

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

**IN THE MATTER OF THE VACATION OF A PORTION  
OF A DRAINAGE EASEMENT BY SEPARATE  
INSTRUMENT**

**GENERALLY LOCATED ONE-QUARTER MILE WEST  
OF NORTH ROCK ROAD AND WITHIN ONE-QUARTER  
MILE SOUTH OF EAST 37<sup>TH</sup> STREET NORTH**

**VAC2023-00056**

**MORE FULLY DESCRIBED BELOW**

**VACATION ORDER**

NOW on this 27<sup>th</sup> day of February 2024, comes on for hearing the petition for vacation filed by Elite USA Construction, LLC (owner) praying for the vacation of a drainage easement by separate instrument, to wit:

Vacation of a portion of an existing Drainage Easement (Film 1273, Page 1580-1582) located in the Northeast Quarter of Section 31, Township 26, Range 2 East of the 6<sup>th</sup> Principal Meridian, Sedgwick County, Kansas, more particularly described as follows:

Commencing at the Northwest corner of Comotara Power Center Addition, thence S01°04'59"E on the West line of said Comotara Power Center Addition a distance of 110.48 feet to the Point of Beginning of tract to be described.

Thence continuing on said West line S01°04'59"E a distance of 127.40 feet to the North line of an existing 30-foot Sanitary Sewer Easement (Film 524, Page 239-242); thence along the North line of said 30-foot Sanitary Sewer Easement along an assumed bearing of N87°50'59"W a distance of 151.99 feet; thence continuing along the North line of said 30-foot Sanitary Sewer Easement along an assumed bearing of N41°35'20"W a distance of 30.87 feet; thence along the North line of said Drainage Easement N59°52'45"E a distance of 196.49 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 January 18, 2024, which was at least 20 days prior to the public hearing.

February 27, 2024  
VAC2023-00056

2. No private rights will be injured or endangered by the vacation of the described portion of a drainage easement by separate instrument, 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 portion of a drainage easement by separate instrument should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 27<sup>th</sup> day of February 2024, ordered that the above-described portion of a drainage easement by separate instrument 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.

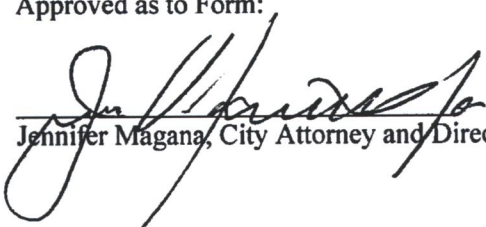
ATTEST:

  
Jamie Buster, City Clerk



  
Lily Wu, Mayor, City of Wichita

Approved as to Form:

  
Jennifer Magana, City Attorney and Director of Law



Sedgwick County  
Register of Deeds - Tonya Buckingham

Doc.#/Flm-Pg: 30293580

Receipt #: 2418638  
Pages Recorded: 3

Recording Fee: \$0.00

Cashier: vbunch

Authorized By: *Tonya Buckingham*

Date Recorded: 02/29/2024 04:14:46 PM



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

|                  |                                          |
|------------------|------------------------------------------|
| Grantor          | WICHITA CITY OF                          |
| Grantee          | ELITE USA CONSTRUCTION LLC               |
| Type of Document | PLAT.VORD                                |
| Recording Fees   | \$0.00                                   |
| Mtg Reg Tax      | \$0.00                                   |
| Total Amount     | \$0.00                                   |
| Return Address   | CITY OF WICHITA<br>CITY CLERK 13TH FLOOR |

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1. That due and legal notice has been given by publication, as required by law, in The Wichita Eagle on January 18, 2024, which was at least 20 days prior to the public hearing.

February 27, 2024  
VAC2023-00056



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3. In justice to the petitioner, the prayer of the petitioner ought to be granted.

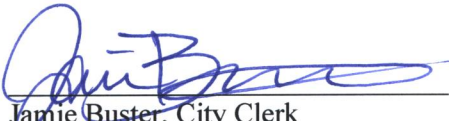
4. No written objection to said vacation has been filed with the City Clerk by any owner or adjoining owner who would be a proper party to the petition.

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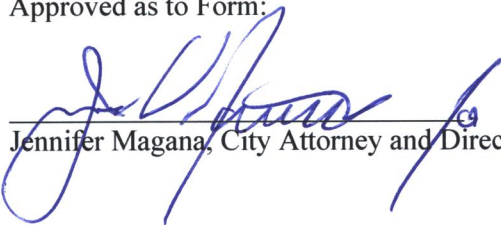
  
Lily Wu, Mayor, City of Wichita

**ATTEST:**

  
Jamie Buster, City Clerk



Approved as to Form:

  
Jennifer Magana, City Attorney and Director of Law



**Wichita-Sedgwick County Metropolitan Area Planning Department**

February 29, 2024

Elite USA Construction, LLC  
9235 E. Harry Street, STE 100  
Wichita, KS 67207

K.E. Miller Engineering  
Attn: Kirk Miller  
117 E. Lewis  
Wichita, KS 67202

**RE: VAC2023-00056:** Vacation request in the City to vacate a portion of a platted drainage easement on property zoned MF-18 Multi-Family Residential; generally located within one-quarter mile west of North Rock Road and one-quarter mile south of East 37<sup>th</sup> 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,

A handwritten signature in blue ink, appearing to read 'Philip Zevenbergen'.

Philip Zevenbergen, AICP  
Current Plans  
Division Manager



**FILE COPY**

**Wichita-Sedgwick County  
Metropolitan Area  
Planning Department**

February 8, 2024

K.E. Miller Engineering  
Attn: Kirk Miller  
117 E Lewis  
Wichita, KS 67202

**Ref: VAC2023-00056:** Vacation request in the City to vacate a portion of a platted drainage easement on property zoned MF-18 Multi-Family Residential, generally located within one-quarter mile west of North Rock Road and one-quarter mile south of East 37<sup>th</sup> Street North.

Kirk,

At the **Thursday, February 8, 2024**, meeting of the Metropolitan Area Planning Commission (MAPC), the above-referenced vacation request was approved subject to the following conditions:

- (1) If any utility services are found to be located within the area of the proposed Vacation, these services shall be relocated at the owner's expense, to city standards, and the applicant shall provide Planning with the dedication of utility easements by separate instruments to go with the Vacation Order to be filed with the Register of Deeds. If relocation is not possible then this Vacation shall be rendered void as the current easement must remain in place.
- (2) 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 **February 22, 2024**, (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  
Current Plans Division Manager

PZ:kw

cc: Elite USA Construction, LLC, 9235 E. Harry Street, Ste 100, Wichita, KS 67207  
City of Wichita, Property Mgmt, John Philbrick, 455 N Main – 13<sup>th</sup> Fl, Wichita KS 67202





The Beaufort Gazette  
The Belleville News-Democrat  
Bellingham Herald  
Centre Daily Times  
Sun Herald  
Idaho Statesman  
Bradenot Herald  
The Charlotte Observer  
The State  
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Durham | The Herald-Sun  
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The Fresno Bee  
The Island Packet  
The Kansas City Star  
Lexington Herald-Leader  
The Telegraph - Macon  
Merced Sun-Star  
Miami Herald  
El Nuevo Herald

The Modesto Bee  
The Sun News - Myrtle Beach  
Raleigh News & Observer  
Rock Hill | The Herald  
The Sacramento Bee  
San Luis Obispo Tribune  
Tacoma | The News Tribune  
Tri-City Herald  
The Wichita Eagle  
The Olympian

## AFFIDAVIT OF PUBLICATION

| Account # | Order Number | Identification                          | Order PO   | Amount   | Cols | Depth |
|-----------|--------------|-----------------------------------------|------------|----------|------|-------|
| 16399     | 509215       | Print Legal Ad-IPL01552890 - IPL0155289 | OCA 150004 | \$139.62 | 2    | 83 L  |

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

MHEBERT@wichita.gov

OCA 150004  
Published in The Wichita Eagle on January 18, 2024  
(One Time Only)

### MAPC/BZA February 8, 2024 OFFICIAL HEARING NOTICE

NOTICE IS HEREBY GIVEN that on Thursday, February 8, 2024, 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 in person at the Ronald Reagan Building, 271 West Third Street, 2nd Floor, Wichita, KS 67202. Public participation is encouraged (see instructions below). Virtual participation is not available. 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.

CON2023-00071: Conditional Use in the City for an Accessory Dwelling Unit located one-half mile south of West Central Avenue and one-quarter mile west of North Tyler Road (447 North Pamela).

VAC2023-00056: Vacation request in the City to vacate a portion of an existing drainage easement for the construction of duplexes on property zoned MF-18 Multi-Family Residential District, generally located west of North Rock Road and north of K-96.

ZON2023-00073: Zone change request in the City from NO Neighborhood Office and MF-29 Multi-Family Residential to GC General Commercial with Protective Overlay #428 to allow for a mixed-use building with roll-up doors, generally located on the east side of North Waco Avenue, within 150 feet south of W. 9th St. N.

ZON2023-00076: Zone change request in the City from NR (Neighborhood Retail) to LC (Limited Commercial); located on the southwest corner of West 13th Street North and North Waco Ave (1351 North Waco Ave).

CON2023-00077: Zone change request in the City from SF-5 Single-Family Residential to TF-3 Two-Family Residential for a duplex on property located within one-quarter mile southwest of the intersection of East 21st Street North and North Hillside Avenue (2935 E. Maplewood).

ZON2023-00078: Zone change request in the City from TF-3 Two-Family Residential District to MF-29 Multi-Family Residential District to construct a duplex and single-family residence, generally located on the southwest corner of East 1st Street North and North Poplar Avenue (155 N Poplar Ave., 2411 E 1st St. N). 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:

1) Attend In-Person at the Ronald Reagan Building, 271 West Third Street, 2nd Floor, Wichita, Kansas 67202. Self-paid parking is available nearby. If you have any written or visual materials you wish to present, please contact Planning Department Graphics staff (316-268-4464) by 5:00 PM, 3 days prior to the meeting.  
2) Submit Comments Ahead of Time regarding items on the Planning Commission agenda to the Wichita-Sedgwick County Metropolitan Area Planning Department (Planning Department) - 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. Planning Departments staff make efforts to share all comments but may not be able to share those received after the deadlines below. Please be sure to provide ample time for delivery. Written Comments should be submitted by 5:00 PM the day before the meeting. Video and Audio Comments (mp3, etc.) formats be submitted at least 3 days prior to the MAPC meeting. The comments should indicate which item they pertain to and be less than three (3) minutes in duration.

#### 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

3) If you need accommodations pursuant to the ADA, please contact Planning Staff within one week prior to the scheduled meeting.

Option to View Remotely (Not Participate)

The meeting will be streamed live and recorded. Virtual comment is not available.

To view the live stream or recording, follow the link: <https://www.wichita.gov/planning>

WITNESS MY HAND on January 18, 2024

Scott Wadle, Secretary

Wichita-Sedgwick County

Metropolitan Area Planning Commission

IPL0155289

Jan 18 2024

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

1 insertion(s) published on:

01/18/24

STATE OF KANSAS)

SS

County of Sedgwick)

Stefani Beard, of lawful age, being first duly sworn, depose 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 01/18/2024 to 01/18/2024.

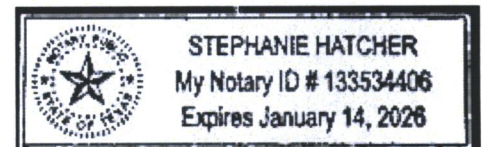
*Stefani Beard*

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

DATED: 01/24/2024

*Stephanie Hatcher*

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



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



**METROPOLITAN AREA PLANNING COMMISSION**

**AGENDA REPORT NO. 3.1**  
**February 8, 2024**

**STAFF REPORT**

**CASE NUMBER:** VAC2023-00056 - City vacation of a portion of a drainage easement by separate instrument.

**APPLICANT/AGENT:** Elite USA Construction, LLC (applicant)/ K.E. Miller Engineering

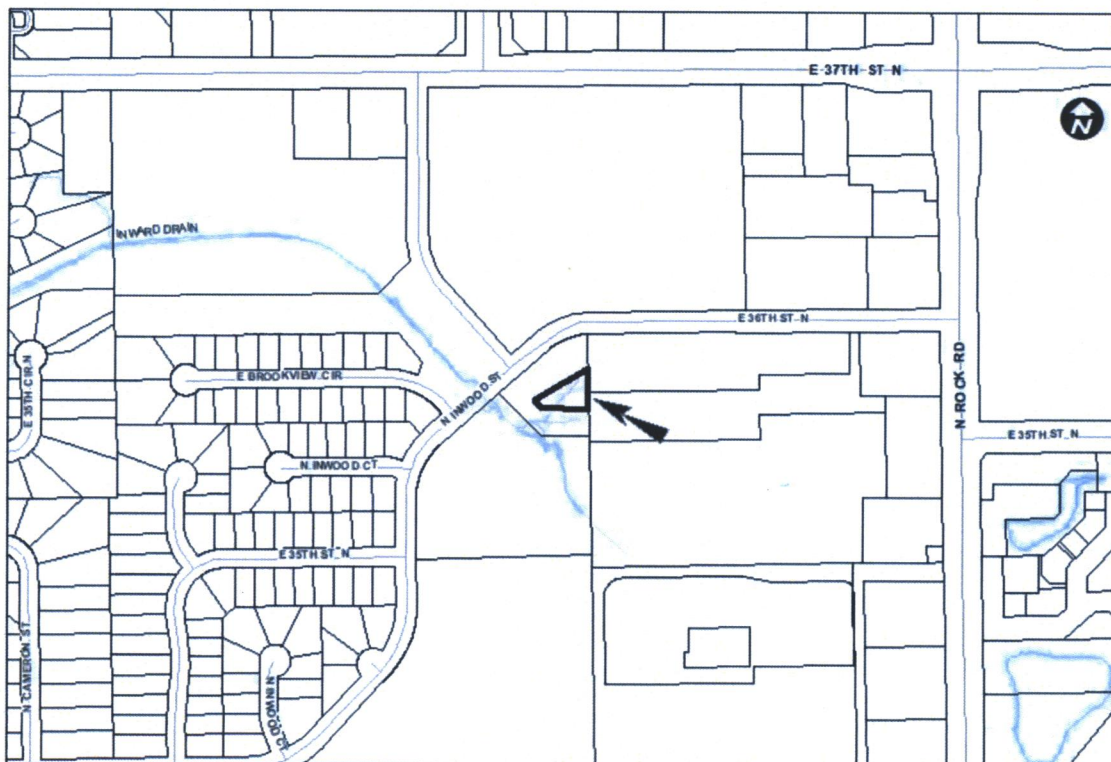
**LEGAL DESCRIPTION:** Vacating a portion of a drainage easement by separate instrument on the east side of Lot 2, Block 1, Killarney Plaza 2<sup>nd</sup> Addition, Wichita, Sedgwick County, Kansas. (See attached legal description).

**LOCATION:** Generally located within one-quarter mile west of North Rock Road and within one-quarter mile south of East 37<sup>th</sup> Street North at the intersection of East 36<sup>th</sup> Street North and North Inwood Street. (WCC I)

**REASON FOR REQUEST:** To facilitate future development.

**CURRENT ZONING:** The site is zoned MF-18 Multi-Family Residential District. Properties to the east are zoned LC Limited Commercial District with CUP DP-195 and developed with a retail shopping center. Properties to the north and south are zoned MF-29 Multi-Family District and developed with apartments. Properties to the west are zoned SF-5 Single-Family Residential District and developed with single-family dwellings.

**VICINITY MAP:**



The applicant is requesting the vacation of a portion of a drainage easement dedicated by separate instrument on the east side of Lot 2, Block 1, Killarney 2<sup>nd</sup> Addition. The purpose of the vacation is to facilitate future multi-family development on the site. In 1992, the drainage easement was dedicated, and it is recorded on FLM/PG# 1273, 1580-1582.

There are public storm sewer facilities in the vacation area. Wichita Stormwater has no objection to the vacation. The applicant will be required to submit a Private Project Drainage (PPD) for the relocation of these facilities. Relocation is at the applicant's expense. Wichita Fire and Wichita Public Works and Utilities have no objection to the vacation. Neither Cox nor Evergy have any objection to the vacation. Cox has no equipment in the vacation area. Condition #1 covers Evergy. Kevin Rieschick, Design Representative, will be the contact for this application and can be reached at 785-410-2986. The applicant has been working with Mr. Rieschick in review of the site plan. The Killarney Plaza 2<sup>nd</sup> Addition was recorded with the Register of Deeds July 18, 1988.

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 portion of the platted utility easement.

- 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 January 18, 2024, 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 the platted drainage easement 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) If any utility services are found to be located within the area of the proposed Vacation, these services shall be relocated at the owner's expense, to city standards, and the applicant shall provide Planning with the dedication of utility easements by separate instruments to go with the Vacation Order to be filed with the Register of Deeds. If relocation is not possible then this Vacation shall be rendered void as the current easement must remain in place.
- (2) 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**

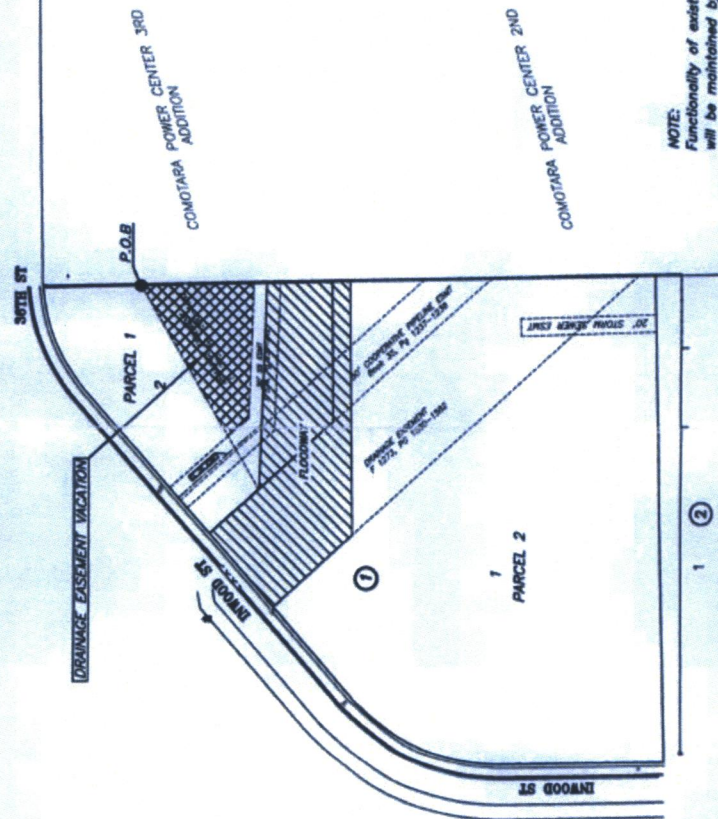
The Subdivision Committee recommends approval per staff recommendations.

Attachments:

1. Vacation Exhibit with Legal Description
2. Aerial Map



**EXHIBIT "A"**  
**DRAINAGE EASEMENT VACATION EXHIBIT**  
KILLARNEY PLAZA 2ND ADDITION  
WICHITA, SEDGWICK COUNTY, KANSAS



**NOTE:** Functionality of existing stormsewer will be maintained by site improvements

**LEGAL DESCRIPTION OF VACATIONS**

Vacation of a portion of an existing **Drainage Easement** (Film 1273, Page 1580-1582) located in the Northeast Quarter of Section 31, Township 26, Range 2 East of the 6th Principal Meridian, Sedgewick County, Kansas more particularly described as follows:

Commencing at the Northwest corner of Camotara Power Center Addition; thence S 01°04'38" E on the West line of said Camotara Power Center Addition a distance of 110.48 feet to the POINT OF BEGINNING of tract to be described:

Thence continuing on the North Line of an existing 30 foot Sanitary Sewer adding a distance of 127.40 feet to the North Line of an existing 30 foot Sanitary Sewer

Thence continuing on said West line S 01°04'38" E a distance of 127.40 feet to the North Line of said 30 foot Sanitary Sewer Easement along an assumed bearing of N 87°50'59" W a distance of 131.99 feet; thence continuing along the North Line of said 30' Sanitary Sewer Easement along an assumed bearing of N 41°35'20" W a distance of 30.87 feet; thence along the North Line of Solid Drainage Easement N 59°52'45" E a distance of 198.49 feet to the Point of Beginning.

The vacated tract contains 0.29 acres more or less.

DATE: 11.17.2023



**KEMILLER**  
ENGINEERING

137 E. Lewis, Windsor, MS 39292 (314) 314-0342



