



Wichita-Sedgwick County Metropolitan Area Planning Department

March 22, 2007

Mr. CJ Lett III
Clinton Enterprises LLC
9320 E. Central Ave
Wichita KS 767206

Re: **VAC2006-00050** - Request to vacate portions of platted setback(s) & a reserve, generally located midway between 21st & 13th Streets North, west of Webb Road, on the north side of Foliage Drive.

Dear Mr. Lett:

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 Brian Lindebak, 411 N. Webb Rd, Wichita, KS 67206
Larry F & Mary Jean Payne, 1610 Foliage Dr., Wichita, KS 67206
Zack A & Hana A Razek, c/o Hana A Razek, 1618 Foliage, Wichita, KS 67206
George E Wilson Jr., & Sue E Wilson, 1636 Foliage Dr., Wichita, KS 67206
Mary A Coombs Revocable Trust, 1646 N. Foliage, Wichita, KS 67206
James O & Patsy L Carrico, 1656 Foliage, Wichita, KS 67206
Sayed S Jehan Trust, 1660 Foliage Dr., Wichita, KS 67206
J M & Rhonda R Vess, 1715 Laurel Love, Wichita, KS 67206



Sedgwick County
Register of Deeds - Bill Meek
OC. #/FLM-PG: 28874386

Receipt #: 1653153
Pages Recorded: 3
Cashier Initials: SL

Authorized By:  Recording Fee: 00H

Date Recorded: 4/16/2007 3:10:11 PM



**CITY CLERK'S ORIGINAL
RETURN TO CITY CLERK**

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

Approved / Accepted By City Council

3-20-07

IN THE MATTER OF THE VACATION OF
A PORTION OF A PLATTED SETBACK, A
PORTION OF A PLATTED RESERVE AND THE
RESTRICTION OF USES IN THAT PORTION
OF THE DESCRIBED PLATTED RESERVE

GENERALLY LOCATED
MIDWAY BETWEEN 13TH AND 21ST STREETS
NORTH, WEST OF WEBB ROAD, ON THE
NORTH SIDE OF FOLIAGE DRIVE

MORE FULLY DESCRIBED BELOW

Case No. VAC2006-00050

VACATION ORDER

NOW on this 20th day of March, 2007 comes on for hearing the petition for vacation filed by CJ Lett III & HA Razek praying for the vacation of the following described portions of a platted setback, a platted reserve and the restriction of uses in that portion of the described platted reserve, to-wit:

Said portion of a platted 35 foot building setback being described as follows:

The south 10-feet of the platted 35-foot front yard setback of Lot 6, Block 1, Foliage Addition, Wichita, Sedgwick County, Kansas.

Said portion of Reserve "B" being described as follows:

A tract of land lying within a portion of Reserve "B", Foliage Addition, Wichita, Sedgwick

07-0267

County, Kansas, being more particularly described as follows:

BEGINNING at the southwest corner of Lot 6, Block 2, said Foliage addition; thence along the common line to said Lot 6 and said Reserve "B" on a platted basis of bearing N45°00'00"W, 211.99 feet to the northwest most corner of said Lot 6; thence along a northerly line of said Reserve "B", S45°00'00"W, 30.00 feet to the northeast most corner of Lot 5, said Block 2; thence along the easterly line of said Lot 5, S45°00'00"E, 200.00 feet to the southeast most corner of said Lot 5; thence on an extended south line bearing of said Lot 5, N45°00'00"E, 18.02 feet; thence N90°00'00"E, 16.95 feet to the POINT OF BEGINNING.

Said tract CONTAINS: 6,072 square feet or 0.14 acres of land more or less.

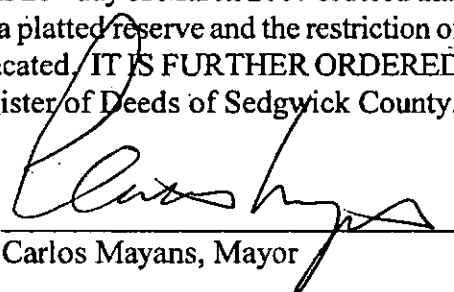
To allow for the expansion of a single-family residence(s) and the accessory uses/buildings, as permitted in the "SF-5" Single-Family Residential zoning district in the above described vacated portion of Reserve B.

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:

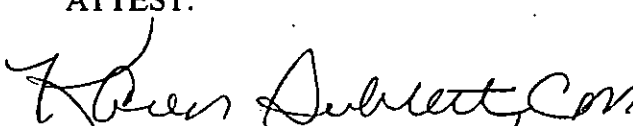
1. That due and legal notice has been given by publication as required by law, by publication in The Wichita Eagle on January 11, 2007, which was at least 20 days prior to the public hearing.
2. No private rights will be injured or endangered by the vacation of the above-described a portion of a platted setback, a portion of a platted reserve and the restriction of uses in that portion of the described platted reserve, and the public will suffer no loss or inconvenience thereby.
3. Dedicate by separate instrument an additional (10-foot wide) utility easement to connect/continue the platted 10-foot utility easement located in the rear yards of Lots 5 & 6, Block 2, Foliage Addition.
4. Vacate the south 10-feet of the platted 35-foot front yard setback on Lot 6, Block 1, Foliage Addition.
5. Vacate the restriction of uses in the described vacated portion of Reserve "B", Foliage Addition to allow the construction of primary and accessory single-family residential structures and uses as permitted by right in the single-family residential zoning district.
6. In justice to the petitioner(s), the prayer of the petition ought to be granted.
7. 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.

8. The vacation of the portions of the platted setback, the platted reserve and the restriction of uses in that portion of the described platted reserve all described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 20th day of March 2007 ordered that the above-described a portion of a platted setback, a portion of a platted reserve and the restriction of uses in that portion of the described platted reserve 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.

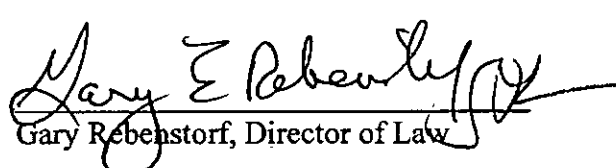

Carlos Mayans, Mayor

ATTEST:


Karen Sublett, City Clerk



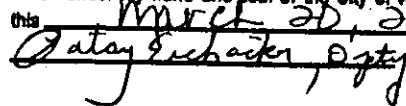
Approved as to Form:


Gary Rebenstorf, Director of Law

State of Kansas
Sedgwick County
City of Wichita

I, Patsy Eichacker, City Clerk of the City of Wichita, Kansas, hereby certify that the document to which this is affixed is a true and correct copy of the original on file in the office of the City Clerk.

Given under my hand and seal of the City of Wichita, Kansas this March 20, 2007


Patsy Eichacker, City Clerk



STAFF REPORT

CASE NUMBER: VAC2006-00050: Request to vacate a portion of a platted setback, a portion of a platted reserve and the restriction of uses in that portion of the described platted reserve

APPLICANT/AGENT: CJ Lett III MKEC Engineering c/o Brian Lindebak

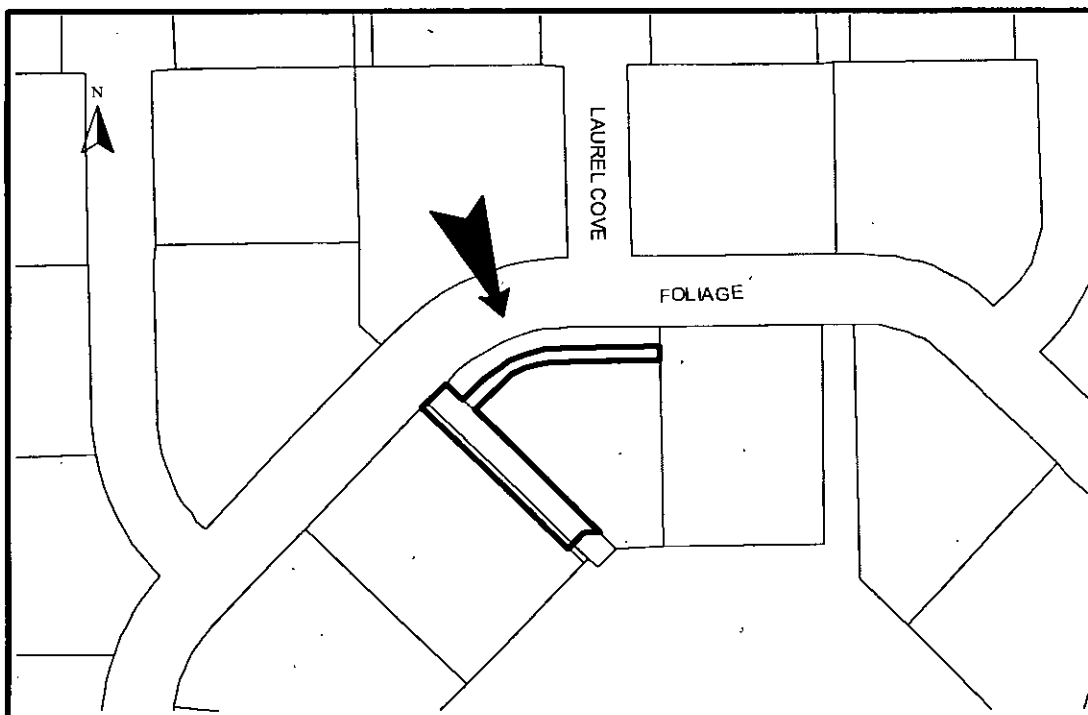
LEGAL DESCRIPTION: Generally described as the south 10-feet of the platted 35-foot front yard setback on Lot 6, Block 2, the 30-foot wide portion of the platted Reserve B, that is located between Lots 5 & 6, Block 2, and the plat text's restriction of uses in regards to uses allowed in the described portion of Reserve B, all in the Foliage Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located midway between 13th and 21st Streets North, west of Webb Road, on the north side of Foliage Drive (a private street: platted Reserve A)
(WCC #II)

REASON FOR REQUEST: Additional room to build onto a 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 the south 10-feet of the platted 35-foot front yard setback. The minimum front yard setback, per the Unified Zoning Code is 25-feet, for the "SF-5" zoned subject site: Lot 6, Block 2, Foliage Addition. The proposed vacated portion of platted Reserve B is located between Lots 5 & 6, Block 2, the Foliage Addition. This is a 30-foot wide portion of the reserve. The uses that Reserve B has been set aside for include sidewalks, recreation, drainage, open spaces and the construction and maintenance of public utilities. It appears that there is a manhole and sewer line located in a platted easement that crosses through the south portion of the reserve. There are no Storm Water or franchised utilities in the described reserve. Per the plat's text the Foliage, a landowners association, had owned the described portion of the reserve, but the ownership list (provided by the applicant) shows the north 24-feet of the reserve to be owned by the applicant, Lot 6, and the south 6-feet of the reserve to be owned by Lot 5, who has not signed the application or petition to vacate the reserve. The Foliage Addition was recorded with the Register of Deeds November 20, 1980.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, Storm Water, franchised utility representatives, and other interested parties, Planning Staff recommends approval to vacate the south 10-feet of the platted 35-foot platted front yard setback and the north 24-feet of the platted Reserve B and the uses of that portion of the platted Reserve B as described in the legal description to allow that portion of the platted reserve to revert into private property and to allow "SF-5" uses in that portion of the vacated reserve.

- 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 January 11, 2007 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 setback, the platted reserve and the uses allowed in the vacated portion of the platted reserve 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 the portions of the platted setback, the platted reserve and the uses allowed in the vacated portion of the platted reserve described in the petition should be approved subject to the following conditions:
- (1) Vacate the 24-foot wide portion of the platted Reserve B that abuts and runs parallel to the south side yard lot line of Lot 6, Block 2, the Foliage Third Addition.

- (2) Vacate the use restrictions as listed in the approved vacated portion of the platted Reserve B to allow only "SF-5" zoning district uses and utilities confined to easements.
- (3) Provide Planning Staff with a copy of the deed binding and tying the vacated portion of Reserve B to Lot 6, Block 2, the Foliage Addition.
- (4) Obtain the signature of Lot 5, Block 2, the Foliage Addition, to vacate the south 6-feet of the platted 30-foot portion of Reserve B, that abuts the north lot line of said lot. If the signature is obtained, conditions 1, 2, & 3 will be applied to this portion of the platted reserve.
- (5) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (6) All improvements shall be according to City Standards and at the owner's expense.
- (7) 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:

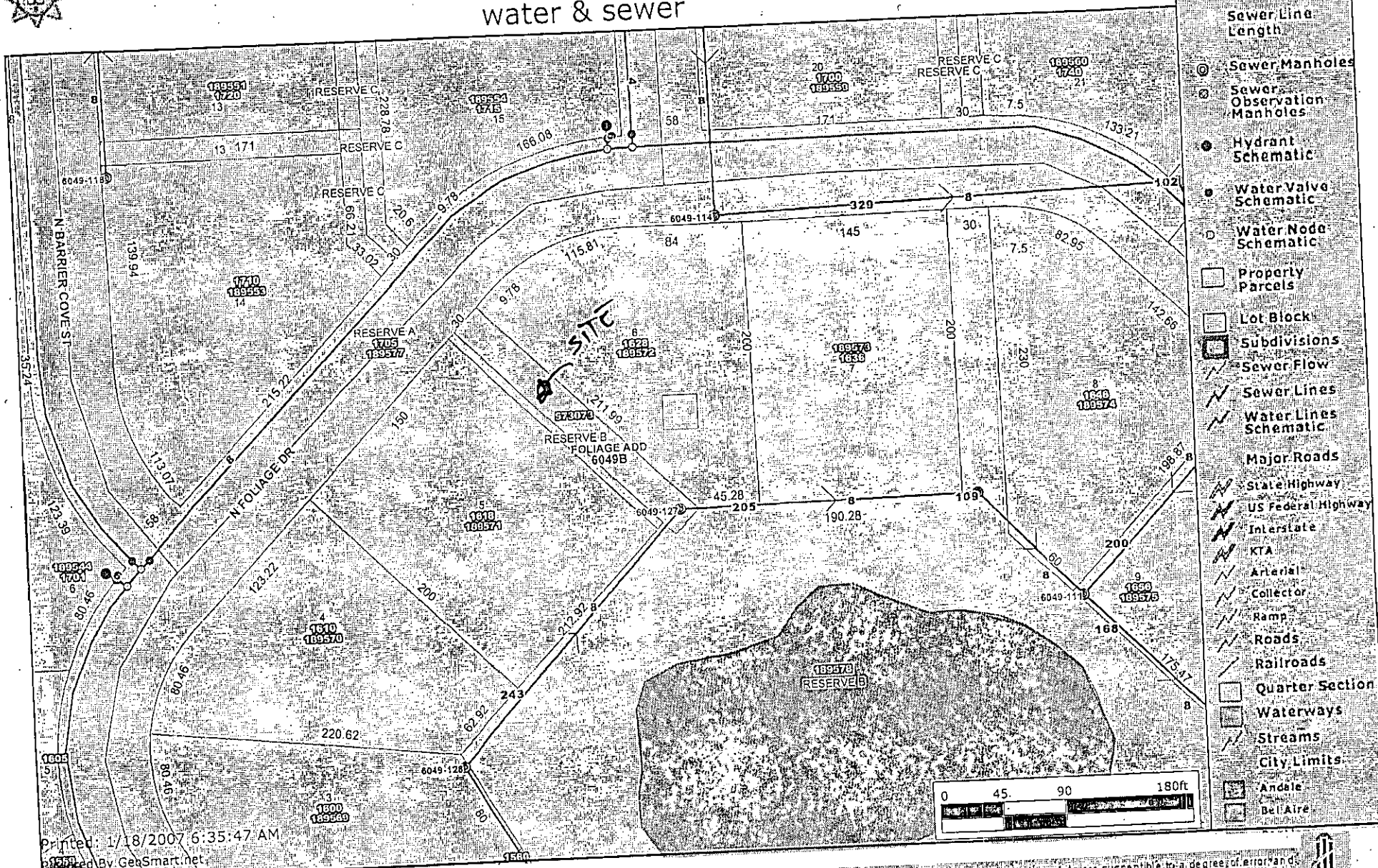
- (1) Vacate the 24-foot wide portion of the platted Reserve B that abuts and runs parallel to the south side yard lot line of Lot 6, Block 2, the Foliage Third Addition.
- (2) Vacate the use restrictions as listed in the approved vacated portion of the platted Reserve B to allow only "SF-5" zoning district uses and utilities confined to easements.
- (3) Provide Planning Staff with a copy of the deed binding and tying the vacated portion of Reserve B to Lot 6, Block 2, the Foliage Addition.
- (4) Obtain the signature of Lot 5, Block 2, the Foliage Addition, to vacate the south 6-feet of the platted 30-foot portion of Reserve B, that abuts the north lot line of said lot. If the signature is obtained, conditions 1, 2, & 3 will be applied to this portion of the platted reserve.

- (5) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (6) All improvements shall be according to City Standards and at the owner's expense.
- (7) 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



vac2006-50

water & sewer

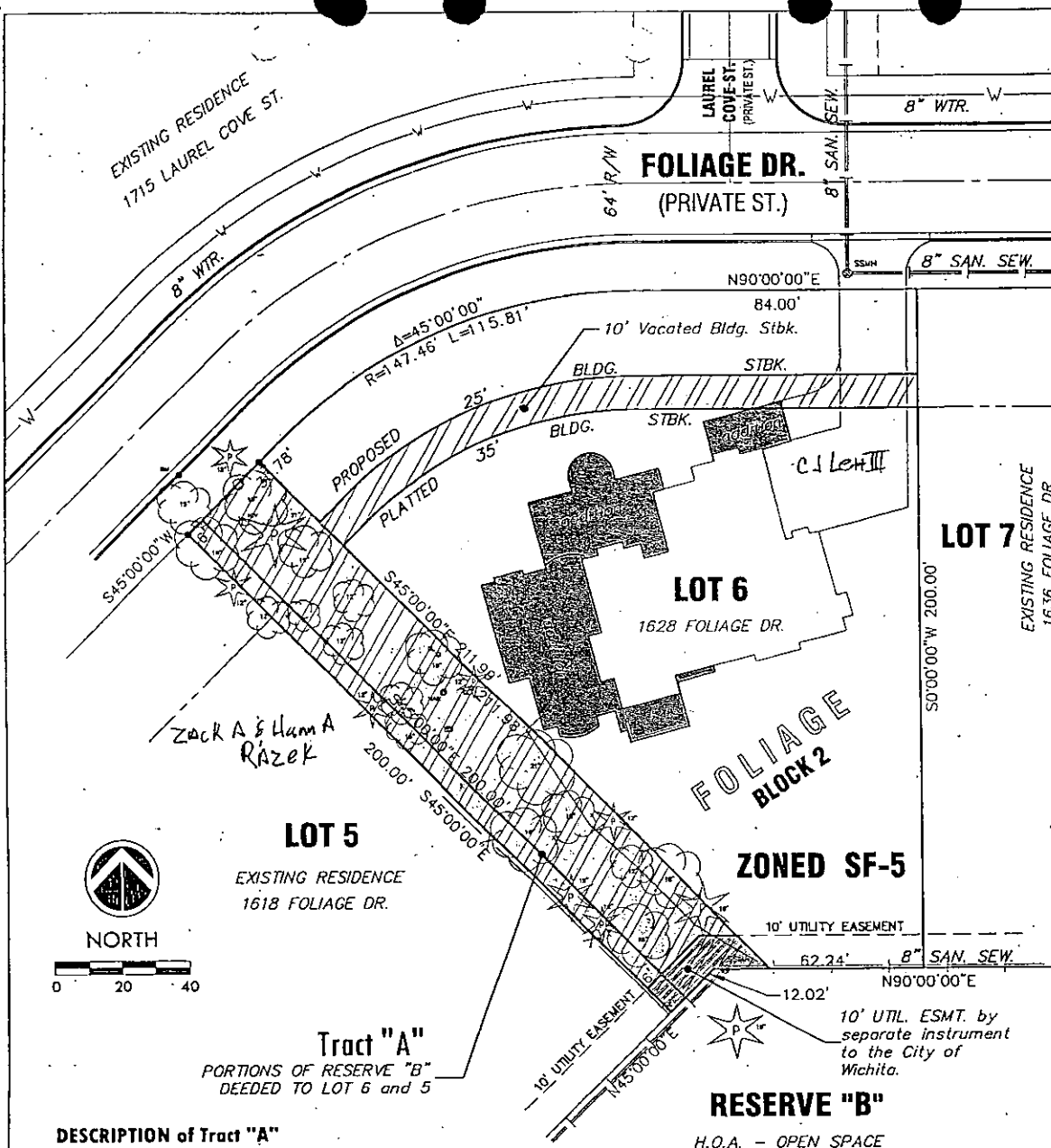


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DESCRIPTION of Tract "A"

That portion of Reserve "B" to be Vacated

A tract of land lying within a portion of Reserve "B", Foliage, an addition to Sedgwick County, Kansas, being more particularly described as follows:

BEGINNING at the Southwest corner of Lot 6, Block 2, said Foliage addition; thence along the common line to said Lot 6 and said Reserve "B" on a platted basis of bearing N45°00'00"W, 211.99 feet to the northwest most corner of said Lot 6; thence along a northerly line of said Reserve "B", S45°00'00"W, 30.00 feet to the northeast most corner of Lot 5, said Block 2; thence along the easterly line of said Lot 7, S45°00'00"E, 200.00 feet to the southeast most corner of said Lot 5; thence on an extended south line bearing of said Lot 5, N45°00'00"E, 18.02 feet; thence N90°00'00"E, 16.95 feet to the POINT OF BEGINNING.

Said tract CONTAINS: 6,072 square feet or 0.14 acres of land more or less.

NOTES:

1. We are requesting the vacation of the 10' platted 25 foot utility easement as located hereon.
2. We shall dedicate a the proposed easement as indicated hereon.
3. Tract "A" has been deeded from the owners of Reserve "B", to the owners of Lot 6.
4. Utility location are shown from records; actual locations differs.

DESCRIPTION of

That portion of Building Setback to be Vacated

A tract of land lying within a portion of Lot 6, Block 2, Foliage, an addition to Sedgwick County, Kansas, being more particularly described as follows:
The south 10 feet of the northern most 35 feet of said Lot 6.



MKEC
ENGINEERING
CONSULTANTS

411 N. WESS ROAD
WICHITA, KS. 67204
316.243.2433

**LOT 6, BLOCK 2
FOLIAGE ADDITION**
PROJECT NAME

MAPC VAC2006 -
SHEET TITLE

BDL DESIGN BY.	BDL DRAWN BY.	GJA CHECKED BY.
Dec. 22nd, 2006 DATE	06825 ID# NO	1 / 1 SHEET/JOB

use 2006-50