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

IN THE MATTER OF THE VACATION OF A PORTION OF PLATTED ACCESS CONTROL	)	
GENERALLY LOCATED ON THE WEST SIDE OF NORTH MAIZE ROAD AND WITHIN ONE-QUARTER MILE NORTH OF WEST 21ST STREET NORTH	)	**VAC2023-00018**

MORE FULLY DESCRIBED BELOW

VACATION ORDER

NOW on this 27th day of February 2024, comes on for hearing the petition for vacation filed by New Market Square, LTD (owner) praying for the vacation of a portion of platted access control, to wit:

> Commencing at the northeast corner of Lot 2, Block 1, New Market Square Addition to Wichita, Sedgwick County, Kansas; thence north along the east line of said Lot 1, a distance of 16.5 feet to the Point of Beginning; thence continuing north along said east line, a distance of 40 feet to the Point of Termination.

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 May 18, 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 portion of platted access control, and the public will suffer no loss or inconvenience thereby.

3. A dedication of complete access control and a drive approach closure certificate, closing the existing 30-foot drive between Lots 2 and 3, Block 1, New Market Square Addition shall be recorded with the Vacation Order at the Register of Deeds of Sedgwick County

4. In justice to the petitioner, the prayer of the petitioner 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 described portion of platted access control should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 27th day of February 2024, ordered that the above-described portion of platted access control is 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.

Lily Wu, Mayor, City of Wichita

ATTEST:

Jamie Buster, City Clerk

Approved as to Form:

Jennifer Magana, City Attorney and Director of Law



Sedgwick County
Register of Deeds - Tonya Buckingham
Doc.#/Flm-Pg: 30293577
Receipt #: 2416638
Pages Recorded: 3
Recording Fee: $0.00
Authorized By: Tonya Buckingham
Cashier: vbunch
Date Recorded: 02/29/2024 04:14:43 PM



Please do not remove this cover page, it has become part of this document

Grantor	WICHITA CITY OF
Grantee	NEWMARKET SQUARE LTD
Type of Document	PLAT.VORD
Recording Fees	$0.00
Mtg Reg Tax	$0.00
Total Amount	$0.00
Return Address	CITY OF WICHITA CITY CLERK 13TH FLOOR

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CITY OF WICHITA, SEDGWICK COUNTY, KANSAS

IN THE MATTER OF THE VACATION OF A PORTION OF PLATTED ACCESS CONTROL	)	
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Lily Wu, Mayor, City of Wichita

ATTEST:

Jamie Buster, City Clerk

Approved as to Form:

Jennifer Magana, City Attorney and Director of Law

Sedgwick County
Register of Deeds - Tonya Buckingham
Doc.#/Flm-Pg: 30293576
Receipt #: 2416638 Recording Fee: $38.00
Pages Recorded: 2
Authorized By: Tonya Buckingham
Cashier: vbunch
Date Recorded: 02/29/2024 04:14:42 PM

DEDICATION OF ACCESS CONTROL

KNOW ALL MEN BY THESE PRESENTS:

That for and in consideration of the sum of One Dollar ($1.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, the undersigned, Newmarket Square, Ltd, Ltd., being the owner of the following described real estate in Sedgwick County, Kansas, to wit:

Lot 2 and 3, Block 1, Newmarket Square Addition

does hereby transfer and convey to the City of Wichita, all abutter's rights of access, ingress, and egress to said property from or to Maize Road, over and across the east line of said property as follows:

An access opening described as:

Beginning at a point on the east line of Lot 2, Block 1 Newmarket Square Addition, said point being 15 feet north of the southeast corner of said Lot 2; thence south along said east line a distance of 15 feet to said southeast corner; thence continuing south, without deflection, along the east line of Lot 3, Block 1 a distance of 15 feet to **POINT OF TERMINATION**.

Executed this 2nd day of February, 2024.

NEWMARKET SQUARE, LTD.

Kathy A Atkins

By: Kathy A. Atkins, Vice-President

UNOFFICIAL COPY

STATE OF KANSAS)
) ss
COUNTY OF SEDGWICK)

BE IT REMEMBERED, that on this 2nd day of February, 2024 before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came, Kathy A. Atkins, Vice-President of Newmarket Square, Ltd. who is personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.

Notary Public

SEAL

SARAH E. HATTRUP
NOTARY PUBLIC
My Appt. Exp. 12/16/24
STATE OF KANSAS

(My Commission Expires: 12/16/24)

Approved as to form by the City Engineer:

FOR Paul Gunzelman, PE MICHAEL ARMOUR

UNOFFICIAL COPY

Sedgwick County
Register of Deeds - Tonya Buckingham
Doc.#/Flm-Pg: 30293575
Receipt #: 2416638 Recording Fee: $38.00
Pages Recorded: 2
Authorized By: Tonya Buckingham
Cashier: vbunch
Date Recorded: 02/29/2024 04:14:41 PM

DRIVE APPROACH CLOSURE CERTIFICATE

SEDGWICK COUNTY)
STATE OF KANSAS) ss:

Newmarket Square, Ltd., owner of that certain real property known as Lots 2-3, Block 1; Newmarket Square Addition, Sedgwick County, Kansas, is in the process of vacating access controls on to Maize Road and does hereby acknowledge that in accordance with the requirements of the vacation process as set forth by the City of Wichita, the existing drive approach on Maize Road within the limits of access control to be dedicated shall be closed.

This is to place on notice the owner of the above-described property and subsequent owners thereof that, as a result of the above-cited vacation requirements, said owner and subsequent owners thereof are responsible for seeing that such drive approach or approaches are removed and closed per City of Wichita specifications for such work, and acknowledgement that the City of Wichita may withhold the issuance of an occupancy permit for any future building construction, will be a pre-condition of the issuance of any future building permit on the above-described property.

Signed this 2nd day of February, 2024.

Newmarket Square, Ltd.

By: Kathy A Atkins

By: Kathy A. Atkins, Vice-President

UNOFFICIAL COPY

STATE OF KANSAS)

COUNTY OF SEDGWICK) ss:

BE IT REMBERED, that on this 2nd day of February, 2024, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Kathy A. Atkins, Vice-President of Newmarket Square, Ltd., personally known to me to be the same persons who executed this instrument of writing and such persons duly acknowledged the execution of the same on behalf, and as the act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year written above.

Notary Public

SARAH E. HATTRUP
NOTARY PUBLIC
My Appt. Exp. 12/14/24
STATE OF KANSAS

(My Appointment Expires: 12/14/2024)

UNOFFICIAL COPY

Wichita-Sedgwick County Metropolitan Area Planning Department

February 29, 2024

NewMarket Square LTD.
Attn: Butch Nuss
727 N Waco, Ste. 400
Wichita, KS 67203

Professional Engineering
Consultants, P.A.
Attn: Charlie Brown
303 S. Topeka
Wichita, KS 67202

RE: VAC2023-00018: Vacation request in the City of a portion of complete access control to open a new access point and close an existing access point on property zoned LC & GC with PO-36; generally located on the west side of North Maize Road, within one-quarter mile north of West 21st Street North.

Dear Applicant;

At its regular meeting on **February 27, 2024,** 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

Wichita-Sedgwick County Metropolitan Area Planning Department

June 9, 2023

Professional Engineering
Consultants, P.A.
Attn: Charlie Brown
303 S. Topeka
Wichita, KS 67202

Ref: VAC2023-00018: Vacation request in the City of a portion of complete access control to open a new access point and close an existing access point on property zoned LC & GC with PO-36; generally located on the west side of North Maize Road, within one-quarter mile north of West 21st Street North.

Charlie,

At the Thursday, June 8, 2023, meeting of the Metropolitan Area Planning Commission (MAPC), the above-referenced vacation request was approved subject to the following conditions:

(1) Vacation of the north 40 feet of the south 56.5 feet of platted access control located on and running parallel to the east line of Lot 1, Block 1, Newmarket Square Addition, commencing at the northeast corner of Lot 2, Block 1, New Market Square Addition to Wichita, Sedgwick County, Kansas; thence north along the east line said Lot 1 a distance of 16.5 feet to the Point of Beginning; thence continuing north along said east line a distance of 40 feet to the point of termination, is contingent on approval by the Traffic Engineer and the Fire Department. Approval shall include adherence to the provided conditions. The applicant shall provide Planning with a dedication of access control by separate instrument 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.

(2) The drive shall be constructed to City Standards and at the owner's expense. Provide planning staff with legal descriptions of the approved vacated portion of the platted setback on a Word document via e-mail to be used on the Vacation Order. The legal descriptions must be provided to planning staff prior to the case going to Council for final action.

(3) The reconstruction of the sidewalk and the replacement of any right-of-way trees shall be the applicant's responsibility, at the applicant's expense and to City Standards.

(4) Any relocation or reconstruction of utilities made necessary by this vacation shall be to City Standards and the responsibility of the owner and at the expense of the owner, including the relocation of any power poles, equipment, or public utilities and drainage. Provide approval from those utilizes of any relocation of those impacted utilities prior to the case goes to City Council for final action.

(5) Provide Planning with any needed easements dedicated by separate instrument with original signatures for recording with the Register of Deeds. All original dedications will go with the Vacation Order to City Council for final action and filling with the Sedgwick County Register of Deeds. These conditions must be completed prior to the case going to Council for final action.

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

(7) 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 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 **June 22, 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,

E. Ebach

Eryn Ebach
Associate Planner

EE:kw

cc: New Market Square Ltd, Butch Nuss, 727 N Waco, Suite 400, Wichita KS 67203

AGENDA REPORT NO. 3.4

METROPOLITAN AREA PLANNING COMMISSION **June 8, 2023**

STAFF REPORT

CASE NUMBER: **VAC2023-00018**- Request in the City to vacate a portion of platted access control to open a new access point on the west side of North Maize Road.

APPLICANTS: New Market Square, LTD (applicant), PEC (Agent)

LEGAL DESCRIPTION: Generally described as vacating a portion of platted access control along North Maize Road, located on the east side of Lot 1, Block 1, New Market Square Addition (see attached legal).

LOCATION: Generally located on the west side of North Maize Road, within one-quarter mile of West 21st Street North.

REASON FOR REQUEST: To modify access points.

CURRENT ZONING: The subject property and those to the north and south are zoned LC Limited Commercial District with PO #36. Properties to the east, on the east side of North Maize Road, are zoned LC Limited Commercial District and SF-5 Single-Family Residential District.



The applicant proposes to vacate the north 40 feet of the south 56.5 feet of platted complete access control located on and running parallel to the east line of Lot 1, Block 1, Newmarket Square Addition to permit a 40-foot drive onto North Maize Road.

The proposed 40-foot drive is intended to provide access to the restaurant and retail uses located on Lot 2, Block 1, Newmarket Square Addition. Existing access to these uses is provided by a shared access opening on Lot 2 and Lot 3. Should this request be approved, the applicant will dedicate access control to close this existing drive and use the area for additional parking.

Access Control, except for one opening, subject to major entrance standards, is platted along the east line of Lot 1 (See attachment 1, Excerpt from New Market Square Addition). At this location, North Maize Road is a six lane arterial street, with a center turn lane, and no median.

The proposed 40-foot drive would be located approximately 14 feet south of an existing 36-foot full movement opening across the street on the east side of North Maize Road. The proximity of this drive could provide the opportunity for vehicles to cross North Maize Road from the east parking lot to the west parking lot. Currently, there is no opportunity for vehicles to cross the road at this location because existing drives are offset. In addition, a right-in-right-out drive is located on the east side of North Maize Road, approximately 80 feet south of the proposed drive, and a full movement opening is located approximately 280 feet south.

The current Access Management standards require a 200-foot minimum offset for drives not lined up on opposite sides of arterials and not having conflicting left turns, 400-foot spacing for full-turning movement drives on the same side of the street, and a 400-foot setback from arterial intersections for the first full-turning movement driveway. Article 10- 104 of the Subdivision Regulations, Modification of Design Criteria, states that the MAPC may modify design criteria. The proposed 40-foot drive does not meet Access Management standards. Consideration of this request should balance the potential safety impacts of the proposed drive with the benefits of adding parking to the area.

City sewer is located in the 20-foot platted utility easement along Lots 2-6, Block 1, Newmarket Square Addition. City water and stormwater are located in the platted from building setback along North Maize Road, and sidewalks run parallel to the street on both sides.

Comments from all franchised utilities have not been received and are needed to determine whether franchise equipment is located within the described area. Conditions #3, #4, and #5 cover all utilities. Vehicular traffic, pedestrian traffic, public safety, and utilities should not be impacted by this vacation request if approved with the listed conditions.

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 portions of the platted complete access control.

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 May 18, 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 portion of access control 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) Vacation of the north 40 feet of the south 56.5 feet of platted access control located on and running parallel to the east line of Lot 1, Block 1, Newmarket Square Addition, commencing at the northeast corner of Lot 2, Block 1, New Market Square Addition to Wichita, Sedgwick County, Kansas; thence north along the east line said Lot 1 a distance of 16.5 feet to the Point of Beginning; thence continuing north along said east line a distance of 40 feet to the point of termination, is contingent on approval by the Traffic Engineer and the Fire Department. Approval shall include adherence to the provided conditions. The applicant shall provide Planning with a dedication of access control by separate instrument 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.

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(3) The reconstruction of the sidewalk and the replacement of any right-of-way trees shall be the applicant's responsibility, at the applicant's expense and to City Standards.

(4) Any relocation or reconstruction of utilities made necessary by this vacation shall be to City Standards and the responsibility of the owner and at the expense of the owner, including the relocation of any power poles, equipment, or public utilities and drainage. Provide approval from those utilizes of any relocation of those impacted utilities prior to the case goes to City Council for final action.

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SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

(1) Vacation of the north 40 feet of the south 56.5 feet of platted access control located on and running parallel to the east line of Lot 1, Block 1, Newmarket Square Addition, commencing at the northeast corner of Lot 2, Block 1, New Market Square Addition to Wichita, Sedgwick County, Kansas; thence north along the east line said Lot 1 a distance of 16.5 feet to the Point of Beginning; thence continuing north along said east line a distance of 40 feet to the point of termination, is contingent on approval by the Traffic Engineer and the Fire Department. Approval shall include adherence to one of the provided conditions. The applicant shall provide Planning with a dedication of access control by separate instrument 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.

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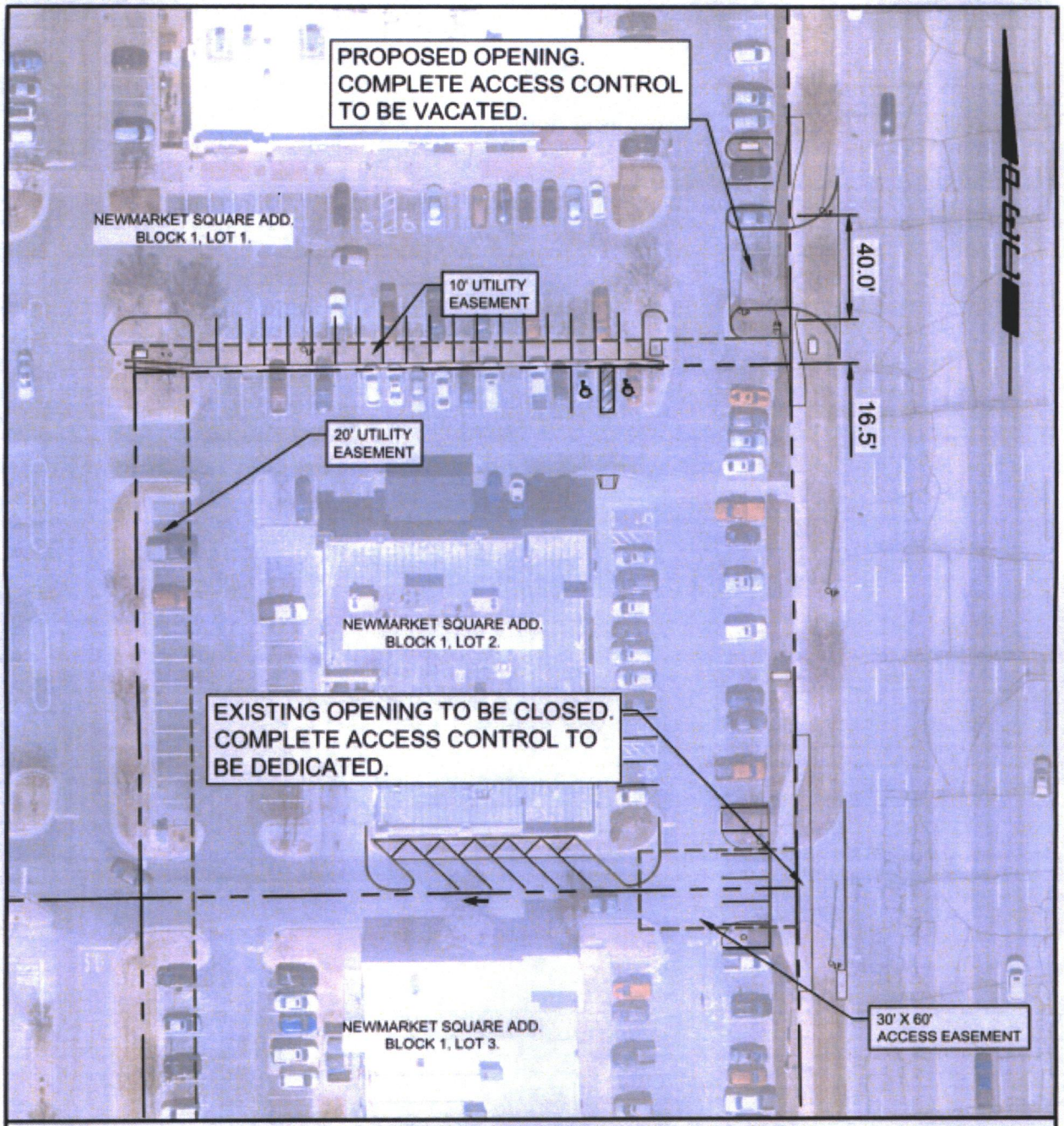
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Attachments: 1. Applicant's Exhibit, 2. Excerpt from Newmarket Square Addition, 3. Aerial Map I, 4. Aerial Map II, 5. Site Photos, 6. Legal Description



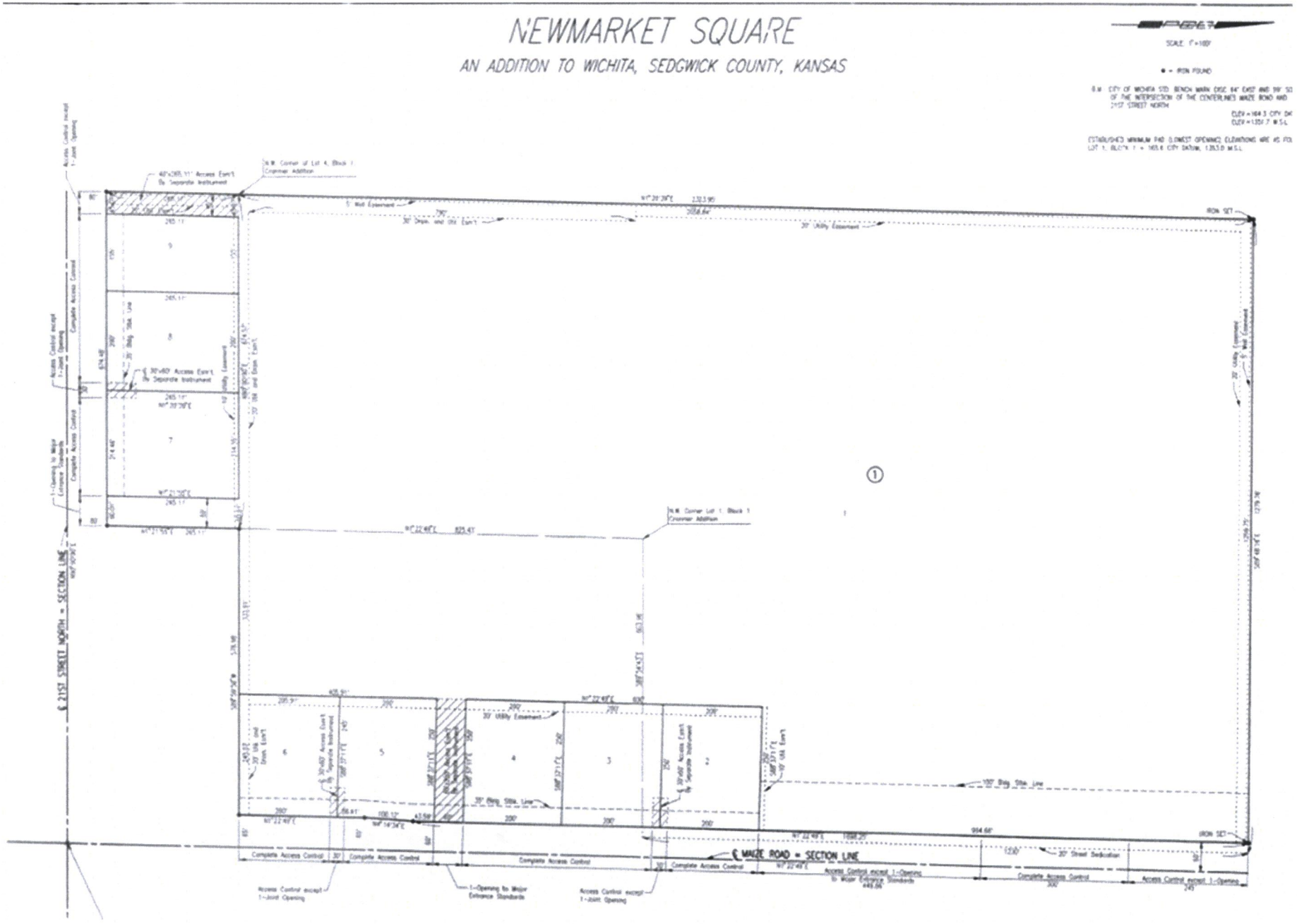
DEDICATION & VACATION OF ACCESS CONTROL
LOT 1, BLOCK 1, NEW MARKET SQUARE ADDITION

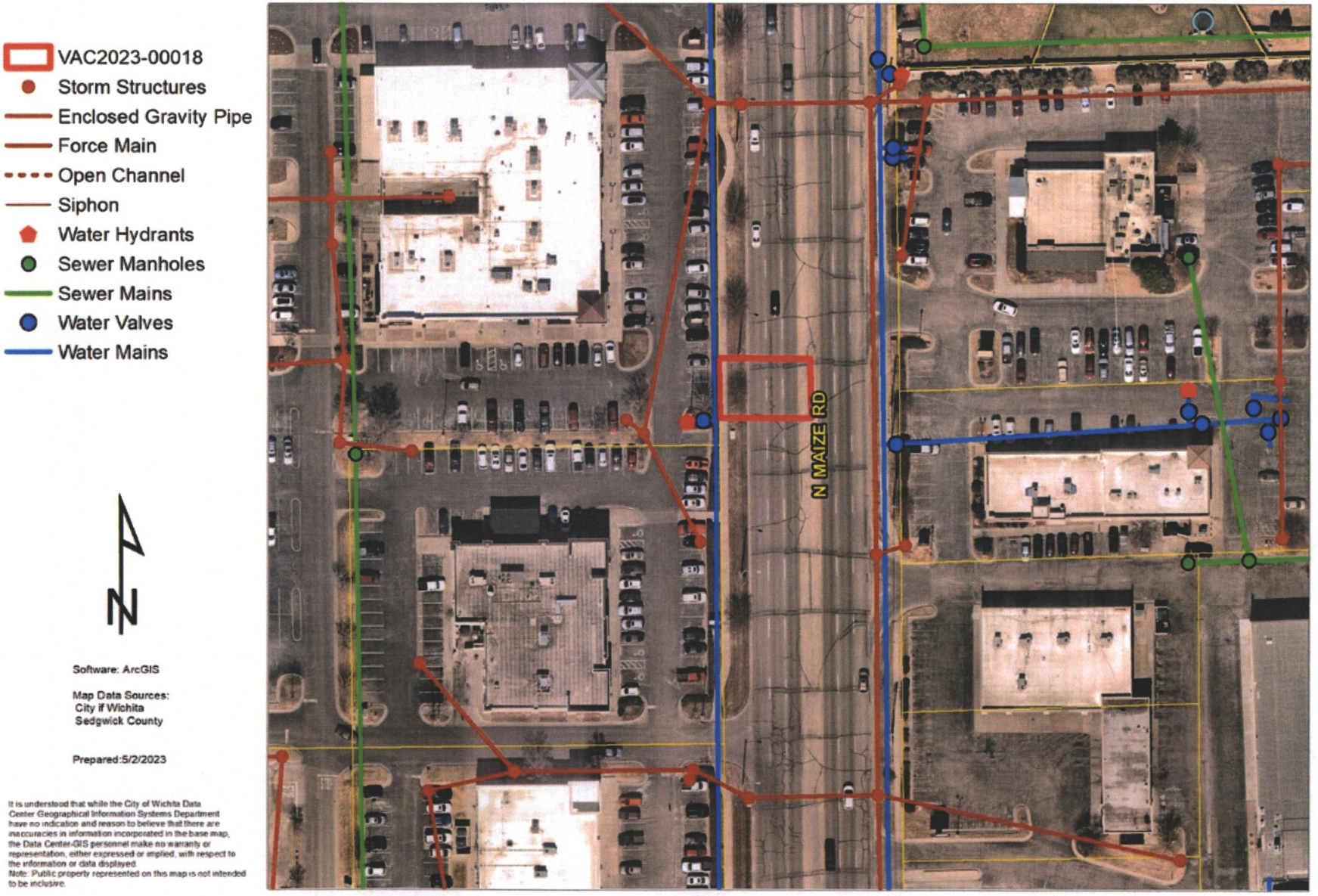
EXHIBIT

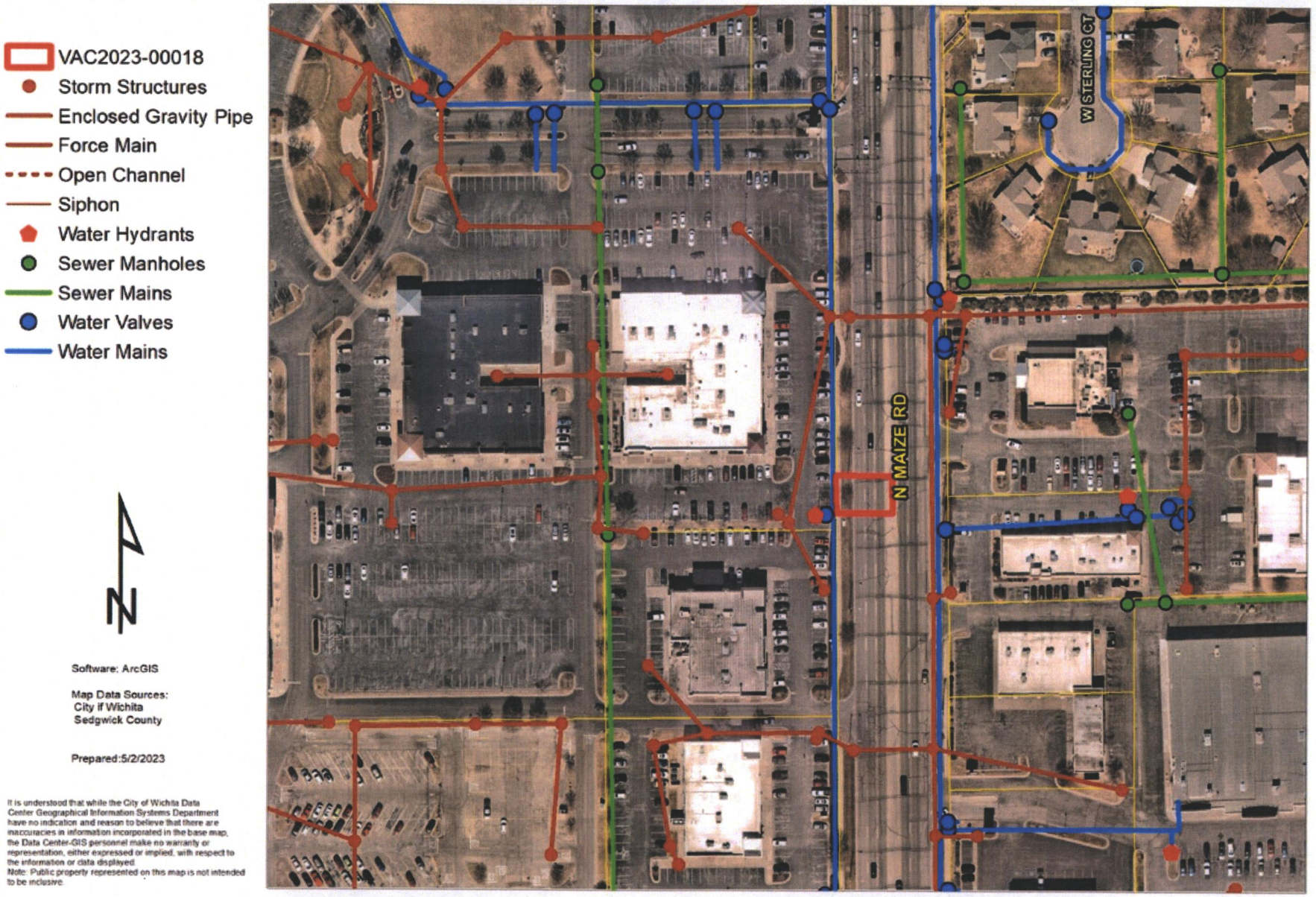
PEC
PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

303 SOUTH TOPEKA
WICHITA, KS 67202
316-262-2691
www.pec1.com

JOB NUMBER:	237017-000
DATE:	05/01/2023
SCALE:	1" = 50'
DRAWN BY:	CSS
CHECKED BY:	CSB


NEWMARKET SQUARE
AN ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS
SCALE: 1"=100'
● = IRON FOUND
N.W. CORNER OF LOT 4, BLOCK 1 Crommer Addition
N.W. Corner Lot 1, Block 1 Crommer Addition
IRON SET
21ST STREET NORTH = SECTION LINE
MAIZE ROAD = SECTION LINE
Complete Access Control
Access Control except 1-Joint Opening
1-Opening to Major Entrance Standards
30' Street Dedication
30' Utility Easement
5' Wall Easement
30' Bldg. Stbk. Line
30' DE and Drain Esm't
30'x60' Access Esm't By Separate Instrument
40'x285.11' Access Esm't By Separate Instrument
1
2
3
4
5
6
7
8
9


VAC2023-00018
Storm Structures
Enclosed Gravity Pipe
Force Main
Open Channel
Siphon
Water Hydrants
Sewer Manholes
Sewer Mains
Water Valves
Water Mains
N MAIZE RD
N
Software: ArcGIS
Map Data Sources:
City if Wichita
Sedgwick County
Prepared:5/2/2023
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.


VAC2023-00018
Storm Structures
Enclosed Gravity Pipe
Force Main
Open Channel
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Note: Public property represented on this map is not intended to be inclusive.



Vacation area (facing south).



Vacation area (facing north).



Existing access to restaurant/retail uses.



West of the vacation area.



Drive north of vacation area on the east side of North Maize Road.



Drive south of vacation area on the east side of North Maize Road.

VACATION OF ACCESS CONTROL
LOT 1, BLOCK 1, NEW MARKET SQUARE ADDITION

LEGAL DESCRIPTION

Commencing at the northeast corner of Lot 2, Block 1, New Market Square Addition to Wichita, Sedgwick County, Kansas; thence north along the east line said Lot 1 a distance of 16.5 feet to the **POINT OF BEGINNING;** thence continuing north along said east line a distance of 40 feet to the **POINT OF TERMINATION.**