



To: Franklin County Board of County Commissioners
From: Pat Toth
Department: Planning & Building
Date: Wednesday, February 22, 2023

AGENDA ITEM NARRATIVE:

Consider Special Use Permit Application #2210-2003 (Everygy) to allow for the construction and operation of an electrical substation on approximately 13.166 acres in an A-1 (Agriculture) Zoning District. The property is commonly known as 2200 Texas Road.

BACKGROUND:

The Planning Commission's public hearing on this request occurred over two (2) meetings, first on November 17, 2022 and again on January 19, 2023. The continuation of the public hearing for this request was to provide the applicant time to put together submittals as to how and why they chose this particular property. Copies of staff reports and excerpts from both meetings are attached.

After hearing Staff's presentation, Applicant's presentation and Public testimony, the Planning Commission recommended approval of Special Use Permit Application #2210-2003 (Everygy) to allow for the construction and operation of an electrical substation in an A-1, Agriculture District, based upon compliance with certain conditions, with a vote of 5-2-1 abstain (Pearce and Reed opposed and Stottlemire abstained). The Planning Department sent notice to seven (7) property owners. A protest petition has been filed with the County Clerk and was determined to be valid (signature of the property owners of more than 20% of the area within 1,000 feet of the boundaries of the SUP) so the request cannot be approved except by a 4/5 vote of all of the members of the Board of County Commissioners.

STAFF RECOMMENDATION:

Staff recommends that the County Commissioners accept the Planning Commission's recommendation and adopt the attached resolution for the approval of Special Use Permit #2210-2003 (Everygy) to allow for the construction and operation of an electrical substation in an A-1, Agriculture Zoning District subject to the ten (10) conditions listed in the attached resolution.

SPECIFIC ACTION REQUESTED:

An Affirmative motion in support of this item would read as follows: "I make a motion to approve Special Use Permit application #2210-2003 (Everygy) to allow for the construction and operation of an electrical substation in an A-1, Agriculture Zoning District subject to the ten (10) conditions listed in the attached resolution.

ATTACHMENTS

Submittals from Mr. Schulz
Planning Commission Staff Reports: January 19, 2023 and November 17, 2022
Excerpt of Draft Planning Commission Minutes
Resolution/s



Franklin
COUNTY KANSAS
] EST. 1855 [

**BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, KANSAS**

RESOLUTION NO. 21-_____

**A RESOLUTION APPROVING SPECIAL USE PERMIT APPLICATION #2210-2003
(EVERGY) TO ALLOW FOR THE CONSTRUCTION AND OPERATION OF AN
ELECTRICAL SUBSTATION IN AN A-1 (AGRICULTURE) ZONING DISTRICT**

WHEREAS, Franklin County, Kansas is a county municipal government, organized pursuant to K.S.A. 19-101; and

WHEREAS, The Franklin County Board of County Commissioners did adopt Resolution # 23-91 creating the Franklin County Planning Commission as provided in K.S.A. 12-744; and

WHEREAS, the Franklin County Planning Commission did publish notice on October 25, 2022 that a public hearing would be held to consider Special Use Permit application #2210-2003 (Evergy) as required by K.S.A. 12-757 and Article 23, Section 23-5.02 of the Franklin County Zoning Regulations; and

WHEREAS, the Planning Commission did on November 17, 2022 hold a public hearing for the consideration of Special Use Permit application #2210-2003 (Evergy) to allow for the construction and operation of an electrical substation in an A-1 (Agriculture) Zoning District; and

WHEREAS, the Planning Commission continued the public hearing to allow the applicant time to provide additional information and said continued public hearing was held on January 19, 2023; and

WHEREAS, the Franklin County Board of County Commissioners did adopt Zoning Regulations on August 14th, 2002 which included Article 23, Section 23-1 through 23-5 setting out the procedures and basis for review in considering a Special Use Permit including the following criteria:

- a. Whether the use is in compliance with, and would further enhance the implementation of, the adopted Comprehensive Plan;
- b. Whether the use complies with the purpose and intent of the adopted Zoning Regulations;
- c. Whether the use complies with other adopted standards of the County;
- d. Whether the use fits the character of the neighborhood;
- e. Whether the use would be unduly detrimental to surrounding properties and uses;
- f. The suitability of the subject property for the proposed use;
- g. Approval of mitigation measures to minimize impacts to surrounding properties or services; and

WHEREAS, the Planning Commission, after due consideration of the criteria set forth in Article 23, Section 23-5.04 of the County Zoning Regulations, the relative factors of the Supreme Court case of Golden vs. City of Overland Park, together with all written reports and public testimony, the Planning Commission, by majority of its membership did find the following:

1. The proposed special use permit, as conditioned, adheres to Franklin County Zoning Regulations and can be considered as compatible with uses allowed in the district based upon the intensity described by the applicant.
2. The limited nature of the proposed operation and conditions imposed adequately reduce negative impacts on the surrounding neighborhood.
3. There is no evidence to suggest that the requested use will detrimentally affect nearby property values.

NOW, THEREFORE, Be It Resolved, that the Franklin County Board of County Commissioners does hereby approve Special Use Permit application #2210-2003 (Evergy) as follows:

Section 1: Special Use Permit application #2210-2003 (Evergy) is granted for the following described property:

All that part of the Northeast Quarter of Section 25, Township 17 South, Range 20 East of the Sixth Principal Meridian in Franklin County, Kansas, with said part being originally described on this 14th day of May, 2022 by me, Craig E. Chaney, Professional Surveyor, Kansas License No. 1141 and being more particularly described as follows:

BEGINNING at the Northeast Corner of said Northeast Quarter of Section 25; thence South $01^{\circ}36'18''$ East, along the East line of said quarter section, a distance of 535.00 feet; thence departing said East line, South $88^{\circ}16'35''$ West, parallel with the North line of said quarter section, a distance of 1072.00 feet; thence North $01^{\circ}36'18''$ West, parallel with said East line of said quarter section, a distance of 535.00 feet to a point on said North line of said quarter section; thence North $88^{\circ}16'35''$ East, along said North line of said quarter section, a distance of 1072.00 feet to the place of beginning. Containing 573,520 sq. ft. or 13.166 acres, more or less, and is subject to road rights-of-way and easements of record. Basis of Bearings: Kansas State Plane, South Zone 1502, NAD83, U.S. Survey Foot.

Section 2: The Special Use Permit for the real property described above shall be authorized for the construction and operation of an Electrical Substation in an A-1 (Agriculture) Zoning District pursuant to the Franklin County Zoning Regulations and the following conditions:

1. This Special Use Permit allows for the operation of an Electrical Substation as described in the applicant's application and shall be developed according to the submitted site plan (Exhibit A), except as amended by the following conditions.
2. No portion of the site shall be used for the storage of equipment, vehicles, materials or supplies except during construction.

3. Expansion of the substation outside of the 320-foot by 310-foot fenced area shall require approval of an amended Special Use Permit.
4. All exterior lighting shall be switched and any illumination associated with the substation shall be shielded so that the light source (bulb) is not visible from, and so that it does not cast light upon, adjacent properties or rights-of-way. Lighting shall not exceed twenty-five (25) feet in height.
5. A sign be placed on the security fence around the substation including a telephone number of a responsible party in the event of an emergency.
6. That the entire substation property be kept free of noxious weeds, litter and debris.
7. Two (2) on-site parking spaces shall be provided. All driveway and off-street parking areas shall be maintained with all-weather surfaces.
8. The location of the entrance must be approved by the Franklin County Public Works Department and all driveways and off-street parking areas shall be maintained with all-weather surfaces.
9. A traffic study and stormwater plan be prepared by licensed engineers and reviewed by Franklin County staff prior to the initiation of any use or issuance of building permits.
10. The Special Use Permit shall be null and void by operation of law if the Special Use Permit has not been initiated or utilized by commencing the activity or use at the site specified in said permit within one (1) year of the date of approval.

PASSED AND ADOPTED by the Franklin County Board of County Commissioners this 22nd day of February, 2023. This action shall become effective upon publication in the official county newspaper.

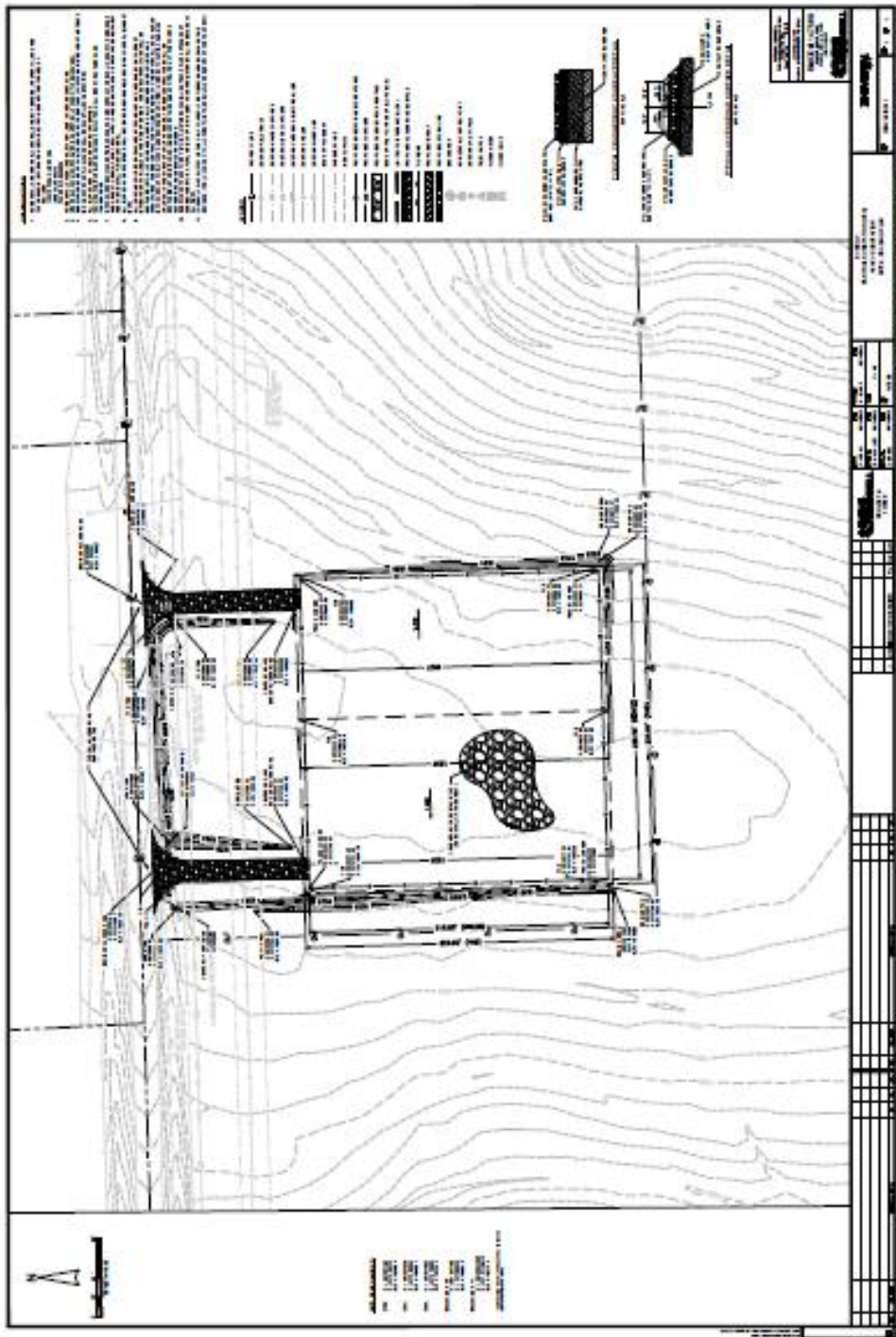
Ianne Dickinson
Chair

Received and recorded this the 22nd day of February, 2023.

Janet Paddock
County Clerk

EXHIBIT A

Proposed Site Development Plan





Franklin
COUNTY KANSAS

EST. 1855

**BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, KANSAS**

RESOLUTION NO. 22-_____

**A RESOLUTION DENYING SPECIAL USE PERMIT APPLICATION #2210-2003
(EVERGY) TO ALLOW FOR THE CONSTRUCTION AND OPERATION OF AN
ELECTRICAL SUBSTATION IN AN A-1 (AGRICULTURE) ZONING DISTRICT**

WHEREAS, Franklin County, Kansas is a county municipal government, organized pursuant to K.S.A. 19-101; and

WHEREAS, The Franklin County Board of County Commissioners did adopt Resolution # 23-91 creating the Franklin County Planning Commission as provided in K.S.A. 12-744; and

WHEREAS, the Franklin County Planning Commission did publish notice on October 25, 2022 that a public hearing would be held to consider Special Use Permit application #2210-2003 (Evergy) as required by K.S.A. 12-757 and Article 23, Section 23-5.02 of the Franklin County Zoning Regulations; and

WHEREAS, the Planning Commission did on November 17, 2022 hold a public hearing for the consideration of Special Use Permit application #2210-2003 (Evergy) to allow for the construction and operation of an electrical substation in an A-1 (Agriculture) Zoning District; and

WHEREAS, the Planning Commission continued the public hearing to allow the applicant time to provide additional information and said continued public hearing was held on January 19, 2023; and

WHEREAS, the Planning Commission, after reviewing and considering all reports and testimonies did, by a majority vote of those present, approve said Special Use Permit Application based on certain findings and subject to certain conditions; and

WHEREAS, the Board of County Commissioners of Franklin County, after duly reviewing the recommendation of the Planning Commission together with all public comments for and against said Special Use Permit Application finds:

1. That the Special Use Permit is not consistent with the County Zoning Regulations.
2. That the Special Use Permit is not in conformance with and would further enhance the County Comprehensive Plan.
3. The Special Use Permit could overburden the County roads and other public services.
4. The Special Use Permit will unduly affect the character of the surrounding community.

5. The Special Use Permit could unduly impact property values of surrounding properties.

PASSED AND ADOPTED by the Franklin County Board of County Commissioners this 22nd day of February, 2023. This action shall become effective upon publication in the official county newspaper.

Ianne Dickinson
Chair

Received and recorded this the 22nd day of February, 2023.

Janet Paddock
County Clerk