CITY OF WICHITA

SEDGWICK COUNTY KANSAS

Wichita-Sedgwick County Metropolitan Area Planning Department

May 9, 2024

Azeb Yeheyis
2425 North Gentry Road
Wichita, KS 67220

RE: BZA2024-00019 – Variance to reduce the interior side setback from 6 feet to 6 inches; generally located on the west side of North Gentry Drive and within one-quarter mile south of East 25th Street North (2425 North Gentry Drive).

Dear Applicant,

At its regular meeting on **May 9, 2024**, the official action of the Board of Zoning Appeals was to **GRANT** the requested variance. The approval of the request is subject to the following conditions:

1. The shed shall be constructed in substantial conformance with the approved site plan.
2. Building permits shall be obtained from MABCD for the construction of the shed.

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. BZA2024-00019

WHEREAS, Azeb Yeheyis (owner); pursuant to Kansas Statutes Annotated 12-759, request a Variance to an interior side setback from six feet to 0.5 feet to bring a shed into compliance on property located at 2425 North Gentry Drive; legally described as follows:

Lot 9, Block D, Mona-Lynn Estates Addition to Wichita, Sedgwick County, Kansas.

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 May 9, 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 the interior side setback to 0.5 feet to bring a shed into compliance, on property located at 2425 North Gentry Drive; legally described as follows:

Lot 9, Block D, Mona-Lynn Estates Addition to Wichita, Sedgwick County, Kansas.

The variance is hereby **GRANTED,** subject to the following conditions:

1. The shed shall be constructed in substantial conformance with the approved site plan.
2. Building permits shall be obtained from MABCD for the construction of the shed.

ADOPTED AT WICHITA, KANSAS, this 9th Day of May 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	542233	Print Legal Ad-IPL01689480 - IPL0168948	OCA 150004	$191.78	3	76 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 April 18, 2024
(One Time Only)
MAPC/BZA May 9, 2024
OFFICIAL HEARING NOTICE

NOTICE IS HEREBY GIVEN that on Thursday, May 9, 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, 3rd 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.
BZA2024-00014: Variance request in the City to eliminate parking lot screening requirement for south parking lot of new Patrol East Police Station on property zoned TF-3 Two-Family Residential, located on the south side of East Lincoln St and within one-block west of South Edgemoor St (5215 E. Lincoln).
BZA2024-00019: Variance Request in the City to reduce interior side setback from 6 feet to 6 inches to bring a shed into conformance, generally located on the west side of North Gentry Drive and within one-quarter mile south of East 25th Street North (2425 North Gentry Drive).
CON2024-00020: Conditional Use Amendment in the City to modify the existing CON2012-00021 and CU-523 to allow outside music/dancing and modify hours of operations, located approximately 700 feet east of Tyler Rd and north of 21st Street North (8558 West 21st Street North).
CUP2024-00011: Community Unit Plan in the City to create the Yellowstone Commercial CUP (with ZON2024-00020 for LC zoning) to allow for the development of a commercial development, located on the southeast corner of South 119th Street West and West Pawnee Avenue.
PUD2024-00005: Zone Change request in the City from GI General Industrial to PUD Planned Unit Development to permit a gravel surface under existing outdoor storage area and drive aisles; generally located within one-quarter mile south of East 37th Street North and on the east side of North Ohio Avenue (3518 North Ohio).
PUD2024-00006: To create and establish a PUD for the construction of a new substation; generally located south of East 9th Street, west of North Hillside Avenue and east of Chautauqua Avenue (3001 East Mossman Avenue).
PUD2024-00007: Zone Change request in the City from GC General Commercial to PUD Planned Unit Development to permit use of the site for outdoor display/sale but allow a gravel surface and adjust screening requirements; located on the north side of West Kellogg and within one-half mile west of South 135th Street West.
VAC2024-00019: Vacation request in the City to reduce platted street side setback from 15 feet to 6 feet to build a garage; generally located on the northwest corner of West 9th Street North and North Robin Road (1001 North Robin Road).
VAC2024-00020: Vacation request in the City to vacate a portion of a platted alley for future development, located south of West Douglas Avenue and within one-block west of South Clara Street (alley located between 5009 and 5015 West Douglas Avenue).
VAC2024-00021: Vacation request in the city to vacate a portion of a 20-foot utility easement; generally located south of East 37th Street North and east of North Saint Francis Street.
ZON2024-00020: Zone Change request in the City from SF-5 Single-Family Residential to LC Limited Commercial (with CUP2024-00011); generally located on the southeast corner of South 119th Street West and West Pawnee Avenue.
ZON2024-00021: Zone Change request in the City from SF-5 Single-Family Residential to TF-3 Multi-Family Residential; generally located on the east side of South 119th Street West and within one-quarter mile south of West Pawnee 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, 3rd 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 April 18, 2024
Scott Wadle, Secretary
Wichita-Sedgwick County
Metropolitan Area Planning Commission
IPL0168948
Apr 18 2024

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

1 insertion(s) published on:
04/18/24

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 04/18/2024 to 04/18/2024.

Mary Castro

I certify (or declare) under penalty of perjury that the foregoing is true and correct.
DATED: 04/18/2024

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!

Wichita-Sedgwick County Zoning Board of Appeals
May 9, 2024

AGENDA ITEM NO. 3

SECRETARY'S REPORT

CASE NUMBER: BZA2024-00019 (City)

APPLICANTS: Azeb Yeheyis

REQUEST: Reduce the interior side setback from 6 feet to six (6) inches to bring a shed into conformance.

CURRENT ZONING: SF-5 Single-Family Residential District

SITE SIZE: 0.46 acres

LOCATION: Generally located on the west side of North Gentry Drive and within one-quarter mile south of East 25th Street North (2425 North Gentry Drive).



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 interior side setback from six (6) feet to six (6) inches to allow a shed under construction come into conformance. The applicant is in the process of building the shed and realized it was out of compliance with the Unified Zoning Code's setback regulations during the inspection process. The applicant claims that property lines were misrepresented prior to the applicant building the shed and hiring a surveyor to confirm the property lines.

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

CASE HISTORY: On April 27, 1954, the subject site was platted as part of the Mona Lynn Estates Addition. 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 variance request arises from a unique condition of abstract property lines and incorrect markers which adversely affects the northwest corner of our structure already being built."

   Staff Analysis: Staff does not agree that the request is unique. Based on the attached survey, the existing fence was not built on the property line, which may have led the applicant to incorrectly assuming the location of the property line. However, the distance between the location of the shed to the fence line, the shed would have been out of compliance with the side yard setback. The applicant did not provide any evidence to show that the location of the proposed shed would be in compliance with the setback standards of the UZC.

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 granting of our request for variance permit in no way shall affect the rights of any adjacent property. We have spoken directly to our neighbor on the north side and they are in agreement that it doesn't affect them and are fine with our proceeding to finish should you approve of our request for variance."

   Staff Analysis: Staff agrees that because of the size of the properties and the distance between the shed and the neighboring property owner's dwelling unit, the Variance should not adversely affect adjacent property owners. The applicant did not provide any support in writing from the neighbor.

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 "Hardships shall incur us, the property owner should, should our application be denied as we have already spent considerable amount of to get our project to the halfway mark. Hence foundation concrete work, walls, roof beams, and partial wood decking would need to be demolished hindering financial burden to homeowner and setback to start again at later time."

Staff Analysis: Staff disagrees. Though construction work has begun on the shed, it is clear that work began prior to obtaining a building permit. Once a review occurred, a survey was required, which indicated the proposed shed is in violation of the setback. Based on this, the hardship on the applicant is self-imposed.

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 "In no way shall our request for approval create any public health issue, safety, morals, order, convenience, prosperity, general welfare or disrupt the harmonious development of the community. In fact, since purchase we have remodeled home. We did extensive yard upgrades and have received compliments from neighbors."

   Staff Analysis: Staff does not agree. Even though the shed is a large distance away from any other structures on neighboring properties, permitting the construction of a structure six inches away from the property line does not promote harmonious development in the community. Given the size of the applicant's property, there is adequate space to construct the shed in compliance with required setbacks.

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 "Granting the Variance we seek is not done so with intent of opposing the general spirit of any applicable code. Until the survey request by Sedgwick County permit office, no one knew property markers were incorrectly positioned. As we are with our property the variance of the northwest corner is our issue."

   Staff Analysis: Staff does not agree. The proposed variance does not uphold the spirit and intent of the code. The proposed shed would have violated the setback requirement even if the fence line and the property line were the same. Given the size of the applicant's property, there is adequate space to construct the shed and it comply with required setbacks.

RECOMMENDATION: The recommendation of Staff is that the Variance to reduce the interior side setback from six (6) feet to six (6) inches for a storage shed **does not meet** the five criteria required to grant a variance. 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 following Variance for the reduction in the interior side setback is granted with the following conditions:

1. The shed shall be constructed in substantial conformance with the approved site plan.
2. Building permits shall be obtained from MABCD for the construction of the shed.

Staff Report Attachments:

1. Interior Side Setback Variance Justification submitted by Applicant
2. Site Plan

3. Aerial Map
4. Zoning Map
5. Land Use Map
6. Site Photos

A. The Variance Requested Arises From A Unique Condition of Abstract Property Lines and Incorrect markers which Adversly AFFects N.W. Corner of our Structure ALREADY Being Built.

B. The granting of our Request For Variance Permit in no way shall EFFect The Rights of Any Adjanct Property. We have spoken Directly to our neighbor on the north side and THEY Are in Agreement that it Dont EFFect Them and ARE Fine with our Proceeding to Finich Shall YOU Approve of our Request For Variance

C. Hardships shall Incour us the Property owner should our Application Be Denied AS we have Already Spent consider able Amount to get our Project to the ½ way mark. Hence foundation - concrete work Walls - Roof Beams and Partial wood Decking would need to Be Demolished Hendering Financal Burden to home owner & setback to start Again at Later Time

D. in no way shall our Request For Approval Create any Public Health Issue - Safety morals - order - Inconveinience or convenince - Prosperity - General welfare - or Disrupt Harmonious Development of Community. In Fact since purchase we have Remodeled Home - Did Extensive Yard up Grades and Have Received Compliments From neighbors.

E. Granting the Variance we seek is not Done so with Intent of opposing the General Spirit or Intent of Any Applicable code.

* until survey Request by Seda. County Permit office no one knew Property markers were Incorrectly positioned. *

As we are with our Property the variance of N.W. Corner is our Issue.

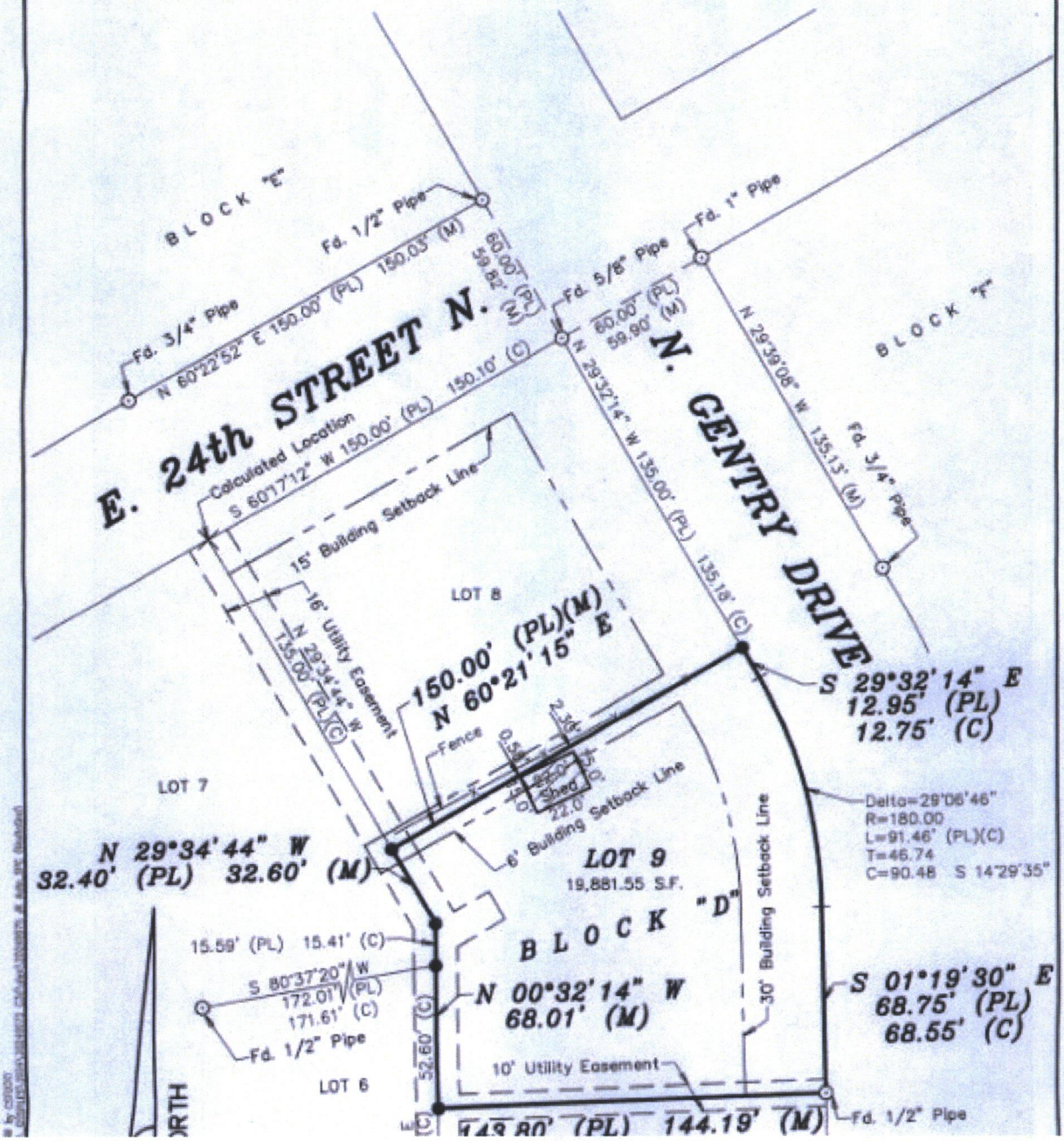
Main Office
2908 North Plum Street
Hutchinson, KS 67502
Office: (620) 665-7032
Fax: (620) 663-7401

Garber Surveying Service, P.A.

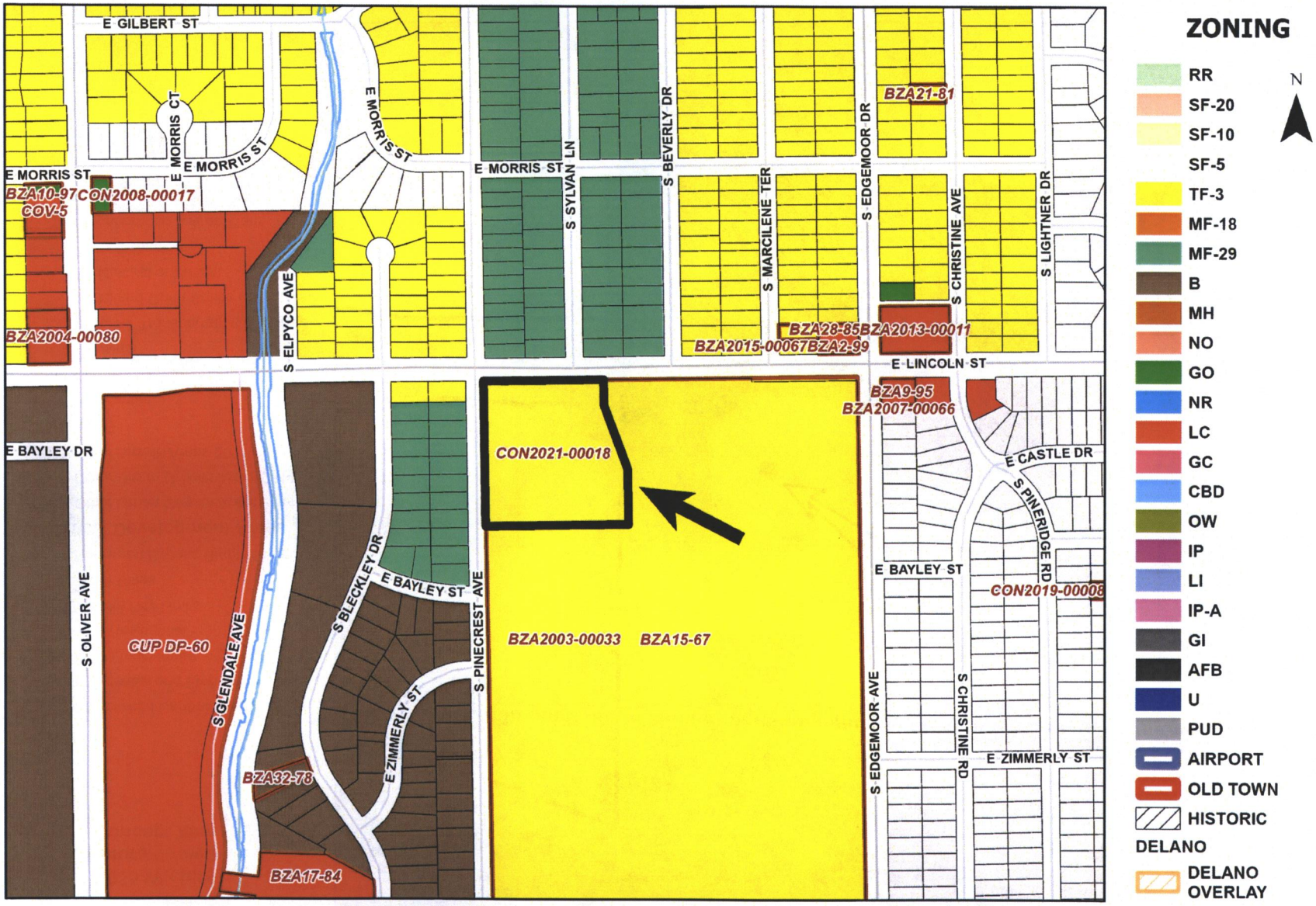
Branch Offices
Manhattan 785-320-4810
McPherson 620-241-4441
Newton 316-283-5053
Salina 785-404-6302
Wichita 316-260-9933

SURVEY FOR: AZEB YEHEYIS **Project No.** G2024-75

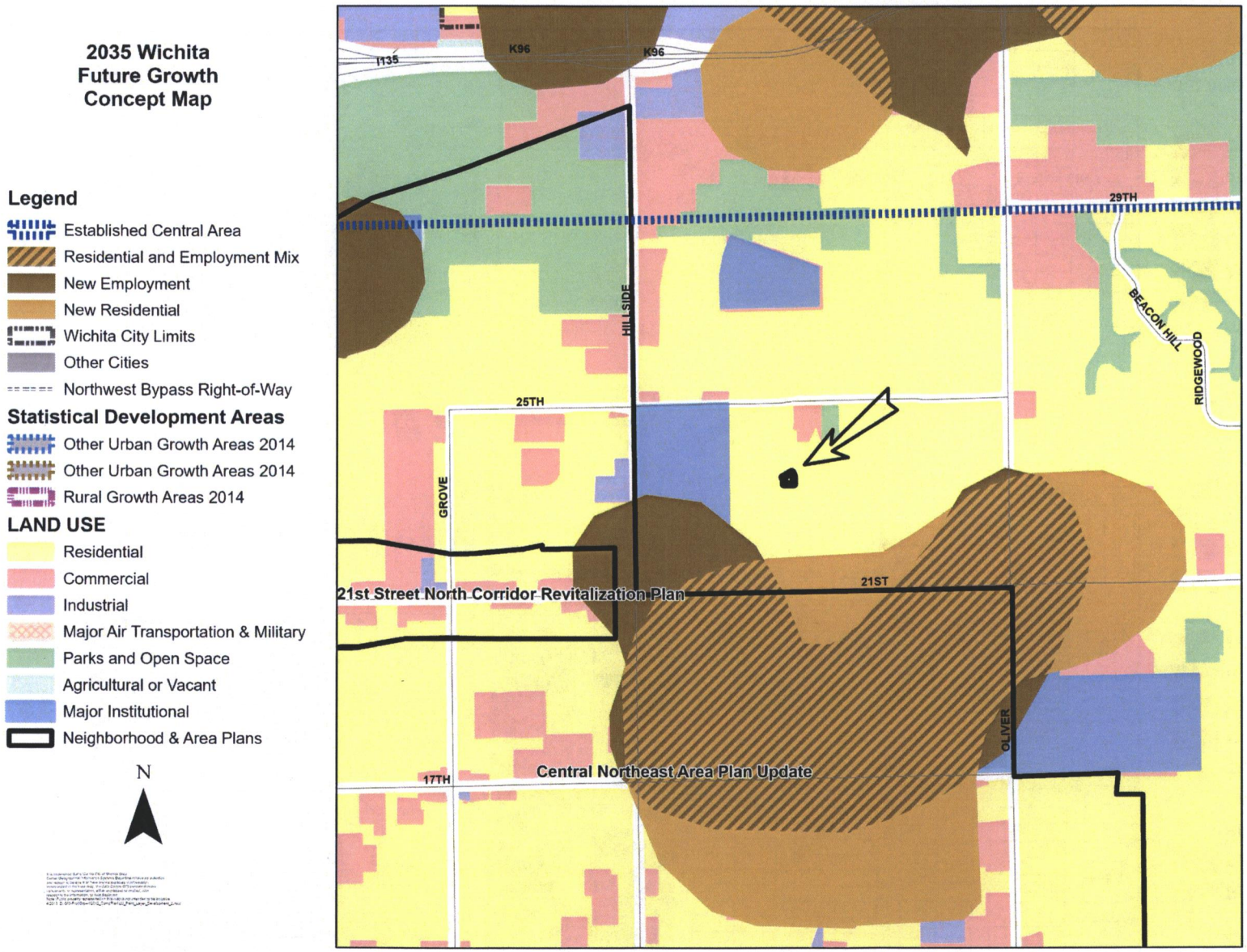
DESCRIPTION OF RECORD:
Lot 9, Block D, Mona-Lynn Estates an Addition to Wichita, Sedgwick County, Kansas.




N ROOSEVELT CT
E 24TH ST N
N YALE AVE
N ROOSEVELT AVE
N GENTRY DR
N BLUFF AVE
N


E GILBERT ST
E MORRIS CT
E MORRIS ST
E MORRIS ST
E MORRIS ST
E MORRIS ST
S SYLVAN LN
S BEVERLY DR
S MARCILENE TER
S EDGEMOOR DR
S CHRISTINE AVE
S LIGHTNER DR
BZA21-81
BZA10-97
CON2008-00017
COV-5
BZA2004-00080
S ELPYCO AVE
BZA28-85
BZA2013-00011
BZA2015-00067
BZA2-99
E LINCOLN ST
BZA9-95
BZA2007-00066
E BAYLEY DR
CON2021-00018
E CASTLE DR
S PINERIDGE RD
E BAYLEY ST
CON2019-00008
S OLIVER AVE
CUP DP-60
S GLENDALE AVE
S BLECKLEY DR
E BAYLEY ST
S PINECREST AVE
BZA2003-00033
BZA15-67
E ZIMMERLY ST
S EDGEMOOR AVE
S CHRISTINE RD
E ZIMMERLY ST
BZA32-78
BZA17-84
ZONING
RR
SF-20
SF-10
SF-5
TF-3
MF-18
MF-29
B
MH
NO
GO
NR
LC
GC
CBD
OW
IP
LI
IP-A
GI
AFB
U
PUD
AIRPORT
OLD TOWN
HISTORIC
DELANO
DELANO OVERLAY
N

2035 Wichita Future Growth Concept Map



Looking west into site



Looking north away from the site



Looking east away from site



Looking south away from site



Main Office
2908 North Plum Street
Hutchinson, KS 67502
Office: (620) 665-7032
Fax: (620) 663-7401

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Wichita 316-260-9933

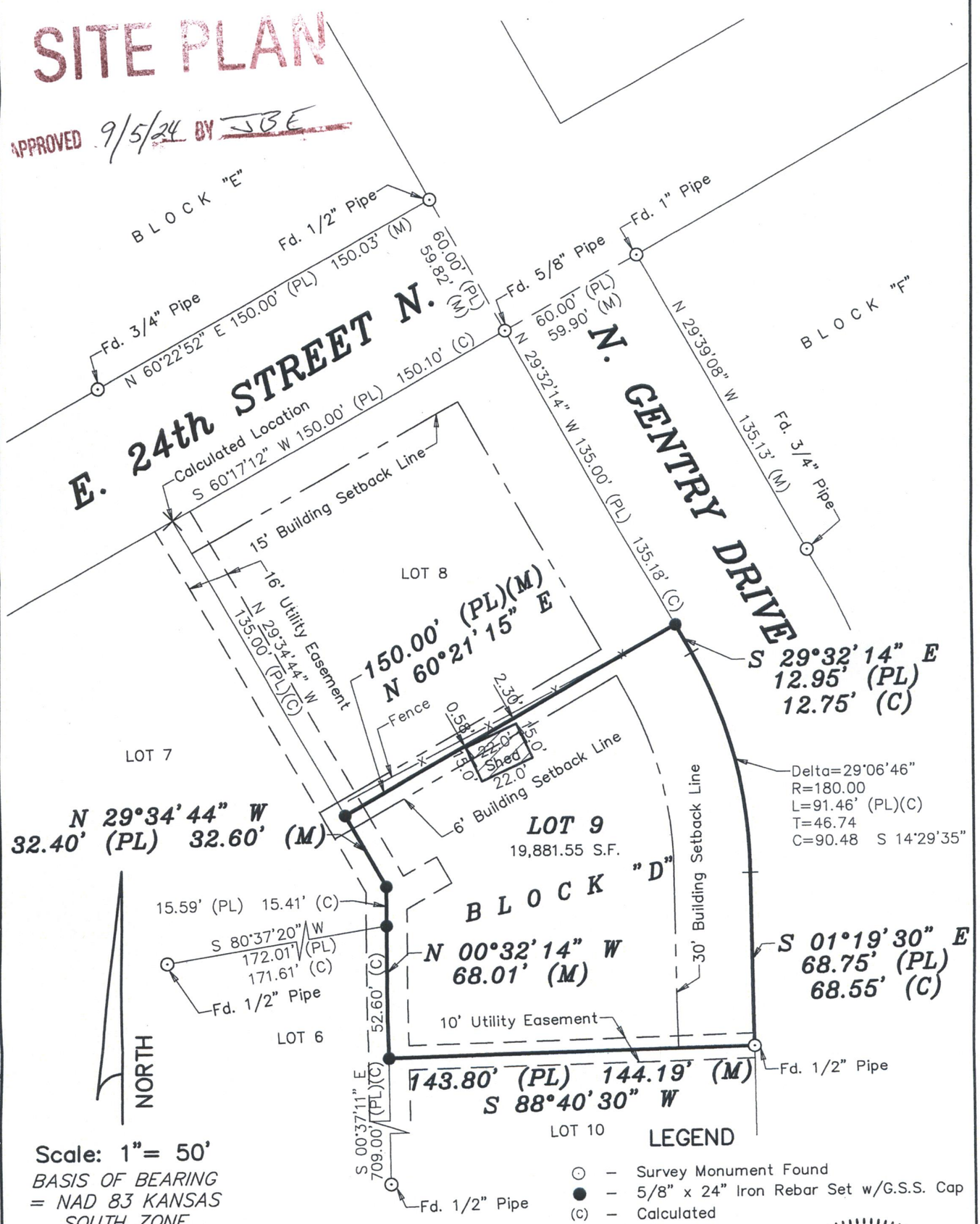
SURVEY FOR: AZEB YEHEYIS

Project No. G2024-75

DESCRIPTION OF RECORD:
Lot 9, Block D, Mona-Lynn Estates an Addition to Wichita, Sedgwick County, Kansas.

SITE PLAN

APPROVED 9/5/24 BY JBE



Scale: 1"= 50'

BASIS OF BEARING = NAD 83 KANSAS SOUTH ZONE

LEGEND

- ⊙ – Survey Monument Found
- ● – 5/8" x 24" Iron Rebar Set w/G.S.S. Cap
- (C) – Calculated
- (M) – Measured
- (PL) – Platted

DATE OF FIELD WORK: February 27, 2024

SURVEYOR'S CERTIFICATE:
I hereby certify this plat to be a true, correct and complete representation of the property described above as surveyed under my supervision.
Dated: March 6, 2024

DANIEL E. GARBER LICENSED 3.06.2024 PS-683 KANSAS PROFESSIONAL SURVEYOR

Daniel E. Garber, PS #683

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Plot Date & Time Wednesday, March 6, 2024 11:16:36 AM Dwg Path: U:\UDP\...GSSFILES\2024\20240075 C3d\dwg\20240075 JK Auto_SPC (ModifiedGrid)