

STAFF REPORT

June 4, 2009

No. 09SR024 - SDCL 11-6-19 Review to allow the construction of a public utility line and to authorize the granting of a utility easement

ITEM 23

GENERAL INFORMATION:

APPLICANT West River Electric Association, Inc.

AGENT Koozie Johnson

PROPERTY OWNERS Dwight and Linda Peterson
Johnson Bar Five Ranch Inc.
City of Rapid City
Sime Real Estate LLC
David S. Lamb
West River Electric Cooperative, Inc.

REQUEST **No. 09SR024 - SDCL 11-6-19 Review to allow the construction of a public utility line and to authorize the granting of a utility easement**

EXISTING
LEGAL DESCRIPTION a portion of the N1/2 NW1/4 less Lot H5 of NE1/4 NW1/4; N1/2 SE1/4 NW1/4 Less Lot H1, Lot 7 of the SW1/4 NW1/4, Lots 5 and 6 of the SW1/4 NW1/4, Lot A of lot 5 of the SW1/4 NW1/4, S1/2 SW1/4 NE1/4, excepting therefrom Lot H1 as shown on the Plat filed in Highway Plat Book 2 Page 246, and also excepting therefrom the Railroad right of way as conveyed in Warranty Deed Recorded May 11, 1906, In Deed Book 23, Page 590; S1/2 SE1/4 NW1/4; NE1/4 SW1/4; W1/2 SE1/4, excepting therefrom Tract A of the E1/2 SW1/4 the W1/2 SE1/4, Lot 1 WREA Subdivision, Lot 1 Wally Byam Addition, Lytle Lane Road Right-of-way from South Dakota Highway 44 South, (DOT RAILROAD), all in Section 9, T1N, R8E, BHM, Pennington County, South Dakota, Lot A Revised, formerly Lot A of Plat No.1 in the NW1/4 SW1/4, (DOT RAILROAD) all in Section 10, T1N, R8E, BHM, Pennington County, South Dakota, (DOT RAILROAD) in Section 15, T1N, R8E, BHM, Pennington County, South Dakota, that portion of E1/2 SE1/4 NE1/4 lying South of Hwy 44 & the Railroad Right-of-way less Lot H2; NW1/4 SW1/4; W1/2 W1/2 NE1/4 SW1/4; S1/2 SW1/4; E1/2 E1/2 SE1/4 less Lot H1, Section 15, T1N, R8E, BHM, Pennington County, South Dakota, South Dakota Highway 44 Road Right-of-Way from Twilight Drive to Reservoir Road, all in Sections 9, 10, 15, T1N, R8E, BHM, Pennington County, South Dakota

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ACREAGE	2.8 Acres
LOCATION	South of the intersection of the Southeast Connector and S.D. Highway 44, at the eastern terminus of Garden Lane and west of Pioneer Drive
EXISTING ZONING	Suburban Residential District (Pennington County) - General Agriculture District
SURROUNDING ZONING	
North:	Suburban Residential District (Pennington County) - General Agriculture District
South:	Suburban Residential District (Pennington County) - Limited Agriculture District (Pennington County) - General Agriculture District
East:	Limited Agriculture District (Pennington County)
West:	Suburban Residential District (Pennington County) - General Agriculture District
PUBLIC UTILITIES	N/A
DATE OF APPLICATION	3/27/2009
REVIEWED BY	Vicki Fisher / Karley Halsted

RECOMMENDATION:

Staff will recommend that the SDCL 11-6-19 Review to allow the construction of a public utility line and to authorize the granting of a utility easement be **approved if the applicant submits for review and approval two easement exhibits, one for each legal description, prior to the June 4, 2009 Planning Commission meeting.**

GENERAL COMMENTS:

(Update, May 22, 2009. All revised and/or added text is shown in bold print.) This item was continued at the May 21, 2009 Planning Commission meeting to allow the applicant to submit a revised Master Utility Plan and to submit a detailed Exhibit "A" document, sealed and signed by a surveyor or a Professional Engineer, showing the specific location of the proposed underground electric line and the proposed conduit. The applicant has subsequently submitted the information as identified. Staff has reviewed and approved the Master Utility Plan. In addition, an Exhibit "A" document, sealed and signed by a surveyor, was submitted showing a proposed utility easement on two properties. Staff has reviewed the document and noted that two separate easement exhibits must be submitted, one for each legal description, in order to correctly file the documents at the Register of Deed's Office.

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(Update, May 11, 2009. All revised and/or added text is shown in bold print.) This item was continued at the May 7, 2009 Planning Commission meeting to allow the applicant to submit additional information. On May 7, 2009, the applicant submitted a Master Utility Plan showing the location of existing utilities and the proposed underground electric line. Staff has reviewed the information and noted that the 27 inch water main currently located along S.D. Highway 44 is not shown. In addition, the Master Utility Plan does not show that portion of the sewer main extending from the east, across City property to S.D. Highway 44. The Master Utility Plan does show the sewer main located along S. D. Highway 44, however, it is shown on the wrong side of the street.

Staff recommends that this item be continued to the June 4, 2009 Planning Commission meeting to allow the applicant to revise the Master Utility Plan as noted and to submit a detailed Exhibit "A" document, sealed and signed by a surveyor or a Professional Engineer, showing the specific location of the proposed underground electric line and the proposed conduit.

(Update, April 24, 2009. All revised and/or added text is shown in bold print.) This item was continued at the April 23, 2009 Planning Commission meeting to allow the applicant to submit additional information. As of this writing, all of the required information has not been submitted for review and approval. As such, staff is recommending that the SDCL 11-6-19 Review be continued to the May 21, 2009 Planning Commission meeting to allow the applicant to submit the additional information.

The applicant has submitted a SDCL 11-6-19 Review to install a direct buried underground three phase electric line from South Valley Drive to Reservoir Road and to place three switching cabinets and one pad mounted three phase transformer in conjunction with the line. In addition, the applicant has indicated that a 2 inch conduit will be installed along the same trench as the direct buried line and from the intersection of Twilight Drive and S.D. Highway 44 to the intersection of Lytle Lane and S.D. Highway 44. The 2 inch conduit will allow for the future installation of a fiber optic line to be used solely by West River Electric Cooperative. The applicant has indicated that the proposed three phase underground electric line with cabinets will provide a tie line between multiple substations and provide future load growth and load management for West River Electric Cooperative.

A portion of the proposed direct buried underground three phase electric line is located on City property. As such, the applicant is also requesting the authorization to grant a utility easement on public property.

As noted above, the project is located between South Valley Drive and Reservoir Road. A portion of the project is located on private property and/or public property. A majority of the project is located within the S.D. Highway 44 right-of-way.

South Dakota Codified Law 11-6-19 states that "...whenever any such municipal council has adopted a comprehensive plan, then no street, park or other public way, ground, place, space, no public building or structure, no public utility, whether publicly or privately owned, if

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covered by the comprehensive plan or any adopted part thereof, shall be constructed or authorized in the municipality or within its subdivision jurisdiction until and unless the location and extent thereof shall have been submitted to and approved by the Planning Commission". The proposed project is for a public utility and the applicant is requesting that the City authorize granting a utility easement on public property. In addition, the property is identified as being located within the area covered by the Rapid City Comprehensive Plan requiring that the improvement be reviewed and approved by the Rapid City Planning Commission.

STAFF REVIEW:

Staff has reviewed the SDCL 11-6-19 Review and has noted the following considerations:

Design Plans: The design plans do not show the existing utilities currently located along this same corridor. As such, it is unclear if the proposed three phase underground electric line and/or the proposed 2 inch conduit will interfere with any existing utilities. Staff recommends that the SDCL 11-6-19 Review be continued to allow the applicant to submit a utility conflict analysis plan showing the proposed improvements in relation to the existing utilities within this same corridor.

(Update: May 11, 2009) As previously indicated, on May 7, 2009, the applicant submitted a Master Utility Plan showing the location of existing utilities and the proposed underground electric line. Staff has reviewed the information and noted that the 27 inch water main currently located along S.D. Highway 44 is not shown. In addition, the Master Utility Plan does not show that portion of the sewer main extending from the east, across City property to S.D. Highway 44. The Master Utility Plan does show the sewer main located along S. D. Highway 44, however, it is shown on the wrong side of the street.

Staff recommends that this item be continued to the June 4, 2009 Planning Commission meeting to allow the applicant to revise the Master Utility Plan as noted.

(Update: May 22, 2009) As noted above, the applicant has submitted a revised Master Utility Plan. In addition, staff has reviewed and approved the plan.

Easement: As previously indicated, the applicant is requesting that the Planning Commission authorize the granting of a utility easement for that portion of the project to be located on City owned property. However, to date, a detailed exhibit identifying the specific location of the line has not been submitted for review and approval to insure that the proposed improvements will not interfere with the City's Master Plan for the property. As such, staff recommends that the SDCL 11-6-19 Review be continued to allow the applicant to submit a detailed Exhibit "A" document, sealed and signed by a surveyor or a Professional Engineer, showing the specific location of the proposed underground electric line and the proposed conduit.

(Update: May 11, 2009) As of this writing, a detailed Exhibit "A" document, sealed and signed by a surveyor or a Professional Engineer, showing the specific location of the

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proposed underground electric line and the proposed conduit has not been submitted for review and approval. As such, staff recommends that this item be continued to the June 4, 2009 Planning Commission meeting to allow the applicant to submit the Exhibit "A" as identified.

(Update: May 22, 2009) As noted above, the applicant has submitted a detailed Exhibit "A" document, sealed and signed by a surveyor, showing the specific location of the proposed underground electric line and the proposed conduit. Staff has reviewed the document and noted that two separate easement exhibits must be submitted, one for each legal description, in order to correctly file the documents at the Register of Deed's Office.

Property Owner Signature: The applicant has indicated that the proposed underground electric line will be extended onto private property currently owned by "David S. Lamb" in order to connect to an existing switch cabinet located on the property. As such, the legal description on the application must be revised to include this property and the property owner must sign the application form. Staff recommends that this item be continued to allow the applicant to revise the application as identified.

(Update: April 24, 2009.) The applicant has revised the legal description to include the "David S. Lamb" property. In addition, Mr. Lamb has signed the application form.

Permits: An Air Quality Permit must be obtained from the City prior to any surface disturbance of one or more acres. A Stormwater Quality Management Plan in accordance with the adopted Stormwater Quality Manual must also be obtained prior to the start of construction. A Permit to Work in the Right-of-way must be obtained from the State and/or the City as needed prior to the start of construction. In addition, a Floodplain Development Permit must be obtained for any portion of the project located within the 100 year Federally designated Floodplain.

Staff will recommend that the SDCL 11-6-19 Review to allow the construction of a public utility line and to authorize the granting of a utility easement be approved if the applicant submits for review and approval two easement exhibits, one for each legal description, prior to the June 4, 2009 Planning Commission meeting.