



Wichita-Sedgwick County Metropolitan Area Planning Department

October 4, 2022

MKEC Engineering, Inc.
Attn: Brian Lindebak
411 N. Webb Rd
Wichita, KS 67206

Ref: VAC2021-00056: Request in the City to vacate a platted utility easement on LC Limited Commercial zoned property generally located on the southeast corner of South Rock Road and West Douglas Avenue.

Brian,

At its regular meeting on **Tuesday, September 27, 2022**, the Wichita City Council considered the above-referenced 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 268-4421.

Sincerely,

A handwritten signature in blue ink, appearing to read 'E. Ebach-Freund'.

Eryn Ebach-Freund
Associate Planner

EE:kw

cc: QuikTrip West Inc & Quik Trip Corp, Jake Barron, 4705 South 129th East Ave., Tulsa OK 74134-7008
Jack Pearce Inc., Sharyl Pearce, 8202 E Bridlewood St, Wichita KS 67206-4418
QuikTrip West Inc., PO Box 3475, Tulsa OK 74101



FILE COPY

Wichita-Sedgwick County Metropolitan Area Planning Department

February 8, 2022

MKEC Engineering, Inc.
Attn: Brian Lindebak
411 N. Webb Rd
Wichita, KS 67206

Ref: VAC2021-00056: Request in the City to vacate a platted utility easement on LC Limited Commercial zoned property generally located on the southeast corner of South Rock Road and West Douglas Avenue.

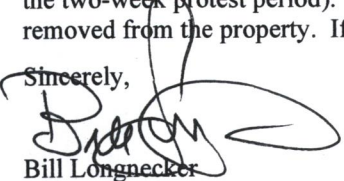
Brian,

At the Thursday, February 3, 2022, meeting of the Metropolitan Area Planning Commission (MAPC), the above-referenced vacation request was **approved** subject to the following conditions:

- (1) Provide Planning with an approved legal description of the vacated portion of the platted 20-foot sewer on a Word document that can be copied and used on the Vacation Order.
- (2) Dedicate a 20-foot wide sewer easement by separate instrument, with original signatures. This must be provided to Planning prior to the case going to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (3) Provide Public Works with a project plan for relocation of the sewer line for review and approval. Relocation of the sewer line will be the responsibility and at the expense of the applicant and to City standards. The approved project number must be provided to Planning prior to the case goes to City Council for final approval.
- (4) As needed provide all utilities with any needed project plans and easements for the relocation of utilities for review and approval. Any relocation/reconstruction of utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number(s) or public easements to Planning prior to the case going to City Council for final action.
- (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.

When all of the above conditions have been completed and there are no other documents requested; this case will be scheduled for final action by the Wichita City Council at the first appropriate date after **February 17, 2022** (end of the two-week protest period). This letter also serves as a reminder that the vacation notification signs should now be removed from the property. If you have any questions concerning this case, please contact our office at 268-4421.

Sincerely,


Bill Longnecker
Senior Planner

WL:kw

cc: QuikTrip West Inc & Quik Trip Corp, Jake Barron, 4705 South 129th East Ave., Tulsa OK 74134-7008
Jack Pearce Inc., Sharyl Pearce, 8202 E Bridlewood St, Wichita KS 67206-4418
QuikTrip West Inc., PO Box 3475, Tulsa OK 74101



Sedgwick County
 Register of Deeds - Tonya Buckingham
 Doc.#/Flm-Pg: 30195708
 Receipt #: 2347658
 Pages Recorded: 3
 Recording Fee: \$0.00
 Cashier: BFlowers
 Authorized By: Tonya Buckingham
 Date Recorded: 09/30/2022 04:07:37 PM

**BEFORE THE CITY COUNCIL OF THE
 CITY OF WICHITA, SEDGWICK COUNTY, KANSAS**

**IN THE MATTER OF THE VACATION OF PORTIONS)
 OF PLATTED UTILITY EASEMENTS)**

**GENERALLY LOCATED ON THE SOUTHEAST CORNER)
 OF EAST DOUGLAS AVENUE AND SOUTH ROCK ROAD)**

VAC2021-00056

MORE FULLY DESCRIBED BELOW

VACATION ORDER

NOW on this 27th day of September, 2022, comes on for hearing the petition for vacation filed by Quick Trip West, c/o Jake Barron (owners) praying for the vacation of portions of platted utility easements, to wit:

All of the platted 10-foot Utility Easement on the east line of Lot 1 and all of the platted Easement on the east line of Lot 2, Champlin Addition, to Wichita, Kansas, comprising all platted 10-foot Utility Easements in said addition,

TOGETHER WITH,

That portion of a platted 20-foot Utility Easement lying within Lots 6 and 9, Bonnie Brae Second Addition, to Wichita, Kansas, said portion of said easement being more particularly described as follows:

BEGINNING at the southeast corner of said Lot 6, thence along the south line of said Lot 6, on a Kansas coordinate system of 1983 south zone grid bearing of S89°14'10"W, 21.79 feet; thence S00°57'52"E, 10.00 feet to the south line of said platted 20-foot utility easement; thence along the perimeter of said platted 20-foot utility easement for the next two courses, S89°14'10"W, 85.00 feet; thence S00°57'51"E, 129.96 feet; thence S89°12'07"W, 10.00 feet to the southeast corner of


September 27, 2022
 VAC2021-00056

Lot 2, Champlin Addition, to Wichita, Kansas thence along the west line of said Lot 9, N00°57'51"W, 140 feet to the north line of said Lot 9; thence along said north line, N89°14'10"E, 24.83 feet to the southeast corner of said Lot 1, Champlin Addition; thence along the east line of said Lot 1, N00°54'43"W, 10.00 feet to the north line of said 20-foot Utility Easement; thence along said north line of said Easement, N89°14'10"E, 91.98 feet to the east line of said Lot 6; thence along said east line, S00°50'10"E, 10.00 feet to the POINT OF BEGINNING. CONTAINING: 4,918 square feet or 0.11 acre of land more or less.

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:

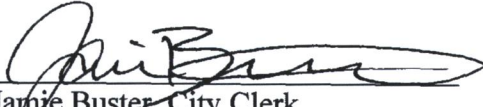
1. That due and legal notice has been given by publication, as required by law, in The Wichita Eagle on January 13, 2022, which was at least 20 days prior to the public hearing.
2. No private rights will be injured or endangered by the vacation of the described portions of the platted utility easements and the public will suffer no loss or inconvenience thereby.
3. Dedications of a Temporary Utility Easement and a Utility Easement will be recorded with this Vacation Order at the Sedgwick County Register of Deeds.
4. An approved Encroachment Agreement has been recorded on August 31, 2022 at the Sedgwick County Register of Deeds; Doc.#Flm-Pg: 30189353.
5. In justice to the petitioner(s), the prayer of the petition ought to be granted.
6. 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.
7. The vacation of the described portions of the platted utility easements should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 27th day of September, 2022, ordered that the above-described portions of platted utility easements are hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall send this original Vacation Order, a Temporary Utility Easement, and a Utility Easement to the Register of Deeds of Sedgwick County for recording.



Brandon J. Whipple, Mayor, City of
Wichita

ATTEST:


Jamie Buster, City Clerk



Approved as to Form:


Jennifer Magana, City Attorney and Director of Law

September 27, 2022
VAC2021-00056



ENCROACHMENT AGREEMENT

EA 2022- 0006

THIS ENCROACHMENT AGREEMENT, made this 25 day of August, 2022, by and between Jack Pearce, Inc., a Kansas corporation party of the first part (hereinafter referred to as "Owner") and the City of Wichita, party of the second part (hereinafter referred to as "City").

WITNESSETH:

WHEREAS, the public has been or will be granted easements within the boundary (see of attached Exhibit A), either by virtue of the plat or separate instrument (hereinafter referred to as "Easements"); and

WHEREAS, Owner desires or may desire to construct private improvements within said Easements (hereinafter referred to as "Improvements");

NOW THEREFORE, in consideration of the premises and the several mutual and reciprocal promises of the parties, it is agreed as follows:

- (1) City hereby agrees to allow Owner to construct Improvements without footings within said Easements limited to pavement, concrete slabs, pavers and landscaping including irrigation systems and berms, and trash enclosures (non-structural fence only), provided that no Improvement shall cause a waterline within Easements to be buried in excess of seven feet, nor cause an existing manhole to be deeper than allowed by its diameter per City Specifications;

And to construct Improvements with footings within said Easements limited to light poles (including electrical conduit, perpendicular to easement, directly to light pole), signs and non-structural fenceposts, provided that a minimum of five horizontal feet of clear space is maintained between all said footings and the outside of the nearest utility pipe when measured horizontally. Masonry walls may cross Easements provided all footings are outside the Easements.

Any manholes, valves, meters and/or fire hydrants buried by Improvements shall be adjusted to grade at the expense of Owner with engineered plans approved by the City Engineer. No Improvements may obstruct surface drainage.

Improvements other than indicated in this Agreement require a separate Use of Easement permit as per Title 10 of the City Code including the annual usage fee and insurance requirement.

- (2) Owner covenants and agrees that it will not begin construction of any Improvements with footings, trash enclosures, or berms without first submitting an **Encroachment Exhibit** including plan, profile, footing detail and specifications for such Improvements to the City Engineer for approval by the City Engineer and all franchised utilities. An **Encroachment Exhibit Submittal Form** shall accompany the Exhibit. The City Engineer and franchised utilities reserve the right to require adjustments to locations of Improvements. Owner further covenants and agrees that City, its successors and assigns, shall have no responsibility or obligation for the maintenance or repair of any Improvements, with or without footings. In the event that the Improvements are in need of repair, **Owner shall be responsible for the cost of any maintenance, reconstruction, and/or repair of any Improvements including pavement.** An Encroachment Exhibit shall be submitted to the City Engineer's Office for each encroachment instance.
- (3) In the event that any utility permitted within Easements is planned for construction or requires repair and/or maintenance and the same construction or repair is determined by the City Engineer to be impossible or impractical due to the presence of Improvements, Owner shall be obligated to (a) allow City to damage or remove by the best practices of the construction industry, any Improvements within said Easements; (b) remove Improvements and clear Easements; or (c) pay the costs of tunneling under Improvements to allow for construction, repair and/or maintenance of the permitted utility. After being notified by City of the planned repair, maintenance or construction, Owner shall have fifteen (15) days to notify City of its option. If removal of the structure is selected, then Owner shall have 30 days from the date in which the Owner communicated its selection to the City to complete the removal of said Improvements. If Owner fails to remove Improvements or agree to pay the costs of tunneling under Improvements within thirty (30) days, City may remove or damage any Improvements within Easements, with Owner being responsible to pay the costs to remove and replace that portion of Improvements within Easements. The time to select an option or remove Improvements may be extended by City in writing. City is not obligated to repair or replace Improvements.
- (4) In the event of an emergency or situation in which extensive notice is not feasible, that requires a repair and/or maintenance of any permitted utility within Easements, and the same repair and/or maintenance is determined by the City Engineer to be impossible or impractical due to the presence of Improvements, City may damage or remove by the best practices of the construction industry, Improvements within Easements, with the Owner being responsible to pay the costs to remove that portion of Improvements within Easements. City is not obligated to repair or replace Improvements including pavement.
- (5) Owner agrees to protect and indemnify City and adjacent property owners against any increased cost related to new extensions for future development or service connections that may accrue to them due to the necessity of construction of greater distance to avoid conflicts with any Improvements that may be built within Easements. In the event Owner fails to provide such indemnification, Owner agrees that City may charge any cost incurred by the greater distance against the property of Owner.
- (6) Owner agrees to indemnify and hold harmless City from any and all claims for personal injury and/or property damage resulting from the leaking, cave-in or failure of that portion of said utility within Easements for which injury and/or damage is caused by the presence of Improvements. Owner hereby releases City from any and all claims that it might have for property damage caused by work performed by City, or its employees, agents and

contractors, in connection with the inspection, repair and/or maintenance of the Easements.

- (7) **Owner agrees to pay the current Easement Use Permit application fee** per Title 10 of Municipal Code for Improvements with footings and trash enclosures for each Encroachment Exhibit submitted. There will be no recurring annual fee or insurance requirements for the encroachments allowed by this Agreement.
- (8) The provisions contained herein are to be construed as covenants running with the land and may be enforced against any titleholder of the within described premises, so long as Improvements contemplated by this agreement are in existence.
- (9) This document creates a temporary, non-exclusive interest in real property and is not a construction contract governed by K.S.A. 16-121 as amended.

IN WITNESS WHEREOF: The parties hereto have caused these presents to be executed in their names the day and year set forth above.

**Jack Pearce, Inc.,
a Kansas corporation**

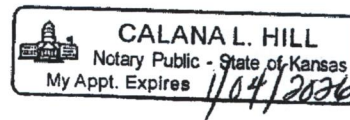
By: Sharyl Pearce - President
Sharyl Pearce, President

STATE OF KANSAS, SEDGWICK COUNTY, ss:

BE IT REMEMBERED, that on this 25 day of August, 2022, before me, a Notary Public, in and for said county and state aforesaid, came Sharyl Pearce, President, Jack Pearce, Inc., a Kansas corporation to me personally known to be the same person(s) who executed the within and foregoing instrument and duly acknowledged the execution of the same as the authorized act and deed of the company.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, the day and year last written.

Calana L. Hill
Notary Public
My Appointment Expires: 1/04/2026

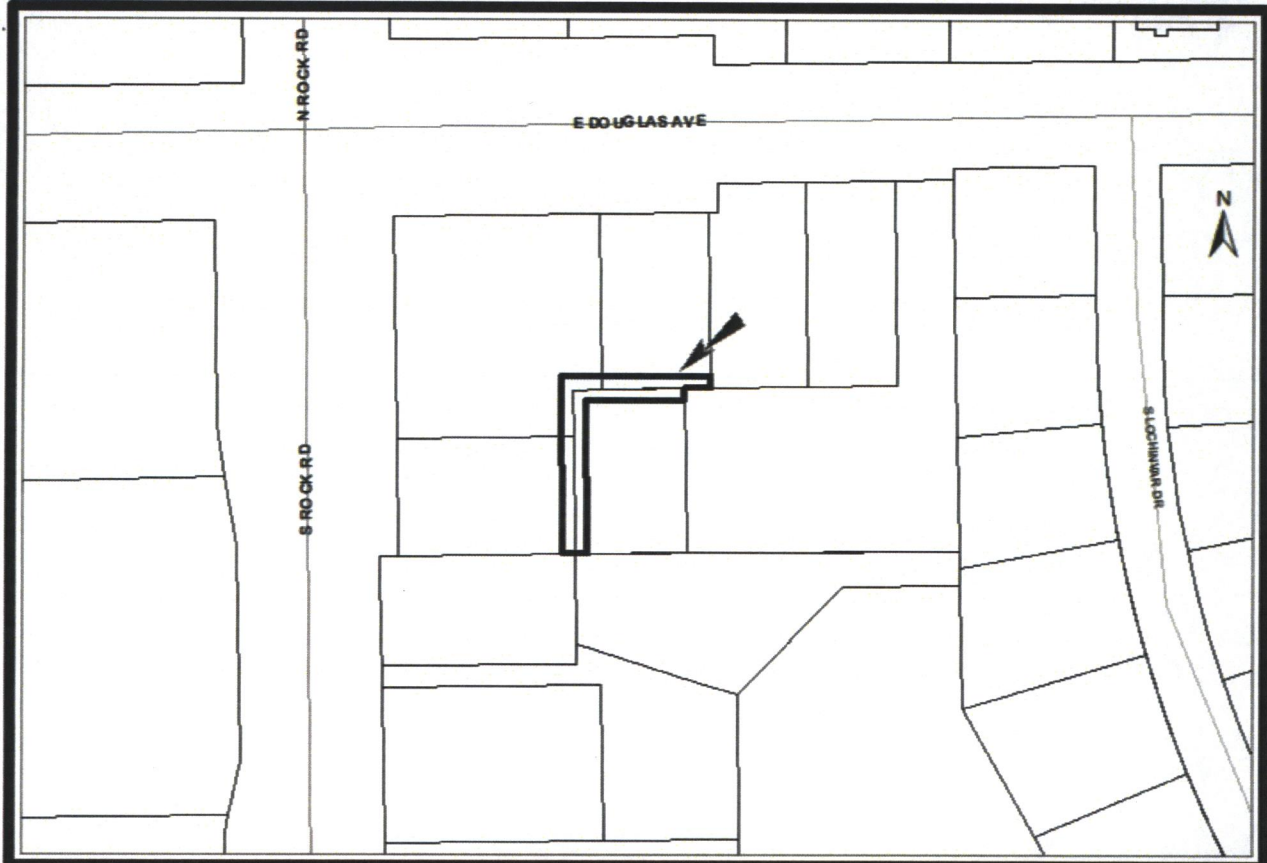


CITY ENGINEER

FOR Matt Schaefer 8/26/22
Gary Janzen, P.E.

STAFF REPORT

- CASE NUMBER:** VAC2021-00056 – Request in the City to vacate portions of platted utility easements
- APPLICANTS:** Quick Trip West, c/o Jake Barron (applicant/owner) MKEC Engineering, Inc., c/o Brian Lindebak (agent)
- LEGAL DESCRIPTION:** Generally described as vacating the platted 10 foot wide utility easement located along the east, rear, lot line of Lot 2 & all of the platted 10-foot wide utility easement located along an east portion and southeast portion of the lot line of Lot 1, all in the Champlin Addition. Vacating the east 10 feet of the platted 20-foot wide utility easement located on a west and southwest portion of Lot 9 & the north 10feet of the platted 20-foot wide utility easement located along a south portion of Lot 6, all in the Bonnie Brae Second Addition, all in Wichita, Sedgwick County, Kansas
- LOCATION:** Generally located on the southeast corner of East Douglas Avenue and South Rock Road (District II)
- REASON FOR REQUEST:** Redevelopment of the site
- CURRENT ZONING:** The subject site and all abutting and adjacent properties are zoned LC Limited Commercial
- VICINITY MAP:**



The applicant proposes to vacate south – north and west – east, upside down L shaped platted utility easements on the LC Limited Commercial zoned subject site; see attached legal description. The LC zoned subject site is currently developed with a Quick Trip Convenience Store (built 1992). The applicant proposes to redevelop the subject site with a larger, newer generation Quick Trip. The subject site is located on the southeast corner of East Douglas Avenue and South Rock Road. The subject site consists of Lots 6 and 9, Bonnie Brae Second Addition and Lots 1 and 2, Champlin Addition. The Bonnie Brae Second Addition was recorded December 3, 1969. The Champlin Addition was recorded August 4, 1970.

The subject easements abut each other as located on the abutting Lots 1 and 2, Champlin Addition and Lots 6 and 9, Bonnie Brae Second Addition, making a 20-foot wide utility easement with the center line being the common lot lines. Those easements extend south and east of the proposed vacation. There is a sewer line located in the subject easements that extends south and east out of the subject easements. The applicant proposes to reroute the sewer line and dedicate easement to cover it. Public Works will need to approve the plans to reroute sewer. Current Subdivision standards for the width of a sewer easement is 20 feet. There is no Public Water or Storm Water lines or equipment located in the subject easements.

Evergy and Cox have equipment in the area of the easements that serve multiple customers to the south and the east. The applicant will need to contact Abby Brungardt, Evergy Design Representative at 316-508-2715 or Shane Price Evergy Design Supervisor at 316-261-6315 for this request. The applicant and these utilities are working on plans to relocate those utilizes. Provide approved projects to Planning prior to proceeding to City Council for final action. Conditions #2, #3, #4 and #5 cover all utilities. Vehicular traffic, pedestrian traffic and public safety will not be impacted by this vacation request.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from Public Works, Storm Water, Water and Sewer, Traffic, Fire, 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 portion of the south – north and west – east, 20-foot wide platted utility easements.

- 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, of notice of this vacation proceeding one-time January 13, 2022, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described portions of the platted utility easements, and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

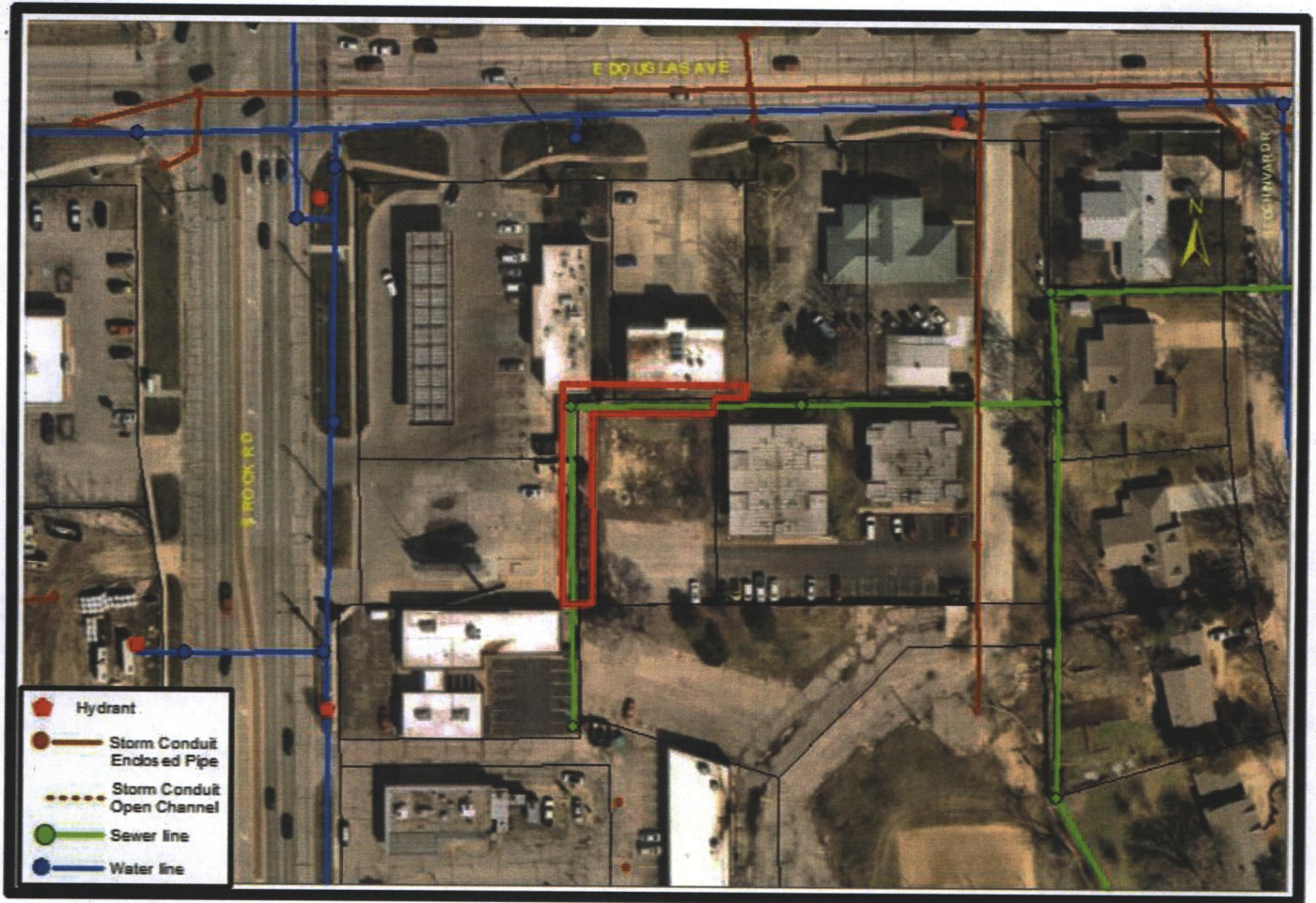
- (1) Provide Planning with an approved legal description of the vacated portion of the platted 20-foot sewer on a Word document that can be copied and used on the Vacation Order.
- (2) Dedicate a 20-foot wide sewer easement by separate instrument, with original signatures. This must be provided to Planning prior to the case going to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (3) Provide Public Works with a project plan for relocation of the sewer line for review and approval. Relocation of the sewer line will be the responsibility and at the expense of the applicant and to City standards. The approved project number must be provided to Planning prior to the case goes to City Council for final approval.

- (4) As needed provide all utilities with any needed project plans and easements for the relocation of utilities for review and approval. Any relocation/reconstruction of utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number(s) or public easements to Planning prior to the case going to City Council for final action.
- (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.

Attachments:

- Aerial showing water, sewer, storm water & location of proposed vacated utility easement
- Agent's exhibits of the Bonnie Brae Second Addition's & the Champlin Addition's vacated easements
- Legal description
- Site Plan
- Utility plan

VAC2021-00056 – Request in the City to vacate portions of platted utility easements on LC Limited Commercial zoned property generally located on the southeast corner of East Douglas Avenue & South Rock Road (District II)
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CHAMPLIN ADDITION

TO WICHITA, KANSAS

That all lots by this plat be and Champlin Addition Company, a corporation by W.E. Shagnessell and S.E. Thompson have caused the land described in the foregoing plat to be platted into lots to be known as Lots 1 and 2 in the City of Wichita, Kansas, and that the same be subject to the construction and maintenance of all public utilities. All utility rights of access to or from said lots over and across the east line of Lot 1 and 2 and to or from Douglas Avenue and across the north line of Lot 1, to be hereby granted to the City of Wichita provided however that Lot 1 shall have access to Douglas Avenue at the north end of the west side of the same as that is shown by the City Engineer of the City of Wichita, Kansas, provided also that Lot 1 and the N. 1/2 of Lot 2 shall have access to said road at a point on all but the north corner of said Lot 1. The easements of Lot 2 shall have access to said road at any point, all points to be determined by the City Engineer of the City of Wichita, Kansas.

Champlin Addition Company
W.E. Shagnessell
 Access: S.E. Thompson Director

State of Kansas) S.E. of Champlin Addition Company, the
 Deponent hereby certifies and states as true
 and correct that the above plat is a true and correct
 copy of the plat as the same is on file in the
 office of the County Clerk of Sedgewick County,
 Kansas, and that the same is a true and correct
 copy of the plat as the same is on file in the
 office of the County Clerk of Sedgewick County,
 Kansas, and that the same is a true and correct
 copy of the plat as the same is on file in the
 office of the County Clerk of Sedgewick County,
 Kansas.

S.E. Shagnessell
 Chairman
W.E. Shagnessell
 Secretary

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S.E. Shagnessell
 Chairman
W.E. Shagnessell
 Secretary

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S.E. Shagnessell
 Chairman
W.E. Shagnessell
 Secretary

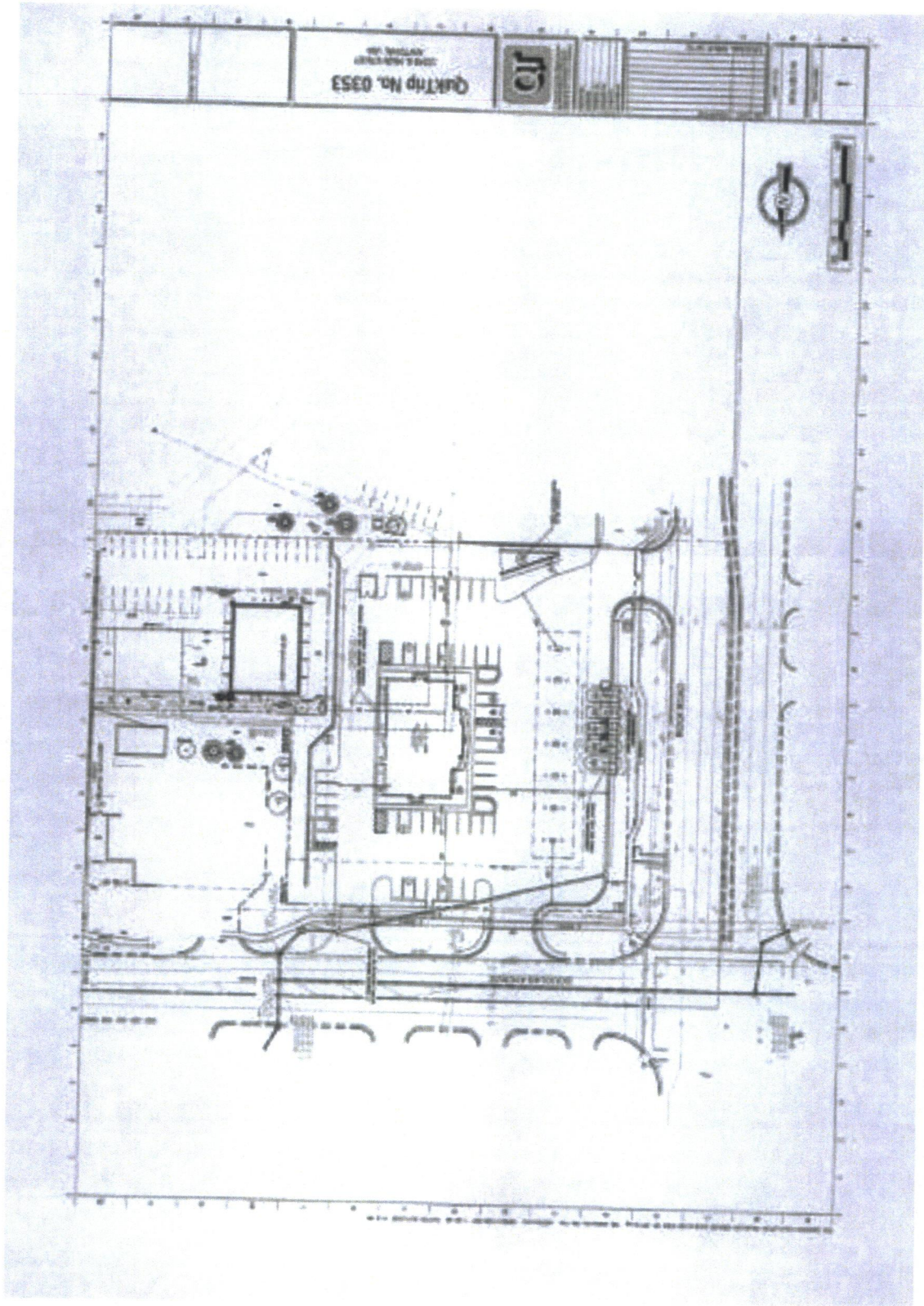
**DESCRIPTION OF
QuikTrip 353
VAC2021-000__**

All of the platted 10-foot utility easement on the east line of Lot 1 and all of the platted easement on the east line of Lot 2, Champlin Addition, to Wichita, Kansas, comprising all platted 10-foot utility easements in said addition.

TOGETHER WITH,

That portion of a platted 20-foot utility easement lying within Lots 6 and 9, Bonnie Brae Second Addition, to Wichita, Kansas, said portion of said easement being more particularly described as follow:

BEGINNING at the southeast corner of said Lot 6, thence along the south line of said Lot 6, on a Kansas coordinate system of 1983 south zone grid bearing of $S89^{\circ}14'10''W$, 21.79 feet; thence $S00^{\circ}57'52''E$, 10.00 feet to the south line of said platted 20-foot utility easement; thence along the perimeter of said platted 20-foot utility easement for the next two course $S89^{\circ}15'13''W$, 85.07 feet; thence $S00^{\circ}59'46''E$, 129.98 feet; thence $S89^{\circ}10'42''W$, 10.00 feet to the southwest corner of Lot 4, said Bonnie Brae Second Addition; thence along the west line of said Lot 9, $N00^{\circ}59'46''W$, 139.99 feet to the north line of said Lot 9; thence along said north line, $N89^{\circ}15'13''E$, 24.91 feet; thence $N00^{\circ}54'43''W$, 10.00 feet to the north line of said easement; thence along said north line of said easement, $N89^{\circ}15'13''E$, 91.97 feet to the east line of said Lot 6; thence along said west line, $S00^{\circ}50'10''E$, 10.00 feet to the **POINT OF BEGINNING**.



VAC2021-00056 – Request in the City to vacate portions of platted utility easements on LC Limited Commercial zoned property generally located on the southeast corner of East Douglas Avenue & South Rock Road (District II)
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