



Wichita-Sedgwick County Metropolitan Area Planning Department

April 26, 2017

Westar Energy
c/o Katie Walbridge
818 South Kansas Avenue

RE: CON2016-00059-County Conditional Use request for a Major Utility on RR Rural Residential zoned property generally located north of West 13th Street North on the west side of North 279th Street West (BoCC 3)

Dear Ms. Walbridge:

At its regular meeting on April 6, 2017, the Wichita-Sedgwick County Metropolitan Area Planning Commission (MAPC) considered the case referenced above. The action of the MAPC was to approve the request (12-2) for a "utility, major," 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. Thirty-foot setbacks will be provided around the site. Required landscaping shall be a mixture of evergreens and deciduous plant material, and with number and spacing of plant material similar to that shown to the MAPC on April 6, 2017. Tulip trees are not permitted.
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 from 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 the Conditional Use null and void.

The action of the planning commission is final.

If you have questions please contact Dale Miller at dmiller@wichita.gov or 316-268-4421.

Sincerely,

Dale Miller
Director of Planning

CC: David Dennis, BoCC 3, County Mail Stop Rm 320
Justin Waggoner, County Law, County Mail Stop, Rm 349
Jim Weber, County Public Works, 1144 South Seneca, Wichita, KS 67213
Kelly Dixon, First Floor, 271 West 3rd Street, Ronald Reagan Building, Wichita, KS 67202
PEC, c/o Charles Brown, 303 South Topeka, Wichita KS 67202
Edmund L & Lucille M. Albert Trusts, 27501 West 29th Street North, Andale, KS 67001
Kevin & Krystal K. Klein, 2143 North Sunrise, Wichita, KS 67235
Jeffery W. & Cheryl M. Gorges, 28600 West 13th Street North, Garden Plain, KS 67050
Ninnescah Wind Energy, LLC, 700 Universe Blvd., North Palm Beach, FL 33408
Nicholas L. Simon, 30812 West 13th Street North, Garden Plain, KS 67050
Carolee Collins Skolich, 1655 South Georgetown, Apt. 313, Wichita, KS 67218
Larry C. Benne Living Trust, 245 South Parkwood Lane, Wichita, KS 67218
John W. & Rhonda J. Nilles, 24242 West 21st Street, Goddard, KS 67052
Sylvester L. & Joan K. Stuhlsatz, 719 North 279th Street West, Garden Plain, KS 67050
Larry W. & Kathleen C. Klein, 1233 North 279th West, Garden Plain, KS 67050
Phillip M. & Sherri L. Klein, 655 North West Street, Garden Plain, KS 67050
Nancy Puetz, 29001 West 13th Street North, Garden Plain, KS 67050
Hinkle Law Firm, c/o David Rapp, 1617 North Waterfront Parkway, Ste. 400, Wichita, KS 67206

CONDITIONAL USE RESOLUTION NO. CON2016-00059
(Corrected legal May 3, 2017)

WHEREAS, Edmund L. Albert Trust, dated October 27, 1989, and Lucille M. Albert Trust, dated October 27, 1989, and Westar Energy; pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code as adopted by Resolution No. 84-01, as subsequently amended (herein referred to as Unified Zoning Code), requests a Conditional Use for a Utility, Major on approximately 40 acres zoned RR Rural Residential (RR), described as:

The north 1,300 feet of the East Half of the Southeast Quarter of Section 8, Township 27 South, Range 3 West of the 6th P.M., Sedgwick County, Kansas, containing approximately 40 acres; generally located one-quarter mile north of West 13th Street North and 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 April 6, 2017, 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 40 acres zoned RR Rural Residential (RR), described as:

The north 1,300 feet of the East Half of the Southeast Quarter of Section 8, Township 27 South, Range 3 East, of the 6th PM, Sedgwick County, Kansas, containing approximately 40 acres; generally located one-quarter mile north of West 13th Street North and 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. Thirty-foot setbacks will be provided around the site. Required landscaping shall be a mixture of evergreens and deciduous plant material, and with number and spacing of plant material similar to that shown to the MAPC on April 6, 2017. Tulip trees are not permitted.
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 from 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 the Conditional Use null and void.

NOW THEREFORE, upon the taking effect of this Resolution, the notation of such Conditional Use shall be shown on the "Official Zoning District Map" on file in the office of the Planning Director of the Wichita-Sedgwick County Metropolitan Area Planning Department.

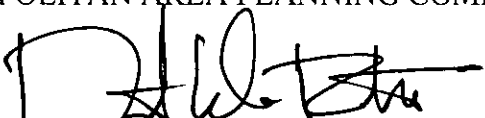
NOW THEREFORE, this Resolution shall take effect and be in force from and after its adoption by the MAPC.

Adopted this 6th day of April, 2017.

ATTEST:

METROPOLITAN AREA PLANNING COMMISSION


Dale Miller, Secretary


David W. Foster, Chairman MAPC

STAFF REPORT

MAPC December 15, 2016

MAPC February 9, 2017

MAPC April 6, 2017

CASE NUMBER: CON2016-00059

OWNER/APPLICANT: Edmund L. Albert Trust, c/o Lucille M. Albert, Sole Trustee (owner)
Westar Energy, c/o Katie Walbridge (applicant) PEC, c/o Charlie Brown (agent)

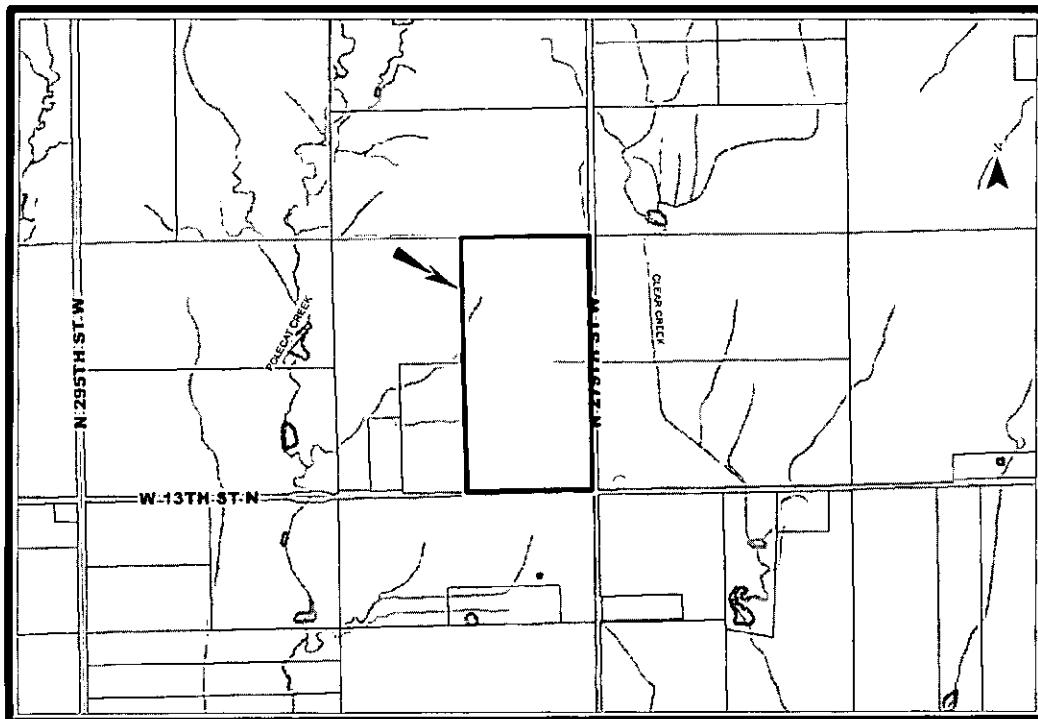
REQUEST: A Conditional Use to permit a “Utility, Major”, electric substation

CURRENT ZONING: RR Rural Residential (RR)

SITE SIZE: 79.985-acres

LOCATION: Generally located on the north side of West 13th Street North and abutting the west side of North 279th Street West (BoCC III)

PROPOSED USE: Expansion of electric substation



BACKGROUND: The applicant requests a Conditional Use for an expansion of the under construction Buffalo Flats electric substation, CON2016-00001, on the undeveloped RR Rural Residential (RR) 79.985-acre site. The Unified Zoning Code's (UZY) definition of a "major utility" includes electrical substations; UZY, Article II., Section II-B.13.i. The UZY requires consideration and approval of a Conditional Use for a major utility in all zoning districts. The unplatted site is located on the north side of West 13th Street North, on the west side North 279th Street West.

The applicant has stated that the proposed expansion is needed to convert the higher voltage on the existing site to lower voltage that can connect to other substations and increase the reliability and power to Sedgwick County and the surrounding area. The proposed 79.985-acres site plus the existing 39.35-acre site (a total of approximately 119.33-acres) allows the proposed expansion, as well as future expansion. However, the existing under construction substation occupies approximately 12.8-acres of its 39.35-acres and the proposed expansion will occupy approximately 11.3-acres of the 79.985-acre site. When completed the substation will be +/- 24.1-acres in size.

The tallest structures on the site are the 88-foot tall A-frame Dead End structures. The applicant has provided photographs of a similar substation in the Manhattan, Kansas, area to illustrate approximately what the subject substation will look like. These photos also show several metal buildings on that site that contain the switching equipment and communication equipment needed to monitor the substation; the proposed site will have similar buildings. The proposed site will have one generator on site that is used for back up station power and it will be located on the southwest corner of the site. The site will have an eight-foot chain link fence with barbed wire topping it built around the substation. The site plan shows 20-foot setbacks along the west and interior south sides and 30-foot setbacks along its 13th Street north frontage and the east and north sides. Staff recommends at least a 30-foot setback along its west side where it abuts the closest single-family residence's property. The site plan also shows roadway easements onto 13th Street North and 279th Street West.

The area the site is located in is rural in character, which is reflected in the area's RR zoning. Agricultural fields are the dominate feature of the area, with scattered farmsteads and large tract single-family residences. Electric transmission poles and lines exist on the site, running northeast and south and north beyond the site. The closest residence is located approximately 560 feet south of the site of the under construction existing substation. The proposed expansion is to the west and the south of the existing acreage. The proposed expansion will end on its south side at 13th Street North and its east side at 279th Street West. The proposed expansion will not bring the proposed addition any closer to the nearest residence. There are another 10 farmsteads located within a half-mile of the site, including one located south of the proposed expansion, across 13th Street North. Polecat Creek is located approximately 350 feet west of the completed substation, however the proposed site for expansion is located outside of the Floodway and Flood zones generated by that creek. Locating a substation this size that impacts the fewest residences yet provides the current and future energy needs of Sedgwick County can be problematic. In this case the nearest residence has substation property abutting its west, north and east sides, although

the substation itself is located north of the site at an unspecified distance.

On December 15, 2016, the Metropolitan Area Planning Commission (MAPC) heard the request and voted 10-0-1 to close the public hearing and defer action until the MAPC meeting of February 9, 2017. Comments by commissioners dealt with the size of the application area, landscaping and a desire to provide additional time for negotiations between the applicant and neighbors. The MAPC considered the case again on February 9, 2017, where the applicant requested that the case be deferred. The MAPC approved the requested deferral and instructed staff to not bring the case back for additional consideration until the applicant indicates it was ready for final consideration. On March 15, 2017, staff received notice from the applicant it had completed negotiations with the abutting property owner, and was ready for additional MAPC consideration. The applicant has also submitted a proposed landscape plan.

CASE HISTORY: CON2016-00001, established the original electrical substation located within a 700-foot by 800-foot, 12.8-acre portion of its 39.35-acre application area. CON2016-00001's site plan showed one small building with a 16-foot height. The applicant indicated at that time that evergreen trees were to be planted around the CON2016-00001's site at 8-foot intervals. CON2016-00001's site plan also showed 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. CON2016-00001 is platted as the Ninnescah Subdivision Addition. CON2016-00001 was approved without protests at the March 3, 2016, MAPC meeting. Please find attached the e-mail from Charles Brown indicating Westar was ready for additional consideration, the site plan, the proposed landscape plan and letter from the neighbor's attorney.

Area resident have voiced opposition to the current proposal as the proposed substation property abuts their west, north and east sides

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	Large tract single-family residence, farmsteads, agricultural fields,
EAST:	RR	Agricultural fields, farmsteads
WEST:	RR	Farmsteads, agricultural fields

PUBLIC SERVICES: Access to the site is via West 13th Street North and North 279th Street West, both are 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 "Community Investment Plan's 2035 Wichita Future Growth Map", identifies the application area 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. The UZC list a major utility as a public and civic use, which requires Conditional Use consideration in all zoning districts.

RECOMMENDATION: The proposed expansion of the substation property coupled with the existing will mean that the substation property will abut the nearest residence's west, north and east sides. The completed substation will possibly degrade that residence. However, approval will enhance the ability to provide electricity to the region. Based upon information available prior to the public hearings, planning staff recommends that the Conditional Use be APPROVED, with platting required for a building permit and the following conditions:

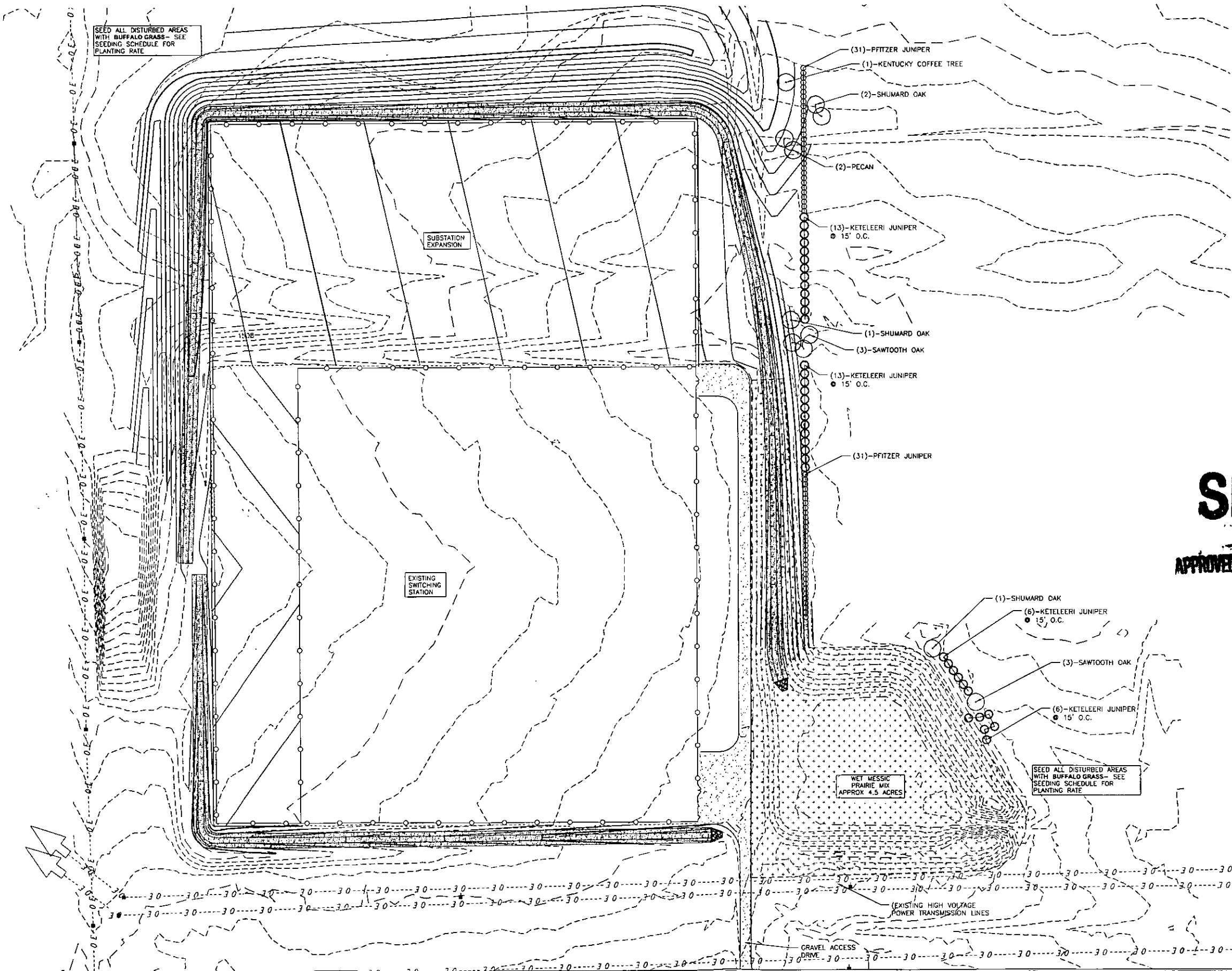
1. The site shall be developed, maintained and operated in substantial compliance with the approved site plan and landscape plan, and in compliance with all applicable laws and regulations. 30-foot setbacks will be provided around the site. Six-foot evergreens, at the time of planting will be planted at eight-foot interval around the completed substation.
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:** The area the site is located in is rural in character, which is reflected in the area's RR zoning. Agricultural fields are the dominate feature of the area, with scattered farmsteads and large tract single-family residences. Electric transmission poles and lines exist on the site, running northeast and south and north beyond the site. The closest residence is located approximately 560 feet south of the site of the under construction existing substation. Polecat Creek is located approximately 350 feet west of the substation, however the proposed site for expansion is located outside of the Floodway and Flood zones generated by that creek.
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:** Locating a substation this size that impacts the fewest residences yet provides the current and future energy needs of Sedgwick County can be problematic. In this case the nearest residence has substation property abutting its west, north and east sides, although the substation itself is located north of the site at an unspecified distance. The

completed substation will possibly degrade the property and be an economic loss to that residence.

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 “Community Investment Plan’s 2035 Wichita Future Growth Map”, identifies the application area 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. The UZC list a major utility as a public and civic use, which requires Conditional Use consideration in all zoning districts.
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.

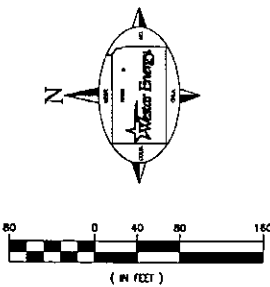


PLANT LEGEND

- DECIDUOUS SHADE TREE
- DECIDUOUS ORNAMENTAL TREE
- NARROW UPRIGHT EVERGREEN TREE
- EVERGREEN SHRUB
- DECIDUOUS SHRUBS
- ORNAMENTAL GRASS
- LANDSCAPE EDGING MATERIAL
- LIMITS OF WET MESIC PRAIRIE MIX
- EXISTING TREES TO REMAIN
- GRAVEL ACCESS DRIVE

SITE PLAN

APPROVED 4-24-17 BY DDP



8			4			DRAWN BY	NLS-PEC	DATE	04/2017	SCALE:	NONE		TITLE	BUFFALO FLATS SUBSTATION LANDSCAPING PLAN	DWG. NO. SKXXXX_SI01	SHEET NO. 6 OF 13	REV. 0
7			3			DESIGNED BY	NLS-PEC	DATE	04/2017	W.R. NO.	P22875						
6			2			APPROVED BY	NLS-PEC	DATE	04/2017								
5			1														
REV.	REVISION DESCRIPTION	DATE	BY/CK	REV.	REVISION DESCRIPTION	DATE	BY/CK										



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