

The applicant proposes to vacate all of the platted 35-foot street side yard setback located on the south side of the LI Limited Industrial zoned corner subject property. The platted setback runs parallel to East 49th Street South on the subject site's south side. This vacation request is associated with BZA2021-00049, a variance request to allow an increase in height of an off-site sign above elevated highway guardrail and mature trees and increase the height of the sign face. BZA2021-00049 was approved at the November 4, 2021 Wichita-Sedgwick County Zoning Board of Appeals (BZA) meeting.

The subject site is a south portion of Lot 1, Overholt Addition as described on the applicant's ownership list and as shown on the applicant's site plan. The Overholt Addition was recorded with the Register of Deeds September 20, 1967.

As shown on the applicant's site plan the subject site is a corner lot with 585.23-feet of frontage on East 49th Street South and 290-feet of frontage on South Victoria Street. The Unified Zoning Code (UZC) establishes a corner lot's front yard setback along its shorter street frontage, which in this case that is the South Victoria frontage; UZC.Sec.III, E.1.e.6. Per this definition the subject site's street side yard setback is located along its East 49th Street South frontage. As previously noted this is the setback the applicant proposes to vacate.

The LI zoning district provides a 20-foot front yard setback and zero rear, side and street side yard setbacks. As defined the LI zoned corner subject site's street side yard setback runs parallel to East 49th Street South which is allowed a zero setback that does not extend into the visibility site triangle at its East 49th Street South – South Victoria intersection.

Because VAC2021-00043 is associated with BZA2021-00049's request for placing an off-site sign on the subject site the reduction of the street sign yard setback to zero feet along all of its East 49th Street frontage could allow for more options for placement of that sign than what is shown on the applicant's site plan. Placement of the proposed off-site sign is critical as the ground elevation of the off-site sign is used to help determine its height in reference to its visibility above the adjacent elevated South Hydraulic Avenue – KTA I-35 overpass and a line of mature right-of-way (ROW) trees along the south side East 49th Street South. Staff recommends approval of vacating of the platted 35-foot street side yard setback located on the south side of the LI Limited Industrial zoned corner subject property and runs parallel to East 49th Street South on the subject site's south side and staying outside the vehicular visibility triangle. This recommendation is based on the conditions of approval of BZA2021-00048, which includes the requirement of having a Licensed Surveyor provide the ground elevations of the approved 55-foot-tall off-site sign as projected on the highest point of the guard rail of the South Hydraulic Avenue – KTA I-35 overpass, and the mature right-of-way trees located along the East 49th Street South right-of-way.

Public water, sewer and drainage appear to be located outside the platted setback in the South Victoria Street and East 49th Street South ROWs. Every has power poles and lines in the South Victoria Street and East 49th Street South ROWs. All utilities are covered by Conditions #2 and #3.

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 platted street side yard setback.

- 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 October 28, 2021, 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 street side yard setback and the street side yard setback established by Vacation Ordinance, 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) Vacate all of the platted 35-foot street side yard setback located on the south side of Lot1, Overholt Addition (owner's portion of said lot/subject site), running parallel to its East 49th Street South's frontage but out of the vehicular traffic visibility triangle. Provide Planning with the approved legal description on a Word document via E-mail for use on the Vacation Order. This must be completed prior to the case going to City Council for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Approval of plans for the relocation of any and all utilities by Public Works and/or franchised utilities must be completed prior to the case going to City Council for final action. Provide Planning with letters of approval or E-mails of approval of plans by those utilities. All improvements shall be according to City Standards and will be at the applicant's expense.
- (3) Provide Planning with any needed easements with original signatures to be recorded with the Vacation Order at the Register of Deeds. These documents must be provided to planning prior to the case going to City Council for final action
- (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 Sedgwick County Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following (but not limited to) conditions:

- (1) Vacate all of the platted 35-foot street side yard setback located on the south side of Lot1, Overholt Addition (owner's portion of said lot/subject site), running parallel to its East 49th Street South's frontage but out of the vehicular traffic visibility triangle. Provide Planning with the approved legal description on a Word document via E-mail for use on the Vacation Order. This must be completed prior to the case going to City Council for final action.
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- (3) Provide Planning with any needed easements with original signatures to be recorded with the Vacation Order at the Register of Deeds. These documents must be provided to planning prior to the case going to City Council for final action

VAC2021-00043 - City request to vacate a platted street side yard setback on LI Limited Industrial zoned property generally located south west of the South Hydraulic Avenue – East 47th Street South intersection on the northwest corner of East 49th Street South and South Victoria Street

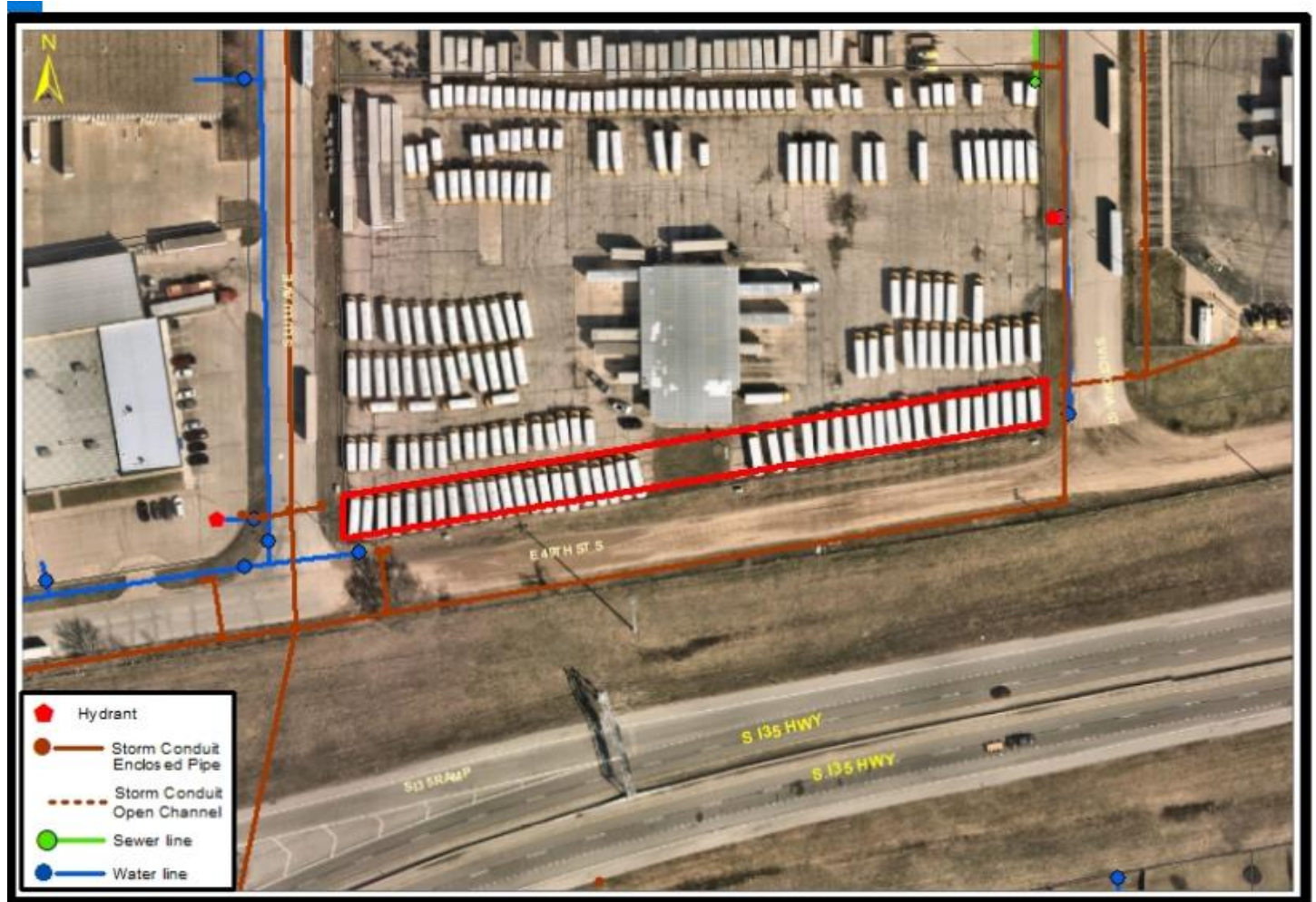
November 18, 2021

Page 4

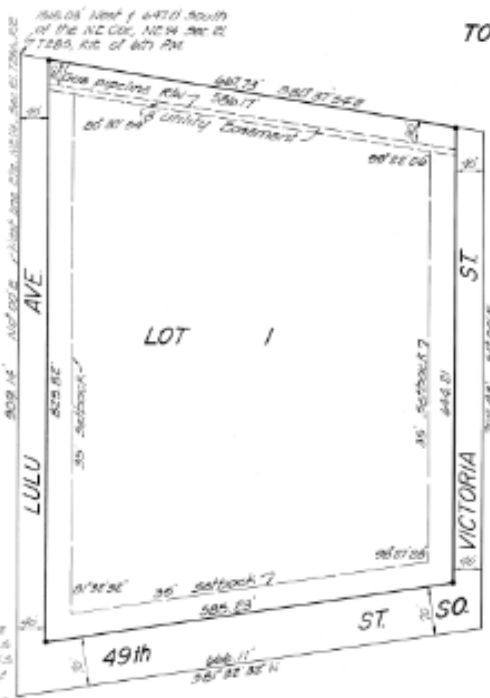
- (4) Per MAPC Policy Statement #7, all conditions shall be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken 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 Sedgwick County Register of Deeds.

Attachments:

- Aerial with water, sewer & storm water
- Plat
- Site plan
- Legal description as provided on ownership/notification list



**OVERHOLT ADDITION
 TO WICHITA SEDGWICK COUNTY KANSAS**



IN TESTIMONY WHEREOF I HAVE HEREUNTO SET MY HAND AND AFFIXED MY NOTARIAL SEAL THE DAY AND YEAR ABOVE WRITTEN.

Catherine L. Jenkins NOTARY PUBLIC
 STATE OF KANSAS EXPIRES: 7-30-27

THIS PLAT OF OVERHOLT ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS, HAS BEEN APPROVED BY THE WICHITA SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION, WICHITA, KANSAS, AND IS HEREBY TRANSMITTED TO THE BOARD OF COMMISSIONERS OF THE CITY OF WICHITA, KANSAS, WITH THE RECOMMENDATION THAT SAID PLAT BE APPROVED AS PROPOSED.
 DATED THIS 13th DAY OF July, 1997

THEODORE B. HILL Theodore B. Hill CHAIRMAN
 ROBERT A. LAKIN Robert A. Lakin SECRETARY

APPROVED BY THE BOARD OF CITY COMMISSIONERS BY 22nd DAY OF August, 1997.

CLARENCE E. VOLKNER Clarence E. Volkner MAYOR
 DONALD G. CROSBY Donald G. Crosby DEPUTY MAYOR

APPROVED BY THE BOARD OF COUNTY COMMISSIONERS THIS 12th DAY OF July, 1997.

FOR COUNTY: Tom Hoff COUNTY CLERK
 ELMER PETERS Elmer Peters COUNTY ATTORNEY
 EARL BUCH Earl B. Buch COUNTY ENGINEER

MARIO BARCOS Mario Barcos COUNTY DEPUTY CLERK
 I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD IN THE OFFICE OF THE REGISTER OF DEEDS OF SEDGWICK COUNTY, KANSAS, ON THIS 20th DAY OF September, 1997.

STATE OF KANSAS }
 COUNTY OF SEDGWICK } SS

WE, ELIZABETH V. DEKORF AND CONSTANCE K. BLOOD, COMMISSIONERS OF A PARCELS OF THE ABOVE DESCRIBED PROPERTY, DO HEREBY AGREE TO THE PLAT OF OVERHOLT ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS.

Elizabeth V. DeKorf Constance K. Blood
 ELIZABETH V. DEKORF CONSTANCE K. BLOOD

STATE OF KANSAS }
 COUNTY OF SEDGWICK } SS

IT IS REMEMBERED THAT ON THIS 20th DAY OF July, 1997, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, CAME ELIZABETH V. DEKORF AND CONSTANCE K. BLOOD, TO ME PERSONALLY KNOWN TO BE THE SAID PERSONS WHO EXECUTED THE FOREGOING INSTRUMENTS OF WRITING AND FULLY ACKNOWLEDGED THE EXECUTION OF SAME.

IN TESTIMONY WHEREOF I HAVE HEREUNTO SET MY HAND AND AFFIXED MY NOTARIAL SEAL THE DAY AND YEAR ABOVE WRITTEN.

Franklin Adams NOTARY PUBLIC
 STATE OF KANSAS EXPIRES: January 15, 1998

STATE OF KANSAS }
 COUNTY OF SEDGWICK } SS

THIS IS TO CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD IN THE REGISTER OF DEEDS OFFICE ON THIS 20th DAY OF September, 1997.
 AT 9:10 P.M. 9:10 P.M. 9:10 P.M. 9:10 P.M. 9:10 P.M.

DUANE E. BEEBING Duane E. Beebing REGISTER OF DEEDS
 CAROL B. HILBERT Carol B. Hilbert DEPUTY REGISTER OF DEEDS
 PAUL B. GILBERT

STATE OF KANSAS }
 COUNTY OF SEDGWICK } SS

I, CHARLES J. FREUND, LICENSED PROFESSIONAL ENGINEER IN ILLINOIS AND STATE OF KANSAS, DO HEREBY CERTIFY THAT I HAVE CAUSED TO BE SURVEYED AND PLATTED OVERHOLT ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS INTO A LOT, STREETS AND AN AVENUE, THE SAME BEING DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE WEST LINE OF THE E. 1/4 OF THE S. 1/4 OF SECTION 12, T28S, R1E OF THE 6TH P.M. AND 747 FEET SOUTH OF THE NORTH LINE OF SAID S. 1/4, A TRVERSE SUBTENSURE BEARING SOUTH 89° 57' 11" EAST A DISTANCE OF 602.75 FEET; THENCE SOUTH BY 00° EAST A DISTANCE OF 177.48 FEET TO A POINT IN THE NORTH 0° 0' LINE OF THE BRUGAS FOREPANE; THENCE SOUTHWEST ALONG SAID NORTH 0° 0' LINE AND BEARING SOUTH, 91° 12' 32" WEST A DISTANCE OF 668.11 FEET; THENCE NORTH ALONG THE WEST LINE OF THE E. 1/4 OF SAID S. 1/4 TO BEARING NORTH 0° 0' WEST A DISTANCE OF 107.14 FEET TO THE POINT OF BEGINNING, CONTAINING 10.10 ACRES.

Charles J. Freund CHARLES J. FREUND
 LICENSED SURVEYOR
 KANSAS STATE

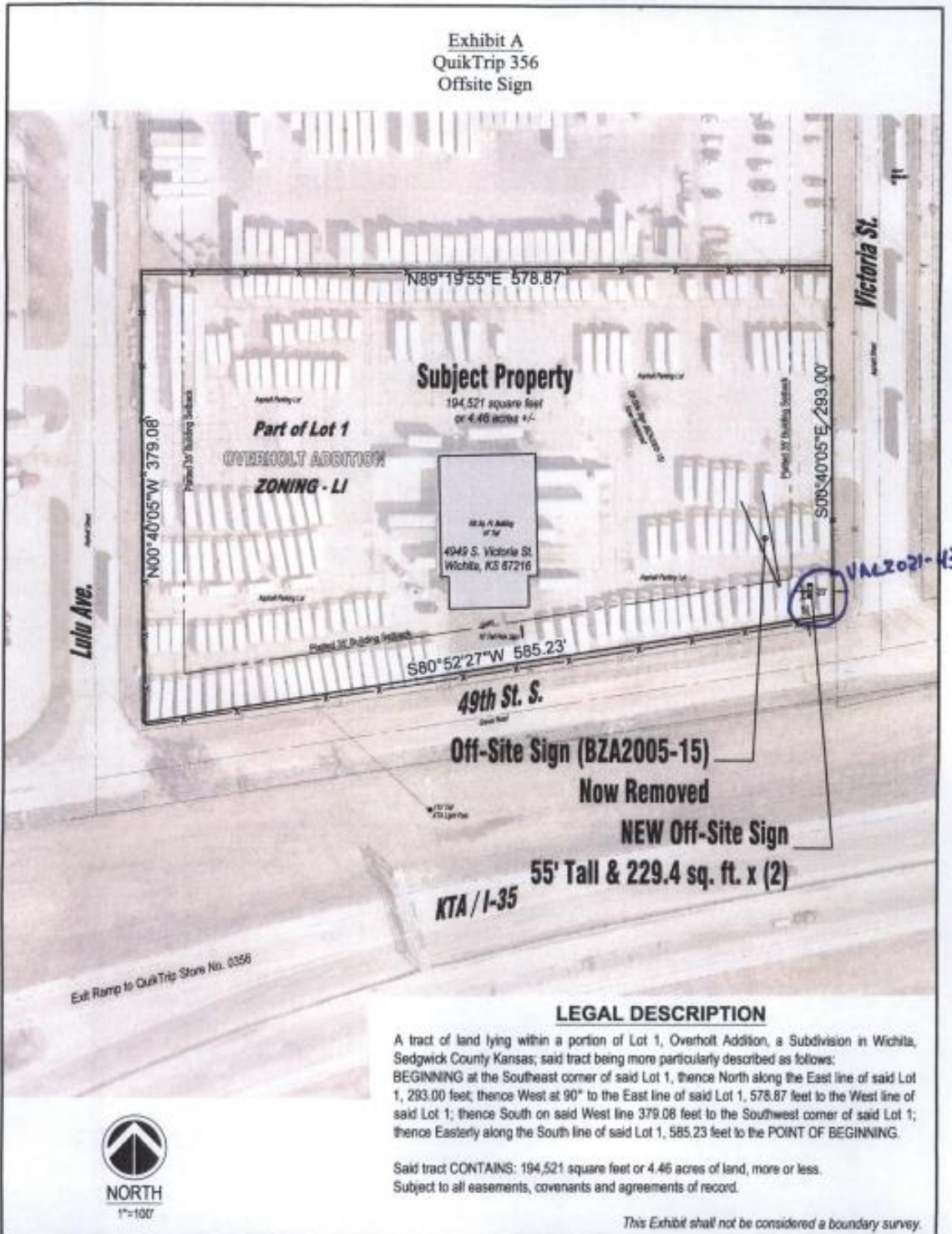
KNOW ALL MEN BY THESE PRESENTS THAT WE, THE UNDERSIGNED PROPERTY OWNERS OF THE LANDS ABOVE SET FORTH IN THE ENGINEER'S CERTIFICATE, HAVE CAUSED THE LINE TO BE SURVEYED AND PLATTED INTO A LOT, STREETS AND AN AVENUE, THE SAME TO BE KNOWN AS OVERHOLT ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS, AS INDICATED AS INDICATED FOR THE CONSTRUCTION AND MAINTENANCE OF PUBLIC UTILITIES AND OTHER PURPOSES. THE AVENUE AND STREETS ARE HEREBY DEDICATED TO THE USE OF THE PUBLIC. THE RESPECTIVE TRUCK LINES, ETC.

PREPARED BY LeRoy Helpe LEROY HELPE
 SECRETARY George A. Dransolin, Jr. GEORGE A. DRANSLIN, JR.

STATE OF KANSAS }
 COUNTY OF Sedgewick } SS

IT IS REMEMBERED THAT ON THIS 13th DAY OF July, 1997, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, CAME LEROY HELPE, PRESIDENT AND GEORGE A. DRANSLIN, JR., SECRETARY OF WICHITA SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION, INC., TO ME PERSONALLY KNOWN TO BE THE SAID PERSONS WHO EXECUTED THE FOREGOING INSTRUMENTS OF WRITING AND FULLY ACKNOWLEDGED THE EXECUTION OF SAME.

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VAC2021-00043 - City request to vacate a platted street side yard setback on LI Limited Industrial zoned property generally located south west of the South Hydraulic Avenue – East 47th Street South intersection on the northwest corner of East 49th Street South and South Victoria Street

November 18, 2021

Page 7

Beginning at the Southeast corner of Lot 1, Overholt Addition, a subdivision in Wichita, Sedgwick County, Kansas; thence North along the East line of said Lot 1, 293.00 feet; thence West at 90° to the East line of said Lot 1, 578.87 feet to the West line of said Lot 1; thence South on said West line 379.08 feet to the Southwest corner of said Lot 1; thence Easterly along the South line of said Lot 1, 585.23 feet to the point of beginning.