



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

December 5, 2011

Westar Energy  
c/o Allyson Wetter  
PO Box 889  
Topeka, KS, 66601

**RE: CON2011-00029** - County Conditional Use request for a Major Utility on property zoned RR Rural Residential ("RR"); generally located on the east side of Seneca Street and north of 103rd Street South.

Dear Ms. Wetter:

At its regular meeting on **October 20, 2011**, the Wichita - Sedgwick County Metropolitan Area Planning Commission considered the above captioned request. The action of the MAPC was to **APPROVE** the request, subject to the attached resolution and site plan. There were no protests to the request, therefore for the recommendation of the MAPC is final.

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 'Bill Longnecker', written over the word 'Sincerely,'.

Bill Longnecker  
Senior Planner  
Current Plans Division

WL:mc

Copies to: BCOC 2, Tim R. Norton, Mail Stop County, Room 320  
Bob Parnacott, County Attorney, Mail Stop County Room 359  
Salem Township, c/o Clem Dickerson, 8815 S Hydraulic, Haysville, KS, 67060  
John Staton, County Code Enforcement, 1144 S Seneca, Wichita, KS 67213  
Jim Weber County Public Works, 1144 S Seneca, Wichita, KS 67213

**CONDITIONAL USE RESOLUTION NO. CON2011-00029**

**WHEREAS**, the Kansas Gas & Electric Company (owner) and Westar Energy, c/o Allyson Wetter (applicant); 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 (specifically an electric substation) on approximately 1.15-acres zoned RR Rural Residential ("RR"), described as:

Lot 1, Block A, Peck Substation Addition; generally located north of 103rd Street South, on the east side of Seneca Street.

**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 October 20, 2011, 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 (specifically an electric substation) on approximately 1.15-acres zoned RR Rural Residential ("RR"), described as:

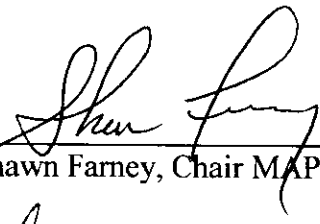
Lot 1, Block A, Peck Substation Addition; generally located north of 103rd Street South, on the east side of Seneca Street.

Approved subject to the following conditions:

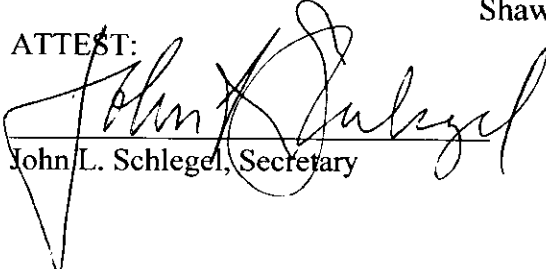
1. The site shall be developed, maintained and operated in substantial compliance with the approved site plan and in compliance with all applicable laws and regulations.
2. A vinyl covered chain link fence shall be installed around the site, with the corners (a minimum of 40 feet long on each side of the corners) and each side of the gates to be a 9-foot tall simulated stone wall. The fencing will be topped by three-strands of barbed wire, making it 9-foot tall. Landscaping will be provided on the street side and all existing trees and bushes will remain on the south side of the site; provide a revised landscape plan as part of the site plan.
3. Improvements authorized by this Conditional Use shall be completed within a year of approval by the MAPC or the governing body.
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 20 day of October, 2011.

METROPOLITAN AREA PLANNING COMMISSION

  
Shawn Farney, Chair MAPC

ATTEST:

  
John L. Schlegel, Secretary



AGENDA ITEM NO. 6

## STAFF REPORT

MAPC October 20, 2011

**CASE NUMBER:** CON2011-00029

**APPLICANT/AGENT:** Westar Energy, c/o Allyson Wetter

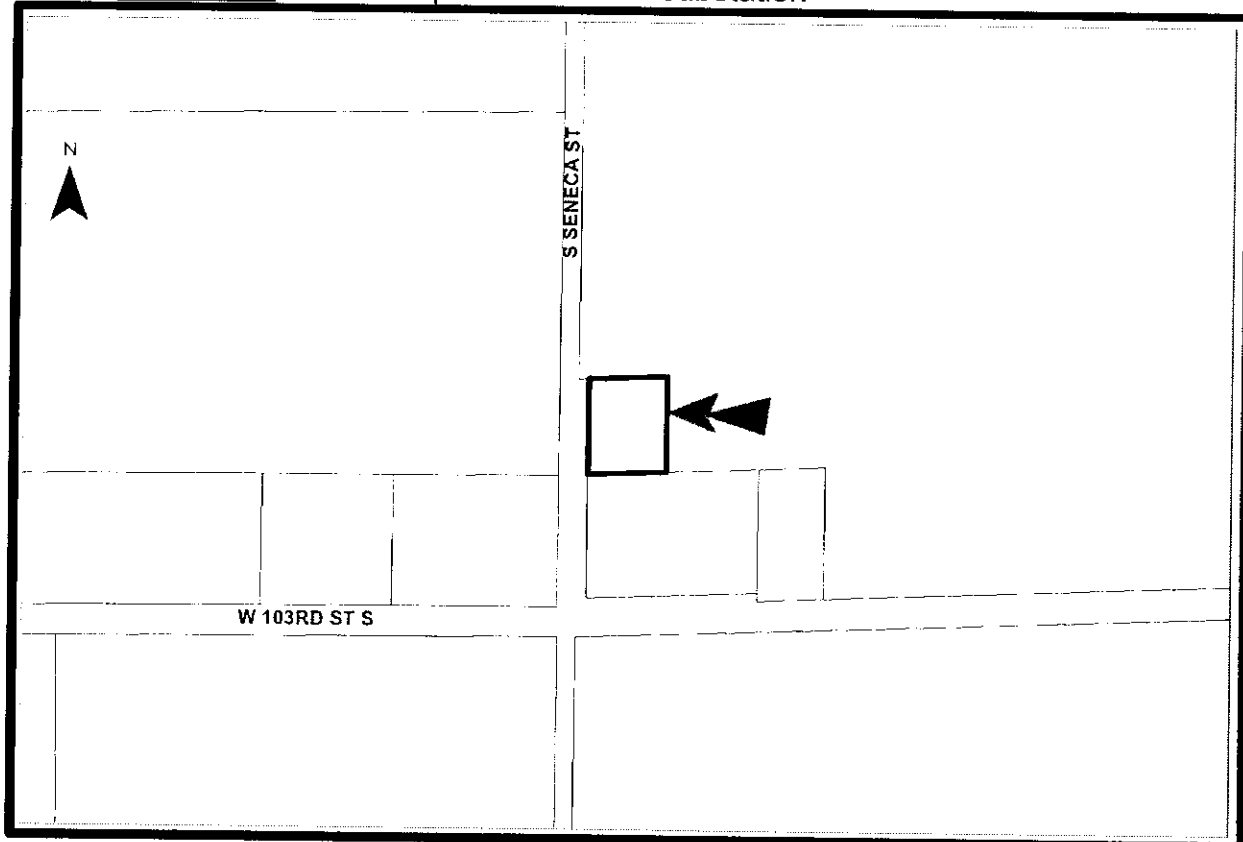
**REQUEST:** A Conditional Use to permit the expansion of a legal nonconforming "Utility, Major"; a Westar Energy electric substation

**CURRENT ZONING:** RR Rural Residential ("RR")

**SITE SIZE:** 1.15-acres

**LOCATION:** Generally located north of 103<sup>rd</sup> Street South, on the east side of Seneca Street (BoCC #2)

**PROPOSED USE:** Expanded electric substation



**BACKGROUND:** The applicant, Westar Energy, is requesting a Conditional Use for the expansion of a legal nonconforming use on the RR Rural Residential (“RR”) zoned site; a “utility, major”/ electric substation established prior to the adoption of County Wide Zoning in 1985 and the Unified Zoning Code (UZC) in 1996. The UZC permits a utility, major in the RR district only with Conditional Use approval. The expansion of the facility (with additional equipment) to increase its power capacity, triggers the need for the facility to come into compliance with the UZC, thus the Conditional Use application.

The expanded site will allow the applicant to increase power reliability to this area of Sedgwick and Sumner Counties. The immediate catalyst for the need for more power is the casino currently being built, just south (approximately 2 ¼-miles) of the Sedgwick – Sumner county line off of the Mulvane exit on I-35. Anticipation of future growth around this area will also be addressed by the expanded substation. To transfer this power the applicant has installed transmission poles (within the past year) located directly east of the site across Seneca. The applicant has also replaced power poles going north of the site and will do the same with the power poles heading south of the site. The applicant anticipates a minimal increase in noise generated by the facility, noting that the new equipment that will be used is quieter than the equipment it is replacing; the County does not have a noise ordinance.

As shown on the site plan, the expansion will bring more equipment onto the platted site, which will require relocating the fencing to secure almost the entire platted area; from 146’ 9” x 140’ 2” to 185’ x 235’ 3”. It will also require relocating at least one of the two permitted drives. For security reasons the applicant prefers a proposed vinyl covered chain link fence around the site, with the corners (40 feet long on each side) and each side of the gates to be a 9-foot tall simulated stone wall. This will allow a complete look through of the site. The fencing will be topped by three-strands of barbed wire, making it 9-foot tall.

The site is located outside of any cities’ 2030 growth areas, with the surrounding RR zoned land used primarily for crop production. Other development/uses around the site consists of five single-family residences or farmsteads, with one of them (built 1986) abutting the south side of the site and the others (1910-1992) located no further than 850 feet from the site. The site and the just noted single-family residences/farmsteads are located around the 103<sup>rd</sup> Street South – Seneca Street intersection, with all other single-family residences/farmsteads located over a half-mile away.

**CASE HISTORY:** The RR zoning was essentially established with county-wide zoning in 1985; “R” Rural Residential became “RR” Rural Residential in 1996, with the adoption of the UZC. The site is Lot 1, Block A, Peck Substation Addition, recorded with the Sedgwick County Register of Deeds August 19, 1981.

**ADJACENT ZONING AND LAND USE:**

NORTH:	RR	Crop land
SOUTH:	RR	Crop land, single-family residences/farmsteads
EAST:	RR	Crop land

WEST: RR Crop land, single-family residences/farmsteads

**PUBLIC SERVICES:** Access to the site is via Seneca Street, a sand and gravel Salem Township road; traffic to and from the site will be minimal. The site is not served by public sanitary sewer or water; but neither service is required by the proposed use.

**CONFORMANCE TO PLANS/POLICIES:** The *Wichita and Small Cities 2030 Urban Growth Areas Map* depicts this site as being outside of any “small city 2030 urban growth area,” which means that there is low potential for urban develop to occur in the near future on land so designated. The closest small city’s growth area is Haysville’s, which is over 1-3/4 miles north of the site. The expansion of the substation to increase power reliability to this area of Sedgwick and Sumner Counties, with the immediate catalyst being the Mulvane Casino, may indicate more growth in the area than what was originally anticipated and shown on the Growth Map.

The electric substation is defined as a utility, major in the UZC. The substation was established prior to the adoption of County Wide Zoning in 1985, thus it is a legal nonconforming use. County wide zoning designated this area as R Rural Residential “R” (as of 1996 “RR” Rural Residential). The expansion of the facility (via additional equipment) to increase its power capacity, triggers the need for the facility to come into compliance with the UZC, which was established in 1996. The UZC permits a utility, major in the RR district only with Conditional Use approval.

Transportation/Utilities Locational Guideline number 2 states that utility facilities with significant noise, odor and other nuisance elements should be located away from residential areas. The facility is located in rural Sedgwick County and was established when three of the five adjacent single-family residences were already in place. Residential growth in the area has been minimal, as the area is used primarily for crop production. The applicant has stated that any noise increase should be minimal, as the replacement equipment is significantly quieter than the current equipment. On a recent visit to the facility staff did not notice any discernable noise, odor or other nuisance elements; the County has no noise ordinance.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the Conditional Use be APPROVED, for a utility, major/electric substation subject to the following conditions:

1. The site shall be developed, maintained and operated in substantial compliance with the approved site plan and in compliance with all applicable laws and regulations.
2. A vinyl covered chain link fence shall be installed around the site, with the corners (a minimum of 40 feet long on each side of the corners) and each side of the gates to be a 9-foot tall simulated stone wall. The fencing will be topped by three-strands of barbed wire, making it 9-foot tall. Landscaping will be provided on the street side and all existing trees and bushes will remain on the south side

of the site; provide a revised landscape plan as part of the site plan.

3. Improvements authorized by this Conditional Use shall be completed within a year of approval by the MAPC or the governing body.
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 site is located outside of any cities' 2030 growth areas, with the surrounding RR zoned land used primarily for crop production. Other development/uses around the site consists of five single-family residences or farmsteads, with one of them (built 1986) abutting the south side of the site and the others (1910-1992) located no further than 850 feet from the site. The site and the just noted single-family residences/farmsteads are located around the 103<sup>rd</sup> Street South – Seneca Street intersection, with all other single-family residences/farmsteads located over a half-mile away. To transfer the additional power from the expanded facility the applicant has installed transmission poles (within the past year) located directly east of the site across Seneca. The applicant has also replaced power poles going north of the site and will do the same with the power poles heading south of 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 and this is reflected by the area around the site being used primarily for crop production. The RR district also maintains a low density development pattern by requiring a minimum lot size of two acres, making the expansion of the utility, major /electric substation suitable in the RR district with Conditional Use approval appropriate.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The electric substation is defined as a utility, major in the UZC. The substation was established prior to the adoption of County Wide Zoning in 1985, thus it is a legal nonconforming use. County wide zoning designated this area as R Rural Residential "R" (now RR). The expansion of the facility (via additional equipment) to increase its power capacity, triggers the need for the facility to come into compliance with the UZC, which was established in 1996. The UZC permits a utility, major in the RR district only with Conditional Use approval. The conditions of approval should minimize any anticipated nuisance elements.
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 site will enhance Westar Energy's ability to provide its customers with a reliable and adequate supply of electricity. 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, as triggered by the current development of the Mulvane Casino.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The *Wichita and Small Cities 2030 Urban Growth Areas Map* depicts this site as being outside of all "small city 2030 urban growth area," which means that there is low potential for urban develop to occur in the near future on land so designated. The closest small city's growth area is Haysville's, which is over 1-3/4 miles north of the site. The expansion of the substation to increase power reliability to this area of Sedgwick and Sumner Counties, with the immediate catalyst being the Mulvane Casino, may indicate more growth than what was originally anticipated and shown on the Growth Map.

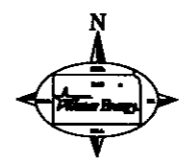
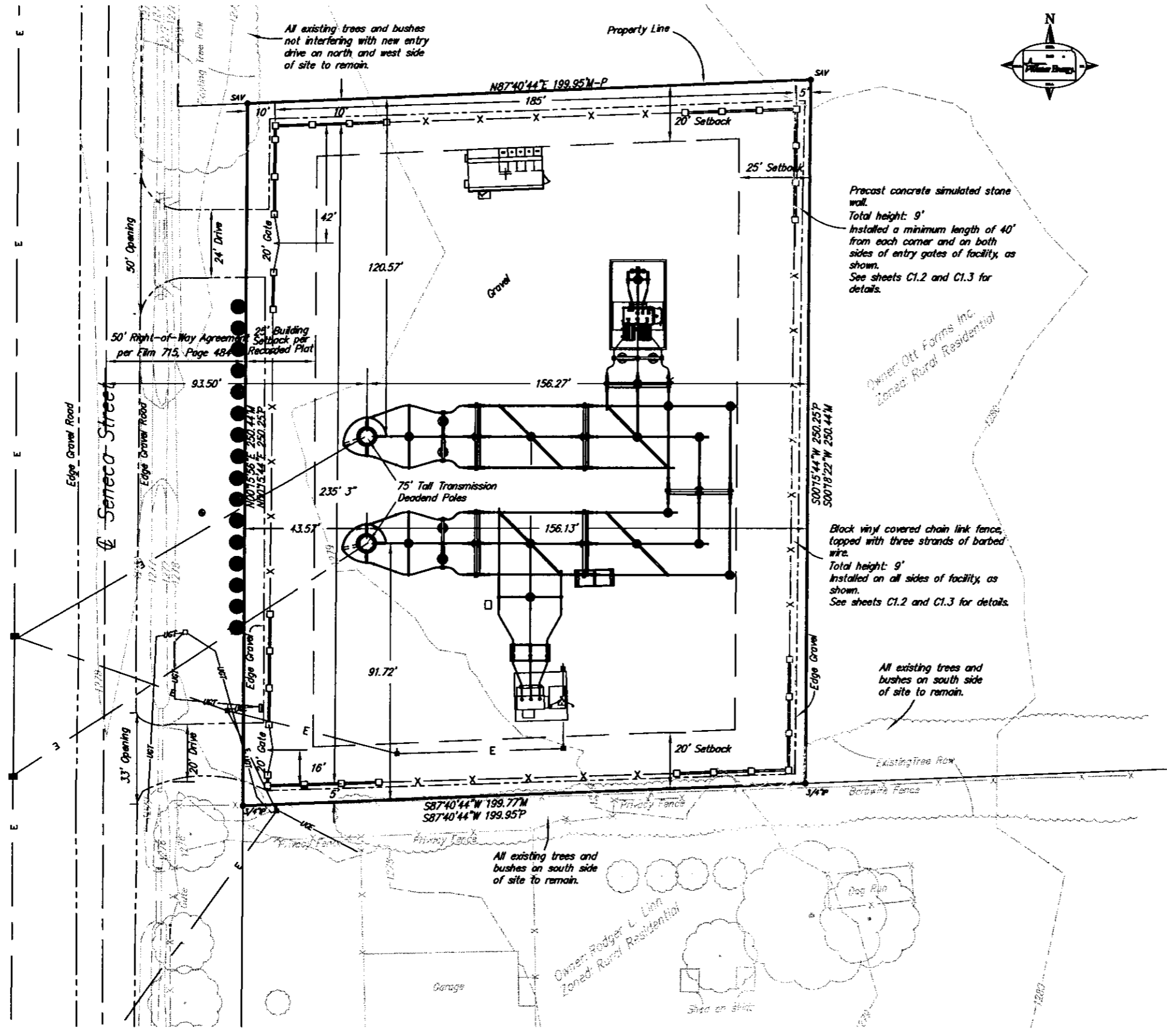
The electric substation is defined as a utility, major in the UZC. The substation was established prior to the adoption of County Wide Zoning in 1985, thus it is a legal nonconforming use. County wide zoning designated this area as R Rural Residential "R" (now RR). The expansion of the facility (via additional equipment) to increase its power capacity, triggers the need for the facility to come into compliance with the UZC, which was established in 1996. The UZC permits a utility, major in the RR district only with Conditional Use approval.

Transportation/Utilities Locational Guideline number 2 states that utility facilities with significant noise, odor and other nuisance elements should be located away from residential areas. The facility is located in rural Sedgwick County and was established when three of the five adjacent single-family residences were already in place. Residential growth in the area has been minimal, as the area is used primarily for crop production. The applicant has stated that any noise increase should be minimal, as the replacement equipment is significantly quieter than the current equipment. On a recent visit to the facility staff did not notice any discernable noise, odor or other nuisance elements; the County has no noise ordinance.

6. Impact of the proposed development on community facilities: The proposed facility would improve Westar Energy's ability to increase power reliability to this area of Sedgwick and Sumner Counties.

SITE PLAN

APPROVED Nov 7 2011 BY Bill Longnecker



Elevations = (NAVD88)

**LEGEND:**

- P = Plotted
- M = Measured
- C = Calculated
- D = Described

- 1/2" IP ..... 1/2" IRON PIPE (FOUND)
- 3/4" IP ..... 3/4" IRON PIPE (FOUND)
- SAV ..... 1/2" REBAR W/SAVOY CAP (SET)

- EXISTING CONTOUR
- - - PROPOSED CONTOUR
- E = OVERHEAD ELECTRIC LINE
- UG = UNDER GROUND ELECTRIC
- UGT = UNDER GROUND TELEPHONE
- POST
- POWER POLE

PLANT SCHEDULE				
QTY.	BOTANICAL NAME	COMMON NAME	SIZE	CONDITION
16	VIBURNUM CLESLAYI "LINDSEY"	JUBB VIBURNUM	5 GAL.	CONT.

● SITE BENCH MARK:  
1/2" Rebar 105'N & 15.2'W  
of the SW Corner of Lot 1,  
Block A, Peck Substation Addition,  
Sedgwick County, Kansas.  
Elevation = 1278.14 (NAVD88)

**LEGAL DESCRIPTION:**

A TRACT OF LAND DESCRIBED AS:  
  
LOT 1, BLOCK A, PECK SUBSTATION, SEDGWICK COUNTY, KANSAS

**GENERAL PROVISIONS:**

PROPOSED USE: ELECTRICAL SUBSTATION  
(EXPANSION OF EXISTING SUBSTATION FACILITY)

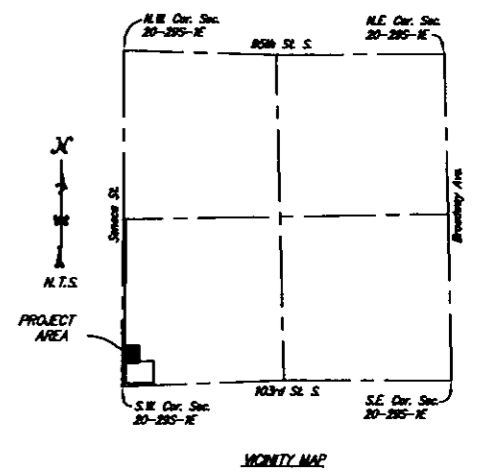
ZONING: RURAL RESIDENTIAL

TOTAL SITE AREA: 50,013 SQ. FT. OR 1.15 AC

MAXIMUM SUBSTATION EQUIPMENT HEIGHT: 25'

OWNER AND APPLICANT:

WESTAR ENERGY  
(KANSAS GAS AND ELECTRIC COMPANY)  
818 KANSAS AVE.  
TOPEKA, KS 66612



REV.	DATE	BY/CK	REV.	REVISION DESCRIPTION	DATE	BY/CK
7			8			
6			7			
5			6			
4			5			
3			4			
2			3			
1			2			

DRAWN BY	ALV	DATE	9/2011
DESIGNED BY	ALV	DATE	9/2011
APPROVED BY	ALV	DATE	9/2011



**PECK SUBSTATION EXPANSION  
CONDITIONAL USE APPLICATION  
PROPOSED SITE PLAN**

SHEET NO.	2	OF	2
REV.	1		