

June 8, 1995

**STAFF REPORT**  
(Final Plat)

**CASE NUMBER:** S/D 95-43 INDUSTRIAL AIR CENTER SECOND ADDITION

**OWNER/APPLICANT:** M & H Investments, Inc., 14323 Killarney Ct., Wichita, KS 67230

**OWNER:** Caro Properties, L.L.C., 2400 N. Woodlawn - Suite 120, Wichita, KS 67220

**SURVEYOR/ENGINEER:** Mid-Kansas Engineering Consultants, Inc., 411 North Webb Road, Wichita, KS 67206

**LOCATION:** South of 38th Street North and west of Webb Road

**SITE SIZE:** 101,360 sq. ft.

**NUMBER OF LOTS**

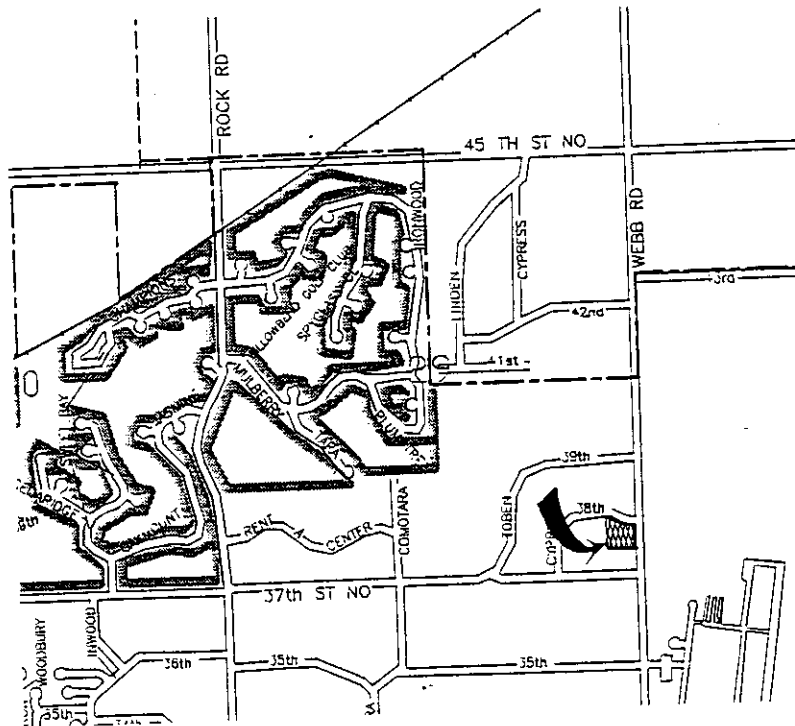
Residential:	
Office:	
Commercial:	1
Industrial:	1
Total:	2

**MINIMUM LOT AREA:** 101,360 sq. ft.

**CURRENT ZONING:** "E"

**PROPOSED ZONING:**

VICINITY MAP:



NOTE: This site was originally platted as a Reserve in the Industrial Air Center (First) Addition. As a Reserve, the site was to be owned and maintained by a lot owners association. Further, the site was intended to be used for drainage, open space, landscaping, etc., but not as a building site.

STAFF COMMENTS:

- A. The applicant shall provide appropriate documentation that owners of property in the original Industrial Air Center Addition do not object to the platting of this site for purposes of development. This documentation is in addition to providing proof that the indicated plattor has obtained ownership of the site.
- The applicant is advised that the platting binder is to be submitted with the final plat. Approval of this plat will be subject to review of the binder and any relevant conditions determined by such a review.
- B. **City Engineering** needs to indicate if existing petitions are adequate for sewer, water, paving and drainage requirements or if new petitions or agreements need to be submitted.
- C. The applicant shall submit a copy of the instrument which establishes the Northwest Central Pipeline Easement on this property. The applicant's agent shall determine any setback requirements from the pipeline by researching the text of the pipeline agreement. If a setback from the pipeline easement is provided for in the pipeline easement agreement, it shall be indicated on the face of the plat.
- D. Any relocation, lowering or encasement of the pipeline, made necessary by this development, will not be at the expense of the City.
- E. On the final plat tracing, the MAPC Chairman's signature block shall be amended to indicate John W. McKay, Jr. as Chairman.
- F. The applicant shall submit an avigational easement covering all of subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- G. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- H. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- I. Perimeter closure computations shall be submitted with the final plat tracing. Section 5-101(c).
- J. Recording of the plat within 30 days after approval by the City Council.
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- K. The representatives from City Engineering should be prepared to comment on the status of the applicant's drainage plan. In particular, it should be noted that this site, originally being platted as a Reserve, was apparently to serve as a major part of the overall drainage plan for the Addition.

Note: This plat has been submitted in final form only.

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S/D No.: 85-90

Name: TOBEN 4TH ADDITION

Preliminary Approved:  
Scheduled S/D Meeting: 10/24/85

DESCRIPTION

General Location: At 37th Street North and Webb Road.  
Owner: Horst K. Hiller, 630 North Washington, Wichita, KS 67214  
Surveyor/Engineer: Bill G. Yung Design

1. Gross Acreage of Plat: 45.3 Acres
2. Number of Lots:
  - Residential:
  - Office:
  - Commercial: 24
  - Industrial:
  - Total: 24
3. Minimum Lot Area: 55,000 Sq. Ft.
4. Existing Zoning: "E"
5. Proposed Zoning: "E"

*Pole w/ private easement*

*8' private easement in 37th*

STAFF COMMENTS:

NOTE: This property is subject to the County Zone Case (SCZ-0513) requesting "R-1" and "LC" to "E" zoning.

- ✓ A. The applicant shall guarantee the extension of sanitary sewer to serve the lots being platted.
  - ✓ B. The applicant shall guarantee the extension of City water to serve the lots being platted.
  - ✓ C. The applicant shall guarantee the pavement of Cypress and 38th Street North to the Industrial street standard.
  - ✓ D. The applicant shall guarantee the construction of a temporary decel lane along Toben and 39th Street North. In addition, the applicant shall petition for the construction of a permanent decel lane at this location. This petition is required so the permanent decel lane may be constructed at such time as Toben/39th Street North is constructed to a four-lane, arterial street standard.
  - ✓ E. The applicant shall guarantee any drainage improvements required by the platting of this property.
  - ✓ F. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
  - ✓ G. The final plat tracing shall indicate the dedication of an additional 10 feet of street right-of-way for Toben/39th Street North. This additional right-of-way is needed for the future permanent decel lane.
  - ✓ H. The final plat shall indicate "access control except for two (2) openings per lot" to Toben/39th Street North across the west line of Lots 9, 10 and 11, Block 1 and the north line of Lots 12, 13, 14, 15 and 16, Block 1.
  - ✓ I. The applicant shall submit an avigational easement and restrictive noise covenant for this property. Section 7-107.
  - ✓ J. The final plat shall state in the platton's text the purposes of the proposed reserves as well as who is to own and maintain the reserves.
- Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.

- G. The final plat shall indicate the dedication of an additional 10 feet of street right-of-way for Toben/39th Street North. This additional right-of-way is needed for the future permanent decel lane.
- H. The final plat shall indicate "access control except for two (2) openings per lot" to Toben/39th Street North across the west line of Lots 9, 10 and 11, Block 1 and the north line of Lots 12, 13, 14, 15 and 16, Block 1.
- I. The applicant shall submit an avigational easement and restrictive noise covenant for this property. Section 7-107.
- J. The final plat shall state in the plattor's text the purposes of the proposed reserves as well as who is to own and maintain the reserves.
- K. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- L. The applicant shall submit a copy of the instrument which establishes the Northwest Central Pipeline easement on this property.
- M. The final plat shall label the centerline of the utility easements.
- N. When Toben 3rd Addition was platted to the north, the terms of the Northwest Central Pipeline Easement were reviewed. Based upon that review, it was determined that the gas pipeline is located 45 feet west of the centerline of Webb Road. The terms of the pipeline agreement require a 66-foot wide pipeline easement centered on the pipeline. This places the west line of the pipeline easement 78 feet west of the centerline of Webb Road (east 28 feet of this property). The provisions of the pipeline agreement further require a 50-foot building setback from the center of the pipeline. This places the building setback 17 feet west of the west line of the pipeline easement, or 95 feet west of the centerline of Webb Road (east 45 feet of this property). Prior to filing a final plat, the applicant's agent shall carefully review the terms of the pipeline easement so as to properly reflect the pipeline easement and associated building setback on the final plat.
- O. Any relocation, lowering or encasement of the pipeline, made necessary by this development, will not be at the expense of the City.

- I. The applicant shall submit an avigational easement and restrictive noise covenant for this property. Section 7-107.
- J. The final plat shall state in the plattor's text the purposes of the proposed reserves as well as who is to own and maintain the reserves.
- K. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.

- H. On the final plat tracing, the platlor's text shall be amended to state that the location of the permitted openings to Webb Road, 39th Street North and Toben Street "shall be determined by the City Engineer."
- I. On the final plat tracing, the labeling of the northwest Central Pipeline easement on Reserve B shall be dimensioned.
- J. The applicant shall submit an avigational easement and restrictive noise covenant for this property. Section 7-107.

*K.* Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.

*L.* For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by a method similar to special assessments.

- M. The applicant shall submit a copy of the instrument which establishes the Northwest Central Pipeline easement on this property.
- N. The applicant shall submit a copy of the instrument which establishes the Gas Service Company easement on this property.
- O. Any relocation, lowering or encasement of the pipelines, made necessary by this development, will not be at the expense of the City.
- P. The applicant shall make satisfactory arrangements with K.G. & E. for removal of their power pole from the 38th Street North/Webb Road intersection. A letter shall be obtained for the Planning Department's files which states that proper arrangements have been made.
- Q. The applicant shall grant, by separate instrument, the private drainage easement on Lots 2 and 3, Block 2 that is required by the drainage plan for this property. The text of the instrument shall clearly state what lots (2, 3, 4, 5, 6 and 7, Block 2) benefit from the terms of the private drainage easement. A draft of the required separate instrument shall be submitted for staff review and approval. After approval, the instrument will need to be recorded so the private easement and associated recording information can be indicated on the final plat tracing. A copy of the recorded easement shall be submitted for the plat file.

An easement 20 feet in width, being 10 feet left and right of the following described centerline, over part of Lots 10 and 11, Block 2, Southwest Industrial Addition to Wichita, Kansas:

Beginning at a point on the east line of said Lot 11, 77 feet north of the southeast corner of said Lot 11, thence west, parallel with the south line of said Lot 11, 352 feet; thence south, parallel with the east line of said Lots 10 and 11, 232 feet to a point 45 feet north of the south line of said Lot 10 for an end point.

Generally located west of Meridian, in an area south of Lydia Avenue.

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RESTRICTIVE COVENANT

This covenant, executed this 15th day of April, 1987.

W I T N E S S E T H: That,

WHEREAS, the undersigned is in the process of platting that certain real property to be known as Industrial Air Center, an addition to Wichita, Sedgwick County, Kansas; and

WHEREAS, as a part of the platting process certain requirements have been made by the City of Wichita regarding the establishment of an owners association and providing for the ownership and maintenance of reserves being platted.

NOW, THEREFORE, the undersigned does hereby subject Industrial Air Center, an addition to Wichita, Sedgwick County, Kansas, to the following covenants and restrictions.

1. At such time as the said property shall become developed by erection of improvements thereon the undersigned agrees to cause an association to be formed to provide for the care, maintenance and upkeep of the reserves that may be a part of said development.

2. The reserves located in said Addition will be conveyed to the association at such time as the project is sold to or occupied by owners or tenants other than the undersigned.

3. Until said reserves are so conveyed, the ownership and maintenance of the reserves shall be by the undersigned.

4. In the event that the undersigned or the Association, its successors or assigns, shall fail at any time to maintain the Reserves or fail in any manner to fulfill their obligations relating to the Reserves, the City of Wichita may serve a written Notice of Delinquency upon the Undersigned or the Association setting forth the manner in which the Undersigned or the Association has failed to fulfill its obligations. Such Notice shall include a statement describing the obligation that has not been fulfilled and shall grant twenty (20) days within which the Undersigned or the Association may fulfill the obligation. If said obligation is not fulfilled within the time specified, the City of Wichita, in order to preserve the taxable value of the properties within the Addition and to prevent the Reserves from becoming a nuisance, may enter upon said Reserves and perform the obligations listed in the Notice of Delinquency. All costs incurred by the City of Wichita in carrying out the obligations of the Undersigned or the Association may be assessed against the Reserves in the same manner as provided by law for such assessments and said assessments may be established as liens upon said Reserves. Should the Undersigned or the Association, its successors or assigns, upon receipt of said Notice of Delinquency believe that the obligations described in said Notice are not proper for any reason, it may, within the twenty-day period to be provided in said Notice, apply for a hearing before the Board of City Commissioners to appeal said assessments, and any further proceedings under said Notice shall be suspended pending the outcome of any proceedings with respect to such appeal.

This covenant is binding on the owner, its successors and assigns and is a covenant running with the land and is binding on all successors in title to the above described property.

EXECUTED the day and year first above written.

M & H INVESTMENTS, INC.

By: Horst K. Hiller  
Horst K. Hiller, President



...and on the 15th day of January, 1986, by the  
for the Civil Engineers Certificate, have  
caused the same to be surveyed and platted into  
Lots, Blocks, Streets, and Reserves, the same to be  
known as "INDUSTRIAL AIR CENTER", an addition to  
Wichita, Sedgwick County, Kansas. The streets are  
hereby dedicated to and for the use of the public.  
Reserves are platted for construction and mainte-  
nance of public utilities; drainage, landscaping,  
irrigation and entry monuments. Reserve B is also  
platted for recreational purposes and related  
structures. Reserves shall be owned and maintained  
by the Industrial Air Center Owners Association.  
Easements for the construction and maintenance of  
public utilities and drainage, as indicated on the  
accompanying plat, are hereby granted. All abut-  
ters rights of access to or from Webb Road over and  
across the East line of "INDUSTRIAL AIR CENTER",  
the plat, are hereby granted to the City of Wichi-  
ta, Kansas. Also, abutters rights of access to or  
from Toben/39th Street North across the West line  
of Lots 9, 10 and 11, Block 1 and the North line of  
Lots 12, 13, 14, 15 and 16, Block 1 except for two  
openings per lot as shall be determined by the City  
Engineer are hereby granted to the City of Wichita,  
Kansas.

M & H INVESTMENTS, INC.

\_\_\_\_\_  
Horst K. Hitler, President

STATE OF KANSAS)

) SS:

SEDGWICK COUNTY)

Be it remembered that on this \_\_\_\_\_ day of \_\_\_\_\_, 1986, before me a Notary Public in and for said State and County, came Horst K. Hitler, President, M & H Investments, Inc., to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same. In testimony whereof I have hereunto set my hand and affixed my notarial seal the day and year above written.

\_\_\_\_\_, Notary Public

My Appointment Expires: \_\_\_\_\_

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\*INDUSTRIAL AIR CENTER --- BOUNDARY

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AREA BEARINGS 34  
AREA = 101359.7513 (ACRES = 2.3269)

POINT	BEARING	DISTANCE	NORTH COORDINATE	EAST COORDINATE
134				
207	N 00 52 28.000 W	332.1154	10306.3649	9606.4314
71	N 26 20 31.951 E	355.0000 (RADIAL)	10638.4416	9601.3629
86	S 00 52 28.000 E	CURVE CENTER 355.0000 (RADIAL)	10956.5783	9758.8876
85	N 89 07 32.000 E	176.7732	10601.6197	9764.3053
133	S 00 50 50.000 E	292.8111	10604.3175	9941.0579
134	S 89 07 32.000 W	338.9956	10311.5384	9945.3875
			10306.3649	9606.4314

CIRCULAR CURVE  
 CENTRAL ANGLE = 207 71 86 L  
 CHORD DIRECTION = 27 12 59.951  
 RADIUS = S 77 15 58.025 E  
 LENGTH = 355.0000  
 TANGENT = 168.6322  
 CHORD = 85.9382  
 EXTERNAL = 167.0512  
 MIDDLE ORDINATE = 10.2538  
 9.9660

PRINTER  
\*\* PRINTER HAS BEEN TURNED OFF

PAGE RESET  
ACRES ON



June 8, 1995

Mr. Mike Lindebak, P.E.  
City of Wichita Engineering Department  
455 N. Main - 7th Floor  
Wichita, KS 67202

Attn: Mr. Rob Younkin

RE: Reserve "B", Industrial Air Center,  
Also Lot 1, Industrial Air Center Second Addition

Dear Mike:

The lot being replatted was initially proposed as a reserve for beautification purposes, making the entrance to the park unique along Webb Road.

The market has been different than originally anticipated by the owners and a more basic industrial park is being marketed.

In abandoning the concept with Reserve "B", no significant change in the run-off should occur since the pond and outlet were not designed as a detention facility; neither was this a requirement at the time of the original plat.

Sincerely,

**MID-KANSAS ENGINEERING CONSULTANTS, INC.**

A handwritten signature in black ink that reads "Kenneth H. Bengtson". The signature is fluid and cursive.

Kenneth H. Bengtson, P.E.  
President

KHB/mrn

WICHITA AIRPORT AUTHORITY 455 N. MAIN  
E. LIGHT INDUSTRIAL

39TH ST. NO.

**NOTES:**

*FLAT*

1. OWNER SHALL GUARANTEE A TEMPORARY 10' DECEL LANE ALONG TOBEN AND 39TH STREET NORTH AND A FUTURE DECEL LANE WHEN STREETS ARE IMPROVED TO 4 LANES ON TOBEN AND 39TH STREET NORTH.
2. RESERVES "A" THROUGH "E" ARE FOR UTILITIES, DRAINAGE, AND SCAPING, IRRIGATION AND ENTRY MONUMENTS.
3. RESERVE "B" IN ADDITION TO THE ABOVE IS FOR RECREATIONAL USES AND RELATED STRUCTURES.
4. BENCH MARK: CITY STANDARD 32' S. AND 11' E. OF S.E. COR. SEC. 29, T28S, R2E. ELEV. 224.64.
5. DRAINAGE CONCEPT PLAN TO BE SUBMITTED BY M.K.E.C. TO CITY ENGINEER.
6. ALL RESERVES TO BE OWNED AND MAINTAINED BY LOT OWNERS ASSOCIATION.
7. FOR LOTS 9 THROUGH 16, BLOCK 1, THERE SHALL BE ACCESS CONTROL EXCEPT FOR 2 OPENINGS ON EACH LOT ALONG TOBEN AND 39TH STREET NORTH ONLY.

COLONEL JAMES TABARA AIRPORT ADD.  
LOT 1 BLOCK A  
ZONED E LIGHT IND.

EXISTING 10' X 4' RCB  
FL. OUT 11401.95

EXISTING 6' X 4' RCB  
FL. IN 11402.39

CONCEPT  
LAYOUT

AIR  
INDUSTRIAL  
CENTER

SUBDIVISION REPORT

S/D 85-90 INDUSTRIAL AIR CENTER (Formerly Toben 4th)

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- L. The applicant shall submit an avigational easement and restrictive noise covenant for this property. Section 7-107.
- M. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- N. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by a method similar to special assessments.
- O. The applicant shall submit a copy of the instrument which establishes the Northwest Central Pipeline easement on this property.
- P. The applicant shall submit a copy of the instrument which establishes the Gas Service Company easement on this property.
- Q. Any relocation, lowering or encasement of the pipelines, made necessary by this development, will not be at the expense of the City.
- R. The applicant shall make satisfactory arrangements with K.C.B.E. for removal of their power pole from the 38th Street North/Webb Road intersection. A letter shall be obtained for the Planning Department's files which states that proper arrangements have been made.
- S. Perimeter closure computations shall be submitted with the final plat tracing. Section 5-101(C).
- T. Recording of the plat within 30 days after approval by the Board of City Commissioners.
- U. The representative from the City Engineer's office should be prepared to comment on the status of the applicant's drainage plan. Specifically, what drainage guarantees are required with this plat?