

**EXCERPT MINUTES OF THE AUGUST 20, 2015 METROPOLITAN AREA
PLANNING COMMISSION HEARING**

VAC2015-00031: County request to vacate portions of platted floodway reserves on property.

- OWNER/APPLICANT:** Jon C & Andrea C. Parks (owner) Baughman Company, P.A.,
c/o Phil Meyer (applicant)
- LEGAL DESCRIPTION:** Generally described as vacating portions of the platted floodway easement located along the common lot line of Lots 1 & 2, and the minimum pad elevations of said lots, Four Oaks Addition, Sedgwick County, Kansas (see legal description and exhibit)
- LOCATION:** Generally located west of 127th Street East on the south side of 37th Street North (BoCC #1)
- REASON FOR REQUEST:** Remove proposed building from floodway easement
- CURRENT ZONING:** The site and all abutting and adjacent properties are zoned RR Rural Residential

The applicants are requesting the vacation of portions of a platted floodway easement located along the common lot line of Lots 1 & 2, and the minimum pad elevations of said lots, Four Oaks Addition. The floodway easement is located within a FEMA Type A Flood Zone. The plat's text states that no structure shall be constructed on or within the floodway easement, nor shall any change of grade, creation of grade, creation of channel or other work be carried on without the approval of the engineer of the appropriate governing body. The minimum pad elevation of Lot 1 is 1,370 feet and the minimum pad elevation of Lot 2 is 1,367 feet. There is no public water, sewer, or stormwater equipment in the described portion of the reserve. The Four Oaks Addition was recorded with the Register of Deeds February 3, 2000.

NOTE: Per the Subdivision Regulations Article 5-502. Changes to Minimum Pad Elevations on Recorded Plats. If, after recording a subdivision plat where minimum pad elevations are shown, new floodway/drainage information becomes available that would change the minimum pad elevation requirement, the appropriate engineer (of either the City or County), after verifying the change in floodway/drainage information and after notifying the owner(s) of record of the lot(s) involved, by certified mail to their last known address, or after receiving the request of the owner(s) of record of the lot(s) involved, may file an affidavit with the Register of Deeds, describing the nature and extent of the minimum pad elevation change(s). The change(s) may not increase the required minimum pad elevation unless the lot(s) affected is (are) undeveloped on the date the affidavit is recorded. The Register of Deeds shall record the affidavit and shall place in the margin of the recorded plat a notation that the affidavit has been filed, the date of the filing and the book and page where it is recorded. The filing of the affidavit shall change the minimum pad elevations on the lots as noted in the affidavit, but shall have no effect on the validity of the plat or any property interest recorded by reference thereto.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from County Public Works, Water & Sewer, Stormwater, 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 the platted floodway easement and the minimum pad elevations.

- 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 July 30, 2015, 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 the minimum pad elevations 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 portions of a platted floodway easement located along the common lot line of Lots 1 & 2, and the minimum pad elevations of said lots, Four Oaks Addition, as approved by the County Engineer. As needed apply for a revisions of the FEMA Flood Map with the County Engineer/Corps of Engineers.
- (2) Provide an approved legal description of the vacated portion of the platted floodway easement on a Word document via E-mail. Provide to Planning for the Vacation Order, prior to the case going to the County Commission for final action.
- (3) File an affidavit with the Register of Deeds, describing the nature and extent of the minimum pad elevation change(s). The change(s) may not increase the required minimum pad elevation unless the lot(s) affected is (are) undeveloped on the date the affidavit is recorded. The Register of Deeds shall record the affidavit and shall place in the margin of the recorded plat a notation that the affidavit has been filed, the date of the filing and the book and page where it is recorded. The filing of the affidavit shall change the minimum pad elevations on the lots as noted in the affidavit, but shall have no effect on the validity of the plat or any property interest recorded by reference thereto.
- (4) Provide utilities with any needed project plans for the relocation of utilities for review and approval. Relocation/reconstruction of all utilities made necessary by this vacation shall be to County Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number to Planning prior to the case going to the County Commission for final action.

- (5) All improvements shall be according to County Standards and at the applicants' expense.
- (6) 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 conditions:

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There were no public comments.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

WARREN moved, **RAMSEY** seconded the motion, and it carried (11-0).
