



Wichita-Sedgwick County Metropolitan Area Planning Department

December 23, 2008

Tracy B. Pedigo
1851 S. Hoover
Wichita, KS 67209

Re: **VAC2007-00028** - Request to vacate platted setbacks and platted public street right-of-way, generally located midway between Harry Street & Pawnee Avenue, on the west side of Hoover Road.

Dear Ms. Pedigo:

At its regular meeting on Tuesday, December 16, 2008, the Wichita City Council considered the request. The action of the City Council was to APPROVE subject to the recommendation by the MAPC.

If you have any questions about this matter, please call 268-4494.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bill Longnecker', written over a horizontal line.

Bill Longnecker
Senior Planner

BL:le

cc: Jim Armour, City Engineer, Public Works Department, Mail Stop 1-71
Paul Gunzelman/ Carla Jones, Public Works Engineering, Mailstop 1-71
Julianne Kallman, Public Works Engineering, Mailstop 1-71
Mark Savoy, 433 S. Hydraulic, Wichita, KS 67211
Contrail Development LLC, 1831 S. Hoover Ct., Wichita, KS 67209
Martin Potash, 1853 S. Eisenhower Ct., Wichita, KS 67209
Contrail Development LLC, 1520 N Plum, Newton, KS 67114
J & K Real Estate LLC, P.O. Box 327, 360 Cain Dr., Haysville, KS 67060
Wichita Airport Authority Mid Continent Airport, 2173 Air Cargo Rd., Wichita, KS 67209
USD 259, 201 N. Water, Wichita, KS 67202

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

**IN THE MATTER OF THE VACATION OF)
A PORTION OF PLATTED HALF STREET)
RIGHT-OF-WAY (ROW) AND PLATTED STREET)
SIDE SETBACK)**

**GENERALLY LOCATED)
MIDWAY BETWEEN HARRY STREET AND)
PAWNEE AVENUE, ON THE WEST SIDE OF)
HOOVER ROAD)**

Case No. VAC2007-00028

MORE FULLY DESCRIBED BELOW)

VACATION ORDER

NOW on this 16th day of December, 2008 comes on for hearing the petition for vacation filed by Traci Pedigo and Contrial Development, LLC, c/o Jerry Smith praying for the vacation of the following described platted half street right-of-way and portions of platted setbacks to-wit:

The northwesterly 15 feet of the southeasterly 50 feet of the Building Setback Line of Lot 8, Block 2, Airport Industrial Park, Wichita, Sedgwick County, Kansas.

The southwesterly 15 feet of the northeasterly 50 feet of the Building Setback Line of Lot 9, Block 2, Airport Industrial Park, Wichita, Sedgwick County, Kansas.

All of the south 50 feet of the Building Setback Line of Lot 10, except the east 35 feet thereof, Block 2, Airport Industrial Park, Wichita, Sedgwick County, Kansas.

The south 15 feet of the north 50 feet and the south 27 feet of the west 33 feet of the east 165 feet of the Building Setback Line of Lot 10, Block 2, Airport Industrial Park, Wichita, Sedgwick County, Kansas.

The west 15 feet of the east 50 feet of the Building Setback Line of Lot 10, Block 2, Airport Industrial Park, Wichita, Sedgwick County, Kansas.

All of the south 50 feet of the Building Setback Line of Lot 9, Block 2, Airport Industrial Park, Wichita, Sedgwick County, Kansas.

All of the 40 feet of May Avenue Right-of-Way, lying south of and adjacent to Lots 9 and 10, Block 2, Airport Industrial Park, Wichita, Sedgwick County, Kansas.

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 and the Derby Reporter on August 30, 2007, 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 half street right-of-way and portions of the platted setbacks, and the public will suffer no loss or inconvenience thereby.
3. Utility easements (2) dedicated by separate instrument will be recorded with the Register of Deeds.
4. In justice to the petitioner(s), the prayer of the petition ought to be granted.
5. 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.
6. The vacation of the described portion of platted half street right-of-way and the portions of platted setbacks described herein should be approved.

IT IS, THEREFORE, BY THE CITY COUNCIL, on this 16th day of December 2008 ordered that the above described portion of platted half street right-of-way and portions of the platted setbacks 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.

Vacation Order
VAC2007-00028

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Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary Rebenstorf, Director of Law

STAFF REPORT

CASE NUMBER: VAC2007-00028 Request to vacate a portion of platted half street right-of-way (ROW) and platted street side setback

APPLICANTS/OWNERS: Traci Pedigo Contrial Development. LLC

AGENT: Mark Savoy

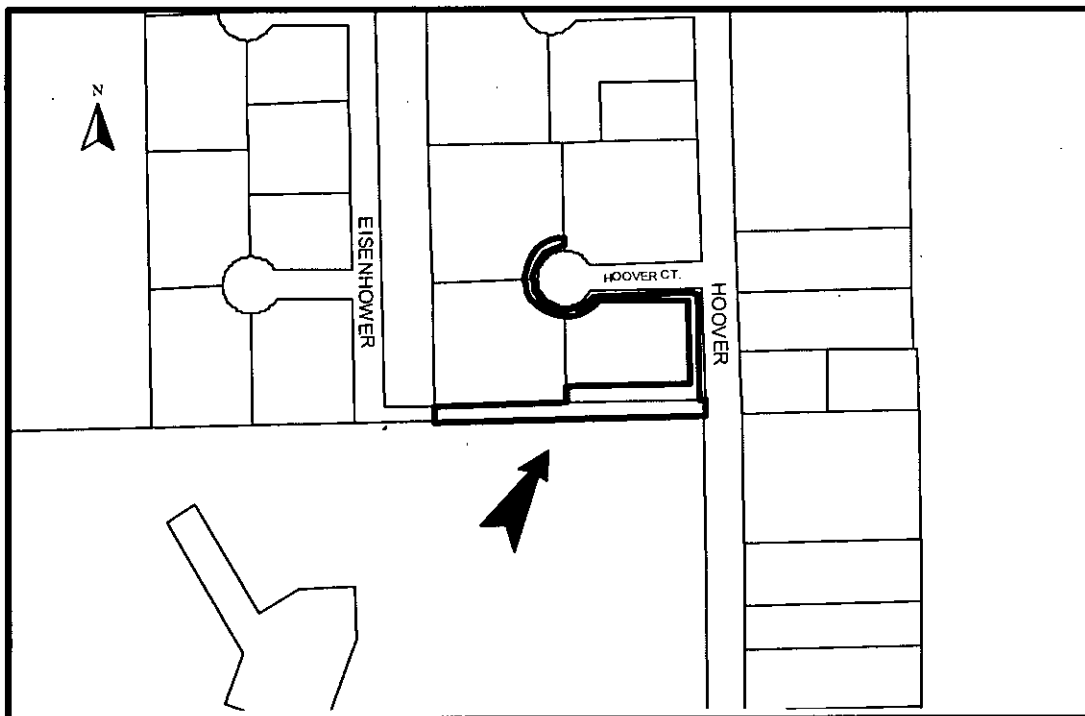
LEGAL DESCRIPTION: Generally described as a portion of the platted 50-foot setbacks located along the cul-de-sacs/ROW of Hoover Court, located on Lots 8, 9, & 10, a portion of the platted 50-foot setback located along the Hoover Road frontage of Lot 10, the platted 50-foot setback located along the south lot line of Lots 9 & 10, Block 2, and the platted 40-foot half-street ROW, running parallel to the south lot lines of Lots 9 & 10, all in Block 2, all in the Airport Industrial Park Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located midway between Harry Street & Pawnee Avenue, on the west side of Hoover Road (WCC #4)

REASON FOR REQUEST: ROW will not be developed

CURRENT ZONING: Part of the site is platted half-street street ROW. The rest of the site and all abutting and adjacent properties are zoned "LI" Limited Industrial.

VICINITY MAP:



The Airport Industrial park Addition was recorded December 18, 1964. Part of the plat was dedication of 40-feet of half street ROW, May Avenue. As platted, May Avenue was intended to run from Eisenhower Avenue, west to Hoover Road, a distance of 869.84-feet. A subsequent platting of the abutting southern properties into the Mid Continent Addition (recorded February 8, 2001) failed to match May's half street ROW and it was advised that May Avenue be vacated (see attached exhibit, comment "E"). There was a previous vacation on Lot 10's platted 50-foot setback that runs parallel to Hoover Court, V-1118. V-1118 vacated approximately 20-feet of the platted 50-foot setback, where a building encroached into it: it vacated only that portion where the building encroached. The agent has previously applied for and been approved for vacation of portions of platted setbacks in the Airport Industrial Park Addition, via VAC2004-25. VAC2004-25 vacated 15-feet of the subdivision's standard platted 50-foot setback (Lots 4, 5, 9, & 10, Block 1, the Airport Industrial Park Addition), and as such set a pattern that could be followed within in this Subdivision. The UZC has established a minimum front setback for the "LI" zoning district is 20-feet, but the applicant has agreed to vacating only 15-feet of the platted setback that runs parallel to Hoover Court. The UZC has established no minimum interior side yard setback "LI" zoning district, unless there is a 5-foot setback provided. There are no water or sewer in the platted setbacks. Sewer and Westar utilities are in May Avenue, thus a portion of May will be retained as easement. Comments from franchised utilities have not been received and are needed to determine if they have utilities located within the setbacks and May Avenue. Per the 2006 aerial, two of the three lots have been developed

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the platted half-street street ROW and platted setbacks as described with conditions.

- (1) Vacate that portion of the platted May Avenue half street ROW (as dedicated on the Airport Industrial Park Addition) that runs parallel to south lot lines of Lots 9 & 10, Block 2, the Airport Industrial Park Addition, stopping at the east side of the platted drainage channel ROW. Retain a portion of May as easement, as determined by Water & Sewer and utilities. Provide Planning Staff with a legal description of the easement portion of vacated May, via e-mail on a Word document.
- (2) Vacate the interior 15-feet of the platted 50-foot setback that runs parallel to Hoover Court on Lots 8, 9, 10, Block 2, the Airport Industrial Park Addition. The vacation will not override V-1118, unless the previous legal of the V-1118 was not correct. If the recorded legal of V-1118 was not correct, provide Planning Staff with an accurate legal, via e-mail on a Word document, to be used in the Vacation Order. Vacate the entire platted 50-foot setback that runs parallel to the south lot lines of 9 & 10, Block 2, the Airport Industrial Park Addition.
- (3) Dedicate, by separate instrument, 10-feet of right-of-way along Lot 10's Hoover Road frontage. The dedication will be provided to planning Staff to go with the Vacation order to WCC, for subsequent recording. Vacate the Lot 10's platted 50-foot setback that runs parallel to Hoover Road, the Vacation Order will replace it with a 25-foot setback.
- (4) Retain all platted easements or easements dedicated by separate instrument located within the described vacated ROW and setbacks. Dedicate, by separate instrument, additional easement on Lot 8. The dedication will be provided to planning Staff to go with the Vacation order to WCC, for subsequent recording.

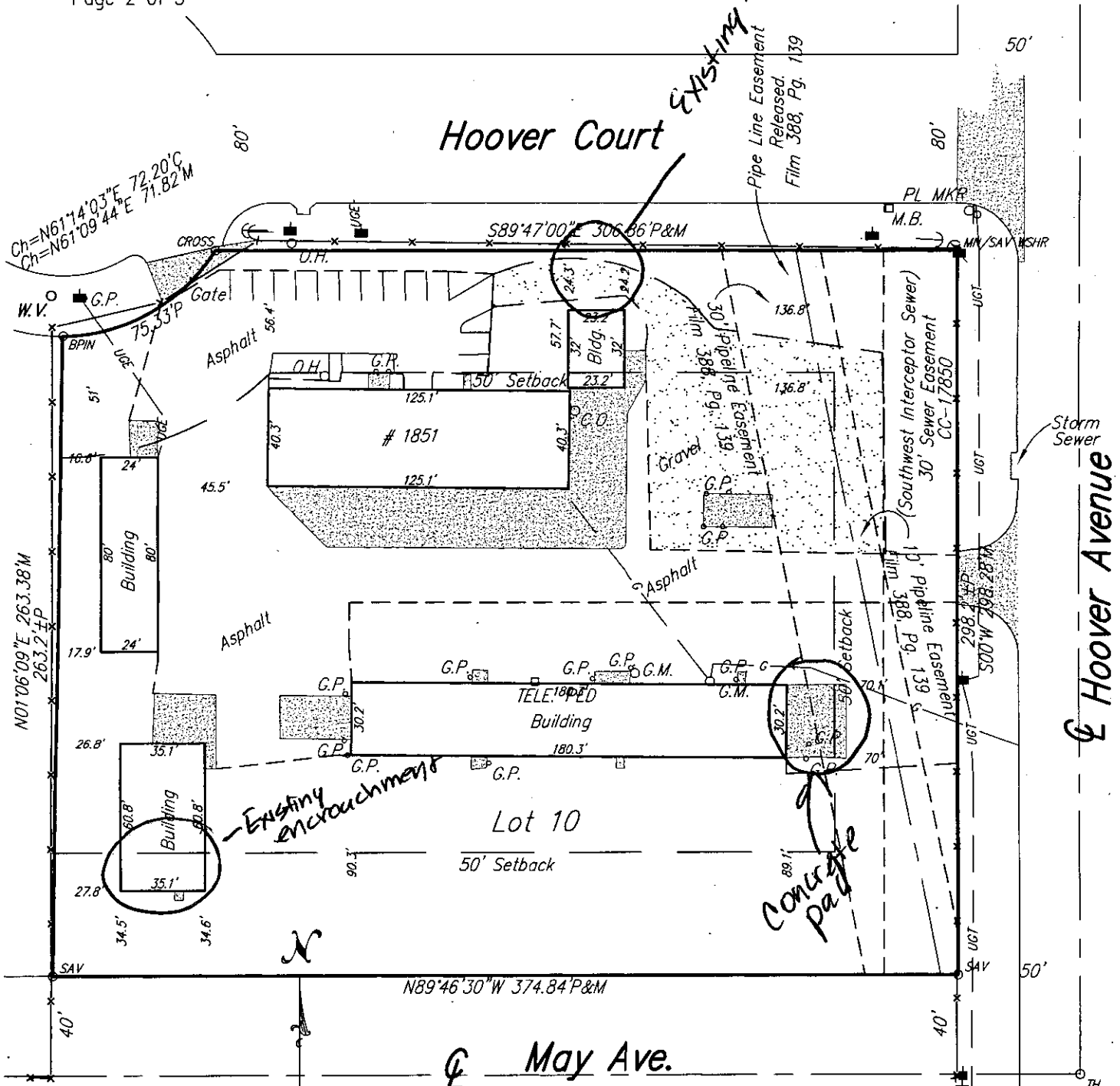
- (5) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants.
- (6) All improvements shall be according to City Standards and at the applicant's expense. If needed provide a guarantee for any improvements.
- (7) Per 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



Savoy Company, P.A.
 433 S. Hydraulic
 Wichita, KS. 67211-1911

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 FAX (316) 265-0275
 www.savoyco.com

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1" = 60'
 LEGEND:
 P = Platted
 M = Measured
 C = Calculated

- 1/2" R 1/2" REBAR (FOUND)
- SAV 1/2" REBAR W/SAVOY CAP (SET)
- TH CITY OF WICHITA CONTROL
- BPIN 1/2" REBAR W/BAUGHMAN CAP (FOUND)
- SAV 1/2" REBAR W/SAVOY CAP (SET)
- CROSS CHISELED CROSS (SET)
- MN W/SAV WSHR MAG NAIL WITH SAVOY WASHER (SET)

PROJECT NO. 07DD07769 S

L AC 2007-28

Approved by the Board of City Commissioners this 10th day of November, 1964.

Edward J. Bergut Mayor
Robert A. Schuch City Clerk

STATE OF KANSAS)
COUNTY OF SEDGWICK) SS

I, Kenneth O. Taylor, Civil Engineer in said county and state, do hereby certify that I have surveyed and platted "AIRPORT INDUSTRIAL PARK", Wichita, Sedgwick County, Kansas:

The east 92 acres of the NE 1/4 of Section 34; T27S, R1W of the 6th P.M., also described as the NE 1/4 of Section 34, T27S, R1W of the 6th P.M., except the west 1122.83 feet thereof.

K.O. Taylor Civil Engineer

Know all men by these presents that we, Dale Frey and Betty Frey, husband and wife, have caused the land described in the Civil Engineer's Certificate to be platted into lots, blocks and streets to be known as "AIRPORT INDUSTRIAL PARK", Wichita, Sedgwick County, Kansas. Utility easements are hereby granted as indicated on the plat for the construction and maintenance of all public utilities. The streets are hereby dedicated to and for the use of the public. The drainage channel right of way as indicated on the plat is hereby dedicated to the public for drainage purposes.

Dale Frey Betty Frey

STATE OF KANSAS)
COUNTY OF SEDGWICK) SS

Be it remembered that on this 29th day of October, 1964, before me, a Notary Public in and for said county and state, came Dale Frey and Betty Frey, husband and wife, to me personally known to be the same persons who executed the foregoing instrument of writing and duly acknowledged the execution of same. In testimony whereof, I have hereunto set my hand and affixed my notarial seal the day and year above written.

My Commission expires November 29, 1964.

Know all men by these presents that Haysville State Bank, a corporation, mortgagee of the property described in the Civil Engineer's Certificate does hereby consent to the platting of "AIRPORT INDUSTRIAL PARK", Wichita, Sedgwick County, Kansas.

HAYSVILLE STATE BANK
Charles J. ...
Executive Vice President and Cashier

ATTEST:
John W. ...

STATE OF KANSAS)
COUNTY OF SEDGWICK) SS

Be it remembered, that on this 2nd day of NOVEMBER, A.D., 1964, before me the undersigned, a Notary Public in and for the county and state aforesaid, came C. Wayne Stearns, Executive Vice President and Cashier of Haysville State Bank, a corporation, to me personally known to be the same person who executed the within instrument as Executive Vice President and Cashier of said corporation, and such person duly acknowledged the execution of the same as Executive Vice President and Cashier, for and on behalf of, and as the act and deed of said corporation.

My Commission expires AUGUST 1, 1964.

Rosalie M. Crane Notary Public

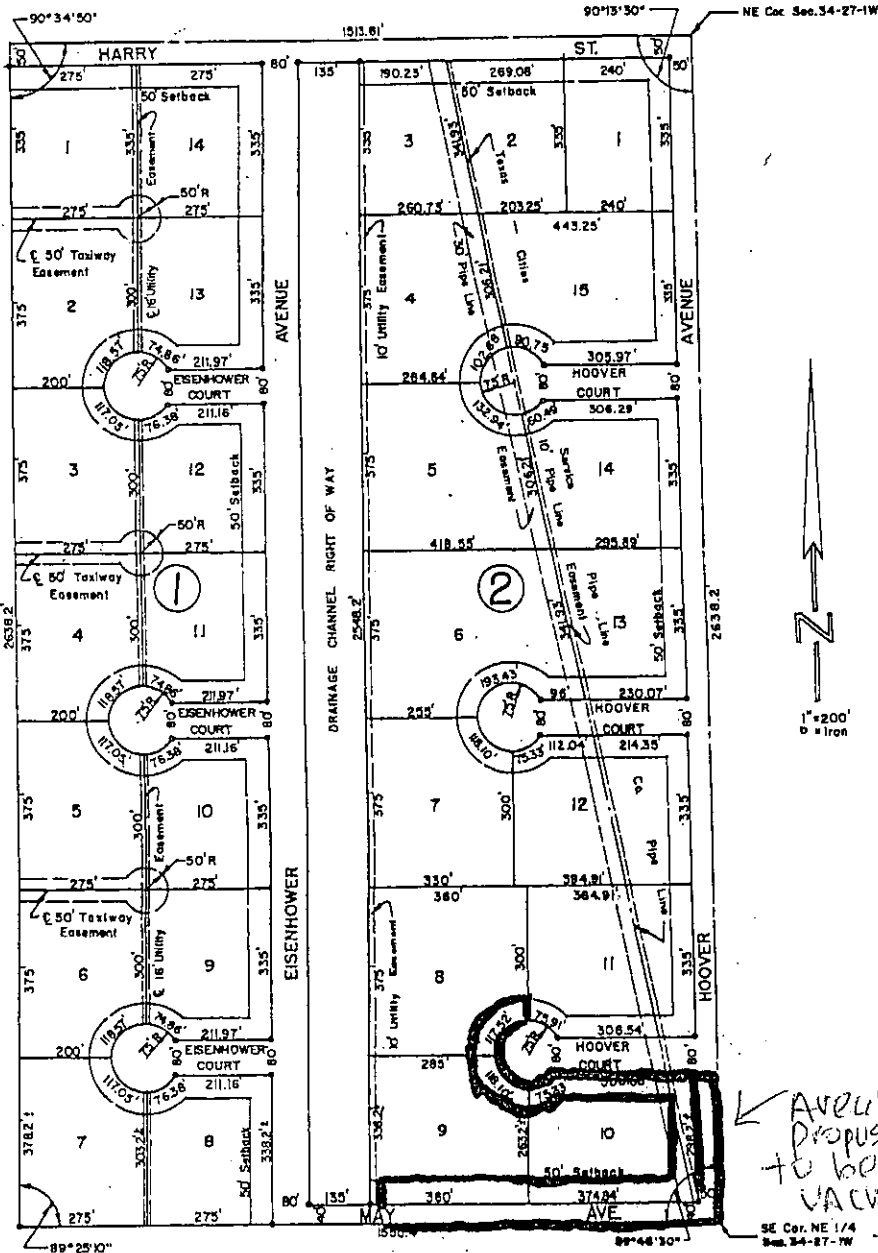
This plat of "AIRPORT INDUSTRIAL PARK", Wichita, Sedgwick County, Kansas, has been approved by the Wichita-Sedgwick County Metropolitan Area Planning Commission, Wichita, Kansas, and is hereby transmitted to the Board of Commissioners of the City of Wichita, Kansas, with the recommendation that such plat be approved as proposed.

Dated this 15th day of OCTOBER, 1964.

WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION
John ... Chairman
C. Bishop ... Secretary

Approved by the Board of County Commissioners this 16th day of December, 1964.

Clayton ... Chairman
... Commissioner
... Commissioner



← Avenues proposed to be vacated

Entered on transfer record this 16th day of December, 1964.
H. O. Williams County Clerk

STATE OF KANSAS)
COUNTY OF SEDGWICK) SS

This is to certify that this instrument was filed for record in the Register of Deeds Office on the 19 day of December, 1964, at 4:15 o'clock, P.M. and is duly recorded.

Rosalie E. ...

LAC 207-28