CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

April 7, 2010

Gorges Enterprises, LLC
3211 N. Webb Road
Wichita, KS, 67226

Re: **VAC2006-00033** - Request to vacate a portion of platted right-of-way, generally located north of K-96 and west of the Webb Road – 31st Street North/Toben Street intersection.

Dear Ladies and Gentlemen

At its regular meeting on Tuesday, April 6, 2010, 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, Mailstop 1-71
Julianne Kallman, Public Works Engineering, Mailstop 1-71
Fountain Squares, LLC, 8110 E. 32nd Street North, Suite 150, Wichita, KS 67226
Poe & Associates, 5940 E. Central, Suite 200, Wichita, KS 67208
Kerry Gibson, Water & Sewer Mailstop 1-81

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

IN THE MATTER OF THE VACATION OF A PORTION OF PLATTED STREET RIGHT-OF-WAY	)	
GENERALLY LOCATED NORTH OF K-96, WEST OF THE WEBB ROAD TOBIN STREET/ 31ST STREET NORTH INTERESECTION	)	**Case No. VAC2006-00033**
MORE FULLY DESCRIBED BELOW	)	

VACATION ORDER

NOW on this 6th day of April, 2010, comes on for hearing the petition for vacation filed by the Christian A. Ablah, praying for the vacation of the following described portion of platted street right-of-way to-wit:

A portion of 31st Street North as platted in Mediterranean Plaza, an Addition to Wichita, Sedgwick County, Kansas described as follows: Commencing at the north corner of Lot 8, Block 3, in said Mediterranean Plaza an Addition; Thence north on the extended east line of said Lot 8 for a distance of 41 feet; Thence west parallel with the north line of said Lot 8 for a distance of 23 feet for a point of beginning, said point being 41 feet north of the north line of said Lot 8 and 23 feet west of the east line of said Lot 8; Thence south parallel to the east line of said lot 8 for a distance of 15 feet to a point, said point being 26 feet north of the north line of said Lot 8 and 23 feet west of the east line of said Lot 8; Thence west parallel to the north line of said Lot 8 for a distance of 50 feet to a point, said point being 26 feet north of the north line of said Lot 8 and 73 feet west of the east line of said Lot 8; Thence northwest on an angle to the right of 8°07'21" for a distance of 42.47 feet to a point, said point being 32 feet north of the north line of said Lot 8 and 115 feet west of the east line of said Lot 8; Thence north parallel to the east line of said Lot 8 for a distance of 9 feet to a point, said point being 41 feet north of the north line of said Lot 8 and 115 west of the east line of said

Lot 8; Thence east parallel to the north line of said Lot 8 for a distance of 92 feet to the point of beginning. Said tract contain 1,254 Square Feet 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, by publication in The Wichita Eagle on November 18, 2006 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 portion platted right-of-way to, described herein, and that the public will suffer no loss or inconvenience thereby.

3. Dedications by separate instruments of public street right-of-way, of setback, a restrictive covenant and a quit claim deed will be recorded with the Sedgwick County Register of Deeds.

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.

7. The vacation of the above-described portion of platted street right-of-way should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 6th day of April 2010, ordered that the above- described portion of platted street right-of-way is hereby vacated and amended as described. 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

METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 4-1
December 7, 2006

STAFF REPORT

CASE NUMBER: **VAC2006-00033** Request to vacate a portion of platted street right-of-ways (ROW)

APPLICANTS: Gorges Enterprises, LLC Fountain Square, LLC

AGENT: Poe & Associates, Inc, c/o Tim Austin

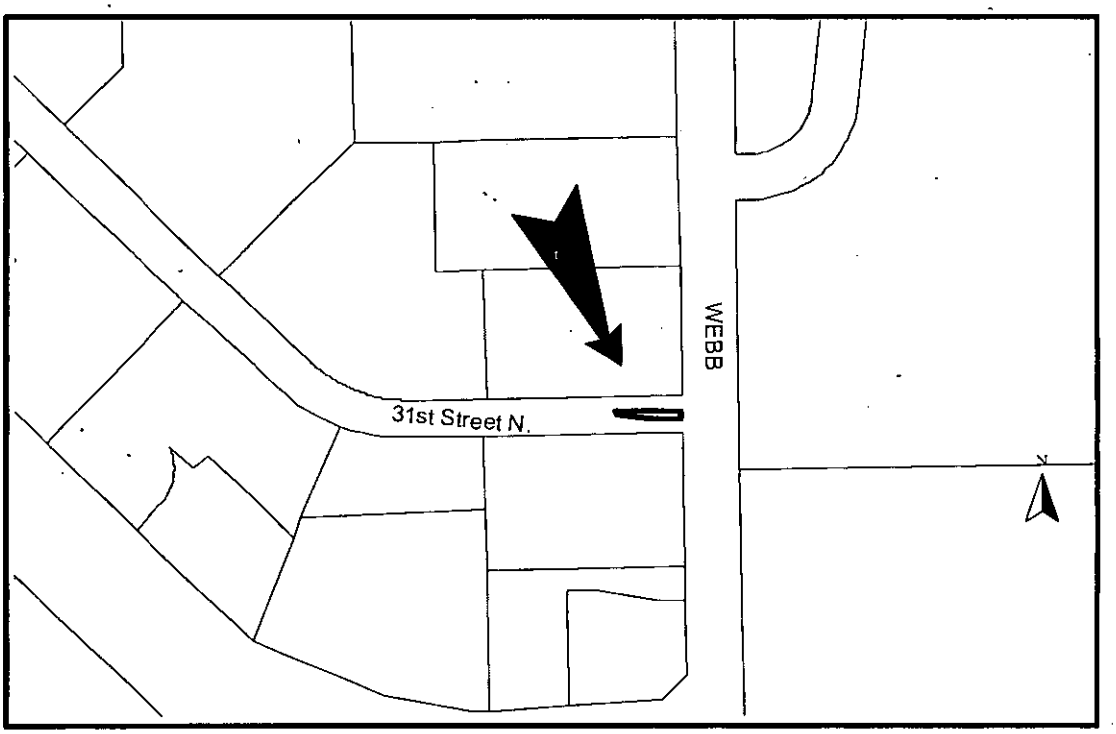
LEGAL DESCRIPTION: Generally described as the middle 15-feet – 9-feet (x) 92-feet of Toben Street, as recorded in the Mediterranean Plaza Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located north of K-96 and immediately west of the Webb Road – Toben Street /31st Street North intersection (WCC #II)

REASON FOR REQUEST: Proposed sign site

CURRENT ZONING: The site is platted public street right-of-way. All abutting and adjacent properties are zoned "LI" Limited Industrial.

VICINITY MAP:



The applicant proposes to vacate a portion of the platted Toben Street/31st Street North (Toben) ROW, which is generally located in the middle of Toben, immediately west of its intersection with Webb Road. The applicant proposes to use the vacated ROW for a sign site, which is associated with proposed PUD2006-00003. The proposed signs for the PUD (including the site created by the vacated ROW) would have to conform to the sign code's standards. That would include application of those standards of spacing between signs, the number of sign's allowed and the total square footage of area for signs along the PUD's Webb Road frontage, which the proposed vacated ROW/site would be part of. The applicant has proposed a dedication of additional/matching ROW to maintain Toben's current width. The applicant has also proposed a reconfigured entrance of Toben's ROW onto Webb Road, which must be approved by the Traffic Engineer. The proposed reconfigured ROW goes 0-feet – 15-feet deep into the north lot line of Lot 8, Block 3, Mediterranean Plaza Addition and its parallel platted 35-foot setback. There appears to be a water line in this portion of ROW, but no sewer line or manholes. Comments from Storm Water and franchised utilities have not been received and are needed to determine if they have utilities in the easement. The Mediterranean Plaza Addition was recorded with the Register of Deeds March 16, 1988.

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, the Traffic Engineer, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the platted street ROW, as described 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, of notice of this vacation proceeding one time November 16, 2006 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 platted street right-of-way 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 portion of the platted Toben Street ROW as described in the petition should be approved with conditions;

(1) The proposed signage of the associated PUD2006-00003 must be approved prior to vacation of the proposed portion of Toben Street. Approval of the request is contingent on approval of the PUD that will allow the signage necessitating this vacation request. If the PUD is denied then this vacation request is null and void.

(2) The proposed reconfiguration (the result of the proposed vacation of Toben) of Toben Street must be approved by the Traffic Engineer, including possible consideration for a sign being

located in the proposed vacated portion of Toben Street. If the proposed vacated ROW is not approved as a site for a sign for the associated PUD2006-00006, the Traffic Engineer may determine that the proposed vacation is not necessary. Provide Planning with a legal description of the approved vacated portion of the platted Toben Street ROW on a Word document via e-mail.

(3) Provide Planning with an original dedications by separate instrument additional ROW for Toben Street and Webb Road, as approved by the Traffic Engineer, to be recorded with the Register of Deeds with the Vacation Order.

(4) Provide Planning with an original dedication by separate instrument additional setback(s) to maintain the existing platted 35-foot on either side of Toben, to be recorded with the Register of Deeds with the Vacation Order.

(5) Provide Planning with an original Restrictive Covenant identifying and establishing the approved vacated portion of Toben ROW as "Reserve A", binding and tying it and its maintenance and repair to the associated approved PUD2006-00003, to be recorded with the Register of Deeds with the Vacation Order.

(6) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. If necessary retain any and all of the vacated ROW as a utility easement. If needed provide a guarantee for any relocation of a hydrant, water line and a storm water catch basin necessitated by the vacated ROW.

(7) All improvements shall be according to City Standards and at the applicant's expense. Provide a guarantee for the reconfigured Toben ROW and construction of "Reserve A" (see condition #5).

(8) Per MAPC Policy Statement #7,all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request 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) The proposed signage of the associated PUD2006-00003 must be approved prior to vacation of the proposed portion of Toben Street. Approval of the request is contingent on approval of the PUD that will allow the signage necessitating this vacation request. If the PUD is denied then this vacation request is null and void.

(2) The proposed reconfiguration (the result of the proposed vacation of Toben) of Toben Street must be approved by the Traffic Engineer, including possible consideration for a sign being located in the proposed vacated portion of Toben Street. If the proposed vacated ROW is not approved as a site for a sign for the associated PUD2006-00006, the Traffic Engineer may determine that the proposed vacation is not necessary. Provide Planning with a legal description of the approved vacated portion of the platted Toben Street ROW on a Word document via e-mail.

(3) Provide Planning with an original dedications by separate instrument additional ROW for Toben Street and Webb Road, as approved by the Traffic Engineer, to be recorded with the Register of Deeds with the Vacation Order.

(4) Provide Planning with an original dedication by separate instrument additional setback(s) to maintain the existing platted 35-foot on either side of Toben, to be recorded with the Register of Deeds with the Vacation Order.

(5) Provide Planning with an original Restrictive Covenant identifying and establishing the approved vacated portion of Toben ROW as "Reserve A", binding and tying it and its maintenance and repair to the associated approved PUD2006-00003, to be recorded with the Register of Deeds with the Vacation Order.

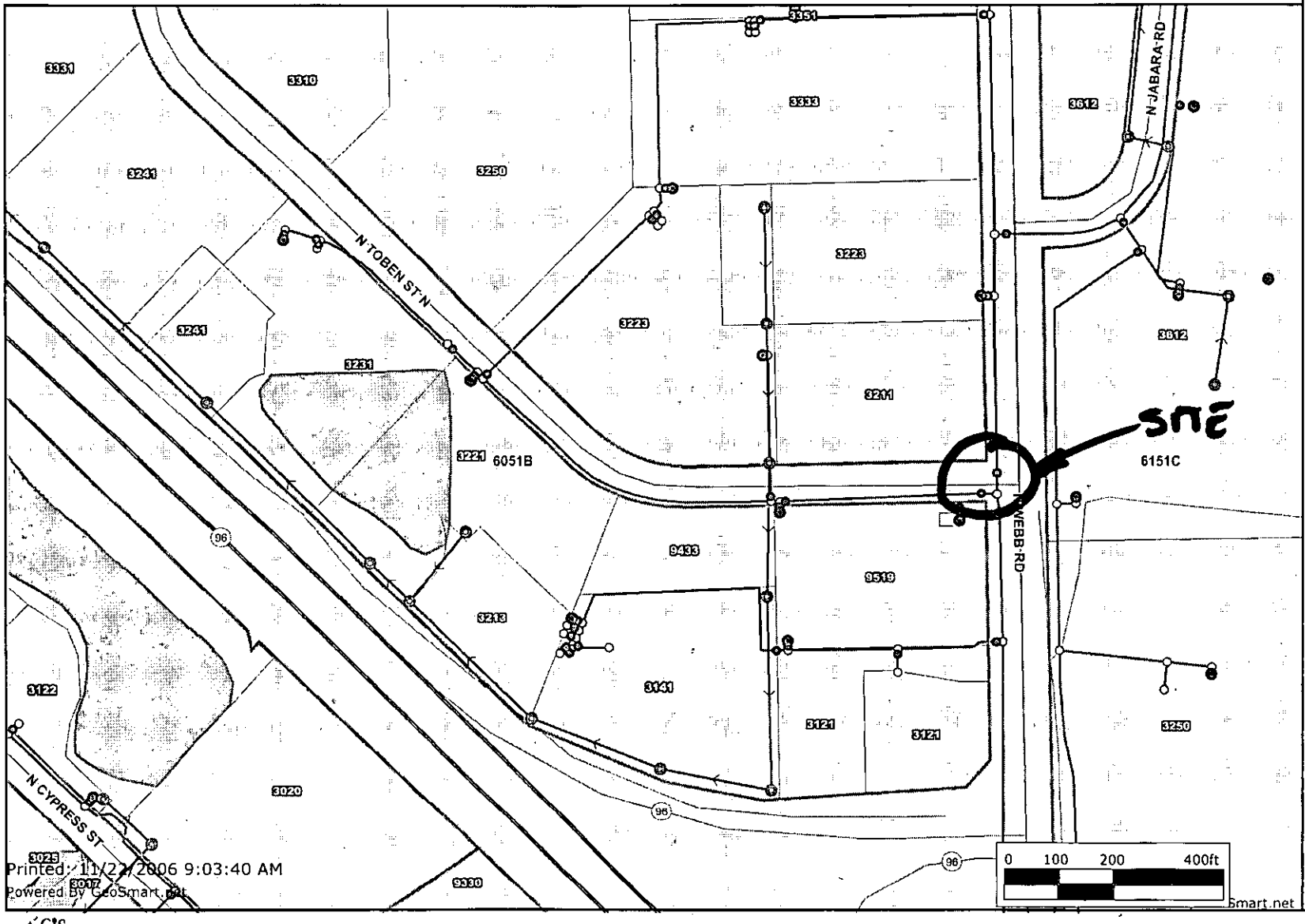
(6) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants. If necessary retain any and all of the vacated ROW as a utility easement. Provide a guarantee for any relocation of a water line and a storm water catch basin affected by the vacated ROW.

(7) All improvements shall be according to City Standards and at the applicant's expense. Provide a guarantee for the reconfigured Toben ROW and construction of "Reserve A" (see condition #5).

(8) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request 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

vac2006-33

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

Major Roads

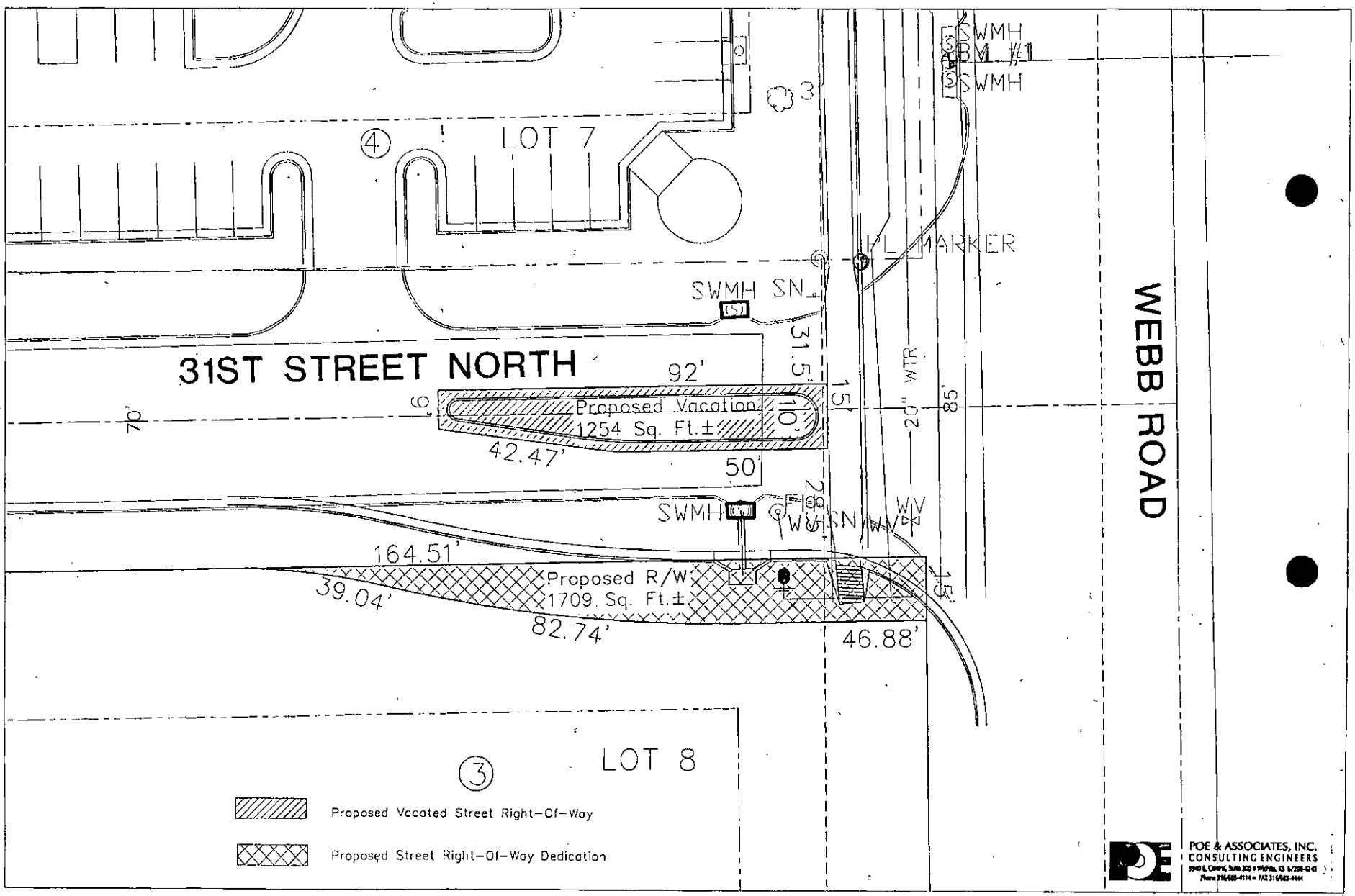
- State Highway
- US Federal Highway
- Interstate
- KTA
- Arterial
- Collector
- Ramp
- Roads
- Railroads
- Quarter Section
- Waterways
- Streams

City Limits

- Andale
- Bel Aire
- Bentley
- Cheney
- Clearwater
- Colwich
- Derby
- Eastborough

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VAC 2006 - 33


SWMH
BM #1
SWMH
LOT 7
④
PL MARKER
SWMH SN
31ST STREET NORTH
92'
31.5'
15'
10'
Proposed Vacation
1254 Sq. Ft.±
42.47'
50'
70'
6'
20" WTR
58'
WEBB ROAD
SWMH
SN
WV
164.51'
Proposed R/W
1709. Sq. Ft.±
39.04'
82.74'
46.88'
15'
LOT 8
③
Proposed Vacated Street Right-Of-Way
Proposed Street Right-Of-Way Dedication
POE & ASSOCIATES, INC.
CONSULTING ENGINEERS