



Wichita-Sedgwick County Metropolitan Area Planning Department

January 14, 2009

Terradyne Residential LLC
Attn: Craig Smith
1400 Terradyne Drive
Andover, KS 67202

Re: **VAC2008-00037** -- City request to vacate a platted easement, generally located midway between I-35 and 159th Street East, north of Central Avenue, on the northeast side of Belle Terra Circle.

Dear Mr. Smith:

At its regular meeting on Tuesday, January 13, 2009, 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
Julianne Kallman, Public Works Engineering, Mailstop 1-71
MKEC Engineering Consultants, Attn: Greg Allison, 411 N. Webb Road, Wichita KS 67206



Sedgwick County
Register of Deeds - Bill Meek
DOC.#/FLM-PG: 29032421

Receipt #: 1708189
Pages Recorded: 2
Cashier Initials: KV

Authorized By:  Recording Fee: 00

Date Recorded: 1/21/2009 2:46:08 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
This 1-13-09 9-4

**IN THE MATTER OF THE VACATION OF
A PLATTED EASEMENT**

**GENERALLY LOCATED
MIDWAY BETWEEN I-35 AND 159TH STREET
EAST, NORTH OF CENTRAL AVENUE, ON THE
NORTHEAST SIDE OF BELLE TERRA CIRCLE**

Case No. VAC2008-00037

MORE FULLY DESCRIBED BELOW

VACATION ORDER

NOW on this 13th day of January, 2009 comes on for hearing the petition for vacation filed by Terradyne Residential, LLC, c/o Craig Smith praying for the vacation of the following described platted utility easement to-wit:

The platted utility easement that runs parallel to the common lot lines of Lots 7 & 8, Block 1, Terradyne West 2nd 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:

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 November 27, 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 a platted easement, 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 a platted easement described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 13th day of January, 2009 ordered that the above-described a platted 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.

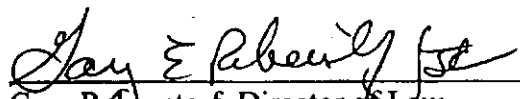
ATTEST:


Karen Sublett, City Clerk




Carl Brewer, Mayor

Approved as to Form:


Gary Rebenstorf, Director of Law

STAFF REPORT

CASE NUMBER: VAC2008-00037 Request to vacate a platted easement

OWNER/APPLICANT: Terradyne Residential, LLC, c/o Craig Smith

AGENT: MKEC c/o Greg Allison

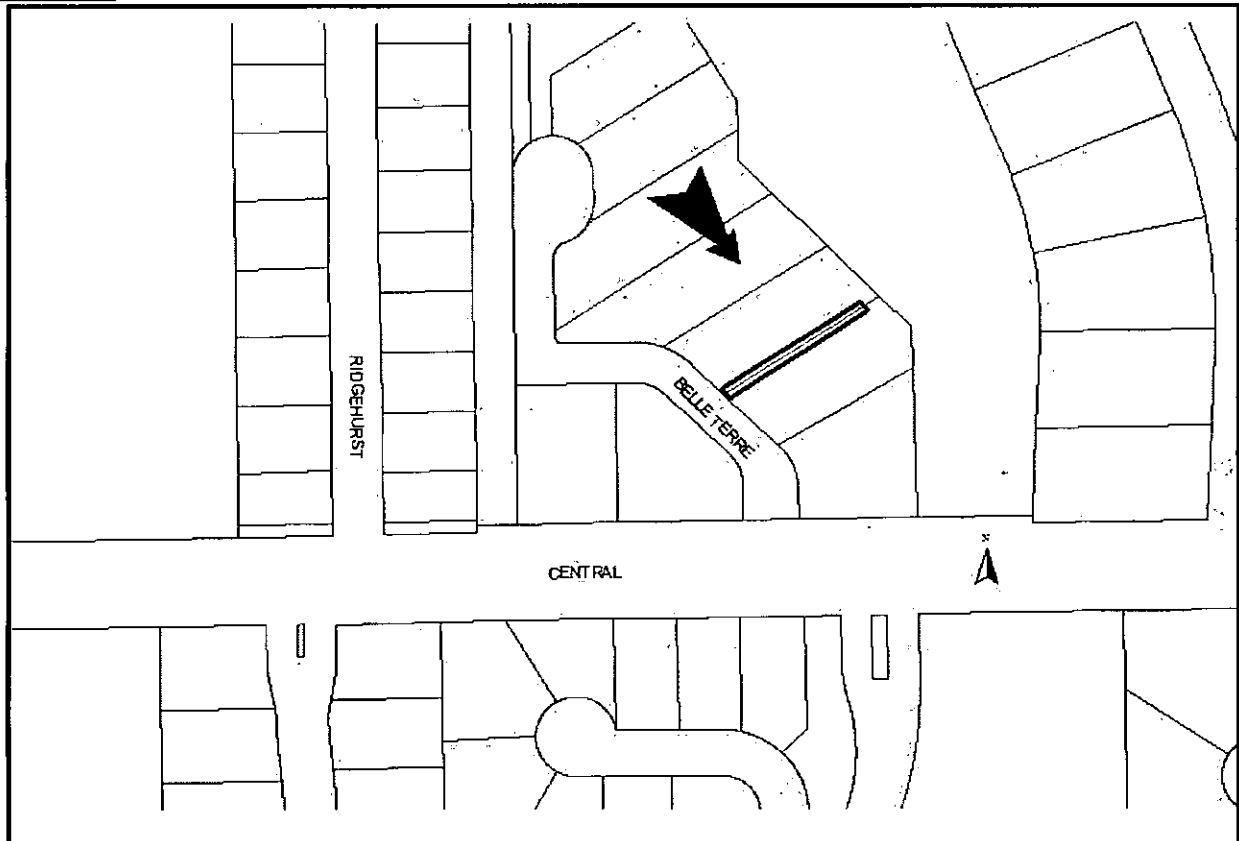
LEGAL DESCRIPTION: The platted 10-foot utility easement that runs parallel to the common lot lines of Lots 7 & 8, Block 1, Terradyne West 2nd Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located midway between I-35 and 159th Street East, north of Central Avenue, on the northeast side of Belle Terra Circle (WCC #II)

REASON FOR REQUEST: Additional space for development

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

VICINITY MAP:



The applicant is requesting consideration for the vacation of the described platted utility easement. The GIS map shows no manholes, water or sewer lines in the platted easement. There are no utilities located in the platted easement. The GIS map shows water located in Belle Terre Circle. Belle Terre Circle is a private street and is platted as Reserve B, Terradyne West 2nd Addition. The GIS map shows the site to be within a FEMA flood zone, but the easement is not used for drainage. The Terradyne West 2nd Addition was recorded with the Register of Deeds June 16, 2008.

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 has listed the following considerations (but not limited to) associated with the request to vacate the described platted utility easement.

- 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 November 27, 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 portion of the platted utility easement 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.

Considerations (but not limited to) associated with the request to vacate the described platted utility easement have been identified, therefore, the vacation of the portion of the platted utility easement described in the petition should be approved with conditions;

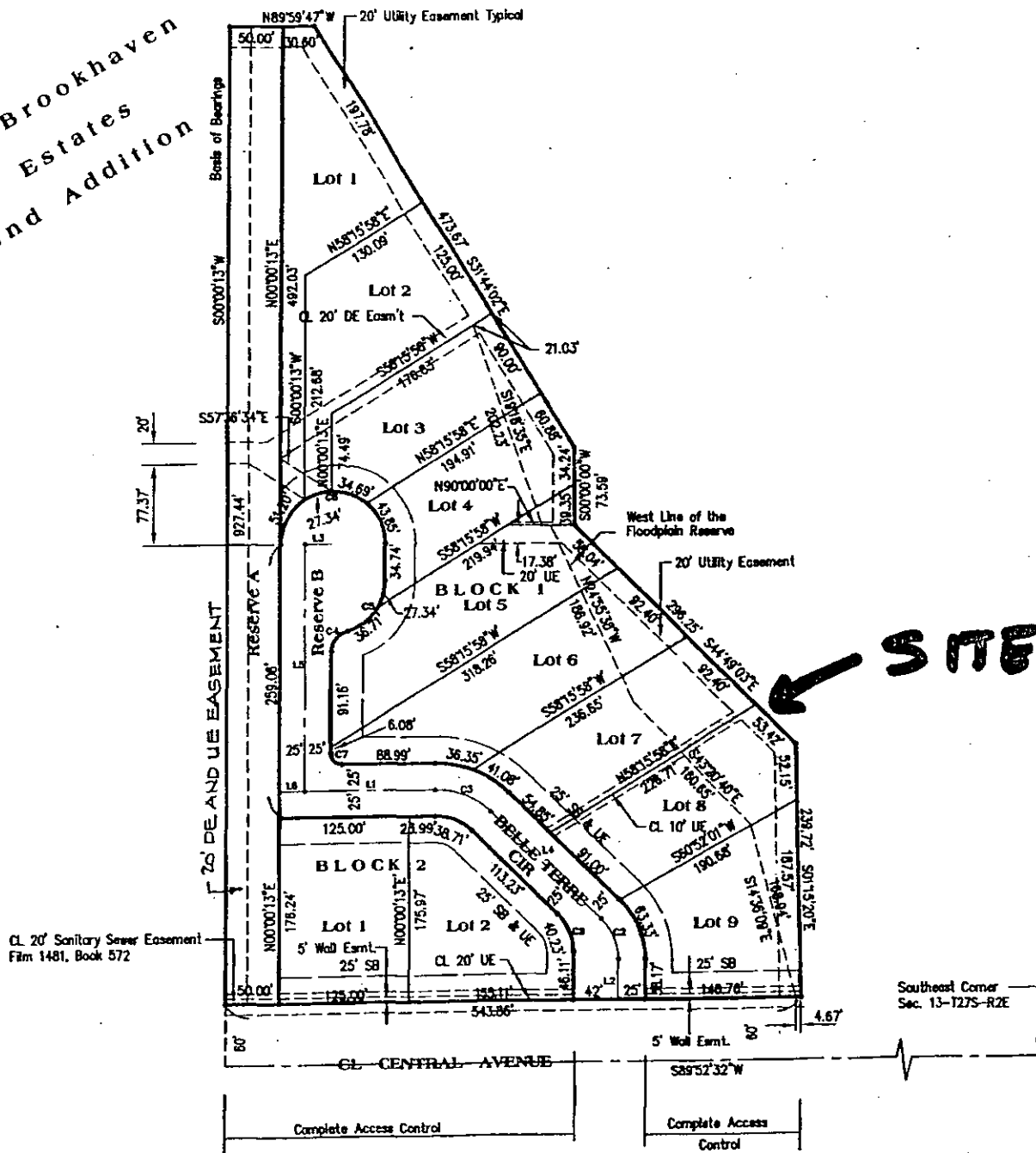
- (1) Vacate only that portion of the platted utility easement as described in an approved legal description. Provide Planning Staff the approved legal description of the vacated portion of platted utility easement, via e-mail on a Word document.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (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 that portion of the platted utility easement as described in an approved legal description. 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.
- (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.

Brookhaven
Estates
2nd Addition



SITE →

Southeast Corner
Sec. 13-1275-R2E



POE & ASSOCIATES, INC.
CONSULTING ENGINEER
5940 E. Central, Suite 200 • Wichita, KS 67208-42
Phone 316/685-4114 • FAX 316/685-4444

VAC 2008-37

PC 206-7