Sedgwick County
Register of Deeds - Tonya Buckingham
Doc.#/Flm-Pg: 30280145
Receipt #: 2407463
Pages Recorded: 3
Recording Fee: $0.00
Cashier: ephilip
Authorized By: Tonya Buckingham
Date Recorded: 12/11/2023 12:52:20 PM

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

IN THE MATTER OF THE VACATION OF PORTIONS OF A PLATTED DRAINAGE AND UTILITY EASEMENT, AND BUILDING SETBACKS

GENERALLY LOCATED ON THE NORTH SIDE OF WEST 40TH STREET NORTH AND ONE-HALF MILE EAST OF NORTH MERIDIAN AVENUE

VAC2023-00036

MORE FULLY DESCRIBED BELOW

UNOFFICIAL COPY

VACATION ORDER

NOW on this 5th day of December 2023, comes on for hearing the petition for vacation filed by Broadmoor One, LLC (owner) praying for the vacation of portions of a platted drainage a d utility easement and building setbacks, to wit:

Drainage & Utility Easement Vacation

That part of a 20 foot Drainage & Utility Easement in Lots 1 and 2, Block B, and Reserve "B", all in Harbor Isle Commercial 2nd Addition, Wichita, Sedgwick County, Kansas, described as follows: Beginning at the northeast corner of said Lot 1; thence S00°49'51"E, coincident with the east line of said Lots 1, 2, and Reserve "B", 656.35 feet to the southeast corner of said Lot 2; thence N85°25'17"W, coincident with the south line of said Lot 2, 20.09 feet; thence N00°49'51"W, parallel with the east line of said Lots 1, 2, and Reserve "B", 654.46 feet to the north line of said Lot 1; thence N89°10'09"E, coincident with the north line of said Lot 1, 20.00 feet to the point of beginning, EXCEPT the north 40.00 feet thereof.

Building Setback Vacation

That part of a platted 35.00 foot building setback in Lot 1, Block B, Harbor Isle Commercial 2nd Addition, Wichita, Sedgwick County, Kansas, described as follows: Beginning at the northeast corner of said Lot 1; thence S00°49'51"E, coincident with the east line of said Lot 1, 265.21 feet to the north line of Reserve "B" in said Block B; thence

N90°00'00"W, coincident with the north line of said Reserve "B", 35.00 feet; thence N00°49'51"W, parallel with the east line of said Lot 1, 229.70 feet; thence S89°10'00"W, parallel with the north line of said Lot 1, 31.25 feet; thence N00°49'51"W, parallel with the east line of said Lot 1, 35.00 feet; thence N89°10'00"E, coincident with the north line of said Lot 1, 66.25 feet to the point of beginning.

Building Setback Vacation

That part of a platted 35.00 foot building setback in Lot 2, Block B, Harbor Isle Commercial 2nd Addition, Wichita, Sedgwick County, Kansas, described as follows: Beginning at the southeast corner of said Lot 2; thence N85°25'17"W, coincident with the south line of said Lot 2, 35.16 feet; thence N00°49'51"W, parallel with the east line of said Lot 2, 306.32 feet to the south line of Reserve "B" in said Block B; thence N90°00'00"E, coincident with the south line of said Reserve "B", 35.00 feet to the east line of said Lot 2; thence S00°49'51"E, coincident with the east line of said Lot 2, 309.13 feet to the point of beginning.

Building Setback Vacation

That part of a platted 5.00 foot building setback in Lot 2, Block B, Harbor Isle Commercial 2nd Addition, Wichita, Sedgwick County, Kansas, described as follows: Commencing at the southeast corner of said Lot 2; thence N85°25'17"W, coincident with the south line of said Lot 2, 35.16 feet for a point of beginning; thence continuing N85°25'17"W, coincident with the south line of said Lot 2, 31.39 feet; thence N00°49'51"W, parallel with the east line of said Lot 2, 5.02 feet; thence S85°25'17"E, coincident with the south line of said Lot 2, 31.39 feet; thence S00°49'51"E, parallel with the east line of said Lot 2, 5.02 feet to the point of beginning.

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 September 7, 2023, 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 a platted drainage and utility easement and building setbacks, and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner, the prayer of the petitioner 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 the described portions of a platted drainage and utility easement and building setbacks should be approved.

UNOFFICIAL COPY

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 5th day of December 2023, ordered that the above-described portions of a platted drainage and utility easement and building setbacks are hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall send this original Vacation Order to the Sedgwick County Register of Deeds 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

UNOFFICIAL COPY

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

IN THE MATTER OF THE VACATION OF PORTIONS OF A PLATTED DRAINAGE AND UTILITY EASEMENT, AND BUILDING SETBACKS	)	
GENERALLY LOCATED ON THE NORTH SIDE OF WEST 40TH STREET NORTH AND ONE-HALF MILE EAST OF NORTH MERIDIAN AVENUE	)	**VAC2023-00036**

MORE FULLY DESCRIBED BELOW

VACATION ORDER

NOW on this 5th day of December 2023, comes on for hearing the petition for vacation filed by Broadmoor One, LLC (owner) praying for the vacation of portions of a platted drainage and utility easement and building setbacks, to wit:

Drainage & Utility Easement Vacation
That part of a 20 foot Drainage & Utility Easement in Lots 1 and 2, Block B, and Reserve "B", all in Harbor Isle Commercial 2nd Addition, Wichita, Sedgwick County, Kansas, described as follows: Beginning at the northeast corner of said Lot 1; thence S00°49'51"E, coincident with the east line of said Lots 1, 2, and Reserve "B", 656.35 feet to the southeast corner of said Lot 2; thence N85°25'17"W, coincident with the south line of said Lot 2, 20.09 feet; thence N00°49'51"W, parallel with the east line of said Lots 1, 2, and Reserve "B", 654.46 feet to the north line of said Lot 1; thence N89°10'09"E, coincident with the north line of said Lot 1, 20.00 feet to the point of beginning, EXCEPT the north 40.00 feet thereof.

Building Setback Vacation
That part of a platted 35.00 foot building setback in Lot 1, Block B, Harbor Isle Commercial 2nd Addition, Wichita, Sedgwick County, Kansas, described as follows: Beginning at the northeast corner of said Lot 1; thence S00°49'51"E, coincident with the east line of said Lot 1, 265.21 feet to the north line of Reserve "B" in said Block B; thence

N90°00'00"W, coincident with the north line of said Reserve "B", 35.00 feet; thence N00°49'51"W, parallel with the east line of said Lot 1, 229.70 feet; thence S89°10'00"W, parallel with the north line of said Lot 1, 31.25 feet; thence N00°49'51"W, parallel with the east line of said Lot 1, 35.00 feet; thence N89°10'00"E, coincident with the north line of said Lot 1, 66.25 feet to the point of beginning.

Building Setback Vacation
That part of a platted 35.00 foot building setback in Lot 2, Block B, Harbor Isle Commercial 2nd Addition, Wichita, Sedgwick County, Kansas, described as follows: Beginning at the southeast corner of said Lot 2; thence N85°25'17"W, coincident with the south line of said Lot 2, 35.16 feet; thence N00°49'51"W, parallel with the east line of said Lot 2, 306.32 feet to the south line of Reserve "B" in said Block B; thence N90°00'00"E, coincident with the south line of said Reserve "B", 35.00 feet to the east line of said Lot 2; thence S00°49'51"E, coincident with the east line of said Lot 2, 309.13 feet to the point of beginning.

Building Setback Vacation
That part of a platted 5.00 foot building setback in Lot 2, Block B, Harbor Isle Commercial 2nd Addition, Wichita, Sedgwick County, Kansas, described as follows: Commencing at the southeast corner of said Lot 2; thence N85°25'17"W, coincident with the south line of said Lot 2, 35.16 feet for a point of beginning; thence continuing N85°25'17"W, coincident with the south line of said Lot 2, 31.39 feet; thence N00°49'51"W, parallel with the east line of said Lot 2, 5.02 feet; thence S85°25'17"E, coincident with the south line of said Lot 2, 31.39 feet; thence S00°49'51"E, parallel with the east line of said Lot 2, 5.02 feet to the point of beginning.

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 September 7, 2023, 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 a platted drainage and utility easement and building setbacks, and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner, the prayer of the petitioner 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 the described portions of a platted drainage and utility easement and building setbacks should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 5th day of December 2023, ordered that the above-described portions of a platted drainage and utility easement and building setbacks are hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall send this original Vacation Order to the Sedgwick County Register of Deeds 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

Wichita-Sedgwick County Metropolitan Area Planning Department

December 12, 2023

Max Cole
Broadmoor One, LLC
9435 E. Central, Ste #220
Wichita, KS 67206

Phil Meyer
Baughman Company, P.A.
315 Ellis Street
Wichita, KS 67211

RE: VAC2023-00036: Request in the City to vacate to a portion of platted drainage and utility easements, a portion of a platted utility easement, and a portion of platted building setbacks on property zoned GC General Commercial District; generally located on the north side of West 40th Street and within one-half mile east of North Meridian Avenue.

Dear Applicant;

At its regular meeting on **December 5, 2023,** the Wichita City Council considered the above captioned request. The action of the City Council was to **APPROVE** the vacation request.

Sincerely,

Philip Zevenbergen, AICP
Current Plans
Division Manager

CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

September 29, 2023

Baughman Company, P.A.
Attn: Phil Meyer
315 Ellis St
Wichita, KS 67211

Ref: VAC2023-00036: Vacation request in the City to vacate a Drainage and Utility Easement, Utility Easement, and Building Setback at Harbor Isle Commercial 2nd Addition on property zoned GC General Commercial District, generally located north of West 40th Street North and east of North Seneca Street.

Phil,

At the **Thursday, September 28, 2023**, meeting of the Metropolitan Area Planning Commission (MAPC), the above-referenced vacation request was approved subject to the following conditions:

(1) Abandonment or relocation/reconstruction of any/all utilities made necessary by the vacation of the described portion of a utility easement shall be to City Standards and shall be the responsibility and at the expense of the applicant. As needed provide approval from franchised utilities for the relocation of franchised utilities. All to be provided to the Planning Department prior to this case going to City Council for final action.

(2) As needed provide Planning with dedication of easements by separate instruments with original signatures to go with the Vacation Order to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds. All to be provided to the Planning Department prior to this case going to City Council for final action.

(3) All improvements shall be according to City Standards and at the applicants' expense.

(4) The applicant shall provide Public Works and Planning with a utility plan to be reviewed and approved by Public Works prior to this case going to City council for final action.

(5) Per the approval of Public Works, vacate the platted 20-foot drainage and utility easement located on Lots 1-2 and Reserve B, Block B, Harbor Isle Commercial 2nd Addition, Wichita, Sedgwick County, Kansas. Provide Planning with a **revised** legal description of the vacated portion of the platted drainage and utility easement on a Word document via E-mail that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.

(6) Per the approval of Public Works, vacate the described portion of the platted utility easement located on Lot 1, Block B, Harbor Isle Commercial 2nd Addition, Wichita, Sedgwick County, Kansas. Provide Planning with a legal description of the vacated portion of the platted utility easement on a Word document via E-mail that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.

(7) Vacate the described portions of the platted setbacks on Lots 1 and 2. Provide planning staff with legal descriptions of the approved vacated portions of the platted setbacks on a Word document, via e-mail, to be used on the Vacation Order. This must be provided to Planning prior to the case going to Council for final action.

(8) The applicant shall submit an Administrative Adjustment to CUP DP-353 reflecting the vacated portions of the building setbacks. The Administrative Adjustment must be completed prior to the issuance of building permits on the associated lots and/or parcels.

(9) 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 **October 12, 2023,** (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,

Philip Zevenbergen, AICP
Current Plans Division Manager

PZ:kw

cc: Broadmoor One LLC, Max Cole, 9435 E Central, Ste 200, Wichita KS 67206

McClatchy

Beaufort Gazette
Belleville News-Democrat
Bellingham Herald
Bradenton Herald
Centre Daily Times
Charlotte Observer
Columbus Ledger-Enquirer
Fresno Bee
The Herald - Rock Hill
Herald Sun - Durham
Idaho Statesman
Island Packet
Kansas City Star
Lexington Herald-Leader
Merced Sun-Star
Miami Herald
el Nuevo Herald - Miami
Modesto Bee
Raleigh News & Observer
The Olympian
Sacramento Bee
Fort Worth Star-Telegram
The State - Columbia
Sun Herald - Biloxi
Sun News - Myrtle Beach
The News Tribune Tacoma
The Telegraph - Macon
San Luis Obispo Tribune
Tri-City Herald
Wichita Eagle

AFFIDAVIT OF PUBLICATION

Account #	Order Number	Identification	Order PO	Amount	Cols	Depth
16399	462011	Print Legal Ad-IPL01378290 - IPL0137829		$239.08	3	95 L

Attention: MANDY HEBERT

CITY OF WICHITA/PLANNING DEPT
271 WEST THIRD ST., 2ND FL, SU 203
WICHITA, KS 67202

MHEBERT@wichita.gov

LEGAL PUBLICATION

OCA 150004
Published in The Wichita Eagle on September 7, 2023
(One Time Only)
MAPC/BZA September 28, 2023
OFFICIAL HEARING NOTICE

NOTICE IS HEREBY GIVEN that on Thursday, September 28, 2023, no earlier than 1:30 p.m., the Wichita-Sedgwick County Metropolitan Area Planning Commission/Board Zoning Appeals will consider the following applications. The meeting will be held at the Ronald Reagan Building, 271 West Third Street, 2nd Floor, Wichita, KS 67202. Public participation may also occur through virtual methods (specified at the end of this notice). If you have any questions regarding the meeting or items on this notice, please call the Wichita-Sedgwick County Metropolitan Area Planning Department at (316) 268-4421.
BZA2023-00028: Variance request in the City to reduce the side and the rear setback to bring carport into compliance and permit an addition on the rear, on property zoned SF-5 Single-Family; located within one-block north of West 1st Street North and one-quarter mile west of North Seneca (212 N Elizabeth).
BZA2023-00048: Variance request in the City to allow side setback reduction to 7.5 feet to allow carport; generally located on the southeast corner of North Volutsia Avenue and East Mossman Avenue (2803 East Mossman Avenue).
CON2023-00042: Conditional Use request in the City to allow for Vehicle Sales on the front one-third of the lot fronting West 21st Street; located approximately 450 feet east of the intersection of North Tyler Road and West 29th Street North (8620 West 21st Street North).
CON2023-00043: Conditional Use request in the City for Vehicle and Equipment Sales, Outdoor on property zoned LC Limited Commercial District; generally located on the west side of North Hillside Avenue, within 500 feet south of East 13th Street North (1305 North Hillside Avenue).
CON2023-00044: Amendment to existing Conditional Use permitted through BZA 12-93 in the City, to increase number of cars that can be displayed at the site, in a property zoned LC Limited Commercial; generally located on the southwest corner of the East 13th Street North and North Dellrose Avenue (4615 East 13th Street North).
CON2023-00045: Conditional Use request in the City to permit an Accessory Dwelling Unit, zoned TF-3 Two Family Residential; generally located to the east of South Belmont Avenue and 125 feet south of East Lewis Street (408 South Belmont Avenue).
CON2023-00047: Conditional Use request in the City for a Mobile Food Unit in the City (with ZON2023-00050 to LC); generally located on the west side of North Hillside Avenue, within 275 feet south of East 2nd Street North (233 North Hillside Avenue).
CUP2023-00029: CUP Minor Amendment in the City to CUP DP-164 to allow Vehicle and Equipment Sales on Parcels 5A and 5B; generally located on the south side of West 21st Street North, within one-quarter mile east of North Tyler Road (8515 & 8535 West 21st Street North).
VAC2023-00033: Request in the City to vacate the East Boston Avenue right-of-way between Market and Broadway; generally located 360 feet north of East Harry Street.
VAC2023-00034: Request in the City to vacate a portion of a floodway easement and a platted 10-foot utility easement for expansion of the existing warehouse, on a LI Limited Industrial zoned parcel; generally located Northeast of South Hoover Road and K-42 (2820 S Hoover Road).
VAC2023-00035: Request in the City to vacate a portion of complete access control on property zoned GI General Industrial, generally located on the southeast corner of East 29th Street North and North Mead Street.
VAC2023-00036: Request in the City to vacate a Drainage and Utility Easement, Utility Easement, and Building Setback at Harbor Isle Commercial 2nd Addition on property zoned GC General Commercial District; generally located north of West 40th Street North and east of North Seneca Street.
ZON2023-00050: Zone change in the City from GO General Office District to LC Limited Commercial District for a Mobile Food Unit in the City; generally located on the west side of North Hillside Avenue, within 275 feet south of East 2nd Street North (233 North Hillside Avenue).
Complete legal descriptions are available for public inspection at the Metropolitan Area Planning Department, 271 W. Third St., 2nd Floor, Wichita, Kansas 67202. As provided in Section V of the Wichita-Sedgwick County Unified Zoning Code, the same will then and there be discussed and considered by the said MAPC, and all persons interested in said matters will be heard at this time concerning their views and wishes in the premises, and any protest against any of the provisions of the proposed changes to the zoning regulations will be considered by the MAPC as by law provided.
Options to participate (see below):
1) Participate virtually
2) Attend in-person at the Ronald Reagan Building
3) Submit comments ahead of time
Participate Virtually
Join Zoom Meeting
https://us06web.zoom.us/j/4089866967?pwd=a0k3bW0ySlBNbFJQTDFyV0xPVDBXUT09
Meeting ID: 408 986 6967
Passcode: 094136
One tap mobile
+16699006833,,4089866967#,,,,*094136# US (San Jose)
+17193594580,,4089866967#,,,,*094136# US
Meeting ID: 408 986 6967
Passcode: 094136
Find your local number: https://us06web.zoom.us/u/kc65codfb1
Attend In-Person
You may also participate in the hearing in-person at the Ronald Reagan Building, 271 West Third Street, 2nd Floor, Wichita, Kansas 67202.The in-person option is primarily intended for those without other technology options, and who have not previously submitted recorded audio or video comments. If you have any written or visual materials you wish to present, please contact Planning Department Graphics staff (316-268-4464) by 5pm, 3 days prior to the meeting.
Submit Comments Ahead of Time
You can submit comments regarding items on the Planning Commission agenda to the Wichita-Sedgwick County Metropolitan Area Planning Department (Planning Department). Comments must be received by the Planning Department no later than 5pm 3 days prior to the meeting. Please be sure to provide ample time for delivery. The comments can be submitted in the following formats: email; letter; video; and audio message (mp3, etc.). The comment should indicate which item they pertain to and be less than three (3) minutes in duration. The comments should be submitted to Planning Department staff using the contact information below. The comments received ahead of the submission deadline will be shared with the MAPC, prior to or during the meeting.
Email: Planning@wichita.gov
Mailing Address:
Wichita-Sedgwick County Metropolitan Area Planning Department
Attn: Scott Wadle
271 W. 3rd Street – Suite 201
Wichita, KS 67202
Phone: 316.268.4421
Fax: 316.858.7764
WITNESS MY HAND on September 7, 2023
Scott Wadle, Secretary
Wichita-Sedgwick County
Metropolitan Area Planning Commission
IPL0137829
Sep 7 2023

In The STATE OF KANSAS
In and for the County of Sedgwick

1 insertion(s) published on:
09/07/23

STATE OF KANSAS)
SS
County of Sedgwick)

Stefani Beard, of lawful age, being first duly sworn, deposeth and saith: That he is Record Clerk of The Wichita Eagle, a daily newspaper published in the City of Wichita, County of Sedgwick, State of Kansas, and having a general paid circulation on a daily basis in said County, which said newspaper has been continuously and uninterruptedly published in said County for more than one year prior to the first publication of the notice hereinafter mentioned, and which said newspaper has been entered as second class mail matter at the United States Post Office in Wichita, Kansas, and which said newspaper is not a trade, religious or fraternal publication and that a notice of a true copy is hereto attached was published in the regular and entire Morning issue of said The Wichita Eagle from 09/07/2023 to 09/07/2023.

Stefani Beard

I certify (or declare) under penalty of perjury that the foregoing is true and correct.
DATED: 09/07/2023

Stephanie Hatcher

Notary Public in and for the state of Texas, residing in Dallas County

STEPHANIE HATCHER
My Notary ID # 133534406
Expires January 14, 2026

Extra charge for lost or duplicate affidavits.
Legal document please do not destroy!

METROPOLITAN AREA PLANNING COMMISSION

AGENDA REPORT NO. 3.4
September 28, 2023

STAFF REPORT

CASE NUMBER: **VAC2023-00036** - Request to vacate a portion of a platted drainage and utility easement, a portion of a platted utility easement, and portions of platted building setbacks.

OWNER/APPLICANT: Broadmoor One, LLC (Applicant)/ Baughman Company P.A. (Agent)

LEGAL DESCRIPTION: See attached descriptions.

LOCATION: Generally located on the north side of West 40th street North, within one-quarter mile west of North Seneca Street. (District VI)

REASON FOR REQUEST: To release property for development based on unused easements, a change in drainage pattern, and a change in lot configurations.

CURRENT ZONING: The subject site is zoned GC General Commercial District with CUP DP-353 and is undeveloped. Property to the east is zoned GC General Commercial District with CUP DP-86 and is developed with a school bus storage yard and a ballfield. Property to the north is zoned SF-5 Single-Family Residential District and developed with a driver training track. Property to the south, across West 40th Street North is the I-235/K-96 Highway right-of-way.

VICINITY MAP:



The applicant is requesting to vacate the following within Lots 1, 2 and Reserve B, Block B, Harbor Isle Commercial 2nd Addition:

1. a 20-foot platted drainage and utility easement located on the east side of Lots 1 and 2 and Reserve B (Exhibit 1);
2. a 20-foot by 46.25-foot section of a platted utility easement in the northeast corner of Lot l (Exhibit 2);
3. the platted 35-foot building setback along the east and a portion north property line of Lot 1 (Exhibit 3);
4. the platted 35-foot building setback along the east property line of Lot 2 (Exhibit 4); and
5. the platted 5-foot building setback along a portion of the south property line of Lot 2 (Exhibit 5).

The purpose of the vacation requests is to release the property for development based on unused easements, a change in drainage pattern, and a change in lot configuration. The exhibits illustrate that Lot 1 and the north one-half of Reserve B are identified as Parcel A and Lot 2 and the south one-half of Reserve B are identified as Parcel B. If all vacation requests are approved, it would permit a structure be constructed up to the property lines in these locations. Rear and side (interior and street side) setbacks in the GC General Commercial District are permitted to be zero. The subject site is part of Community Unit Plan DP-353. Section III-C.2.b only requires a 35-foot setback when abutting a residential zoning district and/or abutting a street right-of-way. The setback along West 40th Street North was approved at five feet when the CUP was established, the property abutting to the east is zoned and developed commercially, and although the property to the north is zoned residential it is not developed as such. A reduction of the setback to permit development up to the property line is not likely to have detrimental impacts on surrounding properties.

There are no public utilities in the vacation areas. Public Works and Utilities is requiring the applicant to provide a utility plan for this plat. There is a concern for how sanitary sewer can be extended to serve property east of Lots 1 and 2 (Lot 1, Dukes Diamonds Addition). The subject site has a 20-foot utility easement on the west property line that can accommodate utility extension to serve the subject site. Lot 1, Dukes Diamonds Addition to the east does not have any easement on the west property line (abutting the subject site) to accommodate any utility exertions should the property be redeveloped in the future.

Evergy has no objection to this vacation request, and they do not have equipment and lines in or near the setback or drainage & utility easement they are requesting to vacate for development. Conditions 1-3 covers Evergy. Any relocation or removal of existing Evergy equipment will be at the applicant's expense. Brandon Chadd, Area Design Representative for this area will be the contact for this item and can be contacted at (785) 508-2700 for this vacation request and any project related to it.

Cox has no objection to this vacation. They have fiber optic in the north right-of-way of East 40th Street providing services to a Verizon cell tower. Any relocation of this line will be difficult and expensive. Any relocation will be at the applicant's expense.

The Harbor Isle Commercial 2nd Addition was recorded on December 14, 2021

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, 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 drainage and utility easement, the described platted utility easement, and the described portions of building setbacks.

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 September 7, 2023, 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 20-foot drainage and utility easement, the 20-foot by 46.25-foot section of a platted utility easement, the platted 35-foot building setback on the east line of Lot 1, the platted 35-foot building setback along the east line of Lot 2, and the platted 5-foot building setback along the south line of lot 2; 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) Abandonment or relocation/reconstruction of any/all utilities made necessary by the vacation of the described portion of a utility easement shall be to City Standards and shall be the responsibility and at the expense of the applicant. As needed provide approval from franchised utilities for the relocation of franchised utilities. All to be provided to the Planning Department prior to this case going to City Council for final action.

(2) As needed provide Planning with dedication of easements by separate instruments with original signatures to go with the Vacation Order to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds. All to be provided to the Planning Department prior to this case going to City Council for final action.

(3) All improvements shall be according to City Standards and at the applicants' expense.

(4) The applicant shall provide Public Works and Planning with a utility plan to be reviewed and approved by Public Works prior to this case going to City council for final action.

(5) Per the approval of Public Works, vacate the platted 20-foot drainage and utility easement located on Lots 1-2 and Reserve B, Block B, Harbor Isle Commercial 2nd Addition, Wichita, Sedgwick County, Kansas. Provide Planning with a revised legal description of the vacated portion of the platted drainage and utility easement on a Word document via E-mail that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.

(6) Per the approval of Public Works, vacate the described portion of the platted utility easement located on Lot 1, Block B, Harbor Isle Commercial 2nd Addition, Wichita, Sedgwick County, Kansas. Provide Planning with a legal description of the vacated portion of the platted utility easement on a Word document via E-mail that can be used on the Vacation Order. This must be provided to the Planning Department prior to this case going to City Council for final action.

(7) Vacate the described portions of the platted setbacks on Lots 1 and 2. Provide planning staff with legal descriptions of the approved vacated portions of the platted setbacks on a Word document, via e-mail, to be used on the Vacation Order. This must be provided to Planning prior to the case going to Council for final action.

(8) The applicant shall submit an Administrative Adjustment to CUP DP-353 reflecting the vacated portions of the building setbacks. The Administrative Adjustment must be completed prior to the issuance of building permits on the associated lots and/or parcels.

(9) 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.

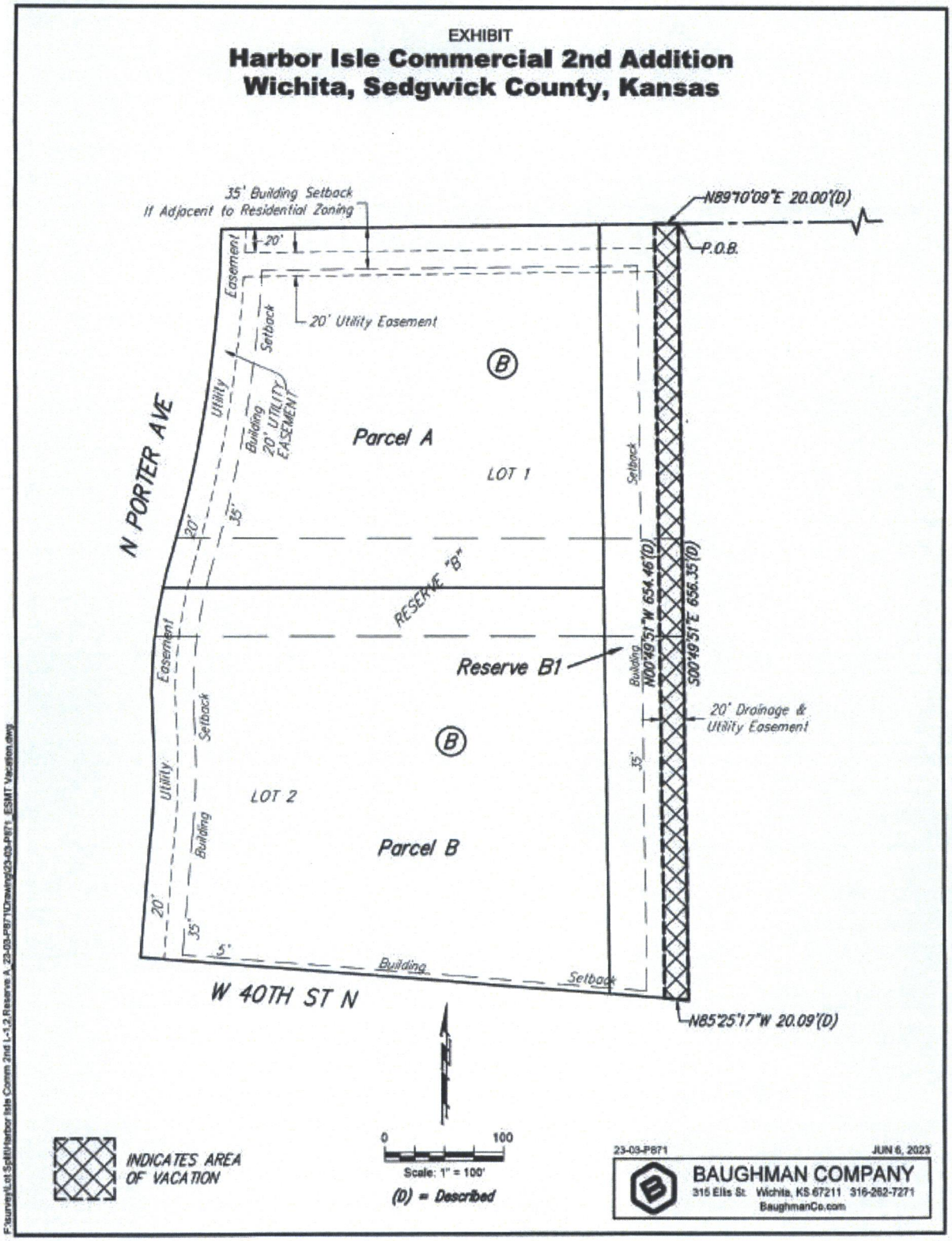
SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval per staff recommendations.

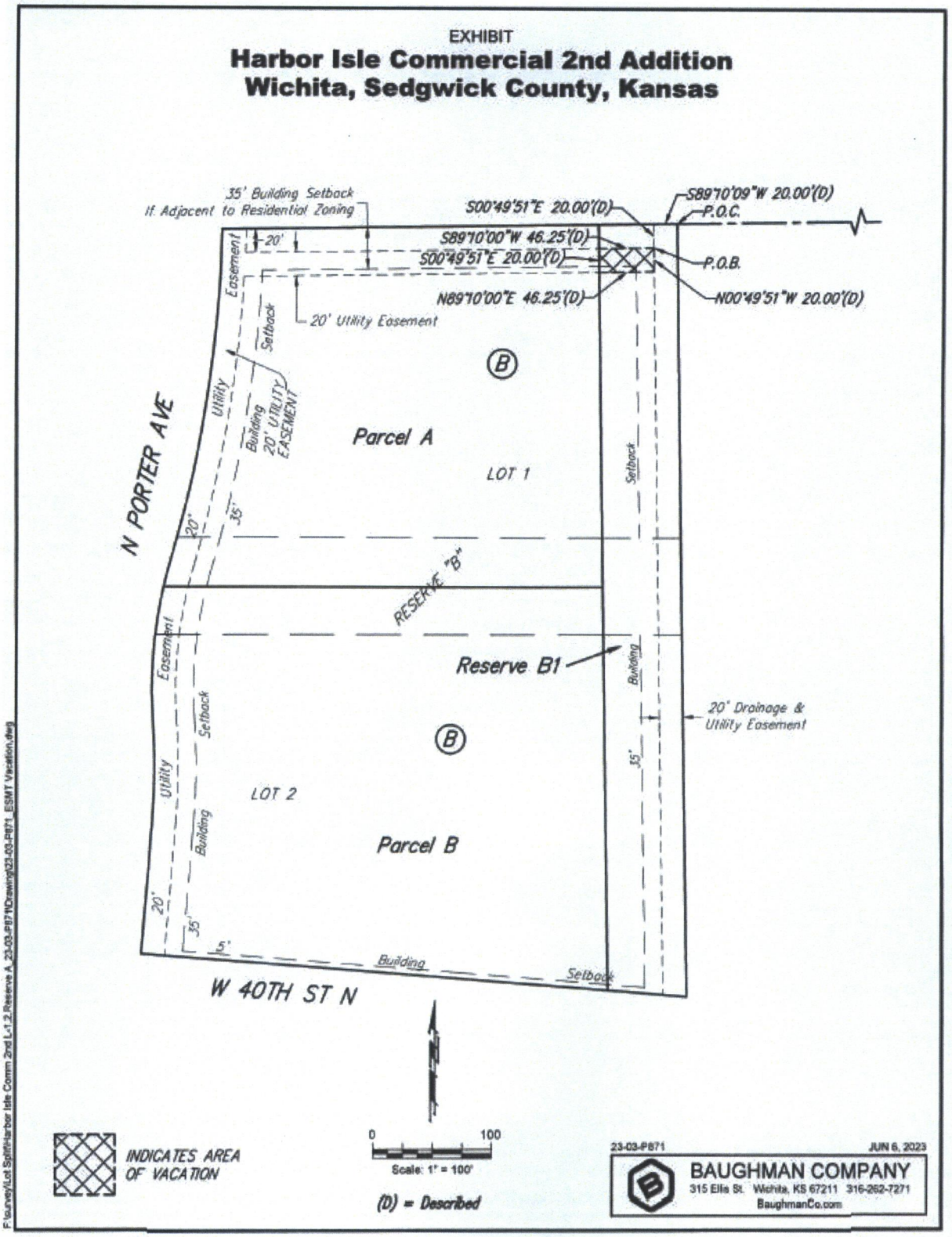
Attachments:

1. Vacation Exhibit 1—Drainage and Utility Easement
2. Vacation Exhibit 2—Utility Easement
3. Vacation Exhibit 3—Building Setback, Lot 1
4. Vacation Exhibit 4—East Building Setback, Lot 2
5. Vacation Exhibit 4—South Building Setback, Lot 2
6. Aerial Map
7. Legal Description

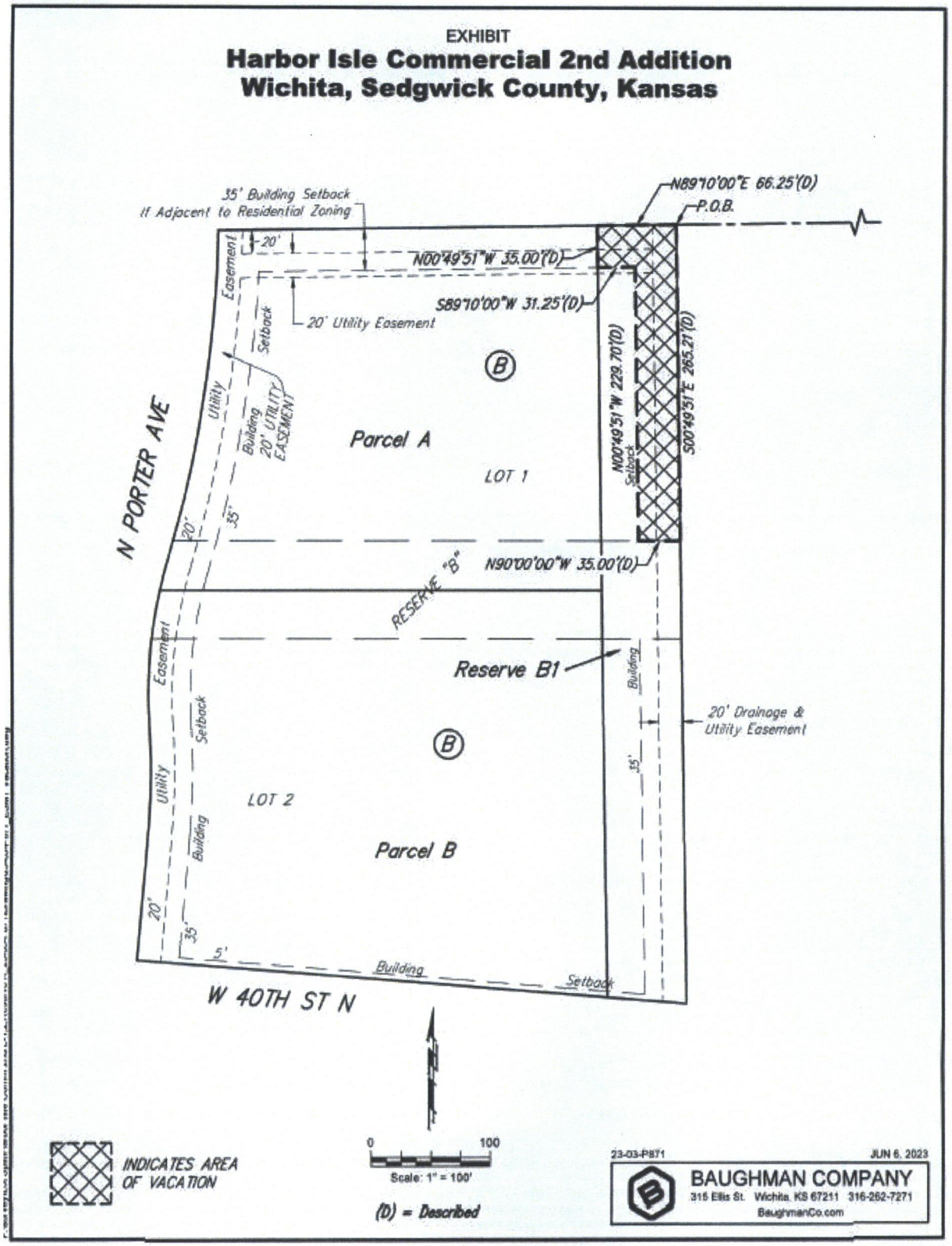
Vacation Exhibit 1—Drainage and Utility Easement



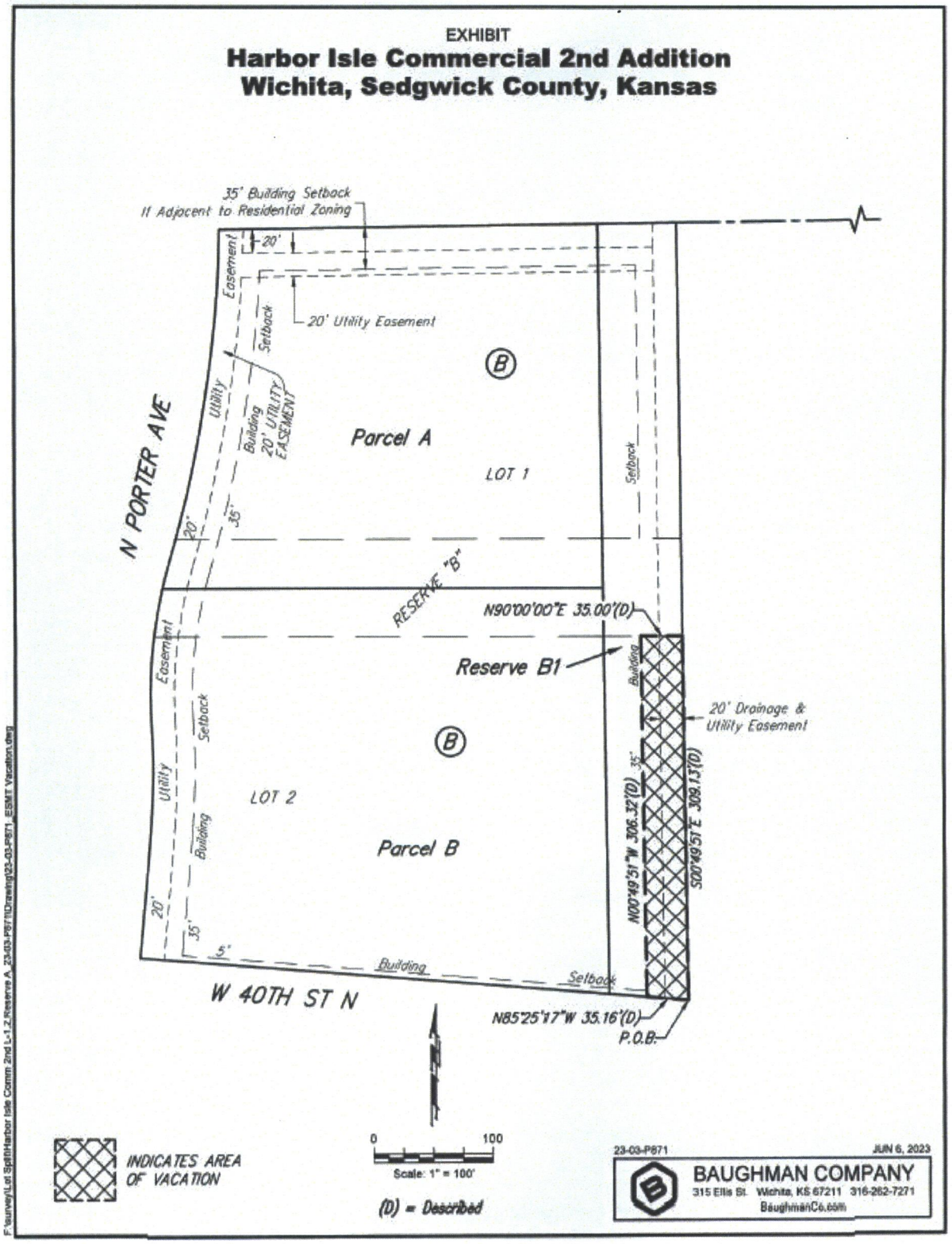
Vacation Exhibit 2—Utility Easement



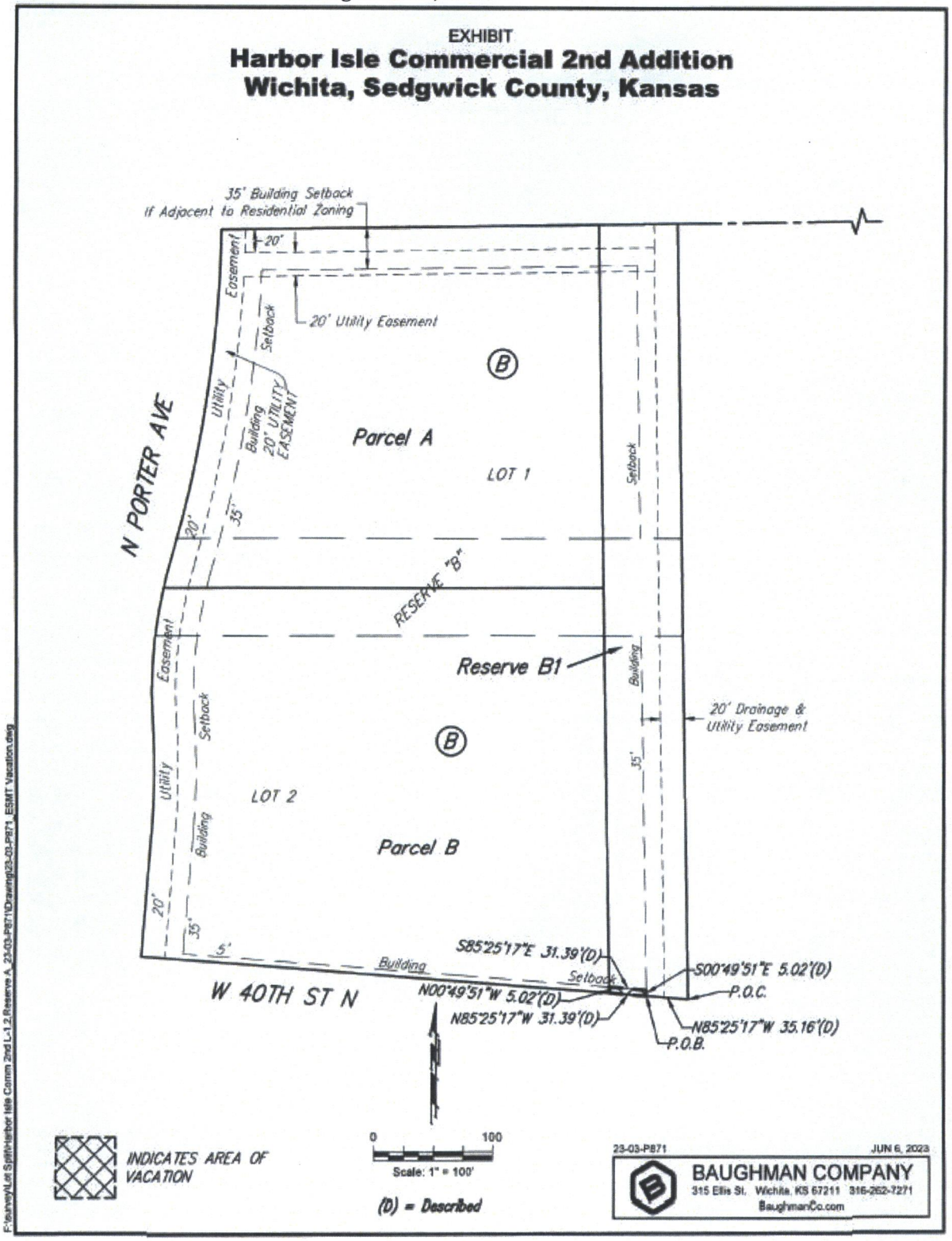
Vacation Exhibit 3—Building Setback, Lot 1

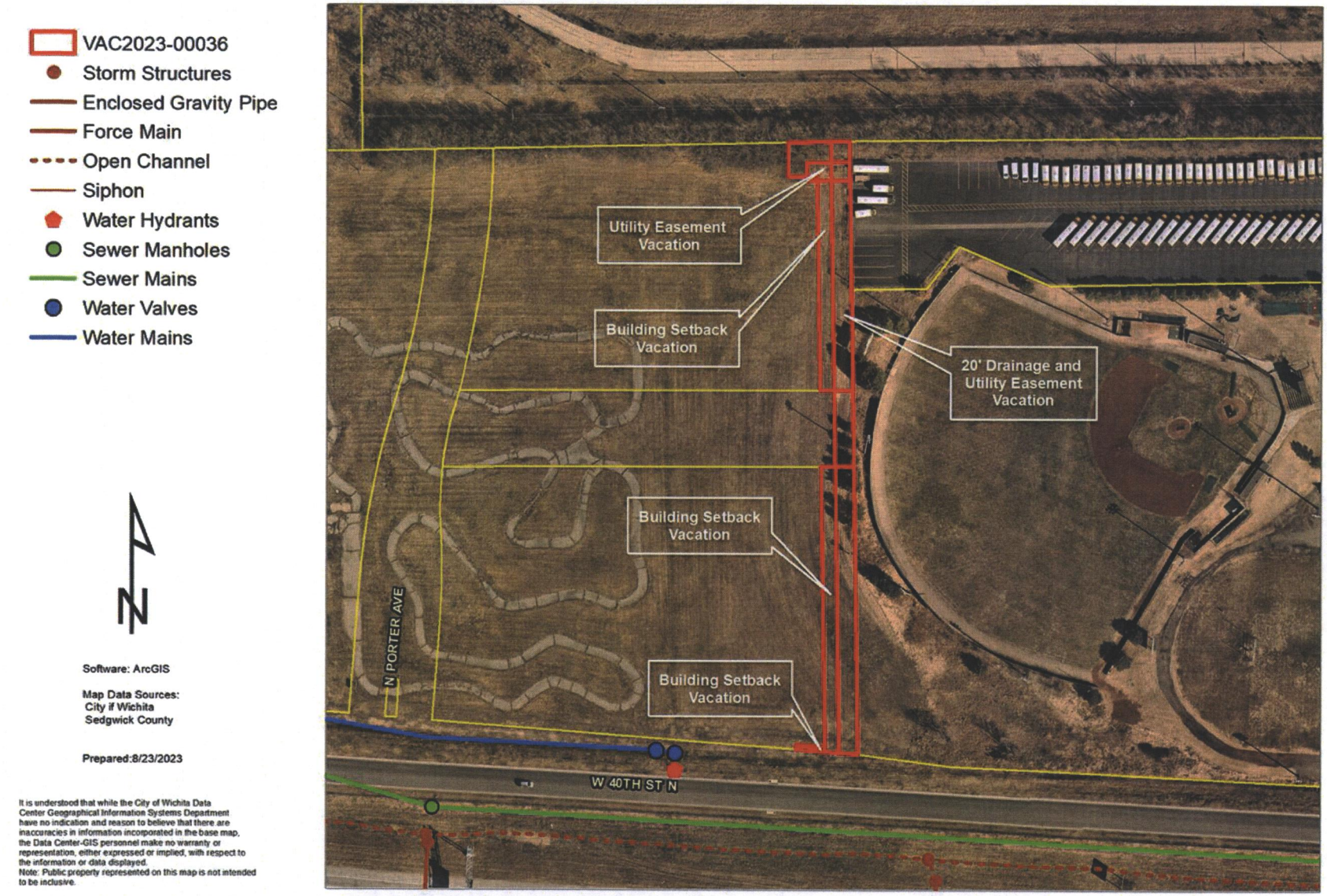


Vacation Exhibit 4—East Building Setback, Lot 2



Vacation Exhibit 5—South Building Setback, Lot 2




VAC2023-00036
Storm Structures
Enclosed Gravity Pipe
Force Main
Open Channel
Siphon
Water Hydrants
Sewer Manholes
Sewer Mains
Water Valves
Water Mains
Utility Easement Vacation
Building Setback Vacation
20' Drainage and Utility Easement Vacation
Building Setback Vacation
Building Setback Vacation
N PORTER AVE
W 40TH ST N
Software: ArcGIS
Map Data Sources:
City if Wichita
Sedgwick County
Prepared:8/23/2023
It is understood that while the City of Wichita Data Center Geographical Information Systems Department have no indication and reason to believe that there are inaccuracies in information incorporated in the base map, the Data Center-GIS personnel make no warranty or representation, either expressed or implied, with respect to the information or data displayed.
Note: Public property represented on this map is not intended to be inclusive.

HARBOR ISLE COMMERCIAL 2ND

Drainage & Utility Easement Vacation

That part of a 20 foot Drainage & Utility Easement in Lots 1 and 2, Block B, and Reserve "B", all in Harbor Isle Commercial 2nd Addition, Wichita, Sedgwick County, Kansas, described as follows: Beginning at the northeast corner of said Lot 1; thence S00°49'51"E, coincident with the east line of said Lots 1, 2, and Reserve "B", 656.35 feet to the southeast corner of said Lot 2; thence N85°25'17"W, coincident with the south line of said Lot 2, 20.09 feet; thence N00°49'51"W, parallel with the east line of said Lots 1, 2, and Reserve "B", 654.46 feet to the north line of said Lot 1; thence N89°10'09"E, coincident with the north line of said Lot 1, 20.00 feet to the point of beginning.

Utility Easement Vacation

That part of a 20 foot Utility Easement in Lot 1, Harbor Isle Commercial 2nd Addition, Wichita, Sedgwick County, Kansas, described as follows: Commencing at the northeast corner of said Lot 1; thence S89°10'09"W, coincident with the north line of said Lot 1, 20.00 feet; thence S00°49'51"E, parallel with the east line of said Lot 1, 20.00 feet to the point of beginning; thence S89°10'00"W, parallel with the north line of said Lot 1, 46.25 feet; thence S00°49'51"E, parallel with the east line of said Lot 1, 20.00 feet; thence N89°10'00"E, parallel with the north line of said Lot 1, 46.25 feet; thence N00°49'51"W, parallel with the east line of said Lot 1, 20.00 feet to the point of beginning.

Building Setback Vacation

That part of a platted 35.00 foot building setback in Lot 1, Block B, Harbor Isle Commercial 2nd Addition, Wichita, Sedgwick County, Kansas, described as follows: Beginning at the northeast corner of said Lot 1; thence S00°49'51"E, coincident with the east line of said Lot 1, 265.21 feet to the north line of Reserve "B" in said Block B; thence N90°00'00"W, coincident with the north line of said Reserve "B", 35.00 feet; thence N00°49'51"W, parallel with the east line of said Lot 1, 229.70 feet; thence S89°10'00"W, parallel with the north line of said Lot 1, 31.25 feet; thence N00°49'51"W, parallel with the east line of said Lot 1, 35.00 feet; thence N89°10'00"`E, coincident with the north line of said Lot 1, 66.25 feet to the point of beginning.

Building Setback Vacation

That part of a platted 35.00 foot building setback in Lot 2, Block B, Harbor Isle Commercial 2nd Addition, Wichita, Sedgwick County, Kansas, described as follows: Beginning at the southeast corner of said Lot 2; thence N85°25'17"W, coincident with the south line of said Lot 2, 35.16 feet; thence N00°49'51"W, parallel with the east line of said Lot 2, 306.32 feet to the south line of Reserve "B" in said Block B; thence N90°00'00"E, coincident with the south line of said Reserve "B", 35.00 feet to the east line of said Lot 2; thence S00°49'51"E, coincident with the east line of said Lot 2, 309.13 feet to the point of beginning.

Building Setback Vacation

That part of a platted 5.00 foot building setback in Lot 2, Block B, Harbor Isle Commercial 2nd Addition, Wichita, Sedgwick County, Kansas, described as follows: Commencing at the southeast corner of said Lot 2; thence N85°25'17"W, coincident with the south line of said Lot 2, 35.16 feet for a point of beginning; thence continuing N85°25'17"W, coincident with the south line of said Lot 2, 31.39 feet; thence N00°49'51"W, parallel with the east line of said Lot 2, 5.02 feet; thence S85°25'17"E, coincident with the south line of said Lot 2, 31.39 feet; thence S00°49'51"E, parallel with the east line of said Lot 2, 5.02 feet to the point of beginning.