



Wichita-Sedgwick County Metropolitan Area Planning Department

June 24, 2008

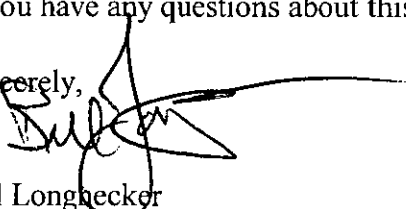
Doris M. Rishel Trust
Attn: Howard Rishel
14528 W. Highway 54
Wichita, KS 67235

Re: **VAC2008-00013** – Request to vacate portions of platted easement and portions of easement dedicated by separate instrument, generally located between 135th & 151 Streets West, north of Kellogg Street, on the northeast side of Sandwedge Circle.

At its regular meeting on Tuesday, June 24, 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 Longhecker
Senior Planner

BL:le

cc: Jim Armour, City Engineer, Public Works Department, Mail Stop 1-71
Julianne Kallman, Sr. Engineer – Subdivision, Public Works Engineering, Mail Stop 1-71
Baughman Company, P.A., Attn: Phil Meyer, 315 Ellis, Wichita, KS 67211
James R. Perkins Trust, P.O. Box 707, Wichita, KS 67349
City of Wichita, Kansas, Attn: John Philbrick, 455 N. Main, 13th Floor, Wichita, KS 67202



Sedgwick County
Register of Deeds - Bill Meek
DOC.#/FLM-PG: 28987234

Receipt #: 1691664
Pages Recorded: 3
Cashier Initials: DT

Authorized By:  Recording Fee: 01

Date Recorded: 6/27/2008 3:27:16 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

6-24-08 #4

IN THE MATTER OF THE VACATION OF
PORTIONS OF PLATTED EASEMENT AND
PORTIONS OF EASEMENT DEDICATED BY
SEPARATE INSTRUMENT

GENERALLY LOCATED
BETWEEN 135TH & 151ST STREETS WEST, NORTH
KELLOGG STREET, ON THE NORTHEAST SIDE
OF SANDWEDGE CIRCLE

Case No. VAC2008-00013

MORE FULLY DESCRIBED BELOW

VACATION ORDER

NOW on this 24th day of June, 2008 comes on for hearing the petition for vacation filed by Doris M. Rishel Trust and James R. Perkins Trust praying for the vacation of the following described portions of platted easement and portions of easement dedicated by separate instrument to-wit:

A drainage and utility easement granted in Auburn Hills 16th Addition, Wichita, Sedgwick County, Kansas and lying in Reserve "H" in said Auburn Hills 16th Addition, said drainage and utility easement being further described as follows: Commencing at a deflection corner in the south line of said Reserve "H", said deflection corner being on the east line of the SW ¼ of Sec. 26, Twp. 27-S, R-2-W of the 6th P.M., Sedgwick County, Kansas; thence S59°08'28"W along the south line of said Reserve "H", 117.48 feet to a deflection corner in said south line; thence S87°21'08"W along the south line of said Reserve "H", 48.19 feet to a deflection corner in said south line; thence N76°40'32"W along the south line of said Reserve "H", 224.17 feet to the SE corner of said drainage and utility easement, and for a

point of beginning; thence continuing N76°40'32"W along the south line of said Reserve "H", said south line also being the south line of said drainage and utility easement, 10.03 feet to the SW corner of said drainage and utility easement; thence N09°11'55"E along the west line of said drainage and utility easement, 23.97 feet to the NW corner of said drainage and utility easement; thence S80°48'05"E along the north line of said drainage and utility easement, 10.00 feet to the NE corner of said drainage and utility easement, thence S09°11'55"W along the east line of said drainage and utility easement, 24.69 feet to the point of beginning.

&

That part of a 10 foot drainage and utility easement recorded in Film 2256 at Page 89 and lying in the SW ¼ of Sec. 26, Twp. 27-S, R-2-W of the 6th P.M., Sedgwick County, Kansas described as follows: Beginning at the intersection of the east line of Lot 9, Block A, Auburn Hills 11th Addition, Wichita, Sedgwick County, Kansas with the easterly extension of the north line of a 20 foot drainage and utility easement as granted in said Auburn Hills 11th Addition; thence S89°02'36"E along the easterly extension of the north line of said 20 foot drainage and utility easement, 10.10 feet to a point on the east line of said 10 foot drainage and utility easement, (Film 2256, Page 89), thence N09°11'55"E along the east line of said 10 foot drainage and utility easement, (Film 2256, Page 89), 114.67 feet to a point on the south line of Reserve "H", Auburn Hills 16th Addition, Wichita, Sedgwick County, Kansas, said point also being the SE corner of a 10 foot drainage and utility easement as granted in said Auburn Hills 16th Addition; thence N76°40'32"W along the south line of said Reserve "H", 10.03 feet to a point on the east line of Lot 9, Block A, in said Auburn Hills 11th Addition; thence S09°11'55"W along the east line of said Lot 9, 116.84 feet to the point of beginning.

&

That part of a 10 foot drainage and utility easement as granted in Lot 9, Block A, Auburn Hills 11th Addition, Wichita, Sedgwick County, Kansas described as follows: Beginning at the intersection of the east line of said Lot 9 with the easterly extension of the north line of a 20 foot drainage and utility easement as granted in said Auburn Hills 11th Addition; thence N89°02'36"W along the easterly extension of the north line of said 20 foot drainage and utility easement, 10.10 feet to a point on the west line of said 10 foot drainage and utility easement; thence N09°11'55"E along the west line of said 10 foot drainage and utility easement, 119.01 feet to a point on the south line of Reserve "H", Auburn Hills 16th Addition, Wichita, Sedgwick County, Kansas; thence S76°40'32"E along the south line of said Reserve "H", 10.03 feet to a point on the east line of said Lot 9; thence S09°11'55"W along the east line of said Lot 9, 116.84 feet to the point of beginning.

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 1, 2008, which was at least 20

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 1, 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 portions of platted easement and portions of 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.

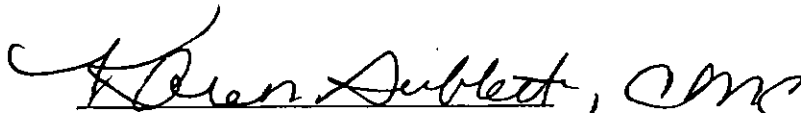
5. The vacation of described portions of platted easement and portions of easement dedicated by separate instrument described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 24th day of June 2008 ordered that the above described portions of platted easement and portions of easement dedicated by separate instrument 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.

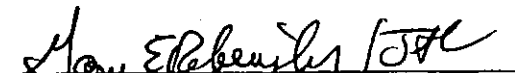



Carl Brewer, Mayor

ATTEST:


Karen Sublett, City Clerk

Approved as to Form:


Gary Rebenstorf, Director of Law

STAFF REPORT

CASE NUMBER: VAC2008-00013: Request to vacate portions of platted easement and portions of easement dedicated by separate instrument

OWNER/APPLICANT: Doris M Rishel Trust c/o Howard Rishel James R Perkins Trust
City of Wichita c/o John Philbrick

AGENT: Baughman Company, PA, c/o Phil Meyer

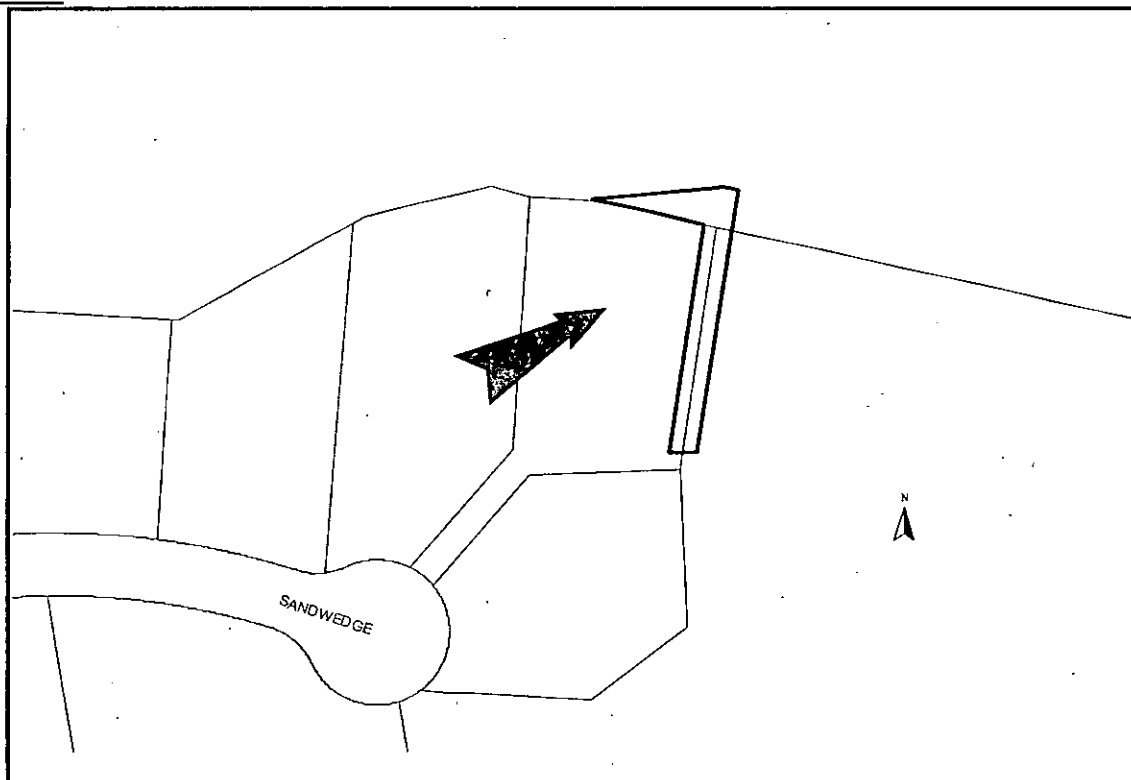
LEGAL DESCRIPTION: Generally described as the platted 10-foot drainage and utility easement, running parallel to the east lot Line of Lot 9, Block A, Auburn Hills 11th Addition and extending into Reserve H, Auburn Hills 16th Addition & the 10-foot drainage and utility easement dedicated by separate instrument (Film 2256/Page 89), running parallel to the east side of the lot line of Lot 9, Block A, Auburn Hills 11th Addition and extending into Reserve H, Auburn Hills 16th Addition, all in Wichita, Sedgwick County, Kansas

LOCATION: Generally located between 135th & 151 Streets West, north of Kellogg Street, on the northeast side of Sandwedge Circle (WCC #V)

REASON FOR REQUEST: Additional buildable area

CURRENT ZONING: Subject properties and all adjacent and abutting properties are zoned SF-5 Single-family Residential ("SF-5")

VICINITY MAP:



The applicants are requesting consideration for the vacation of the described portions of the platted drainage and utility easement and the drainage and utility easement dedicated by separate instrument. The GIS map shows no manholes, sewer or water lines in the subject easements. Comments from Storm Water and franchised utilities have not been received and are needed to determine if they have utilities located within the described easement. The Auburn Hills 11th Addition was recorded with the Register of Deeds August 30, 2001. The Auburn Hills 16th Addition was recorded with the Register of Deeds February 3, 2006.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works/Water & Sewer/Storm Water, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the platted drainage and utility easement and the drainage and utility easement dedicated by separate instrument as described in the legal description 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, in the Wichita Eagle and the Derby Reporter, of notice of this vacation proceeding one time May 1, 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 portions of the platted drainage and utility easement and the drainage and utility 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 the portions of the platted drainage and utility easement and the drainage and utility easement dedicated by separate instrument described in the petition should be approved with conditions;

- (1) Vacate only the portions of the platted drainage and utility easement and the drainage and utility easement dedicated by separate instrument as described in an approved legal description, as approved by City Water & Sewer, Public Works, Storm Water and franchised utilities. Provide Planning Staff the approved legal description of the vacated portion of platted utility easement, via e-mail on a Word document.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide City Public Works, Water & Sewer, Storm Water and franchised utilities with any needed plans for review for relocation or reconstruction of utilities. Provide any guarantees needed for the relocation or reconstruction of utilities. Provide any easements needed for the relocation or reconstruction of utilities. All must be completed prior to proceeding to the Wichita City Council for final action.

- (3) All improvements, including reverting public sewer line and manholes to a private sewer line, shall be according to City Standards and at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions shall 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.

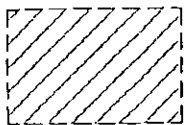
SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

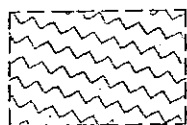
- (1) Vacate only the portions of the platted drainage and utility easement and the drainage and utility easement dedicated by separate instrument as described in an approved legal description, as approved by City Water & Sewer, Public Works, Storm Water and franchised utilities. Provide Planning Staff the approved legal description of the vacated portion of platted utility easement, via e-mail on a Word document.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide City Public Works, Water & Sewer, Storm Water and franchised utilities with any needed plans for review for relocation or reconstruction of utilities. Provide any guarantees needed for the relocation or reconstruction of utilities. Provide any easements needed for the relocation or reconstruction of utilities. All must be completed prior to proceeding to the Wichita City Council for final action.
- (3) All improvements, including reverting public sewer line and manholes to a private sewer line, shall be according to City Standards and at the applicant's expense.
- (4) Per MAPC Policy Statement #7, all conditions shall 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.

2008-13

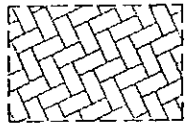
EXHIBIT



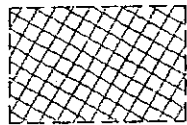
INDICATES PART OF AREA PREVIOUSLY PLATTED AS LOT 9, BLOCK A, AUBURN HILLS 11TH ADDITION AND REPLATTED INTO PART OF RESERVE "H", AUBURN HILLS 16TH ADDITION. THAT PORTION OF PLATTED EASEMENT LYING WITHIN SAID RESERVE "H" VACATED BY VIRTUE OF K.S.A. 12-512(b).



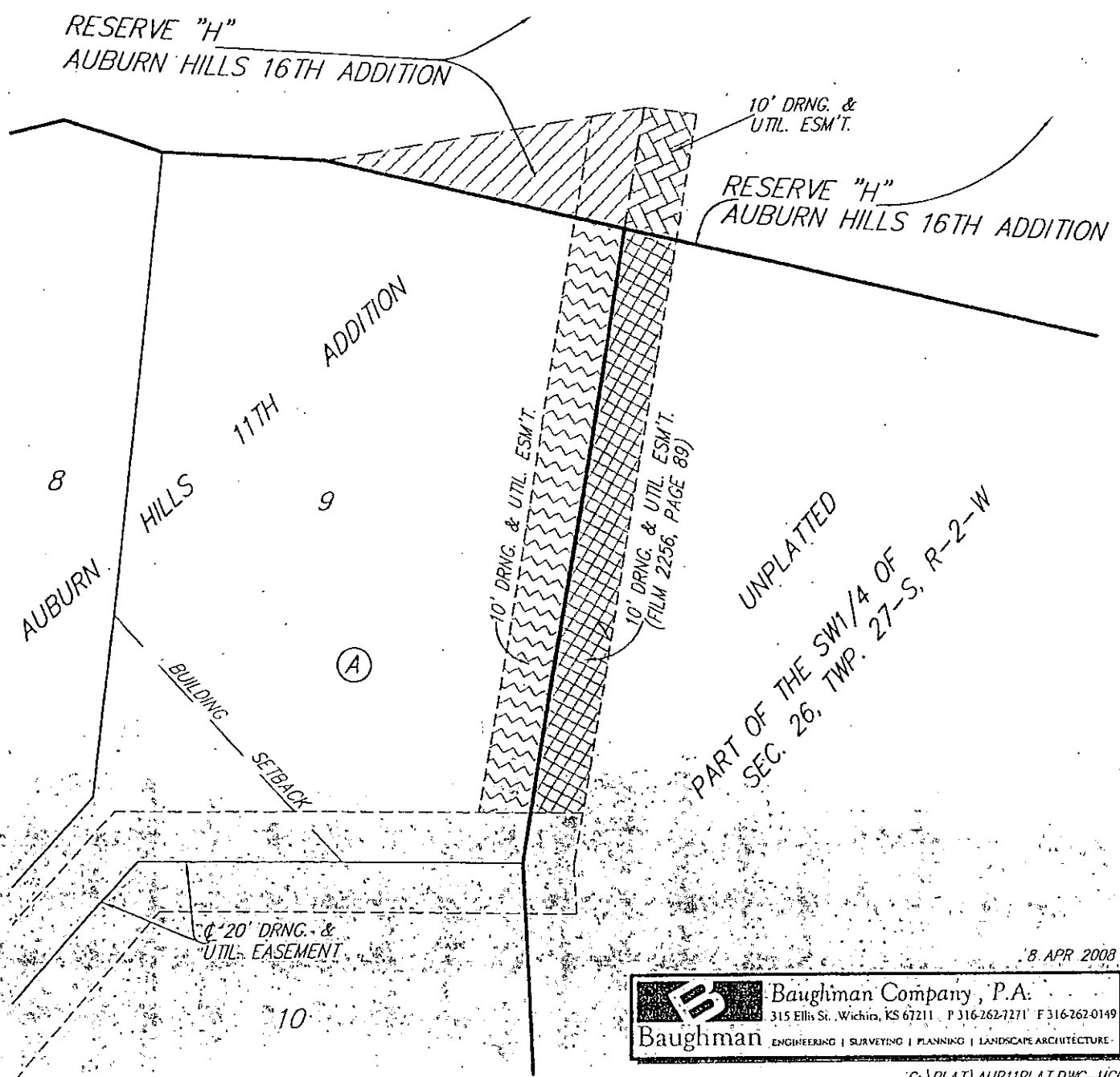
LEGAL DESCRIPTION "B"
INDICATES PART OF AREA PREVIOUSLY GRANTED AS A 10 FOOT DRAINAGE & UTILITY EASEMENT PER PLAT OF AUBURN HILLS 11TH ADDITION.



LEGAL DESCRIPTION "A"
INDICATES PART OF AREA PREVIOUSLY GRANTED AS A 10 FOOT DRAINAGE & UTILITY EASEMENT, (FILM 2256, PAGE 89), VACATED PER K.S.A. 12-512(b), AND REGRANTED AS A 10 FOOT DRAINAGE & UTILITY EASEMENT BY PLAT OF AUBURN HILLS 16TH ADDITION.



LEGAL DESCRIPTION "C"
INDICATES PART OF AREA PREVIOUSLY GRANTED AS A 10 FOOT DRAINAGE & UTILITY EASEMENT, (FILM 2256, PAGE 89).



8 APR 2008



Baughman Company, P.A.
315 Ellis St., Wichita, KS 67211 P 316-262-7271 F 316-262-0149
ENGINEERING | SURVEYING | PLANNING | LANDSCAPE ARCHITECTURE

VAC 2008-13

