

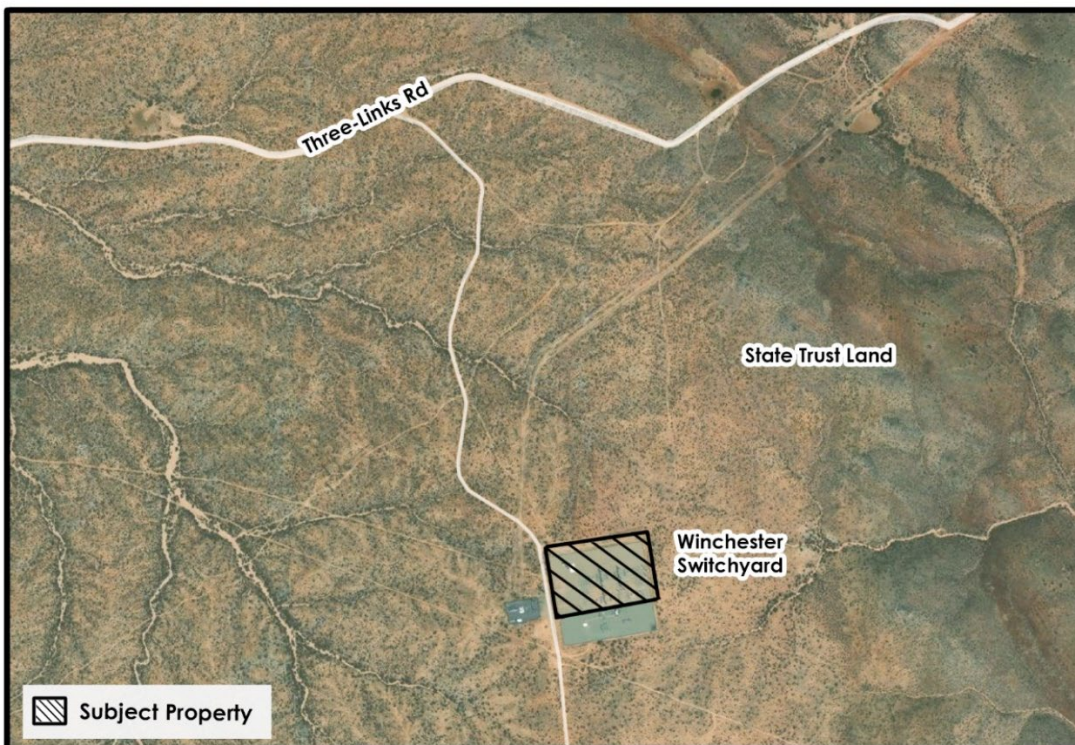
**MEMORANDUM**

**TO:** Cochise County Board of Adjustment  
**FROM:** Christine McLachlan, AICP, Planner II  
**FOR:** Daniel Coxworth AICP, Development Services Director  
**SUBJECT:** Docket VAR 23-02 (TEP Wall), Application for a Variance  
**DATE:** April 25, 2023, for the May 3, 2023, Meeting

**Docket VAR 23-02 (TEP Wall)**

Mr. Chris Ortiz y Pino from Tucson Electric Power (applicant) requests an increase in the allowable height for a proposed wall in a rural zoning district, in which all walls and fences are limited to 8 feet in height. The applicant requests a variance to construct a 12-foot-tall masonry wall around an existing electrical switchyard. The subject property is located at 2633 East Three-Links Road Benson, AZ (Winchester substation) in unincorporated Cochise County. The granting of a variance is subject to approval from the Cochise County Board of Adjustment. If the Board approves the Docket, the Applicant must then obtain a building permit to construct any new structures.

*Figure 1: Request Location*



Location  
VAR 23-02 TEP Wall



**I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES**

**Site Size:** 6.6 Acres  
**Zoning:** RU-4 (Rural, one dwelling per 4-acres)  
**Growth Area:** Category D  
**Plan Designation:** Rural  
**Area Plan:** None  
**Existing Uses:** 345-kV electrical switchyard (Constructed in 2003) enclosed by chain link fence  
**Proposed Uses:** Same, with existing chain link fence replaced by 12’ tall masonry wall

**Surrounding Zoning and Uses**

Relation to Subject Parcel	Zoning District	Use of Property
North	RU-4	Undeveloped (State Trust Land)
South	RU-4	Undeveloped (State Trust Land)
East	RU-4	Undeveloped (State Trust Land)
West	RU-4	Undeveloped (State Trust Land)



*Current facility with chain link fence*

**II. SITE HISTORY**

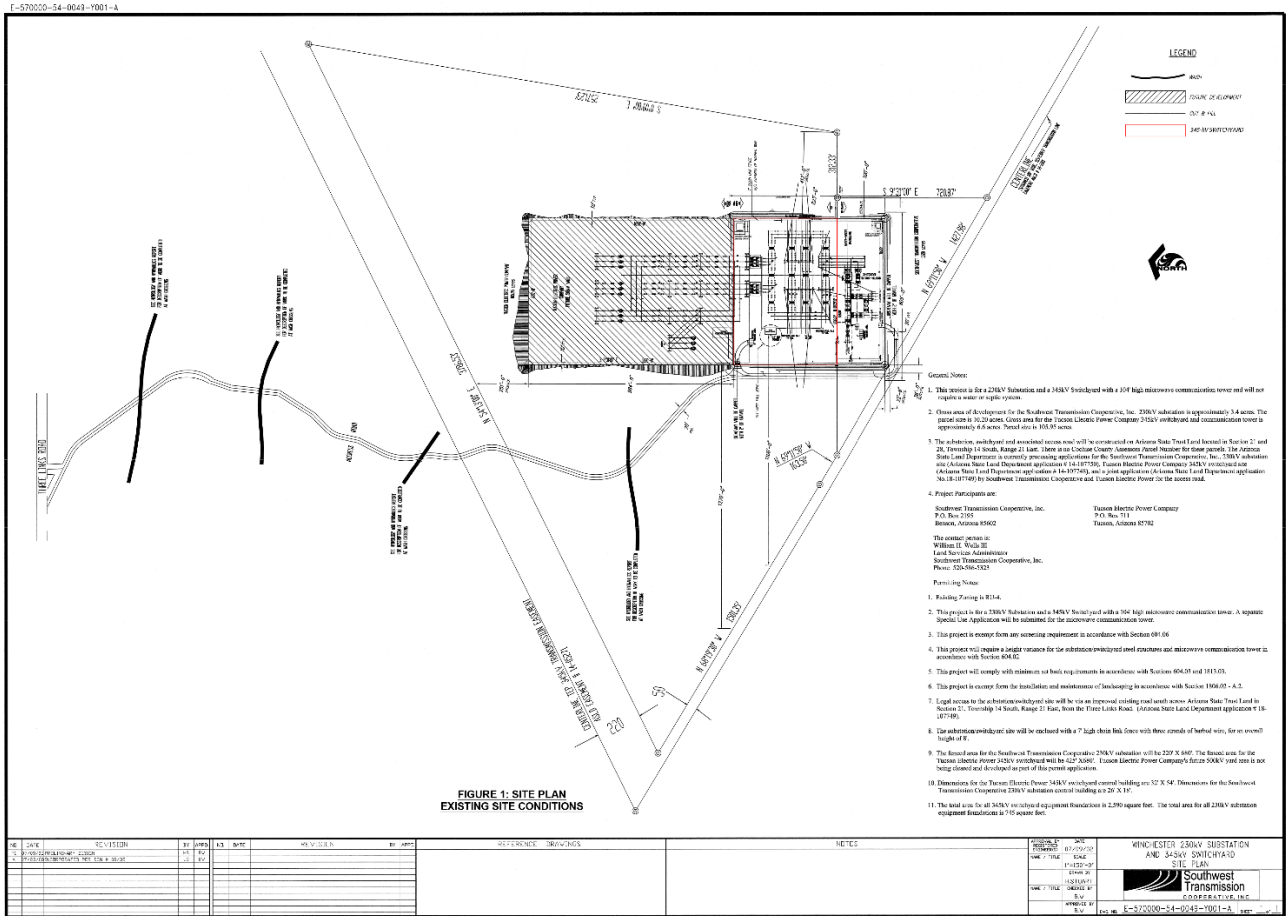
2003 – construction of a 230 kV substation (3.4 acres) and 345 kV switchyard (6.6 acres)

**III. REQUEST DESCRIPTION**

The Applicant requests to construct a masonry wall around the perimeter of an existing switchyard. The wall will replace an existing chain-link fence and will exceed the allowable wall/height permitted in the RU-4 zoning

district by four feet. The following is the site plan that reflects existing conditions (see application for enlargement)

Figure 2: Existing Site Plan





**IV. ANALYSIS OF IMPACTS – COMPLIANCE WITH VARIANCE FACTORS**

Section 2102.02 of the Zoning Regulations provides a list of eight factors with which to evaluate Variance applications. Staff uses these factors to help determine the suitability of a given variance request, whether to recommend approval for a variance, as well as to determine what conditions and/or modifications may be needed. With the information provided, eight (8) factors apply to this request. The project, as submitted, fully complies with seven (7) of the factors.

**1. There is an unnecessary hardship created by zoning regulations - Complies**

Section 604.02 of the Zoning Regulations limits walls or fences in rural zoning to 8 feet above grade. While this is a sufficient height for most uses within this designation, the project site includes a 345-kV switchyard, and is considered a bulk electric system facility. The infrastructure within this facility falls under the National Energy Regulatory Commission (NERC), which has created Critical Infrastructure Protection Standards (CIP). The recommended CIP include installation of a 12-foot-tall security wall. This exceeds the zoning allowance by four feet. The unique nature of the facility and its security needs cannot be adequately accommodated by the height limitation in section 604.02.

**2. There are peculiar site conditions present– Does not comply**

There are no physical conditions unique to the site.

**3. This is not a self-created hardship – Complies**

The request in response to the Federal Energy Regulatory Commission's order 706 "Mandatory Reliability Standards for Critical Infrastructure Program," which was issued in 2008, several years following the 2003 construction of this facility. The need for additional security in the form of a taller wall was not self-created.

**4. This is the minimum to afford relief – Complies**

As stated in the application, "TEP's physical security standards for CIP-014 rated transmission facilities call for a 12-foot wall around the perimeter of the site and to be topped with Ultra-Barrier. A 12-foot wall is ideal because a shorter wall is more easily bypassed by a buddy assisted lift, standard height ladder, or a truck parked in reverse at tail gate height."

**5. This is a permitted use in Zoning Regulations – Complies**

The application is for an increase in accessory height. The use is permitted within the zoning district and will not change as a result of this request.

**6. There is no adverse impact to surrounding property owners – Complies**

This is a physically isolated facility. As stated in the application, the site is "part of a larger 105.95-acre parcel leased from the Arizona State Land Department (ASLD)." The nearest property owner is approximately three miles east of the facility. The changes will not be visible from any private property. It is visible from a portion of Three Links Road, however the addition of a neutral painted wall could reduce the glare of the metal equipment, making the utility area less conspicuous. Moreover, as stated in the application, "the National Energy Regulatory Commission (NERC) required CIP-014 standard for the electric transmission system is a matter of national security and is not considered an advantage or special privilege over and beyond what is provided to other lots within the RU-4 Zone."



*View south to the facility from Three Links Road*

**7. General harmony with the intent and purposes of the Zoning Regulations – Complies**

As stated in the definition section, a fence is “An artificially constructed barrier, including walls, made with any standard construction material, including corrugated metal, erected to enclose areas of land.” Walls and fences are permitted accessory uses within rural zoning. Accessory uses are customarily incidental to an established permitted principal use. In this case, the principal use is an existing switchyard.

**8. No violation of state or federal law – Complies**

The request is part of response by the applicant, Tucson Electric Power (TEP), to come into compliance with federally mandated electric reliability standards. As stated in the application, “the Winchester Substation connects regional Extra-High Voltage (EHV) transmission lines connecting the Arizona-New Mexico-Southern Nevada Power Area, a subregion of the Western Interconnection. To comply with the Critical Infrastructure Protection Standards, TEP request a variance to Article 604.02 of the Cochise County Zoning Regulations governing the maximum wall height in the Rural Residential-4 zone. The requested protections for the Winchester Substation call for a new 12-foot Security wall with an Ultra-Barrier security cap and is the standard package TEP implements for all CIP-014 rated substations.”

**V. PUBLIC COMMENT**

Staff mailed notices to neighboring property owners within 300-feet on April 3, 2023. Staff posted the property on April 14, 2023 and published a legal notice on April 7, 2022. To date, staff has received no response.

**VI. SUMMARY AND CONCLUSION**

**Factors in Favor of Approving the Variances**

1. This variance request is consistent seven of the eight criteria used by staff to help determine the suitability of a given variance request.
2. Based on a recent TEP assessment, the Winchester Substation meets the threshold for CIP standards for physical security CIP-014 which identifies transmission facilities that if rendered inoperable or damaged as a result of a physical attack of sabotage could result in widespread instability, uncontrolled separation, or cascading within an interconnection.

**Factors Against Approving the Variance**

1. The hardship did not arise from a physical condition that is unusual or peculiar to the property (factor 2, section 2101.02).

**VII. RECOMMENDATION**

Based on the Factors in Favor of Approval as Findings of Fact, Staff recommends **Approval** of the Variance as requested.

*Sample Motion: Mr. Chairman, I move to approve Docket VAR 23-02 (TEP Wall), at the Winchester Switchyard located at 2633 East Three-Links Road, granting the Variance as requested by the Applicant, the Factors in Favor of approval constituting the Findings of Fact.*