



**LEE'S SUMMIT**  
MISSOURI  
Development Services Department

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## Development Services Staff Report

<b>File Number</b>	PL2022-421 – VACATION OF RIGHT-OF-WAY
<b>Applicant</b>	Chris and Nicolette Saddler
<b>Property Address</b>	An alley segment located east of NE Douglas St and south of NE Elm St (adjacent to 105 NE Elm St)
<b>Planning Commission Date Heard by</b>	September 28, 2023 Planning Commission and City Council
<b>Analyst</b>	Hector Soto, Jr., AICP, Senior Planner

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### Public Notification

Pre-application held: June 7, 2022  
Neighborhood meeting conducted: July 13, 2023  
Newspaper notification published on: September 9, 2023  
Radius notices mailed to properties within 300 feet on: September 19, 2023  
Site posted notice on: September 6, 2023

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### Attachments

Exhibit and Legal Description, dated August 15, 2023  
Neighborhood Meeting Minutes, dated July 13, 2023  
Location Map

## 1. Project Data and Facts

Project Data	
Applicant/Status	Chris and Nicolette Saddler / Property Owners
Applicant's Representative	Chris Saddler
Location of Property	An alley segment located east of NE Douglas St and south of NE Elm St (adjacent to 105 NE Elm St)
Size of Property	±0.07 Acres (3,200 sq. ft.)
Zoning	R-1 (Single-family Residential) and PRO (Planned Residential Office)
Comprehensive Plan Designation	Activity Center - Downtown
Procedure	<p>The Planning Commission holds a public hearing and makes a recommendation to the City Council on the proposed vacation of right-of-way. The City Council holds a public hearing and takes final action on the vacation of right-of-way application. All vacation of right-of-way applications shall be approved by ordinance.</p> <p><b>Duration of Validity:</b> The vacation of right-of-way goes into effect upon City Council final action, unless otherwise stated in the approval, and does not expire.</p>

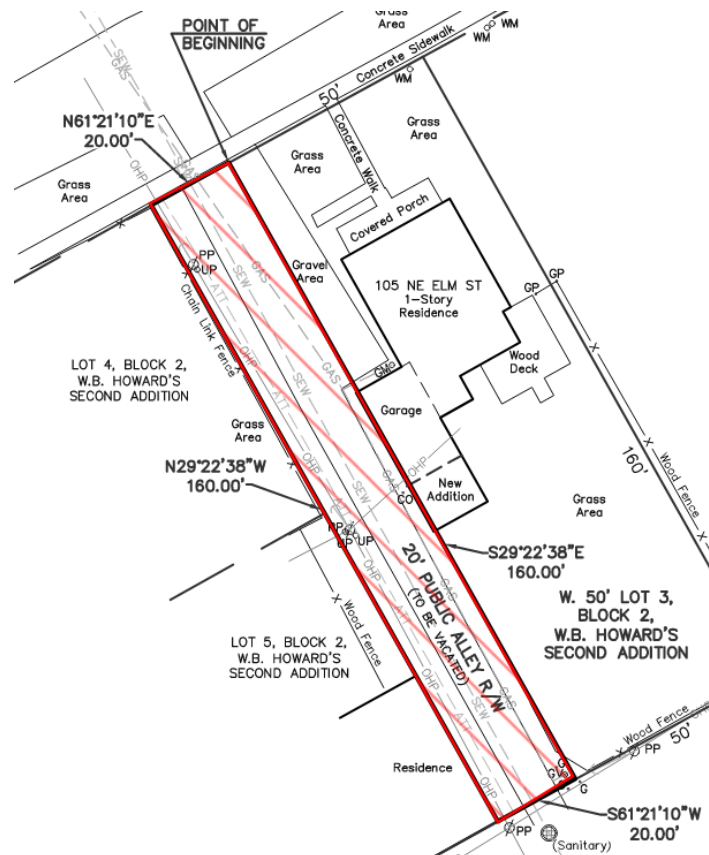
Current Land Use	
	<p>The subject right-of-way segment is a partially graveled and partially grassed unimproved alley located south of NE Elm St and runs parallel to NE Douglas St. The segment is abutted by three (3) single-family residences, neither of which relies on the subject alley segment for direct access to the public street network. The abutting lot at 105 NE Elm St has a parallel driveway connection immediately east of the alley.</p>
<p>It should be noted that an existing 8" public sanitary sewer main (shown as a green line in above image) runs the length of the subject alley segment and will remain in place to serve area development.</p>	

**Description of Applicant's Request**

The applicants own the residence at 105 NE Elm St and request to vacate a 20' wide x 160' long segment of alley right-of-way that abuts their property to the west. The purpose of the vacation request is to revert the public right-of-way back to the abutting private properties on the east and west sides of the alley segment. The vacated right-of-way is absorbed into the abutting private property. The subject alley segment is effectively abandoned from use as part of the public street network. The City maintains the existing 8" sanitary sewer line under the alleyway, but does not maintain the surface of the subject alley segment.

The request for vacation of right-of-way stems from the efforts of the current homeowners of the abutting property at 105 NE Elm St to abate a side yard setback violation created by the previous homeowner as part of a garage addition that was constructed without a building permit. The vacation of the subject right-of-way will result in an additional 10' of property being absorbed by the three (3) abutting properties, including 105 NE Elm St. If the vacation of right-of-way is approved, the applicants will then follow-up with an application to the Board of Zoning Adjustment to request a variance for the remaining 5' of the required 15' minimum side yard setback to allow the garage addition to remain.

A utility easement will be reserved over the entire 20'-wide x 160' long alleyway upon the vacation of the right-of-way in order to cover existing public and private (e.g. Evergy, Spire, AT&T, etc.) utility infrastructure that will remain in place, which includes: overhead electric, gas, telephone and a public 8" sanitary sewer main.



## 2. Land Use

Description and Character of Surrounding Area
The subject right-of-way is located south of NE Elm St and east of NE Douglas St. The surrounding area is primarily characterized by single-family homes. There is a multi-tenant office building located to the southwest of the subject alley segment.

### Adjacent Land Uses and Zoning

<b>North:</b>	Single-family residences / R-1 (Single-family Residential)
<b>South:</b>	Single-family residences / R-1; and Office / PO (Planned Office)
<b>East:</b>	Single-family residences / R-1
<b>West:</b>	Single-family residences / R-1 and PRO (Planned Residential Office)

Site Characteristics
The subject segment of right-of-way is an unimproved alley that is effectively abandoned from public use. The subject right-of-right constitutes the northern half of the alleyway that extends from NE Elm St on the north and NE Maple St on the south. The subject alley segment does not serve as a direct access point from any of the abutting properties onto the public street network. The residences at 105 NE Elm St and 107 NE Douglas St have direct driveway access onto NE Elm St. The residence at 105 NE Douglas St has a driveway pad off the improved public alley to its south.

Special Considerations
N/A

## 3. Unified Development Ordinance (UDO)

Section	Description
2.460, 2.470	Vacation of Right-of-way

### Unified Development Ordinance (UDO)

The purpose of the application is to vacate a 20' x 160' right-of-way segment for an alley located south of NE Elm St and east of NE Douglas St. The segment of alley right-of-way is effectively abandoned and no longer serves a public purpose. Vacating the right-of-way does not negatively impact the immediate area due to the fact that the subject segment does not provide direct access to the area street network from any abutting property; abutting properties have street access from NE Elm St and an improved alley to the southwest.

## 4. Comprehensive Plan

The proposed vacation of right-of-way does not compromise the ability to implement and/or achieve any policies, goals or objectives outlined in the Comprehensive Plan. The subject right-of-way is effectively abandoned and provides no benefit to the area street network that is fully built out.

## **5. Analysis**

### **Background and History**

- September 12, 1883 – The plat titled *W.B. Howard's Second Addition* was recorded with the Jackson County Recorder of Deeds office by Instrument #1867-P-0020079. The subject right-of-way was dedicated as part of the plat.
- March 17, 2022 – The Board of Zoning Adjustment denied a variance request to the side yard setback for a garage addition on the abutting property at 105 NE Elm St that was constructed without a building permit.

The existing residence at 105 NE Elm St was constructed circa 1928. The original garage was built with a 0' setback from the west property line along the alley. Current setback requirements for an attached garage require a minimum 15' setback from the side property line. The original garage is considered a lawful non-conforming condition because it pre-existed current standards, but any addition to the garage must comply with current setbacks. The addition was constructed with a 0' setback from the west property line in violation of current setback standards and without a building permit. Following an anonymous complaint regarding the addition, the homeowner at the time requested a variance to the side yard setback in order to allow the addition to remain. The Board of Zoning Adjustment denied the variance request on the basis that the need for a variance was self-created by not following the appropriate process for approval for the addition.

### **Public Services**

The proposed vacation of right-of-way will not impede the normal and orderly development and improvement of the surrounding property. The subject right-of-way is effectively abandoned and no longer serves a public purpose for the area's street network that is fully built out.

The subject right-of-way currently houses a public sanitary main and a number of private utilities (e.g. overhead electric, telephone and gas). A utility easement will be retained over the entire 20' wide x 160' long segment of right-of-way to protect both the public and private utilities that will remain in the vacated right-of-way.

### **Adverse Impacts**

The subject segment no longer serves a public purpose. The proposed vacation of right-of-way will not negatively impact the use or aesthetics of any neighboring property, nor is it expected to negatively impact the health, safety and welfare of the public.

### **Recommendation**

With the conditions of approval below, the application meets the requirements of the UDO and Design and Construction Manual (DCM).

## **6. Recommended Conditions of Approval**

### **Site Specific**

1. An easement shall be retained over the entire 20' wide x 160' long segment of vacated right-of-way to cover the existing public and private infrastructure located within the subject right-of-way.

### **Standard Conditions of Approval**

2. The ordinance approving the vacation of right-of-way shall be recorded with the Jackson County Recorder of Deeds office and a copy of the recorded document shall be returned to the Development Services Department.