

SUBDIVISION COMMITTEE  
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 3

April 1, 1993

STAFF REPORT  
(Final Plat)

CASE NUMBER: S/D 93-14 - TURTLE RUN 2ND ADDITION

OWNER/APPLICANT: Devoe Treadwell, 10101 E. 47th Street South,  
Wichita, KS 67037

SURVEYOR/ENGINEER: Poe & Associates, 434 N. Oliver, Wichita, KS  
67208

LOCATION: Southwest corner of Pawnee and Webb

SITE SIZE: 5.6 Acres

NUMBER OF LOTS

Residential:	27
Office:	
Commercial:	
Industrial:	
Total:	27

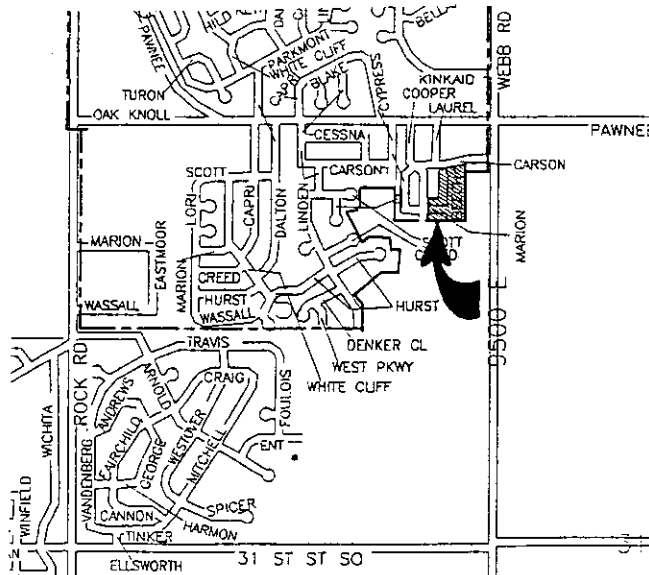
MINIMUM LOT AREA: 6,300 sq. ft.

CURRENT ZONING: "AA" One-Family Dwelling

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VICINITY MAP:



NOTE: This Addition has been accepted as a final form only plat since it involves a replat of a portion of a previous Addition (Cottage Gardens) and is only altering lot sizes. As with the previous Turtle Run (1st) Addition, this plat is creating larger lots while maintaining the previously platted street system. The previous Cottage Garden Addition was platted as a cluster type development which allowed reduced lot frontages and lot sizes and was laid out for zero lot line homes. The Turtle Run replats of this site are creating conventional single-family sites.

STAFF COMMENTS:

- A. As determined appropriate by City Engineering, the applicant shall resubmit petitions, provide square footage information and/or enact any necessary agreements for the provision of public improvements. These improvements include the provision of municipal water, sanitary sewer, drainage/storm sewer and paving. Engineering needs to also indicate any other requirements concerning the guarantees for this site, such as if any projects are to be abandoned and if there are any related costs.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. When this area was originally platted as the Cottage Gardens Addition, as a cluster development, permanent open space was platted for the benefit of and to be owned by all property owners of that Addition. This replat does not alter these original conditions. The applicant shall therefore submit a covenant for this Addition which establishes the ownership and maintenance responsibility of the Reserve on this plat but also reiterates that this Addition will continue to have access to and responsibilities for maintaining the Reserves as originally created for the Cottage Gardens Addition.
- D. Because of the reduced frontages for the Cottage Gardens Addition, a waiver of the off-street parking requirement for lots adjacent to narrow streets (58-foot right-of-way), from four spaces per lot to three, was allowed. Since this plat is now proposing conventional lot frontages and sizes, a new covenant shall be submitted requiring the provision of four off-street parking spaces for the lots in this Addition.
- E. On the final plat tracing since only one Reserve is indicated (C), it should be labeled as Reserve A. The plat's text should also be amended to indicate this area as a Reserve A.

The applicant is advised that the Reserve now being shown on this plat is not in the same location of the original Reserve platted for the Cottage Gardens Addition. The original Reserve was somewhat north of the one now being platted. When originally platted under the cluster regulations, any platted reserves were

meant to exist in perpetuity and covenants were filed to that effect. Although this plat is showing a minor change in the Reserve's location, the applicant is advised that they should verify that they are legally in a position to make such a change in this Reserve's location.

- F. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- G. On the final plat tracing, corner lots shall indicate sideyard building setbacks of 15-foot rather than 10-feet.
- H. The applicant shall submit an avigational easement covering all of subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- I. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations.
- J. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- K. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (phone 316-946-4527) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- L. The representatives from the utility companies should be prepared to comment on the need for utility easements to be platted on this property.
- M. Perimeter closure computations shall be submitted with the final plat tracing. Section 5-101(c).
- N. Recording of the plat within 30 days after approval by the City Council.
- O. The representative from City Engineering should be prepared to comment on the status of the applicant's drainage plan.


Note: This plat has been submitted in final form only.

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THE CITY OF WICHITA  
OFFICE OF PUBLIC WORKS - ENGINEERING

DATE: May 24, 1993

TO: Doug Moshier, Senior Attorney

FROM: Michael E. Lindebak, P.E., City Engineer 

SUBJECT: Agreement to Respread Special  
Assessments: Cottage  
Gardens/Turtle Run 2nd

Please review the attached agreement as to legal form and return it to the  
City Engineer's Office.

BM:cls

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AGREEMENT  
BY AND BETWEEN

THE CITY OF WICHITA, KANSAS

Party of the First Part

And

PAWNEE DEVELOPMENT, INC.

DeVoe Treadwell, President

Thea Treadwell, Secretary

Parties of the Second Part

WHEREAS, Party of the First Part has constructed certain municipal improvements to serve Cottage Gardens Addition within the City Limits of the City of Wichita;

and

WHEREAS, Parties of the Second Part are the landowners of part of the improvement district; and

WHEREAS, portion of the improvement district of said improvements has been replatted;

and

WHEREAS, Parties of the Second Part desires that a reassessment be made;

WHEREAS, the Party of the First Part and Parties of the Second Part are both desirous of accomplishing such a reassessment.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the parties agree as follows:

1. Lots 12 through 25 inclusive, Block 5, Lots 9 through 21 inclusive, Block 6 and Lots 1 through 8 inclusive, Block 8, Cottage Gardens Addition are part of the improvement district

for the following City Projects:

Water Supply Line Project 448-88525

Index Code 731281

2. The Parties agree to make a reassessment for said project in the following manner:

Lots 1 through 11 inclusive, Block 1, Lots 1 through 6 inclusive, Block 2 and Lots 1 through 10 inclusive, Block 3 in Turtle Run 2nd Addition shall pay the total cost apportioned to the property described above on an equal share per lot basis.

3. The Parties of the Second Part are the owners of the property described in Section One above and said Parties of the Second Part hereby waive the notice and hearing requirements of K.S.A. 12-6a12(b) with respect to the reassessment herein described.

4. The Parties of the Second Part further waive their right to appeal the special assessments for the above mentioned project (including this described reassessment) and agree that no suit to set aside said assessment shall be brought by them nor shall they in any other way bring an action to question the validity of the proceedings taken by the Party of the First Part in levying the special assessments therefor.

5. The Parties of the Second Part further agree that they will indemnify the Party of the First Part against any and all costs, expenses, claims and judgments for which the Party of the First Part is held responsible or which are entered against the Party of the First Part arising out of or as a result of the reassessment herein described.

IN WITNESS WHEREOF, The Parties hereto have executed this agreement the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

THE CITY OF WICHITA, KANSAS


BY: \_\_\_\_\_  
Mayor  
Party of the First Part

Approved as to form:

\_\_\_\_\_  
Director of Law

Attest:

\_\_\_\_\_  
City Clerk

PAWNEE DEVELOPMENT, INC. By  


DeVoe Treadwell, President

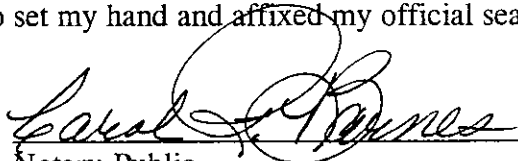


Thea Treadwell, Secretary

STATE OF KANSAS        )  
                                  ) SS:  
SEDGWICK COUNTY        )

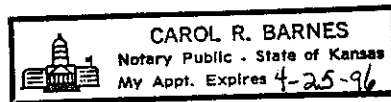
BE IT REMEMBERED, that on this 10th day of May,  
1993, before me, the undersigned, a Notary Public in and for the County and State  
aforesaid, came PAWNEE DEVELOPMENT, INC. by DeVoe Treadwell, President and Thea  
Treadwell, Secretary, personally known to me to be the same person who executed the within  
instrument of writing and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the  
day and year last above written.

  
\_\_\_\_\_  
Notary Public  
Carol R. Barnes

My Appointment Expires:

April 25, 1996



Agenda Item No. \_\_\_\_\_


CITY OF WICHITA  
CITY COUNCIL MEETING

July 13, 1993

Agenda Report No. \_\_\_\_\_

TO: Mayor and City Council Members

SUBJECT: Agreement to Respread Special Assessments in Turtle Run  
2nd Addition (South of Pawnee, West of Webb)  
(District II)

INITIATED BY: Department of Public Works 

AGENDA ACTION: Consent

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**Recommendation:** Approve the Agreement.

**Background:** The developer, Pawnee Development, Inc., has submitted an Agreement to respread special assessments in Turtle Run 2nd Addition.

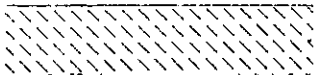
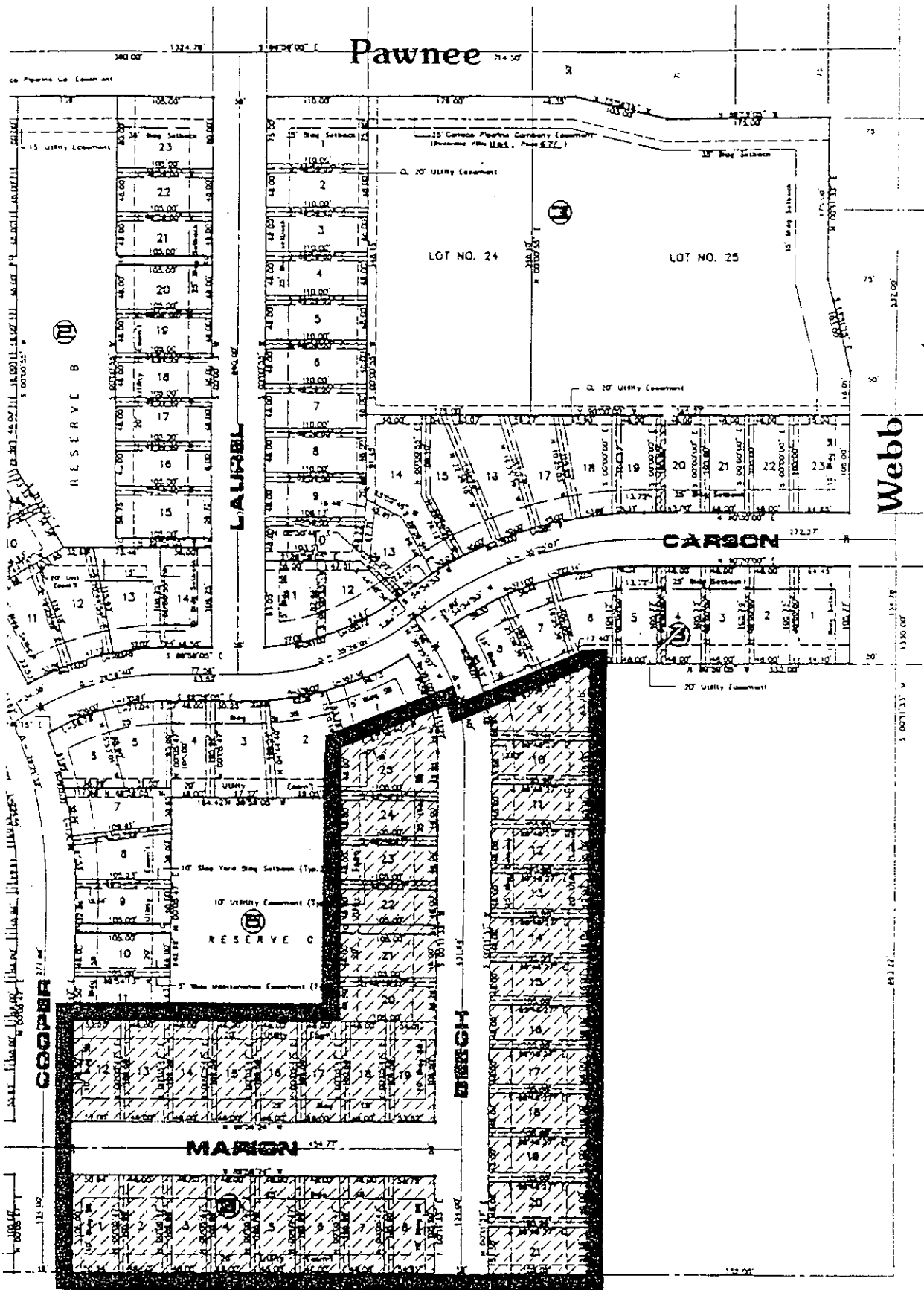
**Analysis:** The purpose of the Agreement is to respread Special Assessments on an equal share basis for each lot. Without the Agreement, the assessments will be spread on a square foot basis.

**Financial Considerations:** There is no cost to the City.

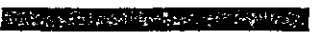
**Legal Considerations:** The Law Department has approved the Agreement as to legal form.

**Recommendation/Action:** It is recommended the City Council approve the Agreement and authorize the Mayor to execute.

BM:bjm



Improvement District



Improvement District Boundary

THE CITY OF WICHITA

OFFICE OF LAW DEPARTMENT

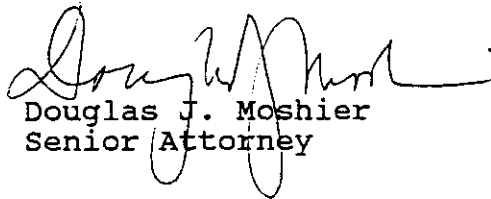
DATE: June 7, 1993

TO: Michael E. Lindebak, P.E., City Engineer

FROM: Douglas J. Moshier, Senior Attorney

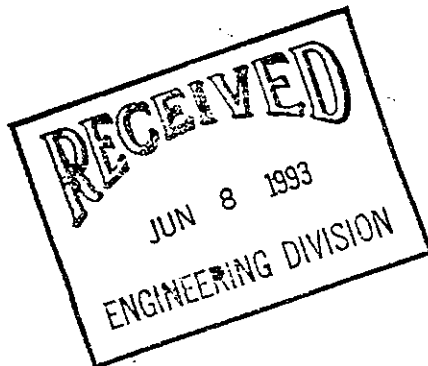
SUBJECT: Agreement for Respread  
Assessments

The attached Agreement for respreading assessments in Cottage  
Gardens/Turtle Run 2nd is approved as to form.

  
Douglas J. Moshier  
Senior Attorney

DJM:cdh

Attachment



AGREEMENT  
BY AND BETWEEN

THE CITY OF WICHITA, KANSAS

Party of the First Part

And

PAWNEE DEVELOPMENT, INC.

DeVoe Treadwell, President

Thea Treadwell, Secretary

Parties of the Second Part

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and

WHEREAS, Parties of the Second Part are the landowners of part of the improvement district; and

WHEREAS, portion of the improvement district of said improvements has been replatted; and

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2. The Parties agree to make a reassessment for said project in the following manner:

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3. The Parties of the Second Part are the owners of the property described in Section One above and said Parties of the Second Part hereby waive the notice and hearing requirements of K.S.A. 12-6a12(b) with respect to the reassessment herein described.

4. The Parties of the Second Part further waive their right to appeal the special assessments for the above mentioned project (including this described reassessment) and agree that no suit to set aside said assessment shall be brought by them nor shall they in any other way bring an action to question the validity of the proceedings taken by the Party of the First Part in levying the special assessments therefor.

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\_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

THE CITY OF WICHITA, KANSAS

BY: \_\_\_\_\_  
Mayor  
Party of the First Part

Approved as to form:

Gray E. (Richardson)  
Director of Law

Attest:

\_\_\_\_\_  
City Clerk

PAWNEE DEVELOPMENT, INC. By  
DeVoe Treadwell

DeVoe Treadwell, President  
Thea Treadwell

Thea Treadwell, Secretary

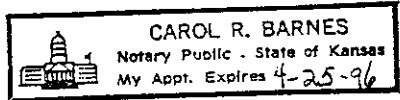
STATE OF KANSAS        )  
                                  ) SS:  
SEDGWICK COUNTY        )

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1993, before me, the undersigned, a Notary Public in and for the County and State  
aforesaid, came PAWNEE DEVELOPMENT, INC. by DeVoe Treadwell, President and Thea  
Treadwell, Secretary, personally known to me to be the same person who executed the within  
instrument of writing and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the  
day and year last above written.

Carol R. Barnes  
Notary Public  
Carol R. Barnes

My Appointment Expires:  
April 25, 1996



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BY AND BETWEEN

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THE CITY OF WICHITA, KANSAS

BY: \_\_\_\_\_  
Mayor  
Party of the First Part

Approved as to form:

Gray E. Robertson  
Director of Law

Attest:

\_\_\_\_\_  
City Clerk

PAWNEE DEVELOPMENT, INC. By  
DeVoe Treadwell

DeVoe Treadwell, President  
Thea Treadwell

Thea Treadwell, Secretary

STATE OF KANSAS        )  
                                  ) SS:  
SEDGWICK COUNTY        )

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Treadwell, Secretary, personally known to me to be the same person who executed the within  
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IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the  
day and year last above written.

Carol R. Barnes  
Notary Public  
Carol R. Barnes

My Appointment Expires:

April 25, 1996



AYESH LAW OFFICES

Mark G. Ayesh

Tallgrass Executive Park  
8100 East 22nd Street North  
Building #2300, Suite 2  
Wichita, Kansas 67226

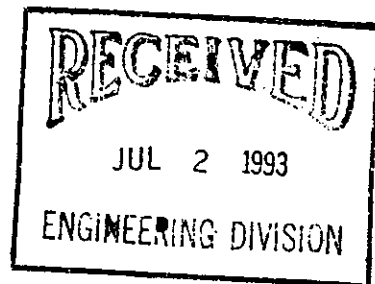
Mail: P.O. Box 781750  
Wichita, Kansas 67278-1750

Robert W. Lattin  
Associate

Telephone (316) 682-7381  
Telecopier (316) 682-1729

July 1, 1993

Mr. Kenny Hill  
Poe & Associates  
434 N. Oliver  
Wichita, KS 67208



Re: Turtle Run Second Addition

Dear Mr. Hill:

This office has been asked to render an opinion concerning the propriety of a minor change in a reserve location on the above-referenced development. We have reviewed the original plat dated April 29, 1991, and the replat proposed to be filed in 1993. We have also reviewed the May 1, 1991, Restrictive Covenant Agreement concerning the reserve and the March 18, 1993, Declaration of Covenants, Conditions and Restrictions of Turtle Run.

We note that the proposed replat maintains the integrity of the reserve and only moves a 10' wide access strip to another location. This minor change does not breach or otherwise infringe upon the May 1, 1991, Restrictive Covenants. While the May 1, 1991, Restrictive Covenants provide that the reserve shall continue in perpetuity, the legal description of the reserve is incorporated by reference from the recorded plat which is subject to amendment via K.S.A. § 12-512b which provides as follows:

12-512b. Vacation of plats and other public reservations; recording, plat or replat; reversion. In any area where there is a planning commission which has adopted subdivision regulations governing the platting or replatting of land, and the regulations provide for the giving of appropriate notice to all persons having property rights or interests affected by the platting or replatting, any plat or part thereof or street, alley or other public reservation, including, without limitation, easements, dedicated building setback lines, and access control, whether established by instrument, condemnation or earlier plats, shall be

COPY

Mr. Kenny Hill  
Page 2  
July 1, 1993

vacated both as to use and as to title without any further proceedings upon the filing and recording in accordance with the provisions of K.S.A. 12-403, and amendments thereof, of any plat or replat duly executed in accordance with law and embracing the same lands as those theretofore embraced by the earlier plat, or part thereof or street, alley or other public reservation. Streets, alleys or other public reservations which may be vacated shall revert as provided in K.S.A. 12-506, and amendments thereto.

This statute provides that the recording of a replat pursuant to K.S.A. § 12-403 vacates the original reservation which, pursuant to K.S.A. § 12-506 reverts to the owner of the abutting land. Once the replat is filed of record, the May 1, 1991, Restrictive Covenant will be operative upon same via incorporation by reference of the amended legal description for the reserve. As such, it is not necessary to amend or otherwise revise the May 1, 1991, Restrictive Covenant Agreement.

It is our office's opinion, based upon review of the aforementioned documents and research of the appropriate state and local statutes, regulations and ordinances, that Pawnee Development, Inc. is legally in a position to make the change in the reserve's location. If you need additional information or wish to discuss this opinion, please do not hesitate to call or write.

Very truly yours,

AYESH LAW OFFICES

Original Signed By  
MARK G. AYESH

By Mark G. Ayesh

MGA:ph

cc: Mr. C. D. Treadwell  
City Engineers Office