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MAY 20 2005

METROPOLITAN PLANNING
ROUTE

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

**IN THE MATTER OF THE VACATION OF)
A PLATTED UTILITY EASEMENT AND)
A PLATTED SETBACK)**

**GENERALLY LOCATED)
¼ MILE WEST OF ROCK ROAD AND MIDWAY)
BETWEEN 21ST STREET NORTH AND)
13TH STREET NORTH)**

Case No. VAC2005-00010

MORE FULLY DESCRIBED BELOW)

VACATION ORDER

NOW on this 17th day of May, 2005 comes on for hearing the petition for vacation filed by Security Portfolio VII, LLC praying for the vacation of the following described platted utility easement and platted setback, to-wit:

UTILITY EASEMENT VACATION

The east 10 feet of the west 15 feet of Lot 3, C.C.R. 3rd Addition to Wichita, Sedgwick County, Kansas, EXCEPT the north 111.50 feet thereof.

BUILDING SETBACK VACATION

The west 35 feet of Lot 3, C. C. R. 3rd Addition to Wichita, Sedgwick County, Kansas, EXCEPT the north 111.50 feet thereof.

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, by publication in The Wichita Eagle on March 24, 2005, which was at least 20 days prior to the public hearing.

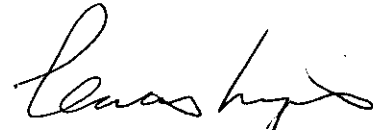
2. No private rights will be injured or endangered by the vacation of the above-described platted utility easement and platted setback and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner(s), the prayer of the petition 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.

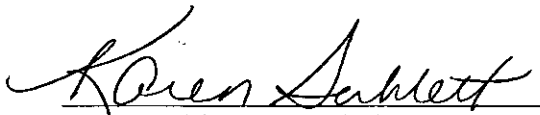
5. The vacation of the platted utility easement and the platted setback described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 17th day of May 2005 ordered that the above-described platted utility easement and platted setback are hereby vacated. IT IS FURTHER ORDERED that the City Clerk shall certify a copy of this order to the Register of Deeds of Sedgwick County.

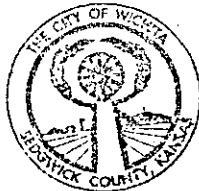


Carlos Mayans, Mayor

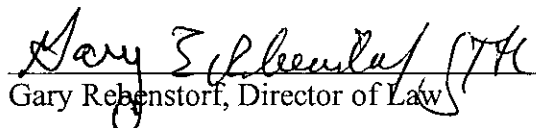
ATTEST:



Karen Sublett, City Clerk



Approved as to Form:



Gary Rebenstorf, Director of Law

STAFF REPORT

CASE NUMBER: VAC2005-00010: Request to vacate a platted utility easement and a platted setback

OWNER/APPLICANT: Security Portfolio VII, LLC

AGENT: Baughman Company, PA, PA c/o Phil Meyer

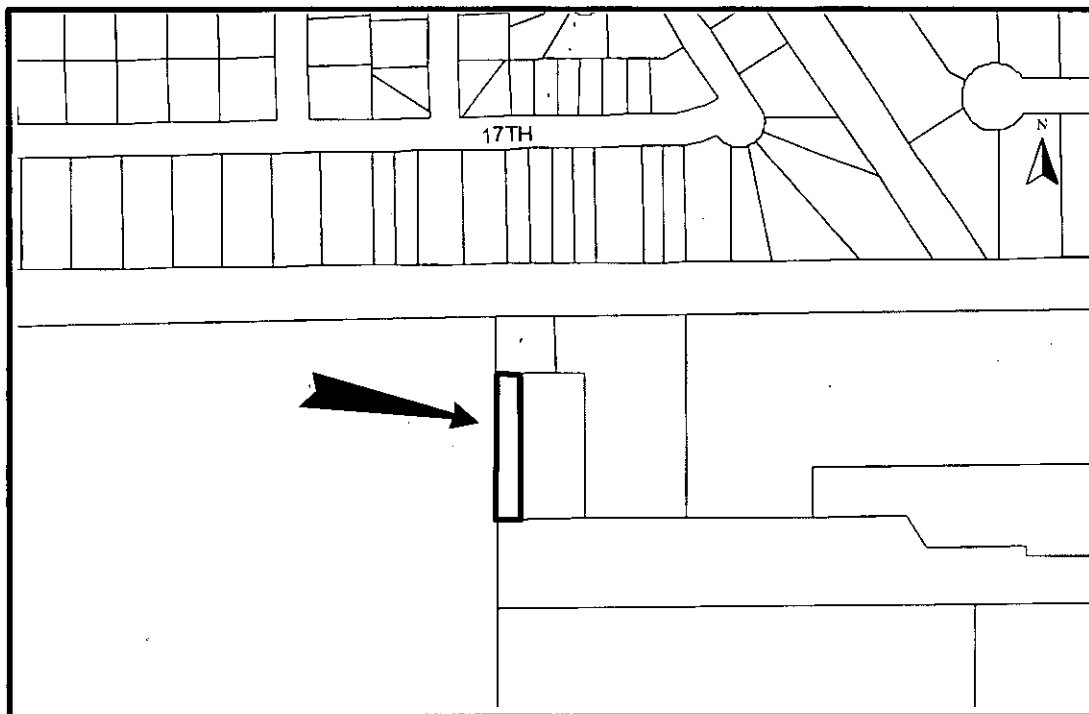
LEGAL DESCRIPTION: All of the platted 10-foot utility easement, located 5-foot east of the west lot line and all of the platted 35-foot setback that both run parallel to the west lot line all on Lot 3, CCR 3rd Addition, Wichita, Sedgwick County, Kansas, except the north 111.50-feet thereof

LOCATION: Generally located approximately ¼ mile west of Rock Road, midway between 21st Street North and 13th Street North and abutting the south side of the Railroad right-of-way (WCC District II)

REASON FOR REQUEST: Allow more area to build

CURRENT ZONING: Subject property is zoned "LI" Limited Industrial. South abutting property is zoned "GO" General Office. West abutting property is zoned "SF-5" Single-Family Residential. East abutting property is zoned "LC" Limited Commercial. North abutting property is Railroad right-of-way.

VICINITY MAP:



The applicant is requesting consideration for the vacation of all of the platted 10-foot utility easement and the platted 35-foot setback as described. The applicant proposes the vacation to allow more area to build more storage units. The Unified Zoning Code (UZC) provides no interior side yard setback for the "LI" zoning district. The UZC's Compatibility Standards for an interior side yard setback when property is zoned "MF-18" Multi-family Residential or has a less restrictive zoning when adjacent to property zoned "TF-3" Two-family Residential or a more restrictive zoning, is a minimum of 15-feet, plus 1-foot for each 5-feet of lot width over 50-feet. The maximum interior side yard setback, per the Compatibility Standards, is 25-feet. The self storage facility (zoned "GO" General Office) south of the site, Lot 1, Security Storage Properties Addition, was required to have a 15-foot landscape buffer along the west side of their site, per condition #2 of BZA 35-84. The western abutting property is zoned "SF-5" and is developed as USD 259 Coleman Middle School. The school's playing fields abut the site. Placing the back of a storage facility against the USD/subject site's common property line basically provides solid screening at that location. There are no manholes, sewer or water lines in the platted easement. The CCR 3rd Addition was recorded with the Register of Deeds May 23, 1995.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the platted 10-foot easement and the platted 35-foot setback as described in the legal description with the following conditions.

- 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, by publication in the Wichita Eagle of notice of this vacation proceeding one time March 24, 2004, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described platted easement and the platted setback and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Therefore, the vacation of the platted easement and the platted setback described in the petition should be approved with conditions;

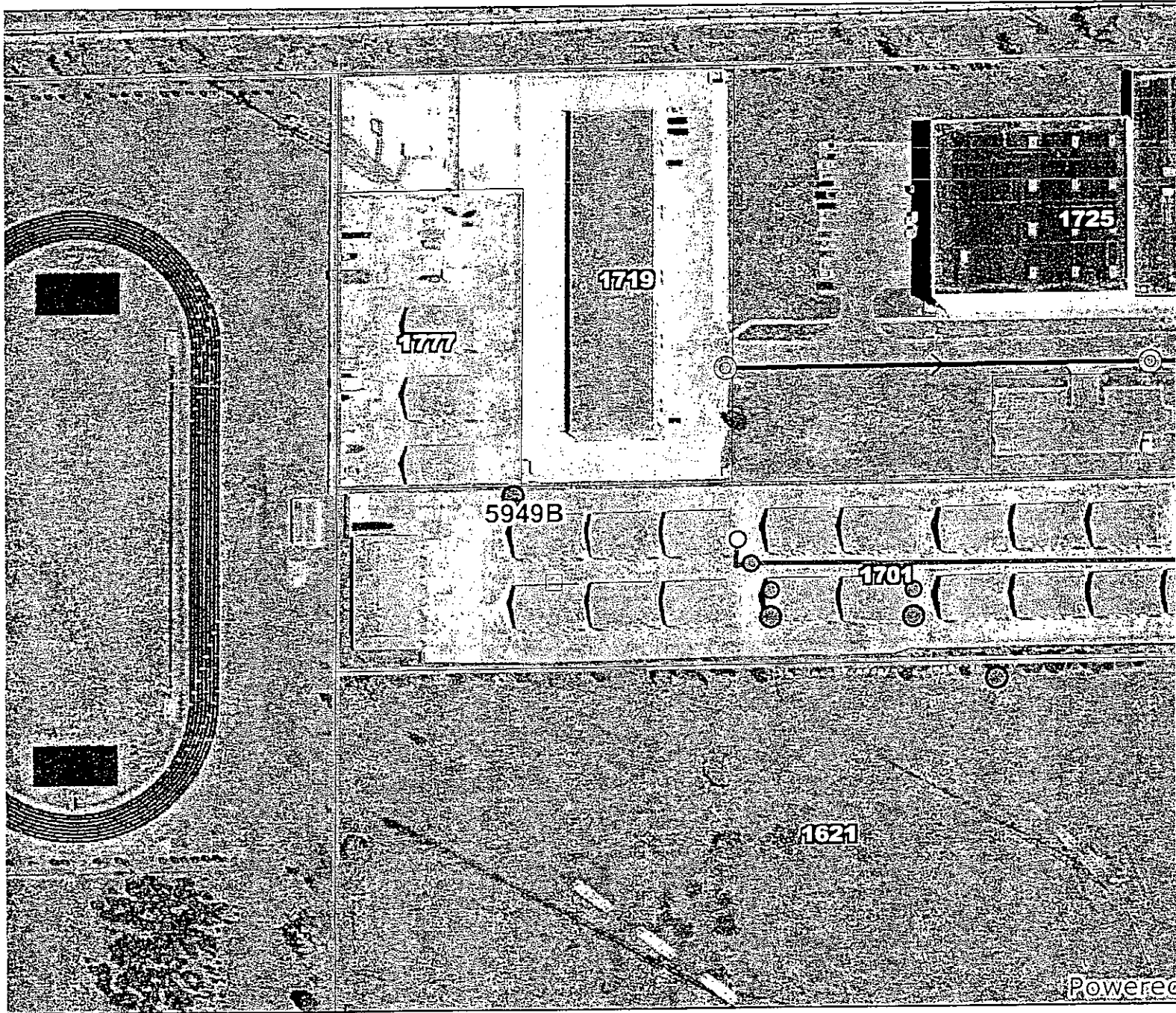
- (1) Vacate the platted 35-foot setback, as described in the legal description. Waive the UZC's Compatibility Standards.
- (2) Vacate the platted 10-foot utility easement, as described in the legal description, contingent upon approval by Public Works and the franchised utility companies.

- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants.
- (4) All improvements shall be according to City Standards.
- (5) Per the MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request 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.

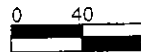
SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the platted 35-foot setback, as described in the legal description. Waive the UZC's Compatibility Standards.
- (2) Vacate the platted 10-foot utility easement, as described in the legal description, contingent upon approval by Public Works and the franchised utility companies.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants.
- (4) All improvements shall be according to City Standards.
- (5) Per the MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request 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.



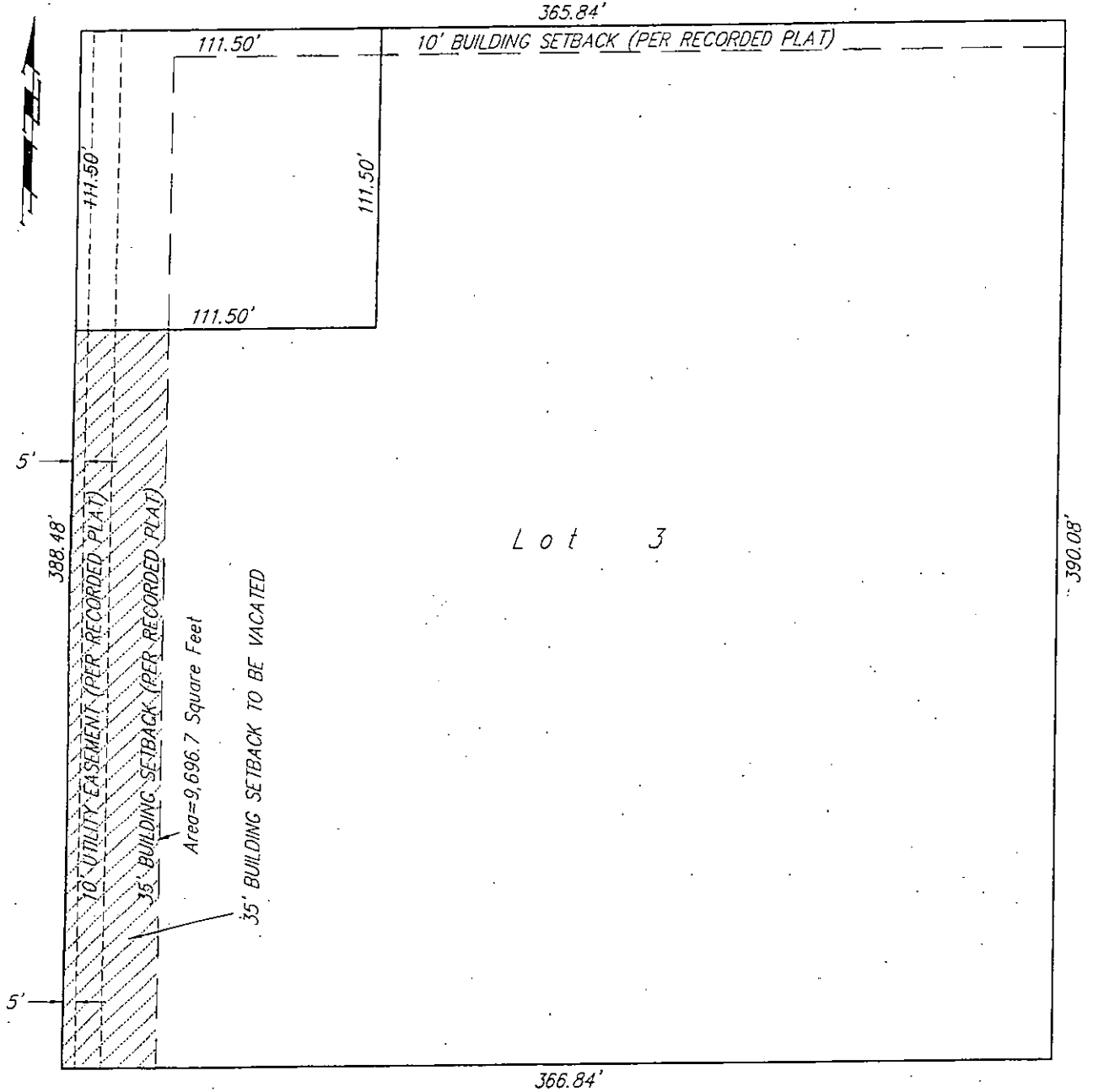
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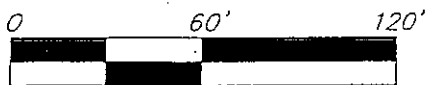
VAC 200 S-10

EXHIBIT

VACATION OF A PORTION OF THE 35' BUILDING SETBACK, LOT 3, C.C.R. 3RD ADDITION



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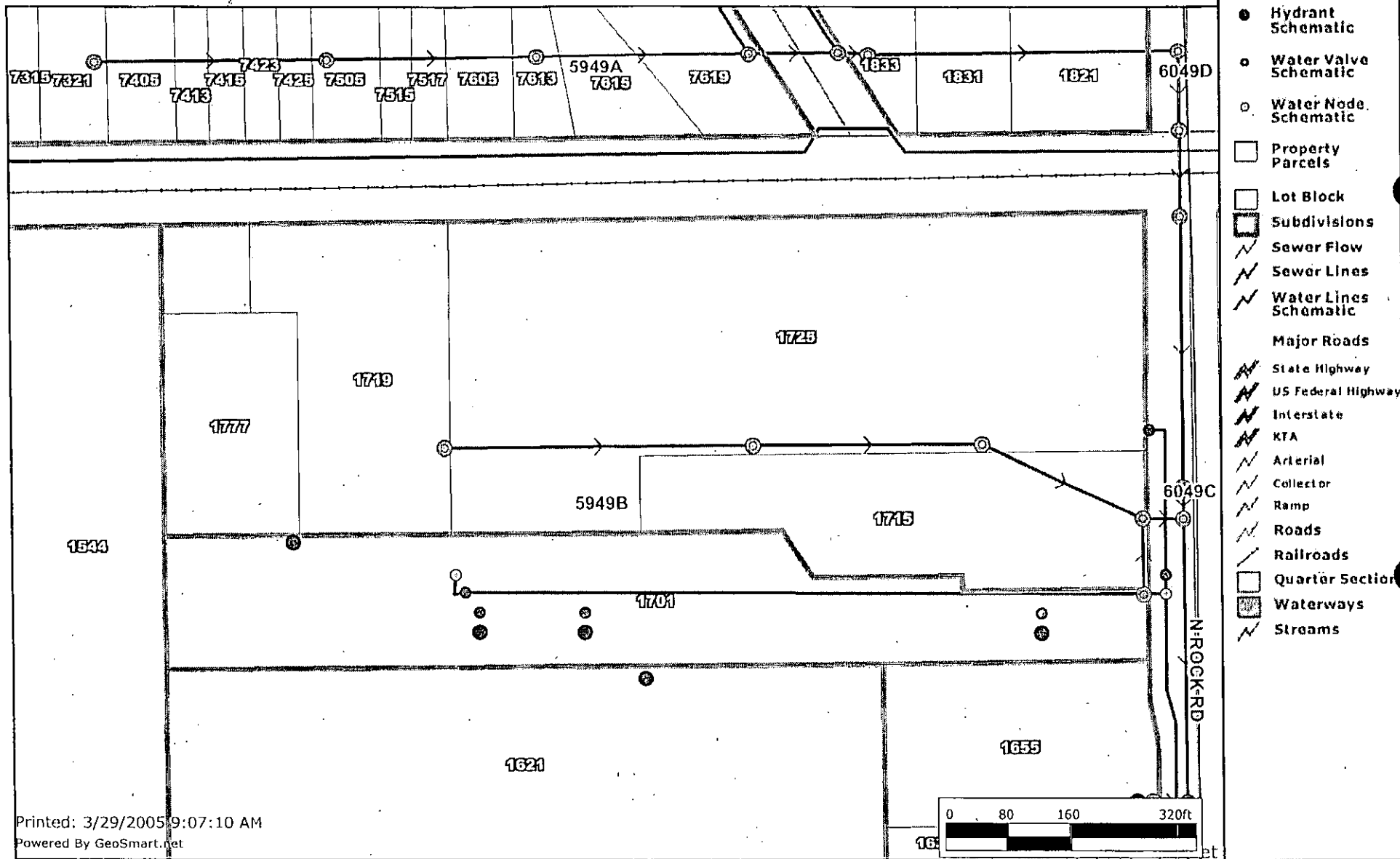
B Baughman Company, P.A.
315 Ellis St. Wichita, KS 67211 P 316-262-7271 F 316-262-0149
Baughman ENGINEERING | SURVEYING | PLANNING | LANDSCAPE ARCHITECTURE

Drawing File: .F:\SURVEY\misc\CCR_Exhibit_B.dwg



vac2005-10

water & sewer



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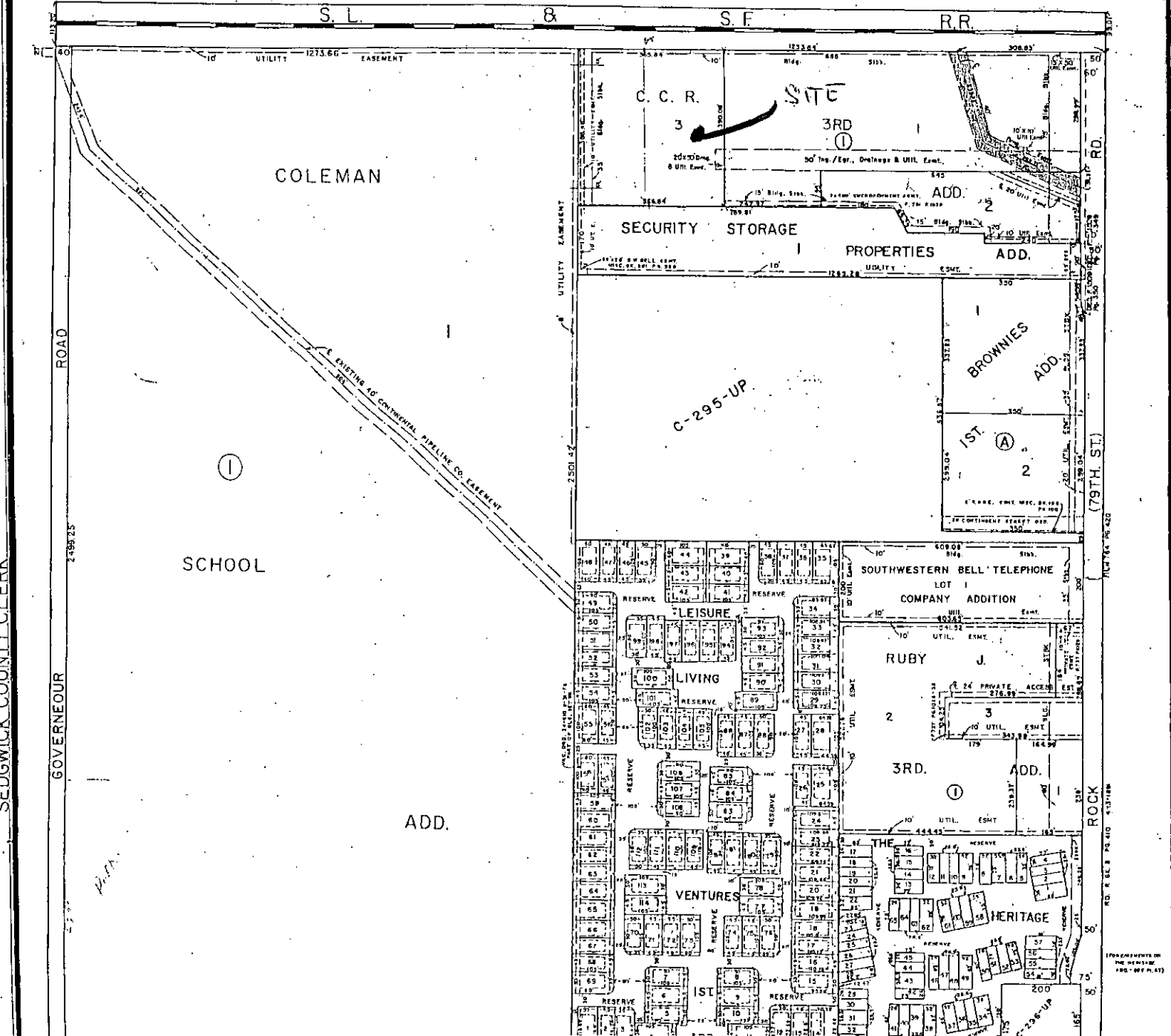
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VAC 2008-10

S.E. 1/4 SEC. 7 TWP 27 R. 2E.

MI 27



Original Plat of VAC 2008-10

THIS SHEET PREPARED UNDER SUPERVISION OF
SEDGWICK COUNTY CLERK

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FOR COMMENTS ON THE HISTORY
SEE PAGE 101