CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

July 24, 2007

Brighton Courts LLC
c/o Rob Ramseyer
8100 E. 22nd Street
Building #1000
Wichita, KS 67226

Re: **VAC2007-00018** - Request to vacate a portion of a utility easement dedicated by separate instrument, generally located south of 21st Street North, west of Webb Road, and northeast of Wilson Estates Parkway and Paddock Green Circle.

Dear Mr. Ramseyer:

At its regular meeting on Tuesday, July 17, 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
Vicky Huang, Public Works Engineering, Mail Stop 1-71
Paul Bryant, Water & Sewer, Mail Stop 1-81
MKEC Engineering Consultants Inc., c/o Brian Lindebak, 411 N. Webb Rd., Wichita, KS 67206
Don L& Linda L Smith, 9400 E. Wilson Estates Parkway, Wichita, KS 67206-4448
Donald W & Linda L Smith, #804, 9400 Wilson Estates Parkway, Wichita, KS 67206
Gary D & Sarabeth Farney, #704, 9400 Wilson Estates Pkwy, Wichita, KS 67206

Sedgwick County
Register of Deeds - Bill Meek
#/FLM-PG: 28907124
Receipt #: 1663898
Pages Recorded: 2
Cashier Initials: DH
Authorized By:
Recording Fee: 0DH
Date Recorded: 8/9/2007 4:37:07 PM

Approved / Accepted By City Council
Date 7-17-07

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 A PORTION OF A UTILITY EASEMENT DEDICATED BY SEPARATE INSTRUMENT	)	
GENERALLY LOCATED SOUTH OF 21ST STREET NORTH, WEST OF WEBB ROAD, AND NORTHEAST OF WILSON ESTATES PARKWAY AND PADDOCK GREEN CIRCLE	)	**Case No. VAC2007-00018**
MORE FULLY DESCRIBED BELOW	)	

VACATION ORDER

NOW on this 17th day of June 2007 comes on for hearing the petition for vacation filed by Donald W. and Linda L. Smith praying for the vacation of the following described portion of a utility easement dedicated by separate instrument, to-wit:

> A portion of a 10-foot UTILITY EASEMENT by separate instrument recorded on Doc#.FLM\PG: 28848149. A tract of land lying within a portion of Lot 28 and 29, Block 1, Brighton Courts Addition, an addition to Wichita, Sedgwick County, Kansas, being more particularly described as follows: The north 3 feet of the south 10 feet of said Lot 28, TOGETHER WITH, the north 3 feet of the south 10 feet of the east 10 feet of said Lot 29.

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 and the Derby Reporter on May 31, 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 portion of the utility easement dedicated by separate instrument, 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 the portion of the utility easement dedicated by separate instrument described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 17th day of July 2007 ordered that the above-described portion of the utility easement dedicated by separate instrument 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.

THE CITY OF WICHITA SEDGWICK COUNTY, KANSAS

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

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 7-17-07

Karen Sublett City Clerk

Approved as to Form:

Gary Rebenstorf, Director of Law

THE CITY OF WICHITA SEDGWICK COUNTY, KANSAS

METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 2-2
June 21, 2007

STAFF REPORT

CASE NUMBER: **VAC2007-00018:** Request to vacate a portion of a utility easement dedicated by separate instrument.

OWNER/AGENT: Brighton Courts LLC, c/o Rob Ramseyer
MKEC Engineering Consultants, c/o Brian Lindebak

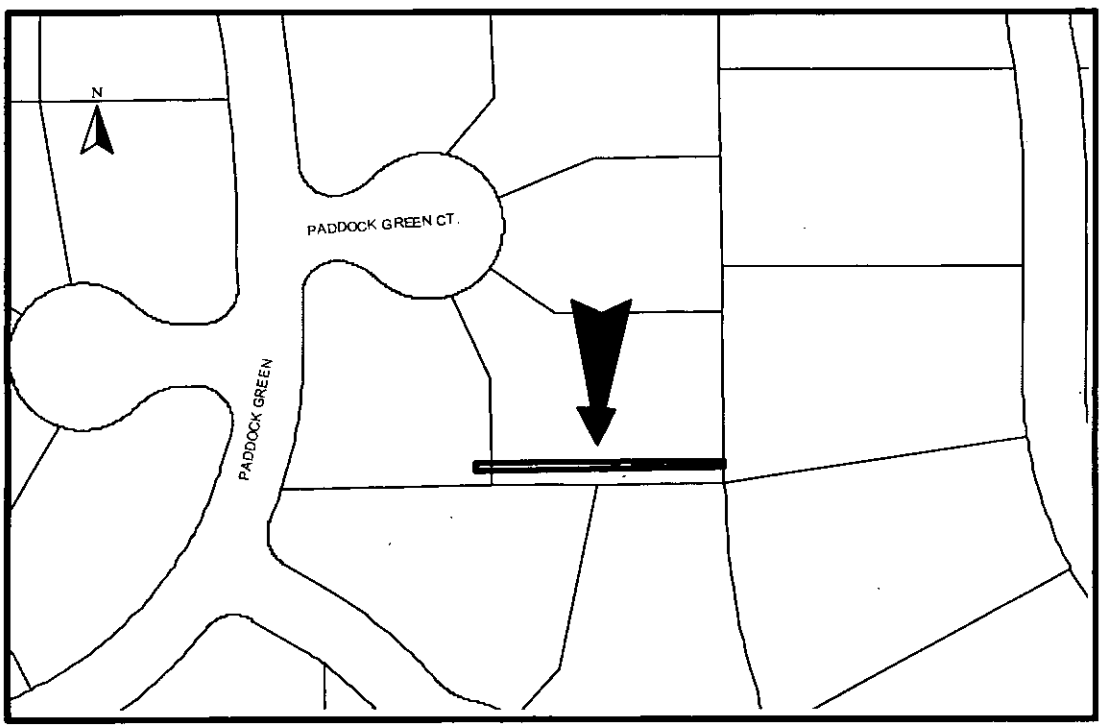
LEGAL DESCRIPTION: See the attached exhibit and legal: generally described as the north 3-feet of the 10-foot utility easement dedicated by separate instrument, Film/Page #28848149 located along the south lot line of Lot 28 and a portion of the south lot line of Lot 29, Block 1, all in the Brighton Courts Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located south of 21st Street North, west of Webb Road, and northwest of the Wilson Estates Parkway and Paddock Green Circle. (WCC #II)

REASON FOR REQUEST: Parking has been relocated to a reserve, parking easement no longer needed

CURRENT ZONING: Subject properties are zoned "SF-5" Single-family Residential and "GO" General Office. Abutting and adjacent properties are zoned "SF-5" or "GO." All are in CUP DP-201.

VICINITY MAP:



The applicant is requesting consideration for the vacation of the described utility easement dedicated by separate instrument. There are no manholes, sewer or water lines in the easement. The applicant has proved letters from the franchised utilities, which have given their approval of the proposed vacation. Westar has equipment in the easement, but has given their approval of the described vacation. Comments from Storm Water have not been received and are needed to determine if they have utilities located within the easement. The Brighton Courts Addition was recorded with the Register of Deeds September 11, 2003.

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 portion of the easement dedicated by separate instrument, with the following 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 & the Derby Reporter of notice of this vacation proceeding one time May 31, 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 easement dedicated by separate instrument 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 a portion of the platted complete access control described in the petition should be approved with conditions;

(1) Contact Storm Water in regards that the remaining 7-feet of easement is sufficient for surface drainage for Lots 29 & 28, Block 1, Brighton Court Addition.

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

(3) All improvements shall be according to City Standards and at the applicants' expense.

(4) 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) Contact Storm Water in regards that the remaining 7-feet of easement is sufficient for surface drainage for Lots 29 & 28, Block 1, Brighton Court Addition.

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

(3) All improvements shall be according to City Standards and at the applicants' expense.

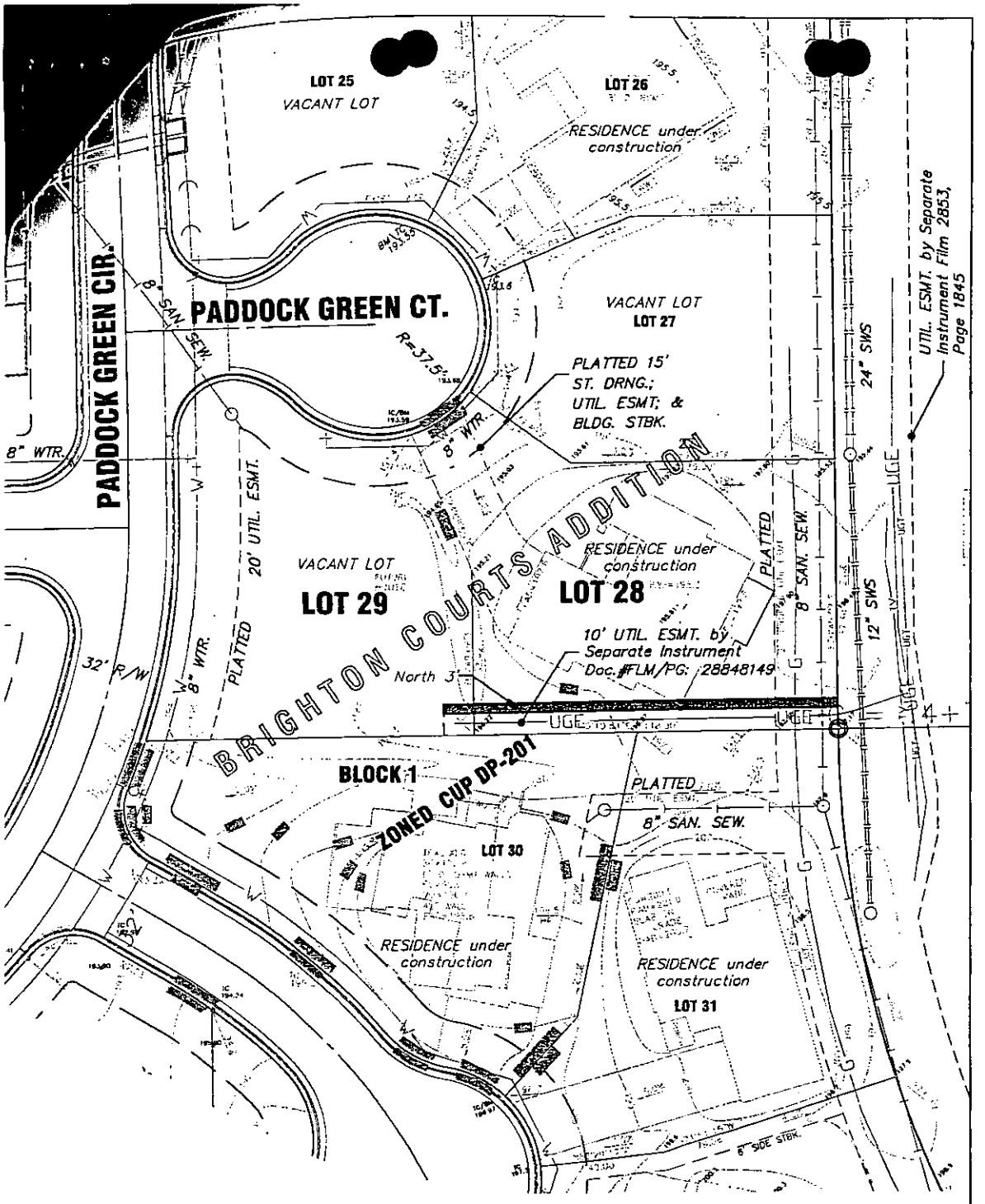
(4) Per MAPC Policy Statement #7,all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final 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

To wit:

A portion of a 10 foot UTILITY EASEMENT by separate instrument recorded on Doc#.FLM\PG: 28848149

A tract of land lying within a portion of Lot 28 and 29, Block 1, Brighton Courts Addition, an addition to Wichita, Sedgwick County, Kansas, being more particularly described as follows:
The north 3 feet of the south 10 feet of said Lot 28, TOGETHER WITH, the north 3 feet of the south 10 feet of the east 10 feet of said Lot 29

VAC2007-8



VAC2007-18

DESCRIPTION of

That portion of Utility Easement to be Vacated

A tract of land lying within a portion of Lot 28 and 29, Block 1, Brighton Courts Addition, an addition to Wichita, Sedgwick County, Kansas, being more particularly described as follows:

The north 3 feet of the south 10 feet of said Lot 28, TOGETHER WITH, the north 3 feet of the south 10 feet of the east 10 feet of said Lot 29.

NORTH

0 20 40

NOTES:

1. We are requesting the vacation of part of a 10' utility easement as located hereon.
2. We provided notices from the franchise utility companies indicating their consent.
3. Utility location are shown from records; actual locations differs.

MKEC ENGINEERING CONSULTANTS, INC.
411 N. WEBB ROAD
WICHITA, KS. 67206
316 - 684 - 9600

LOTS 28 & 29, BLOCK 1
BRIGHTON COURTS ADDITION
PROJECT NAME

MAPC VAC2007 -
SHEET TITLE

BDL	BDL	GJA
DESIGN BY:	DRAWN BY:	CHECKED BY:
May 2007	07270	1 / 1
DATE	JOB NO.	SHEET/OF

K:\pw\90\C\13006\06825 - C:\ctl\Vacation Doc\06825Vac2006 - avg 12/14/2006 10:45:04 AM CST