Wichita-Sedgwick County Metropolitan Area Planning Department

Joann Harder
3160 North Westwind Bay Street
Wichita, KS 67205

February 1, 2025

RE: BZA2024-00069 – Variance request in the City to reduce a rear setback from 20 feet to 5 feet to expand a deck on property zoned TF-3 Two-Family Residential District, generally located on the east side of Westwind Bay Street, within 1500 feet north of West 29th Street North (3160 North Westwind Bay Street).

Dear applicant;

At its regular meeting on **November 21, 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 building addition shall be constructed in substantial conformance with the site plan that demonstrates the granted setback.
2. Building permits shall be obtained from MABCD for the construction of the deck.
3. The applicant shall receive permission from all applicable utilizes for the construction of the portion of the deck that encroaches into the platted utility easement. This information shall be submitted with the building permit application to MABCD.

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

Sincerely,

Christina Rieth

Christina Rieth
Current Plans
Associate Planner

CC: MABCD
Taylor Moffitt, 145 North Hydraulic Avenue, Wichita, KS 67214

BZA RESOLUTION NO. BZA2024-00069

WHEREAS, Joann Harder (owner); pursuant to Kansas Statutes Annotated 12-759, requests a Variance to reduce the rear setback from 20 feet to 5 feet to expand an existing deck on property zoned TF-3 Two-Family Residential District, generally located on the east side of North Westwind Bay Street, within 600 feet east of North Ridge Road; legally described as follows:

> That part of Lot 8, Block B,, Ridge Port 4th Addition to Wichita, Sedgwick County, Kansas, described as: Beginning at the Northwest corner thereof; thence N89°17′54″E along the North line of said Lot, 111.13 feet to the Northeast corner of said Lot, thence N00°00′00″E along the East line of said Lot, 49.01 feet; thence N84°42′11″We, to a point on the West line of said Lot, 115.02 feet; thence Northerly along said West line of said Lot, which is a curve to the left, 37.25 feet to the point of beginning.

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 November 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 Variance arises from the condition that the deck is unique because it was originally and incorrectly constructed within the encroachment of the required setbacks; and

WHEREAS, granting the Variance will not adversely affect the rights of adjacent property owners and will maintain the rights of each property owner; and

WHEREAS, the strict application of the Code constitutes an unnecessary hardship because rebuilding of the existing deck does not allow for an additional safe egress; and

WHEREAS, granting the Variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, general welfare, or harmonious development of the community, since it abuts a reserve and further promotes the harmonious development of the community; and

WHEREAS, granting the Variance will not be opposed to the general spirit and intent of the Code, which normally allows for a reduction in setbacks when abutting a platted reserve.

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 rear setback from 20 feet to 5 feet to expand an existing deck on property zoned TF-3 Two-Family Residential District, generally located on the east side of North Westwind Bay Street, within 600 feet east of North Ridge Road; legally described as follows:

> That part of Lot 8, Block B,, Ridge Port 4th Addition to Wichita, Sedgwick County, Kansas, described as: Beginning at the Northwest corner thereof; thence N89°17′54″E along the North line of said Lot, 111.13 feet to the Northeast corner of said Lot, thence N00°00′00″E along the East line of said Lot, 49.01 feet; thence N84°42′11″We, to a point on the West line of said Lot, 115.02 feet; thence Northerly along said West line of said Lot, which is a curve to the left, 37.25 feet to the point of beginning.

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

1. The building addition shall be constructed in substantial conformance with the site plan that demonstrates the granted setback.
2. Building permits shall be obtained from MABCD for the construction of the deck.
3. The applicant shall receive permission from all applicable utilities for the construction of the portion of the deck that encroaches into the platted utility easement. This information shall be submitted with the building permit application to MABCD.

ADOPTED AT WICHITA, KANSAS, this 1ST **day of** FEBRUARY, **2025.**

Bryan Frye, 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	606539	Print Legal Ad-IPL02015310 - IPL0201531	MAPC/BZA 11/21	$38.73	1	46 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 October 30, 2024 (One Time Only)
MAPC/BZA November 21 , 2024
OFFICIAL HEARING NOTICE

NOTICE IS HEREBY GIVEN that on Thursday, November 21, 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. Full notice can be found at www.wichita.gov/LegalNotices.

BZA2024-00069: Variance request in the City to reduce a rear setback from 20 feet to 5 feet to expand a deck on property zoned TF-3 Two-Family Residential District, generally located on the east side of Westwind Bay Street, within 1500 feet north of West 29th Street North (3160 North Westwind Bay Street).

CON2024-00240: Conditional Use to allow a Car Wash on property zoned LC Limited Commercial District as a separate service from the existing use of Vehicle and Equipment Sales, Outdoor, generally located on the southeast corner of East Kellogg Drive and South Glendale Avenue (4901 & 4925 East Kellogg).

IPL0201531
Oct 30 2024

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

1 insertion(s) published on:
10/30/24

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 10/30/2024 to 10/30/2024.

Mary Castro

I certify (or declare) under penalty of perjury that the foregoing is true and correct.
DATED: 10/30/2024

Margaret K. Wilson

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

MARGARET KATHLEEN WILSON
My Notary ID # 134916732
Expires May 24, 2028

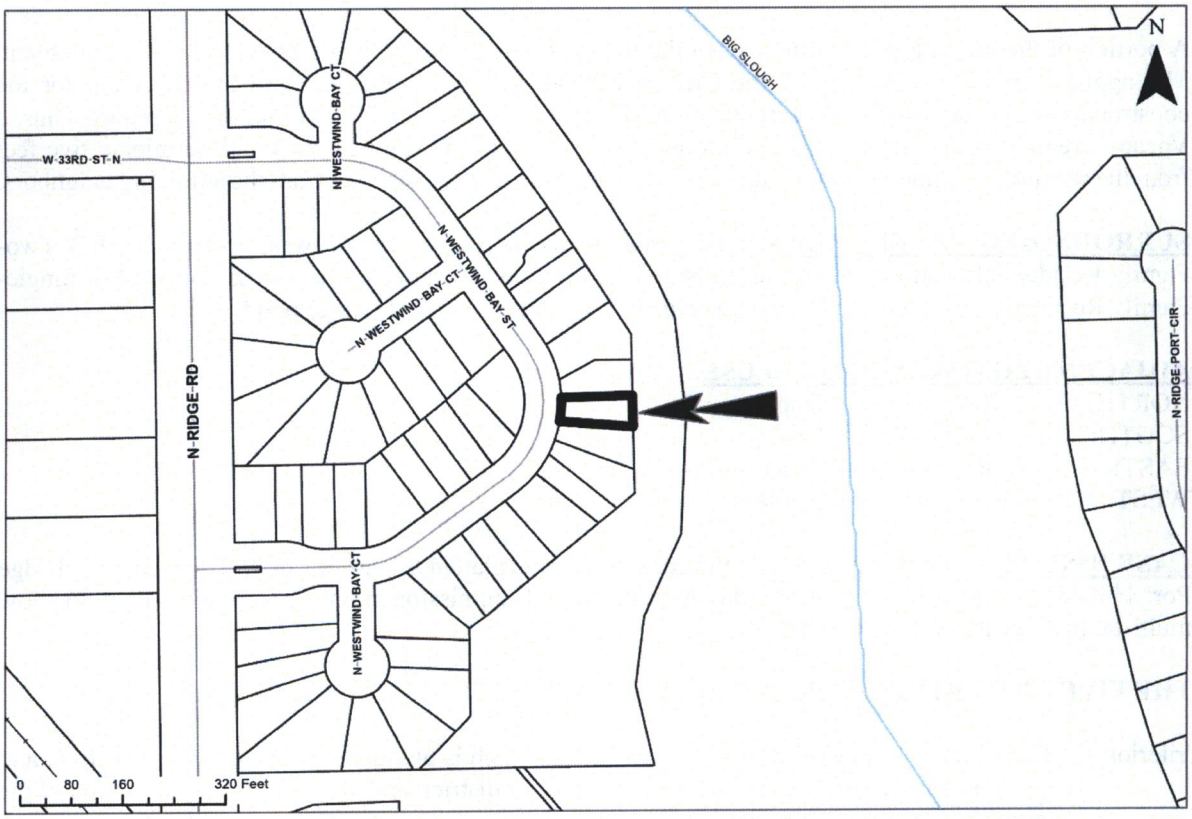
Extra charge for lost or duplicate affidavits.
Legal document please do not destroy!

Wichita-Sedgwick County Zoning Board of Appeals
November 21, 2024

AGENDA ITEM NO. 2

SECRETARY'S REPORT

CASE NUMBER:	BZA2024-00069 (City)
APPLICANT:	Joann Harder (Applicant)/Taylor Moffitt (Agent)
REQUEST:	Variance to reduce the rear setback to five feet
CURRENT ZONING:	TF-3 Two-Family Residential District
SITE SIZE:	0.11 acres
LOCATION:	Generally located on the east side of North Westwind Bay Street, within 550 feet east of North Ridge Road (3160 North Westwind Bay Street).



JURISDICTION: The Board has jurisdiction to consider the Variance request under the provisions outlined in Kansas Statutes Annotated 12-759 *et. seq.* 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 rear setback to five feet on a property zoned TF-3 Two-Family Residential District (TF-3). The 0.11-acre property is developed with one half of a duplex and is located on the east side of North Westwind Bay Street, within 550 feet east of North Ridge Road (3160 North Westwind Bay Street).

The applicant has indicated that they are requesting the Variance to remove the deck on the east (rear) elevation of the property, which the applicant shares with their neighbor to the south, and construct a separate, larger deck. Section III-A.6.d of the Unified Zoning Code (UZC) requires the minimum rear setback for principal structures in TF-3 zoning to be 20 feet. Because the proposed deck expansion is attached to the house, it must adhere to principal structure setbacks. The applicant is requesting to reduce the setback to five feet, which is a 15-foot reduction. The existing stairs extend farther into the setback; Section III-E.1.e of the UZC allows open outside stairways may not project more than five feet into a rear setback.

According to the site plan provided by the applicant, a portion of the existing deck sits 14'-6 9/16" from the rear property line, which is less than the required 20 feet. The deck will extend out east and will not encroach farther into the required six-foot interior side setback or increase the required maximum height of 35 feet in TF-3 zoning.

A portion of the existing deck farthest from the house is within into the ten-foot platted utility easement. The applicant has permission from the City as well as AT&T to encroach into the easement for the construction of the new deck. Documentation of this approval is attached to the end of this report. Thus, a Vacation request of the easement is not required by the applicant. The new deck will terminate five feet from the rear property line, which includes a new set of stairs that are separate from the adjoining neighbors.

SURROUNDING DEVELOPMENT: Properties to the north, south, and west are zoned TF-3 Two-Family Residential District and are developed with duplexes. Property to the east is zoned SF-5 Single-Family Residential District, is a platted reserve, and developed with a drainage pond.

ADJACENT ZONING AND LAND USE:

NORTH:	TF-3	Duplex
SOUTH:	TF-3	Duplex
EAST:	SF-5	Reserve
WEST:	TF-3	Duplex

CASE HISTORY: On March 12, 2000, the subject site was platted as part of Lot 8, Block B of the Ridge Port 4th Addition. In 1999, the Metropolitan Area Planning Commission granted a Conditional Use to allow multi-family density on-site (CU-554).

THE FIVE CRITERIA FOR GRANTING A VARIANCE:

Criterion 1. The variance requested arises from condition which is unique to the property in question, and which is not ordinarily found in the same zone or district; and is not created by an action of the property owner or the applicant.

Applicant Narrative

The applicant states: "The property was originally and incorrectly constructed within the actual encroachment of the original setbacks. This includes the house proper as well as the existing deck. We believe this is a unique situation for the property owner and does not allow the property to be properly maintained. The deck is in a deteriorated state and not considered safe. Further, the current deck was originally built as one unit with her neighbor during the original construction. This has not been an issue until now, as they are trying to separate the decks so the neighbor's property can be sold."

Staff Analysis
Staff agrees with the above statement. Since the house and attached deck were incorrectly constructed within the required setbacks, this was not an action of the property owner. Additionally, with the property to the east being a platted reserve with a drainage pond, staff finds this a unique situation where permitting the structure of the house and deck to be closer to the rear property line will likely not have significant detrimental effects on the nearby property because it is not developed with structures.

Criterion 2. The granting of the Variance will not adversely affect the rights of the adjacent property owners or residents.

Applicant Narrative
The applicant states: "We do not believe that granting this Variance would be detrimental to the adjacent property owners, as we are rebuilding a deteriorating deck to a much nicer quality. We believe this would increase property values. Furthermore, the neighbor is selling the property, and the original construction of the deck had these two properties joined, and they can no longer be joined to sell the property."

Staff Analysis
Staff agrees with the above statement. Allowing separate spaces by constructing a new deck for each side of the duplex would maintain the rights of each property owner. Furthermore, because the property to the east is not developed with any structures. Therefore, permitted the house and deck to be closer to the rear property line is not likely to have detrimental effects on nearby properties.

Criterion 3. The strict application of the provisions of the applicable Code from which a Variance is requested will constitute an unnecessary hardship upon the property owner represented in the application.

Applicant Narrative
The applicant states: "In the current state, the deck is not considered safe, and without this Variance granted, the customer will not be able to replace the deck and therefore not be able to utilize the rear exit of her property."

Staff Analysis:
Staff agrees with the above statement. A property without an additional means of safe egress may pose a hazard to the applicant.

Criterion 4. 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 that, "This deck is located on the backside of her property, which faces a lake. This will in no way affect public health, safety, morals, order, or convenience."

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. The deck will be near a reserve, which the rest of the property owners on the east side of the street can access. Allowing the same opportunity to access the lake with an incrementally larger deck further promotes the harmonious development of the community.

Criterion 5. The granting of the Variance will not be opposed to the general spirit and intent of the Code.

Applicant Narrative
The applicant states: "We do not believe this Variance is opposed to the general spirit of the applicable Code, as we believe this is the precise reason why Variances are allowed."

Staff Analysis:
Staff agrees with the above statement. The spirit and intent of the code is to promote harmonious development and not have adverse impacts on neighboring properties. A reduction in the rear setback along a property line abutting a platted reserve with a drainage pond upholds the spirit and intent of the code.

LEGAL CONSIDERATIONS: The Board of Zoning Appeals has the following options for actions.

1. Approval – The Board of Zoning Appeals can find that all five conditions necessary to the granting of a Variance exists and can approve the requested Variance. Any vote by the BZA to approve a Variance requires a majority plus one (1) vote of members present and voting, per the BZA bylaws.

2. Denial – The Board of Zoning Appeals can find that the requested Variance does not meet the five criteria required to grant a Variance. Any vote by the BZA to deny a Variance requires a simple majority of members present and voting.

RECOMMENDATION: The recommendation of Staff is that the Variance to reduce the front setback to five (5) feet to rebuild and expand a deck **meets** the five criteria required to grant a Variance, subject to the following conditions:

a. The building addition shall be constructed in substantial conformance with the site plan that demonstrates the granted setback.

b. Building permits shall be obtained from MABCD for the construction of the deck.

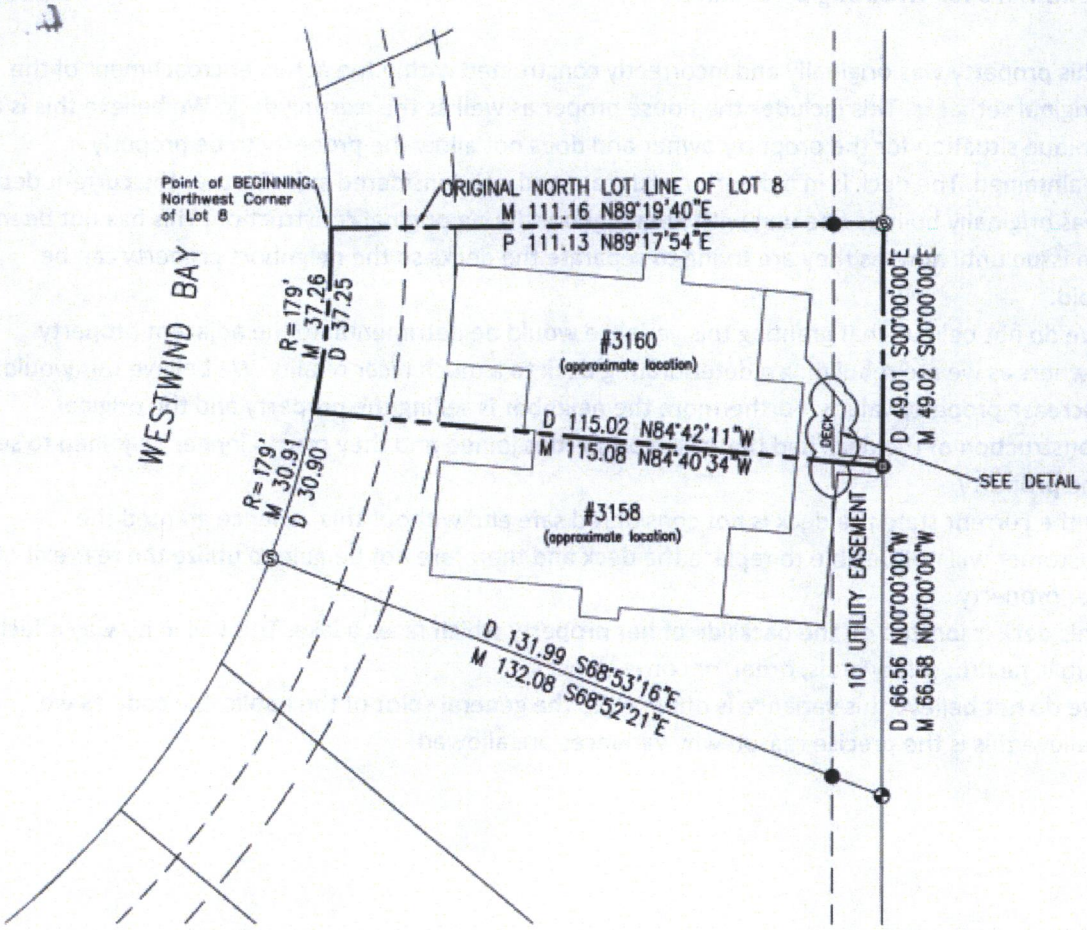
c. The applicant shall receive permission from all applicable utilizes for the construction of the portion of the deck that encroaches into the platted utility easement. This information shall be submitted with the building permit application to MABCD.

Staff Report Attachments:
1. Site Plan
2. Applicant-Submitted Variance Justification Letter
3. Applicant-Submitted Site Plan
4. Easement Use Permit Letter
5. Existing Deck Location Site Plan
6. New Deck Location Site Plan
7. Aerial Map
8. Zoning Map
9. Land Use Map
10. Site Photos

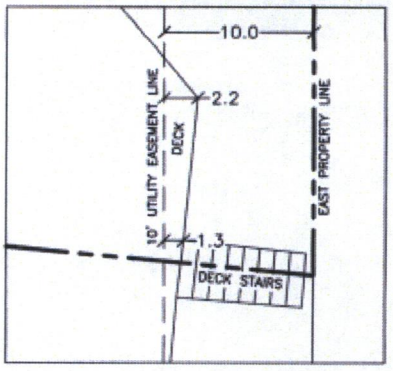
Five Conditions for Granting a Variance

A. This property was originally and incorrectly constructed within the actual encroachment of the original setbacks. This includes the house proper as well as the existing deck. We believe this is a unique situation for the property owner and does not allow the property to be properly maintained. The deck is in a deteriorated state and not considered safe. Further the current deck was originally built as one unit with her neighbor during original construction. This has not been an issue until now, as they are trying to separate the decks so the neighbors property can be sold.
B. We do not believe that granting this variance would be detrimental to the adjacent property owners as we are rebuilding a deteriorating deck to a much nicer quality. We believe this would increase property values. Furthermore the neighbor is selling the property and the original construction of the deck had these two properties joined and they can no longer be joined to sell the property.
C. In the current state the deck is not considered safe and without this variance granted the customer will not be able to replace the deck and therefore not be able to utilize the rear exit of her property.
D. This deck is located on the backside of her property which faces a lake. This will in no way affect public health, safety orals, order, or conveniences.
E. We do not believe this variance is opposed to the general spirit of the applicable code as we believe this is the precise reason why variances are allowed.

Site Plan



DETAIL (NOT TO SCALE)



● – Wooden lath set
⊕ – Marker "+" in concrete set
◕ – "ARMSTRONG" capped rebar found
Ⓑ – "Baughman" capped rebar found
Ⓢ – "Savoy" capped rebar found
D – deed distance
M – measured distance
P – plat distance

N

SCALE 1"=30'

W.O. #42942
Page 2 of 2

ARMSTRONG
LAND SURVEY, P.A.

P.O. Box 161039
WICHITA, KS 67216
PH. (316) 263-0082
info@armstrongsurvey.com

Easement Use Permit Letter

Public Works & Utilities
CITY OF WICHITA

June 26, 2024

Joann Harder
Attn: Mrs. Harder
3160 N. Westwind Bay
Wichita, KS 67205

Re: Easement Use Permit #E000062
Deck at 3160 NWestwind Bay.

Dear Mrs. Harder:

Your request to construct a Deck partially in the City easement at 3160 Westwind Bay is hereby approved in accordance with Chapter 10.08 of the Code of the City of Wichita, Kansas.

Approval of this Easement Use permit is subject to the conditions authorized by City Code and as outlined in the enclosed list of Conditions.

The annual permit fee in the amount of $27.00 will be billed to you by our Finance Department. You will be invoiced annually thereafter which is due and payable to: City Hall License, 455 N. Main, Wichita, KS, 67202. You are also required to submit a current copy of your insurance with your payment.

Section 10.08.220 of the Code of the City of Wichita states that, "All permits not paid within thirty days after the due date shall be subject to a penalty of ten percent of the amount of the permit fee, and ten percent of the amount of the permit fee shall be added for each additional thirty days from the due date.

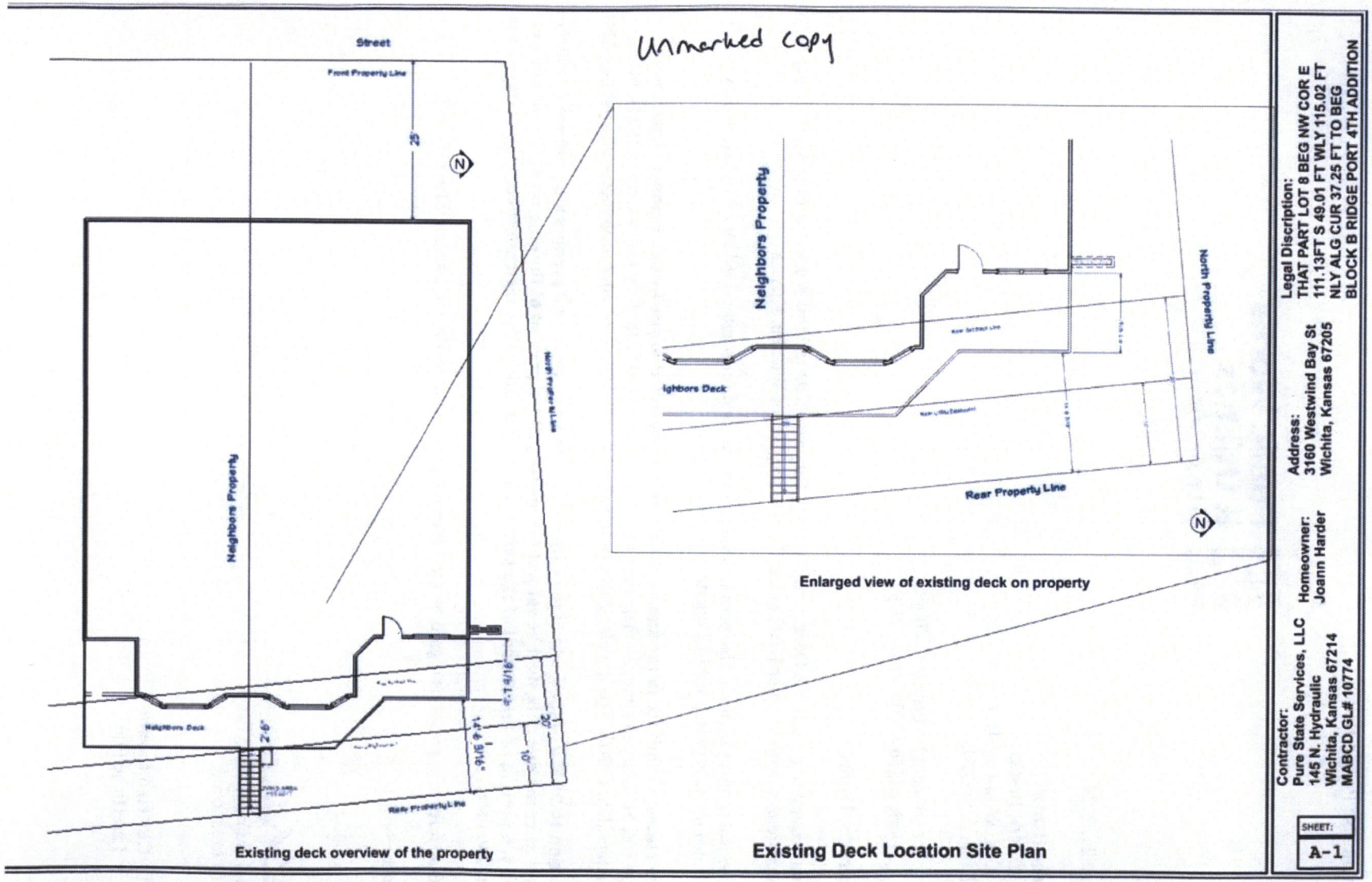
Please refer any questions regarding the Easement Use permit to Valerie Lack, at 316-268-4418.

Sincerely,

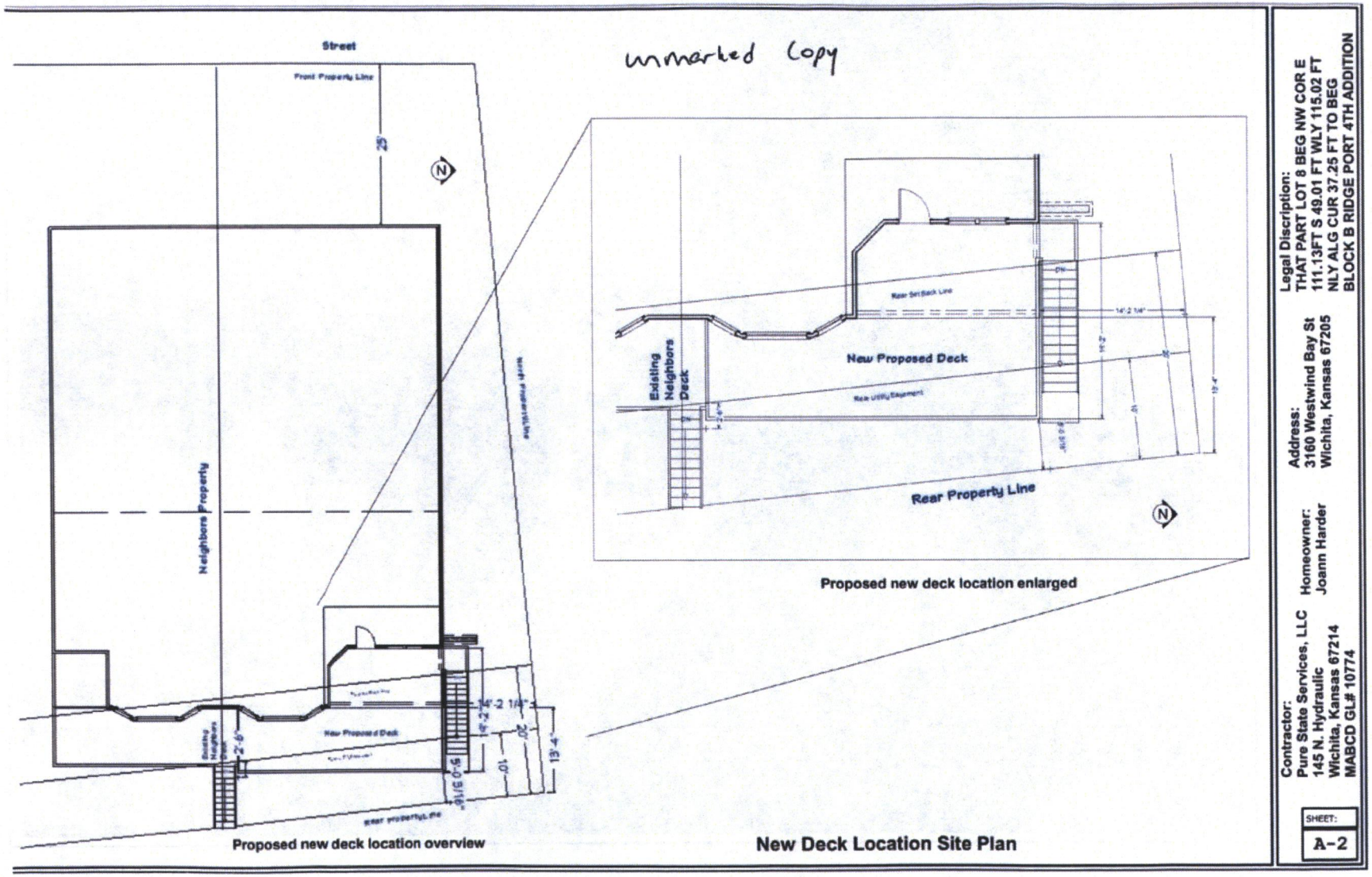
Paul Gunzelman, P.E.
City Engineer

cc: City Hall License
Laserfiche File

Existing Deck Location Site Plan



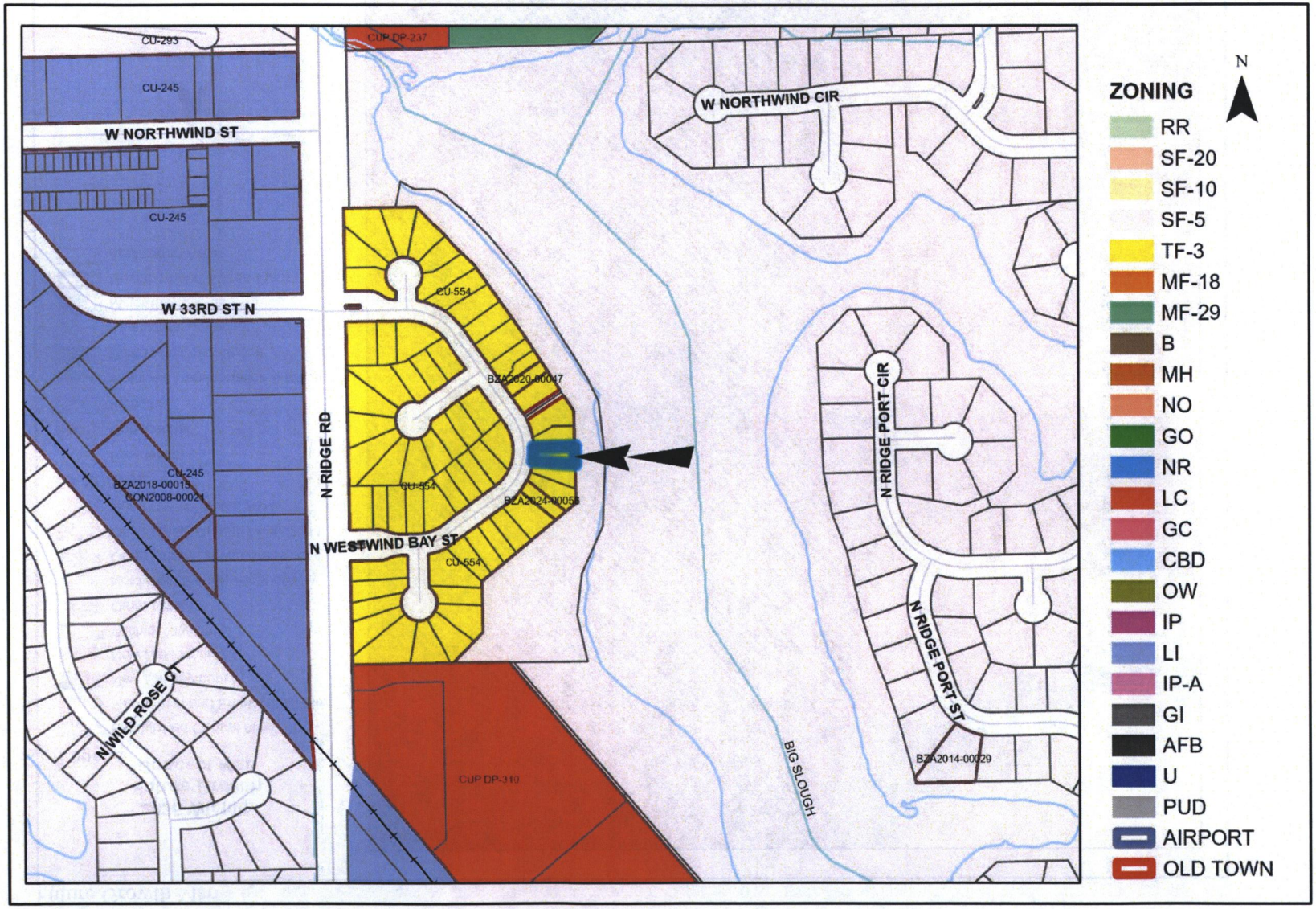
New Deck Location Site Plan



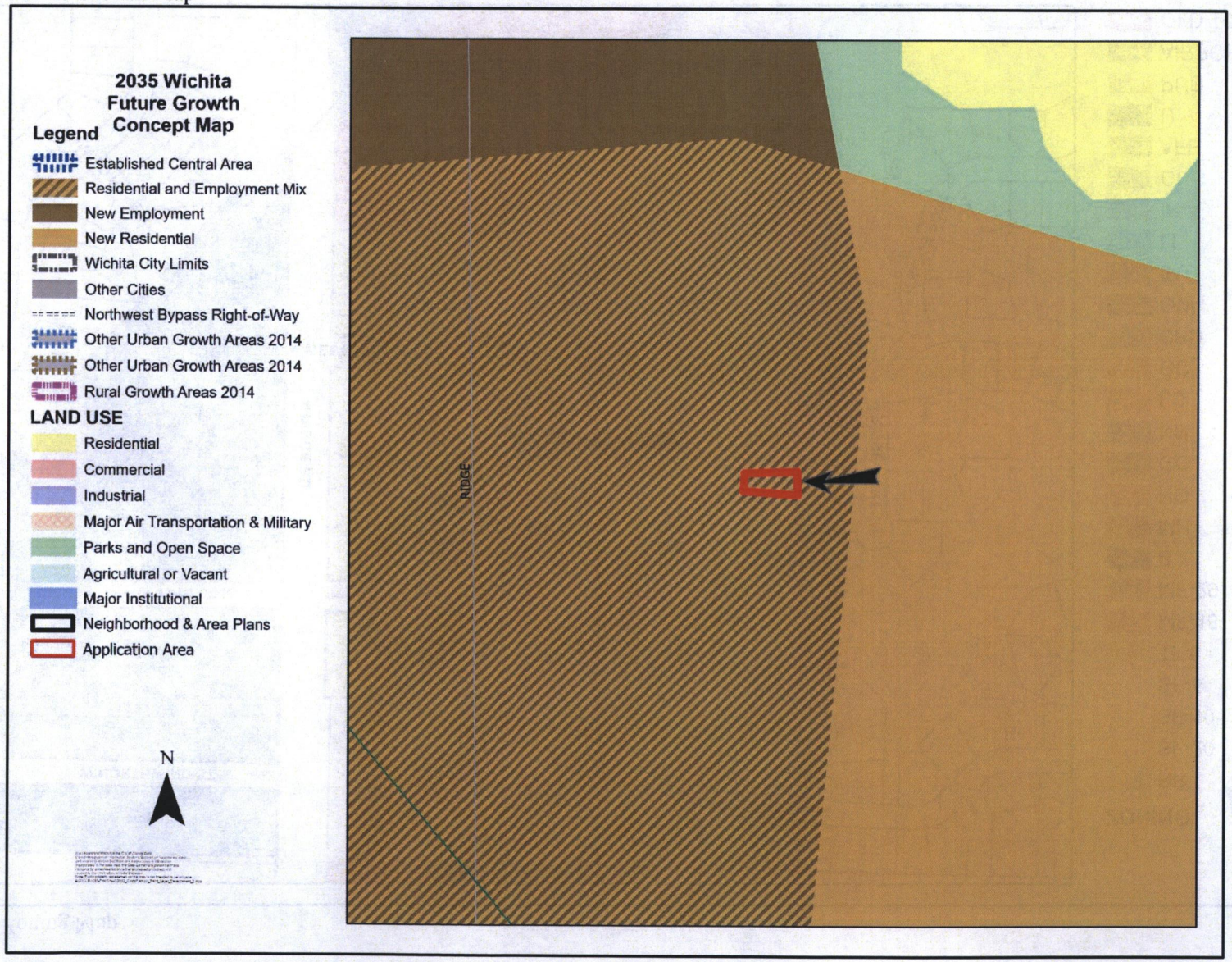
Aerial Map


W 33RD ST N
N RIDGE RD
N WESTWIND BAY CT
N WESTWIND BAY CT
N WESTWIND BAY ST
N WESTWIND BAY CT
N RIDGE PORT CIR
0 75 150 300 Feet

Zoning Map


CU-293
CU-245
W NORTHWIND ST
CU-245
W 33RD ST N
CU-245
BZA2018-00015
CON2008-00021
N RIDGE RD
CUP DP-237
CU-554
BZA2020-00047
CU-554
BZA2024-00055
N WESTWIND BAY ST
CU-554
W NORTHWIND CIR
N RIDGE PORT CIR
N RIDGE PORT ST
BZA2014-00029
BIG SLOUGH
N WILD ROSE CT
CUP DP-310
N
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

Future Growth Map



Looking west towards site



Looking north away from site



Looking south away from site



Looking east towards site



Looking east away from site

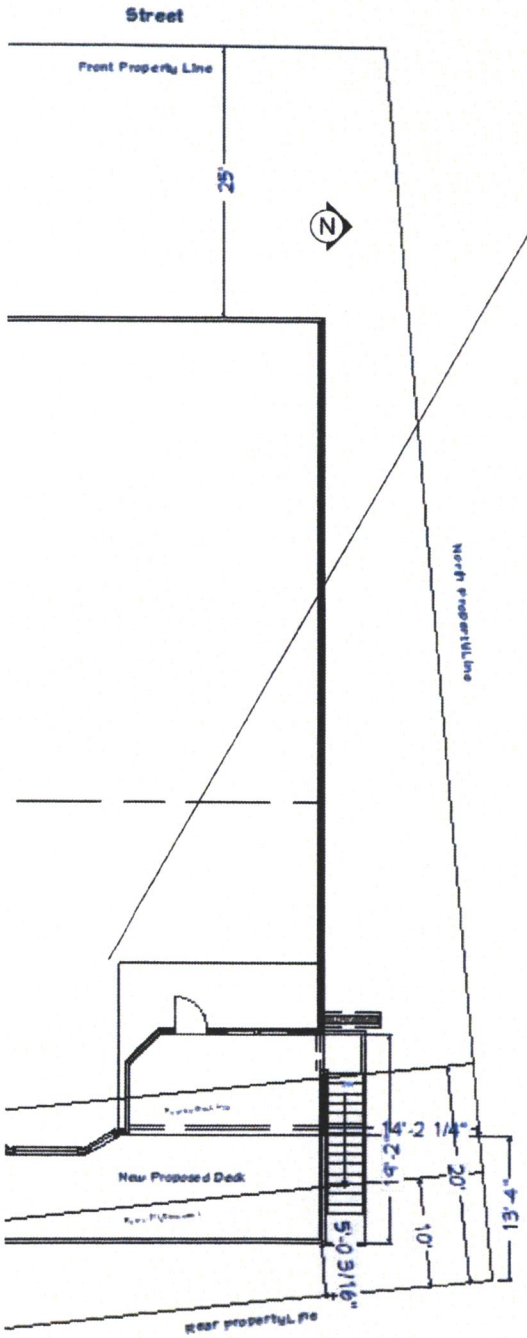


Looking west away from site

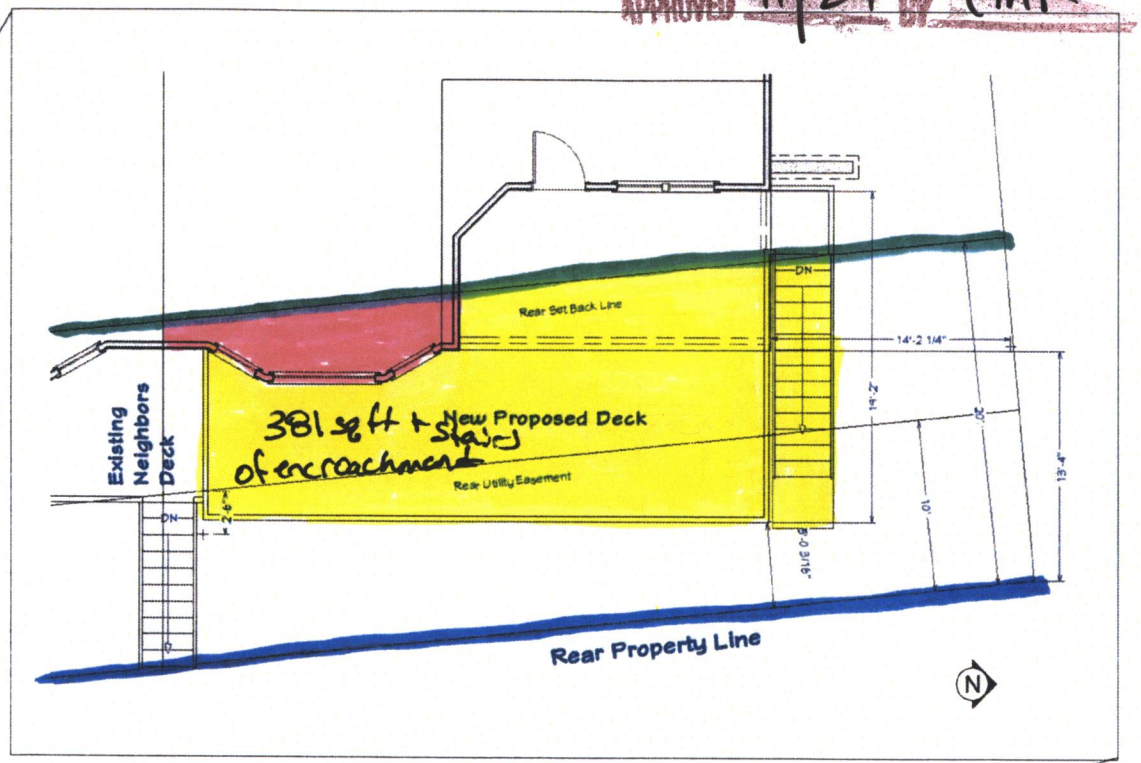


SITE PLAN

APPROVED 11/24 BY CMR



posed new deck location overview



Proposed new deck location enlarged

Total New encroachment =
381 sq ft + stairs.

Legend:
- Existing house Encroachment
- Proposed Encroachment
- Rear Set Back line
- Rear property line

New Deck Location Site Plan

Legal Discription:
THAT PART LOT 8 BEG NW COR E 111.13FT S 49.01 FT WLY 115.02 FT NLY ALG CUR 37.25 FT TO BEG BLOCK B RIDGE PORT 4TH ADDITION

Address:
3160 Westwind Bay St
Wichita, Kansas 67205

Homeowner:
Joann Harder

Contractor:
Pure State Services, LLC
145 N. Hydraulic
Wichita, Kansas 67214
MABCD GL# 10774

SHEET:
A-2