

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

**IN THE MATTER OF THE VACATION OF A PORTION OF A)
PLATTED BUILDING SETBACK)**

**GENERALLY LOCATED ON THE WEST SIDE OF SOUTH)
SENECA STREET AND WITHIN ONE-QUARTER MILE)
SOUTH OF WEST PAWNEE AVENUE)**

VAC2023-00054

MORE FULLY DESCRIBED BELOW

VACATION ORDER

NOW on this 27th day of February 2024, comes on for hearing the petition for vacation filed by Westway Plaza, LLC (owner) praying for the vacation of a portion of a platted building setback, to wit:

That part of Lot 1, Block A, Westway 2nd Addition, Wichita, Sedgwick County, Kansas, described as commencing at the southeast corner of said Lot 1; thence N01°03'19"W, coincident with the east line of said Lot 1, 40.00 feet; thence S88°51'35"W, coincident with the easterly prolongation of a 40 foot Building Setback Line platted in said Block A, 10.00 feet for a point of beginning; thence continuing S88°51'35"W, coincident with said easterly prolongation, 25.00 feet to the west line of a 35 foot Building Setback Line platted in said Block A; thence N01°03'19"W, coincident with said 35 foot Building Setback line, 171.39 feet to a deflection point in said line; thence N04°58'30"W, coincident with said 35 foot Building Setback line, 104.02 feet to the north line of Parcel A recorded at the Sedgwick County Register of Deeds in Doc.#/Flm-Pg:30264362; thence N88°58'56"E, coincident with the north line of said Parcel A (Doc.#/Flm-Pg:30264362), 25.06 feet to a point 10.00 feet normally distant west of the east line of said Lot 1; thence S04°58'30"E, parallel with the east line of said Lot 1, 103.14 feet; thence S01°03'19"E, parallel with the east line of said Lot 1, 172.20 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,

February 27, 2024
VAC2023-00054

in The Wichita Eagle on December 21, 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 a platted building setback, and the public will suffer no loss or inconvenience thereby.

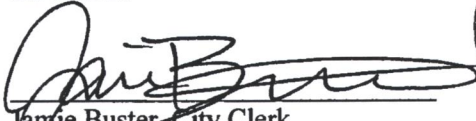
3. In justice to the petitioner, the prayer of the petitioner ought to be granted.

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.

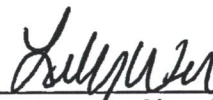
5. The vacation of the described portion of a platted building setback should be approved.

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

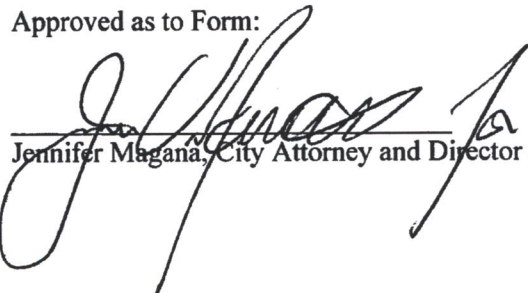
ATTEST:


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: 30293579

Receipt #: 2416638
Pages Recorded: 3

Recording Fee: \$0.00

Cashier: vbunch

Authorized By: *Tonya Buckingham*

Date Recorded: 02/29/2024 04:14:45 PM



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

Grantor	WICHITA CITY OF
Grantee	WESTWAY PLAZA LLC
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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1. That due and legal notice has been given by publication, as required by law,

February 27, 2024
VAC2023-00054

in The Wichita Eagle on December 21, 2023, which was at least 20 days prior to the public hearing.

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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.

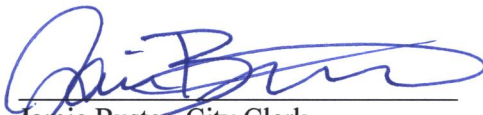
5. The vacation of the described portion of a platted building setback should be approved.

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

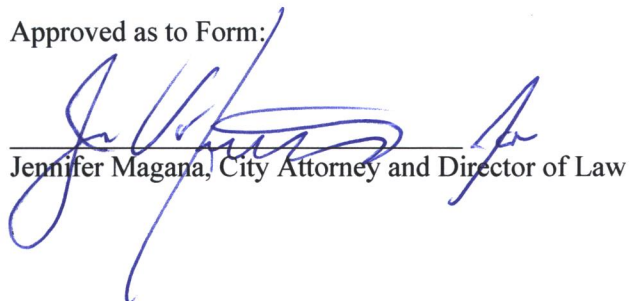


Lily Wu, Mayor, City of Wichita

ATTEST:


Jamie Buster, City Clerk

Approved as to Form:


Jennifer Magana, City Attorney and Director of Law



Wichita-Sedgwick County Metropolitan Area Planning Department

February 29, 2024

Westway Plaza, LLC
Attn: Reza Maolej
220 Newport Center Dr. STE. 11-252
Newport Beach, CA 92660

Baughman Company, P.A.
Attn: Jay Cook
315 Ellis St.
Wichita, KS 67211

RE: VAC2023-00054: Vacation request in the City to vacate a portion of the front building setback for a carwash on property zoned LC Limited Commercial District; generally located on the west side of South Seneca Street and within one-quarter mile south of West Pawnee Avenue.

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', written over a horizontal line.

Philip Zevenbergen, AICP
Current Plans
Division Manager



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

January 11, 2024

Baughman Company, P.A.
Attn: Jay Cook
315 Ellis St
Wichita, KS 67211

Ref: VAC2023-00054: Request in the City to vacate a portion of the front building setback for a Carwash on property zoned LC Limited Commercial District, generally located on the west side of South Seneca Street and within one-quarter mile south of West Pawnee Avenue.

Jay,

At the **Thursday, January 11, 2024**, meeting of the Metropolitan Area Planning Commission (MAPC), the above-referenced vacation request was approved subject to the following conditions:

- (1) Vacation of the described portion of the platted front setback is subject to the approval of CUP2023-00046. If said application is approved 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. This must be provided to Planning prior to the case going to Council for final action.
- (2) The applicant shall work with Evergy on the relocation of signage in relation to the existing power poles and lines in the South Seneca Street right-of-way to ensure compliance with Evergy Standards.
- (3) If approved, the corresponding amendment to CUP DP-21 shall reflect the setback reduction on the face of the CUP Drawing. The applicant shall provide four copies of the revised CUP to the Planning Department.
- (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant. Provide Planning with any needed easements dedicated by separate instrument with original signatures. These conditions must be completed prior to the case going to Council for final action.
- (5) All improvements shall be according to City Standards and at the applicant's expense.
- (6) 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.

VAC2023-00054: Request in the City to vacate a portion of the front building setback for a Carwash on property zoned LC Limited Commercial District, generally located on the west side of South Seneca Street and within one-quarter mile south of West Pawnee Avenue.

January 11, 2024

Page 2

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 **January 25, 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: Westway Plaza LLC, Reza Moalej, 220 Newport Center Dr, Ste 11-252, Newport Beach CA 92660-7655
Westway Plaza LLC, 450 Newport Center Dr, Ste 200, Newport Beach CA 92660



The Beaufort Gazette
The Belleville News-Democrat
Bellingham Herald
Centre Daily Times
Sun Herald
Idaho Statesman
Bradenton Herald
The Charlotte Observer
The State
Ledger-Enquirer

Durham | The Herald-Sun
Fort Worth Star-Telegram
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	501875	Print Legal Ad-IPL01524820 - IPL0152482		\$144.27	2	86 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 December 21, 2023
(One Time Only)
MAPC/BZA January 11, 2024
OFFICIAL HEARING NOTICE

NOTICE IS HEREBY GIVEN that on Thursday, January 11, 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.

BZA2023-00065: Variance request in the City to remove the landscape buffer requirements on the north and south sides of the property zoned TF-3 Two-Family Residential District, generally located on the east side of South 167th Street West, south of West Apollo Street.

CUP2023-00046: Minor Amendment to CUP DP-21 to allow a car wash on Parcel 14 zoned LC Limited Commercial, generally located on the west side of South Seneca Street and within one-quarter mile south of West Pawnee Avenue.

VAC2023-00053: Vacation request in the City to vacate the plat's text in Reserve A on property zoned TF-3 Two-Family Residential District, generally located on the east side of South 167th Street West, within 1500 feet north of U.S. Highway 54.

VAC2023-00054: Request in the City to vacate a portion of the front building setback for a Carwash on property zoned LC Limited Commercial District, generally located on the west side of South Seneca Street and within one-quarter mile south of West Pawnee Avenue.

ZON2023-00072: Request in the City to amend Protective Overlay #11 to permit additional uses on property zoned LC Limited Commercial, located on the north side of West Maple Street, within one-quarter mile west of South 135th Street West (13710 West Maple St.).

ZON2023-00073: Zone change request in the City from NO Neighborhood Office and MF-29 Multi-Family Residential to LC Limited Commercial to allow for a mixed-use building, generally located on the east side of North Waco Avenue, within 150 feet south of West 9th Street North.

ZON2023-00074: Zone Change request in the City from LC Limited Commercial to OW Office Warehouse for contractor warehousing, generally located 300 feet north of 13th Street North and on the west side of North Broadway (1451 North Broadway).

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 December 21, 2023

Scott Wadle, Secretary

Wichita-Sedgwick County

Metropolitan Area Planning Commission

IPL0152482

Dec 21 2023

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

1 insertion(s) published on:

12/21/23

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 12/21/2023 to 12/21/2023.

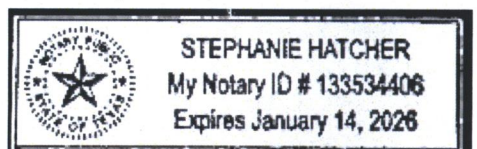
Stefani Beard

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

DATED: 01/03/2024

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!

STAFF REPORT

CASE NUMBER: VAC2023-00054 - City vacation of a portion of platted building setback.

APPLICANT/AGENT: Westway Plaza, LLC (applicant)/ Baughman Company, P.A.

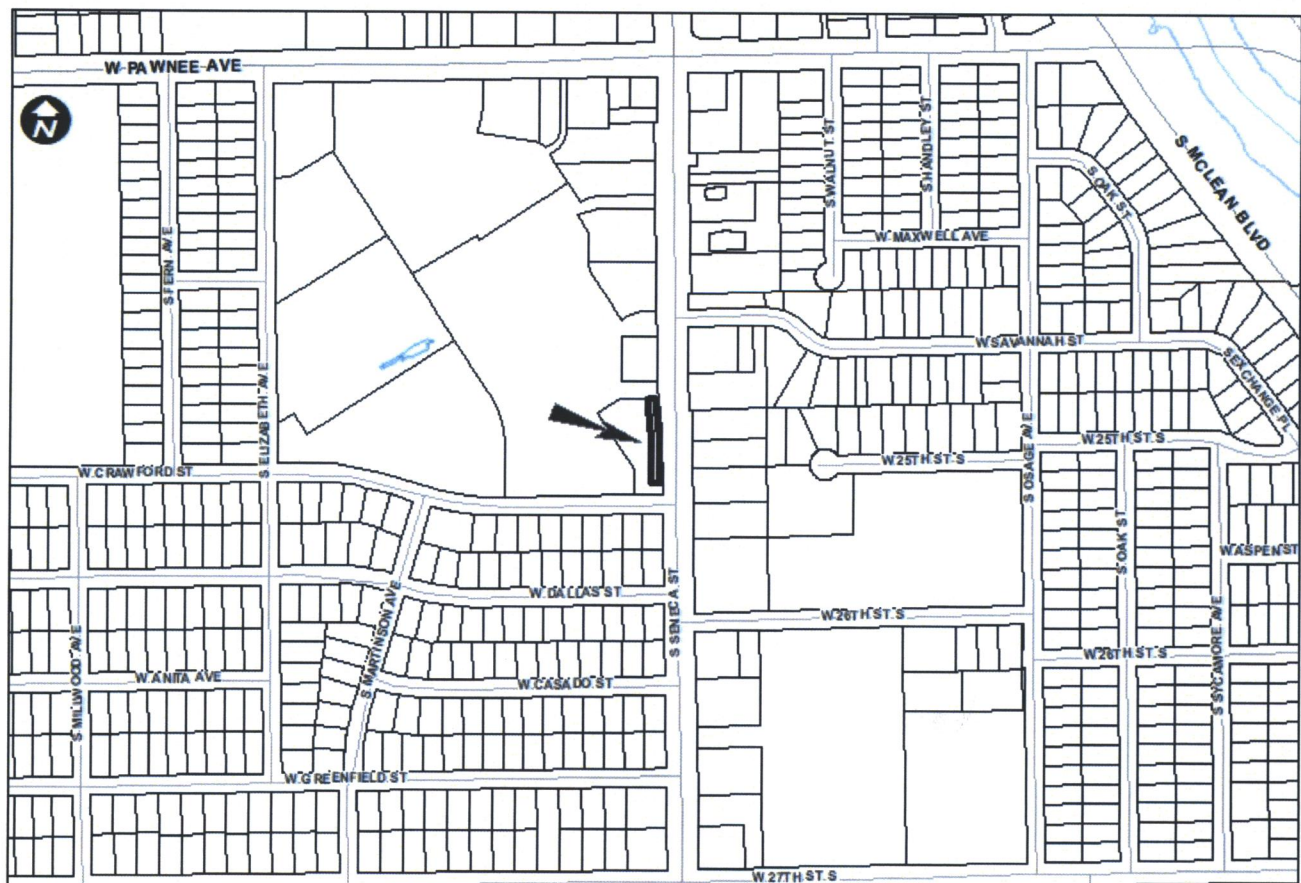
LEGAL DESCRIPTION: Generally described as vacating the west 25 feet of the platted 35-foot setback on the east side of a portion of Lot 1, Block A, Westway 2nd Addition, Wichita, Sedgwick County, Kansas. (see attached legal description)

LOCATION: Generally located on the west side of South Seneca Street, within one-quarter mile south of West Pawnee Avenue. (WCC IV)

REASON FOR REQUEST: Permit construction of a carwash.

CURRENT ZONING: The site and properties to the west and north are zoned LC Limited Commercial District with CUP DP-21 and developed with commercial retail and restaurants. Properties to the east are zoned LC and developed with commercial uses. Properties to the south are zoned NO Neighborhood Office District with PO-105. Properties to the southwest are zoned SF-5 Single-Family Residential District and are developed with single-family dwellings.

VICINITY MAP:



The applicant is requesting the vacation of the west 25 feet of the platted 35-foot of the building setback along the east side of a portion of Lot 1, Block A, Westway 2nd Addition. The site is generally located on the west side of South Seneca Street and within one-quarter mile south of West Pawnee Avenue, at the northwest corner of the intersection of South Seneca Street and West Crawford Street. The purpose of this request is to allow for construction of a proposed automatic carwash. The site is zoned LC Limited Commercial District, subject to the Westway Shopping Center Community Unit Plan DP-21. Case number CUP2023-00046 is being heard concurrently, which is an amendment to CUP DP-21 to permit the proposed automatic carwash. Staff is recommending the proposed vacation of the setback be subject to the approval of the carwash. Should the use not be permitted in the CUP, the vacation request will be considered null and void.

The agent for the applicant explains that in order to layout the site so that the dryer blowers at the end of the tunnel are on the north side pointing away from the nearby residential properties south of the site, the proposed carwash tunnel needs to be closer to South Seneca Street than the platted 35-foot setback permits. The building could be oriented in order to respect the platted setback, but that would orient the dryer blowers at the end of the tunnel south, which could have greater negative impacts on the residential properties nearby.

If approved, the setback would be reduced from 35 feet to 10 feet. If the setback were not platted at 35 feet, Section III-C.2.b of the Unified Zoning Code requires a 35-foot setback for non-residential CUPs when abutting arterial roadways. The proposed reduction exceeds development standards for non-residential CUPs. Should the application be approved, the corresponding amendment to CUP DP-21 shall reflect the setback reduction on the face of the CUP drawing.

Public Works and Utilities; Wichita Fire; and Traffic Engineering have no objection to the vacation. There are no public utilities in the described setback. Evergy and Cox have lines and equipment in the South Seneca Street right-of-way adjacent to the vacation area. Cox does not object to the vacation. Evergy wants to ensure proper overhead clearance between the overhead lines and any sign relocation. The applicant will need to continue to work with Evergy on the final placement of signage. The Westway 2nd Addition was recorded with the Register of Deeds March 27, 2014.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from Public Works, Stormwater, 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 portion of platted building 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 December 21, 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 the platted building setback 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 described portion of the platted front setback is subject to the approval of CUP2023-00046. If said application is approved 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. This must be provided to Planning prior to the case going to Council for final action.

- (2) The applicant shall work with Evergy on the relocation of signage in relation to the existing power poles and lines in the South Seneca Street right-of-way to ensure compliance with Evergy Standards.
- (3) If approved, the corresponding amendment to CUP DP-21 shall reflect the setback reduction on the face of the CUP Drawing. The applicant shall provide four copies of the revised CUP to the Planning Department.
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- (5) All improvements shall be according to City Standards and at the applicant's expense.
- (6) 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.

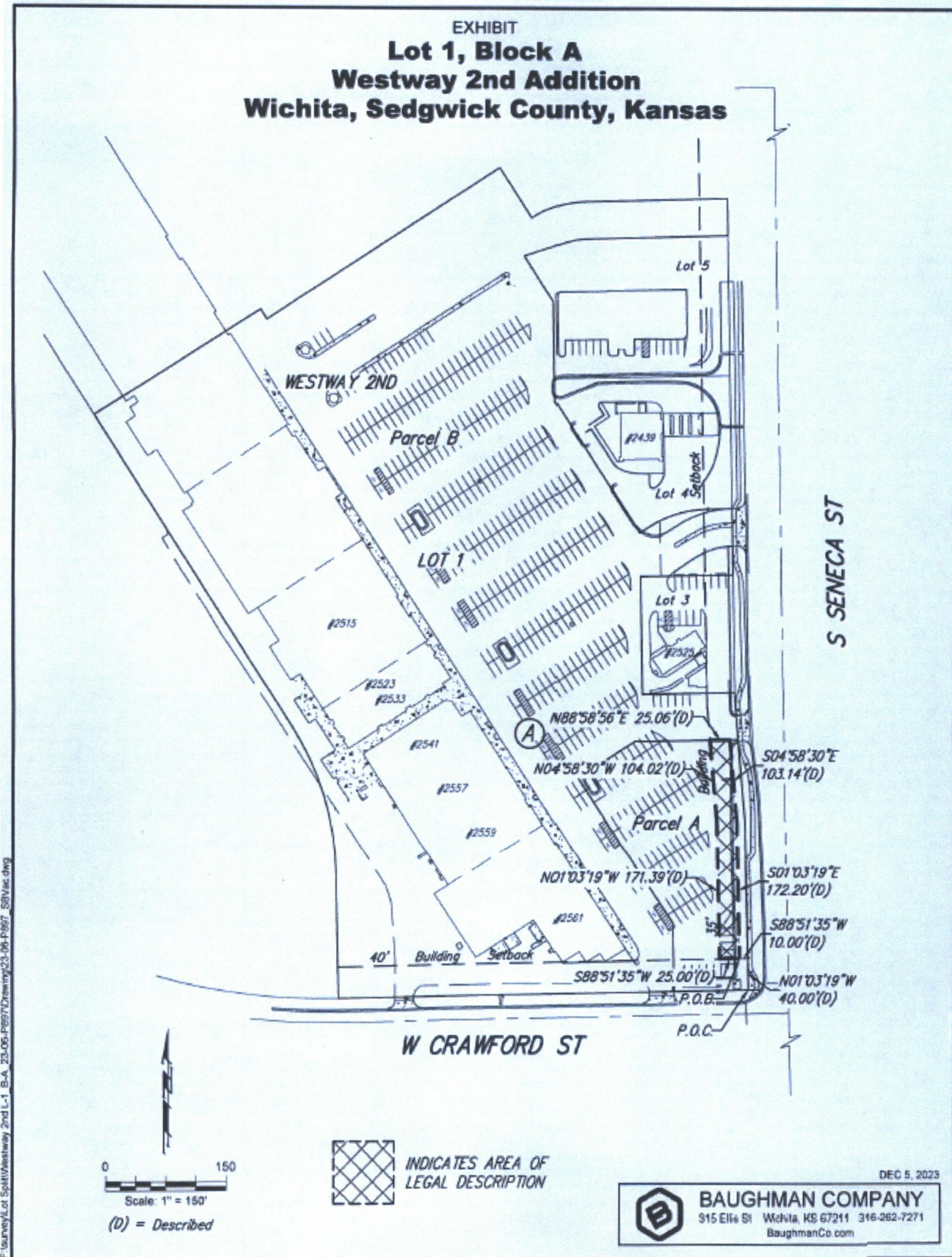
SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

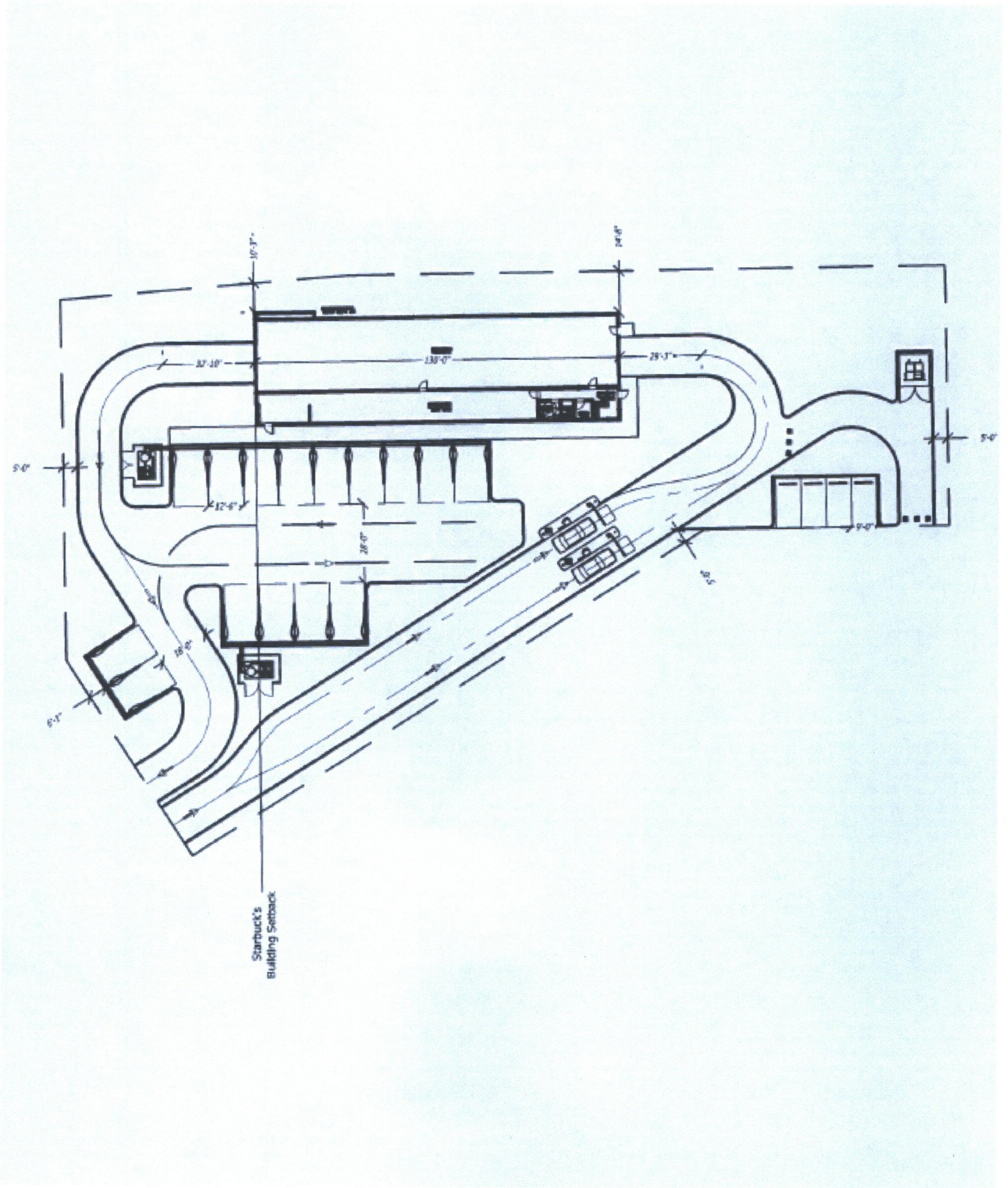
The Subdivision Committee recommends approval per staff recommendations.

Attachments:

1. Setback Exhibit
2. Proposed Site Plan
3. Aerial Map
4. Legal Description

EXHIBIT
**Lot 1, Block A
Westway 2nd Addition
Wichita, Sedgwick County, Kansas**





VAC2023-00054- City request to vacate a portion of platted building setback.
January 11, 2024



- VAC2023-00054
- Storm Structures
- Enclosed Gravity Pipe
- Force Main
- - - Open Channel
- Siphon
- ◆ Water Hydrants
- Sewer Manholes
- Sewer Mains
- Water Valves
- Water Mains



Software: ArcGIS
Map Data Sources:
City of Wichita
Sedgwick County

Prepared: 12/6/2023

It is understood that while the City of Wichita Data Center GIS personnel make every effort to ensure the accuracy of the information incorporated in the base map, the Data Center-GIS personnel make no warranty or representation, either expressed or implied, with respect to the accuracy or data displayed on this map.
Note: Public property represented on this map is not intended to be inclusive.

LEGAL DESCRIPTION

BUILDING SETBACK VACATION

That part of Lot 1, Block A, Westway 2nd Addition, Wichita, Sedgwick County, Kansas, described as commencing at the southeast corner of said Lot 1; thence N01°03'19"W, coincident with the east line of said Lot 1, 40.00 feet; thence S88°51'35"W, coincident with the easterly prolongation of a 40 foot Building Setback Line platted in said Block A, 10.00 feet for a point of beginning; thence continuing S88°51'35"W, coincident with said easterly prolongation, 25.00 feet to the west line of a 35 foot Building Setback Line platted in said Block A; thence N01°03'19"W, coincident with said 35 foot Building Setback line, 171.39 feet to a deflection point in said line; thence N04°58'30"W, coincident with said 35 foot Building Setback line, 104.02 feet to the north line of Parcel A recorded at the Sedgwick County Register of Deeds in Doc.#/Flm-Pg:30264362; thence N88°58'56"E, coincident with the north line of said Parcel A (Doc.#/Flm-Pg:30264362), 25.06 feet to a point 10.00 feet normally distant west of the east line of said Lot 1; thence S04°58'30"E, parallel with the east line of said Lot 1, 103.14 feet; thence S01°03'19"E, parallel with the east line of said Lot 1, 172.20 feet to the point of beginning.