

efficient machine. The new machine is larger and can only be placed at the location shown on the site plan. Therefore, if the variance is not approved the applicant would be unable to install the new ATM on this site.

**PUBLIC INTEREST:** It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as there will be no encroachments into public utility easements or street right-of-way as a result of this building setback reduction request and therefore there will be no effect on the general public.

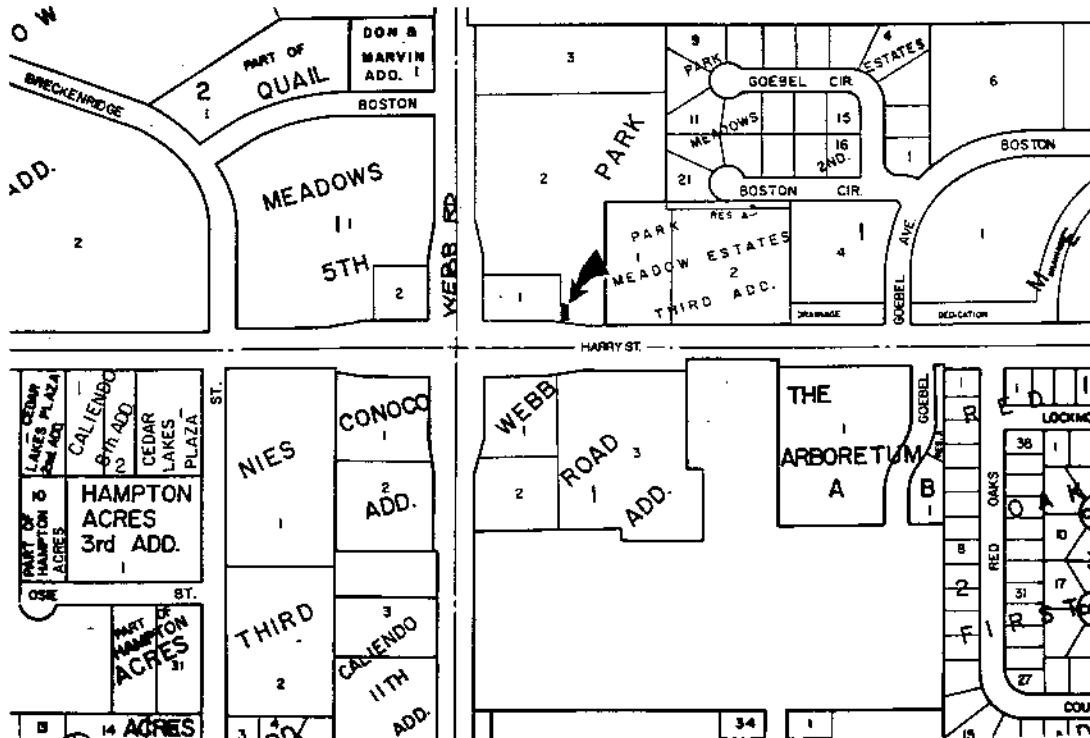
**SPIRIT AND INTENT:** It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch as the placement of an ATM is minor in nature and should not impact the Unified Zoning Code's purpose of preserving and improving the public health, safety, and general welfare, nor should it have an impact on the orderly growth of the City.

**RECOMMENDATION:** Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted, subject to the following conditions:

1. The site shall be developed and required to comply with all building, zoning, and landscape code requirements, except that the front yard setback shall be reduced from 20 feet to 5 feet on the south side of the property for the placement of an ATM. The ATM shall be constructed in conformance with the site plan approved by the Board of Zoning Appeals.
2. The applicant shall obtain all local permits necessary to construct the garage and all improvements shall be completed within one year following BZA approval of the variance or resolution unless such time period is extended by the BZA.
3. The applicant shall plant two ornamental trees in the parkway along Harry Street, one on each side of the proposed ATM.
4. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

**SECRETARY'S REPORT**

CASE NUMBER: BZA 18-98  
OWNER/APPLICANT: Intrust Bank c/o Doug Winkley  
AGENT: Baughman Co., PA c/o Russ Ewy  
REQUEST: Variance to reduce the front yard setback from 20 feet to 5 feet  
CURRENT ZONING: "LC" Limited Commercial  
SITE SIZE: 300 square feet  
LOCATION: North of Harry and east of Webb Road



**JURISDICTION:** The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

**BACKGROUND:** The applicant requests a variance to reduce the front yard setback from 20 feet to 5 feet on property zoned "LC" Limited Commercial located north of and Harry east of Webb. The variance would only be for a 15 foot by 20 foot area (300 square feet) which would allow the placement of an ATM approximately 5 feet north of the property line.

Entrances to the property are located east and west of the proposed ATM. The east entrance serves the Intrust Bank and a restaurant. The ATM would be located on an island with traffic using the ATM on the south side and traveling from the west to east. This ATM would replace the existing ATM located in the third lane of the drive through. The new ATM is too large to fit in this location, and the applicant also wishes to add a third drive through lane for the bank, where the existing ATM is located. Traffic engineering has approved the location of the ATM.

A vacation request to vacate the platted building setback was approved by the MAPC on August 6, 1998.

The application area is surrounded by a bank and restaurant to the west and north. A tire and accessory store is located to the south of this area across Harry Street and a vacant field is just east of the site which is zoned "LC" Limited Commercial.

#### **ADJACENT ZONING AND LAND USE:**

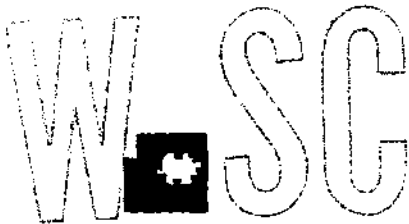
NORTH	"LC"	Port of Wichita restaurant
SOUTH	"LC"	Tire and accessory store
EAST	"LC"	Vacant commercial property
WEST	"LC"	Intrust Bank

**UNIQUENESS:** It is the opinion of staff that this property is unique, inasmuch as this is the only appropriate location for the placement of an ATM on-site. In order to ensure that traffic along Harry Street and also the internal traffic on this site is not impacted by the ATM, this is the only location which should not impact either of these traffic patterns.

**ADJACENT PROPERTY:** It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as the applicants own the immediate property surrounding this location to the north, east and west. The ATM is placed in a location which should not impact any adjacent land owners.

**HARDSHIP:** It is the opinion of staff that the strict application of the provisions of the zoning regulations may constitute an unnecessary hardship upon the applicant, inasmuch as the applicant wishes to replace the existing ATM on-site with a more

WICHITA — SEDGWICK COUNTY



METROPOLITAN AREA PLANNING  
DEPARTMENT

CITY HALL — TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202-1688  
(316) 268-4421  
FAX (316) 268-4390

August 25, 1998

Intrust Bank  
% Doug Winkley  
105 N. Main  
Wichita, KS 67202

**RE: BZA 18-98 - Variance to reduce the front yard setback from 20 feet to 5 feet on property generally located north of Harry, east of Webb Road.**

Dear Mr. Winkley:

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on August 25, 1998. This resolution reflects the official action of the Board to grant your request and sets out the conditions of approval. It is forwarded to you for your information and files.

This is a reminder that the zoning adjustment signs should now be removed from the property. If you have any questions concerning this matter, please call our office.

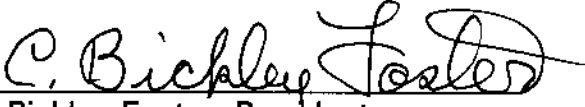
Sincerely yours,

David L. Yearout, AICP, Secretary  
Board of Zoning Appeals

DLY/sah

cc: Baughman Co., PA, %Russ Ewy, 315 Ellis, Wichita, KS 67211  
J. R. Cox, OCI  
Paul Hays, OCI  
Ray Sledge, OCI  
Pat Burnett, City Clerk  
Yolanda Anderson, MAPC (resolution only)

ADOPTED AT WICHITA, KANSAS, this 25th day of August, 1998.

  
C. Bickley Foster, President

ATTEST:

  
David L. Yearout, AICP, Secretary

## BZA RESOLUTION NO. BZA 18-98

**WHEREAS**, Intrust Bank c/o Doug Winkley, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the front yard setback from 20 feet to 5 feet on property zoned "LC" Limited Commercial and legally described as follows:

The west 20 feet of the south 20 feet, EXCEPT the south 5 feet, of that part of Lot 2, Block 1, Park Meadow Estates, Sedgwick County, Kansas, described as commencing at the SE corner thereof; thence S 89°38'15"W along the south line of said lot, 43 feet for a place of beginning; thence continuing S 89°38'15" W, 7 feet to a deflection corner of said lot; thence N 81°49'25" W along the south line of said lot; 65.66 feet to a corner of said lot; thence N 00°00' E along a line of said lot 46.25 feet; thence N 89°38'15" E, 72 feet; thence S 00°00' W, 56.00 feet to the point of beginning. Generally located north of Harry and east of Webb Road.

**WHEREAS**, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

**WHEREAS**, the Board of Zoning Appeals did, at the meeting of August 25, 1998, consider said application; and

**WHEREAS**, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Section 2.12.590.B, Code of the City of Wichita; and

**WHEREAS**, the Board of Zoning Appeals has found that the variance arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owners or the applicant inasmuch as this is the only appropriate location for the placement of an ATM on-site. In order to ensure that traffic along Harry Street and also the internal traffic on this site is not impacted by the ATM, this is the only location which should not impact either of these traffic patterns; and

**WHEREAS**, the Board of Zoning Appeals has found that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents inasmuch as the applicants own the immediate property surrounding this location to the north, east and west. The ATM is placed in a location which should not impact any adjacent land owners; and

**WHEREAS**, the Board of Zoning Appeals has found that the strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as the applicant wishes to replace the existing ATM on-site with a more efficient machine. The new machine is larger and can only be placed at the location shown on the site plan. Therefore, if the variance is not approved the applicant would be unable to install the new ATM on this site; and

**WHEREAS**, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, inasmuch as there will be no encroachments into public utility easements or street right-of-way as a result of this building setback reduction request and therefore there will be no effect on the general public; and

**WHEREAS**, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the placement of an ATM is minor in nature and should not impact the Unified Zoning Code's purpose of preserving and improving the public health, safety, and general welfare, nor should it have an impact on the orderly growth of the City.

**WHEREAS**, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

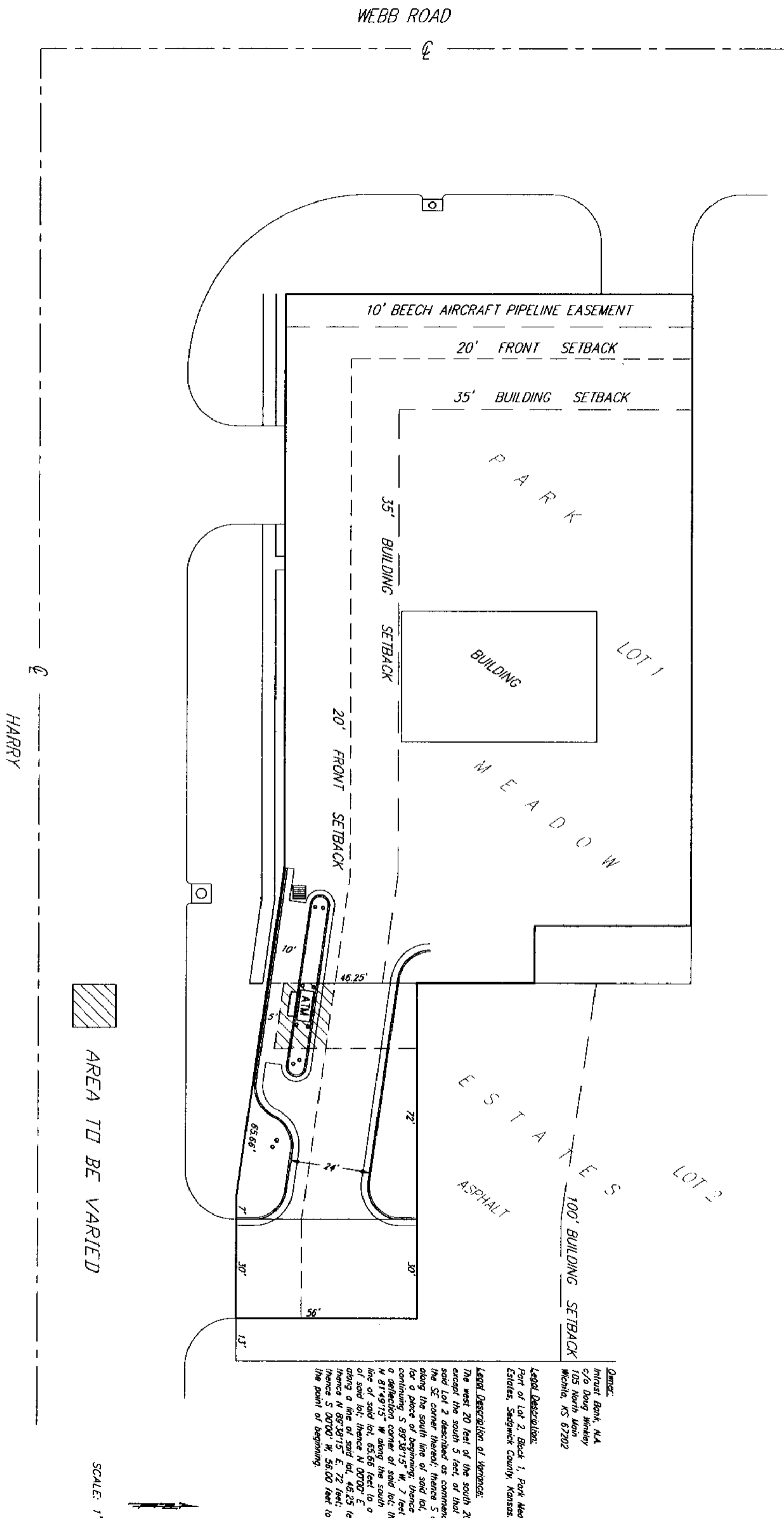
**NOW, THEREFORE, BE IT RESOLVED** by the Board of Zoning Appeals of the City of Wichita that this request be approved for a variance to reduce the front yard setback from 20 feet to 5 feet on property zoned "LC" Limited Commercial and legally described as follows:

The west 20 feet of the south 20 feet, EXCEPT the south 5 feet, of that part of Lot 2, Block 1, Park Meadow Estates, Sedgwick County, Kansas, described as commencing at the SE corner thereof; thence S 89°38'15"W along the south line of said lot, 43 feet for a place of beginning; thence continuing S 89 °38'15" W, 7 feet to a deflection corner of said lot; thence N 81°49'25" W along the south line of said lot; 65.66 feet to a corner of said lot; thence N 00°00' E along a line of said lot 46.25 feet; thence N 89°38'15" E, 72 feet; thence S 00 00' W, 56.00 feet to the point of beginning. Generally located north of Harry and east of Webb Road.

subject to the following conditions:

1. The site shall be developed and required to comply with all building, zoning, and landscape code requirements, except that the front yard setback shall be reduced from 20 feet to 5 feet on the south side of the property for the placement of an ATM. The ATM shall be constructed in conformance with the site plan approved by the Board of Zoning Appeals.
2. The applicant shall obtain all local permits necessary to construct the ATM and all improvements shall be completed within one year following BZA approval of the variance or resolution unless such time period is extended by the BZA.
3. The applicant shall submit a landscape plan for approval by staff.
4. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

# EXHIBIT A



**Owner:**  
 Intrust Bank, N.A.  
 c/o Doug Hinkey  
 105 North Main  
 Wichita, KS 67202

**Legal Description:**  
 Part of Lot 2, Block 1, Park Meadow Estates, Sedgwick County, Kansas.

**Legal Description of Easement:**  
 The west 20 feet of the south 20 feet, except the south 5 feet, of that part of said Lot 2 described as commencing at the SE corner thereof; thence S 89°38'15" W along the south line of said lot, 43 feet for a place of beginning; thence continuing S 89°38'15" W, 7 feet to a deflection corner of said lot; thence N 81°49'15" W along the south line of said lot, 65.66 feet to a corner of said lot; thence N 00°00' E along a line of said lot, 46.25 feet; thence N 89°38'15" E, 72 feet; thence S 00°00' W, 56.00 feet to the point of beginning.

B2A 18-98