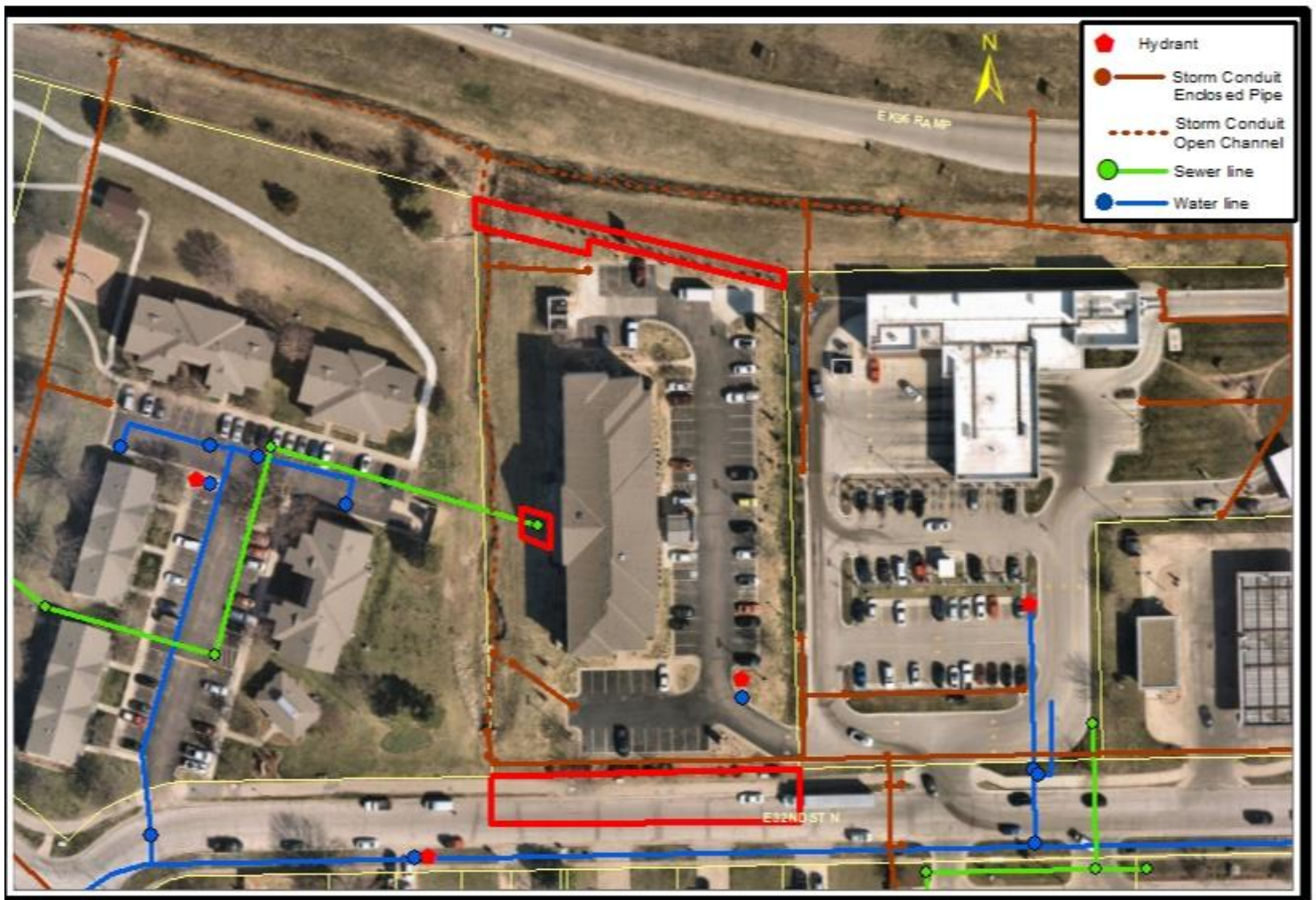
(7) As needed, adjust Community Unit Plan overlay, CUP DP-158, to show the approved driveway.

VAC2021-00055 – Request in the City to vacate a portion of platted complete access control & easements on LC Limited Commercial zoned property generally located west of North Rock Road on the north side of East 32nd Street North
February 3, 2022

(8) 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 public water, sewer, drainage & location of proposed driveway
- Two of the applicant's exhibits
- Killarney Plaza Fourth Addition
- Dedication of sanitary sewer easement by separate instrument
- Vacation Order vacating a portion of sanitary sewer easement by separate instrument



VAC2021-00055 – Request in the City to vacate a portion of platted complete access control & easements on LC Limited Commercial zoned property generally located west of North Rock Road on the north side of East 32nd Street North
February 3, 2022



VAC2021-00055 – Request in the City to vacate a portion of platted complete access control & easements on LC Limited Commercial zoned property generally located west of North Rock Road on the north side of East 32nd Street North
February 3, 2022

**DESCRIPTION OF
Vacation of Portions of
Platted Easements and Access Controls
Lot 1, Block 1, Killamey Plaza Fourth
(VAC2021-000##)**

Easement Vacation

All of the platted Utility Easement lying in the north 20 feet of Lot 1, Block 1, Killamey Plaza Fourth, an addition to Wichita, Sedgwick County, Kansas,

TOGETHER WITH,

All of the platted Utility / Sanitary Easement, referenced on Film 991, Page 621, lying east of a line, said line being parallel with and 25 feet east of the west line of Lot 1, Block 1, Killamey Plaza Fourth, an addition to Wichita, Sedgwick County, Kansas,

Access Controls Vacation

That portion of platted Complete Access Controls along 32nd Street North abutting and adjoining the south line of Lot 1, Block 1, Killamey Plaza Fourth, an addition to Wichita, Sedgwick County, Kansas.

VAC2021-00055 – Request in the City to vacate a portion of platted complete access control & easements on LC Limited Commercial zoned property generally located west of North Rock Road on the north side of East 32nd Street North
February 3, 2022

PLAT 99 | PAGE 621

Approved / Accepted By City Council

This AUG 16 1988

EASEMENT

THIS EASEMENT made this 29th day of July, 1988, by and between Northrock Realty Partners, a Kansas general partnership, of the first part and the City of Wichita of the second part.

WITNESSETH: that the said first party, in consideration of the sum of One Dollar (\$1.00) and other valuable consideration, the receipt whereof is hereby acknowledged, do hereby grant and convey unto the said second party a perpetual right of way and easement for the purpose of constructing, maintaining and repairing their sanitary sewer, over, along and under the following described real estate situated in Sedgwick County, Kansas, to wit:

A sanitary sewer easement 20' in width lying 10' on each side of the following described centerline:

Beginning at a point on the West line and 180.00 feet North of the Southwest corner of Lot 3, Block 1, Killarney Plaza Third Addition; thence S 73° 52' 19" E, 67.53 feet.

And said second party is hereby granted the right to enter upon said premises at any time for the purpose of constructing, operating, maintaining and repairing their sanitary sewer.

IN WITNESS WHEREOF: The said first party has signed these presents the day and year first written.

STATE OF KANSAS
SEDGWICK COUNTY, KS
FILED FOR RECORD AT
8:00 AM
AUG 30 88 0966487
PAT KUTLER
REGISTERED CLERK

Northrock Realty Partners
a Kansas General Partnership

By: Virginia L. Abrah
Virginia L. Abrah, President
Killarney Investments, Inc.
managing partner

STATE OF KANSAS
ss:
SEDGWICK COUNTY

Ed Bass
Capacity

Personally appeared before me a notary public in and for the County and State aforesaid came Virginia L. Abrah, President to me personally known to be the same person who executed the foregoing instrument of writing and said person duly acknowledged the execution thereof.

Dated at Wichita this 29th day of July, 1988.

ANNETTE L. WEAKLEY
NOTARY PUBLIC
STATE OF KANSAS
My Appl. Exp. 2-10-91

Annette L. Weakley
Notary Public
Annette L. Weakley

500A

RECEIVED
JUL 29 1988
ENGINEERING DIVISION

city clerk

