CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

June 5, 2007

Auburn Pointe LLC
300 N. Main
Ste. 201
Wichita, KS 67202

Re: **VAC2007-00011** - Request to vacate a portion of a platted drainage & utility easement and a portion of a platted reserve, generally located on the south side of Maple Street and east of 135th Street West.

Dear Ladies and Gentlemen:

At its regular meeting on Tuesday, June 5, 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
Vicky Huang, Public Works Engineering, Mail Stop 1-71
MKEC Engineering Consultants Inc., c/o Brian Lindebak, 411 N. Webb Road, Wichita, KS 67206
Dillon Real Estate Co., City Brasher (Store # 81), P.O. Box 1608, Hutchinson, KS 67504
Neville Family Trust III, 9625 W. Maple, Wichita, KS 67209
Commerce Bank N.A., Ste. 1300, 8000 Forsyth Blvd., St. Louis, MO 63105

Sedgwick County
Register of Deeds - Bill Meek
DOC.#/FLM-PG: 28889739
Receipt #: 1658099
Pages Recorded: 3
Cashier Initials: DT
Recording Fee: 0.00
Authorized By:
Date Recorded: 6/8/2007 4:41:13 PM

Approved / Accepted By City Council
This 6-5-07

CITY CLERK'S ORIGINAL
RETURN TO CITY CLERK

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

IN THE MATTER OF THE VACATION OF PORTIONS OF A PLATTED DRAINAGE AND UTILITY EASEMENT, PORTIONS OF PLATTED RESERVES, AND THE RESTRICTIONS OF USES IN THE PLATTED RESERVES AS LISTED IN THE PLATTORS' TEXT	)	
GENERALLY LOCATED ON THE SOUTH SIDE OF MAPLE STREET AND EAST OF 135TH STREET WEST	)	**Case No. VAC2007-00011**
MORE FULLY DESCRIBED BELOW	)	

VACATION ORDER

NOW on this 5TH day of June, 2007 comes on for hearing the petition for vacation filed by Auburn Pointe LLC & Dillon Real Estate Co., Inc., praying for the vacation of the following described portions of a platted drainage and utility easement, portions of platted reserves and the restriction of uses in the platted reserves as listed in the plattor's text, to-wit:

Said portion* of a platted 20' Drainage and Utility Easement *being described as follows:

A tract of land lying within a portion of Lot 1, Block 1, Auburn Hills Commercial 4th Addition, an addition to Wichita, Sedgwick County, Kansas, said tract being more particularly described as follows: The west 20 feet of the south 135 feet of the north 155 feet of said Lot 1, AND ALSO, The west 10 feet of the south 354.50 feet of said Lot 1. Said tract CONTAINS: 6,245 square feet or 0.15 acres of land more or less.

07-0541

00028873639

Said portion of Reserve "A", Auburn Hills Commercial Addition being described as follows:

A tract of land lying within a portion of Reserve "A", Auburn Hills Commercial Addition, Wichita, Sedgwick County, Kansas, being more particularly described as follows: All off the east most twenty (20) feet of said Reserve "A", which runs parallel to the east sides of Lots 1 & 4, Auburn Hills Commercial Addition. Said tract CONTAINS: 10,403 square feet or 0.24 acres of land more or less.

Said portion of Reserve "A", Auburn Hills Commercial 4th Addition being described as follows:

A tract of land lying within a portion of Reserve "A", Auburn Hills Commercial 4th Addition, an addition to Wichita, Sedgwick County, Kansas, being more particularly described as follows: COMMENCING at the northwest most corner of said Reserve "A"; thence along the northerly line of said Lot 1 on a platted bearing of S89°54'07"E, 30.12 feet to the POINT OF BEGINNING, thence continuing along said northerly lines of said Reserve "A" for the next five (5) courses thence S89°54'07"E, 7.77 feet; thence S67°11'48"E, 50.12 feet; thence N89°21'10"E, 92.94 feet; thence N28°20'49"E, 90.68 feet; thence S89°54'07"E, 3.41 feet; thence parallel with the fifth course of said northerly line S28°20'49"W, 107.17 feet; thence S70°34'31"W, 37.02 feet; thence parallel with the second course of said northerly line N67°11'48"W, 116.69 feet to the POINT OF BEGINNING. Said tract CONTAINS: 2,000 square feet or 0.05 acres of land more or less.

The vacation of the restriction of uses as stated in the plattor's text for Reserves "A" of the Auburn Hills Commercial 4th Addition and the Auburn Hills Commercial Addition, which are landscaping, open spaces, a wall on perimeter as shown, ponds, water features, monuments, irrigation and utilities in designated areas, as described within the above described portions of the Reserves "A", the Auburn Hills Commercial Addition, the Auburn Hills Commercial 4th Addition, except as those retained in the vacation order.. The new uses will be restricted to private parking lot, lighting, public and private utilities, and irrigation.

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 April 12, 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 portions of the platted drainage & utility easement, portions of platted reserves and the restriction of uses in the platted reserves as listed in the plattor's text and the public will suffer no loss or inconvenience thereby.

3. Retain the 15-foot utility easement that runs parallel to south lot line of Lot 1, Auburn Hills Commercial Addition. Retain the south 5-feet of the east 20-feet of the vacated Reserve A, located on the east 20-feet of Lot 1, the Auburn Hills Commercial Addition.

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 portions of the platted drainage and utility easement, portions of platted reserves and the restriction of uses in the plattor's text described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 5th day of June 2007 ordered that the above-described portions of the platted drainage and utility easement, portions of platted reserves and the restriction of uses in the plattor's text 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.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, CMC
Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf
Gary Rebenstorf, Director of Law

State of Kansas)
Sedgwick County)
City of Wichita)

I, Karen Sublett 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 6-05-07

Karen Sublett
City Clerk

METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 3-3
May 3, 2007

STAFF REPORT

CASE NUMBER: **VAC2007-00011:** Request to vacate a portion of a platted utility and drainage easement and portions of platted reserves and the restriction of uses to allow additional uses in those portions of the described vacated platted reserves

OWNERS/APPLICANTS: Auburn Pointe LLC Dillon Real Estate Co. Inc., c/o Clay Brasher
AGENT: MKEC Engineering Consultants, c/o Brian Lindebak

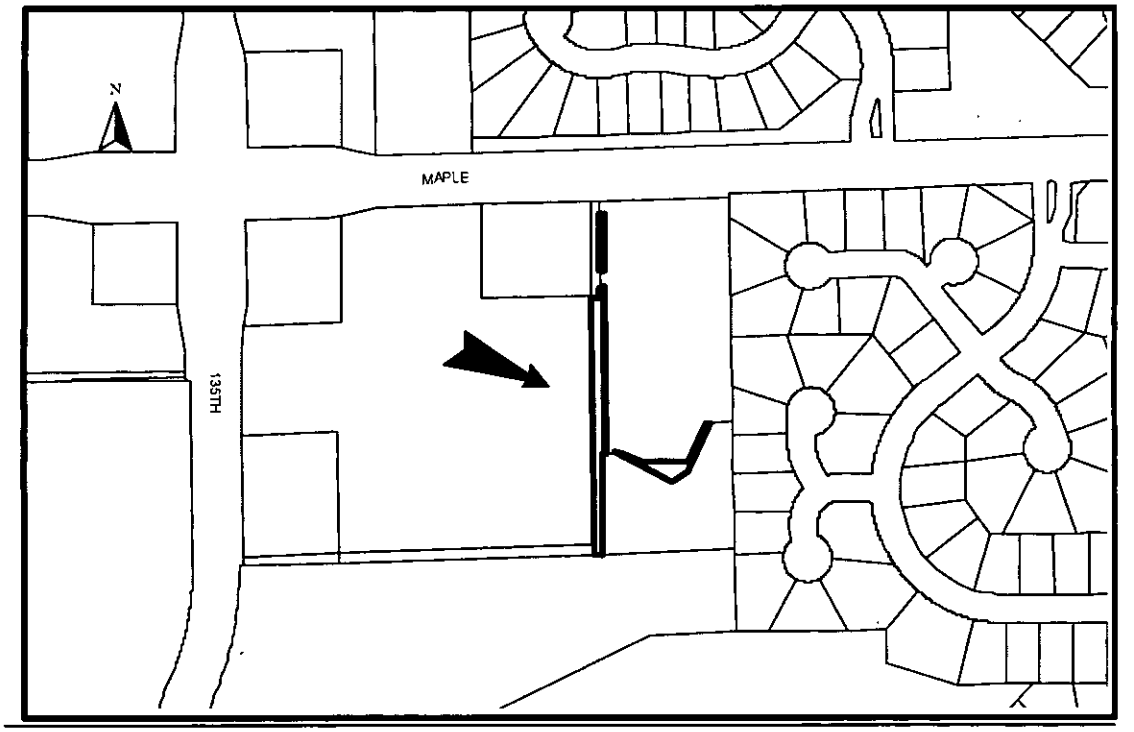
LEGAL DESCRIPTION: See the attached exhibit and legal of the proposed vacated platted utility and drainage easement, all in Lot 1, Block 1, Auburn Hills Commercial 4th Addition and the proposed vacated portions of Reserve A, Auburn Hills Commercial 4th Addition and Auburn Hills Commercial Addition, and apply that to the plattor's list of permitted uses to include private parking, lighting, public and private utilities, and irrigation, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located on the south side of maple Street and east of 135th Street West (WCC #V)

REASON FOR REQUEST: Integrate parking and development between two plats/developments.

CURRENT ZONING: Subject properties are zoned "LC" Limited Commercial (CUP DP 219) and "NR" Neighborhood Retail (PO #130). Abutting and adjacent properties are zoned "SF-5" Single-family Residential (east), "GO" General Office and "LC" (south), "LC" (west) and "LC" and "SF-5" (north).

VICINITY MAP:



The applicants are requesting consideration for the vacation of the described portions of platted Reserves A and the platted drainage and utility easement. The uses that Reserve A, Auburn Hills Commercial Addition has been set aside for include landscape buffer, landscaping, berms, open spaces, a private screening wall and utilities confined to easements. The uses that Reserve A, Auburn Hills Commercial 4th Addition has been set aside for include landscaping, open spaces, a wall on perimeter as shown, ponds, water features, monuments, irrigation and utilities in designated areas. The applicants propose to change the allowed uses in the Reserves to private parking, lighting, public and private utilities, and irrigation. This change in uses reflects the relocation of the drainage on the Auburn Hills Commercial 4th Addition and its rezoning (ZON2003-59) from "SF-5" to "NR", which eliminated the need the Auburn Hills Commercial Addition to provide for a screening wall, a landscape buffer, landscaping, berms, and open spaces between the two subdivisions. There appears to be manholes and sewer line in the Reserves and easement, but no water lines. The applicants have provided a copy of a recorded drainage and utility easement to replace those portions of the vacated easement. The Auburn Hills Commercial Addition was recorded with the Register of Deeds July 9, 1997. The Auburn Hills Commercial 4th Addition was recorded with the Register of Deeds November 23, 2005.

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 described/approved portions of the platted drainage and utility easement, the platted reserves and the uses of that portion of the platted reserves as described in the approved legal description.

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 April 12, 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 portions of the platted drainage and utility easement, the platted reserves and the uses allowed in vacated portion of the platted reserves 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 approved portions of the platted reserves and drainage and utility easement 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 approved portions of the Reserves and drainage and utility easement. Retain the wall easement located along the south lot line of both the Auburn Hills Commercial 4th Addition and the Auburn Hills Commercial Addition. If needed retain the utility easement located along the south lot line of the Auburn Hills Commercial 4th Addition. Provide Staff with a copy of the approved legal of the vacated reserve, via e-mail on a Word document.

(2) Vacate the use restrictions as listed in the plattor's text in the approved vacated portions of the platted Reserves. Uses allowed will be private parking, lighting, public and private utilities and irrigation.

(3) Original signatures of both property owners are needed on the application and petition to vacate.

(4) A copy of the recorded Vacation Order will be inserted into both the CUP and PO files of the subject properties.

(5) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant and at the applicants' expense.

(6) All improvements shall be according to City Standards and at the applicants' 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:

(1) Vacate the approved portions of the Reserves and drainage and utility easement. Retain the wall easement located along the south lot line of both the Auburn Hills Commercial 4th Addition and the Auburn Hills Commercial Addition. If needed retain the utility easement located along the south lot line of the Auburn Hills Commercial 4th Addition. Provide Staff with a copy of the approved legal of the vacated reserve, via e-mail on a Word document.

(2) Vacate the use restrictions as listed in the plattor's text in the approved vacated portions of the platted Reserves. Uses allowed will be private parking, lighting, public and private utilities and irrigation.

(3) Original signatures of both property owners are needed on the application and petition to vacate.

(4) A copy of the recorded Vacation Order will be inserted into both the CUP and PO files of the subject properties.

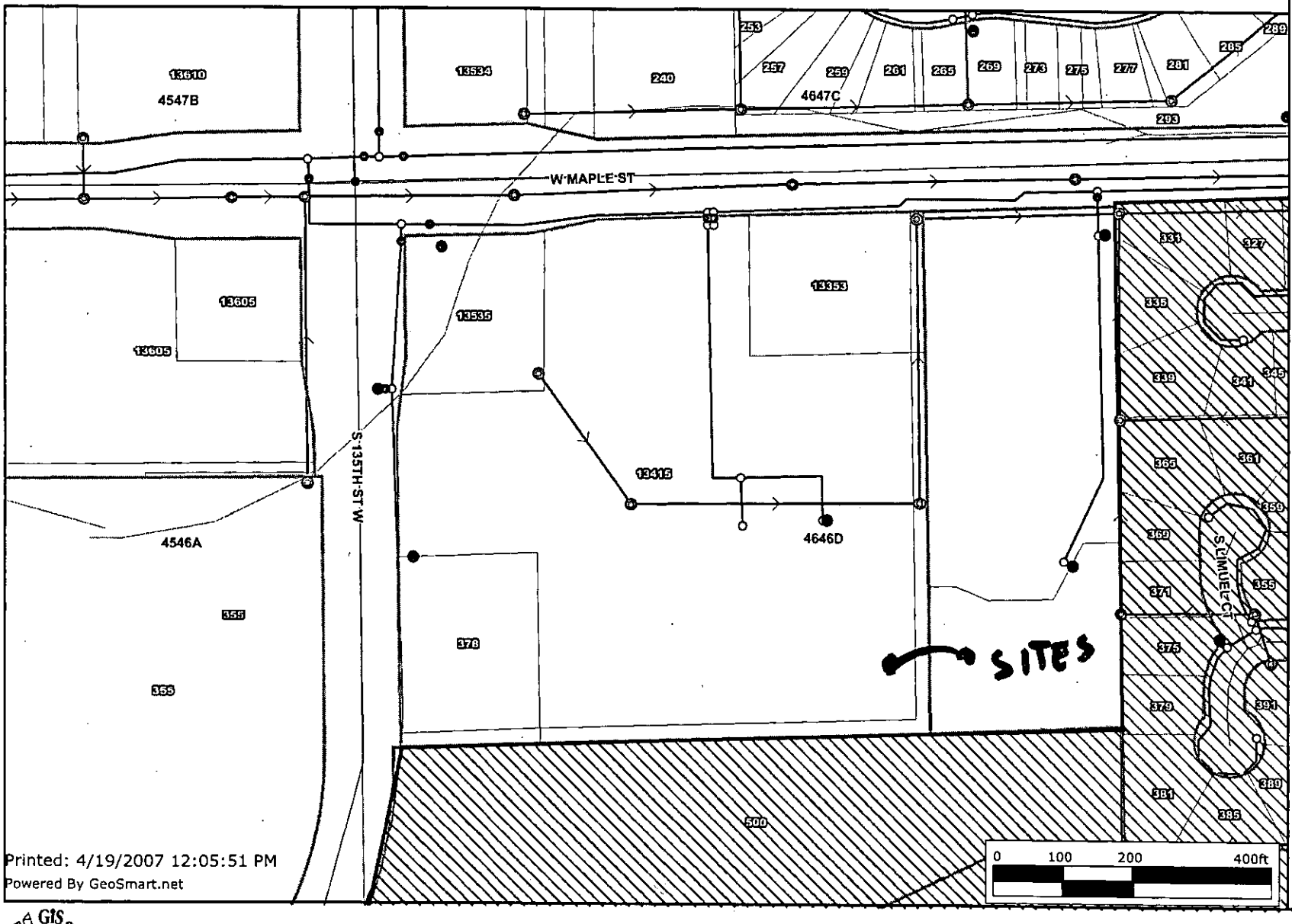
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vac2001-11

water & sewer

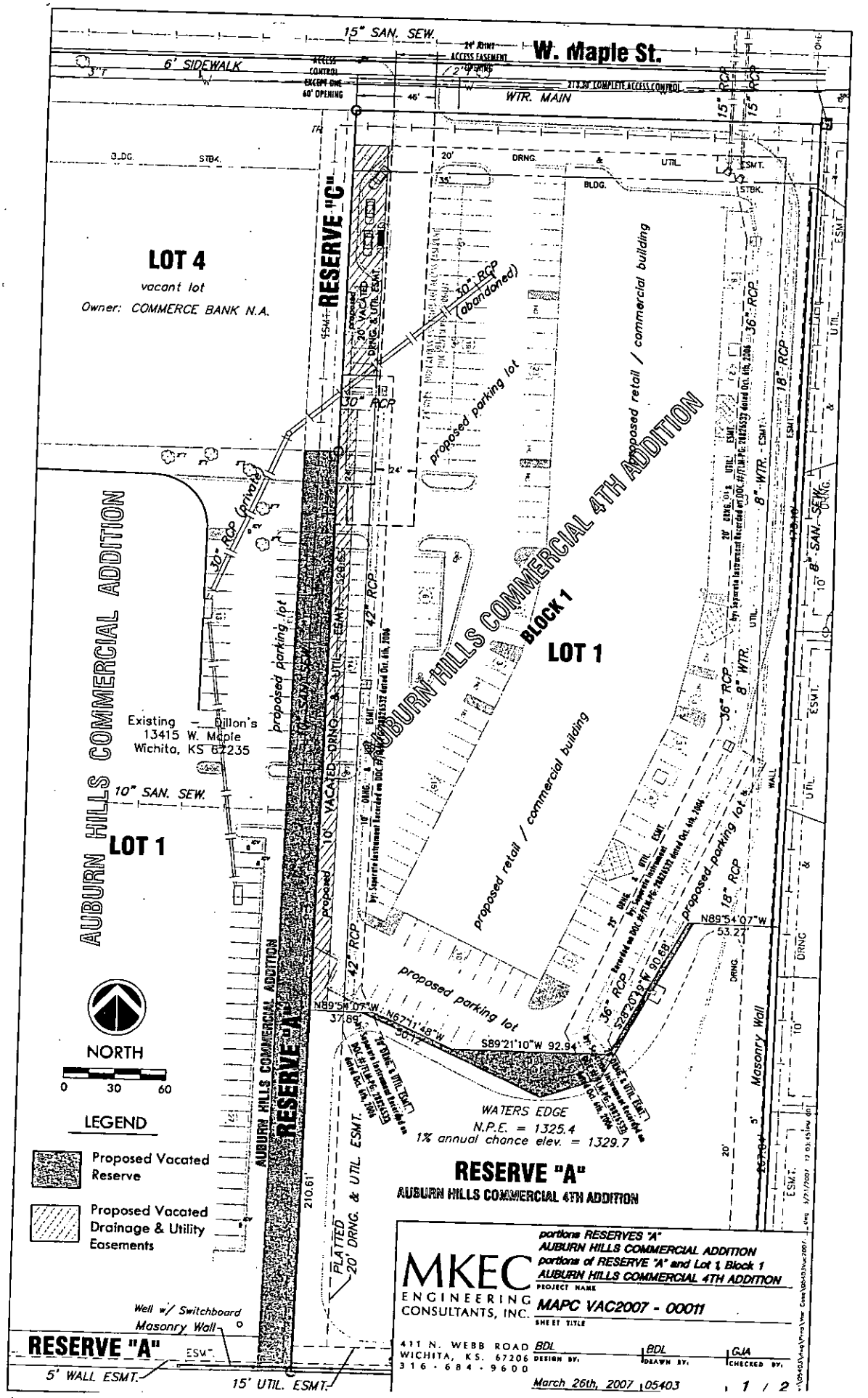


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VAC2007-11


15" SAN. SEW.
W. Maple St.
6' SIDEWALK
ACCESS CONTROL EXCEPT ONE 60' OPENING
WTR. MAIN
BLDG. STBK.
LOT 4
vacant lot
Owner: COMMERCE BANK N.A.
RESERVE "C"
20' DRNG. & UTIL. ESMT.
30" RCP (abandoned)
30" RCP
proposed parking lot
proposed retail / commercial building
AUBURN HILLS COMMERCIAL 4TH ADDITION
BLOCK 1
LOT 1
36" RCP
18" RCP
8" WTR.
8" SAN. SEW.
30' RCP (private)
Existing - Dillon's
13415 W. Maple
Wichita, KS 67235
10" SAN. SEW.
42" RCP
10' VACATED DRNG. & UTIL. ESMT.
AUBURN HILLS COMMERCIAL ADDITION
LOT 1
RESERVE "A"
N89°54'07"W 53.22'
N89°54'07"W 37.89'
N67°11'48"W 30.12'
S89°21'10"W 92.94'
S28°03'35"W 90.68'
WATERS EDGE
N.P.E. = 1325.4
1% annual chance elev. = 1329.7
Masonry Wall
NORTH
0 30 60
LEGEND
Proposed Vacated Reserve
Proposed Vacated Drainage & Utility Easements
PLATTED 20' DRNG. & UTIL ESMT.
210.61'
Well w/ Switchboard
Masonry Wall
RESERVE "A"
5' WALL ESMT.
15' UTIL. ESMT.
RESERVE "A"
AUBURN HILLS COMMERCIAL 4TH ADDITION
MKEC ENGINEERING CONSULTANTS, INC.
411 N. WEBB ROAD
WICHITA, KS. 67206
316 - 684 - 9600
portions RESERVES "A" AUBURN HILLS COMMERCIAL ADDITION
portions of RESERVE "A" and Lot 1, Block 1 AUBURN HILLS COMMERCIAL 4TH ADDITION
PROJECT NAME
MAPC VAC2007 - 00011
SHEET TITLE
BDL DESIGN BY:
BDL DRAWN BY:
CJA CHECKED BY:
March 26th, 2007
05403
1 / 2