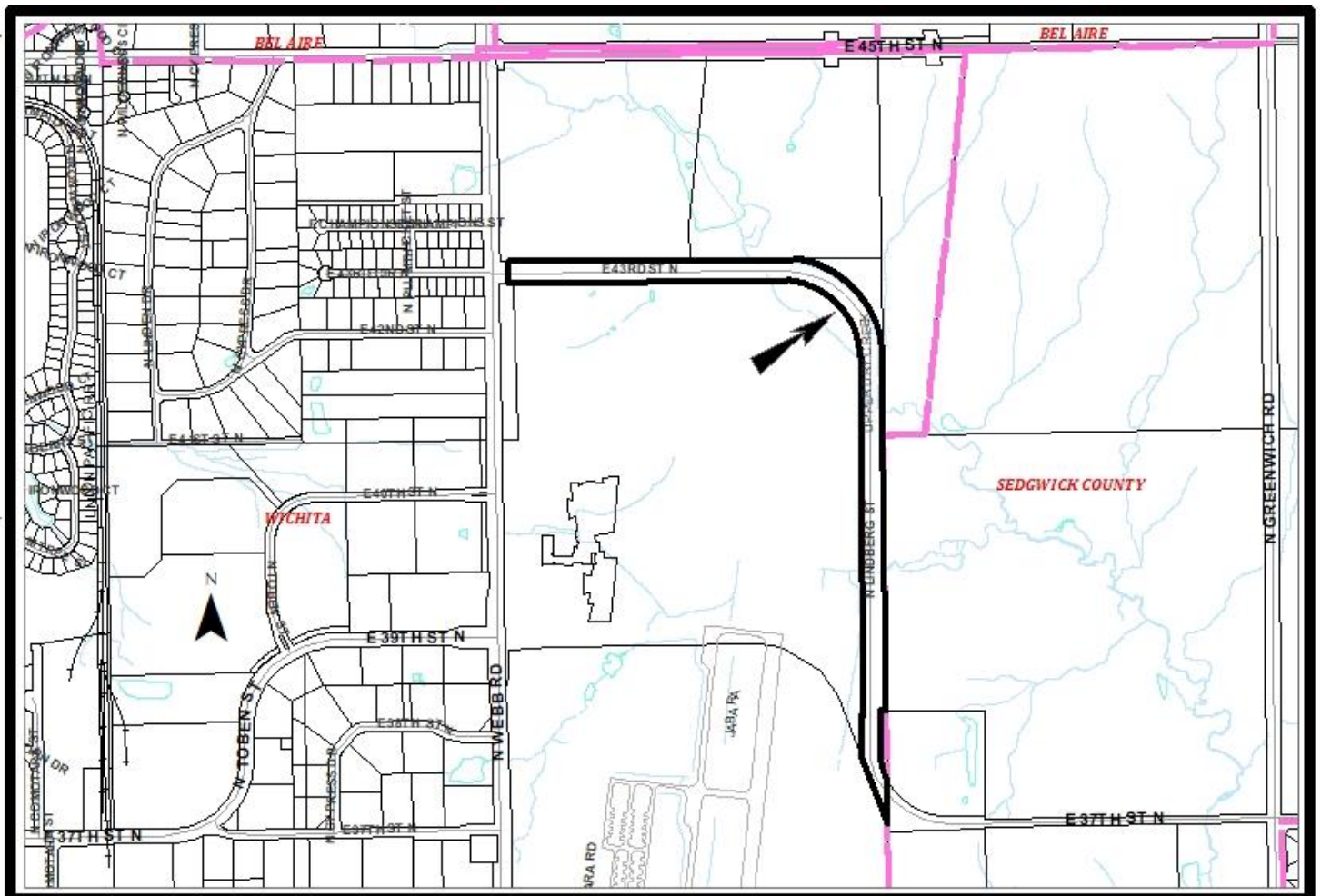


STAFF REPORT

- CASE NUMBER:** VAC2021-00028– City vacation of a portion of platted street right-of-way
- APPLICANTS/AGENT:** Wichita Airport Authority (applicant), Mike Armour, City of Wichita Traffic Engineer (agent).
- LEGAL DESCRIPTION:** Generally described as vacating a portion of East 43rd Street North and North Lindberg Street (see attached legal description).
- LOCATION:** Generally located east of North Webb Road and south of East 45th Street North. (WCC II)
- REASON FOR REQUEST:** To provide for FAA compliance and future airport development.

VICINITY MAP:



The Wichita Airport Authority is requesting the vacation of East 43rd Street North and North Lindberg Street rights-of-way to allow Colonel James Jabara Airport to construct a taxi lane extension, future development of the airport, and to come into compliance with Federal Aviation Administration (FAA) runway protection zone requirements. The abutting airport property is zoned LI Limited industrial and is generally located on the east side of North Webb Road and between East 45th Street North and East 37th Street North. In March 1994, the rights-of-way were platted in the Colonel James Jabara Airport 2nd Addition.

The applicant is part of the City of Wichita, and this vacation is pursuant of K.S.A 13-443 rather than the more common procedure under K.S.A.12-505. K.S.A.13-443 states that the governing body of a “*city shall have the power to open, widen, extend or otherwise improve any street, avenue, alley or lane, and also to vacate and close any street, avenue, alley or lane or portion thereof... When any street, avenue, alley, or lane is vacated, it shall revert to the owners of land thereto adjoining on each side, in proportion to the frontage of such land, except in cases where such street, avenue, alley or lane may have been taken for public use in a different proportion, in which it shall revert to the adjoining land in the same proportion as it was taken from it.*” If this vacation is approved, the vacated right-of-way shall revert to the ownership of the land from which it was dedicated. As seen on the attached plat, the land for the right-of-way was dedicated solely from the Colonel James Jabara Airport 2nd Addition. Therefore, the airport will retain ownership of the land.

The attached Airport Development Exhibit illustrates that a portion of East 43rd Street North and a portion of North Lindberg Street are within the Runway Protection Zone (RPZ) defined by the FAA as “an area at ground level prior to the threshold or beyond the runway end established to enhance the safety and protection of people and property on the ground.” The FAA Advisory Circular 150/5300-13A, *Airport Design* and the FAA Memorandum, *Interim Guidance on Land Uses within a Runway Protection Zone* provide guidance regarding land uses with RPZs. Certain land uses are permitted with conditions while other land uses are prohibited. The guidance identifies public roads as an incompatible land use within an RPZ.

If this vacation is approved, it would limit access to a Sedgwick County Maintenance facility at the corner of North Lindberg and East 37th Street. Sedgwick County does not oppose the vacation request. In order to provide access to the Sedgwick County Maintenance facility, the City of Wichita is proposing to construct a new cul-de-sac at the new terminus of East 37th Street. Sedgwick County will retain access to their facility and any private vehicle using East 37th Street will have a space to turn around. Fences with gates will be placed on East 43rd Street at Webb Road and at terminus of East 37th Street. The airport intends to use the vacated right-of-way for a private airport service road. The Airport Development Exhibit illustrates this future expansion of a taxi lane and future aeronautical development on the north side of the airfield crossing east 45th Street North.

The City of Wichita conducted a traffic count along the subject rights-of-way prior to the submittal of the vacation application. It shows that about 2,900 vehicles per day use the streets in question. They later did a recount with two counters and it showed only 400 vehicles per day use the rights-of-way. It was deemed prudent to continue with the vacation request in order come into compliance with the FAA guidance, which states that public streets are incompatible in RPZs. Vehicles currently using East 43rd and North Lindberg have the opportunity to use East 45th Street and North Greenwich Road to access East 37th Street and North Webb Road. The additional distance traveled is approximately 0.6 miles.

If this vacation is approved, no property will be deprived access. Attachment 6, shows that all but two of the properties abutting the proposed vacation area are owned by the Wichita Airport Authority. One is the Sedgwick County Maintenance Facility previously described, the second property is just north of the County Maintenance Facility and is privately owned. That property is 144 acres, is currently undeveloped, and has access to both East 37th Street and North Greenwich.

There is a public water line and a gas located in the vacation area, and the City is already working with the Airport Authority on the dedication of an easement. There are several stormwater culverts under the rights-of-way. The Airport Authority is accepting the responsibility to maintain those facilities. Neither Cox nor Every have equipment in the subject right-of-way. Neither object to the request.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Public Works, Water & Sewer, Stormwater, 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 alley right-of-way.

- 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 July 1, 2021, 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 street rights-of-way 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) Provide a restrictive covenant, with original signatures, binding and tying the vacated described rights-of-way to the abutting property. This must be provided to Planning prior to the case going to City Council for final action and subsequent recording with the Vacation Order at the Register of Deeds.
- (2) Construct a cul-de-sac, to County Standards, at the terminus of East 37th Street as illustrated in the Lindberg Closure at 37th Street Exhibit.
- (3) As needed provide utilities with any needed project plans for the relocation of utilities for review and approval. Any relocation/reconstruction of utilities made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicants. Provide an approved project number(s) to Planning prior to the case going to City Council for final action.
- (4) All improvements shall be according to City, County, and Airport Authority Standards (where applicable) and at the applicants' expense.
- (5) 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. K.S.A 13-443 Language
2. Site Plan with Legal Description
3. Aerial Map
4. Airport Development Exhibit
5. Lindberg Closure at 37th Street Exhibit
6. Wichita Airport Authority Properties Map

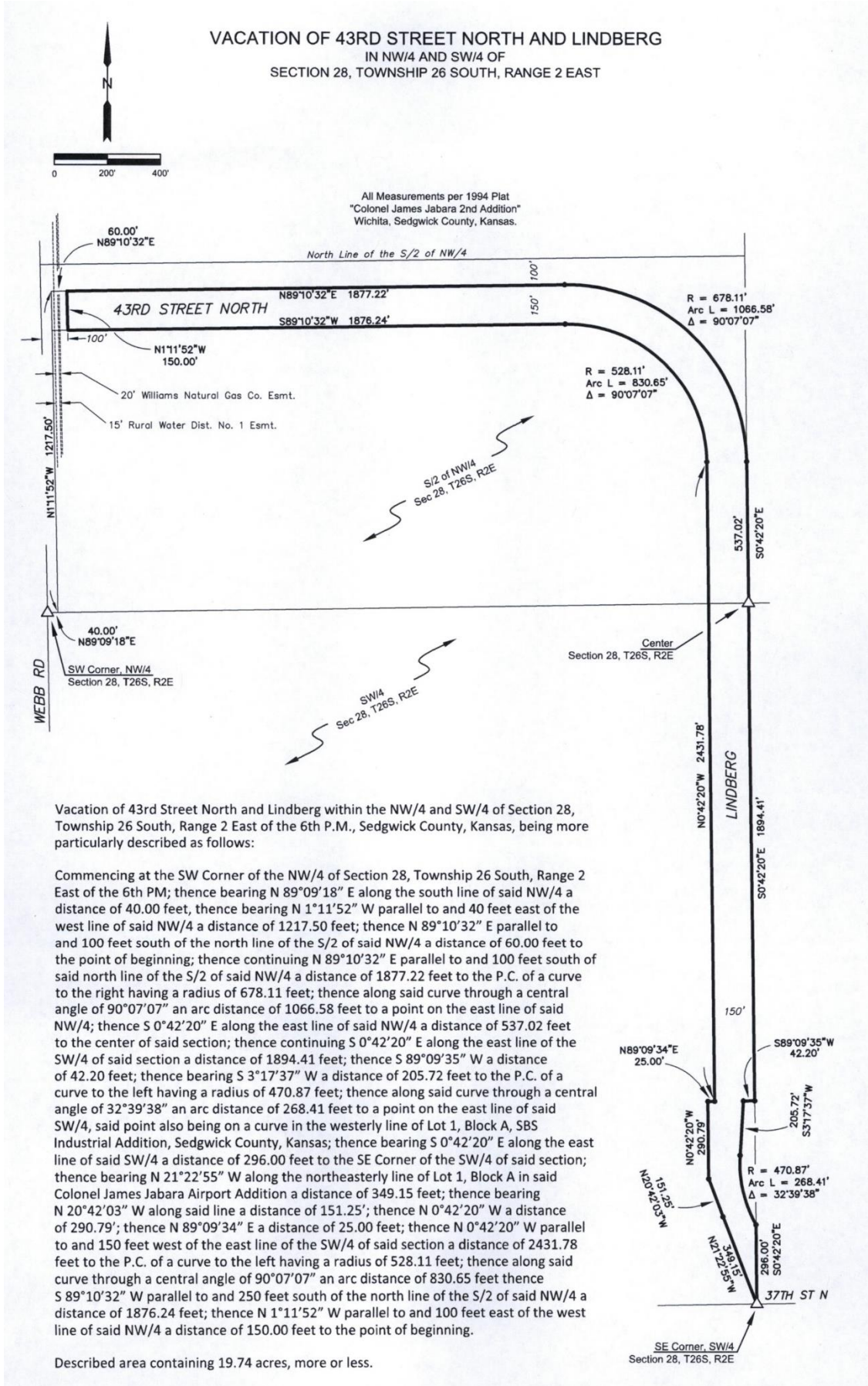
7. Plat

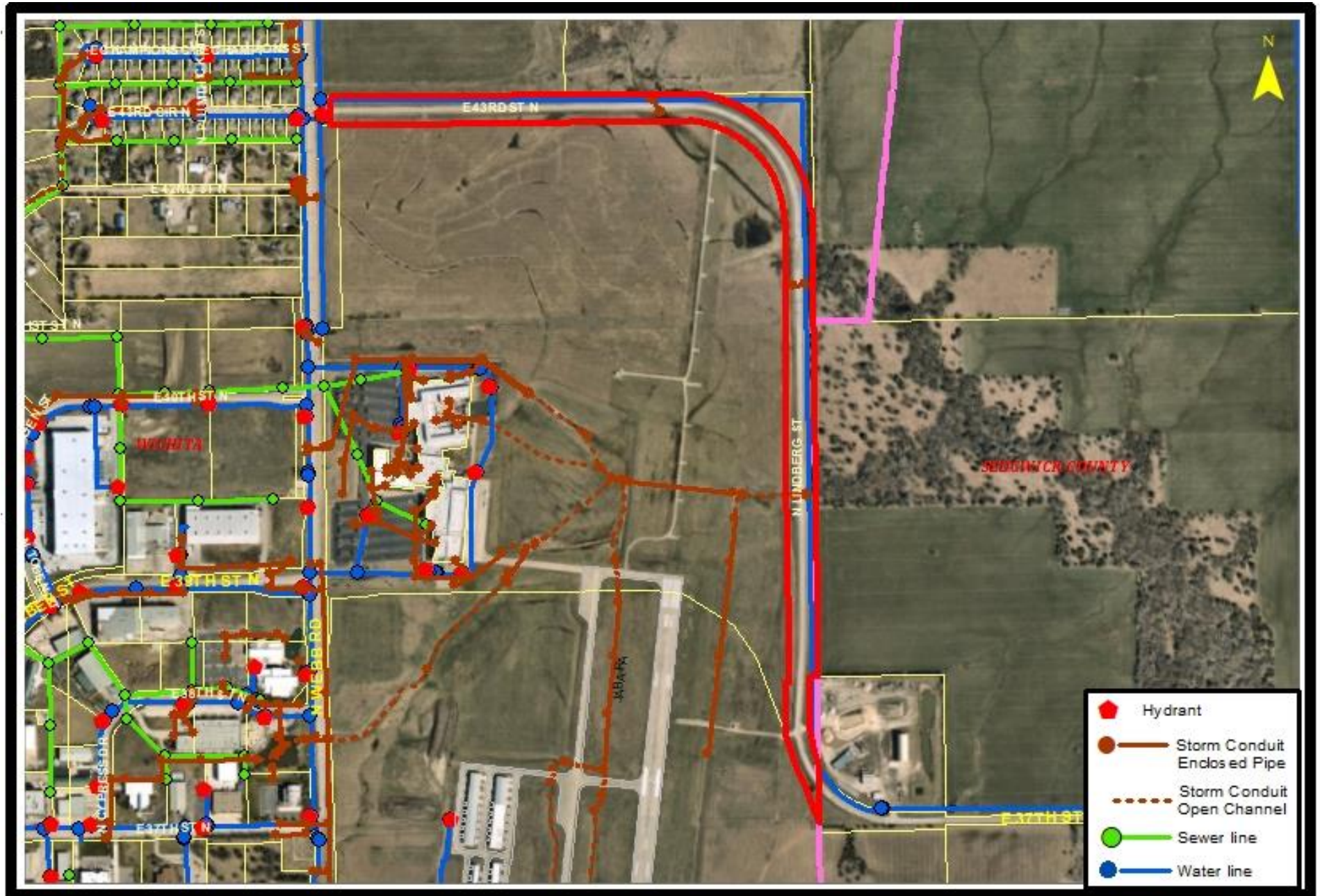
K.S.A. 13-443

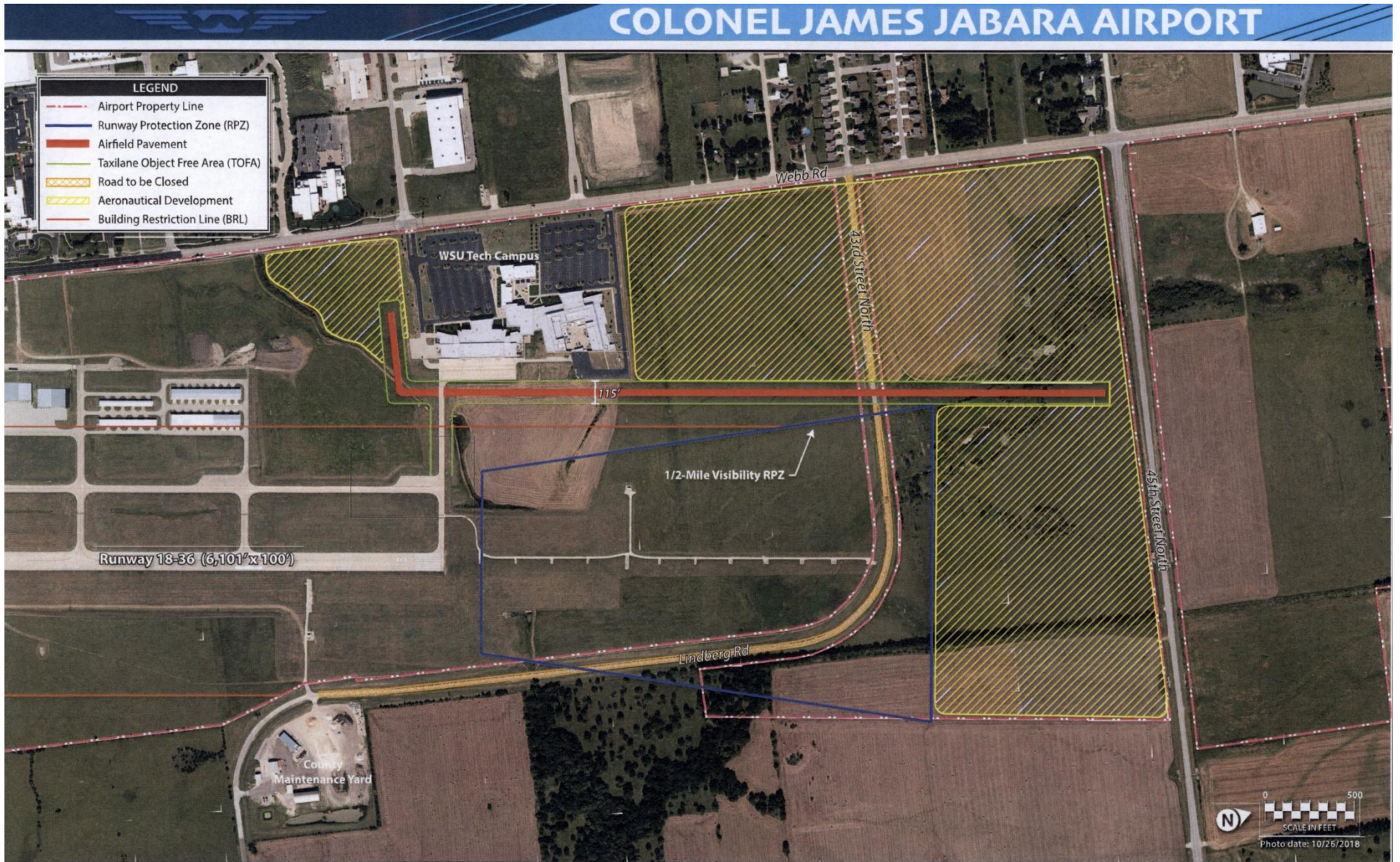
Improving or vacating street and alleys; reversion of land; recording of ordinance. The governing body of the city shall have the power to open, widen, extend or otherwise improve any street avenue, alley or lane and also to vacate and close any street avenue, alley or lane or portion thereof. Before the governing body opens, widens, or extends any street avenue, alley or lane it shall proceed to condemn or acquire by purchase or gift the necessary lands as provided by law.

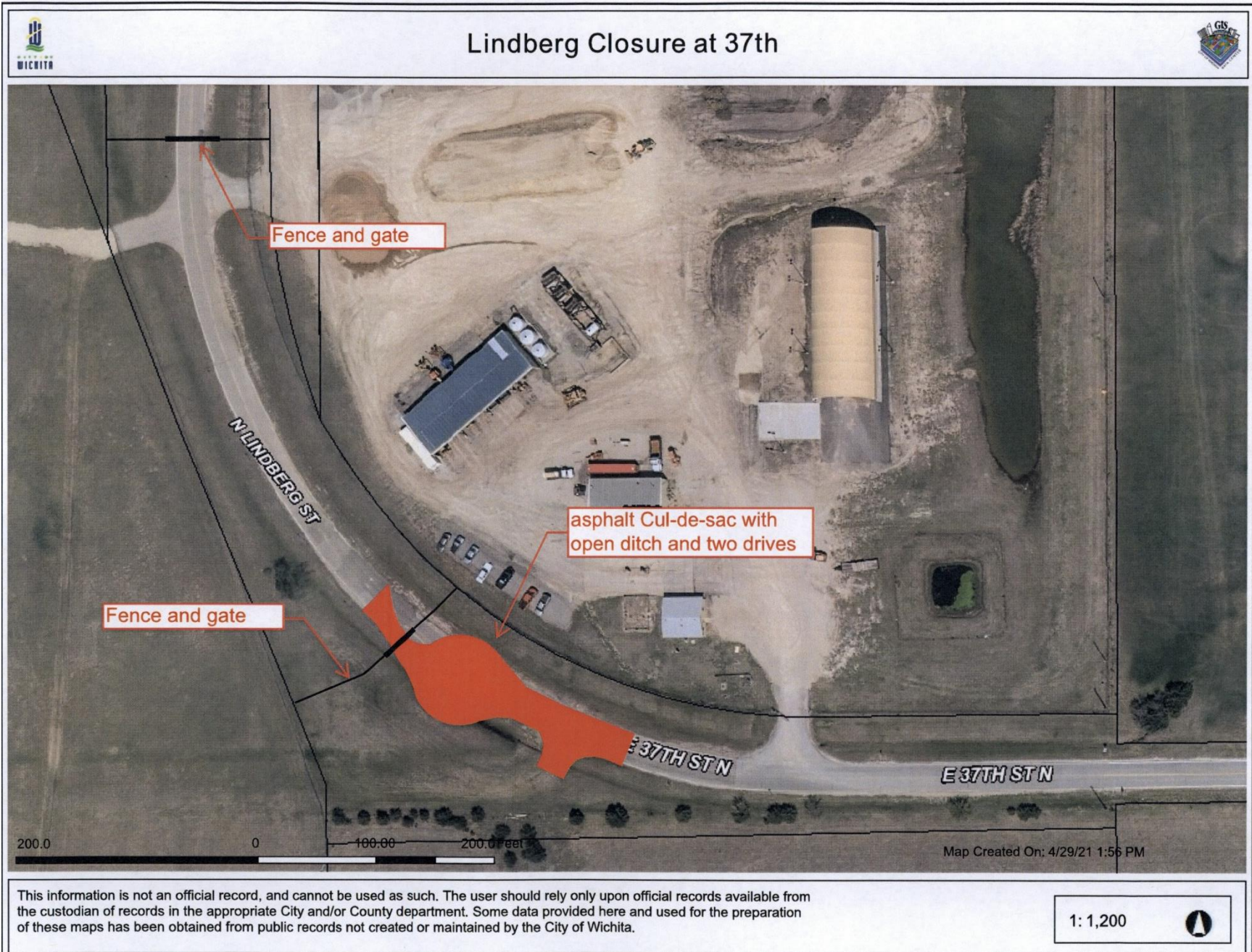
When any street avenue, alley or lane is vacated it shall revert to the owners of land thereto adjoining on each side, in proportion to the frontage of such land, except in cases where such street avenue, alley or lane may have been taken for public use in a different proportion, in which case it shall revert to the adjoining land in the same proportion as it was taken from it.

Immediately after an ordinance opening, widening, extending or vacating any street avenue, alley or lane becomes effective, the clerk of the city shall file a copy thereof which has been certified by the city clerk as a true and correct copy in the office of the county clerk and in the office of the register of deeds. The county clerk shall enter the same in the transfer records of [the] county clerk's office and the register of deeds shall record the same in the deed records of the county and no fee shall be charged by the county clerk or register of deeds for such entering of recording.









This information is not an official record, and cannot be used as such. The user should rely only upon official records available from the custodian of records in the appropriate City and/or County department. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita.

1: 1,200



