Wichita-Sedgwick County Metropolitan Area Planning Department

September 24, 2021

Evergy of Kansas South, Inc.
Attn: Mark Ward
818 S Kansas Street
Topeka, KS 66612

Professional Engineering Consultants
Attn: Rebecca Mellies
303 S. Topeka
Wichita, KS 67202

Sedgwick County Public Works
Attn: Lynn Packer
1144 S. Seneca
Wichita, KS 67213

RE: BZA2021-00043 - County Variance for height adjustment of screening wall in Single-Family (SF-20) zoning associated with conditional use for major utility (CON2021-00038), Generally located on the south side of West 21st Street North and one-quarter mile west of North Hoover Road.

Dear Applicant,

The official action of the Board of Zoning Appeals was to grant the requested variance to allow the solid screening wall up to 10 feet in height and require landscaping around the perimeter of the screening wall. You will receive an executed copy of the BZA2021-00043 Resolution adopted by the Board of Zoning Appeals on September 23, 2021 once it has been processed. The approval of the request is subject to the following condition.

The site is to be developed as shown on the Sedgwick County Battery Energy Storage Site Plan dated August 8, 2021 by Professional Engineering Consultants, PA.

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

Sincerely,

Kathy L. Morgan

Kathy L. Morgan, Senior Planner
Metropolitan Area Planning Department
271 West 3rd Street, Room 203
Wichita, KS 67202

Copies to: Cindy Claycomb, WCC VI, Mail Stop 1-13
Ana Lopez, CRS District VI, Mail Stop 1-13
Jeff Van Zandt, City Law, Mail Stop 1-72
MABCD

BZA RESOLUTION NO. BZA2021-00043

WHEREAS, Evergy and Sedgwick County (Owners); pursuant to Kansas Statutes Annotated 12-759, requests by the Board of Zoning Appeals, pursuant to Kansas Statutes Annotated 12-759, a Variance to allow an increase in height of solid screening wall from 8 feet to up to 10, associated with conditional use for major utility (CON2021-00038) on property zoned SF20 Single-Family Residential; generally located on the south side of West 21st Street North and one-quarter mile west of North Hoover Road. Described as described as follows:

> A portion of Lot 1, Block A, Sedgwick County Zoo Second Addition, Sedgwick County, Kansas, described and prepared on July 16, 2021, by Charles W. Brooksher PS #1281/Professional Engineering Consultants P.A.CLS #65, being described as follows:
>
> Commencing at the Northwest corner of said Lot 1; thence N88°44'02"E along the North line of said Lot 1, and the South right-of-way of West 21st Street North, a distance of 131.82 feet, to a curve to the right having a radius of 1,909.86 feet and a chord that bears S88°25'41"E, a distance of 189.13 feet; thence Southeasterly along said curve and said South right-of-way a distance of 189.21 feet to the point of beginning, thence on a curve to the right having a radius of 1,909.86 feet and a chord that bears S83°16'44"E, a distance of 154.04 feet; thence along said curve and said South right-of-way a distance of 154.08 feet; thence S01°18'00"E a distance of 193.51 feet; thence S88°42'00"W a distance of 148.78 feet to the East line of a 30 foot utility easement; thence N02°17'58"W along said East line a distance of 215.04 feet to the South right-of-way of West 21st Street North and the point of 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 September 23, 2021, 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. In this case, the location of the battery energy storage facility to support power to the Midian Shrine Substation; and

WHEREAS, waving the requirements will not adversely affect the rights of adjacent property owners. The additional height of the screening wall is needed to provide visual enhancement and a noise buffer between the battery energy storage facility and the adjacent parcels.

WHEREAS, the strict application of the applicable Code will constitute an unnecessary hardship upon the property owner.

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 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 an increase in height of solid screening wall from 8 feet to up to 10, associated with conditional use for major utility (CON2021-00038) on property zoned SF20 Single-Family Residential; generally located on the south side of West 21st Street North and one-quarter mile west of North Hoover Road. Described as follows:

> A portion of Lot 1, Block A, Sedgwick County Zoo Second Addition, Sedgwick County, Kansas, described and prepared on July 16, 2021, by Charles W. Brooksher PS #1281/Professional Engineering Consultants P.A.CLS #65, being described as follows:
>
> Commencing at the Northwest corner of said Lot 1; thence N88°44'02"E along the North line of said Lot 1, and the South right-of-way of West 21st Street North, a distance of 131.82 feet, to a curve to the right having a radius of 1,909.86 feet and a chord that bears S88°25'41"E, a distance of 189.13 feet; thence Southeasterly along said curve and said South right-of-way a distance of 189.21 feet to the point of beginning, thence on a curve to the right having a radius of 1,909.86 feet and a chord that bears S83°16'44"E, a distance of 154.04 feet; thence along said curve and said South right-of-way a distance of 154.08 feet; thence S01°18'00"E a distance of 193.51 feet; thence S88°42'00"W a distance of 148.78 feet to the East line of a 30 foot utility easement; thence N02°17'58"W along said East line a distance of 215.04 feet to the South right-of-way of West 21st Street North and the point of beginning.

The variance is hereby <u>GRANTED</u>, subject to the following conditions:

1. The site is to be developed as shown on the Sedgwick County Battery Energy Storage Site Plan dated 8/2021 by PEC, PA

September 23, 2021.

William M. Johnson, BZA Board Chair

ATTEST:

Scott Wadle, BZA Secretary

Affidavit of Legal Publication

STATE OF KANSAS)
ss.
County of Sedgwick)

Emily Gillihan, being first duly sworn, deposes and says:
That he/she is Legal Manager of

The Derby Informer

a weekly newspaper printed in the State of Kansas, and published in and of general circulation in Sedgwick County, Kansas, with a general paid circulation on a weekly basis in Sedgwick County, Kansas, and that said newspaper is not a trade, religious or fraternal publication.

Said newspaper is a weekly published on Wednesdays, and has been so published continuously and uninterrupted in said county and state for a period of more than one year prior to the first publication of said notice, and has been admitted at the post office of Derby, Kansas, in said county as second class matter.

That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper for **1 week** the first publication thereof being made as aforesaid on the **1st** day of **September** 2021, with subsequent publications being made on the following dates:

N/A

Emily Gillihan
Legal Manager

Subscribed and sworn to before me this 1st day of September, 2021.

Rhonda Cott
Notary Public

Rhonda Cott
NOTARY PUBLIC
STATE OF KANSAS
My Appt. Exp. 2-20-23

Legal Publication

OCA 150004
Published in The Derby Informer on September 1, 2021

MAPC September 23, 2021
OFFICIAL HEARING NOTICE

NOTICE IS HEREBY GIVEN that on **Thursday, September 2? 021 no earlier than 1:30 p.m.** the WichitaSedgwick County Metropolitan Area Planning Commission (Planning Commission) will consider the following applications. The meeting will be held virtually, public participation is available in multiple ways, those without technology options can participate by going to Wichita City Hall Building – 1st Floor Council Chambers – 455 N. Main Street, Wichita, Kansas 67202 (specified at the bottom of this notice). **If you have any questions regarding the meeting or items on this notice, please call the WichitaSedgwick County Metropolitan Area Planning Department at (316) 2684421.**

BZA2021-00043: County Variance for height adjustment of screening wall in Single-Family (SF-20) zoning associated with conditional use for major utility (CON2021-00038), Generally located on the south side of West 21st Street North and one-quarter mile west of North Hoover Road.

CON2021-00038: County Conditional Use for Major Utility in Single-Family (SF-20) zoning associated with variance for screening wall height (BZA2021-00043), generally located on the south side of West 21st Street North and one-quarter mile west of North Hoover Road.

Complete legal descriptions are available for public inspection at the Metropolitan Area Planning Department, 271 W. Third St., 2nd Floor. As provided in Section V of the WichitaSedgwick 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.

PLEASE NOTE THIS MEETING IS CONSIDERED AN EMERGENCY MEETING OF THE WICHITA-SEDGWICK COUNTY METROPOLITAN AREA PLANNING COMMISSION DUE TO COVID-19, WHICH WILL IMPOSE SPECIAL PROCEDURES TO PARTICIPATE IN THE PUBLIC HEARING. THESE ARE AS FOLLOWS:

The meeting will be conducted "virtually" using Go-To-Meeting. You have multiple options to participate: 1) submit comments ahead of time, 2) participate remotely, or 3) attend in-person at the Wichita City Hall Building (see below).

Submit Comments Ahead of Time
You can submit comments regarding items on the Planning Commission agenda to the Wichita-Sedgwick County Metropolitan Area Planning Department (Planning Department). Comments must be received by the Planning Department no later than 5pm 3 days prior to the meeting. Please be sure to provide ample time for delivery. The comments can be submitted in the following formats: email; letter; video; and audio message (mp3, etc.). The comment should indicate which item they pertain to and be less than three (3) minutes in duration. The comments should be submitted to Planning Department staff 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.

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

Participate Remotely
Please join my meeting from your computer, tablet or smartphone.
https://global.gotomeeting.com/join/651544141
You can also dial in using your phone.
United States: +1 (571) 317-3112
Access Code: 651-544-141

Join from a video-conferencing room or system.
Dial in or type: 67.217.95.2 or inroomlink.goto.com
Meeting ID: 651 544 141
Or dial directly: 651544141@67.217.95.2 or 67.217.95.2##651544141

New to GoToMeeting? Get the app now and be ready when your first meetin starts: https://global.gotomeeting.com/install/651544141

Attend In-Person
You may also participate in the hearing in-person at the Wichita City Hall Counc Chambers (455 N. Main Street, Wichita, KS 67202). Please note that securi screening is required for public access to the building, self-paid parking available nearby, and COVID-19 protocols are in place. For more informatic please visit www.wichita.gov/visitcityhall. The in-person option is primari intended for those without other technology options, and who have not previous submitted recorded audio or video comments. If you have any written or visu materials you wish to present, please contact Planning Department Graphics st (316-2684464) by 5pm, 3 days prior to the meeting.

WITNESS MY HAND on September 1, 2021
Scott Wadle, Secretary
WichitaSedgwick County
Metropolitan Area Planning Commission

Official Hearing Notice - MAPC - September 23, 2021

Printer's Fee: $46.20
Additional copies: $_____

Wichita-Sedgwick County Zoning Board of Appeals
September 23, 2021

AGENDA ITEM NO.__2

SECRETARY'S REPORT

CASE NUMBER: BZA2021-00043 (County)

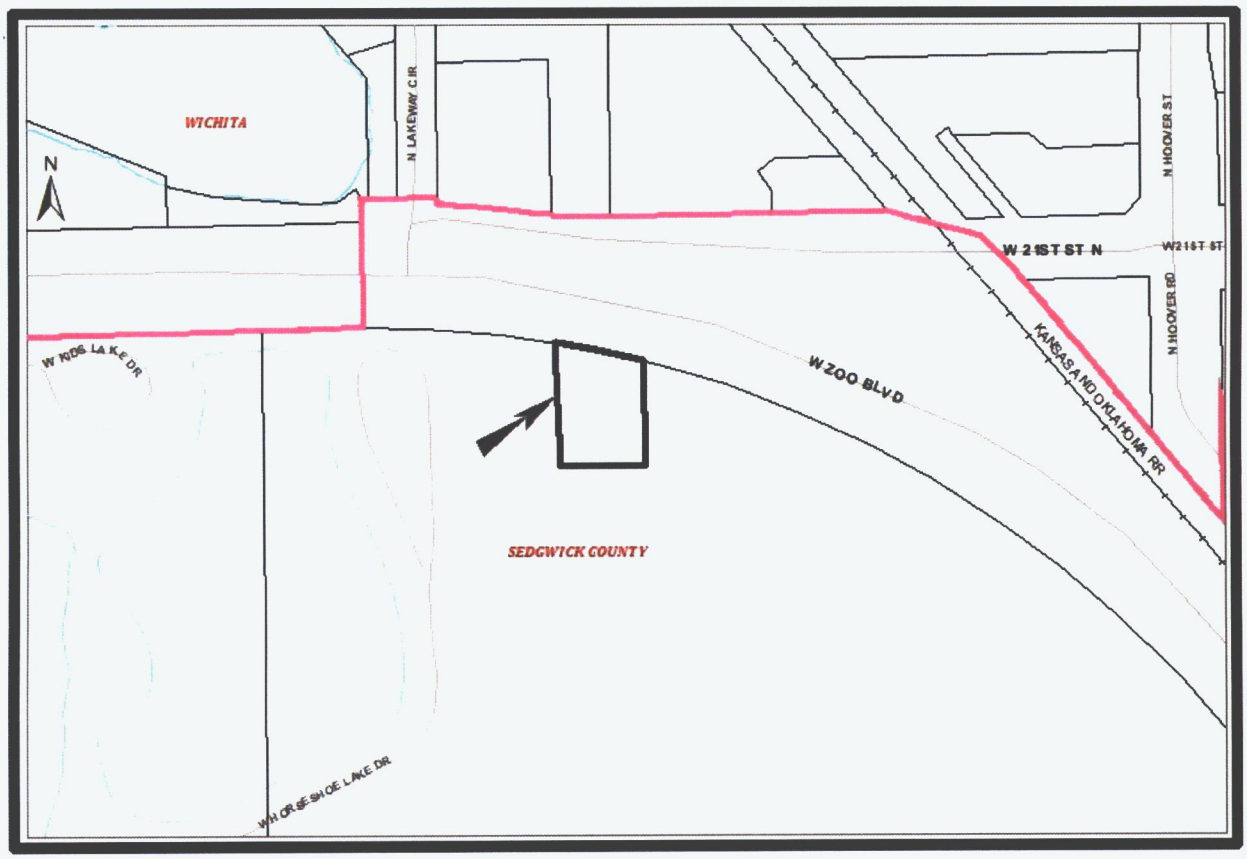
APPLICANT: Sedgwick County, Lynn Packer (Applicant) /PEC, Rebecca Mellies (Agent)

REQUEST: Variance to allow an increase in height of solid screening wall from 8 feet to ~~9~~ 10 feet and waive the landscaping requirement along West 13th Street North (Associated with CON2021-00038)

CURRENT ZONING: SF-20 Single-Family Residential

SITE SIZE: 1 acre

LOCATION: Generally located one-quarter mile west of North Hoover Road on the south side of West 21st Street North (Zoo Boulevard)



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 that a ten-foot tall screening wall be allowed around the perimeter (approximately 436 feet) of a new battery energy storage site to be located on the south side of West 21st Street North (Zoo Boulevard) and one-quarter mile west of North Hoover Road. The screening wall will be built 40 feet behind the building setback along the north property line. The applicant is also requesting a waiver of the landscape requirement along the south side of West 13th Street North. The landscape ordinance would require one tree every 40 feet along the north, south, west and east wall.

SURROUNDING DEVELOPMENT: Property north of the subject site is right-of-way for West 21st Street North and Zoo Boulevard and property zoned LI Limited Industrial that is developed with office/storage warehouse, industrial light manufacturing, and non-conforming residential uses. Properties south, east and west of the subject site are zoned SF-20 Single-Family Residential and is occupied by the Sedgwick County Zoo and Park.

ADJACENT ZONING AND LAND USE:

NORTH:	R-O-W, LI	West 21st Street North and Zoo Boulevard, Office/storage warehouse, industrial light manufacturing, non-conforming residential
SOUTH:	SF-20	Sedgwick County Park, Sedgwick County Zoo
EAST:	SF-20, SF-5	Sedgwick County Park, Zoo Boulevard, Northwest Water Treatment Plant
WEST:	SF-20	Sedgwick Country Park

CASE HISTORY: In October 1971, the property was platted as Sedgwick County Zoo 2nd Addition. In 1968 the property was still agricultural land, but I-235 had been built. By 1974, some of the zoo buildings had been constructed and by 1983 development of the park had begun.

UNIQUENESS: It is staff's opinion that the use of the SF-20 zoned property for an electrical substation, which is classified as a Utility, Major. Electric substations are not typically located in within SF-20 zoning districts and are only allowed by a Conditional Use.

ADJACENT PROPERTY: It is staff's opinion that allowing a nine-foot screening wall at this location will not adversely affect the rights of adjacent property owners. The screening wall will reduce negative visual and noise impacts of the substation on adjacent parcels. Property to the east, west and south is owned by Sedgwick County and is currently used as park and open space.

HARDSHIP: The strict application of zoning code height restriction will decrease the ability to properly protect the adjacent uses. This lack of additional screening will create a hardship on the surrounding uses by increasing the potential for adverse noise and visual impacts from the battery energy storage site.

PUBLIC INTEREST: The additional height of the screening wall is will help to enhance the visual and noise buffer between the electric substation and the adjacent parcels. The masonry wall will be setback from the existing walking and biking trails in the park or structures on adjacent properties.

SPIRIT AND INTENT: It is staff's opinion that granting the requested variances 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 battery energy storage site 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.

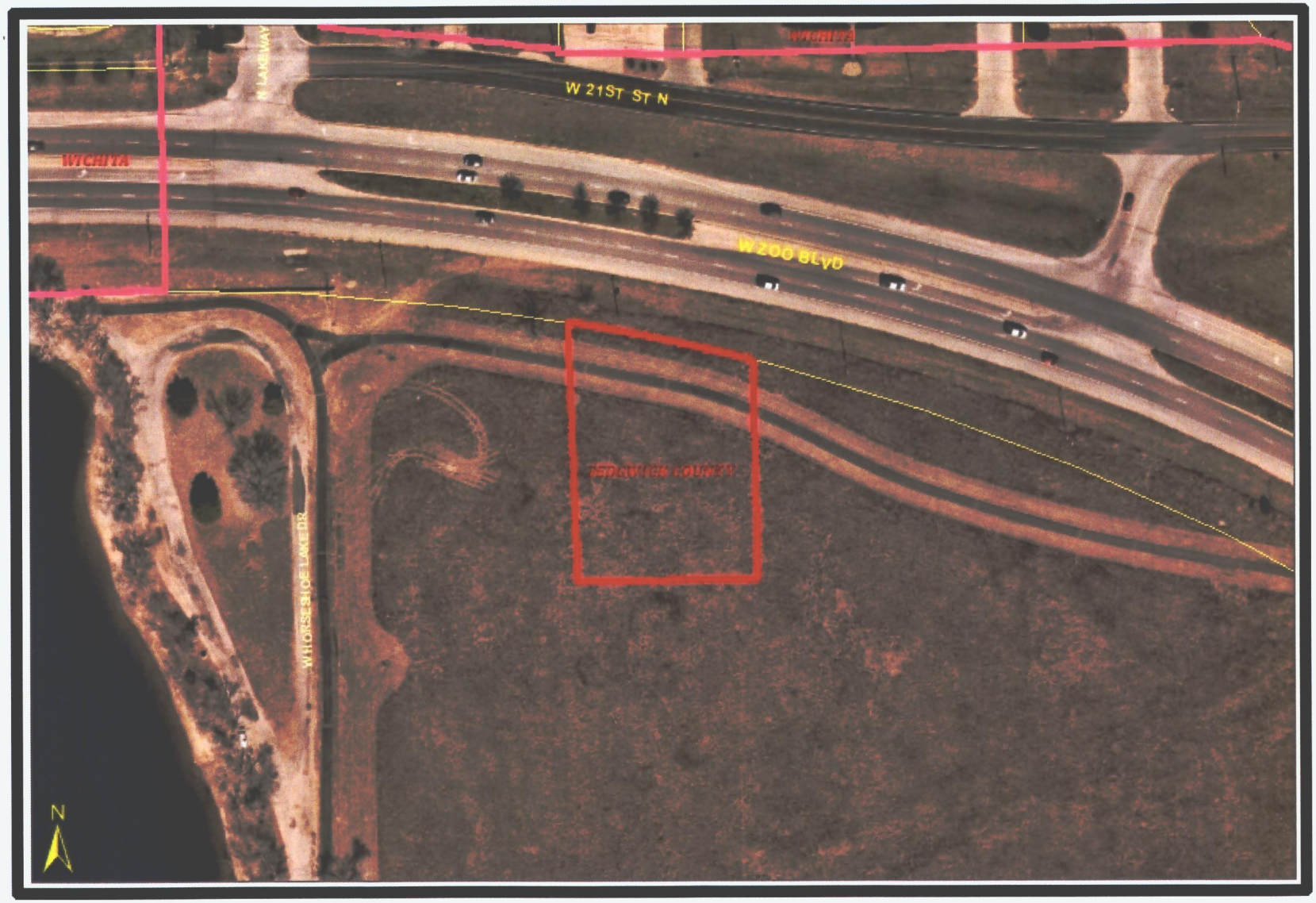
RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, the recommendation of Staff is that the variance to allow a 10-foot screening wall within the setback be ***GRANTED***, subject to the following conditions:

1. The site is to be developed as shown on the Sedgwick County Battery Energy Storage Site Plan dated 8/2021 by PEC, P.A.
2. Minimum Landscape buffer of 10 feet on all four exterior walls of the enclosure.

Staff Report Attachments:

1. Aerial Map
2. Land Use Map
3. Zoning Map
4. Conditional Use Site Plan
5. Variance Justification Letter
6. Battery Energy Storage System (BESS)

Aerial Map


WICHITA
N LAKEWAY
W 21ST ST N
WICHITA
W ZOO BLVD
SEDGWICK COUNTY
MIDDLE SIDE LAKE DR
N

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

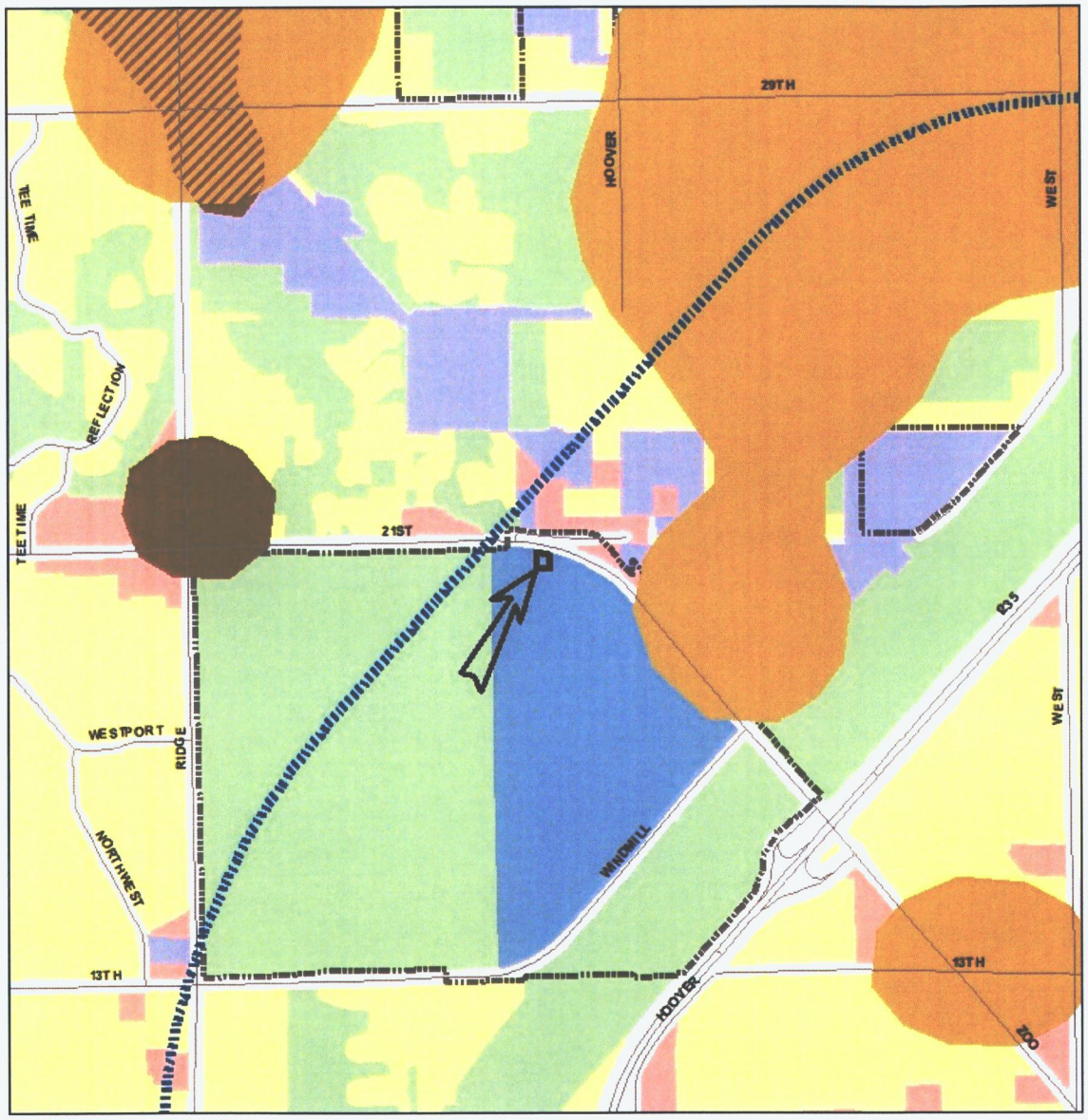
Statistical Development Areas

- Other Urban Growth Areas 2014
- Other Urban Growth Areas 2014
- Rural Growth Areas 2014

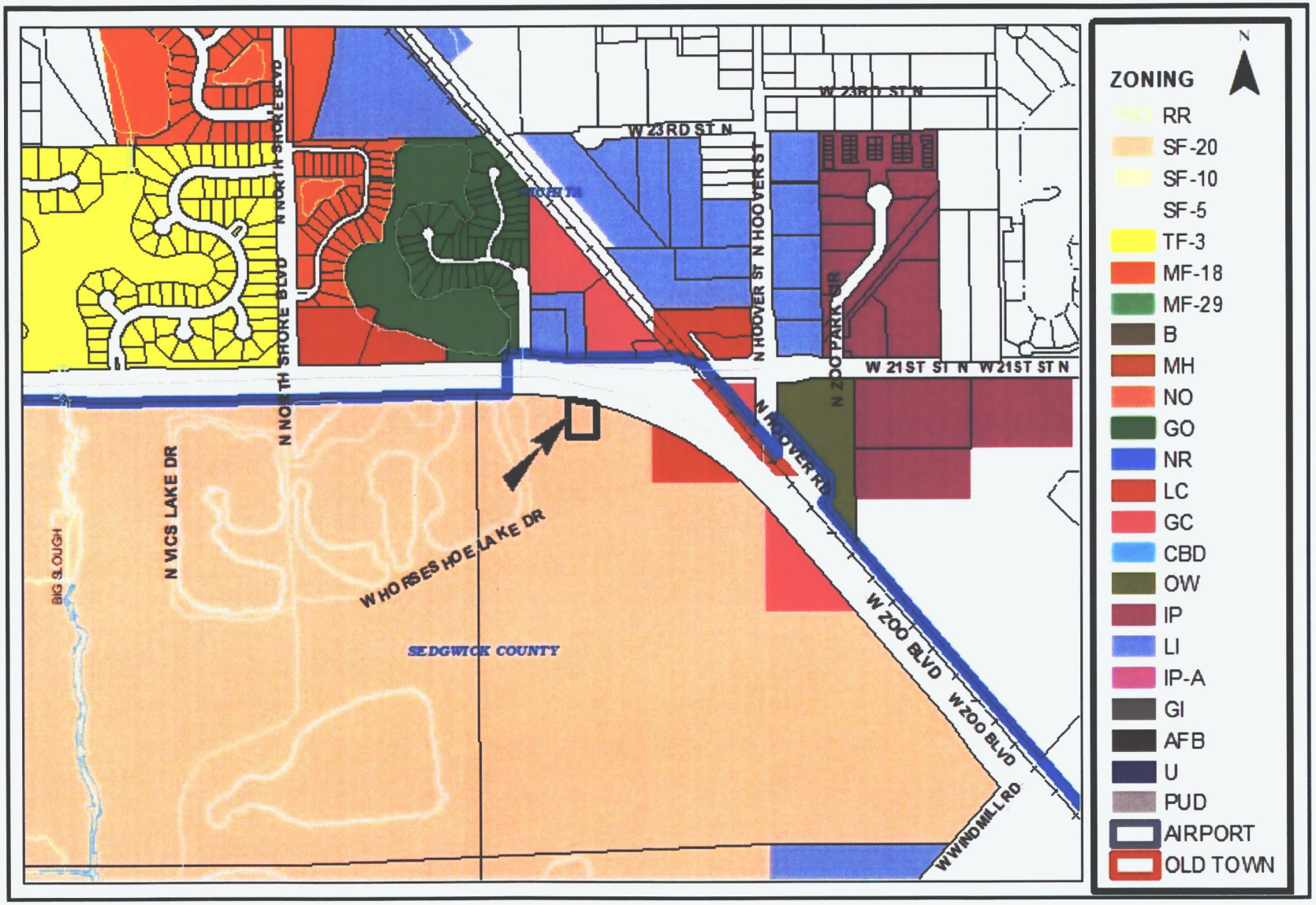
LAND USE

- Residential
- Commercial
- Industrial
- Major Air Transportation & Military
- Parks and Open Space
- Agricultural or Vacant
- Major Institutional
- Nghbd_Plan_Areas

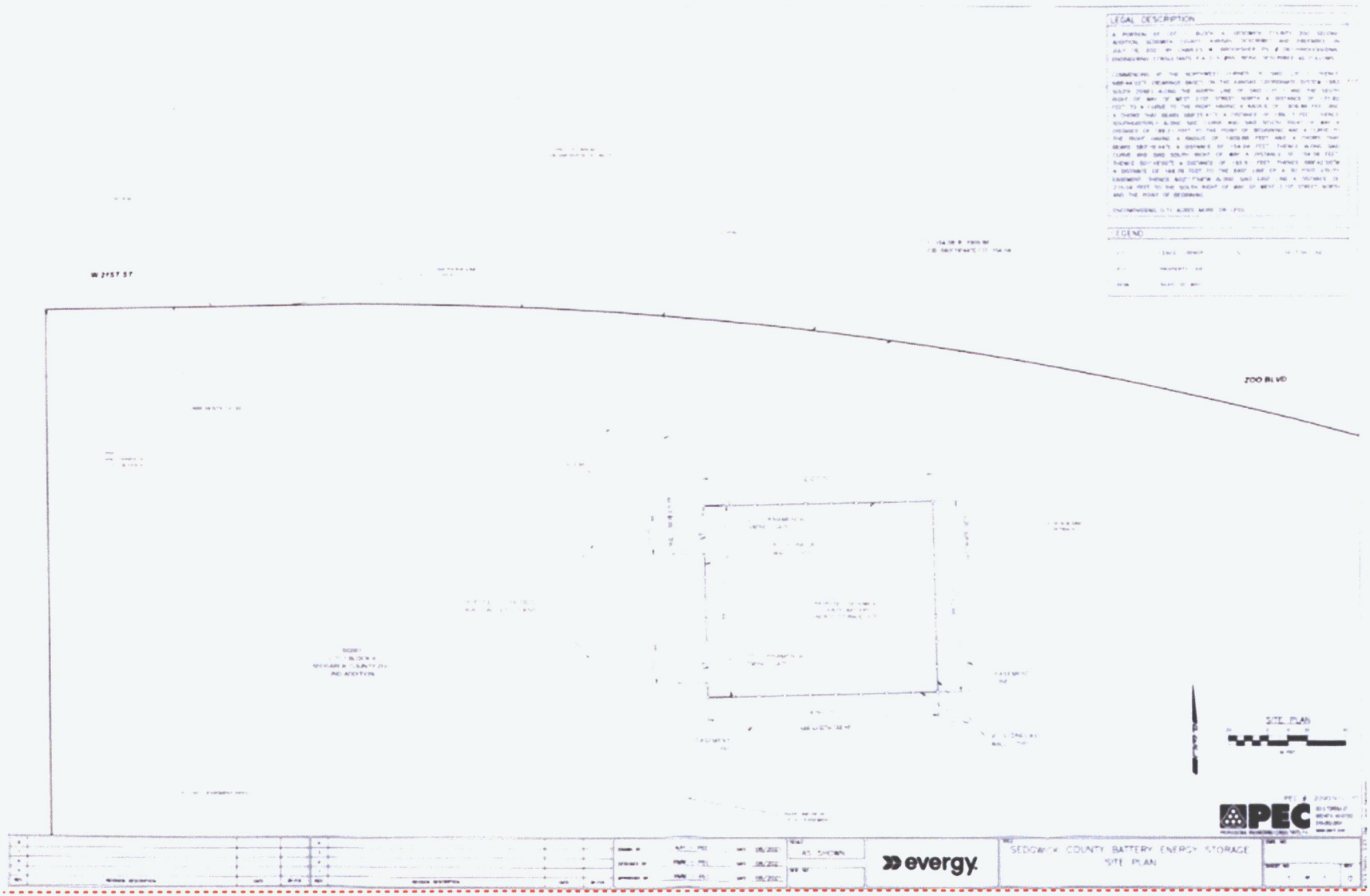
N



Zoning Map


ZONING
N
RR
SF-20
SF-10
SF-5
TF-3
MF-18
MF-29
B
MH
NO
GO
NR
LC
GC
CBD
OW
IP
LI
IP-A
GI
AFB
U
PUD
AIRPORT
OLD TOWN
W 23RD ST N
W 23RD ST N
N HOOVER ST
N HOOVER ST
N ZOO PARK DR
W 21ST ST N
W 21ST ST N
N NORTH SHORE BLVD
N NORTH SHORE BLVD
N VICS LAKE DR
W HORSESHOE LAKE DR
BIG SLOUGH
SEDGWICK COUNTY
W ZOO BLVD
W ZOO BLVD
W WINDMILL RD

Site Plan


LEGAL DESCRIPTION
LEGEND
W 21ST ST
ZOO BLVD
SITE PLAN
PEC
evergy
SEDGWICK COUNTY BATTERY ENERGY STORAGE
SITE PLAN

LEGAL DESCRIPTION

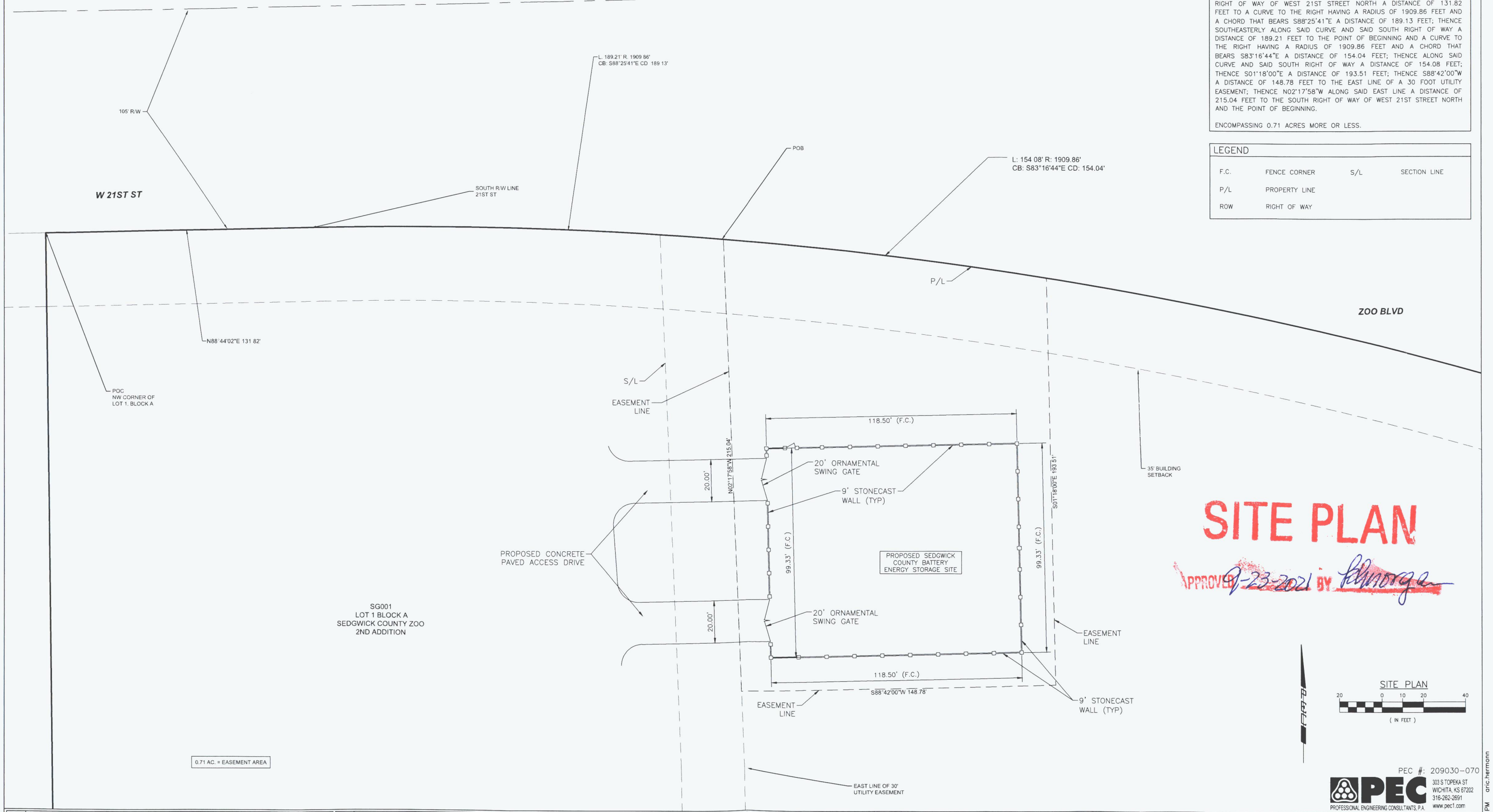
A PORTION OF LOT 1, BLOCK A, SEDGWICK COUNTY ZOO SECOND ADDITION, SEDGWICK COUNTY, KANSAS, DESCRIBED AND PREPARED ON JULY 16, 2021 BY CHARLES W. BROOKSHER PS #1281/PROFESSIONAL ENGINEERING CONSULTANTS P.A CLS #65, BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE N88°44'02"E (BEARINGS BASED ON THE KANSAS COORDINATE SYSTEM 1983 SOUTH ZONE) ALONG THE NORTH LINE OF SAID LOT 1 AND THE SOUTH RIGHT OF WAY OF WEST 21ST STREET NORTH A DISTANCE OF 131.82 FEET TO A CURVE TO THE RIGHT HAVING A RADIUS OF 1909.86 FEET AND A CHORD THAT BEARS S88°25'41"E A DISTANCE OF 189.13 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE AND SAID SOUTH RIGHT OF WAY A DISTANCE OF 189.21 FEET TO THE POINT OF BEGINNING AND A CURVE TO THE RIGHT HAVING A RADIUS OF 1909.86 FEET AND A CHORD THAT BEARS S83°16'44"E A DISTANCE OF 154.04 FEET; THENCE ALONG SAID CURVE AND SAID SOUTH RIGHT OF WAY A DISTANCE OF 154.08 FEET; THENCE S01°18'00"E A DISTANCE OF 193.51 FEET; THENCE S88°42'00"W A DISTANCE OF 148.78 FEET TO THE EAST LINE OF A 30 FOOT UTILITY EASEMENT; THENCE N02°17'58"W ALONG SAID EAST LINE A DISTANCE OF 215.04 FEET TO THE SOUTH RIGHT OF WAY OF WEST 21ST STREET NORTH AND THE POINT OF BEGINNING.

ENCOMPASSING 0.71 ACRES MORE OR LESS.

LEGEND

F.C.	FENCE CORNER	S/L	SECTION LINE
P/L	PROPERTY LINE		
ROW	RIGHT OF WAY		



SITE PLAN

APPROVED 9-23-2021 BY

PEC #: 209030-070

PEC PROFESSIONAL ENGINEERING CONSULTANTS, P.A.
303 S TOPEKA ST
WICHITA, KS 67202
316-262-2691
www.pec1.com

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

DRAWN BY AJH – PEC DATE 08/2021
DESIGNED BY RMM – PEC DATE 08/2021
APPROVED BY RMM – PEC DATE 08/2021

SCALE: AS SHOWN
W.R. NO. – –

evergy

TITLE
SEDGWICK COUNTY BATTERY ENERGY STORAGE SITE PLAN

DWG. NO.
SHEET NO. 1 OF 1
REV. 0

8/13/2021 3:57 PM aric.hermann

LEGAL DESCRIPTION

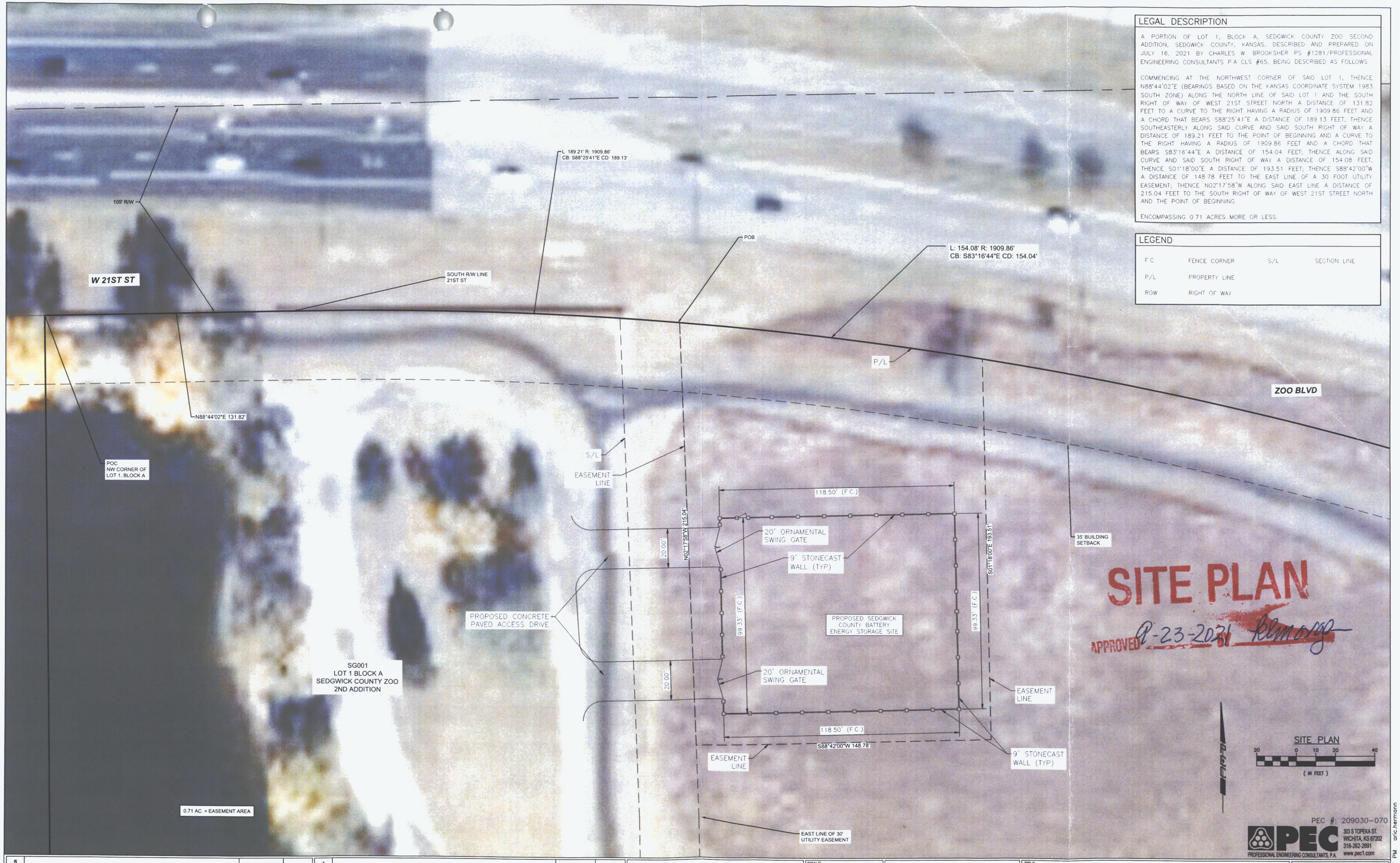
A PORTION OF LOT 1, BLOCK A, SEDGWICK COUNTY ZOO SECOND ADDITION, SEDGWICK COUNTY, KANSAS, DESCRIBED AND PREPARED ON JULY 16, 2021 BY CHARLES W. BROOKSHER PS #1281/PROFESSIONAL ENGINEERING CONSULTANTS P.A CLS #65, BEING DESCRIBED AS FOLLOWS

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 1, THENCE N88°44'02"E (BEARINGS BASED ON THE KANSAS COORDINATE SYSTEM 1983 SOUTH ZONE) ALONG THE NORTH LINE OF SAID LOT 1 AND THE SOUTH RIGHT OF WAY OF WEST 21ST STREET NORTH A DISTANCE OF 131.82 FEET TO A CURVE TO THE RIGHT HAVING A RADIUS OF 1909.86 FEET AND A CHORD THAT BEARS S88°25'41"E A DISTANCE OF 189.13 FEET, THENCE SOUTHEASTERLY ALONG SAID CURVE AND SAID SOUTH RIGHT OF WAY A DISTANCE OF 189.21 FEET TO THE POINT OF BEGINNING AND A CURVE TO THE RIGHT HAVING A RADIUS OF 1909.86 FEET AND A CHORD THAT BEARS S83°16'44"E A DISTANCE OF 154.04 FEET; THENCE ALONG SAID CURVE AND SAID SOUTH RIGHT OF WAY A DISTANCE OF 154.08 FEET, THENCE S01°18'00"E A DISTANCE OF 193.51 FEET; THENCE S88°42'00"W A DISTANCE OF 148.78 FEET TO THE EAST LINE OF A 30 FOOT UTILITY EASEMENT; THENCE N02°17'58"W ALONG SAID EAST LINE A DISTANCE OF 215.04 FEET TO THE SOUTH RIGHT OF WAY OF WEST 21ST STREET NORTH AND THE POINT OF BEGINNING.

ENCOMPASSING 0.71 ACRES MORE OR LESS.

LEGEND

F.C.	FENCE CORNER	S/L	SECTION LINE
P/L	PROPERTY LINE		
ROW	RIGHT OF WAY		



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

DRAWN BY	AJH – PEC	DATE	08/2021
DESIGNED BY	RMM – PEC	DATE	08/2021
APPROVED BY	RMM – PEC	DATE	08/2021

SCALE: AS SHOWN

W.R. NO. – –

evergy

TITLE
SEDGWICK COUNTY BATTERY ENERGY STORAGE
SITE PLAN

DWG. NO.

SHEET NO. 1 OF 1 REV. 0

8/13/2021 3:57 PM aric.hermann