

PLANNING COMMISSION REPORT
Regular Agenda –Public Hearing Item

PC Staff Report
6/23/14

**ITEM NO. 4 CONDITIONAL USE PERMIT FOR WESTAR ENERGY; 1703 E 902 RD
(MKM)**

CUP-14-00167: Consider a Conditional Use Permit for the expansion of Westar Energy's Baldwin Creek Substation on approximately 14.7 acres located at 1703 E 902 Rd. Submitted by Bartlett & West on behalf of Western Resources Inc, (aka Westar Energy, Inc.) property owner of record and contract purchaser for west 100 ft buffer area.

STAFF RECOMMENDATION: Staff recommends approval of a Conditional Use Permit for the expansion of the Baldwin Creek Substation on approximately 14.7 acres, located at 1703 E 902 Rd subject to the following conditions:

1. Provision of an executed Annexation Agreement prior to release of the CUP plans.
2. Dedication of 40' of right-of-way for E 902 Road by separate instrument prior to release of the CUP plans.

Reason for Request: *"The property owner would like to expand the existing substation on site."*

KEY POINTS

- A Conditional Use Permit for the substation (CUP-9-5-98) was approved by the County Commission in 1998. The subject CUP is for an expansion to the existing station.
- The property is located within Service Area 2 of the Lawrence Urban Growth Area and is adjacent to properties that have submitted annexation requests. The property owner has agreed to annex following annexation of the adjacent properties.
- No time limit is proposed for this CUP.

ATTACHMENTS

- Attachment A: CUP Plan
- Attachment B: Annexation information

ASSOCIATED CASES

- CUP-9-5-98; CUP for an electrical substation at this location. Approved by Board of County Commissioners on November 11, 1998.

OTHER ACTION REQUIRED

- County Commission approval of the Conditional Use Permit.
- The applicant shall obtain all necessary permits for the facility expansion from the Douglas County Zoning and Codes Office prior to construction.

Summary of Request

This Conditional Use Permit application proposes the expansion of the Westar Baldwin Creek Electric Substation located at 1703 E 902 Road. The facility will be gated and fenced with security fencing. This is an unmanned facility; employees will only be on the site to perform maintenance or repairs. The expansion will utilize most of Westar's property. Westar (a.k.a. Western Resources) intends to

purchase additional land from the property owner to the west to accommodate this expansion and provide a substantial buffer area.

'Utilities as approved by the County Commission' are permitted in the A District with approval of a site plan. The substation was determined to be of significant scale and scope in 1998 and approval through the Conditional Use Permit (CUP) process was required. The expansion of the substation requires an amendment to the CUP.

I. ZONING AND USES OF PROPERTY NEARBY

GENERAL INFORMATION

Current Zoning and Land Use: A (Agricultural) District; existing electric substation, a Utility.

Surrounding Zoning and Land Use: A (Agricultural) District in all directions; surrounding uses include agriculture and rural residences. An annexation and rezoning application to the IL, RS5, and RS7 Districts have been submitted for properties to the west, east, and north. These items will be considered at the June Planning Commission meeting.

GPI (General Public and Institutional Use) District to the southeast. This area is within the City limits and is proposed Phase 2 of the Rock Chalk Park regional sports and recreation facility.
(Figure 1)

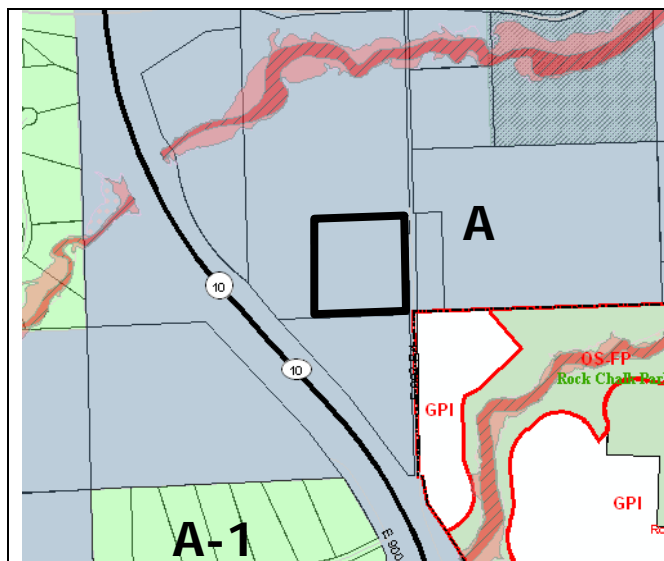


Figure 1a. Zoning of the area. County zoning designations in black print, City in red. Floodplain shown in dark red (Floodway) and light red (Floodway Fringe).

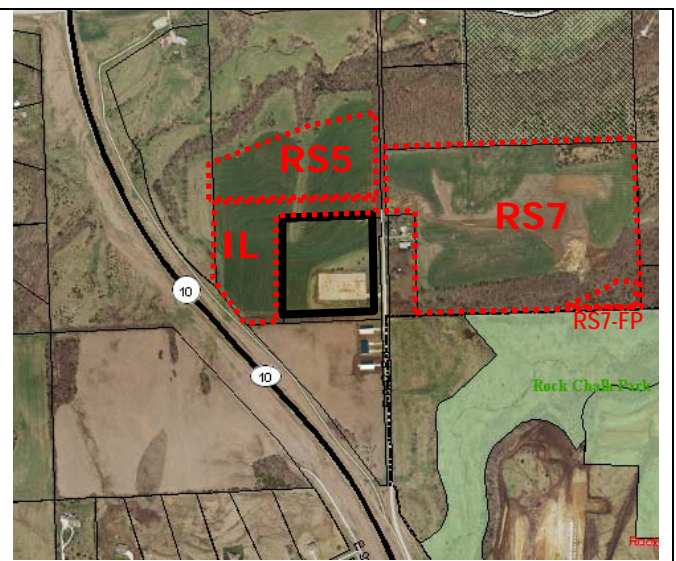


Figure 1b. Land Use in the area. Land with active annexation and rezoning requests to urban districts are outlined in red—with the proposed zoning districts noted.

The subject property is zoned A (Agricultural) District as is the surrounding area. The F-W and F-F (Floodway and Floodway Fringe) Overlay Districts are north of the subject property. Land to the

southeast is within the city limits and is zoned GPI (General Public and Institutional Use) District. It was annexed and rezoned with the Rock Chalk Park KU regional sports and recreation facility property in 2012 and was proposed as a future phase of the facility. (Figure 1) The immediate area contains agricultural land uses and a rural residence. Annexation and rezoning requests have been submitted for adjacent property to the west for development as a mini-warehouse and for adjacent property to the north for development of a single-dwelling subdivision.

Staff Finding – The subject property and surrounding area is zoned A (Agricultural) with Baldwin Creek and its associated floodplain also zoned F-W and F-F (Floodway and Floodway Fringe) Overlay Districts. Current land uses are primarily agriculture and rural residential; however, annexation and rezoning applications have been submitted for development of a mini-warehouse to the west and a single-dwelling residential subdivisions to the north and east (Figure 1b). The expansion of the utility is compatible with existing and proposed land uses in the area.

II. CHARACTER OF THE AREA

The area is bounded on the west by K-10 Highway, which is classified in the Major Thoroughfares Map as a Freeway, and on the north by N 1750 Road, which is classified as a Principal Arterial. Future Collector Streets connect N 1750 Road to W 6th Street/Highway 40 to the south and provide east/west connections to E 1000 Rd and Wakarusa Drive, Principal Arterials. The area has access to the major transportation network. (Figure 2)

Current land uses in the area are agriculture, rural residential, woodlands, and utility; however urban and rural properties in the area are in various stages of development. Construction of the KU/regional sports center, Rock Chalk Park, and the City Recreation Center is nearly complete. The Mercato development to the south of Rock Chalk Park and the Links at Lawrence, a multi-dwelling development proposed to the east of Rock Chalk Park have preliminary development approvals. Approximately 115 acres in the area have active annexation and rezoning requests for future mini-warehouse and single-dwelling residential development.

The Baldwin Creek floodplain and riparian corridor are significant environmental features of the area. Open space is available in the area in the form of City parklands, with the Rock Chalk Park to the southeast of the subject property and a future City parkland to the northeast.

Staff Finding – This is a rural area in close proximity to the City of Lawrence. Properties within the city are developing and applications to annex and rezone properties for future warehouse and residential uses have been submitted. As the substation use is an established use, the proposed expansion should not affect its compatibility with the area.

III. SUITABILITY OF SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED

Applicant's response:

"The existing site is already acting as a substation, so the use of the site would not change from the existing use."

This property is zoned A (Agricultural) District. The purpose of this district is identified in Section 12-306 of the County Zoning Regulations and states: *"...The purpose of this district is to provide for a full range of agricultural activities, including processing and sale of agricultural products raised on the premises, and at the same time, to offer protection to agricultural land from the depreciating*

effect of objectionable, hazardous and unsightly uses.” This district is associated with a majority of the unincorporated portion of Douglas County.

The A district permits agricultural uses in addition to residential detached dwellings, churches, hospitals and clinics for large and small animals, commercial dog kennels, and rural home occupations. The location of the property is suited to agricultural uses; however, the property is not suitable for any of the uses permitted in the A District due to the fact that it has been developed with an electric substation. The expansion of the substation will not alter the suitability of the property.

Staff Finding – The property is not suitable for the uses to which it is restricted with the A zoning due to the fact that it has been developed with an electric substation. The expansion of the substation will not alter the suitability.

IV. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

Staff Finding – The subject property is not vacant but was developed with a utility use following approval of the CUP in 1998.

V. EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY

Applicant's Response:

“The surrounding properties are undeveloped except for a house to the northeast. The expansion of the substation should not have a detrimental effect on surrounding properties.”

Section 12-319-01.01 of the County Zoning Regulations recognize that *“certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district...when found to be in the interest of the public health, safety, morals and general welfare of the community may be permitted, except as otherwise specified in any district from which they are prohibited.”* The proposed use falls under Section 12-319-4.11 of the Zoning Regulations for the Unincorporated Territory of Douglas County, ‘Public Utilities’.

Western Resources will be purchasing property from the property owner to the west to accommodate the expansion. This area will serve as a buffer and allow for the relocation of a gas line. The property owner to the west has submitted a rezoning request to the IL District in preparation for development of this property with a mini-warehouse. The expansion will be to the north of the existing substation. A 150 ft Westar transmission line easement along the north property line will provide buffering from development to the north. An existing tree row buffers the facility from the property to the south.

Staff Finding – The larger facility could have a negative impact on nearby residential development but Western Resources has been working with the owner of adjacent property to the west. Westar will purchase land to provide a buffer between the facility and the property to the west and a 150 ft easement along the north property line will buffer the facility from the property to the north. The coordination between Westar and the owner of the adjacent properties resulted in future development proposals that were designed based on the expansion proposal.

VI. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE PETITIONER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNERS

Applicant's Response:

"The substation is a utility that serves the area. As the area grows in population, so will the utilities serving the area. By increasing the substation in size, the owner will be able to adequately serve their customers."

Evaluation of the relative gain weighs the benefits to the community-at-large vs. the benefit of the owners of the subject property.

Denial of this request would prevent the expansion of the substation and would require Westar to locate another substation in the area to improve service. As the substation and transmission lines are in place in this location, and Westar and the adjacent property owner have coordinated their development proposals, there would be no benefit to the public health, safety, or welfare by the denial of the CUP request.

Approval of the request would allow Westar to increase their service with a facility expansion in an existing location.

Staff Finding – Approval of this request would benefit the public health, safety, and welfare by allowing the utility to improve its service through expansion of an established facility, in a location that has been determined to be compatible with the surrounding area. Denial of the request would require the applicant to find another location for a substation and would provide no benefit to the public health, safety, and welfare.

VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant's Response:

"This property is located in the Urban Growth Area and is not included within the Future Land Use Map from the Horizon 2020 document."

This property is located in Service Area 2 of Lawrence's Urban Growth Area. Chapter 10 of *Horizon 2020*, Community Facilities, provides the following recommendations:

Policy 1.1b *"Maintain or upgrade existing facilities and services where necessary to serve existing development."*

Policy 2.4a *"Choose locations and design sites in a manner which minimizes the impact on adjacent properties."*

Staff Finding – The expansion of the existing substation is compliant with the recommendation in the Comprehensive Plan to maintain or upgrade existing facilities. Selecting the existing site for an expansion rather than selecting a second site minimizes the impact on adjacent properties as the utility use has been established in this area. Coordinating the development with the adjacent property owner in this case also reduces the impact.

STAFF REVIEW

The CUP was submitted for the expansion of the existing Baldwin Creek Substation to improve electric service for the area. The substation will be expanded from approximately 1.75 acres to 5.36 acres. (Figure 2) The substation will utilize most of the Westar owned property so additional property will be purchased to provide a buffer area to the west. A 150 ft Westar Transmission Line easement is located north of the property. This easement will serve as a buffer for the property to the north and Westar has agreed to allow the use of the easement to access the property to the west. This is noted on the plan.

The subject property is within Service Area 2 of the Lawrence Urban Growth Area (UGA). When properties in the UGA develop, annexation is encouraged. Westar is not currently adjacent to the city limits; however, annexation requests for adjacent properties have been submitted. If these properties are annexed, the Westar property would be adjacent to the City limits and Westar has agreed to annex at that time. (Attachment B) An annexation agreement should be executed and provided to the City. When the property is annexed the CUP will convert to a City Special Use Permit, SUP.

Landscape and Screening: While screening the substation isn't possible because of the height of the equipment, landscaping (a variety of evergreen trees) will buffer the facility from adjacent uses. (Figure 3) A buffer is not required along the south property line as the existing vegetation provides an adequate buffer.

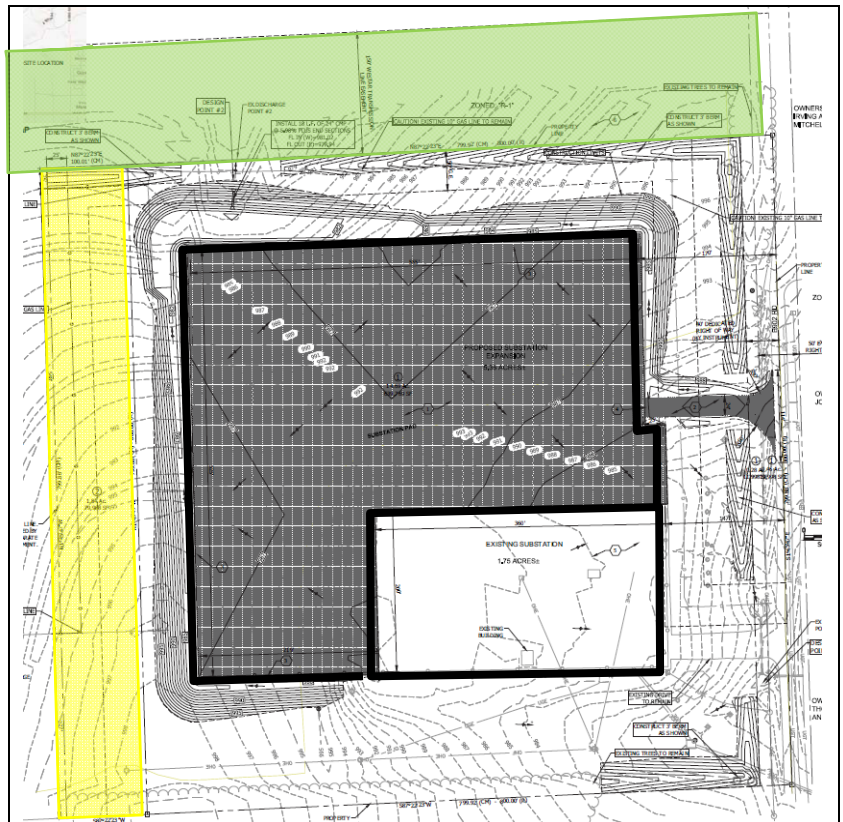


Figure 2. CUP plans for expansion of substation. Additional property to be purchased following approval of CUP shown in yellow, 150 ft easement in green.

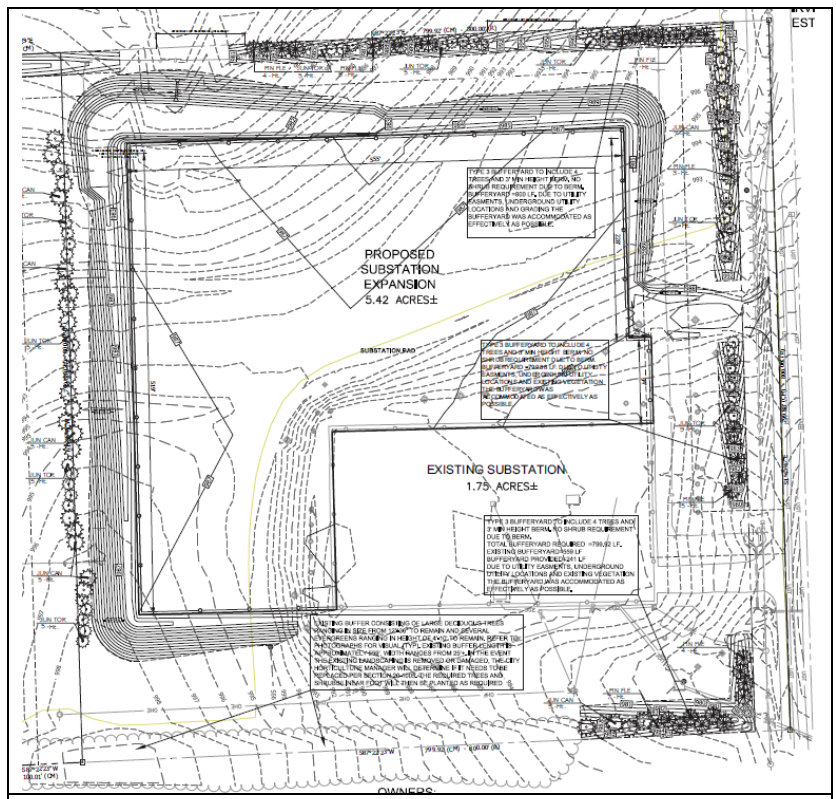


Figure 3. Landscaping

Lighting:

The plan notes that site lighting will be wall or pole mounted and full cut-off fixtures will be used. Emergency lighting for repairs may be utilized which are not full cut-off.

Parking and Access: The substation is unmanned; employees will be on site only for maintenance and repairs. Adequate space is available on the access drive for maintenance vehicles to park off the roadway. Access is currently taken from E 902 Road from an access drive on the south side of the facility. An additional access point will be installed with the expansion. The access drives are located approximately 250 ft apart which meets County Access Management Standards.

Lot/parcel dimensions: The fence and the structure do not encroach into the required setbacks. The maximum height permitted in the A District is 35 ft but exceptions are provided in Section 12-321-3.01 Zoning Regulations. In staff's opinion, the exception from the height regulations applies to the substation as it is similar to some of the listed uses such as smoke stacks and cooling towers.

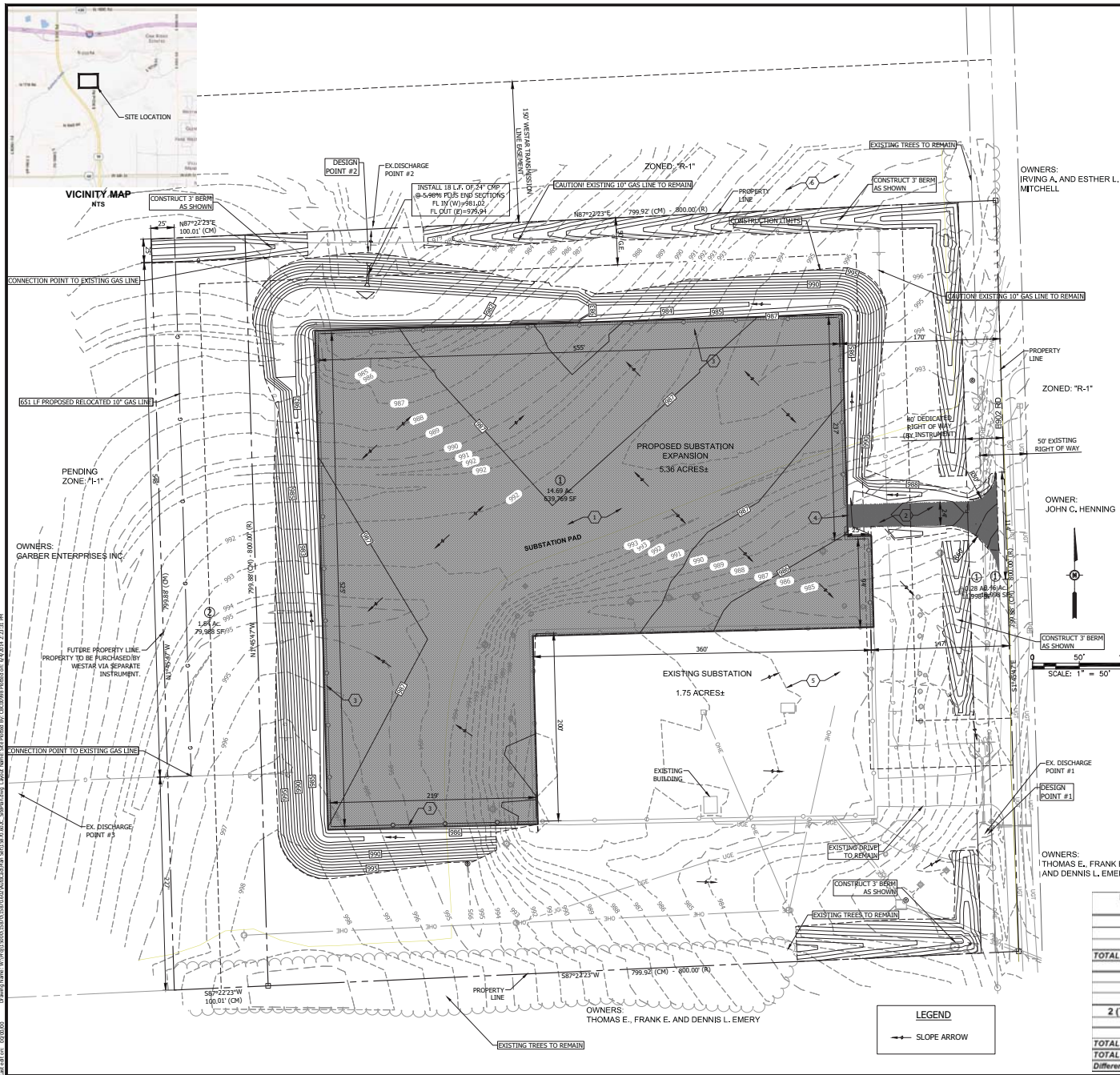
The property is not a platted lot. It is not necessary to plat at this time, but following annexation it may be necessary to plat the property through the Major Subdivision process if a major development is proposed.

Right-of-Way: E 902 Road, classified as a 'Collector' in the Major Thoroughfares Map, requires 80 ft of right-of-way. The right-of-way shall be dedicated by separate instrument as platting of the property is not required at this time.

Conclusion

The expansion of the substation will improve electric service in the area with minimal impacts to the area. The property is not required to plat; however, additional right-of-way will be dedicated for E 902 Road by separate instrument. The property owner has agreed to annex into the City if the annexation requests for the adjacent properties are approved. The CUP request, as conditioned, is compliant with the Zoning Regulations and staff recommends approval.

BAR IS ONE INCH ON OFFICIAL DRAWINGS. 0 1" IF NOT ONE INCH, ADJUST SCALE ACCORDINGLY.



SITE PLAN CALLOUTS:

1. SUBSTATION PAD TO HAVE 1.00% SLOPE EXTENDING TO 3.0' BEYOND THE FENCE. SUBSTATION PAD TO BE SURFACED WITH A 4" LAYER OF COMPACTED KDOT TYPE AB3 CRUSHED ROCK TOPPED WITH A 4" LAYER OF KDOT TYPE SS3 OR SS5 CLEAN, COMPACTED CRUSHED ROCK. PROPOSED CONTOURS AND SPOT ELEVATIONS REPRESENT FINISHED GRADE AT TOP OF CRUSHED ROCK IN PAD AND ENTRANCE DRIVE AREAS AND TOP OF GROUND OUTSIDE PAD AREAS.
2. SUBSTATION ENTRANCE TO BE SURFACED WITH 6" COMPACTED KDOT TYPE AB3 CRUSHED ROCK. (REFER TO SECTION 'A-A' SHEET 5)
3. SUBSTATION FENCE TO BE 8" HIGH BLACK CHAIN LINK FENCE PLUS 3 STRANDS BARB WIRE FOR A TOTAL HEIGHT OF 9'. PLACE 14"x22" DANGER HIGH VOLTAGE SIGN EVERY 150 FEET ON FENCE.
4. SUBSTATION FENCE GATE TO BE A 20' WIDE DOUBLE-SWING GATE CENTERED ON ENTRANCE DRIVE. PLACE ONE 18"x24" METAL SIGN SHOWING NAME AND ADDRESS OF THE SUBSTATION ON THE ENTRY GATE.
5. THE PORTION OF THE EXISTING SUBSTATION WITH EQUIPMENT ON IT SHALL REMAIN AS IS.
6. WESTAR ENERGY, INC. AND ADJACENT, NORTH LANDOWNER HAVE AGREED TO AN ACCESS DRIVE ON THE SOUTH SIDE OF THE EASEMENT. LANDOWNER WILL BE REQUIRED TO COORDINATE WITH ALL LOCAL GOVERNING AGENCIES TO CONSTRUCT THE ACCESS IF BUILT.

GENERAL NOTES:

1. EXISTING ZONING: LOT A-AGRICULTURE.
2. CURRENT USE: 1.75 ACRE SUBSTATION AND THE REST OF THE PROPERTY IS UNDEVELOPED. PROPOSED USE: SUBSTATION.
3. BOUNDARY AND TOPOGRAPHIC INFORMATION TAKEN FROM FIELD SURVEY PREPARED BY BARTLETT & WEST (MARCH 2014).
4. SITE LIGHTING TO BE WALL OR POLE MOUNTED LIGHTS. ALL LIGHTING SHALL BE PROVIDED WITH FULL CUT-OFF.
5. TURF AREAS TO BE SEEDD UNLESS NOTED OTHERWISE.
6. THIS PROPERTY WILL ONLY BE ACCESSED FOR MAINTENANCE REASONS. PARKING WILL BE PROVIDED ON THE SURROUNDING GRAVEL PAD. PARKING STALLS WILL NOT BE PROVIDED.

SITE SUMMARY:

LOT 1 EXISTING SITE SUMMARY

EXISTING BUILDING :	259 SF (0.01 AC.)
EXISTING PAVEMENT:	0 SF (0.00 AC.)
TOTAL IMPERVIOUS:	0 SF (0.00 AC.)
EXISTING PERVIOUS:	639,637 SF (14.68 AC.)
TOTAL PROPERTY AREA:	639,896 SF (14.69 AC.)

LOT 1 NEW SITE SUMMARY

EXISTING/PROPOSED BUILDING:	259 SF (0.01 AC.)
EXISTING/PROPOSED PAVEMENT:	0 SF (0.00 AC.)
PROPOSED IMPERVIOUS:	0 SF (0.00 AC.)
PROPOSED PERVIOUS:	639,637 SF (14.68 AC.)
TOTAL PROPERTY AREA:	639,896 SF (14.69 AC.)

DESCRIPTION:

PART OF THE E 1/2 OF THE SE 1/4 SECTION 19
TOWNSHIP 12 SOUTH RANGE 19 EAST.

PROJECT OWNER/DEVELOPER

WESTAR ENERGY
(WESTERN RESOURCES, INC.)
800 KANSAS - LL
PO BOX 889
TOPEKA, KS 66601

EX. DISCHARGE POINT:	AREA (ac.)	"C"	Tc (min.)	I ₁₀ (in/hr)	I ₁₀₀ (in/hr)	h (in)	Q ₁₀ (cfs)	Q ₁₀₀ (cfs)
1	5.1	0.3	15	5.21	7.36	1.25	8.0	14.1
2	9.89	0.35	19	4.72	6.72	1.25	16.5	29.4
3	1.44	0.30	5	7.26	10.20	1.25	3.1	5.5
TOTAL EXISTING DISCHARGE	16.53						27.6	49.0
DEVELOPED DESIGN POINT:								
1	6.14	0.45	5	7.26	10.2	1.25	20.1	35.2
2 (TO DETENTION POND)	10.39	0.44	5	7.26	10.2	1.25	33.2	58.3
24" POND OUTLET							8.5	12.5
TOTAL DEVELOPED DISCHARGE	16.53						28.5	47.7
TOTAL EXISTING DISCHARGE							27.6	49.0
Difference							0.9	-1.2

DESIGNED BY: _____
APPROVED BY: _____
DESIGN PROJ: 15870.602
CONSTR PROJ: _____
SCALE: AS NOTED
DATE: APRIL 2014
DRAWING NO: _____
SHEET NO: 1 OF 2

BARTLETT & WEST
1800 WEST 10TH AVENUE, SUITE 100
DENVER, CO 80202
TEL: 303.733.1100
WWW.BARTLETTANDWEST.COM

Westar Energy
1000 WEST 10TH AVENUE, SUITE 100
DENVER, CO 80202
TEL: 303.733.1100
WWW.WESTAR.ENERGY.COM

SITE PLAN
BALDWIN CREEK SUBSTATION
SITE PLAN
EAST 902 RD. LAWRENCE, KS

SP1



May 21, 2014

Mary Miller
Planning & Development Services
6 East Sixth Street
Lawrence, KS 66044

RE: Baldwin Creek Substation Planning Request
1703 E 902 Road, Lawrence, KS
CUP-14-00167

Dear Mary:

This letter is in response to the comments received on May 14, 2014 regarding the Baldwin Creek Substation Conditional Use Permit. Bartlett & West along with the owner, Westar Energy, Inc., have reviewed the comments and would like to request an alternative to the comment below:

1. *"At the pre-application meeting staff noted that an annexation agreement would be required with the CUP so that annexation could occur when appropriate. Recently, annexation requests were submitted to the Planning Office for properties to the west and north of the substation. Given the current development and the recent annexation requests in the area, staff recommends annexation of the Westar property into the City at this time. Annexation would require the platting of the property through the Major Subdivision process, rezoning to an appropriate urban zoning district, and site planning the use through the Special Use Permit process (which is similar to the County CUP process)."*

Bartlett & West, on behalf of the owner, would request that the Baldwin Creek Substation property wait to be annexed into the City of Lawrence until the adjacent properties are annexed into the City. Upon the approval of the adjacent properties, the Baldwin Creek Substation property, owned by Westar Energy, Inc., will be required to be annexed into the City with the proper rezoning application. We would also request that platting not be required for the annexation and only be required in the future if any changes to the property and/or site plan require a plat.

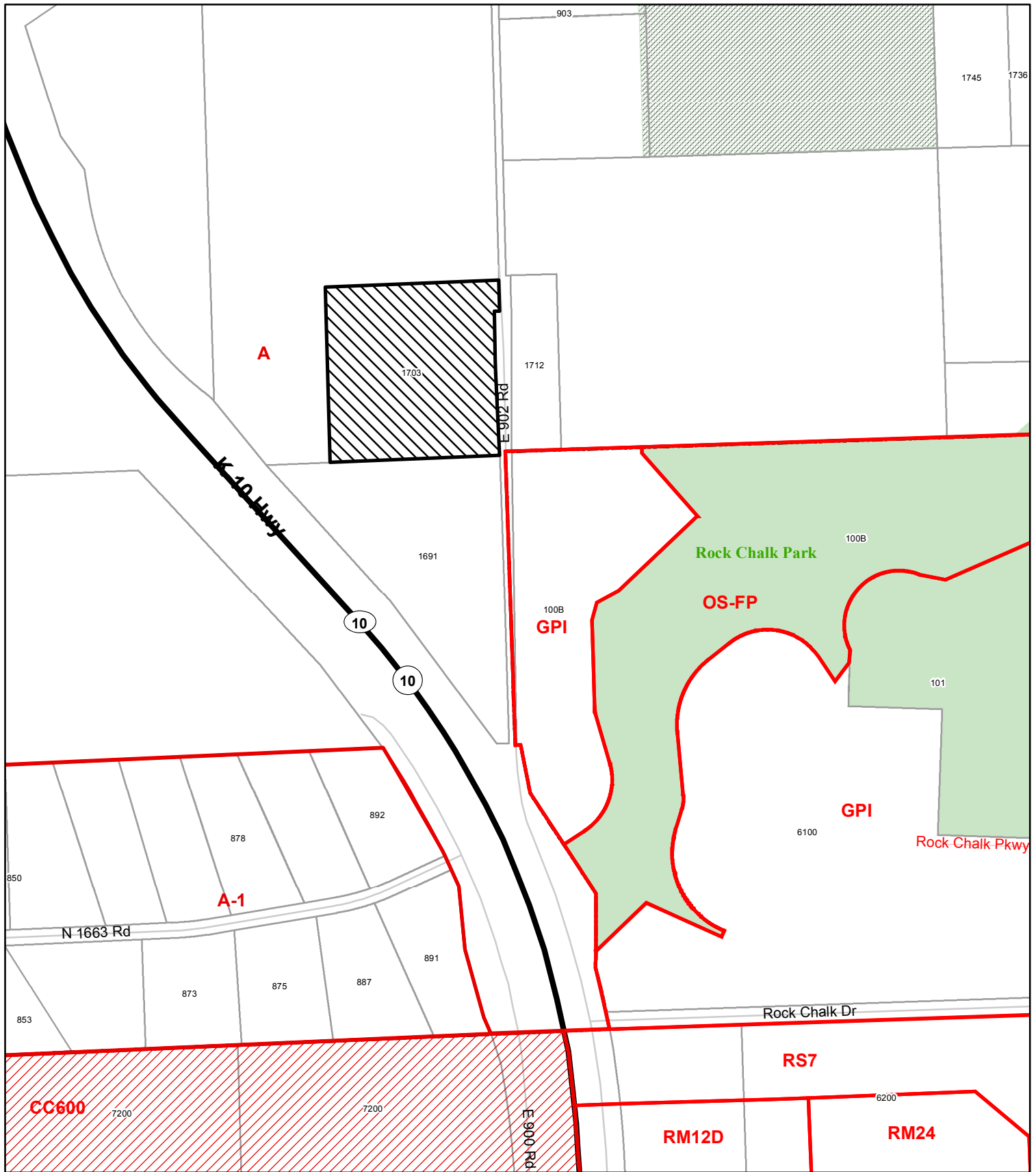
Sincerely,

BARTLETT & WEST, INC.

A handwritten signature in blue ink, appearing to read "Casey Colbern", is written over a horizontal line.

Casey Colbern, PE

cc: Cindy Risch



**CUP-14-00167: Conditional Use Permit for Expansion of
Westar Energy's Baldwin Creek Substation
Located at 1703 E 902 Road**

