CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

January 11, 2006

Richard Smith
9131 Autumn Chase
Wichita, KS 67206

Re: **VAC2005-00041** - Request to vacate plattor's text to allow additional uses in a platted reserve, vacate a portion of the reserve and vacate a portion of a platted utility easement, generally located midway between Central Avenue & 13th Street North, west of Webb Road, more specifically southeast of Gatewood and Autumn Chase Streets.

Dear Mr. Smith:

At its regular meeting on Tuesday, January 10, 2006, the Wichita City Council considered the request. The action of the City Council was to APPROVE subject to the recommendation by the MAPC.

If you have any questions about this matter, please call 268-4494.

Sincerely,

Bill Longnecker
Senior Planner

BL:le

cc: Jim Armour, City Engineer, Public Works Department, Mail Stop 1-71
Paul Gunzelman/Carla Jones, Public Works Engineering, Mail Stop 1-71
MKEC Engineering, c/o Greg Allison or Brian Lindebak, 411 N. Webb Road, Wichita, KS 67206
Harriet Wheeler Revocable Trust, 9203 Autumn Chase, Wichita, KS 67206
Gust H. Nelson, Jr. Living Trust, 9127 Autumn Chase, Wichita, KS 67206
Lakepoint Master Association, P.O. Box 8524, Wichita, KS 67208

RECEIVED
JAN 18 2006
METROPOLITAN PLANNING
ROUTE

BEFORE THE CITY COUNCIL OF THE CITY OF WICHITA, SEDGWICK COUNTY, KANSAS

IN THE MATTER OF THE VACATION OF THE PLATTOR'S TEXT TO ALLOW ADDITIONAL USES IN A PLATTED RESERVE, A PORTION OF THE PLAATED RESERVE, AND A PORTION OF A PLATTED UTILITY EASEMENT	)	
GENERALLY LOCATED MIDWAY BETWEEN CENTRAL AVENUE & 13TH STREET NORTH, WEST OF WEBB ROAD, MORE SPECIFICIALLY SOUTHEAST OF GATEWOOD AND AUTUMN CHASE STREETS	)	**Case No. VAC2005-00041**
MORE FULLY DESCRIBED BELOW	)	

VACATION ORDER

NOW on this 10th day of January, 2006 comes on for hearing the petition for vacation filed by Richard D. Smith praying for the vacation of the following described portion of platted utility easement, a portion of the platted reserve and the plattor's text as it located within the vacated portion of the reserve to allow additional uses in that described portion of the platted reserve, to-wit:

Easement
Said platted 10 foot utility easement being described as follows: All of the South 10 feet of Lot 4, Block 1, Autumn Chase Addition, an addition Wichita, Sedgwick County, Kansas.

Reserve
Said portion of Reserve "F" being described as follows: A tract of land lying within a portion of Reserve "F", Autumn Chase Addition, an addition to Wichita, Sedgwick County, Kansas, being more particularly described as follows: BEGINNING at the Southwest corner of Lot 4,

Block 1, said addition; thence along the common lines to said Lot 4 and said Reserve "F" for the next two courses on a platted basis of bearing N52°00'00"E, 39.63 feet; thence S75°00'00"E, 50.02 feet to the Southeast most corner of said Lot 4; thence S20°00'00"E, 8.63 feet; thence N84°44'18"W, 44.00 feet; thence S59°55'59"W, 30.00 feet; thence N38°58'17"W, 20.22 feet to the POINT OF BEGINNING.

Plattor's Text
Vacate the restriction of uses listed on the plat for Reserve "F", only in that above described portion of Reserve "F", all in the Autumn Chase Addition, Wichita, Sedgwick County, Kansas, to allow the additional uses of utilities confined to easements and those uses permitted by right in the "SF-5" Single-family Residential zoning district.

The City Council, after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in The Wichita Eagle on November 17, 2005, which was at least 20 days prior to the public hearing.

2. No private rights will be injured or endangered by the vacation of the above-described portion of platted easement, the described portion of the platted reserve and of the plattor's text to allow additional uses in the described portion of the platted reserve, and the public will suffer no loss or inconvenience thereby.

3. A covenant, a 10-foot utility easement and a hold harmless agreement will be filed with the Register of Deeds for recording with the Vacation Order.

4. In justice to the petitioner(s), the prayer of the petition ought to be granted.

5. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.

6. The vacation of the described portion of the reserve, the plattor's text to allow additional uses in the described portion of the platted reserve, and the portion of the platted utility easement described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 10th day of January 2006 ordered that the above-described portion of the reserve, the plattor's text to allow additional uses in the described portion of the platted reserve, and the portion of the platted utility easement described herein are hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall certify a copy of this order to the Register of Deeds of Sedgwick County.

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary Rebenstorf, Director of Law

METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 3-2
December 8, 2005

STAFF REPORT

CASE NUMBER: **VAC2005-00041:** Request to vacate a portion of a platted reserve, the plat's text to allow only single-family uses in that portion of the vacated platted reserve and vacate a portion of a platted utility easement

OWNER/APPLICANT: Richard D. Smith

AGENT: MKEC Engineering Consultants, c/o Brian Lindebak

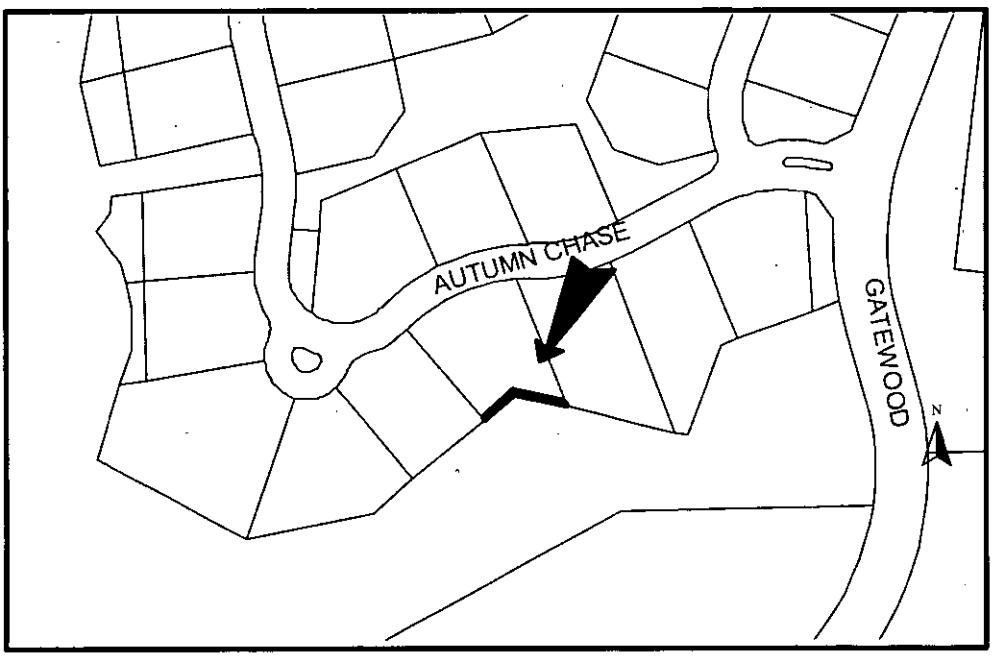
LEGAL DESCRIPTION: Vacate a portion of a Reserve F & the plat text's restriction of uses in regards to uses allowed in Reserve F, Autumn Chase Addition, Wichita, Sedgwick County, Kansas
Vacate the platted 10-foot utility easement located along the south (rear) property line of Lot 4, Autumn Chase Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located midway between Central Avenue & 13th Street North, west of Webb Road, more specifically southeast of Gatewood and Autumn Chase Streets

REASON FOR REQUEST: To allow an addition to single-family residence

CURRENT ZONING: Subject property and all abutting and adjacent properties are zoned "SF-5" Single-family Residential.

VICINITY MAP:



The applicant is requesting consideration for the vacation of a portion of Reserve F that abuts the rear lot line of Lot 4, Autumn Chase Addition and the restriction of uses in the plat's text for platted Reserve F, Autumn Chase Addition, to allow only "SF-5" uses and an easement in that vacated portion of the platted reserve. The uses that Reserve F has been set aside for include drainage purposes, landscaping, sidewalks, gazebos, pools and related recreational facilities, tennis courts, lights, benches, exercise trails, lakes and a floodway. There are already some utilities in the reserve, which, per the plat's text are not allowed. The applicant is also requesting that the platted 10-foot utility easement located along the rear lot line of Lot 4, Autumn Chase Addition, be vacated. The applicant requests the vacations to allow an addition to the single-family residence on the site. The rear yard setback is per the UZC for the SF-5: zoning district, any encroachments into the rear yard setback, as established by the Vacation Order will seek remedy by either an administrative adjustment or a variance. The Autumn Chase Addition was recorded with the Register of Deeds April 15, 1987.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives, and other interested parties, Planning Staff recommends approval to vacate the a portion of the platted Reserve F, the uses of that portion of the platted Reserve F, and a portion of the platted utility easement as described in the legal description to allow a portion of the platted reserve to revert into private property, allow additional uses in that portion of the vacated reserve and to vacate the platted utility easement with conditions.

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, by publication in the Wichita Eagle of notice of this vacation proceeding one time November 17, 2005 which was at least 20 days prior to this public hearing.

2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted reserve, the uses allowed in vacated portion of the platted reserve and a portion of a platted easement and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of a portion of the platted reserve, the uses allowed in the vacated portion of the platted reserve and a portion of the platted utility easement described in the petition should be approved subject to the following conditions:

(1) Vacate that portion of the Reserve F that abuts only the rear lot line of Lot 4, all in the Autumn Chase Addition and that will entirely contain a 10-foot replacement utility easement. Provide Planning Staff and Public Works with a revised site plan showing the

proposed vacated portion of Reserve F. Provide Storm Water with any plans needed for the vacated portion of Reserve F in regards to the changing of the grade within that portion of the vacated reserve and to confirm that the proposed size and configuration of the vacated portion of Reserve F does not adversely affect the Reserve and the neighboring properties. The revised site plan and any plans needed by Public Works/Storm Water must be received and reviewed by staff prior any dedications and prior to the VAC2005-41 going to the WCC for final action and prior to the issuance of building permits. Provide Planning Staff with a metes and bound description (legal description) on a word document, via e-mail, of the vacated portion of Reserve F, as approved by Public Works/Storm Water.

(2) Provide Staff with an affidavit from the Home Owners Association that certifies their approval of the sale of the vacated portion of Reserve F to the owner of Lot 4, all in the Autumn Chase Addition.

(3) Vacate the use restrictions as listed in the vacated portion of Reserve F to allow only "SF-5" zoning district uses and utilities confined to easements, in this case easements dedicated by separate instrument that will be placed in the vacated portion of Reserve F.

(4) Provide Planning Staff with a restrictive covenant binding and tying the vacated portion of Reserve F to Lot 4, all in the Autumn Chase Addition, to be sent with the Vacation Order to be recorded wit the Register of Deeds.

(5) Dedicate by separate instrument a utility easement, located in the approved area within the vacated portion of Reserve F, joined to Lot 4, all in the Autumn Chase Addition, by a restrictive covenant for placement of utilities. The easement must be a minimum of 10-foot in width; the applicant has recorded a 5-foot easement and an additional 5-foot wide easement joined and running parallel the length of this recorded easement will meet that requirement. Provide planning Staff with the dedication of easement to be sent to the Register of Deeds with the Vacation Order.

(6) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant. There are utilities in the platted easement. The platted easement will remain in effect until all utilities have been removed from it and placed in the appropriate easement. Per the plat's text no utilities or utility easements are allowed in the Reserve F, the Autumn Chase Addition. Provide Planning Staff with confirmation from the Utility Companies that all utilities have been relocated.

(7) All improvements shall be according to City Standards.

(8) Per MAPC Policy Statement #7,all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request 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:

(1) Vacate that portion of the Reserve F that abuts only the rear lot line of Lot 4, all in the Autumn Chase Addition and that will entirely contain a 10-foot replacement utility easement. Provide Planning Staff and Public Works with a revised site plan showing the proposed vacated portion of Reserve F. Provide Storm Water with any plans needed for the vacated portion of Reserve F in regards to the changing of the grade within that portion of the vacated reserve and to confirm that the proposed size and configuration of the vacated portion of Reserve F does not adversely affect the Reserve and the neighboring properties. The revised site plan and any plans needed by Public Works/Storm Water must be received and reviewed by staff prior any dedications and prior to the VAC2005-41 going to the WCC for final action and prior to the issuance of building permits. Provide Planning Staff with a metes and bound description (legal description) on a word document, via e-mail, of the vacated portion of Reserve F, as approved by Public Works/Storm Water.

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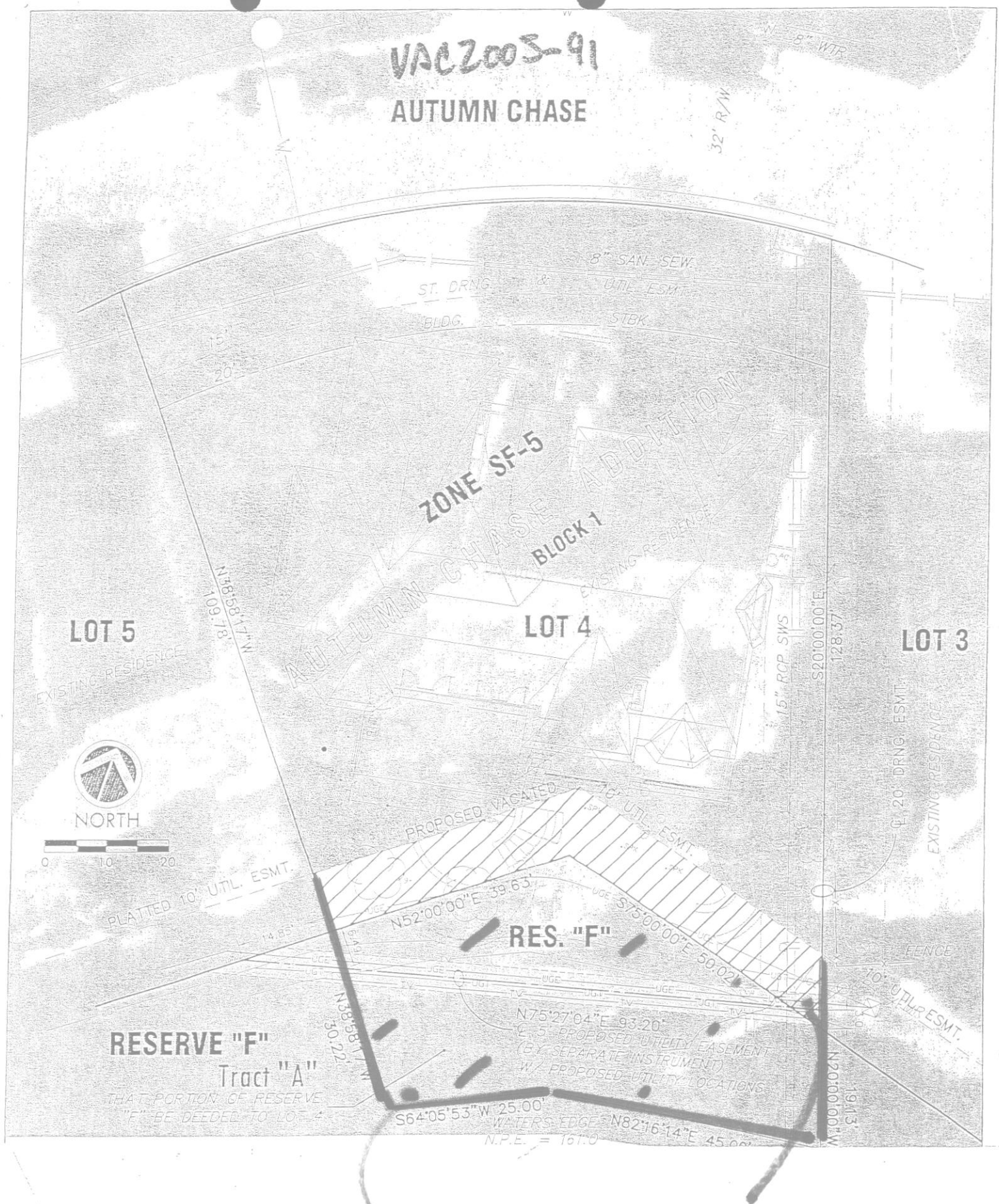
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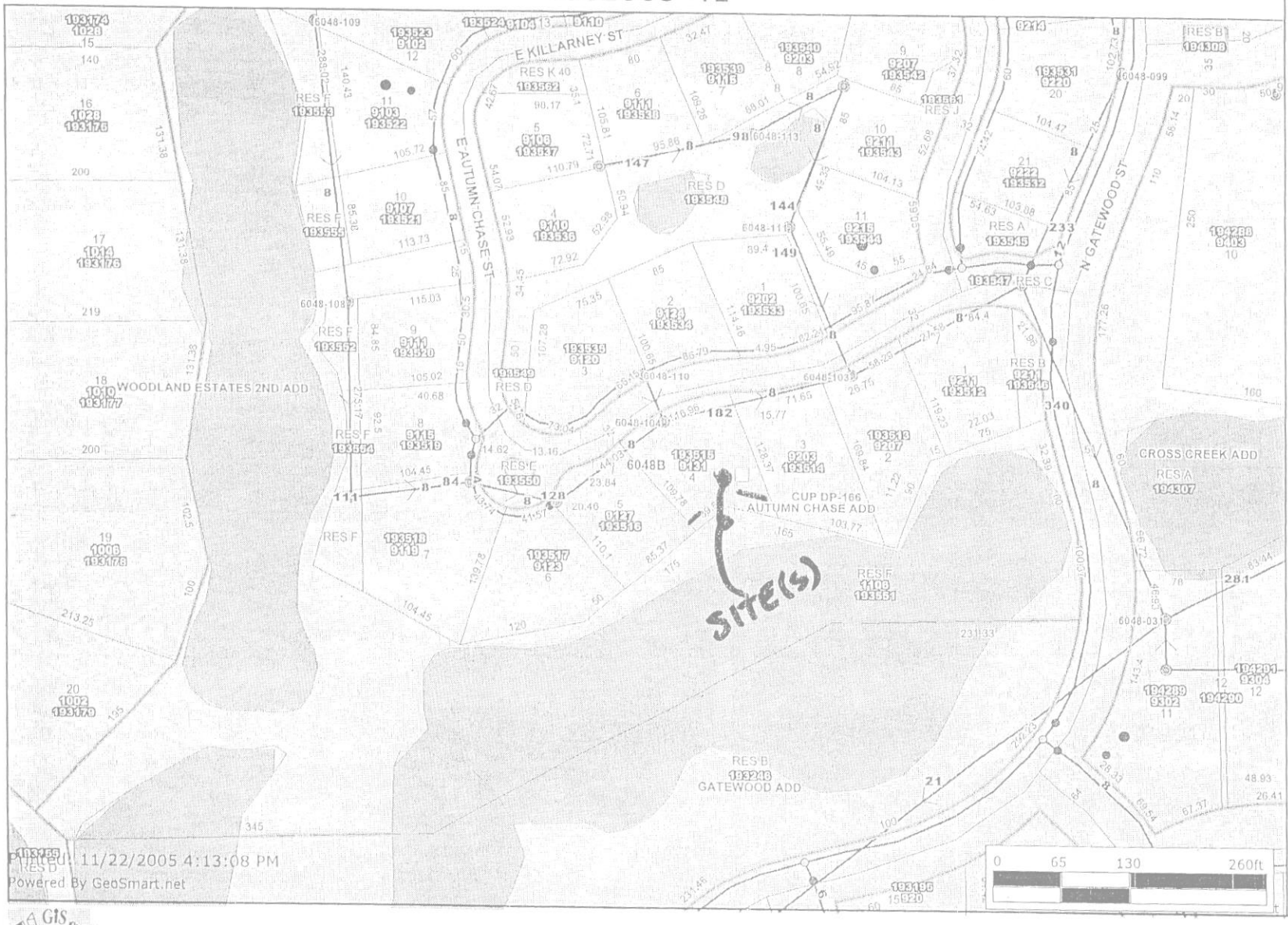
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VAC2005-91
AUTUMN CHASE
N. 8" WTR
32' R/W
8" SAN. SEW.
ST. DRNG. & UTIL. ESMT.
BLDG. STBK.
15'
20'
ZONE SF-5
AUTUMN CHASE ADDITION
BLOCK 1
EXISTING RESIDENCE
LOT 5
LOT 4
LOT 3
N38°58'17"W 109.78'
S20°00'00"E 128.37'
15" RCP SWS
EXISTING RESIDENCE
NORTH
0 10 20
PROPOSED VACATED 16' UTIL. ESMT.
PLATTED 10' UTIL. ESMT.
N52°00'00"E 39.63'
S75°00'00"E 50.02'
RES. "F"
FENCE
10' UTIL. ESMT.
N75°27'04"E 93.20'
℄ 5' PROPOSED UTILITY EASEMENT (BY SEPARATE INSTRUMENT) W/ PROPOSED UTILITY LOCATIONS
N38°58'17"W 50.22'
RESERVE "F"
Tract "A"
THAT PORTION OF RESERVE "F" BE DEEDED TO LOT 4
S64°05'53"W 25.00'
WATERS EDGE N.P.E. = 1611.0
N82°16'14"E 45.06'
N20°00'00"W 19.13'
VACATED PORTION of RESERVE & EASEMENT

water & sewer

vac2005-41



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