



Wichita-Sedgwick County Metropolitan Area Planning Department

September 15, 2006

Simon Property Group, LP
115 W. Washington Street
Indianapolis, IN 46204

Re: **VAC2006-00015** - Request to vacate a portion of a platted easement, generally located west of Rock Road, on the north side of Kellogg Avenue, and east of Armour Drive.

Dear Ladies and Gentlemen:

At its regular meeting on Tuesday, September 12, 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
City of Wichita, %John Philbrick, 455 N Main, 13th Floor City Hall, Mailstop 1-134
Ruggles & Bohm, %Tom Ruggles, 924 N Main, Wichita, KS 67203
Simon Property Group, LP, %Real Estate Department, P.O. Box 6120, Indianapolis, IN 46206

RECEIVED

SEP 15 2006

METROPOLITAN PLANNING
ROUTE ☐ _____

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

**IN THE MATTER OF THE VACATION OF A)
PORTION OF A PLATTED UTILITY EASEMENT)**

**GENERALLY LOCATED)
WEST OF ROCK ROAD ON THE NORTHEAST)
CORNER OF THE ARMOUR DRIVE – KELLOGG)
DRIVE INTERSECTION)**

Case No. VAC2006-00015

MORE FULLY DESCRIBED BELOW)

VACATION ORDER

NOW on this 12th day of September 2006 comes on for hearing the petition for vacation filed by Simon Property Group, L.P., c/o David Simon and the City of Wichita, c/o John Philbrick, praying for the vacation of the following described portion of a platted utility easement, to-wit:

The east 8-feet of the south 350-feet of the north 787-feet of Lot 2, Rockwood South Third Addition, Wichita, Sedgwick County, Kansas;

And the west 10-feet of the south 350-feet of the north 787-feet of the south 881-feet of Lot 1, Kellogg Mall Addition, Wichita, Sedgwick County, Kansas.

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 30, 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 portion of the platted utility easement, and the public will suffer no loss or inconvenience thereby.

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

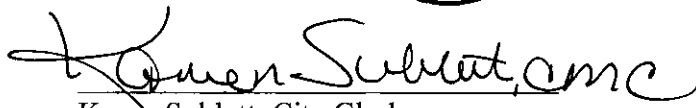
4. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.

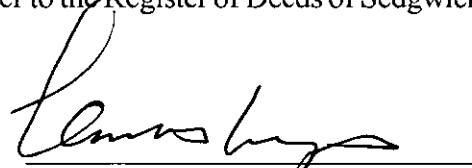
5. The vacation of a portion of the platted utility easement described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 12th day of September 2006 ordered that the above-described portion of the platted utility easement 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.

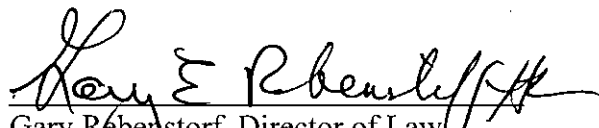


ATTEST:


Karen Sublett, City Clerk


Carlos Mayans, Mayor

Approved as to Form:


Gary Rebenstorf, Director of Law

STAFF REPORT

CASE NUMBER: VAC2006-00015: Request to vacate platted utility easements

OWNER/APPLICANT: Simon Property Group, LP City of Wichita

AGENT: Ruggles & Bohm, c/o Tom Ruggles

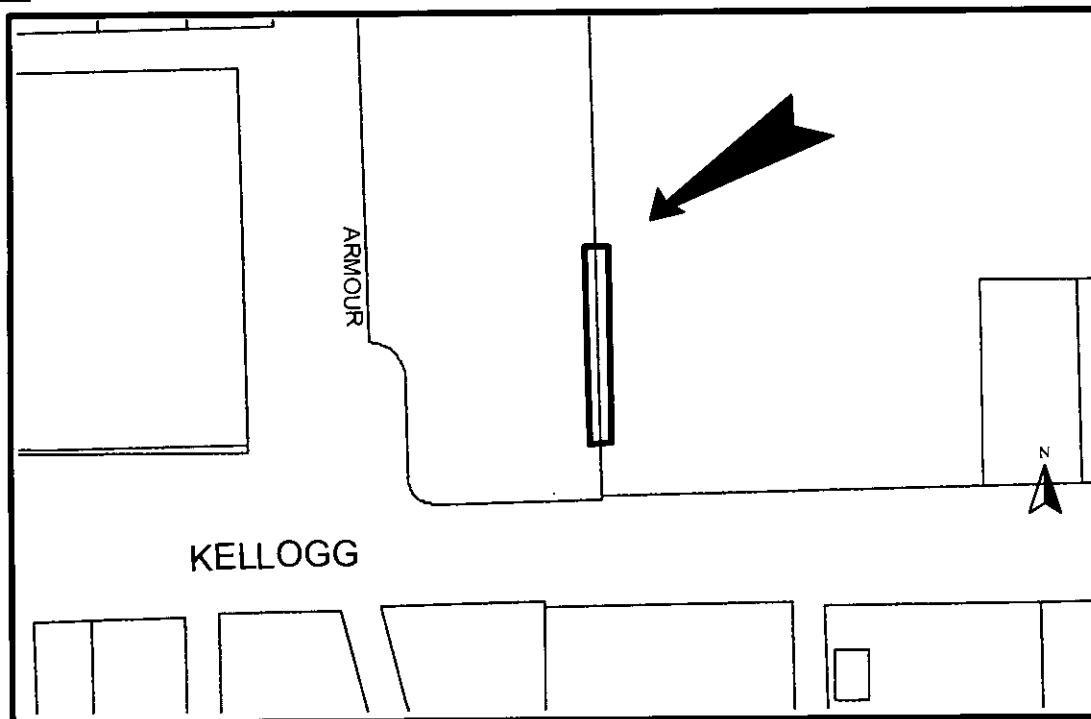
LEGAL DESCRIPTION: The east 8-feet of the south 350-feet of the north 787-feet of Lot 2, Rockwood South Third Addition and the west 10-feet of the south 350-feet of the north 787-feet of the south 881-feet of Lot 1, Kellogg Mall Addition, all in Wichita, Sedgwick County, Kansas.

LOCATION: Generally located west of Rock Road on the northeast corner of the Armour Drive – Kellogg Drive intersection (WCC #II)

REASON FOR REQUEST: Relocation of business due to improvements on Kellogg Avenue

CURRENT ZONING: The subject property, abutting northern and eastern properties and adjacent southern properties are zoned "LC" Limited Commercial. Adjacent eastern properties are zoned "PUD" Planned Unit Development and "LC". The eastern portion of the subject site is part of CUP DP-12

VICINITY MAP:



The applicant proposes to vacate the described portions of the platted utility easements, as shown on the applicant's exhibit. The easements do not have utilities, manholes, sewer or water lines in them. The applicant's exhibit also shows a proposed a 20-foot utility easement for relocated utilities. The

Rockwood South Third Addition was recorded with the Register of Deeds October 19, 1966. The Kellogg Mall Addition was recorded with the Register of Deeds June 18, 1973.

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 portions of the platted easements, as described, 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 30, 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 easements 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 portion of the easement dedicated by separate instrument 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. Replacement easements will be the City standard of 20-feet in width. 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: Public Works has noted that relocation of public utilities on this site is a private project.
- (3) Retain the easements until all utilities have been relocated (or provide a guarantee for relocation of the utilities that has been accepted by the City) and the new easements for the relocated utilities have been recorded with the Register of Deeds.
- (4) All improvements shall be according to City Standards and at the applicant's expense.
- (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. Replacement easements will be the City standard of 20-feet in width. 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: Public Works has noted that relocation of public utilities on this site is a private project.
- (3) Retain the easements until all utilities have been relocated (or provide a guarantee for relocation of the utilities that has been accepted by the City) and the new easements for the relocated utilities have been recorded with the Register of Deeds.
- (4) All improvements shall be according to City Standards and at the applicant's expense.
- (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

MI
75

2434.53' AVE. 681.29

407.5' 304.4' 384.43' 174.59' 158.34' 197.3' 308.6' 93.25' 240' 292.5' 287.5' 320' 270' 183' 326.73' 114.5' 324' 372.3' 176.75' 350.07' 183.10' 469.72' 33.97' 114.08' 300' 171' 72' 50'

C-37292-3
3.14 ACRES

C-37292-6
&
C-37292-4A

C-37292-5

C-37292
&
C-37292-4

C-37292-1
1.45 ACRES

C-37292-2

ARMOUR DRIVE

ROCKWOOD SOUTH

THIRD ADDITION

U.S. HIGHWAY 54

179 TH. ST. EAST

Subject Easements

Dtd. Recorded 3-3-67
R. B. B. PG 46 4-13-1891
1790.35

FILE 135 PG 1036

(K-96)

SEDGWICK COUNTY CLERK

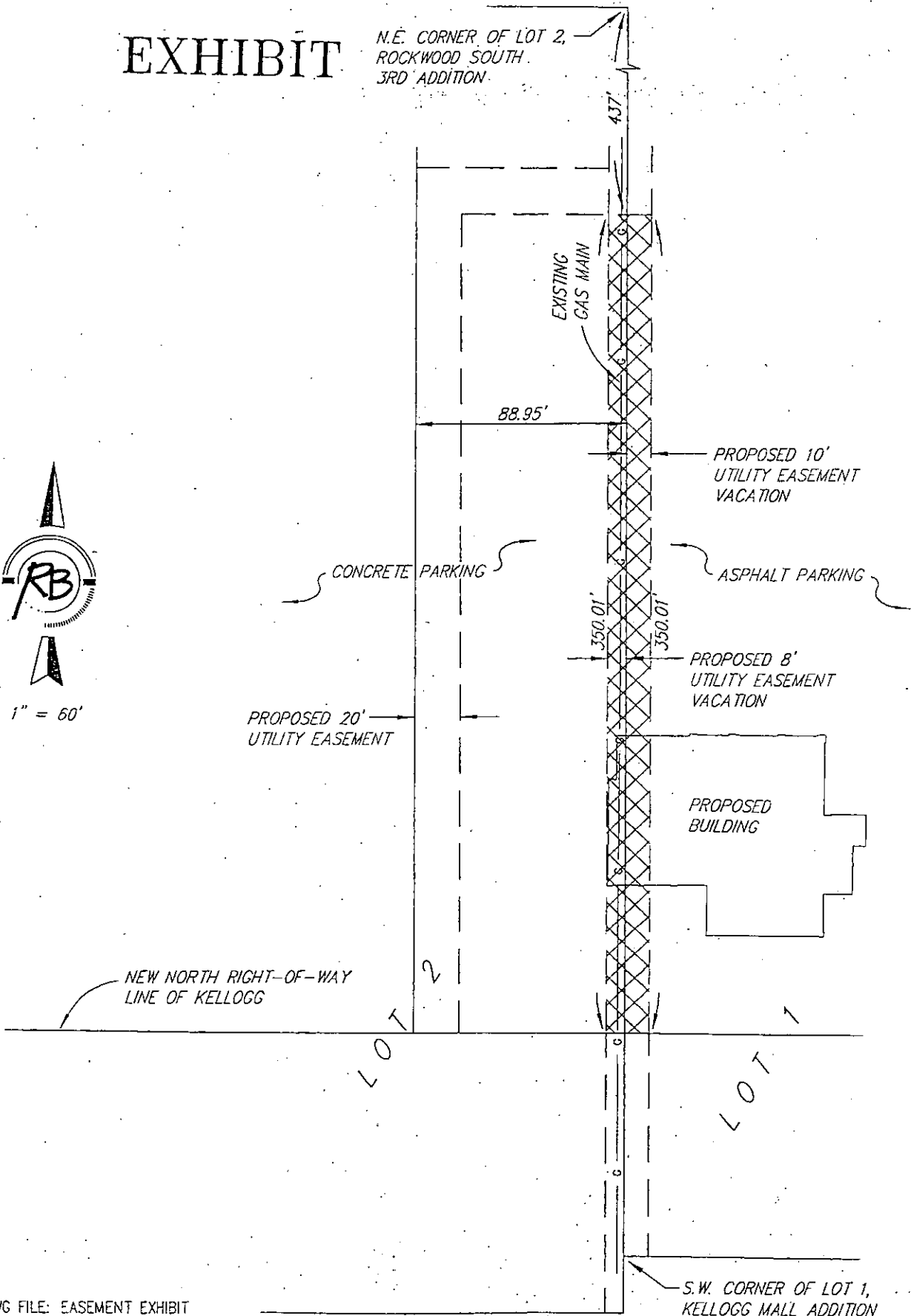
VAC2006-15

EXHIBIT

N.E. CORNER OF LOT 2,
ROCKWOOD SOUTH,
3RD ADDITION.



1" = 60'



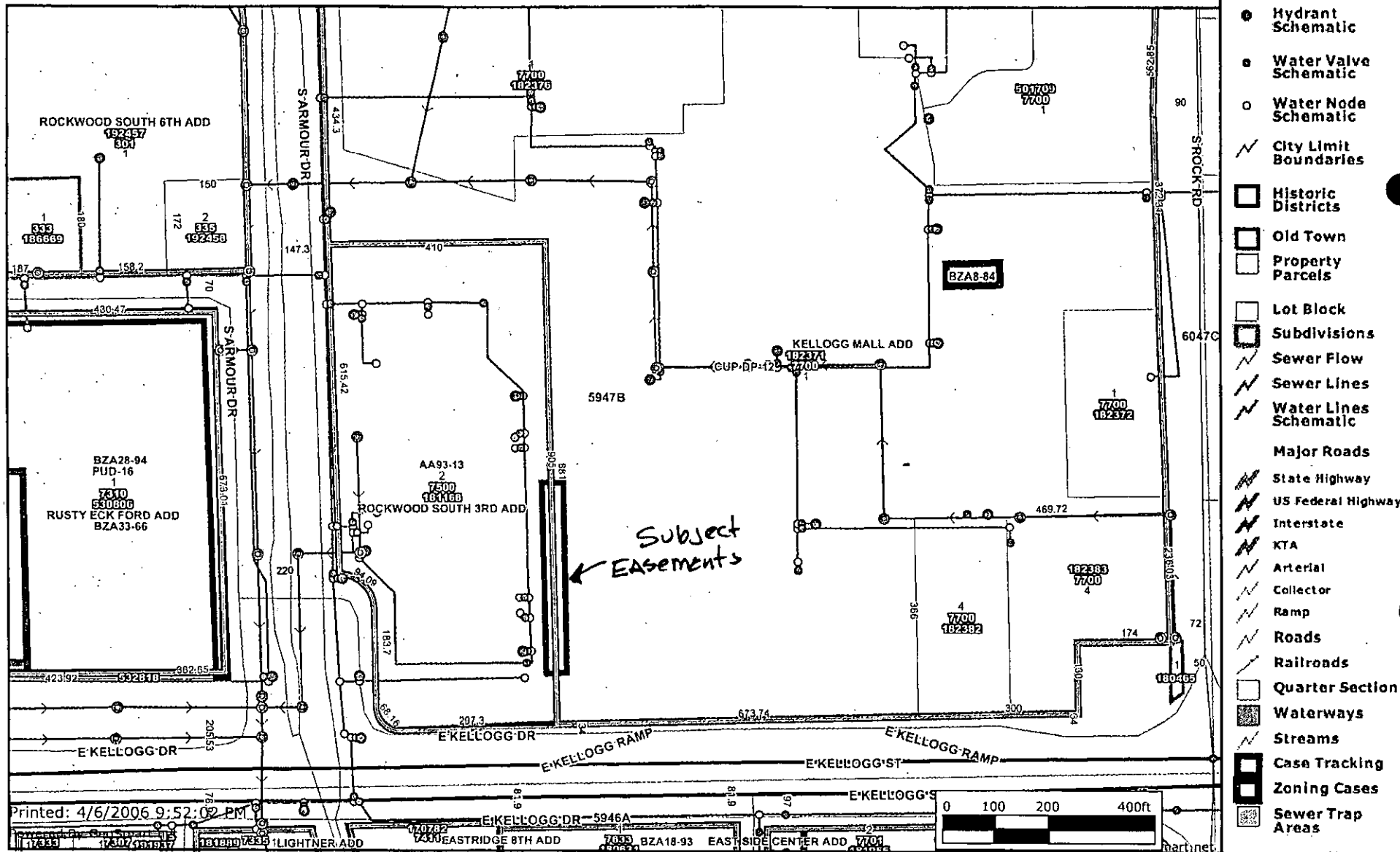
DWG FILE: EASEMENT EXHIBIT
PROJECT NO. 2804E

KELLOGG



water & sewer

vac2006-15



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