



Wichita-Sedgewick County Metropolitan Area Planning Department

March 21, 2007

Twenty-First Growth LLC
Attn: Doug Kitterman & Tim Buchanan
7309 East 21st Street, Suite 110
Wichita, KS 67206

Re: **VAC2006-00011** - Request to vacate a platted easement on multiple lots, generally located north of 21st Street North & east of 127th Street East, east of Williamsgate Street, on the north side of Ayesbury Street.

Dear Mr. Kitterman and Mr. Buchanan:

At its regular meeting on Tuesday, March 20, 2007, 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 Consultants, Inc., c/o Greg Allison, 411 N. Webb Road, Wichita, KS 67206
Sharp Construction of Augusta, Inc., 430 Walnut, Wichita, KS 67010

RECEIVED

MAR 27 2007

METROPOLITAN PLANNING
ROUTE ☐

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

**IN THE MATTER OF THE VACATION OF
A PLATTED EASEMENT ON MULTIPLE LOTS**

**GENERALLY LOCATED
NORTH OF 21ST STREET NORTH & EAST
OF 127TH STREET, EAST OF WILLIAMSGATE
STREET, ON THE NORTH SIDE
OF AYESBURY STREET**

Case No. VAC2006-00011

MORE FULLY DESCRIBED BELOW

VACATION ORDER

NOW on this 20th day of March, 2007 comes on for hearing the petition for vacation filed by Twenty-first Street Growth LLC, c/o Tim Buchanan praying for the vacation of the following described platted easement on multiple lots, to-wit:

The platted 10-foot utility easement located along the north lot lines of Lots 49-53 inclusive, Block 1, Hawthorne Third Addition, Wichita, Sedgwick County, Kansas, EXCEPT the west 5-feet of Lots 49 and 53 thereof, AND EXCEPT, the east 5-feet of Lot 50 thereof.

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 March 16, 2006, 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 platted easement on multiple lots, and the public will suffer no loss or inconvenience thereby.

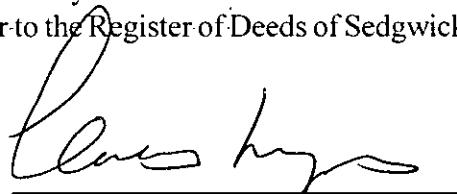
3. Dedicate by separate instrument a replacement utility easement to be recorded with the Register of Deeds.

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

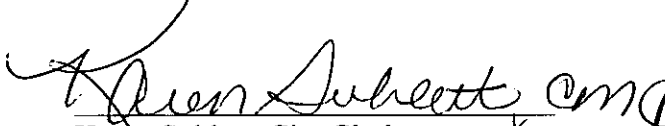
5. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.

6. The vacation the platted easement on multiple lots described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 20th day of March 2007 ordered that the above-described platted easement on multiple lots is 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.

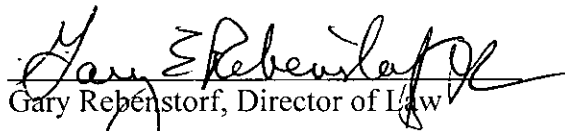

Carlos Mayans, Mayor

ATTEST:


Karen Sublett, City Clerk



Approved as to Form:


Gary Rebenstorf, Director of Law

STAFF REPORT

CASE NUMBER: VAC2006-00011: Request to vacate a platted easement on multiple lots

OWNER/APPLICANT: Twenty-first Street Growth LLC

AGENT: MKEC Engineering Consultants Inc., c/o Greg Allison

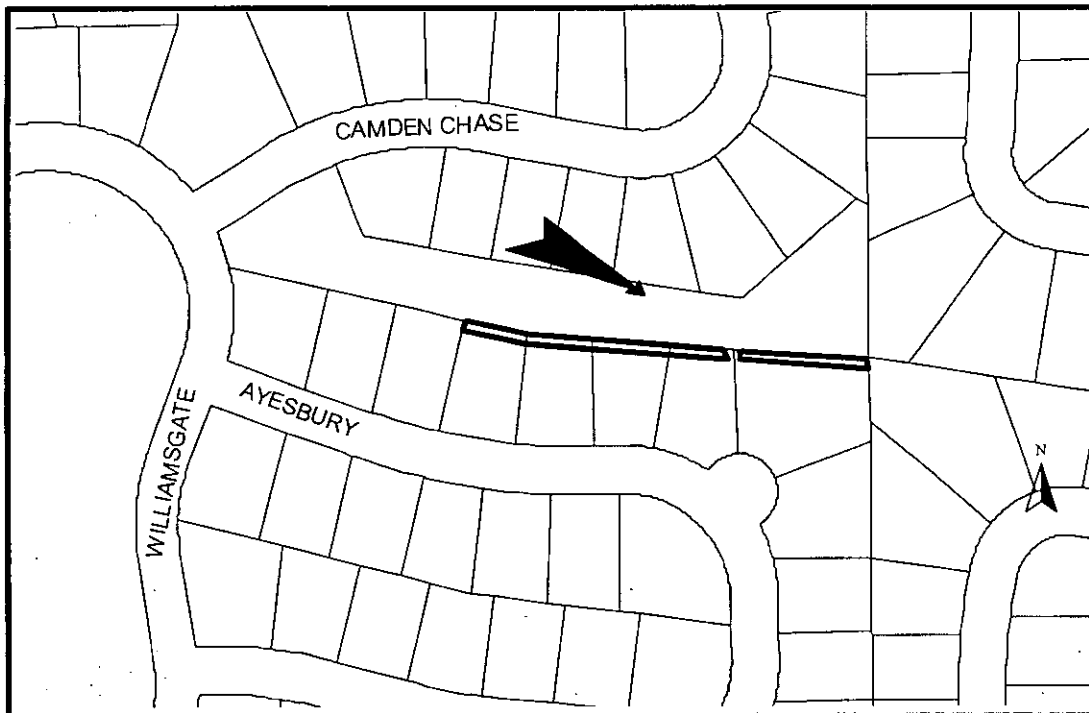
LEGAL DESCRIPTION: The platted 10-foot utility easement, located on the north 10 feet of Lots 49-53, inclusive, all in Block 1, Hawthorne Third Addition, Wichita, Sedgwick County, Kansas, EXCEPT the West 5 feet of Lots 49 and 53 thereof, AND EXCEPT, the East 5 feet of Lot 50 thereof.

LOCATION: Generally located north of 21st Street North & east of 127th Street East, east of Williamsgate Street, on the north side of Ayesbury Street. (WCC #II)

REASON FOR REQUEST: Proposed relocation of easement

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

VICINITY MAP:



The applicant proposes to vacate the platted 10-foot utility easement, as described and shown on the exhibits. The applicant's exhibit also shows a proposed 10-foot replacement easement located in Reserve "H", which abuts and runs parallel to the north side of the subject lots. The proposed replacement easement abuts and runs parallel to a 50-foot KANEB pipeline easement, which occupies most of Reserve "H". Per the plat's text for the Hawthorne Third Addition, "Reserve... 'H'... is platted for drainage, utilities in designated locations, irrigation, landscaping, berming, monuments, sidewalks, and open spaces." There is also language in the plat's text about the homeowners association being responsible for maintenance and repair of the reserve. There are no utilities, manholes, sewer or water lines in the easement. The UZC's rear yard building setback line of 20-feet for the lots' "SF"-5" zoning will remain in effect. There will be no encroachment into the platted Reserve "H". The Hawthorn Third Addition was recorded with the Register of Deeds August 30, 2004.

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 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 March 16, 2006 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 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.

Therefore, the vacation of the platted easement described in the petition should be approved with conditions;

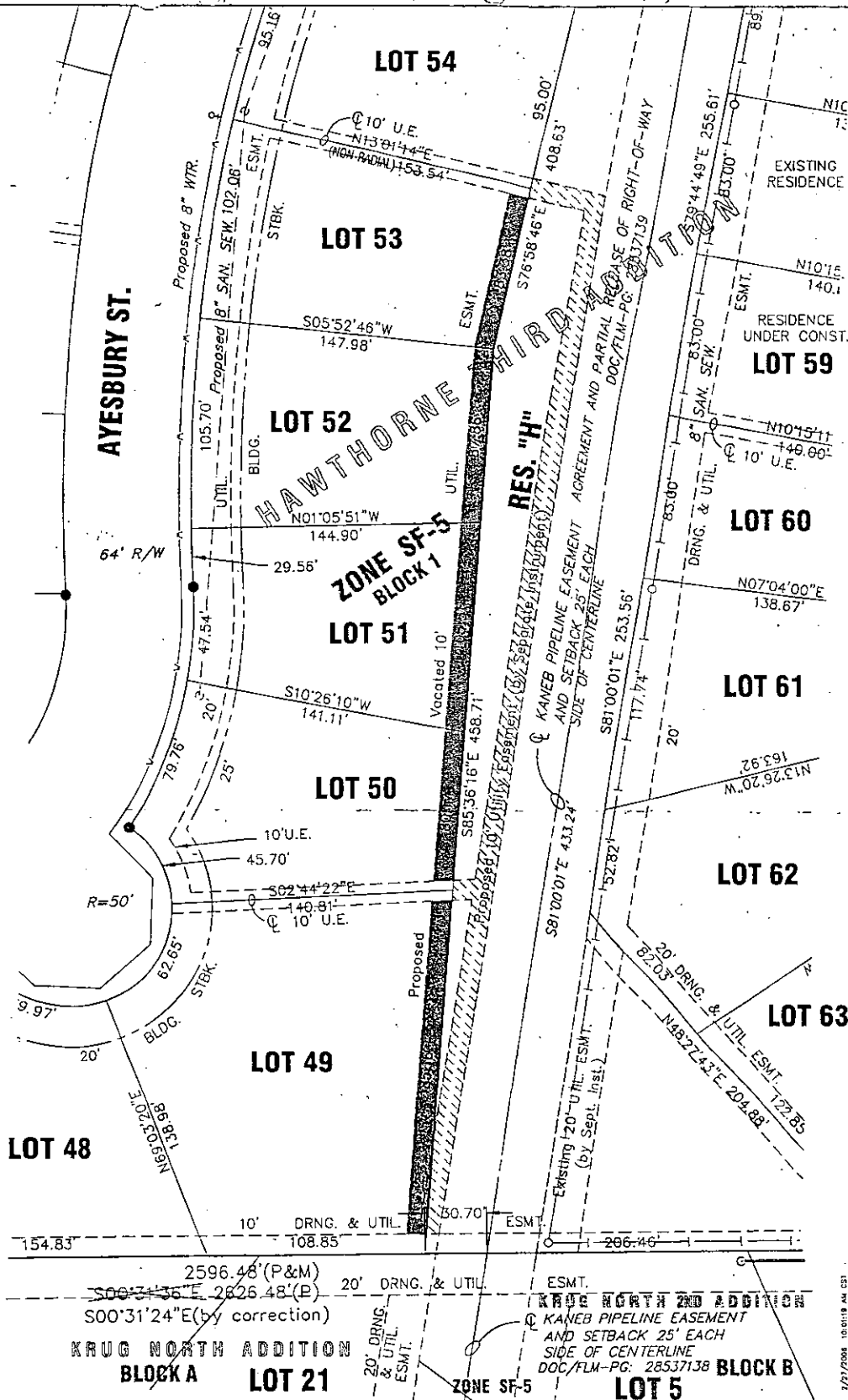
- (1) Provide Staff with a copy of any required additional easements (with original signatures) dedicated by separate instrument, as needed and approved by Public Works, Water & Sewer, Storm Water and franchised utilities. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities with any needed plans for review for location of utilities.

- (3) Retain the easements until all utilities have been relocated or a guarantee for relocation of the utilities has been accepted by the City or franchised utilities and the new easements for the relocated utilities has been recorded with the Register of Deeds.
- (4) All improvements shall be according to City Standards.
- (5) 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) Provide Staff with a copy of any required additional easements (with original signatures) dedicated by separate instrument, as needed and approved by Public Works, Water & Sewer, Storm Water and franchised utilities. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Public Works/Water & Sewer and franchised utilities with any needed plans for review for location of utilities.
- (3) Retain the easements until all utilities have been relocated or a guarantee for relocation of the utilities has been accepted by the City or franchised utilities and the new easements for the relocated utilities has been recorded with the Register of Deeds.
- (4) All improvements shall be according to City Standards.
- (5) 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.

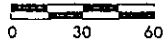


NOTE:

1. We are requesting the vacation of a portion of a plotted 10 foot utility easement as located hereon. The easement shall be relocated North of the existing location as shown.
2. Proposed Vacated Easement
3. Proposed Relocated Easement



NORTH



MKEC
ENGINEERING & CONSULTANTS, INC.

411 N. WEBB ROAD
WICHITA, KS. 67206
316-684-9600

**LOTS 49-53, BLOCK 1
HAWTHORNE THIRD ADDITION**
PROJECT NAME
EXHIBIT
MAPC VAC2006 -
SHEET TITLE

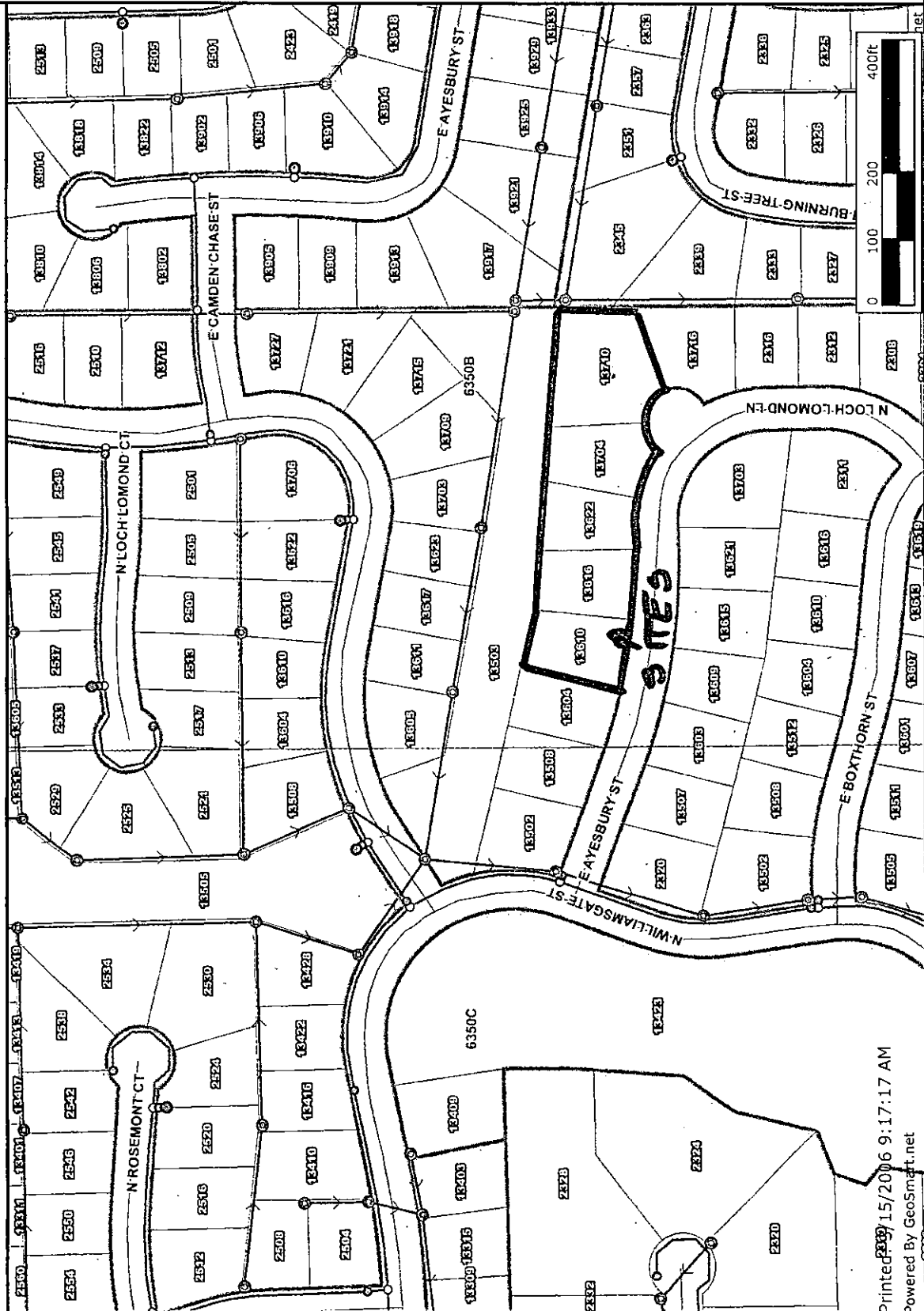
DESIGN BY:	CHECKED BY:
DATE	JOB NO.
Feb. 27th, 2005	02167

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vac2006-11

water & sewer

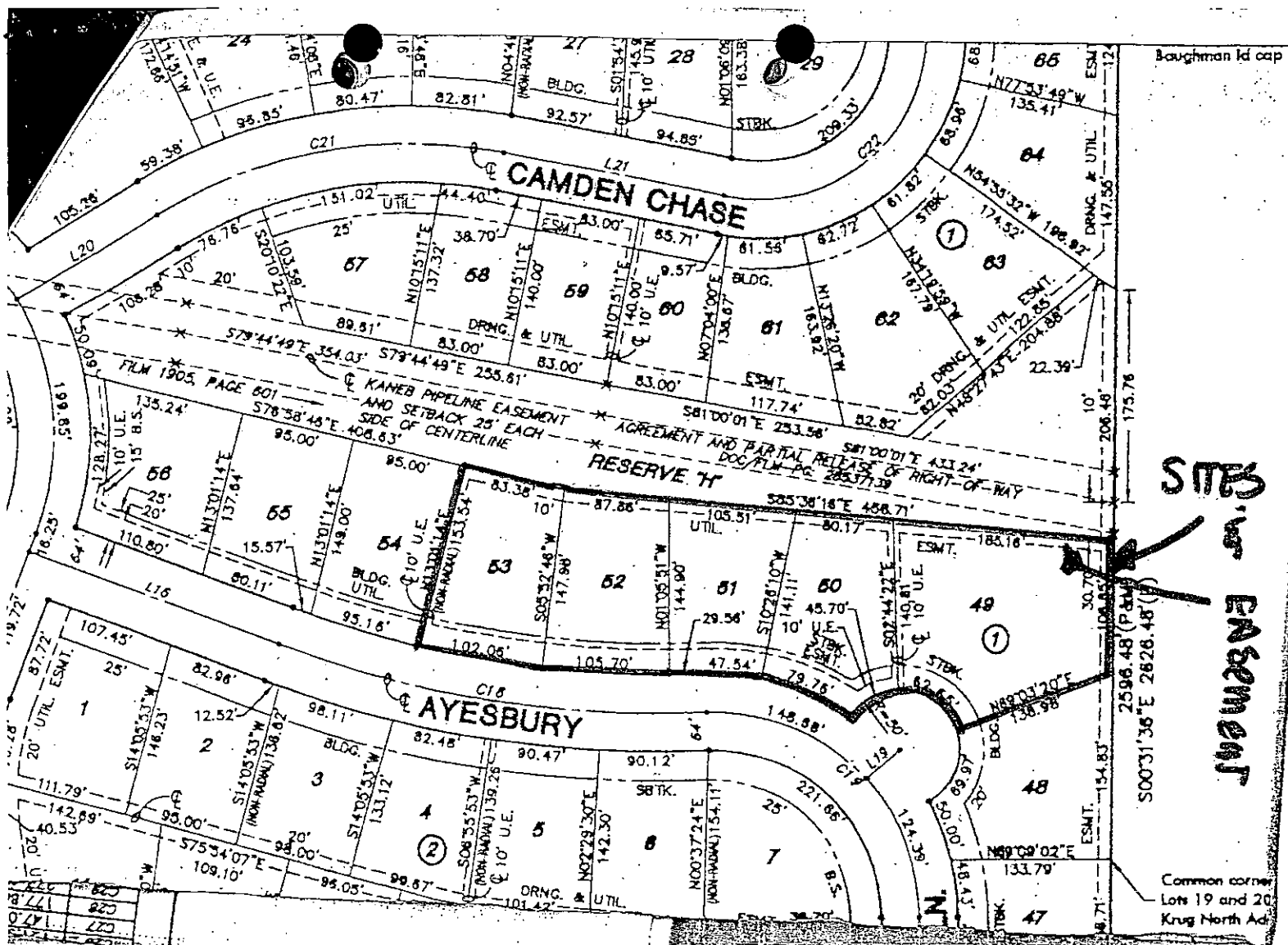


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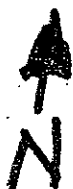
Baughman Id cap

CAMDEN CHASE

AYESBURY

STB
Easement

Common corner
Lots 19 and 20
Krug North Ad



VAC2006-11