CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

April 7, 2016

Kevin and Krystal Klein
2143 N. Sunrise
Wichita KS 67235

Stuhlastz Revocable Trust
719 N. 279th St. West
Garden Plain, KS 67050

NextEra Energy Resources, attn. Jeff Wimpy
700 Universe Blvd, Bldg E-5023
Juno Beach, FL 33408

RE: CON2016-01 – County Conditional Use to permit a "Utility, Major" electric substation in RR Rural Residential zoning, generally located north of West 13th Street North and ¼-mile west of North 279th Street West (28600 West 13th Street North).

Dear Applicants:

At its regular meeting on **March 3, 2016**, the Wichita - Sedgwick County Metropolitan Area Planning Commission (MAPC) considered the above captioned request. The action of the MAPC was to **APPROVE** the request, subject to the following conditions:

1. The site shall be developed, maintained and operated in substantial compliance with the approved site plan and landscape plan, and in compliance with all applicable laws and regulations.
2. A Site plan and landscape plan shall be submitted to staff within 60 days of final Conditional Use approval or the request shall be considered denied and closed.
3. Lighting shall be no taller than 12 feet and shall be directed away all residential uses and zoning.
4. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This case received no protests during the two-week protest period, therefore the MAPC decision is final. The attached resolution is for your files. Please note that a site plan and landscape plan

are due to Planning Staff within 60 days for their approval. If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,

Jess McNeely, AICP
Senior Planner

Copies to: Karl Peterjohn, BoCC District III
Tom Stolz, MABCD
Kelly Dixon, MABCD

CONDITIONAL USE RESOLUTION NO. CON2016-01
WITH CORRECTED LEGAL DESCRIPTION

WHEREAS, Kevin and Krystal Klein, Stuhlsatz Revocable Trust (owners); pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requests a Conditional Use for a Utility, Major on approximately 39.35 acres zoned RR Rural Residential ("RR"), described as:

The North 1,300 feet of the West Half of the Southeast Quarter of Section 8, Township 27, Range 3 West of the 6th P.M., Sedgwick County, Kansas; generally located north of West 13th Street North and ¼-mile west of North 279th Street West (28600 West 13th Street North).

WHEREAS, proper notice as required by the Unified Zoning Code and by the policy of the Metropolitan Area Planning Commission (hereinafter referred to as MAPC) has been given; and

WHEREAS, the MAPC did, at the meeting of March 3, 2016, consider said application; and

WHEREAS, the MAPC has authority to permit a Conditional Use, subject to any special conditions deemed appropriate in order to assure full compliance with the criteria of the Unified Zoning Code.

NOW, THEREFORE, BE IT RESOLVED by the Metropolitan Area Planning Commission that this application be approved to allow a Conditional Use for a Utility, Major on approximately 39.35 acres zoned RR Rural Residential ("RR"), described as:

The North 1,300 feet of the West Half of the Southeast Quarter of Section 8, Township 27, Range 3 West of the 6th P.M., Sedgwick County, Kansas; generally located north of West 13th Street North and ¼-mile west of North 279th Street West (28600 West 13th Street North).

Approved subject to the following conditions:

1. The site shall be developed, maintained and operated in substantial compliance with the approved site plan and landscape plan, and in compliance with all applicable laws and regulations.
2. A Site plan and landscape plan shall be submitted to staff within 60 days of final Conditional Use approval or the request shall be considered denied and closed.
3. Lighting shall be no taller than 12 feet and shall be directed away all residential uses and zoning.
4. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

Adopted this 3rd day of March 2016.

METROPOLITAN AREA PLANNING COMMISSION

Carol Chapman Neugent

Carol Chapman Neugent, Chair MAPC

ATTEST:

Dale Miller

Dale Miller, Secretary

WICHITA–SEDGWICK COUNTY
W-SC
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 6

STAFF REPORT

MAPC March 3, 2016

but committing to 6' o/c tree spacing

CASE NUMBER: CON2016-01

OWNER/APPLICANT: Kevin and Krystal Klein, Stuhlsatz Revocable Trust (owners); Nextera Energy, c/o Sam Massey (agent)

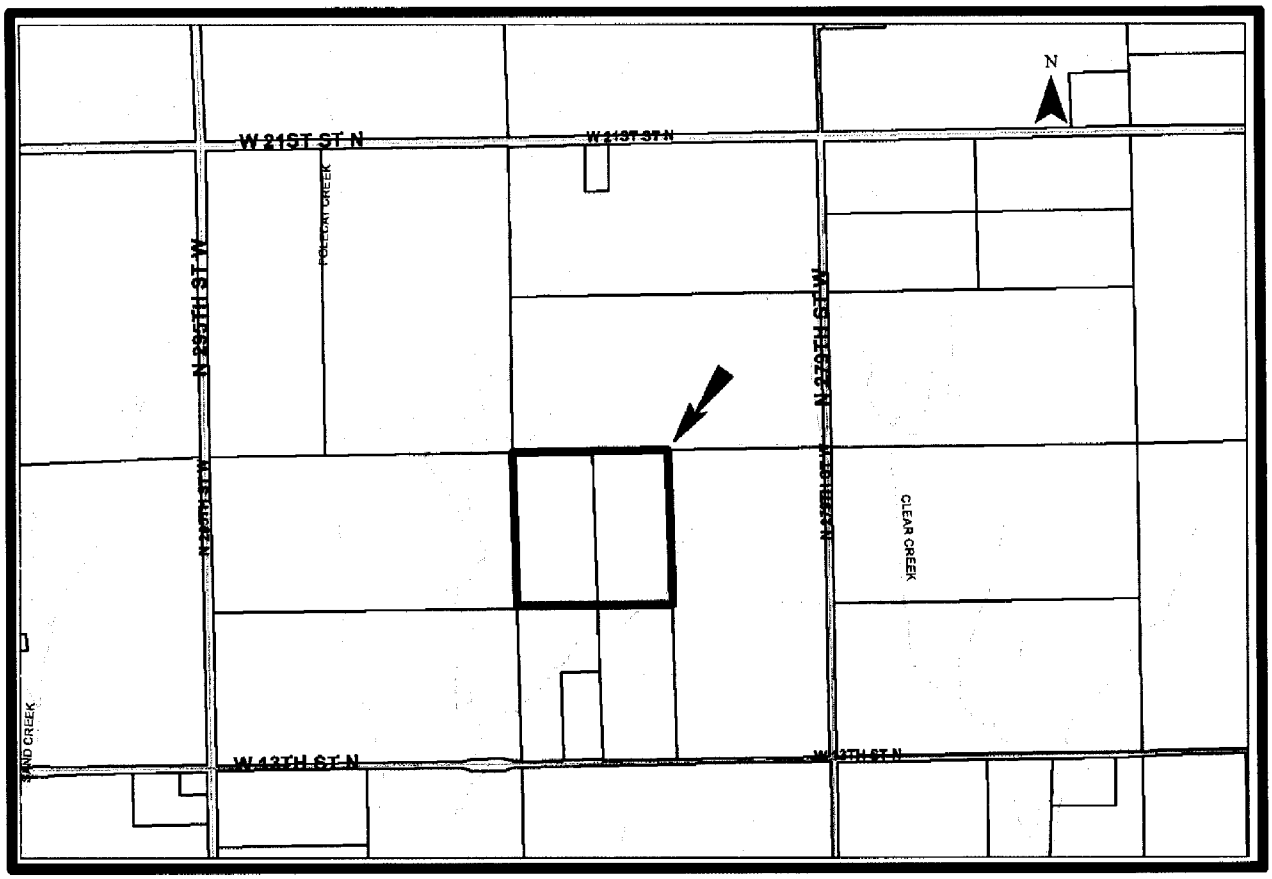
REQUEST: A Conditional Use to permit a "Utility, Major", electric substation

CURRENT ZONING: RR Rural Residential (RR)

SITE SIZE: 39.35-acres

LOCATION: Generally located north of West 13th Street North and ¼-mile west of North 279th Street West (28600 West 13th Street North)

PROPOSED USE: New electric substation



BACKGROUND: The applicants request a Conditional Use for an electric substation on the undeveloped RR Rural Residential (RR) zoned site, see the attached site plans submitted by the applicant. The Unified Zoning Code's (UZC) definition of a "utility, major" includes electrical substations; UZC, Article II., Section II-B.13.i. The UZC permits a utility, major in the RR district only with Conditional Use approval. The unplatted site is located north of West 13th Street North and ¼-mile west of North 279th Street West.

The agent for the applicants indicates that the site will provide "gen-tie line connecting wind generation projects to the electrical transmission system." Elevated electric transmission lines on poles exist on the site, extending northeast and south of the site. The County Tax Assessor lists the current land use of the site as agriculture. All surrounding property is also zoned RR and used for agriculture. Three residences are within ¼ mile of the site. The nearest residence is over 900 feet south of the site; the residence has a tree row between it and the site.

The site plan shows the electrical substation located within in a 700-foot by 800-foot area enclosed by an eight-foot tall chain-link fence with a three-strand, angled, barbed wire top. The site plan shows one small building with a 16-foot height. The applicant indicates that evergreen trees will be planted around the site at 8-foot intervals. The site plan indicates a 20-foot setback located parallel to the east and west property lines, a 25-foot setback located parallel to the south property line and a 30-foot setback located parallel to the north property line. These setbacks reflect the minimum RR zoning district's setbacks. The applicant filed a one-lot plat for the subject property and property connecting the site to 13th Street North (SUB2016-04).

CASE HISTORY: RR zoning was established with county-wide zoning in 1985; R Rural Residential (R) became RR Rural Residential in 1996 with the adoption of the UZC.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Agricultural fields
SOUTH:	RR	Single-family residences, agricultural fields,
EAST:	RR	Agricultural fields
WEST:	RR	Agricultural fields

PUBLIC SERVICES: Access to the site is via West 13th Street North, an unpaved section line road at this location. Traffic to and from the site will be minimal. The site is not served by public water or sewer.

CONFORMANCE TO PLANS/POLICIES: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as "Rural." This category encompasses land outside the 2035 urban growth areas for Wichita and the small cities. Agricultural uses, rural-based businesses, and larger lot residential exurban subdivisions likely will be developed in this area.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the Conditional Use be APPROVED, subject to platting within one year and the following conditions:

1. The site shall be developed, maintained and operated in substantial compliance with the approved site plan and landscape plan, and in compliance with all applicable laws and regulations.
2. A Site plan and landscape plan shall be submitted to staff within 60 days of final Conditional Use approval or the request shall be considered denied and closed.
3. Lighting shall be no taller than 12 feet and shall be directed away all residential uses and zoning.
4. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** All surrounding property is zoned RR and used for agriculture. Three residences are within ¼ mile of the site. The nearest residence is over 900 feet south of the site; the residence has a tree row between it and the site.

2. **The suitability of the subject property for the uses to which it has been restricted:** The electric substation site is zoned RR. The RR zoning district supports agricultural activity, as demonstrated in the agricultural use of the site and on surrounding property. The RR district maintains a low density development pattern with a two-acre minimum lot size for residential development.

3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The electrical substation will be a visual change to the area; this visual change will be buffered from surrounding properties with open space and proposed landscaping. The proposed substation will generate less traffic than the single-family residences in the area and possibly the agricultural uses in the area, minimizing the impact on 13th Street North.

4. **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval of the request will enhance the ability to provide electricity to the region. Denial would presumably be an economic loss to the applicant and cause the utility a delay in developing the infrastructure necessary to meet future demand.

5. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as "Rural." This category encompasses land outside the 2035 urban growth areas for Wichita and the small cities. Agricultural uses, rural-based businesses, and larger lot residential exurban subdivisions likely will be developed in this area.

6. **Impact of the proposed development on community facilities:** The proposed facility should have a minimal impact on existing community facilities, and will improve the ability to provide power to the region.

CONZ01-01 SITE PLAN

NINNESCAH WIND PROJECT

A PORTION OF THE SE1/4 OF SECTION 8, TOWNSHIP 27 SOUTH, RANGE 3 WEST, 6TH P.M., SEDGWICK COUNTY, KANSAS

S1/4 CORNER
SEC. 8
T.27S.
R.3W.

C1/4 CORNER
SEC. 8
T.27S.
R.3W.

UTILITY POLE (TYPICAL)

OVERHEAD UTILITY LINE (TYPICAL)

15.00'

TREE LINE (TYPICAL)

20' ACCESS ROAD

20' R.O.W.

W 13TH STREET N

50' R.O.W.

RESTATEMENT OF THE WILFRED W. HOMMERTZHEIM and MARJORIE U. HOMMERTZHEIM REVOCABLE TRUST

N1/2 SW1/4

N0°56'57"W x 1300.00'

IRRIGATION AREA LIMITS

SYLVESTER L. and JOAN K. STUHLSATZ
PORTION W1/2 W1/2 SE1/4

LOT 1
"GORGES ACRES"
MAP DRAWER:
PC 116-1

150' PRAIRE WIND TRANSMISSION EASEMENT PER DOC #29277811

150' KANSAS GAS AND ELECTRIC COMPANY EASEMENT PER BK. 581, PG. 431

1495'

659.19'

S89°06'28"W 1318.38'

1500'

475.3'

20' SETBACK

1500'

659.25'

N89°06'28"E 1318.51'

BUILDING HEIGHT = 16.0'

1505'

N0°56'47"W 1300.00'

418.2'

440.8'

659.19'

659.25'

25' SETBACK

20' SETBACK

30' SETBACK

1505'

321.8'

1510'

BUFFALO FLATS
39.35 ACRES

25' KANSAS GAS AND ELECTRIC COMPANY EASEMENT PER BK. 296, PG. 648

25' KANSAS GAS AND ELECTRIC COMPANY EASEMENT PER BK. 296, PG. 649

KEVIN R. and KRYSTAL K. KLEIN
PORTION E1/2 W1/2 SE1/4

35' CONTINGENT STREET DEDICATION PER PC 116-1

20' R.O.W.

E1/16 CORNER
8
17
T.27S.
R.3W.

1500'

S0°56'36"E 1300.00'

E1/16 C-C'
SECTION 8

EDMUND M. and LUCILLE M. ALBERT TRUSTS
E1/2 SE1/4

0' 200' 400' 600'

SCALE: 1" = 200'

BUFFALO FLATS PROPOSED SITE PLAN EXHIBIT

Date: 12/18/15
Drawn: SLB
Checked: PWS
Job No.:15001025

Sheet 1 of 1

ATWELL
866.850.4200 www.atwell-group.com
143 UNION BOULEVARD, SUITE 700
LAKEWOOD, CO 80228
303.462.1100

Existing Dense Tree Line

Existing High Voltage Power Transmission Lines

Existing Dense Tree Line

Existing High Voltage Power Transmission Lines

NO TREES WITHIN EASEMENTS PERMITTED

Buffalograss
(Permanent grass seeding installed in accordance with local practice for best results.)
(Approx. 31.33 Acres)

Wet Prairie Mix

Existing Trees

Wet Prairie Mix
(Approx. 3.8 Acres)

Existing House

Sewage Lagoon

6 Ketseeri Juniper

Sawtooth Oak

6 Ketseeri Juniper @ 15' O. C.

Shumard Oak

Note: Verify as built locations of overhead power lines along south side. Adjust tree locations and specie to avoid conflict.

31 Pfitzer Juniper

Gravel by Others

Control Bldg. (16' HL)

Note: Deadend Switchyard Structures to 80' Ht.

Switchyard

Gravel by Others

Nearest Houses(2) 1/2 Mile North of Switchyard Site

Tower Structure (Typ.)

Agriculture

"GORGES ACRES"
MAP ALAMITH
PC 116

KEVIN R. and
KRYSTAL K. KLEIN
PORTION
E1/2 W1/2 SE1/4

8' Chainlink Security Fence

Shumard Oak
9 Sawtooth Oak
13 Ketseeri Juniper @ 15' O. C.

0 70 140FT

Site Plan
1"=200'

Tree Buffer Plan
1"=70'

LANDSCAPE & SITE PLAN CON2016-01

APPROVED

sheet: 1 of 2
scale: as noted

Landscape and Tree Buffering Planting Plan

NextEra Switchyard — W. 13th St.N Garden Plain KS

FOSTER DESIGN Associates LLC
landscape architecture & planning
1415 E. 2nd Street N. Wichita, KS — 316-262-4525

date: 5/23/2016 project: 16016

Date: 6-14-16