



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

Evergy Kansas South, Inc.  
Attn: Jessica Keck  
818 S. Kansas Ave  
Topeka, KS 66601

February 26, 2024

PEC, PA  
Attn: Rebecca Mellies  
303 S. Topeka  
Wichita, KS 67202

**RE: BZA2024-00002** – Variance to allow an increase in height of solid screening wall from 8 feet to 10 feet and allow equipment footings within the zoning setback; located on the west side of North Hoover Road and West 1<sup>st</sup> Street North (255 North Hoover Road).

Dear Applicant,

At its regular meeting on **February 23, 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 site is to be developed in general conformance to the approved site plan.

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. BZA2024-00002**

**WHEREAS**, Evergy Kansas South, Inc. (owner); pursuant to Kansas Statutes Annotated 12-759, request a Variance to allow a 9-foot wall on property located at 255 North Hoover Road; legally described as follows:

All that part of the Southeast Quarter of Section 22, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, lying East of Highway 235 and the Wichita Valley Center Flood Control Project right-of-way, EXCEPT the North 108.9 feet of the East 200 feet thereof; and EXCEPT that part beginning 1,041.74 feet South and 30 feet West of the Northeast corner thereof; thence South 30.23 feet along the Westerly right-of-way line of the public road, to the Easterly right-of-way line of the existing Highway; thence Northwesterly 138.67 feet; thence Southeasterly 110.91 feet to the 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 February 22, 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 allow a 9-foot wall, on property located at 255 North Hoover Road; legally described as follows:

All that part of the Southeast Quarter of Section 22, Township 27 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, lying East of Highway 235 and the Wichita Valley Center Flood Control Project right-of-way, EXCEPT the North 108.9 feet of the East 200 feet thereof; and EXCEPT that part beginning 1,041.74 feet South and 30 feet West of the Northeast corner thereof; thence South 30.23 feet along the Westerly right-of-way line of the public road, to the Easterly right-of-way line of the existing Highway; thence Northwesterly 138.67 feet; thence Southeasterly 110.91 feet to the beginning.

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

1. The site is to be developed in general conformance to the approved site plan.

ADOPTED AT WICHITA, KANSAS, this 22 Day of February 2024



Robert Dool, BZA Board Chair

ATTEST:



Scott Wadle,  
BZA Secretary



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
23834	514932	Print Legal Ad-IPL01573790 - IPL0157379		\$206.32	3	82 L

Attention: MANDY HEBERT

CITY OF WICHITA / MABCD  
 271 W 3RD ST N  
 3RD FLOOR STE 301  
 WICHITA, KS 67202  
 kgonzalez@wichita.gov

### LEGAL PUBLICATION

OCA 180004

Published in The Wichita Eagle on February 1, 2024

(One Time Only)

MAPC/BZA February 22, 2024  
 OFFICIAL HEARING NOTICE

NOTICE IS HEREBY GIVEN that on Thursday, February 22, 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.

EZA2024-00002: Variance request in the City to allow 9 ft masonry Wall and equipment footings within zoning setback for expansion of utility substation on property zoned SF-5 Single Family Residential District, generally located on the west side of North Hoover Road and West 1st Street North (255 N Hoover Road).

CON2024-00001: Conditional Use request in the City to allow Correctional Placement Residence, Limited with additional restrictions, with ZON2024-00001 from SF-5 Single-Family to GO General Office; located on the north side of West 31st Street South and within one-quarter mile east of South Seneca (928 W 31st St).

CON2024-00002: Conditional Use request in the City to allow Utility Major on property zoned SF-5 Single Family Residential District, generally located on the west side of North Hoover Road and West 1st Street North (255 N Hoover Road).

CUP2024-00001: Request in the City to Amend the Killarney West CUP DP-156 to permit a Kennel/Boarding/Breeding/Training facility on Parcel 6 on property zoned LC Limited Commercial; located on the east side of North Woodlawn Avenue, within one-quarter mile north of East K-96 Highway (3590 N. Woodlawn).

CUP2024-00002: Request in the City for a Major amendment to CUP DP-108 to create two new parcels and permit Entertainment Establishment in the City, located on the southwest corner of East 29th Street North and North Rock Road.

DER2023-00017: Unified Zoning Code amendment (City and County) to the Use Regulations pertaining to requirements for all Solar Energy Conversion Systems (SECS) applications.

VAC2024-00001: Vacation request in the City to vacate a portion of a utility easement to allow walking for a walking connection between two buildings on property zoned LI Limited Industrial District, generally located on southeast corner of Esthner Avenue and Meridian Avenue(2621 W Esthner Ct).

VAC2024-00002: Vacation request in the City to vacate a sewer easement under an existing building, located approximately 680 feet east of the intersection of S. Seneca St. and West 31st St. S. (928 W. 31st St. S.).

VAC2024-00003: Vacation request in the City to vacate a portion of a utility easement to develop a warehouse on existing property zoned GI General Industrial District, generally located on southwest corner of 37th Street N & Saint Francis Street.

VAC2024-00004: Vacation request in the City to vacate a portion of Oak Street Right-of-Way to allow to create a private parking area for a commercial campus, generally located on within one-block north of West Douglas Avenue and one block west of North Sycamore (130 N Oak St).

VAC2024-00005: Vacation request in the City to vacate a portion of a utility easement to allow for development on property zoned GC General Commercial (PO 282 & 416), generally located on northwest corner of North Hoover Avenue & West Central Avenue (715 N & 721 N Hoover Ave).

ZON2024-00001: Zone Change request in the City from SF-5 Single-Family to GO General Office with CON2024-00001 to allow Correctional Placement Residence, Limited with additional restrictions; located on the north side of West 31st Street South, within one-quarter mile east of South Seneca (928 W. 31st St South).

ZON2024-00002: Zone change request in the City from SF-5 Single-Family Residential to TF-3 Two-Family Residential for duplex on property located within 237 ft northwest of the intersection of West 2nd Street North and North Doris Street (321 N Doris St).

Complete legal descriptions are available for public inspection at the Metropolitan Area Planning Department, 271 W. Third St., 3rd 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 Department 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 February 1, 2024

Scott Wadle, Secretary

Wichita-Sedgwick County

Metropolitan Area Planning Commission

IPL0157379

Feb 1 2024

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

1 insertion(s) published on:

02/01/24

STATE OF KANSAS)

SS

County of Sedgwick)

Stefani Beard, 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 02/01/2024 to 02/01/2024.

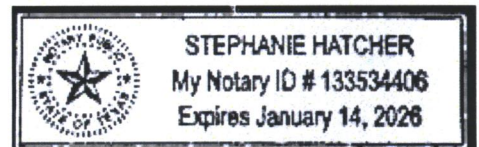
*Stefani Beard*

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

DATED: 02/05/2024

*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!



**SECRETARY'S REPORT**

CASE NUMBER: BZA2024-00002 (City)

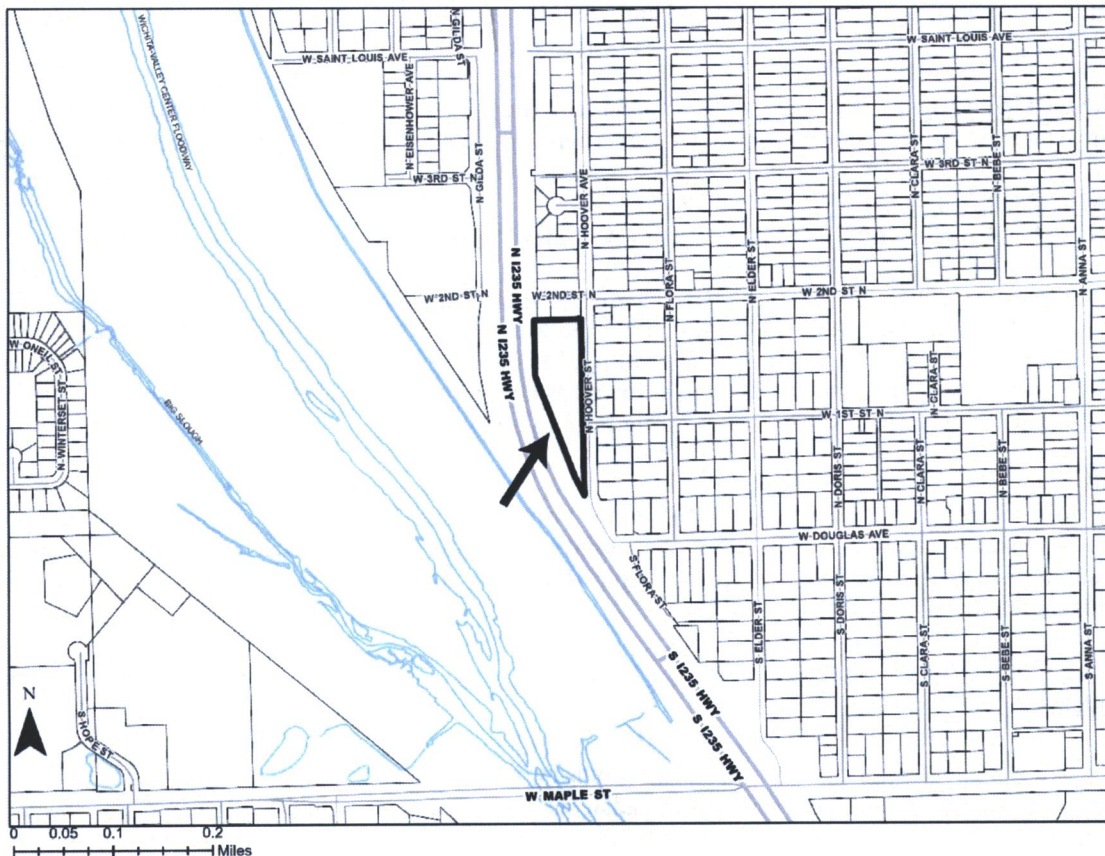
APPLICANT: Every Kansas South Inc. (Owner) /Professional Engineering Consultants (Agent)

REQUEST: Variance to allow an increase in height of solid screening wall from 9 feet to 10 feet and allow equipment footings within the zoning setback.

CURRENT ZONING: SF-5 Single-Family Residential District

SITE SIZE: 3.6 acres

LOCATION: Generally located on the west side of North Hoover Road and West 1<sup>st</sup> Street North (255 North Hoover Road).



**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 to increase the height of a screening wall from nine feet to ten feet on the entire east and south sides (approximately 534 feet) of an existing electrical substation on the west side of the North Hoover Street and West 1<sup>st</sup> Street intersection. The applicant is also seeking to expand the substation to the south, where the screening wall will also be applied. The screening wall will be built on the east property line and at the southerly portion of the expanded substation.

In 2022, the Planning Department granted a Variance to allow an increase in height of solid screening wall from 8 feet to 9-10 feet (BZA2022-0042) and waived the landscape requirement for this property. The applicant is requesting a 9-10 foot wall section because of the wall fabricator's options.

**SURROUNDING DEVELOPMENT:** Properties to the north are zoned SF-5 and are developed with what Sedgwick County tax records identify as two single-family dwellings. Properties to the east are zoned SF-5 and TF-3 Two-Family Residential District (TF-3) and are developed with single-family dwellings. Property to the south is the Interstate 235 right-of-way and the MS Mitch Mitchell Floodway. Property to the west, across I-235, is zoned GC General Commercial District (GC) and is developed with an industrial use of some kind.

**ADJACENT ZONING AND LAND USE:**

North:	SF-5	Single-Family Dwellings
South:	ROW	ROW for I-235, MS Mitch Mitchell Floodway
East:	SF5, TF-3	Single-Family Dwellings
West:	ROW, GC	I-235, Industrial use

**CASE HISTORY:** The subject site is unplatted. The property is exempt from platting due to its public utility status per Subdivision Section 3-105(D). There are no past zoning cases associated with this property.

**WALL HEIGHT VARIANCE**

**THE FIVE CRITERIA FOR GRANTING A VARIANCE:**

1. The request is unique to this property and was not created by the applicant.
  - a. The existing zoning on the parcel is SF-5 and the existing and proposed use is an electric substation, which is classified as a Utility, Major. Electric substations are not typically located within SF-5 districts and are only allowed as conditional uses. The proposed screening wall will shield the view of the substation from the east and south.

**Staff Analysis:**

It is staff's opinion that the use of the SF-5 zoned property for an electrical substation is unique to the site because expansion at this site is necessary to continue to provide enough electricity to the area. An electrical substation, which is classified as a Utility, Major, is not typically located within a residential zoning district and is only allowed by a Conditional Use.

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

- a. The variance will not adversely affect the rights of the adjacent property owners. The additional height of the proposed screening wall will not inhibit the use of adjacent parcels, infringe on the rights of the adjacent property owners, and it will reduce the view into the substation from the adjacent parcels, which include residential properties as well as Highway I-235.

**Staff Analysis:**

It is staff's opinion that allowing a nine to ten-foot screening wall at this location will not adversely affect the rights of adjacent property owners.

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

- a. The strict application of zoning code height restriction will decrease the ability to properly protect the adjacent uses. The screening wall height of 9- 10 push
- b. It is needed to provide adequate security to the interior of the substation.

Staff Analysis

The strict application of zoning code height restriction will decrease the ability to properly protect the adjacent uses. The additional height of the screening wall is needed to enhance the visual and noise buffer between the electric substation and the adjacent parcels.

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

- a. The additional height of the proposed screening wall will not adversely affect public health, safety, morals, order, convenience, prosperity, general welfare, or harmonious development of the community. In fact, it will enhance the harmonious development of the community by providing additional barrier of the electric substation from the adjacent residential zoning districts. It will not create an undesirable large vertical wall directly adjacent to pedestrian access routes or structures on adjacent properties.
- b. The proposed electric substation serves the community and will provide resiliency in the system. The additional height of the screening wall is needed to enhance the security of the interior of the substation.

Staff Analysis:

The additional height of the screening wall is needed to enhance the visual and noise buffer between the electric substation and the adjacent parcels. The additional height will improve 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.

- a. The Zoning Code, in part, is intended to protect residential districts from adverse impacts associated with non-residential development. Screening of non-residential uses as well as mechanical equipment from residential uses is a requirement of the Zoning Code. The additional height of the proposed screening wall will provide a visual barrier to the interior of the substation and is needed to ensure the security of the substation.
- b. The electric substation helps to achieve the purpose of the Zoning Code by helping to "provide the highest quality utility services to the public." The additional height of the proposed screening wall will achieve the purpose of the Zoning Code by helping to "protect and preserve the human-made and natural elements which support human habitation, add to the community's quality-of-life and create a unique living environment."

Staff Analysis:

It is staff's opinion that granting the requested variance supports the intent of the Zoning Code, to protect residential districts from adverse visual impacts associated with non-residential development. Screening of non-residential uses as well as mechanical equipment from residential uses is a requirement of the Zoning Code. The additional height of the proposed screening wall will reduce negative visual and noise impacts to the adjacent uses. The electric substation helps to achieve the purpose of the Zoning Code by helping to provide the highest quality utility services to the public. The additional height of the proposed screening wall will achieve the purpose of the Zoning Code by helping to protect and preserve

the human-made and natural elements which support human habitation, add to the community's quality-of-life, and create a unique living environment.

### **SETBACK VARIANCE**

#### **THE FIVE CRITERIA FOR GRANTING A VARIANCE:**

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

- a. The existing zoning on the parcel is SF-5 and the existing and proposed use is an electric substation, which is classified as a Utility, Major. Electric substations are not typically located within SF-5 districts and are only allowed as conditional uses. The narrowness of the property limits the ability to construct the necessary equipment within the space outside of the setbacks so encroaching in them is needed.

**Staff Analysis:**

It is staff's opinion that as the property continues south, it begins to become narrower, making it harder to install the large equipment necessary for an electrical substation. This makes the property unique and was not created by the applicant.

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

- a. The variance will not adversely affect the rights of the adjacent property owners. The necessary equipment will all be contained within the limits of the proposed screening wall and will not inhibit the use of adjacent parcels, infringe on the rights of the adjacent property owners.

**Staff Analysis:**

It is staff's opinion that allowing an encroachment of twenty inches into a 25-foot setback will not adversely affect the rights of adjacent property owners.

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

- a. The strict application of zoning code setback will minimize the ability to expand the substation which will have a negative impact on the quality and ability to provide affordable electric service to the area.

**Staff Analysis**

The strict application of zoning code setback will decrease the ability to expand the substation which would limit the amount of service the substation could provide to the area.

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

- a. The encroachment into the setback will not adversely affect public health, safety, morals, order, convenience, prosperity, general welfare, or harmonious development of the community as the equipment will all be contained within the confines of the wall/fence.
- b. The proposed electric substation serves the community and will provide resiliency in the system. The encroachment into the setback is needed to properly construct the critical equipment of the substation meeting all safety and separation requirements.

**Staff Analysis:**

The encroachment into the setback by twenty inches will not adversely affect the public health safety, morals, order, convenience, prosperity, general welfare, or harmonious development of the community.

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

a. The Zoning Code, in part, is intended to protect residential districts from adverse impacts associated with non-residential development. Screening of non-residential uses as well as equipment from residential uses is a requirement of the Zoning Code. The equipment being contained inside the proposed wall helps support that intent.

b. The electric substation helps to achieve the purpose of the Zoning Code by helping to "provide the highest quality utility services to the public." The allowance of the encroachment into the setback will achieve the purpose of the Zoning Code by helping to "protect and preserve the human-made and natural elements which support human habitation, add to the community's quality-of-life and create a unique living environment."

**Staff Analysis:**

It is staff's opinion that granting the requested variance supports the intent of the Zoning Code, to protect residential districts from adverse visual impacts associated with non-residential development. Screening of non-residential uses as well as mechanical equipment from residential uses is a requirement of the Zoning Code. The encroachment into the setback is minimal and would have been allowed to be granted administratively. The electric substation helps to achieve the purpose of the Zoning Code by helping to provide the highest quality utility services to the public.

**RECOMMENDATION:** Should the Board determine that all five conditions necessary to the granting of the variances can be found to exist, the recommendation of Staff is that the variance to allow a nine-ten foot screening wall within the setback and the variance to encroach 20 inches in to the east setback be **GRANTED**, subject to the following conditions:

1. The site is to be developed in general conformance to the approved site plan.

**Staff Report Attachments:**

1. Aerial Map
2. Land Use Map
3. Zoning Map
4. Site Plan
5. Wall Height Variance Justification Letter
6. Setback Variance Justification Letter

Aerial Map



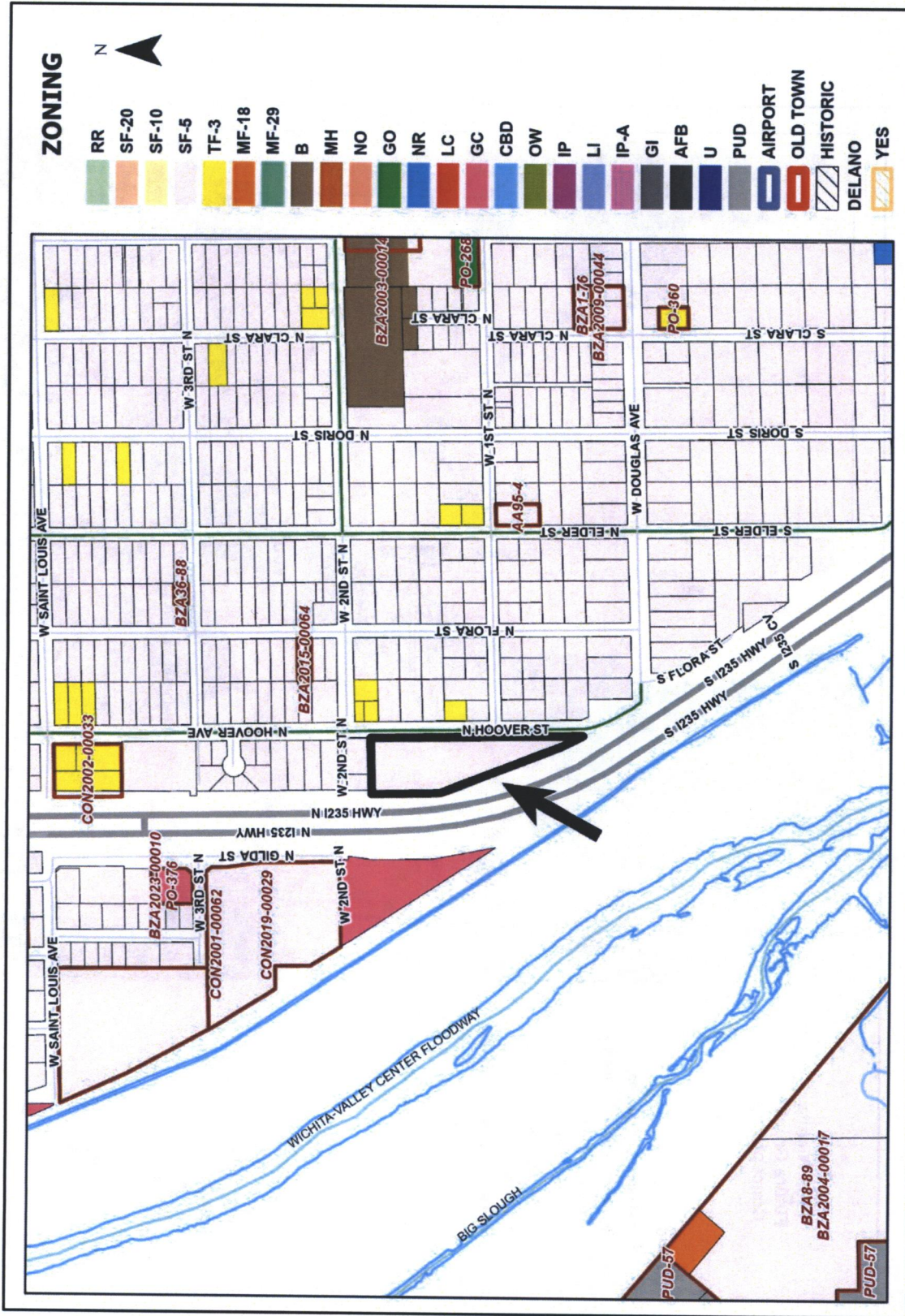
### 2035 Wichita Future Growth Concept Map

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

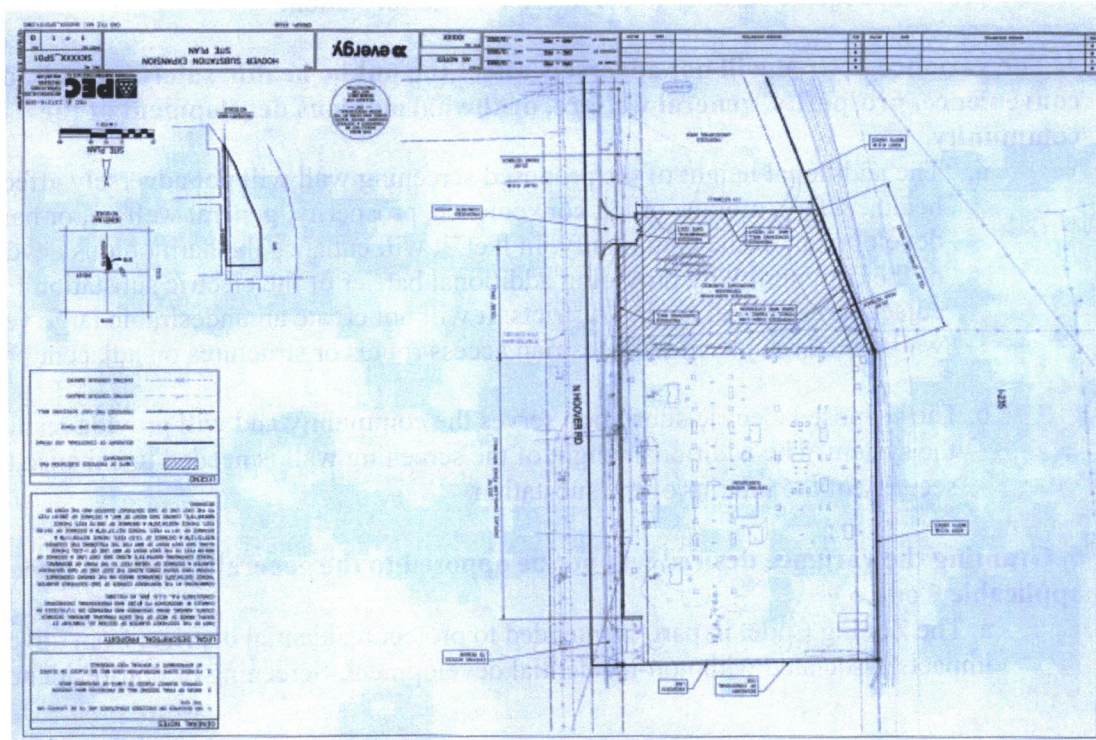


Map prepared by the City of Wichita, Planning and Economic Development Department, February 2024. The map is for informational purposes only and does not constitute a contract or any other legal instrument. The City of Wichita is not responsible for any errors or omissions on this map. The City of Wichita is not responsible for any damages, including consequential damages, arising from the use of this map. The City of Wichita is not responsible for any claims, including attorney's fees, arising from the use of this map. The City of Wichita is not responsible for any claims, including attorney's fees, arising from the use of this map.

Zoning Map



Site Plan



## **Applicant's Wall Height Variance Justification Letter**

The applicant is seeking a variance of the height restriction for a screening wall around the proposed project within the SF-5 Single Family zoning district.

**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.**

a. The existing zoning on the parcel is SF-5 and the existing and proposed use is an electric substation, which is classified as a Utility, Major. Electric substations are not typically located within SF-5 districts and are only allowed as conditional uses. The proposed screening wall will shield the view of the substation from the east and south.

**2. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.**

a. The variance will not adversely affect the rights of the adjacent property owners. The additional height of the proposed screening wall will not inhibit the use of adjacent parcels, infringe on the rights of the adjacent property owners, and it will reduce the view into the substation from the adjacent parcels, which include residential properties as well as Highway I-235.

**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.**

a. The strict application of zoning code height restriction will decrease the ability to properly protect the adjacent uses. The screening wall height of up to 10-ft is needed to provide adequate security to the interior of the substation.

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

a. The additional height of the proposed screening wall will not adversely affect public health, safety, morals, order, convenience, prosperity, general welfare, or harmonious development of the community. In fact, it will enhance the harmonious development of the community by providing additional barrier of the electric substation from the adjacent residential zoning districts. It will not create an undesirable large vertical wall directly adjacent to pedestrian access routes or structures on adjacent properties.

b. The proposed electric substation serves the community and will provide resiliency in the system. The additional height of the screening wall is needed to enhance the security of the interior of the substation.

**5. Granting the variance desired will not be opposed to the general spirit and intent of the applicable Code.**

a. The Zoning Code, in part, is intended to protect residential districts from adverse impacts associated with non-residential development. Screening of non-residential uses

as well as mechanical equipment from residential uses is a requirement of the Zoning Code. The additional height of the proposed screening wall will provide a visual barrier to the interior of the substation and is needed to ensure the security of the substation.

b. The electric substation helps to achieve the purpose of the Zoning Code by helping to "provide the highest quality utility services to the public." The additional height of the proposed screening wall will achieve the purpose of the Zoning Code by helping to "protect and preserve the human-made and natural elements which support human habitation, add to the community's quality-of-life and create a unique living environment."

## **Applicant's Setback Variance Justification Letter**

The applicant is seeking a variance of the setback restriction within the SF-5 Single Family zoning district.

**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.**

a. The existing zoning on the parcel is SF-5 and the existing and proposed use is an electric substation, which is classified as a Utility, Major. Electric substations are not typically located within SF-5 districts and are only allowed as conditional uses. The narrowness of the property limits the ability to construct the necessary equipment within the space outside of the setbacks so encroaching in them is needed.

**2. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.**

a. The variance will not adversely affect the rights of the adjacent property owners. The necessary equipment will all be contained within the limits of the proposed screening wall and will not inhibit the use of adjacent parcels, infringe on the rights of the adjacent property owners.

**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.**

a. The strict application of zoning code setback will minimize the ability to expand the substation which will have a negative impact on the quality and ability to provide affordable electric service to the area.

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

- a. The encroachment into the setback will not adversely affect public health, safety, morals, order, convenience, prosperity, general welfare, or harmonious development of the community as the equipment will all be contained within the confines of the wall/fence.
- b. The proposed electric substation serves the community and will provide resiliency in the system. The encroachment into the setback is needed to properly construct the critical equipment of the substation meeting all safety and separation requirements.

**5. Granting the variance desired will not be opposed to the general spirit and intent of the applicable Code.**

a. The Zoning Code, in part, is intended to protect residential districts from adverse impacts associated with non-residential development. Screening of non-residential uses

as well as equipment from residential uses is a requirement of the Zoning Code. The equipment being contained inside the proposed wall helps support that intent.

b. The electric substation helps to achieve the purpose of the Zoning Code by helping to "provide the highest quality utility services to the public." The allowance of the encroachment into the setback will achieve the purpose of the Zoning Code by helping to "protect and preserve the human-made and natural elements which support human habitation, add to the community's quality-of-life and create a unique living environment."