



**Wichita-Sedgwick County
Metropolitan Area
Planning Department**

September 26, 2024

Brad & Sheryl Deutsch
8216 E. Mulberry St
Wichita, KS 67226

Todd Hedstrom
259 E. Kodiak Ct.
Kechi, KS 67067

RE: BZA2024-00058 – Variance to reduce the rear setback to 10 feet 6 inches; generally located north of East Mulberry Street and within 1,000 feet east of North Rock Road (8216 East Mulberry Street).

Dear Applicant,

At its regular meeting on **September 26, 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 approved site plan.
2. Building permits shall be obtained from MABCD for the construction of the deck.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Brad Eatherly'.

Brad Eatherly
Current Plans
Senior Planner

CC: MABCD

BZA RESOLUTION NO. BZA2024-00058

WHEREAS, Brad and Sheryl Deutsch (owners); pursuant to Kansas Statutes Annotated 12-759, requests a Variance to reduce the minimum rear setback on property zoned SF-5 Single-Family Residential District, generally located north of East Mulberry Street and within 1,000 feet east of North Rock Road (8216 East Mulberry Street) legally described as follows:

Lot 6, Block 1, Willowbend First 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 September 26, 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 request to reduce the minimum rear lot line is unique because the previous owner had the property split off and is not an action created by the current owner; and

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

WHEREAS, the strict application of the Code constitutes an unnecessary hardship on the property owner; and

WHEREAS, granting the Variance will not affect the public safety, health, order, and convenience; and

WHEREAS, granting the Variance is not opposed to the spirit and intent of the Code.

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 minimum rear setback on property zoned SF-5 Single-Family Residential District, generally located north of East Mulberry Street and within 1,000 feet east of North Rock Road (8216 East Mulberry Street), legally described as follows:

Lot 6, Block 1, Willowbend First Addition to Wichita, Sedgwick County, Kansas.

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


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

ADOPTED AT WICHITA, KANSAS, this 26th Day of September 2024.



Bryan Frye, BZA Board Chair

ATTEST:



Scott Wadle,
BZA Secretary



AFFIDAVIT OF PUBLICATION

State of Kansas, Sedgwick County, ss:

Jamie Buster, City Clerk

Being first duly sworn, deposes and says:

That Mandy Hebert, Administrative Aide I, from the Planning Department of the City of Wichita, Kansas has published the attached notice on the City of Wichita website, www.wichita.gov/LegalNotices, which website is designated as the official City News Outlet Publication Site for the City of Wichita, Kansas by Charter Ordinance No. 240 effective September 4, 2024.

That the attached Notice of Public Hearing / Ordinance No. _____ / Resolution No. _____ is a true copy thereof and was published on such website beginning on the 5th day of September 2024.

Signature

SUBSCRIBED AND SWORN to before me this 5th day of SEPTEMBER, 2024.



(seal)

11-21-2027

Notary Public

City Clerk's Office

Jamie Buster – City Clerk

City Hall • 13th Floor • 455 N. Main • Wichita, Kansas 67202

316.268.4529 ext. 2805

www.wichita.gov



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AFFIDAVIT OF PUBLICATION

Account #	Order Number	Identification	Order PO	Amount	Cols	Depth
16399	588379	Print Legal Ad-IPL01919730 - IPL0191973		\$39.57	1	47 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 September 4, 2024
(One Time Only)
MAPC/BZA September 26,
2024

OFFICIAL HEARING NOTICE
 NOTICE IS HEREBY GIVEN that on Thursday, September 26, 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.
 BZA2024-00058: Variance request in the City to reduce rear setback by no more than 14 feet; Generally located north of East Mulberry Street and within 1000 feet east of North Rock Road (8216 East Mulberry Street).
 CON2024-00127: Conditional Use request in the City to allow for Accessory Dwelling Unit; located west of North Woodland Avenue and 50 feet north of West 23rd Street North (2417 Woodland Street).
 VAC2024-00042: Vacation request in the City for the entirety of Elizabeth Avenue right-of-way abutting Lots 14 and 15, Block 1A of the Verne Roberts Addition; generally located north of the intersection of South Elizabeth Avenue and West 50th Street South.
 IPL0191973
 Sep 4 2024

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

1 insertion(s) published on:
 09/04/24

STATE OF KANSAS)

SS

County of Sedgwick)

Mary Castro, of lawful age, being first duly sworn, depose 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 09/04/2024 to 09/04/2024.

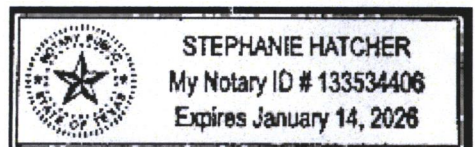
Mary Castro

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

DATED: 09/04/2024

Stephanie Hatcher

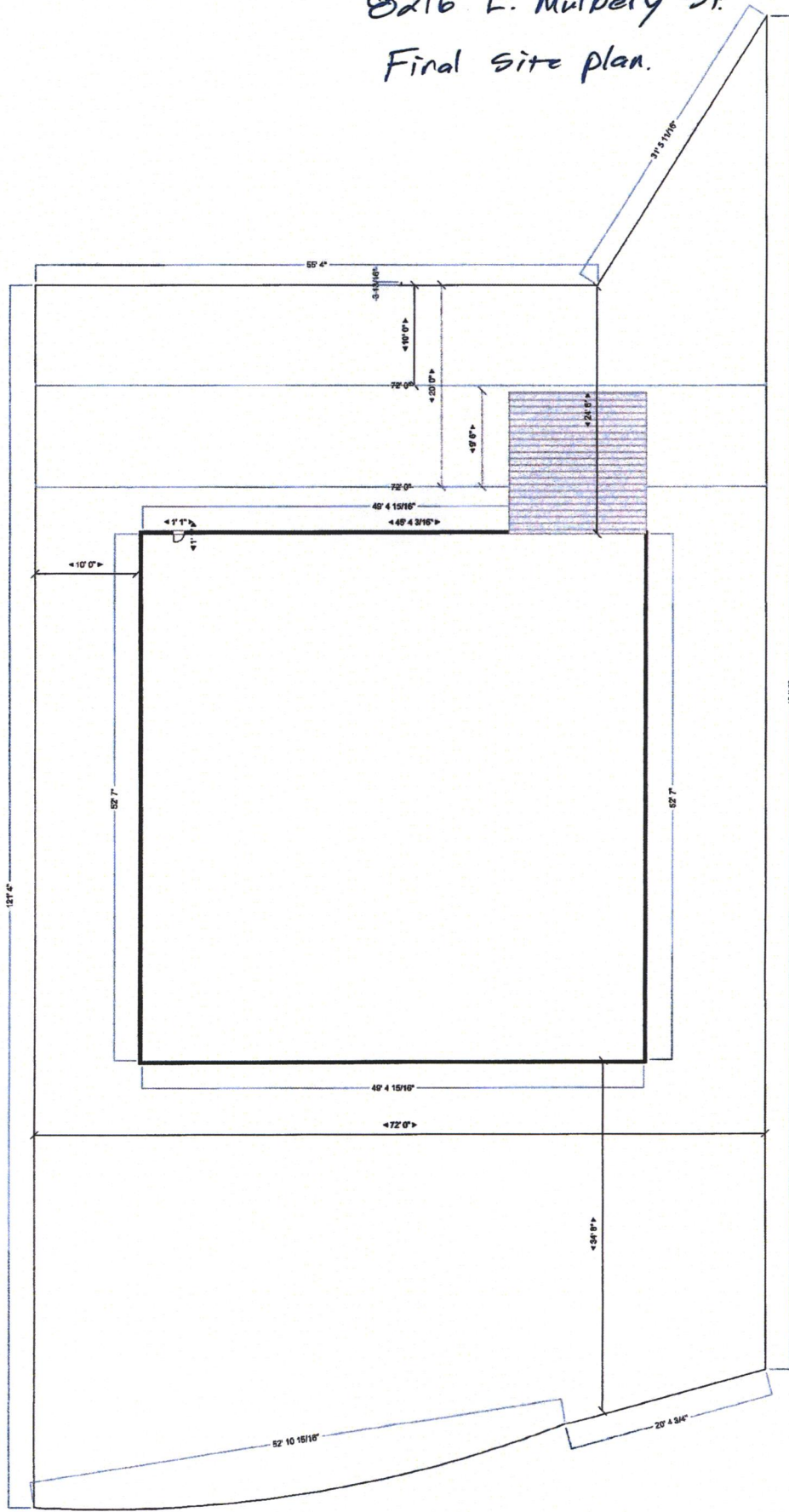
Notary Public in and for the state of Texas, residing in Dallas County



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

BZA 2024-0058

8216 E. Mulberry St.
Final site plan.



SITE PLAN

APPROVED 9/24/24 BY SBC

SECRETARY'S REPORT

CASE NUMBER: BZA2024-00058 (City)

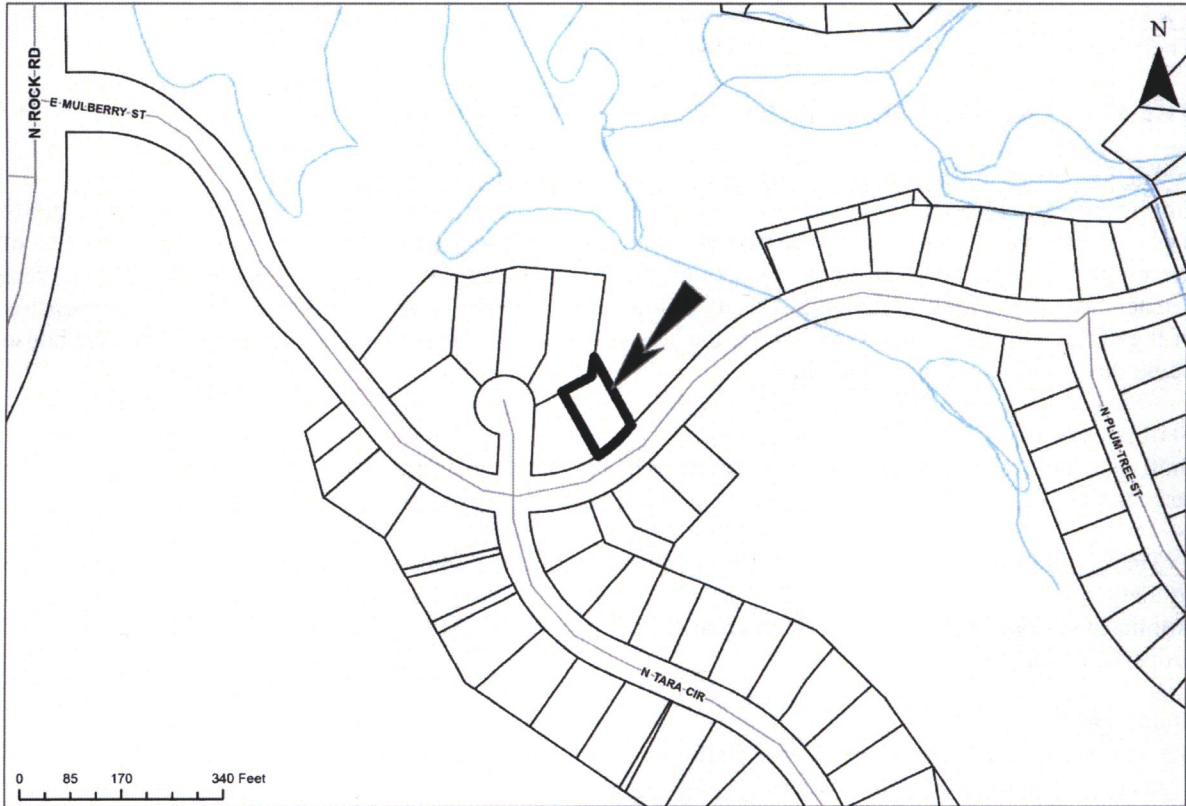
APPLICANT: Brad and Sheryl Deusch (Applicants) / Bennett Creek Construction (Agent)

REQUEST: Variance to allow reduced rear setback for deck

CURRENT ZONING: SF-5 Single-Family Residential District

SITE SIZE: 0.204 acres

LOCATION: Generally located north of East Mulberry Street and within 1,000 feet east of North Rock Road (8216 East Mulberry 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 requests a Variance on SF-5 Single-Family Residential (SF-5) zoned property to reduce the required rear setback from 20 feet to no more than ten feet and six inches. The 0.204-acre property is generally located north of East Mulberry Street and within 1,000 feet east of North Rock Road (8216 East Mulberry Street). The applicant would like to increase the size of an existing deck, which would encroach into the required rear setback by nine feet and six inches. The northeast rear property line angles sharply to the north so that the eastern portion of the deck would encroach into the required setback less than the western portion, to the extent that the eastern corner of the deck may be fully within the setback distance required by the Unified Zoning Code (UZC).

SURROUNDING DEVELOPMENT: Properties to the north, east, south, and west are zoned SF-5. Properties to the north, west, and south are all developed with single-family dwellings. The property to the east is developed with a golf course.

ADJACENT ZONING AND LAND USE:

NORTH:	TF-3	Single-family dwelling
SOUTH:	TF-3	Single-family dwelling
EAST:	TF-3	Golf Course
WEST:	TF-3	Single-family dwelling

CASE HISTORY: On May 29, 1986, the subject site was platted as part of the Willowbend 1st Addition. There are no other zoning cases associated with this site.

THE FIVE CRITERIA FOR GRANTING A VARIANCE:

1. The request is unique to this property and was not created by the applicant.

Applicant Narrative: The applicant states that, "The lot layout of the property is unique as it is essentially a corner lot which is bordered by the golf course to the east and the property to the north faces the rear of the property. Typically, traditional lot layouts back up to each other and necessitates the 20-foot rear setback. The home looks to be built directly on the 20-foot setback and would not allow for any expansion of the deck. The current homeowners are the second owners and did not create the condition of the house being directly on the rear setback line."

Staff Analysis:

Staff does not agree with the above statement. The rear of the house is built 4 feet and six inches off the setback line. The applicant could build a deck within the confines of the requirements of the UZC.

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

Applicant Narrative: The applicant states that, "This variance would not adversely affect any of the adjacent property owners."

Staff Analysis:

Staff agrees with the above statement. Staff does not foresee the proposed deck too adversely affect the rights of the adjacent property owners.

3. The strict application of the provisions of the code would constitute an unnecessary hardship on the applicant.

Applicant Narrative: The applicant states that, "The current covered deck is only 8 feet deep and is very constricted. A variance would be needed for an expansion of any size to the existing deck."

Staff Analysis:

Staff does not agree with the above statement. The applicant purchased the property with the existing constraints on the buildable area and desires to build a bigger deck than a smaller lot can accommodate.

4. The Variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, general welfare, or harmonious development of the community.

The applicant states that, "No adverse conditions are foreseen for any of these general welfare conditions."

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.

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

The applicant states that, "Granting this variance would not go against the general spirit and intent of the rear setback requirement due the unique layout of this lot.

Staff Analysis:

Staff does not agree with the above statement. The setback within zoning districts promotes continuity of development and provide adequate separate between principal structures for the provision of utilities.

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 eight (8) votes 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 single majority of members present and voting.

RECOMMENDATION: The recommendation of Staff is that the Variance to reduce the rear setback to ten feet six inches for a deck addition **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 rear setback is granted with the following conditions:

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

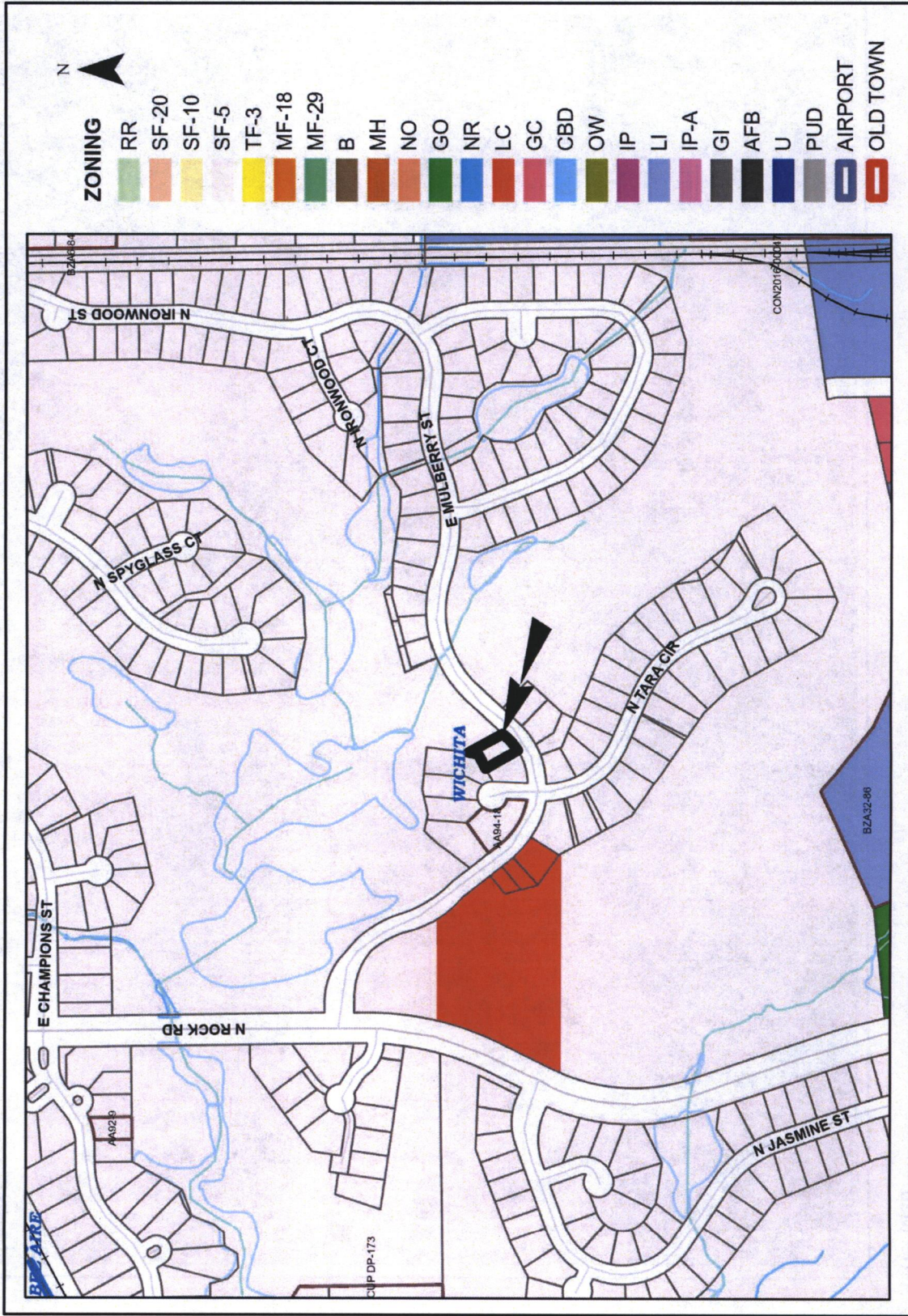
Staff Report Attachments:

1. Site Plan
2. Applicant-Submitted Variance Justification Letter
3. Aerial Map
4. Zoning Map
5. Land Use Map
6. Site Photos

Aerial Map



Zoning Map



Future Growth Map

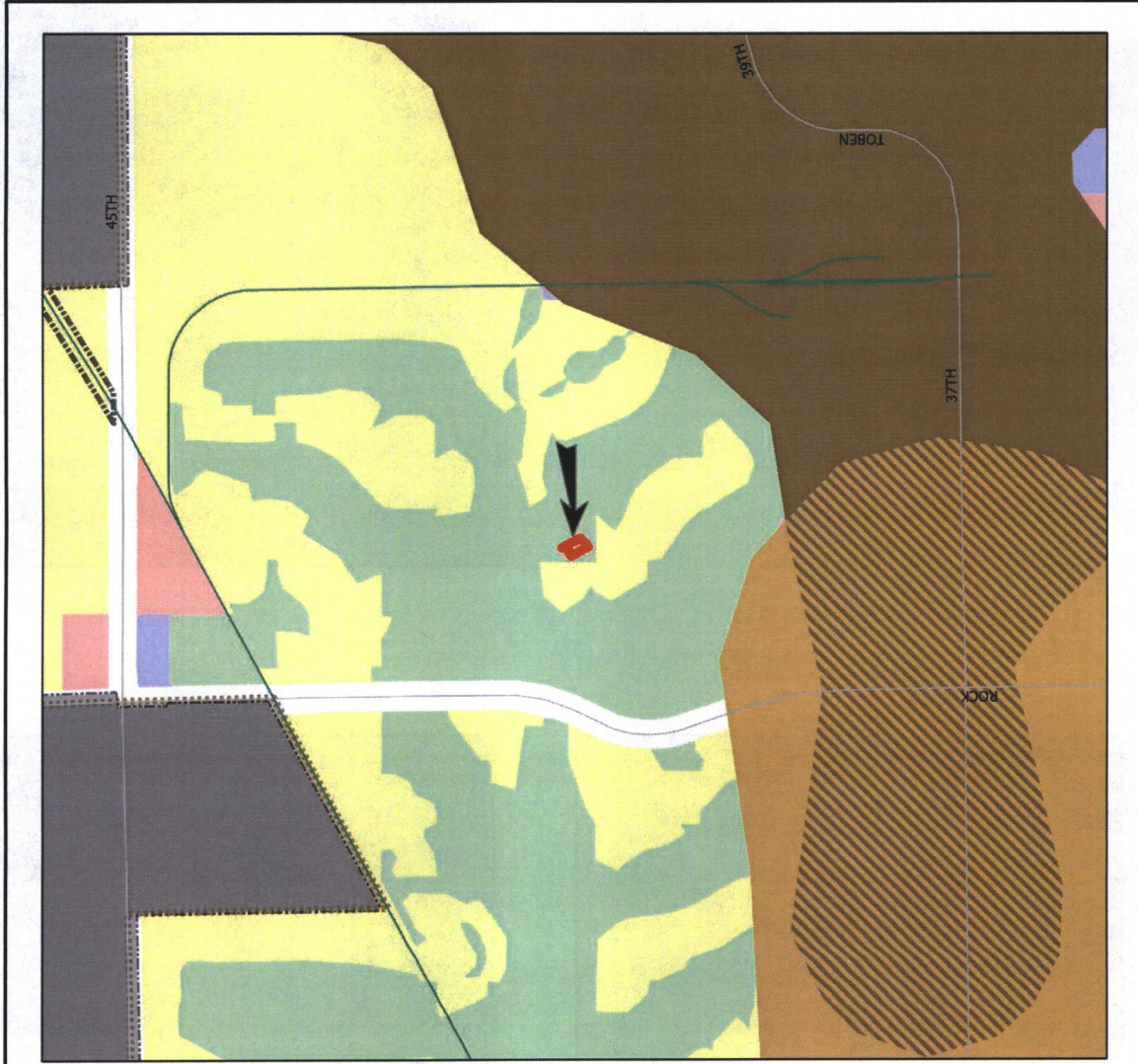
2035 Wichita Future Growth Concept Map

- Legend**
- Established Central Area
 - Residential and Employment Mix
 - New Employment
 - New Residential
 - Wichita City Limits
 - Other Cities
 - Northwest Bypass Right-of-Way
 - Other Urban Growth Areas 2014
 - Other Urban Growth Areas 2014
 - Rural Growth Areas 2014

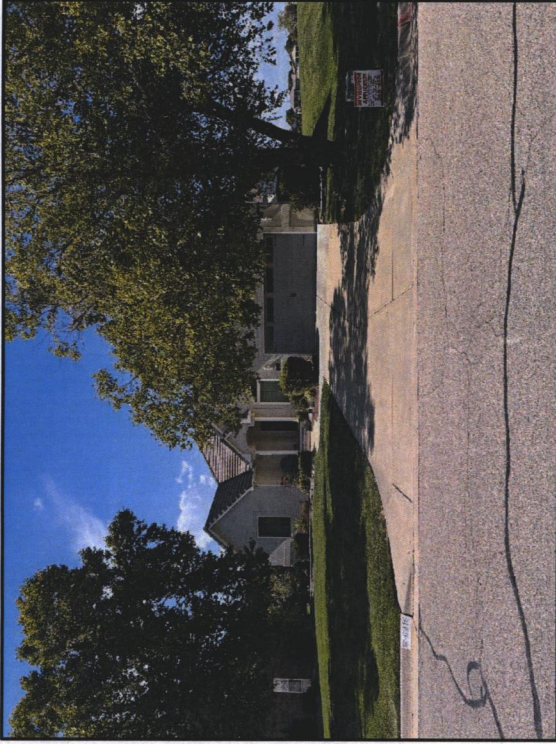
- LAND USE**
- Residential
 - Commercial
 - Industrial
 - Major Air Transportation & Military
 - Parks and Open Space
 - Agricultural or Vacant
 - Major Institutional
 - Neighborhood & Area Plans
 - Application Area



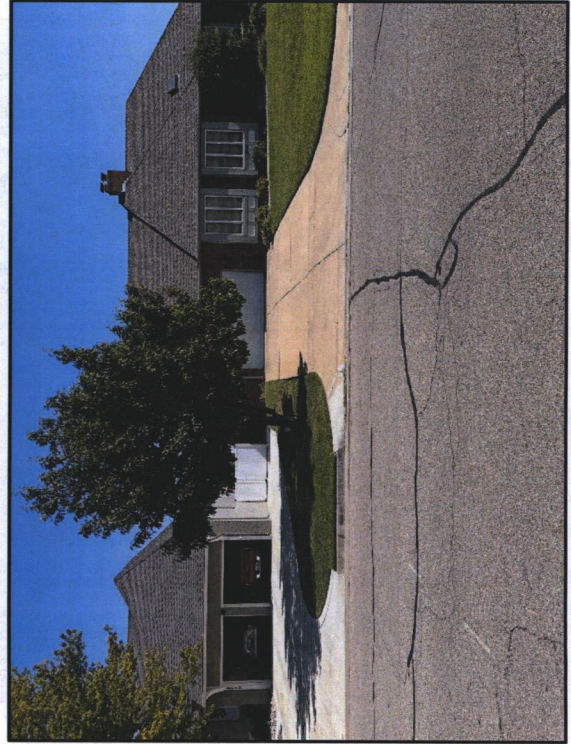
Map prepared by the City of Wichita, Kansas, Planning and Economic Development Department. All rights reserved. No warranty is made for the accuracy of the information shown on this map. The City of Wichita, Kansas, Planning and Economic Development Department is not responsible for any errors or omissions on this map.



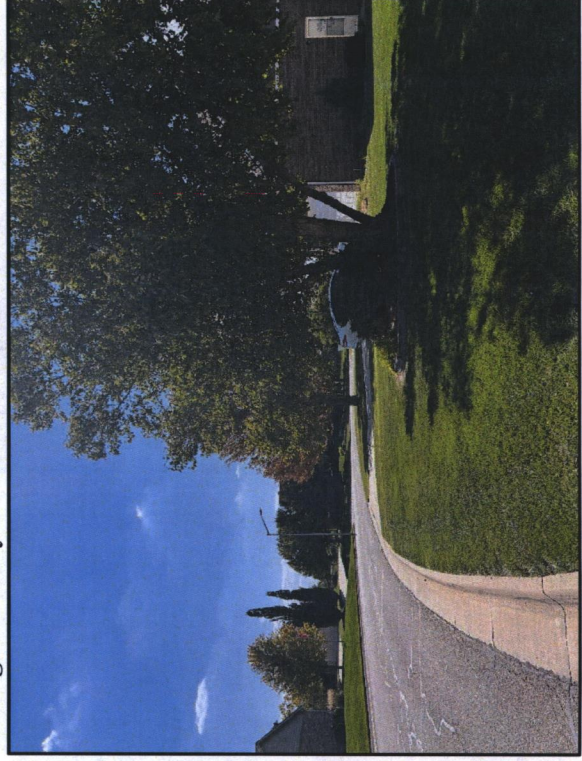
Looking north toward site



Looking south away from site



Looking west away from site



Looking southwest into site



Looking east away from site

