Wichita-Sedgwick County Metropolitan Area Planning Department

Thomas Bosher
812 W 31st St S
Wichita, KS 67217

April 11, 2024

RE: BZA2024-00009 – Variance to Reduce the front setback from 25 feet to 12 feet to allow the reconstruction of a dwelling unit and front porch; generally located on the north side of West 31st Street South and 129 feet west of South Osage Avenue (812 West 31st Street South).

Dear Applicant,

At its regular meeting on **April 11, 2024**, the official action of the Board of Zoning Appeals was to **GRANT** the requested variance.

If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,

Brad Eatherly
Current Plans
Senior Planner

CC: MABCD

BZA RESOLUTION NO. BZA2024-00009

WHEREAS, Thomas Bosher (owner); pursuant to Kansas Statutes Annotated 12-759, request a Variance to reduce a platted front setback from 25 feet to 12 feet to allow the reconstruction of a dwelling unit and front porch on property located at 812 West 3rd Street South; legally described as follows:

> A tract beginning 1,139.9 feet East of the Southwest corner of the South Half of the Southwest Quarter of Section 5, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence North 330 feet; thence East 66 feet; thence South 330 feet; thence West 66 feet to the point of beginning, subject to public road across the South 50 feet thereof.

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 April 11, 2024, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Kansas Statutes Annotated 12-759 *et. seq.*; and

WHEREAS, the conditions of the request are unique to the subject property; and

WHEREAS, waiving the requirements will not adversely affect the rights of adjacent property owners; and

WHEREAS, the strict application of the applicable Code will constitute an unnecessary hardship upon the property owner; and

WHEREAS, it is the opinion of the Board of Zoning Appeals that the requested variance would not adversely affect the public interest, health, safety or welfare; and

WHEREAS, it is the opinion of the Board of Zoning Appeals that the spirit and intent of the Zoning Code is being met in this case; and

WHEREAS, each of the five conditions required by Kansas Statutes Annotated 12-759, are found to be present for a Variance to be granted.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals, pursuant to Kansas Statutes Annotated 12-759, a Variance to reduce a platted front setback from 25 feet to 12 feet to allow the reconstruction of a dwelling unit and front porch on property located at 812 West 3rd Street South; legally described as follows:

> A tract beginning 1,139.9 feet East of the Southwest corner of the South Half of the Southwest Quarter of Section 5, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence North 330 feet; thence East 66 feet; thence South 330 feet; thence West 66 feet to the point of beginning, subject to public road across the South 50 feet thereof.

The variance is hereby **GRANTED.**

ADOPTED AT WICHITA, KANSAS, this 11th Day of April 2024

Robert Dool, BZA Board Chair

ATTEST:

Scott Wadle,
BZA Secretary

McClatchy

The Beaufort Gazette
The Belleville News-Democrat
Bellingham Herald
Centre Daily Times
Sun Herald
Idaho Statesman
Bradenton Herald
The Charlotte Observer
The State
Ledger-Enquirer

Durham | The Herald-Sun
Fort Worth Star-Telegram
The Fresno Bee
The Island Packet
The Kansas City Star
Lexington Herald-Leader
The Telegraph - Macon
Merced Sun-Star
Miami Herald
El Nuevo Herald

The Modesto Bee
The Sun News - Myrtle Beach
Raleigh News & Observer
Rock Hill | The Herald
The Sacramento Bee
San Luis Obispo Tribune
Tacoma | The News Tribune
Tri-City Herald
The Wichita Eagle
The Olympian

AFFIDAVIT OF PUBLICATION

Account #	Order Number	Identification	Order PO	Amount	Cols	Depth
16399	532634	Print Legal Ad-IPL01649120 - IPL0164912		$158.10	2	94 L

Attention: MANDY HEBERT

CITY OF WICHITA/PLANNING DEPT
271 WEST THIRD ST., 2ND FL, SU 203
WICHITA, KS 67202

MHEBERT@wichita.gov

OCA 150004
Published in The Wichita Eagle on March 21, 2024
(One Time Only)
MAPC/BZA April 11, 2024
OFFICIAL HEARING NOTICE

NOTICE IS HEREBY GIVEN that on Thursday, April 11, 2024, no earlier than 1:30 p.m., the Wichita-Sedgwick County Metropolitan Area Planning Commission/ Board Zoning Appeals will consider the following applications. The meeting will be held in person at the Ronald Reagan Building, 271 West Third Street, 2nd Floor, Wichita, KS 67202. Public participation is encouraged (see instructions below). Virtual participation is not available. If you have any questions regarding the meeting or items on this notice, please call the Wichita-Sedgwick County Metropolitan Area Planning Department at (316) 268-4421.

BZA2024-00009: Variance request in the City to reduce the front setback from 25 feet to approximately 12 feet to allow construction of a front porch on the property zoned SF-5 Single-Family Residential District, located on West 31st Street South and 129 feet west of South Osage Avenue (812 West 31st Street South).

CON2024-00012: Conditional Use request in the City to allow an Entertainment Establishment (cabaret-type club/nightclub with the provision of alcohol); located one-quarter mile east of South Webb Road and north of I-35 (10001 East Kellogg Drive, Suite #2).

CON2024-00013: Conditional Use request in the City to waive compatibility standards for 105-foot telecommunications tower with 5-foot lightning rod on property zoned Limited Industrial, generally located on the west side of South Mosley Avenue, within one-quarter mile north of East Harry Street (1325 South Mosley).

CON2024-00014: Conditional Use request in the City to allow an Entertainment Establishment (events with music and alcohol associated with retail store) within 300 feet of a public park, generally located on the southwest corner of East Douglas Avenue and South Saint Francis Avenue (523 East Douglas Avenue).

CUP2024-00005: CUP Amendment in the City to CUP DP-357 to change parcel boundaries, rename to "OneRise" and to modify uses to permit Correctional Placement Residence and Correctional Facility for State Mental Health Hospital (with ZON2024-00014), located at the northwest corner of S. Meridian Ave and W. MacArthur Rd.

PUD2024-00004: Zone change request in the City from TF-3 Two-Family Residential and MF-18 Multi-Family Residential to the PUD to allow multi-family residential with non-standard building setbacks; generally located on the east side of North Hillside Avenue and within one-half mile south of East 53rd Street North.

VAC2024-00012: Vacation request in the city of Control Access, generally located on the south side of East Stafford Street and within one-quarter mile of South Southeast Boulevard.

VAC2024-00013: Vacation request in the City to vacate a portion of the platted setback and platted utility easement along Polo Street, generally located at the northwest corner of Polo Street and West 12th Street North (2033 West 12th Street North).

ZON2024-00014: Zone Change request in the City from GC General Commercial to LI Limited Industrial with CUP2024-05, generally located the north side of West MacArthur Road and within one-half mile west of South Meridian Avenue.

Complete legal descriptions are available for public inspection at the Metropolitan Area Planning Department, 271 W. Third St., 2nd Floor, Wichita, Kansas 67202. As provided in Section V of the Wichita-Sedgwick County Unified Zoning Code, the same will then and there be discussed and considered by the said MAPC, and all persons interested in said matters will be heard at this time concerning their views and wishes in the premises, and any protest against any of the provisions of the proposed changes to the zoning regulations will be considered by the MAPC as by law provided.

Options to participate:

1) Attend In-Person at the Ronald Reagan Building, 271 West Third Street, 2nd Floor, Wichita, Kansas 67202. Self-paid parking is available nearby. If you have any written or visual materials you wish to present, please contact Planning Department Graphics staff (316-268-4464) by 5:00 PM, 3 days prior to the meeting.

2) Submit Comments Ahead of Time regarding items on the Planning Commission agenda to the Wichita-Sedgwick County Metropolitan Area Planning Department (Planning Department) – using the contact information below. The comments received ahead of the submission deadline will be shared with the MAPC, prior to or during the meeting. Planning Departments staff make efforts to share all comments but may not be able to share those received after the deadlines below. Please be sure to provide ample time for delivery. Written Comments should be submitted by 5:00 PM the day before the meeting. Video and Audio Comments (mp3, etc.) formats be submitted at least 3 days prior to the MAPC meeting. The comments should indicate which item they pertain to and be less than three (3) minutes in duration.

Email: Planning@wichita.gov
Mailing Address
Wichita-Sedgwick County Metropolitan Area Planning Department
Attn: Scott Wadle
271 W. 3rd Street – Suite 201
Wichita, KS 67202
Phone: 316.268.4421
Fax: 316.858.7764

3) If you need accommodations pursuant to the ADA, please contact Planning Staff within one week prior to the scheduled meeting.

Option to View Remotely (Not Participate)

The meeting will be streamed live and recorded. Virtual comment is not available. To view the live stream or recording, follow the link: https://www.wichita.gov/Planning.

WITNESS MY HAND on March 21, 2024
Scott Wadle, Secretary
Wichita-Sedgwick County
Metropolitan Area Planning Commission
IPL0164912
Mar 21 2024

In The STATE OF KANSAS
In and for the County of Sedgwick

1 insertion(s) published on:
03/21/24

STATE OF KANSAS)
SS
County of Sedgwick)

Mary Castro, of lawful age, being first duly sworn, deposeth and saith: That he is Record Clerk of The Wichita Eagle, a daily newspaper published in the City of Wichita, County of Sedgwick, State of Kansas, and having a general paid circulation on a daily basis in said County, which said newspaper has been continuously and uninterruptedly published in said County for more than one year prior to the first publication of the notice hereinafter mentioned, and which said newspaper has been entered as second class mail matter at the United States Post Office in Wichita, Kansas, and which said newspaper is not a trade, religious or fraternal publication and that a notice of a true copy is hereto attached was published in the regular and entire Morning issue of said The Wichita Eagle from 03/21/2024 to 03/21/2024.

Mary Castro

I certify (or declare) under penalty of perjury that the foregoing is true and correct.
DATED: 03/21/2024

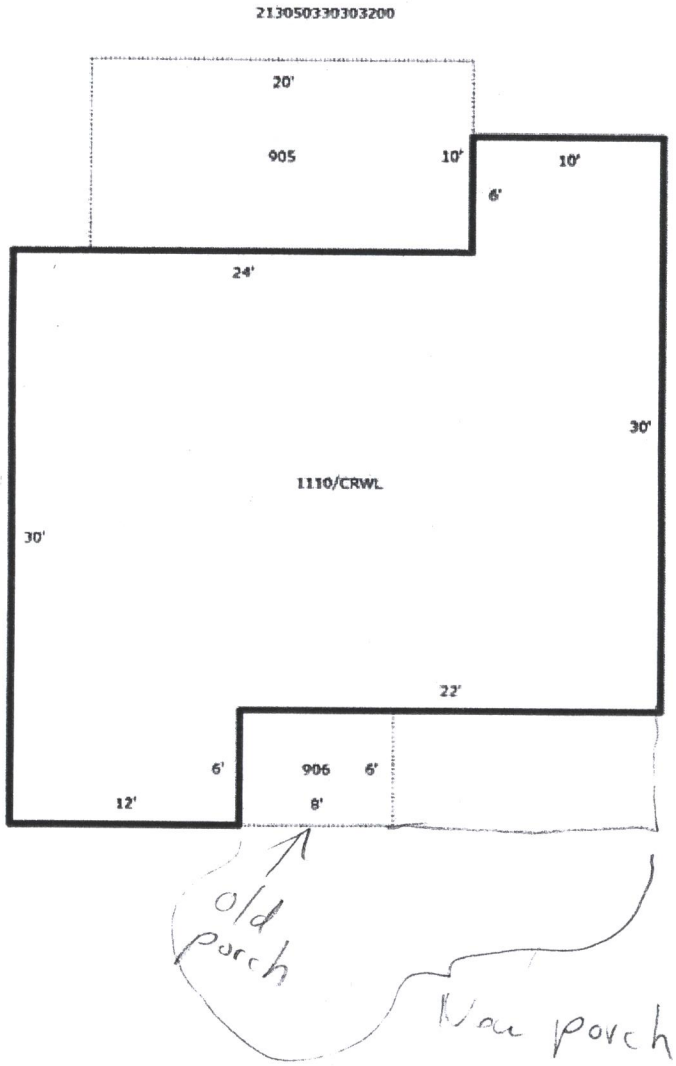
Stephanie Hatcher

Notary Public in and for the state of Texas, residing in Dallas County

STEPHANIE HATCHER
My Notary ID # 133534406
Expires January 14, 2026

Extra charge for lost or duplicate affidavits.
Legal document please do not destroy!

Situs: 812 W 31ST ST S WICHITA, KS 67217



Sketch by Apex Sketch

SITE PLAN
APPROVED 4/15/24 JBE

Wichita-Sedgwick County Zoning Board of Appeals
April 11, 2024

AGENDA ITEM NO. 2

SECRETARY'S REPORT

CASE NUMBER: BZA2024-00009 (City)

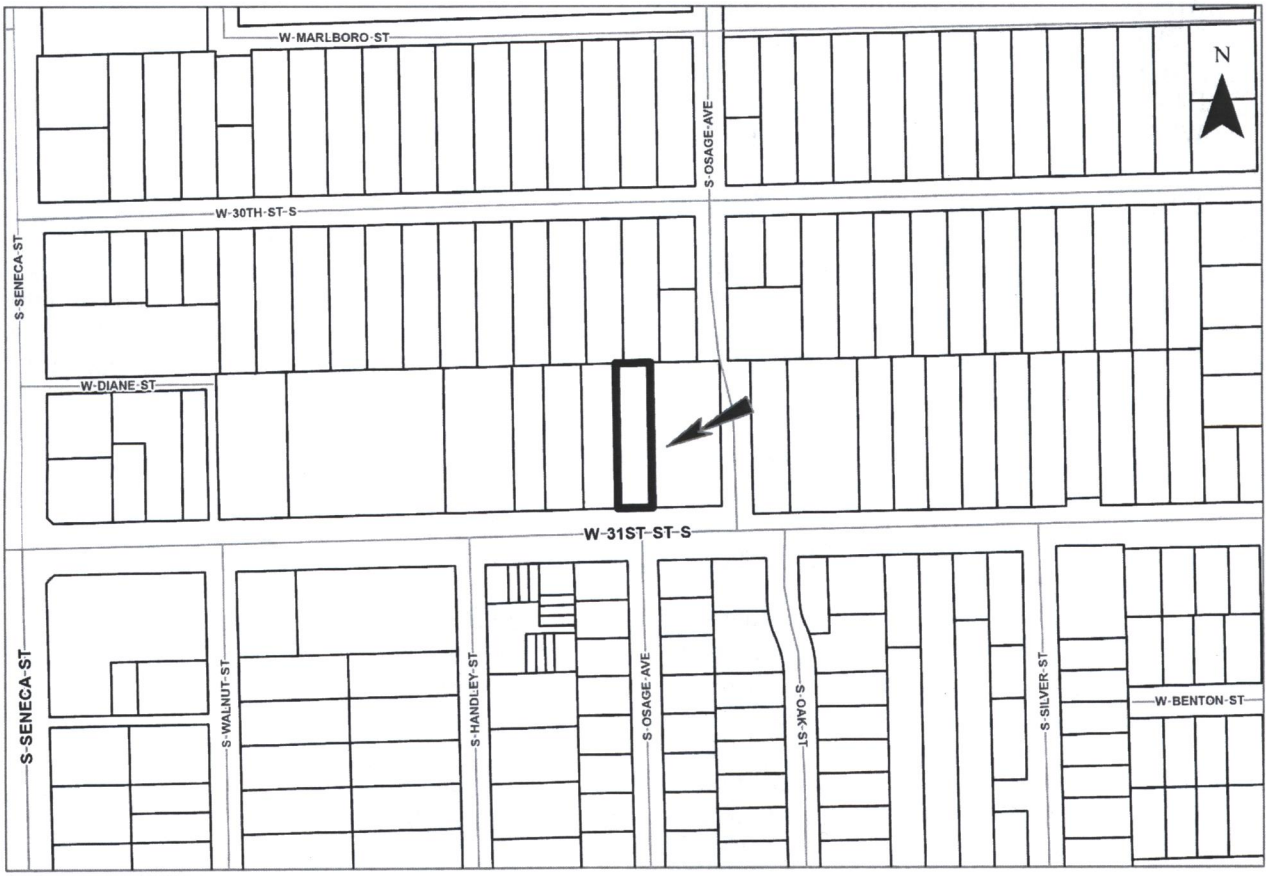
APPLICANTS: Thomas Bosher

REQUEST: Reduce the front setback from 25 feet to 12 feet to allow the reconstruction of a dwelling unit and front porch.

CURRENT ZONING: SF-5 Single-Family Residential District

SITE SIZE: 0.42 acres

LOCATION: Generally located on the north side of West 31st Street South and 129 feet west of South Osage Avenue (812 West 31st Street South).



JURISDICTION: The Board has jurisdiction to consider the Variance request under the provisions outlined in Kansas Statutes Annotated 12-759. The Board may grant the request when all five conditions, as required by the statutes, are found to exist.

BACKGROUND: The applicant is requesting a Variance to reduce the front setback from 25 feet to 12 feet to allow the reconstruction of a dwelling unit with a front porch. The applicant is in the process of reconstructing the non-conforming dwelling unit that previously was built in 1953 within the front setback. When the application was received, it was thought that the front porch was the only portion of the reconstruction that would be within the front setback. During analysis of the property, staff realized that the front of the dwelling unit was within the front setback as well. A building permit had been issued for the reconstruction. The building permit has been voided until this variance case could be heard. The applicant is requesting to reconstruct the dwelling unit on the same foundation as the original building. The original building had a small front porch that did not extend to the eastern edge of the residence. The applicant is proposing to enlarge the front porch to match the extent of the eastern edge of the building. The front porch will not extend any farther into the front setback to the south than it did in its initial form.

The property is surrounded on all sides by the SF-5 Single-Family Residential District and single-family dwellings.

CASE HISTORY: The subject site is unplatted. There are no other zoning cases associated with this property.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-Family Residence
SOUTH:	SF-5	Single-Family Residence
EAST:	SF-5	Single-Family Residence
WEST:	SF-5	Single-Family Residence

THE FIVE CRITERIA FOR GRANTING A VARIANCE:

1. Criteria: The request is unique to this property and was not created by the applicant:
   Applicant Narrative: The applicant states that "The condition unique to the property is that everything except for the newly poured porch was existing. The new proposed porch does not extend any farther into the setback than the previous porch. The property was already legally non-conforming."

   Staff Analysis: Staff agrees that the original dwelling unit was built within the front setback in 1953. It is unknown why it was originally built within the front setback.

2. Criteria: The granting of the Variance will not adversely affect the rights of the adjacent property owners or residents:
   Applicant Narrative: The applicant states that "The application will not adversely affect the rights of property owners because the porch will not extend any farther than the previously existing porch. The proposed porch will be longer than the previous porch and will run parallel to the property line, but it will not extend any farther out."

   Staff Analysis: Staff agrees that because the original building was built within the front setback, allowing reconstruction in the same space, and extending the porch to the eastern end of the building, while not extending farther into the front setback, will not adversely affect the rights of adjacent property owners.

3. Criteria: The strict application of the provisions of the zoning code would constitute an unnecessary hardship on the applicant:
   Applicant Narrative: The applicant states that "The foundation has already been established and will be slightly altered to extend the living area of the home.

   Staff Analysis: Staff agrees that the foundation is in place and within the front setback; and that requiring the applicant to remove it would constitute an unnecessary hardship on the applicant.

4. Criteria: The Variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, general welfare, or harmonious development of the community:
   Applicant Narrative: The applicant states "The property is non-conforming, and the newly constructed porch does not extend any farther forward than the previously existing porch."

   Staff Analysis: Staff agrees with the applicant in that granting the Variance will not have a significant adverse effect on the public health, safety, morals, order, convenience, prosperity, general welfare, or the harmonious development of the community because it is essentially reconstructing what was previously built with a slightly larger front porch.

5. Criteria: The granting of the Variance will not be opposed to the general spirit and intent of the Unified Zoning Code:
   Applicant Narrative: The applicant states that "The property is legally non-conforming, and the applicant simply desires to maximize curb appeal and extend the outdoor living area."

   Staff Analysis: It is staff's opinion that granting the Variance upholds the spirit and intent of the Unified Zoning Code and promotes harmonious development with the surrounding residential properties.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the Variance to reduce required parking can be found to exist, the recommendation of Staff is that the Variance to reduce the front setback from 25 feet to 12 feet be ***GRANTED***;

Staff Report Attachments:
1. Front Setback Variance Justification submitted by Applicant
2. Site Plan
3. Aerial Map
4. Zoning Map
5. Land Use Map
6. Site Photos

Variance Application – Five Conditions

812 W. 31st St. S. Wichita, KS 67213

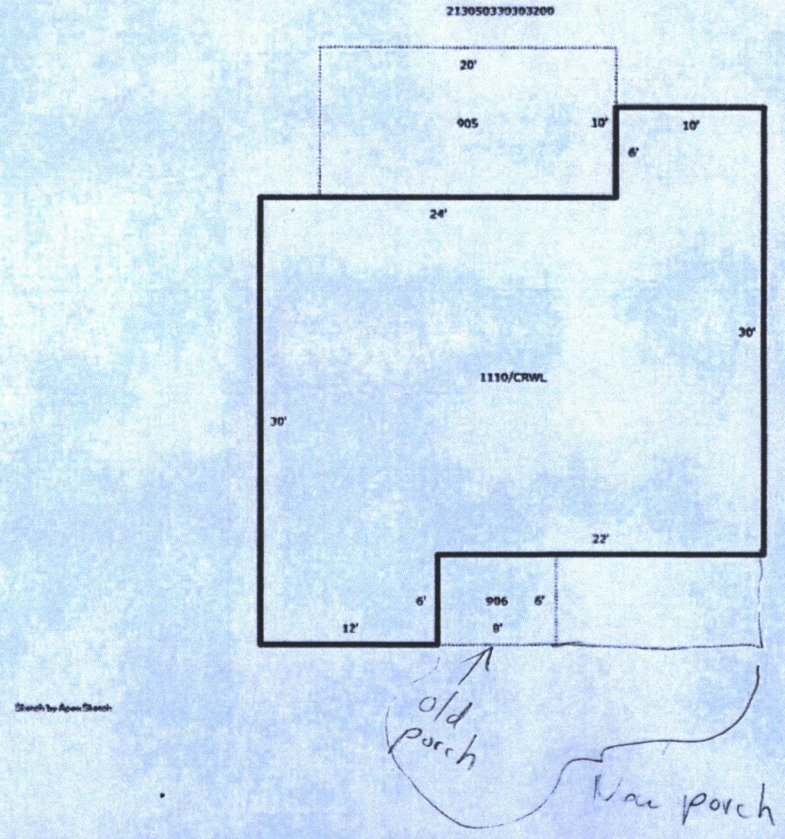
a. The condition unique to the property is that everything except for the newly-poured porch was existing. The new proposed porch does not extend any farther into the setback than the previous porch. The property was already legally nonconforming.
b. The application will not adversely affect the rights of property owners because the porch will not extend any farther than the previously existing porch. The proposed porch will be longer than the previous porch and will run parallel to the property line, but will not extend any farther out.
c. The foundation has already been established and will be slightly altered to extend the living area of the home.
d. The property is legally nonconforming and the newly-constructed porch does not extend any farther forward than the previously-existing porch.
e. The property is legally nonconforming and the applicant simply desires to maximize curb appeal and extend the outdoor living area.

3/1/2024 Doug Bush Agent for Tommy Bush

SGORIONPROD Expanded Appraisal Card

Parcel ID: 087-213-05-0-33-03-032.00- Quick Ref: R179938 Tax Year: 2023 Run Date: 2/7/2024 1:43:18 PM

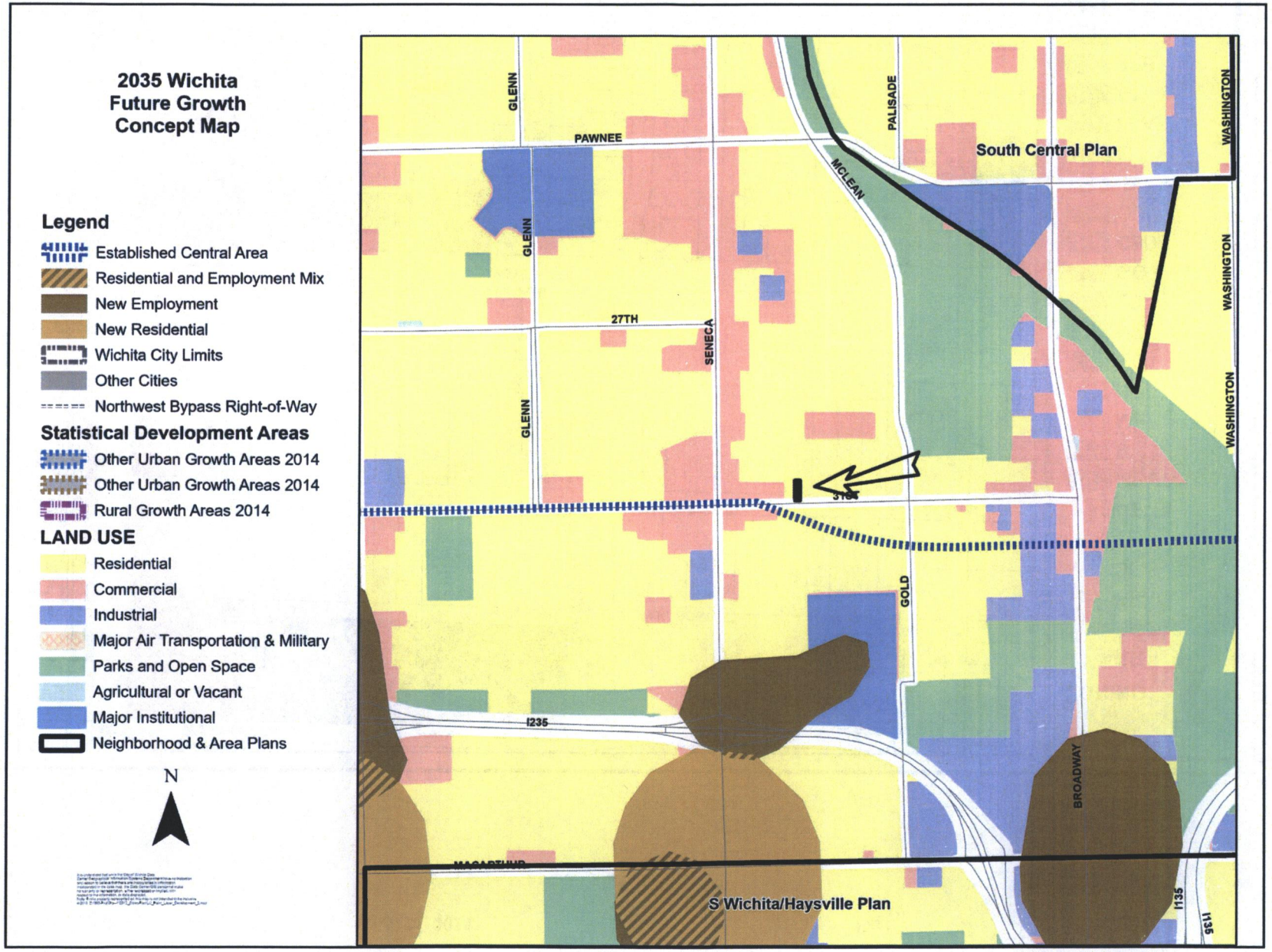
Situs: 812 W 31ST ST S WICHITA, KS 67217



Page 3 of 3


W 30TH ST S
N
S OSAGE AVE
W 31ST ST S
S HANDLEY ST
S OSAGE AVE
S OAK ST


W 29TH ST S
S WALNUT ST
S OSAGE AVE
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W 30TH ST S
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W DIANE ST
W 31ST ST S
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SF-20
SF-10
SF-5
TF-3
MF-18
MF-29
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NO
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AFB
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PUD
AIRPORT
OLD TOWN


2035 Wichita
Future Growth
Concept Map
Legend
Established Central Area
Residential and Employment Mix
New Employment
New Residential
Wichita City Limits
Other Cities
Northwest Bypass Right-of-Way
Statistical Development Areas
Other Urban Growth Areas 2014
Other Urban Growth Areas 2014
Rural Growth Areas 2014
LAND USE
Residential
Commercial
Industrial
Major Air Transportation & Military
Parks and Open Space
Agricultural or Vacant
Major Institutional
Neighborhood & Area Plans
N
GLENN
PAWNEE
PALISADE
WASHINGTON
South Central Plan
MCLEAN
GLENN
27TH
SENECA
WASHINGTON
GLENN
WASHINGTON
GOLD
I235
BROADWAY
MACARTHUR
S Wichita/Haysville Plan
I135
I135

Looking north into site



Looking east away from the site



Looking south away from site



Looking west away from site

