January 9, 2009

Ozark Civil Engineering
Walmart Real Estate Business Trust
1008 NW J Street, Suite C
Bentonville, AR 72712

Re: **VAC2008-00020** - City request to vacate a platted setback, generally located west of Meridian Avenue on the north side of 53rd Street North.

Dear Ladies and Gentlemen:

At its regular meeting on Tuesday, January 6, 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
Walmart Stores, Mike Web, Real Estate Manager, 2001 S.E., 10th Street, Bentonville, Arkansas 7216-0550

Sedgwick County
Register of Deeds - Bill Meek
DOC.#/FLM-PG: 29030549
Receipt #: 1707417
Pages Recorded: 2
Cashier Initials: KL
Authorized By:
Recording Fee: ODH
Date Recorded: 1/9/2009 3:42:18 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 1-6-09 7-11

IN THE MATTER OF THE VACATION OF A PORTION OF A PLATTED SETBACK	)	
GENERALLY LOCATED WEST OF MERIDIAN AVENUE, ON THE NORTH SIDE OF 53RD STREET NORTH	)	**Case No. VAC2008-00020**
MORE FULLY DESCRIBED BELOW	)	

VACATION ORDER

NOW on this 6th day of January comes on for hearing the petition for vacation filed by Wal-Mart Stores, Inc., & McDonald's Real Estate Company, c/o Richard L. Dayton (agent; Ozark Engineering Inc.) praying for the vacation of the following described portions of the platted setbacks to wit:

The platted 15-foot interior side yard setbacks that runs parallel to Lots 2 and 3, Block 1, the Northgate Commercial Park 1st 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, in the Wichita Eagle and the Derby Reporter on July 3, 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 the platted setbacks, and the public will suffer no loss or inconvenience thereby.

3. A dedication by separate instrument for 15-foot interior side yard setbacks and a Boundary Shift will be recorded with the Sedgwick County Register of Deeds (Reference: Community Unit Plan DP-299).

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.

6. The vacation of the portions of the platted setbacks described herein should be approved.

IT IS, THEREFORE ORDERED, BY THE CITY COUNCIL, on this 6th day of January that the above described portions of the platted setbacks 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

State of Kansas)
Sedgwick County)
City of Wichita)

I, Karen Sublett City Clerk of the City of Wichita, Kansas, hereby certify that the document to which this is affixed is a true and correct copy of the original on file in the office of the City Clerk.

Given under my hand and seal of the City of Wichita, Kansas this 6th day of January, 2009

City Clerk

METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 3-2
July 24, 2008

STAFF REPORT

CASE NUMBER: **VAC2008-00020** Request to vacate a platted setback

APPLICANT/OWNER: Wal-Mart (owner) MacDonalds (agent/applicant)

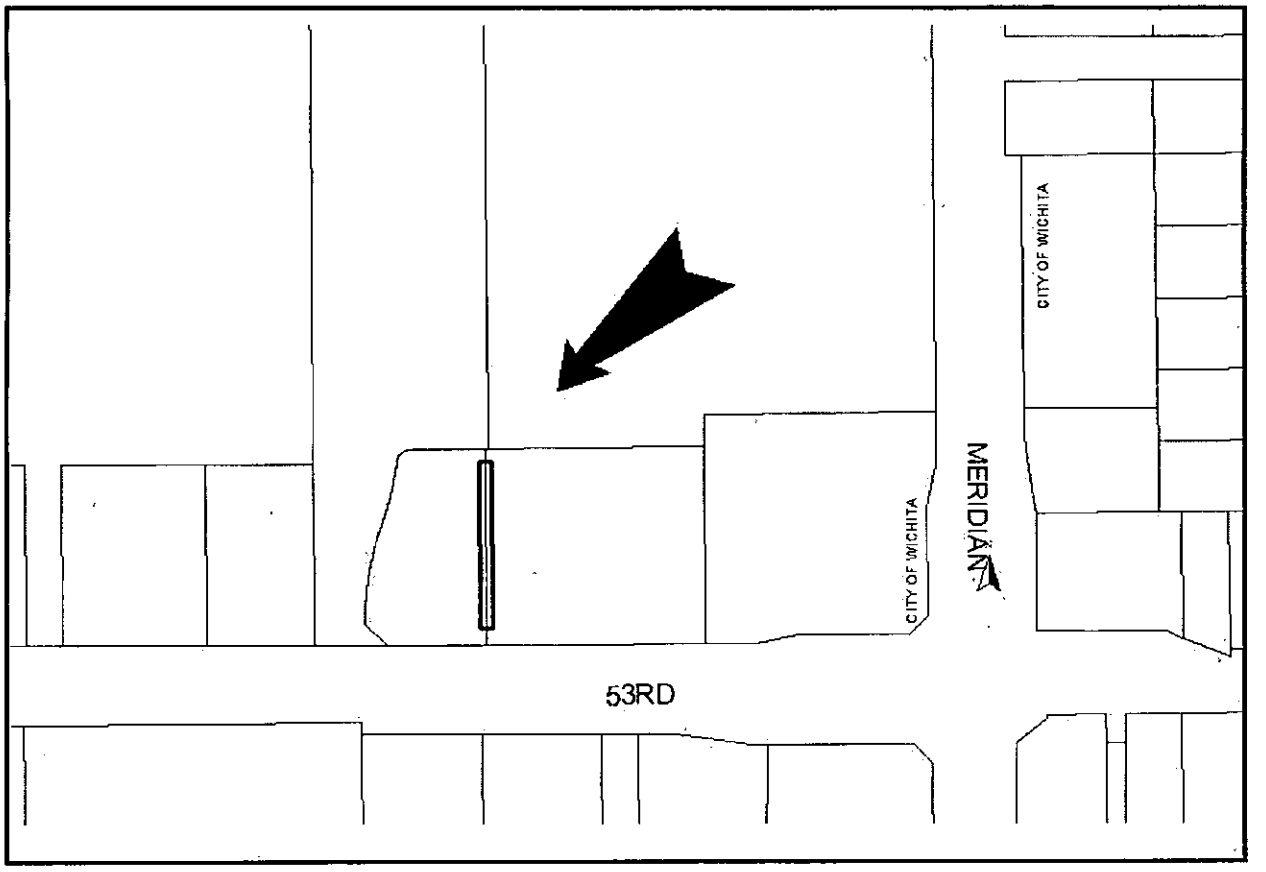
LEGAL DESCRIPTION: Generally described as the platted 15-foot interior side yard setbacks that runs parallel to Lots 2 and 3, Block 1, the Northgate Commercial Park 1st Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located west of Meridian Avenue, on the north side of 53rd Street North. (WCC #VI)

REASON FOR REQUEST: Boundary shift

CURRENT ZONING: The site and abutting northern and eastern properties are zoned LC Limited Commercial ("LC"). Adjacent southern (across 53rd Street North) properties are zoned GC General Commercial ("GC"). Abutting western properties are zoned SF-5 Single-family Residential ("SF-5").

VICINITY MAP:



The applicant proposes to vacate the platted 15-foot interior side yard setbacks that run parallel to the common lot line of Lots 2 and 3, Block 1, the Northgate Commercial Park 1st Addition. A Boundary Shift between the two described lots will establish a new common lot line; Lot 2 will become larger and Lot 3 smaller. The site is part of CUP DP-299 and the proposed Boundary Shift will trigger either an adjustment or an amendment to the CUP. There are no utilities, water or sewer in the proposed shifted common lot line. The Northgate Commercial Park 1st Addition was recorded with the Register of Deeds March 9, 2007.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works/Strom Water, franchised utility representatives and other interested parties, Planning Staff recommends approval of the vacation of the described platted interior side yard setbacks 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 and the Derby Reporter, of notice of this vacation proceeding one time July 3, 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 platted interior side yard setbacks 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 platted interior side yard setbacks described in the petition should be approved with conditions;

(1) Vacate the platted 15-foot interior side yard setbacks that run parallel to the common lot line of Lots 2 and 3, Block 1, the Northgate Commercial Park 1st Addition. Dedicate by separate instrument 15-foot interior side yard setbacks that will run parallel to the new common lot line of Lots 2 and 3, Block 1, the Northgate Commercial Park 1st Addition, as established by a recorded Boundary Shift. Provide the original dedication to Planning Staff to be sent with the Vacation Order to the City Council.

(2) Complete either an adjustment or an amendment to CUP DP-299 that reflects the proposed Boundary Shift and consequently the new square footage of the reconfigured lots/parcels. This must be completed prior to the vacation case going to Council for final action.

(3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.

(4) All improvements shall be according to City standards and at the applicant's expense.

(5) 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

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

(1) Vacate the platted 15-foot interior side yard setbacks that run parallel to the common lot line of Lots 2 and 3, Block 1, the Northgate Commercial Park 1st Addition. Dedicate by separate instrument 15-foot interior side yard setbacks that will run parallel to the new common lot line of Lots 2 and 3, Block 1, the Northgate Commercial Park 1st Addition, as established by a recorded Boundary Shift. Provide the original dedication to Planning Staff to be sent with the Vacation Order to the City Council.

(2) Complete either an adjustment or an amendment to CUP DP-299 that reflects the proposed Boundary Shift and consequently the new square footage of the reconfigured lots/parcels. This must be completed prior to the vacation case going to Council for final action.

(3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.

(4) All improvements shall be according to City standards and at the applicant's expense.

(5) 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

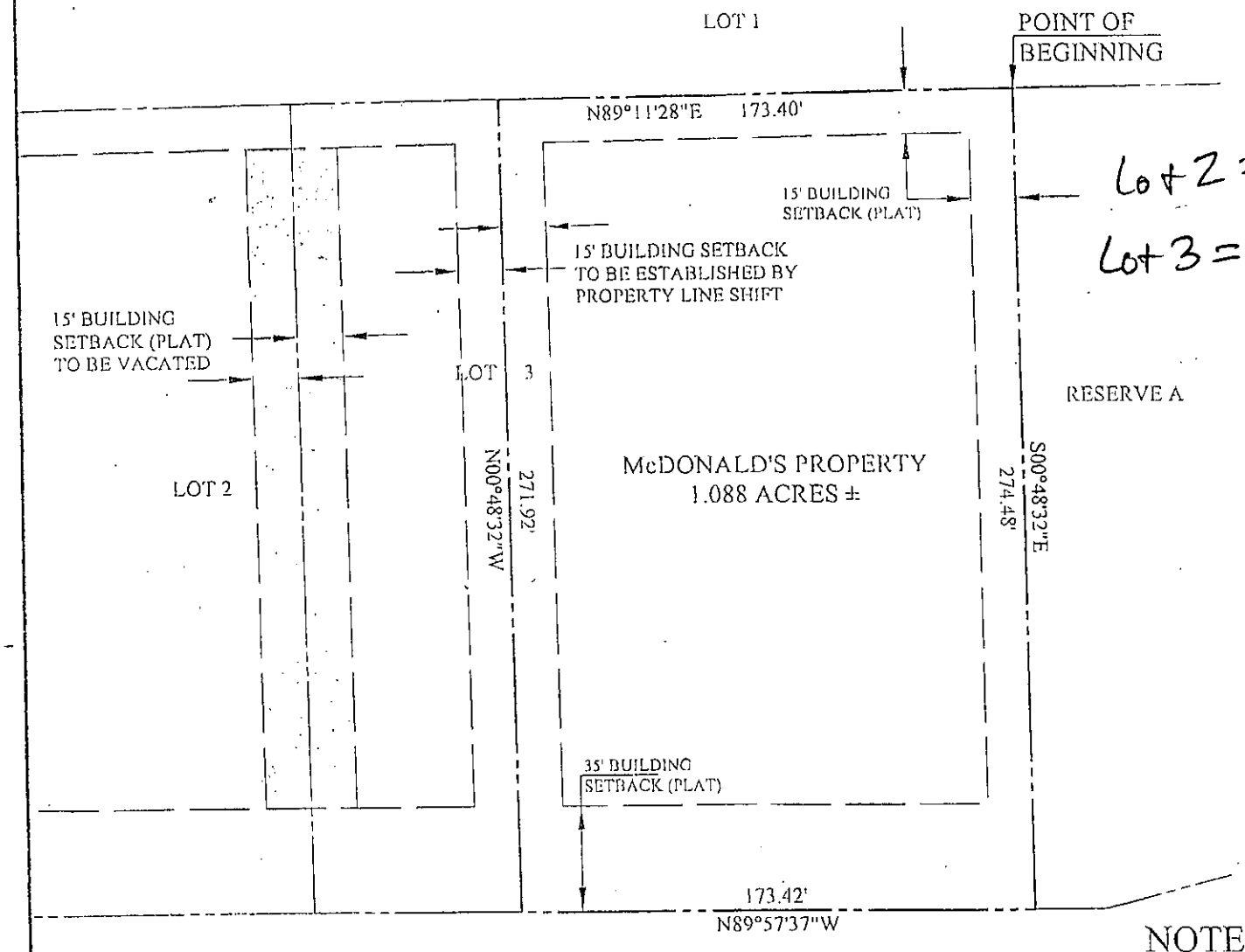
VAC2008-20

BUILDING SETBACK LINES TO BE VACATED

NOT TO SCALE



No new lots created ~~lot~~ boundary shifted
977
Lot 2 = 85,[illegible].92 SF
Lot 3 = 47,374 SF



RESERVE A

DESCRIPTION OF McDONALD'S PROPERTY:

Part of Lot 3, Block 1, Northgate Commercial Park 1st Addition, recorded on March 9, 2007, as Document No. 28863554 in the office of the Register of Deeds, Sedgwick County, Kansas, and further described as follows:
Beginning at the Northeast corner of said Lot 3; thence South 0°48'32" East, 274.48 feet along the East line of said Lot 3 to the Southeast corner thereof; thence North 89°57'37" West, 173.42 feet along the South line of said Lot 3; thence North 0°48'32" West, 271.92 feet to a point on the North line of said Lot 3; thence North 89°11'28" East, 173.40 feet along said North line of Lot 3 to the point of beginning.
Contains 1.088 acres of land, more or less.

NOTE:

THIS DRAWING IS NOT A BOUNDARY SURVEY AND SHOULD NOT BE CONSTRUED AS SUCH.

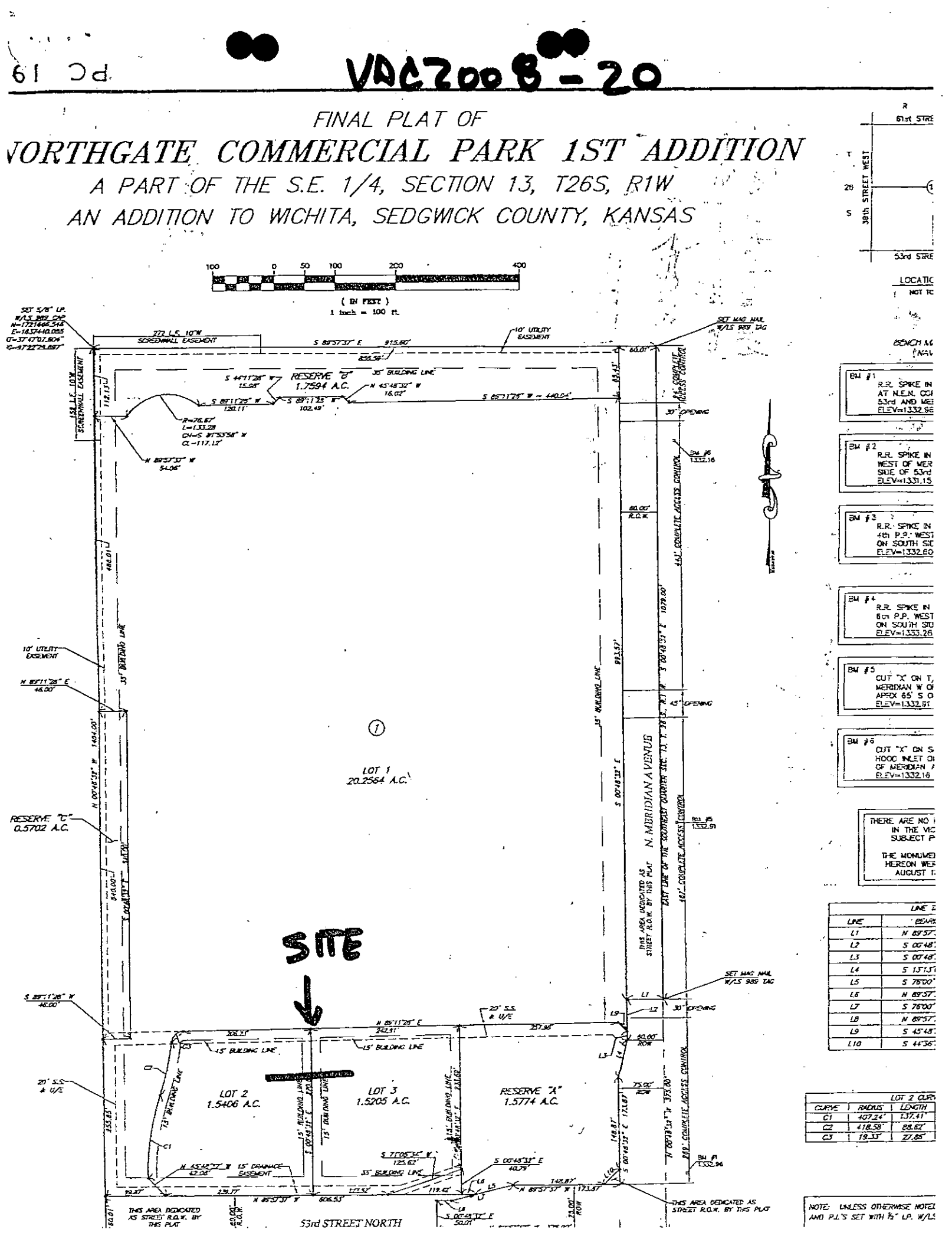
Ark Civil Engineering Inc.
Bentonville • Kansas City • Austin

SCALE: NOT TO SCALE	DATE: 7/9/08
DRAWN BY: RD	
CHECKED BY: BH	

61 Cd

VAC2008-20

FINAL PLAT OF
NORTHGATE COMMERCIAL PARK 1ST ADDITION
A PART OF THE S.E. 1/4, SECTION 13, T26S, R1W
AN ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS



BM #1 R.R. SPIKE IN AT N.E.N. CO 53rd AND ME ELEV=1332.9

BM #2 R.R. SPIKE IN WEST OF WE SIDE OF 53rd ELEV=1331.15

BM #3 R.R. SPIKE IN 4th P.P. WEST ON SOUTH SI ELEV=1332.60

BM #4 R.R. SPIKE IN 6th P.P. WEST ON SOUTH SI ELEV=1333.26

BM #5 CUT "X" ON T MERIDIAN W O APPX 65' S O ELEV=1332.91

BM #6 CUT "X" ON S HOOD INLET O OF MERIDIAN ELEV=1332.16

THERE ARE NO IN THE VI SUBJECT P

THE MONUME HEREON WE AUGUST 1

LINE	BEARI
L1	N 89°57'
L2	S 00°48'
L3	S 00°48'
L4	S 13°13'
L5	S 76°00'
L6	N 89°57'
L7	S 76°00'
L8	N 89°57'
L9	S 45°48'
L10	S 44°36'

CURVE	RADIUS	LENGTH
C1	407.24'	137.41'
C2	418.58'	88.62'
C3	19.35'	27.85'

NOTE: UNLESS OTHERWISE NOTED AND P.L.'S SET WITH ½" I.P. W/L.S.