



Wichita-Sedgwick County Metropolitan Area Planning Department

July 9, 2008

Terradyne Residential LLC
1400 Terradyne
Andover, KS 67002

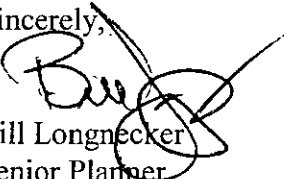
Re: **VAC2008-00006** - Request to vacate multiple platted access easements and a platted utility easement, generally located between I-35 and Central Avenue, west of 159th Street East, along Brookhaven Drive and Majestic Street.

Dear Ladies & Gentlemen:

At its regular meeting on Tuesday, July 8, 2008, 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
Poe & Associates, c/o Kenny Hill, 5940 E. Central, Wichita, KS 67208



Sedgwick County
Register of Deeds - Bill Meek
DOC #/FLM-PG: 28990542
Receipt #: 1692881
Pages Recorded: 2
Cashier Initials: AL
Authorized By:
Recording Fee: 001

Date Recorded: 7/11/2008 2:48:05 PM



CITY CLERK'S ORIGINAL BEFORE THE CITY COUNCIL OF THE
RETURN TO CITY CLERK CITY OF WICHITA, SEDGWICK COUNTY, KANSAS

Approved / Accepted By City Council

7-8-08 #

IN THE MATTER OF THE VACATION OF
MULTIPLE PLATTED ACCESS EASEMENTS
AND A PLATTED UTILITY EASEMENT

GENERALLY LOCATED
MIDWAY BETWEEN I-35 AND CENTRAL
AVENUE, WEST OF 159TH STREET EAST

MAPD CASE NO.
VAC2008-00006

MORE FULLY DESCRIBED BELOW

VACATION ORDER

COMES NOW your petitioner(s), Terradyne Residential LLC., c/o Craig Smith and pray(s)
for the vacation of the following described multiple platted access easements and a platted utility
easement, to wit:

The 5-foot wide platted maintenance access easements located on Lots 2-12 (odd and even)
and the platted 5-foot wide utility easement located on Lot 9, all in Block 2, the Terradyne
West 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:

VAC2008-6

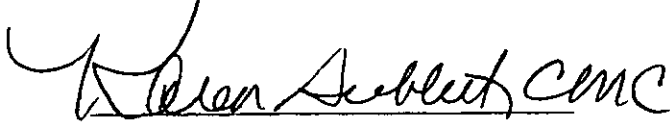
2

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 March 6, 2008, 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 multiple platted access easements and the platted utility easement, and the public will suffer no loss or inconvenience thereby.
3. Dedicate by separate instrument a utility easement to be recorded with the Sedgwick County Register of Deeds with the Vacation Order.
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 multiple platted access easements and the platted utility easement described herein should be approved.

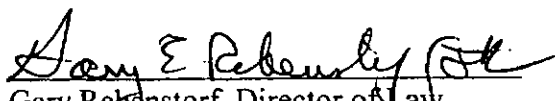
IT IS, THEREFORE, BY THE CITY COUNCIL, on this 8th day of July 2008 ordered that the above described multiple platted access easements and the platted utility easement is hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall certify a copy of this order to the Register of Deeds of Sedgwick County.



ATTEST:

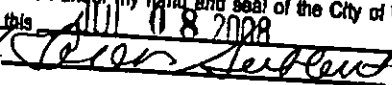

Karen Sublett, City Clerk

Approved as to Form:


Gary Robenstorf, Director of Law


Carl Brewer, Mayor



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 11 day of July 2008.

City Clerk

STAFF REPORT

CASE NUMBER: VAC2008-00006: Request to vacate multiple platted maintenance access easements and a platted utility easement

OWNER/APPLICANT: Terradyne Residential LLC

AGENT: Poe and Associates, c/o Kenny Hill

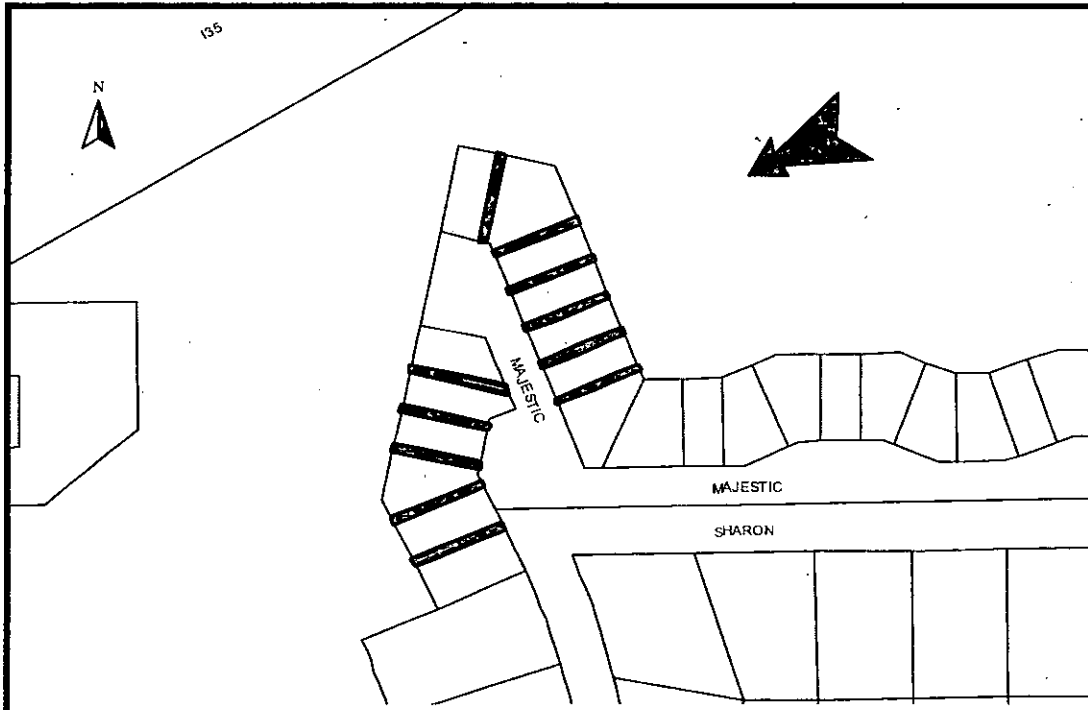
LEGAL DESCRIPTION: The 5-foot wide platted maintenance access easements located on Lots 2-12 and the 5-foot wide platted utility easement located on Lot 9, all in Block 2, all in Terradyne West, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located between I-35 and Central Avenue, west of 159th Street East, along Brookhaven Drive and Majestic Street (WCC #II)

REASON FOR REQUEST: Associated with proposed multiple boundary shifts

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

VICINITY MAP:



The applicant proposes to vacate the described platted maintenance access easements and the platted utility easement. All of the easements are located along the interior side yards of the described residential lots, from their front yards to their back yards. The platted maintenance access easements are to be used for (per the plat's text) pedestrian emergency access, construction, maintenance, the extension of footing and a 2-foot overhang of the structure on the adjacent lot. This type of easement is used for the development of "zero lot line" subdivisions (Subdivision Regulations, Art. 7, Part 2, 7-205, M), however no reference is made to "zero lot line" development on the plat. A "zero lot line" development's lots will have no setbacks and this should be referenced on the plat. There are no manholes, water or sewer lines in the described easements. Westar has equipment in an easement; Westar needs to identify that easement(s) where the equipment is located. The applicant proposes to create new parcels with boundary shifts, thus the need to remove the platted easements. The Terradyne West Addition was recorded with the Register of Deeds December 12, 2006.

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 multiple platted maintenance access easements and the described 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, in the Wichita Eagle and the Derby Reporter, of notice of this vacation proceeding one time March 6, 2008 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 multiple 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 multiple platted easements described in the petition should be approved with conditions;

- (1) Provide Staff with any required additional easement(s) (with original signatures) dedicated by separate instrument, as needed and approved by any utilities. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.
- (2) Provide Public Works with the new square footage for each of the reconfigured lots to address the respreading of the moneys involved in the specials (water, sewer and drainage) for the properties.
- (3) Reference that a "zero lot line" development's lots will have no setbacks in either the Vacation Order or on the plat, as advised by Law.

- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. If necessary provide franchised utilities (Westar) with any needed plans for review for location of utilities and retain the easement(s) until utilities are relocated.
- (5) All improvements shall be according to City Standards and at the applicants' expense.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests 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:

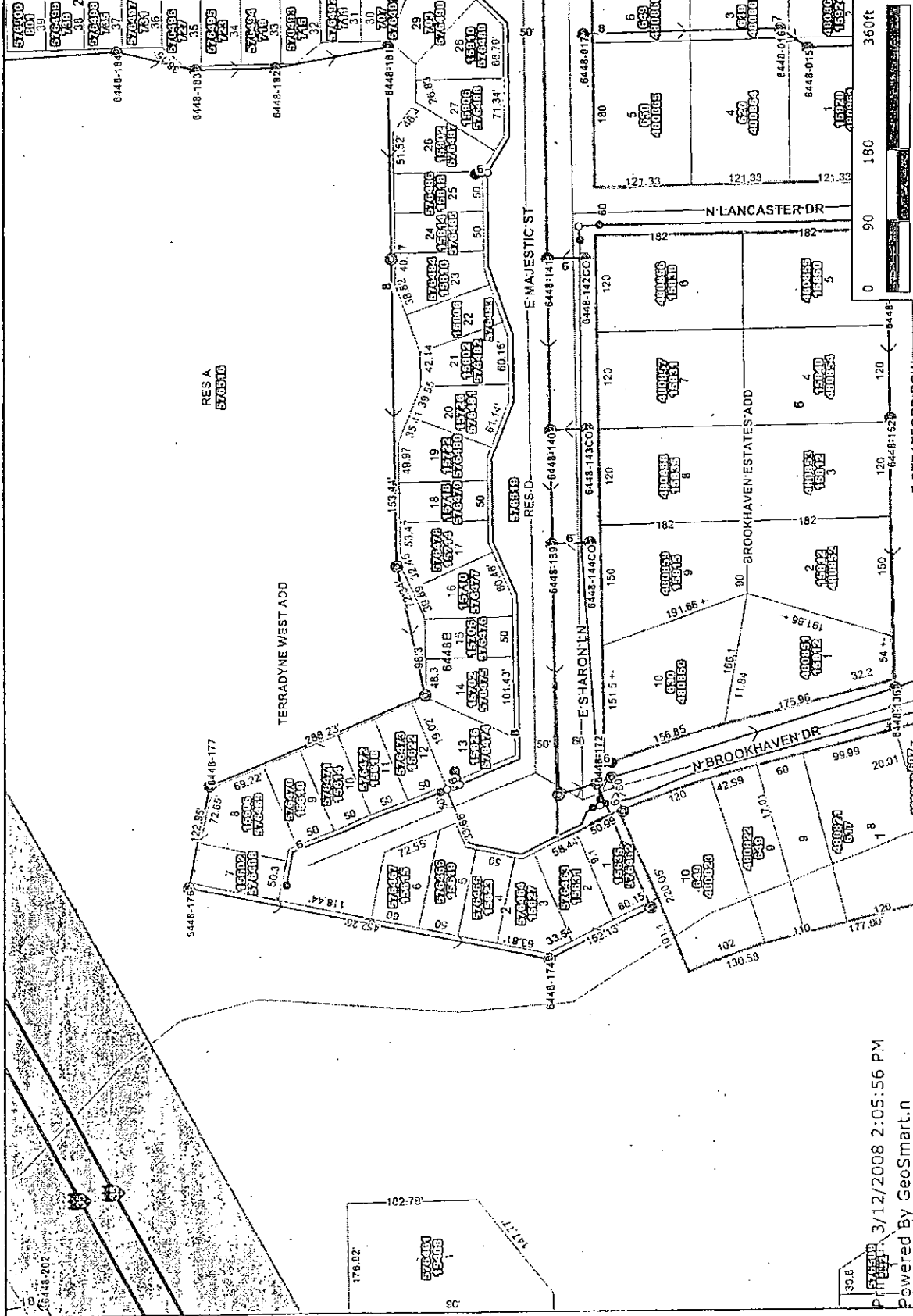
The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide Staff with any required additional easement(s) (with original signatures) dedicated by separate instrument, as needed and approved by any utilities. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.
- (2) Provide Public Works with the new square footage for each of the reconfigured lots to address the respreading of the moneys involved in the specials (water, sewer and drainage) for the properties.
- (3) Reference that a "zero lot line" development's lots will have no setbacks in either the Vacation Order or on the plat, as advised by Law.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. If necessary provide franchised utilities (Westar) with any needed plans for review for location of utilities and retain the easement(s) until utilities are relocated.
- (5) All improvements shall be according to City Standards and at the applicants' expense.
- (6) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests 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

vac2008-06

water & sewer

- Sewer Manholes
- Sewer Observation Manholes
- Hydrant Schematic
- Water Valve Schematic
- Water Node Schematic
- Property Parcels
- Lot Block
- Subdivisions
- Sewer Flow
- Sewer Lines
- Water Lines Schematic
- Roads
- State Highway
- US Federal Highway
- Interstate
- KTA
- Arterial
- Collector
- Minor
- Ramp
- Railroads
- Quarter Section
- Waterways
- Streams
- Sewer Trap Areas
- City Limits
- Andale
- Bel Aire
- Bentley
- Cheney
- Clearwater
- Colwich



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Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.



Boundary Shift

VAC 2008-06

Lots 1 through 5 and Lots 7 through 13, Block 2
Terradyne West Addition

Tract A

Lot 7, Block 2, and the West 9.70 feet of Lot 8, Block 2, Terradyne West Addition to Wichita, Sedgwick County, Kansas.

Tract B

Lot 8, Block 2 and the North 15 feet of Lot 9, Block 2, except for the West 9.70 feet of said Lot 8, Block 2, Terradyne West Addition to Wichita, Sedgwick County, Kansas.

Tract C

The South 35 feet of Lot 9, Block 2 and the North 25 feet of Lot 10, Block 2, Terradyne West Addition to Wichita, Sedgwick County, Kansas.

Tract D

The South 25 feet of Lot 10, Block 2 and the North 35 feet of Lot 11, Block 2, Terradyne West Addition to Wichita, Sedgwick County, Kansas.

Tract E

The South 15 feet of Lot 11, Block 2 and the North 45 feet of Lot 12, Block 2, Terradyne West Addition to Wichita, Sedgwick County, Kansas.

Tract F

Lot 13, Block 2 and the South 5 feet of Lot 12, Block 2, Terradyne West Addition to Wichita, Sedgwick County, Kansas.

Tract G

Lot 5, Block 2 and the North 10 feet of Lot 4, Block 2, Terradyne West Addition to Wichita, Sedgwick County, Kansas.

Tract H

The South 40 feet of Lot 4, Block 2 and the North 20 feet of Lot 3, Block 2, Terradyne West Addition to Wichita, Sedgwick County, Kansas.

Tract I

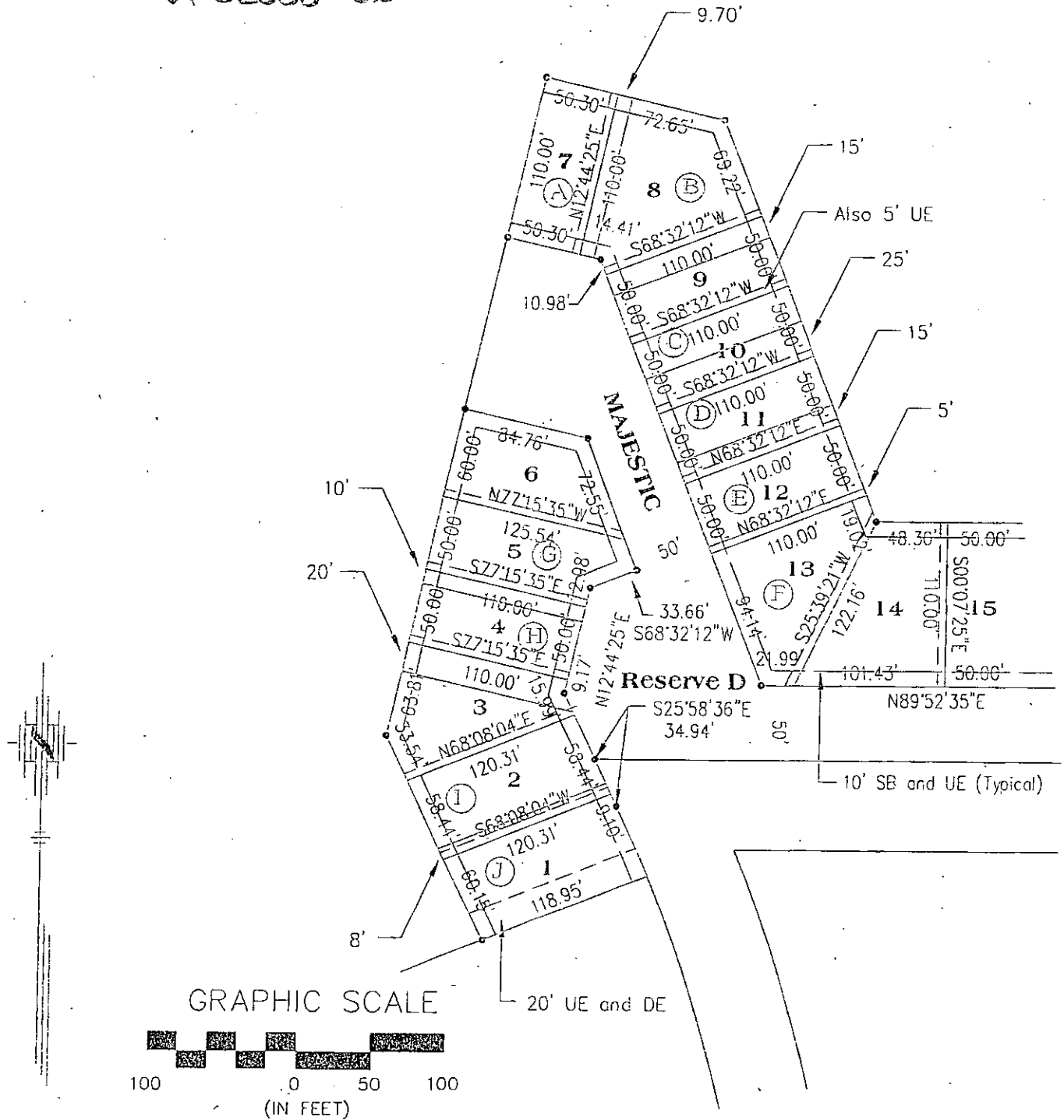
Lots 2 and 3, Block 2 except for the North 20 feet of Lot 3, Block 2, and except for the South 8 feet of Lot 2, Block 2, Terradyne West Addition to Wichita, Sedgwick County, Kansas.

Tract J

Lot 1, Block 2 and the South 8 feet of Lot 2, Block 2, Terradyne West Addition to Wichita, Sedgwick County, Kansas.

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VPL2008-06



BOUNDARY SHIFT

TERRADYNE WE

an Addition to Wichita, Sedgwick County, Kansas

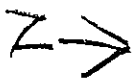
Minimum Building Elevations		
Low Opening		
Description	Elevation	
Lot 1, Block 1	1322.0	
Lot 1 through 6, Block 2	1321.8	
Lot 7 through 12, Block 2	1322.6	
Lot 1 through 6, Block 3	1321.0	

Elevations are of NGVD Datum

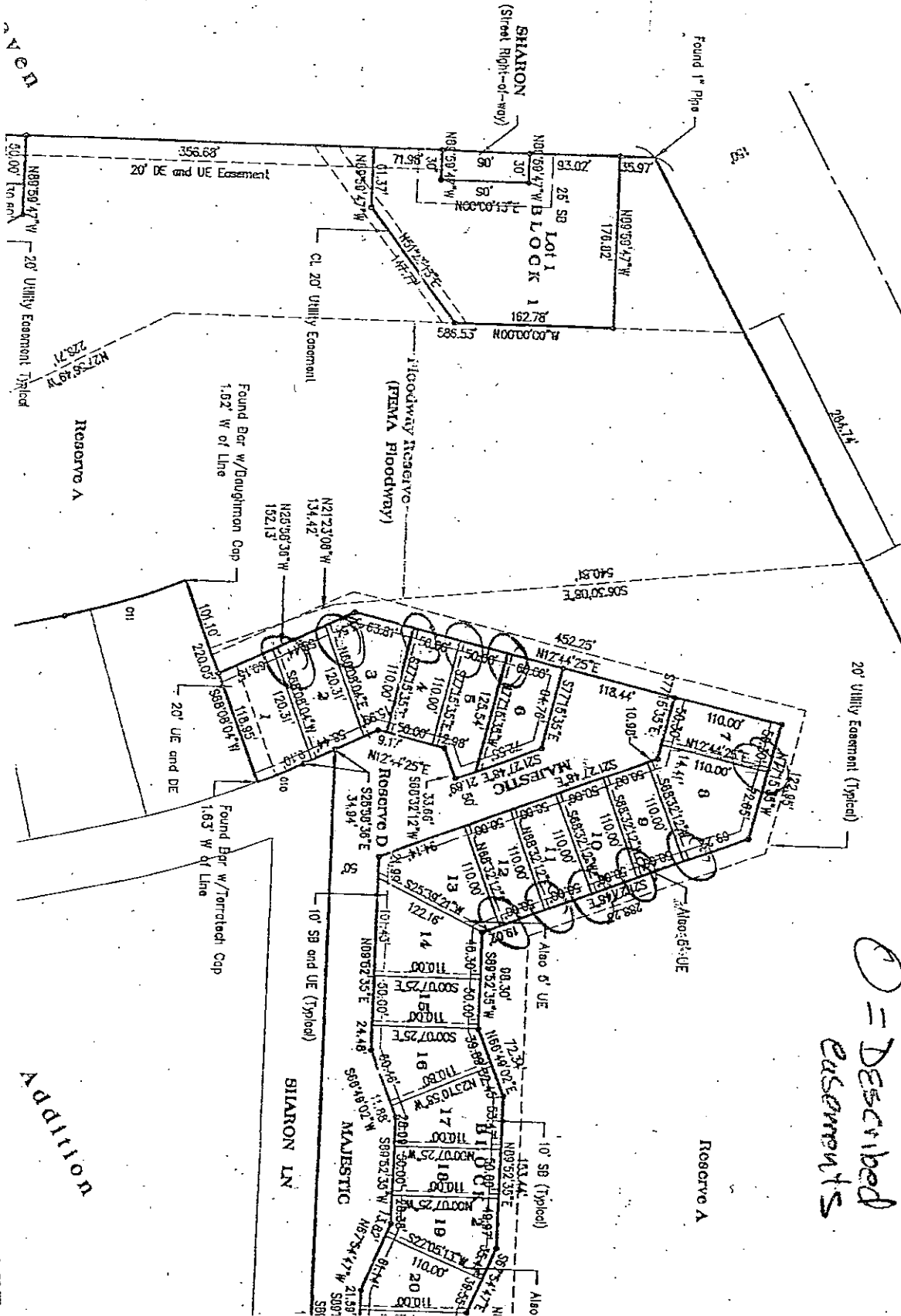
UPC2008-016

K. A. P. S. - Turpentine

2017.08 1013.30E
1986.65



⊖ = Described easements



Kenny E. Hill, L.S. 984
Vice President

Reviewed in accordance with

UAC 2008-06

NOW ALL MEN BY THESE PRESENTS:

that we, the undersigned, have caused the land described in the Surveyor's Certificate to be platted into Lots, Blocks, Streets and Reserves. The streets are hereby dedicated to and for the use of the public. Easements are hereby granted as indicated for the construction and maintenance of drainage, screening berm, trails, golf course, open space and utilities. A drainage plan has been developed for this addition. All drainage easements and rights-of-way shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and remain unobstructed to allow for the conveyance of stormwater. The minimum low opening elevation for homes built on Lots 1 through 6, Block 3 is 1321.0, for Lots 1 through 6, Block 2, 1321.8, for Lots 7 through 12, Block 2, 1322.6 and for Lot 1, Block 1, the minimum low opening elevation is 1322.0. Reserve A is for a Floodway Reserve, drainage, ponds, parking, lighting, landscaping, irrigation, sidewalks, golf course, club house, shelter buildings, cart paths, benches, berms, walls and utilities. Reserve B is for a screening berm, landscaping and walking trail. Reserves C and D are for private streets, fire lane access, utilities, drainage, berms, landscaping, irrigation and entry monuments and utilities. Reserves A, B, C and D are to be owned and maintained by an owners association. The Floodplain Reserve is to be owned and maintained by the owner of each lot that it crosses. The maintenance of that part of the Floodplain Reserve which crosses an individual lot shall be the responsibility of the owner of that lot and the maintenance of the Floodway Reserve at crosses Reserve A shall be the responsibility of an owners association. Provided further, that no building shall be constructed on or within said Floodway Reserve or Floodplain Reserve, nor shall any fill, change of grade, creation of channel or other work be carried on without permission of the applicable City or County Engineer or their successors of office. Should the owners of the property covered by the Floodway Reserve or Floodplain Reserve fail to properly maintain said reserve, the applicable City or County Engineer or their successors of office, may maintain the same without any notification to the individual lot owners. In such event, the City or County may, at its election, assess the costs associated with such maintenance against any or all of the lots within the subdivision and collect the same in the same fashion as a special tax assessment upon each lot or lots. The 5' maintenance access easements as shown are hereby platted for the purpose of pedestrian emergency access, construction, maintenance, the extension of the footing and a 2-foot overhang of the structure on the adjacent lot. All abutters' rights of access to or from Central Avenue over and across the South side of Reserve B, Lot 1, Block 4, Reserve C, Lot 6, Block 3 and Reserve A and all abutters' rights of access to or from 159th Street East over and across the East line of Reserve D as indicated on the plat map are hereby granted to the appropriate governing body.

This plat approved
Kansas, this, 29

described
Easements

Entered on transfer

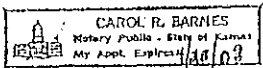
Terradyne Residential, LLC


Craig Smith, Managing Member

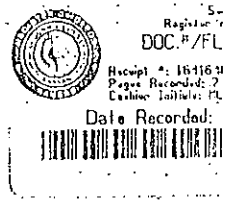
This is to certify to
A.M.-P.M. on the

STATE OF KANSAS, COUNTY OF SEDGWICK: ss.

This instrument was acknowledged before me on this, 10th day of October, 2006, by Craig Smith, Managing Member of Terradyne Residential, LLC.




Notary Public



Appointment Expires: 4/25/2008