**CITY OF JOPLIN**
**COUNCIL AGENDA ITEM**

**ITEM:**
CB 2021-251-Drainage Easement Vacation

**MEETING DATE:**
January 4, 2021

**ORIGINATING DEPARTMENT:**
Planning, Development and Neighborhood Services

**REVIEWED BY:**
Director of Planning, Development & Neighborhood Services-Troy Bolander, Director of Finance-Leslie Haase, City Attorney- Peter Edwards, City Manager- Nicholas Edwards

**SUMMARY REQUEST:**
Case 051-20: Drainage Easement Vacation – A request to vacate a 20' wide drainage easement lying on property abutting the West right-of-way line of Callaway Dr. – Gary Rose

**BACKGROUND:**
Construction on a home on three lots where the existing easement cuts through the middle, making it difficult to locate a structure outside of the easement while still maintaining the 25-foot setbacks for the front and backyards. In conjunction with neighbors to the North, a new drainage ditch has been constructed on the rear of the lots that is out of the way of any potential structures and has been approved by the City's Engineering Department.

**PLANNING & ZONING COMMISSION TESTIMONY:**
Gary Rose, 4699 SE 60th St., Galena, KS. Here to see if the drainage ditch could be moved off Lots 4-10 at Callaway Ridge for the purpose of building residential homes. He also stated that they want to move it straight back to the west.

Mr. Kimble asked if the ditch was underground or a ditch above ground? Will it have any bearing to the property to the west?

Mr. Rose stated it was a ditch above ground. There will not be any bearing on the properties to the west.

**PUBLIC COMMENT:**
None.

**FUNDING SOURCE**
These payments are included in the FY 2020-21 budget of the Community Planning Fund.

**RECOMMENDATION:**
Planning & Zoning Commission recommends approval (5 Favor, 2 Absent)
Staff recommends approval of Case 051-20.

**ATTACHMENTS**
CB 2021-251, Staff Planning Report, P&Z Commission Minutes

**CB 2021-251**

Case 051-20: Drainage Easement Vacation – A request to vacate a 20' wide drainage easement lying on property abutting the West right-of-way line of Callaway Dr. – Gary Rose

Gary Rose, 4699 SE 60th St., Galena, KS. Here to see if the drainage ditch could be moved off Lots 4-10 at Callaway Ridge for the purpose of building residential homes.

Mr. Ramsour asked if there were any questions from the Commission?

Mr. Rose stated that they want to move it straight back to the west.

Mr. Kimble asked if the ditch was underground or a ditch above ground? Will it have any bearing to the property to the west?

Mr. Rose stated it was a ditch above ground. There will not be any bearing on the properties to the west.

Mr. Ramsour asked if the City has any issues with this? Mr. Stanton stated they did not. The Engineering Department and our Stormwater Engineer did approve the relocation of the ditch. It will be straightened out version.

Mr. Ramsour asked if there were any other questions from the Commission? There were not. Mr. Ramsour asked if there is there anyone in the audience to speak in favor of this case? There were not. Mr. Ramsour asked if there was anyone in opposition to the case? There was not.

**MR. KIMBLE MOVED, SECONDED BY MR. MCCULLOUGH THAT CASE 051-20 BE FORWARDED TO THE CITY COUNCIL WITH RECOMMENDATION FOR APPROVAL. MOTION CARRIED, WITH MR. RAMSOUR, MRS. STEELE, MR. MCCULLOUGH, MR. EASTMAN, AND MR. KIMBLE VOTING "AYE". (5 IN FAVOR, 2 ABSENT).**

Z&P Meeting: December 14, 2020
City Council Meeting: January 4, 2021

# STAFF PLANNING REPORT
## Vacation

**CASE 051-20** A request to vacate a 20' wide drainage easement.

**APPLICANT** Gary Rose

**REPRESENTATIVE** Gary Rose

**LOCATION** West of the West right-of-way line of Callaway Dr.

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**EXISTING CONDITIONS**

| Easement Type(s) | Easement Size |
|---|---|
| Drainage Easement | Approximately 1000' x 20' |

**REASON FOR VACATION**

Gary Rose is representing a client who is looking to begin construction on a home on three lots where the existing easement nearly bisects each lot, hindering the placement of any structure on the lots while still meeting our setback requirements.

**UTILITIES CURRENTLY LOCATED IN THE RIGHT-OF-WAY?**

Drainage ditch has been rerouted to the rear of the lots, out of the way of potential future development.

**UTILITIES PLANNED TO LOCATE IN THE RIGHT-OF-WAY?**

No plans for new utilities to be located in the right-of-way.

**DISCUSSION**

Gary Rose is representing a client who is looking to begin construction on a home on three lots where the existing easement cuts through the middle, making it difficult to locate a structure outside of the easement while still maintaining the 25-foot setbacks for the front and backyards. In conjunction with neighbors to the North, a new drainage ditch has been constructed on the rear of the lots that is out of the way of any potential structures and has been approved by the City's Engineering Department. A new easement will be granted over this new drainage ditch.

To be clear, this is strictly a drainage easement, meaning no other utilities other than the City's Stormwater Utilities are affected by this vacation request. In order to allow for the construction to take place on these three lots as well as other vacant lots to the North, and to remove a redundant easement, staff recommends approval of this vacation.

*Staff recommends approval of Case 051-20.*

**ENCLOSURES**

- Application
- Map

CITY OF JOPLIN

APPLICATION FOR VACATION OF STREET OR RESERVATION

Return Form and Attachments to:
Planning / Community Development Specialist
Joplin City Hall
602 South Main Street
Joplin, Missouri 64801
417-624-0820 Ext. 511
FAX 417-625-4738

For Office Use Only

Case No.: 051-20
Filing Fee: $550.00
Date Advertised: 11-29-20
Date Notices Sent 12-1-20
Public Hearing Date: 1-4-21

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I. Applicant Name: Gary Rose Phone: 417-439-5333

If more than one property applicant, please submit additional names, address and phone numbers on attached sheet(s)

Address: 1632 S. Madison St. Ste F Zip: 64870
Webb City, Mo.

II. Type of vacation requested (check one):

Street Vacation_____

Alley Vacation_____

Utility Vacation_____

Other (Please specify) Drainage Ditch

III. Please indicate below the extent to which the following standards are met, in the applicant's opinion.

1. Private rights will not be injured or endangered by the vacation. NO

2. The vacation will not cause the public to suffer a loss or inconvenience. NO

3. In justice to the applicant(s) the vacation should be granted. Build a new home

IV. Required Attachments:

1. Legal description of the street, alley, or utility easement to be vacated from a deed of record or certified survey. Digital copies are acceptable. Must be legible.

2. Survey or such other drawing acceptable to the Planning / Community Development Manager depicting the street, alley or public reservation sought to be vacated and the properties and property ownerships surrounding said street, alley or public reservation.

3. Affidavit(s) from each owner of land adjoining said area that is proposed to be vacated, whom are not listed as an applicant, indicating their consent to the vacation.

4. Completed Utility Comments forms from the following utility companies indicating their consent to vacate the easement. The following companies must be contacted, and their consent received, before the Public Hearing can take place.

| Utility | Contact | Email | Phone |
|---|---|---|---|
| **AT&T** | **Kenny Kenworthy** | **kk7429@att.com** | **417-625-8092** |
| Missouri American Water | Andrew Holderness | andrew.holderness@amwater.com | 417-623-0676 x1009 |
| **Liberty Utilities (Power)** | **Jeff Lebeda** | **jeff.lebeda@libertyutilities.com** | **417-625-6159** |
| Republic Services (Trash) | | | (800) 431-1507 |
| **Cable One/Sparklight** | **Keri Bledsoe** | **keri.bledsoe@sparklight.biz** | |
| Spire Energy (Gas)* | Ken Stegall | ken.stegall@spireenergy.com | |
| **Spire Energy (Gas)*** | **Mandy Butkovich** | **mandy.butkovich@spireenergy.com** | **816-472-3767** |
| City Sanitary Sewer | Chris Parker | cparker@joplinmo.org | 417-624-0820 x584 |
| **City Stormwater** | **Steven Martinez** | **smartine@joplinmo.org** | **417-624-0820 x531** |

*Must contact BOTH contacts at Spire Energy.

Signature

11/6/2020

Date

# Utility Comments: Vacation of Streets, Alleys, & Easements

City of Joplin
Planning, Development, & Neighborhood Services
602 S. Main St., Joplin, MO 64801
417-624-0820 ext. 511

Case Number: _____
Applicant: _____
Phone: _____
Email: _____

*Be it known that* Gary Box, *being owners of real estate abutting or withholding a street, alley, or easement, desires to petition the City of Joplin, Missouri, to pass an ordinance vacating:* a drainage ditch.

*Located at:* Calloway Ridge

*For the following purpose:* Build a new home.

For Utility Use:

1. Our utility has facilities or interest within this right-of-way:
   ☒ Yes (proceed to #2) ☐ No (form complete)

2. Our utility:
   ☐ has no objection
   ☐ objects to vacation and will not waive objection under any conditions (describe below, or on separate sheet.)

   ☒ will waive objections subject to the following conditions (describe below, or on separate sheet.)
   ☐ Retain utility easement and protect facilities
   ☐ Relocate facilities
   ☒ Other: Dedicate new easement over new drainage ditch.

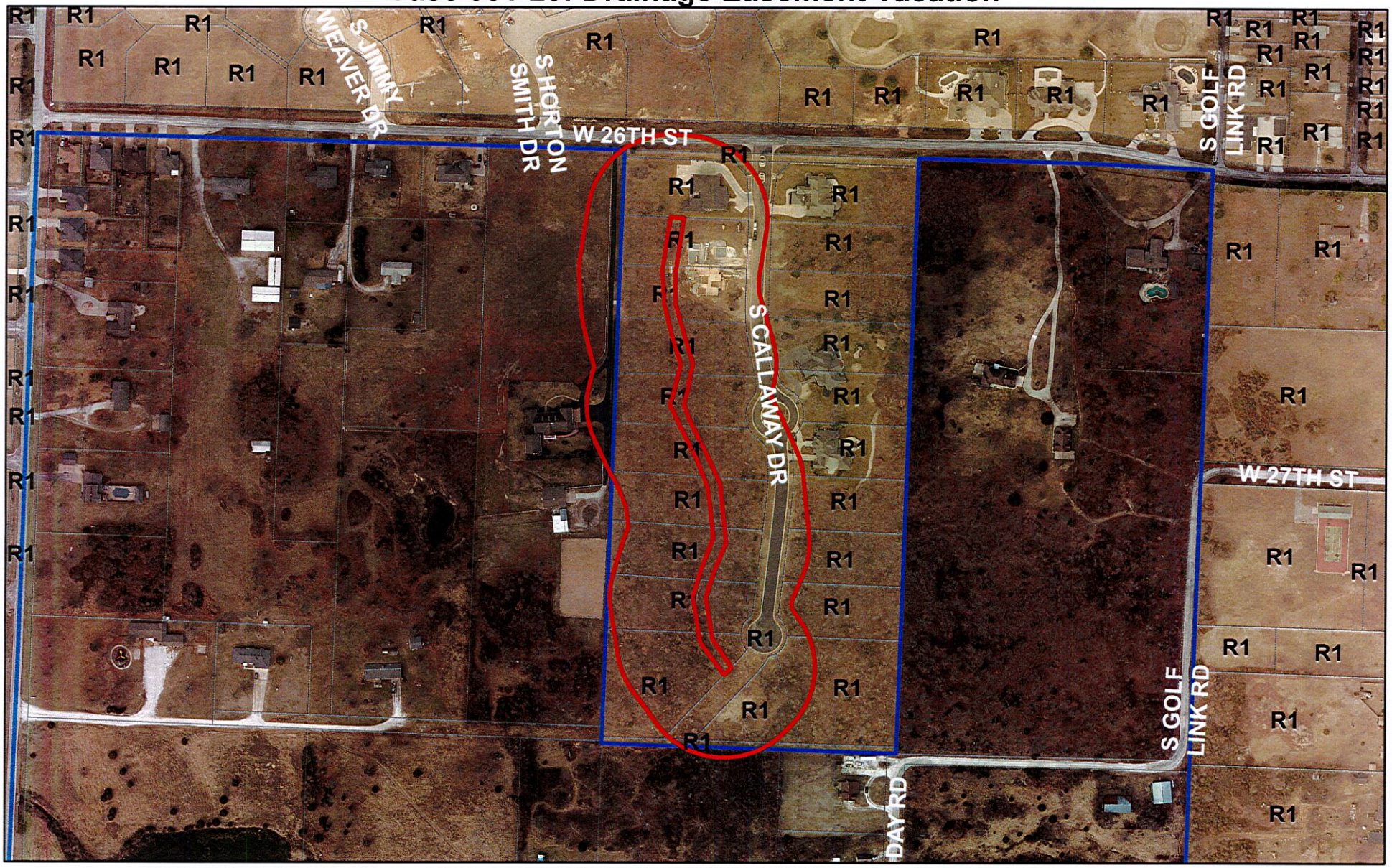
Please return this form within **21 days** to the applicant listed above.

Steve Martinez — Authorized Representative

12/10/20 — Date

Stormwater — Name of Utility

# Case 051-20: Drainage Easement Vacation




Case 051-20: Drainage Easement Vacation – A request to vacate a 20' wide drainage easement lying on property abutting the West right-of-way line of Callaway Dr. – Gary Rose

COUNCIL BILL NO. 2021-251 ORDINANCE NO.

AN ORDINANCE providing the vacation of a 20-foot-wide drainage easement lying on property abutting the West right-of-way, City of Joplin, Jasper County, Missouri.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. That the vacation of a 20-foot-wide drainage easement lying on property abutting the West right-of-way in the City of Joplin, Jasper County, Missouri. described as follows and hereby vacated, conveyed, relinquished, and reverted to the owners of the abutting lots and land:

A perpetual drainage easement described as a 20.00 feet wide strip of land, being all that part of the Grantor's land as described in Book 2072 at Page 333 of the Jasper County Recorder's Office, lying 10.00 feet on each side of the following described centerline: commencing an existing one-half inch iron pin capped LS-2005000054 at the Northwest Corner of the Northeast Quarter of the Southwest Quarter of Section 17, Township 27 North, Range 33 West, Jasper County Missouri; thence South 01 degrees 53 minutes 12 seconds West, along the West line of said Northeast Quarter of the Southwest Quarter, a distance of 350.82 feet for the point of beginning; thence South 53 degrees 14 minutes 25 seconds East, a distance of 87.73 feet; thence along a curve to the right, through a central angle of 40 degrees 27 minutes 09 seconds, with a radius of 50.00 feet and an arc distance of 35.30 feet; thence South 12 degrees 47 minutes 16 seconds East, a distance of 14.51 feet; thence along a curve to the left, through a central angle of 13 degrees 52 minutes 29 seconds, with a radius of 100.00 feet and an arc distance of 24.22 feet; thence South 26 degrees 39 minutes 44 seconds East, a distance of 56.37 feet; thence along a curve to the Right through a central angle of 27 degrees 26 minutes 32 seconds, with a radius of 100.00 feet and an arc distance of 47.90 feet; thence South 00 degrees 46 minutes 47 seconds East, a distance of 127.77 feet; thence along a curve to the left, through a central angle of 16 degrees 01 minutes 40 seconds, with a radius of 100.00 feet and an arc distance of 27.97 feet; thence South 15 degrees 14 minutes 53 seconds East, a distance of 104.06 feet; thence South 00 degrees 41 minutes 29 seconds West, a distance of 46.19 feet; thence South 14 degrees 30 minutes 33 seconds East, a distance of 141.32 feet; thence South 17 degrees 22 minutes 09 seconds East, a distance of 79.95 feet; thence along a curve to the Right, through a central angle of 38 degrees 51 minutes 23 seconds, with a radius of 50.00 feet and an arc distance of 33.91 feet; thence South 21 degrees 29 minutes 14 seconds West, a distance of 240.00 feet; to the South line of said Northeast Quarter of the Southwest Quarter for a terminus, said point being South 87 degrees 57 minutes 47 seconds East, a distance of 167.57 feet from the Southwest Corner of said Northeast Quarter of the Southwest Quarter.

Section 2. That this vacation of the portion of the street easement hereby vacated shall not affect or derogate from the existing rights of way or other easements of public utility companies now having installations in the portion of the street hereby vacated. Such utility companies shall have the right to maintain and repair any such installations now on the vacated portion of said street and shall be subject to the rights of the city of Joplin for sewer construction and maintenance.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____day of _____, 2021, by a vote of_____.

ATTEST: Ryan D. Stanley, Mayor

Barbara J. Gollhofer, City Clerk

APPROVED AS TO FORM:

Peter C. Edwards, City Attorney