

STAFF REPORT  
August 6, 2009

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**No. 09SR026 - SDCL 11-6-19 Review to expand a utility substation      ITEM 27**

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GENERAL INFORMATION:

APPLICANT	Black Hills Power
AGENT	Steven Dunn
PROPERTY OWNER	Kevin and Lori Lewis/ Black Hills Power
REQUEST	<b>No. 09SR026 - SDCL 11-6-19 Review to expand a utility substation</b>
EXISTING LEGAL DESCRIPTION	Lots 23 thru 26 with ten foot wide of an adjacent vacated alley of South Boulevard Addition, located in the NW1/4 of Section 12, T1N, R7E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 0.636 acres
LOCATION	East side of Fifth Street between Cleveland and Oakland Street
EXISTING ZONING	Low Density Residential District
SURROUNDING ZONING	
North:	Low Density Residential District
South:	Low Density Residential District
East:	Low Density Residential District
West:	Low Density Residential District
PUBLIC UTILITIES	City water and sewer
DATE OF APPLICATION	3/26/2009
REVIEWED BY	Travis Tegethoff / Ted Johnson / <b>Marcia Elkins</b>

RECOMMENDATION:

Staff recommends that the SDCL 11-6-19 Review to expand a utility substation be continued to the **August 27, 2009** Planning Commission meeting.

GENERAL COMMENTS: **(Update, July 30, 2009. All revised and/or added text is shown in bold print.) This item was continued previously to allow the City Council to review the related Fence Height Exception (09FV003.) Revised plans for the fence showing a wrought iron fence panel with brick pillars surrounding the entire substation site have been submitted. The applicant has requested that City Council consideration of the Fence Height Exception be continued to the August 17, 2009 City Council meeting. As**

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**such, staff is recommending that this SDCL 11-6-19 Review be continued to the August 27, 2009 Planning Commission meeting.**

(Update, July 14, 2009. All revised and/or added text is shown in bold print.) This item was continued to the July 23, 2009 Planning Commission meeting to allow the applicant to obtain a fence height exception or submit revised plans. On July 14, 2009 the Public Works Committee recommended to continue the fence height exception to the July 28, 2009 Public Works Committee meeting to allow the applicant to submit additional information. As such, staff recommends that this item be continued to the August 6, 2009 Planning Commission meeting.

(Update, June 29, 2009. All revised and/or added text is shown in bold print.) This item was continued to the July 9, 2009 Planning Commission meeting to allow the applicant to obtain a fence height exception or submit revised plans. The fence height exception will be considered at the July 6, 2009 City Council meeting. In addition, based on the discussions at the neighborhood meeting additional information on the location of substation and noise data was requested for review. To date, no additional information has been submitted. As such, staff recommends that this item be continued to the July 23, 2009 Planning Commission Meeting.

(Update, May 26, 2009. All revised and/or added text is shown in bold print.) This item was continued to the June 25, 2009 Planning Commission meeting to allow the applicant to obtain a fence height exception or submit revised plans. On June 10, 2009, a neighborhood meeting was held to discuss this application and the associated fence height exception. The fence height exception will be considered at the July 6, 2009 City Council meeting. As such, staff recommends that this item be continued to the July 10, 2009 Planning Commission meeting.

(Update, May 26, 2009. All revised and/or added text is shown in bold print.) This item was continued to the June 4, 2009 Planning Commission meeting to allow the applicant to obtain a fence height exception or submit revised plans. On May 18, 2009, City Council scheduled a neighborhood meeting for June 10, 2009 to discuss this application and the associated fence height exception. As such, staff recommends that this item be continued to the June 25, 2009 Planning Commission meeting.

(Update, May 13, 2009. All revised and/or added text is shown in bold print.) This item was continued to the May 21, 2009 Planning Commission meeting to allow the applicant to obtain a fence height exception or submit revised plans. On May 12, 2009 the Public Works Committee recommended to continue the fence height exception to the May 26, 2009 Public Works Committee meeting. As such, staff recommends that this item be continued to the June 4, 2009 Planning Commission meeting.

(Update, April 28, 2009. All revised and/or added text is shown in bold print.) This item was continued to the May 7, 2009 Planning Commission meeting to allow the applicant to obtain a fence height exception or submit revised plans. On April 24, 2009 the applicant submitted a fence height exception that will be considered at the May 18, 2009 City Council meeting. As such, staff recommends that this item be continued to the May 21, 2009 Planning Commission meeting.

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The applicant has submitted a SDCL 11-6-19 Review to expand a utility substation located on the east side of Fifth Street between Cleveland Street and Oakland Street. The property is currently zoned Low Density Residential District and a utility substation and single-family residence is currently located on the property.

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 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". As previously indicated the proposed construction is a public utility requiring that the Planning Commission review and approve the proposed construction.

**STAFF REVIEW:**

Staff has reviewed the South Dakota Codified Law 11-6-19 review and noted the following considerations:

**NOISE RATING:** At the June 10, 2009 neighborhood meeting there was considerable concern with the amount of noise generated from the proposed development. An acceptable noise rating of 65dB to 70dB is appropriate within a residential district. As such, staff is recommending that prior to Planning Commission approval, the applicant submit documentation providing existing noise reading on the existing structure with the fans operating and without the fans operating and demonstrate acceptable noise ratings within a residential district for the proposed equipment.

On July 1, 2009 the applicant submitted documentation indicating that the proposed equipment will not exceed 70dB at the property lines adjacent to the residential district.

**LOCATION:** At the June 10, 2009 neighborhood meeting there was discussion about alternative locations for the proposed substation. As such, staff is recommending that prior to Planning Commission approval, the applicant demonstrate the need for a substation at this location and provide additional information on alternative sites, specifically including the area south of the Rapid City Regional Hospital.

On July 1, 2009 the applicant submitted a letter identifying three alternative locations. However, the applicant stated that one of the sites the land owner was not willing to sell their property, one of the sites was located in an existing residential area and the other site would still require that this location be updated because the proposed site was too far from the existing load center.

**BUILDING PERMITS:** Staff noted that a building permit must be obtained prior to any construction and a certificate of occupancy obtained prior to occupancy.

**SETBACKS:** The applicant has requested to reduce the front yard setback along 5<sup>th</sup> Street and Cleveland Street from 35 feet to 30 feet to allow proper separation of the utility equipment. Staff

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noted that the existing and proposed equipment will be buffered from adjacent properties with the proposed landscaping and separated from surrounding residential uses by the 5<sup>th</sup> Street and Cleveland Street right-of-way. As such, staff recommends that an exception be granted to reduce the front yard setback from 35 feet to 30 feet.

**PARKING:**

The applicant has submitted a site plan as part of this application showing four parking spaces, including two van accessible handicap spaces. The minimum standard for this property is two parking spaces, including one handicap space. The submitted site plan meets the minimum requirements of Section 17.50.270 of the Rapid City Municipal Code.

**LANDSCAPING:** The applicant has submitted a landscaping plan showing 32,530 landscape points as part of this application. A minimum of 27,231 landscape points is required. The submitted landscaping plan meets the requirements of Section 17.50.300 of the Rapid City Municipal Code.

**FENCING:**

The applicant is proposing a 7 foot high chain link fence in the front, side and rear yards of the property. As per Section 15.40.040 of the Rapid City Municipal Code, fences and walls may be four feet in height in the front yard and six feet in height in the side and rear yards in the Low Density Residential Zoning District. As such, staff recommends that this item be continued to allow the applicant to obtain a fence height exception or submit a revised plan in compliance with Section 15.40.040 of the Rapid City Municipal Code.

On April 24, 2009, the applicant submitted a fence height exception to allow an 8 foot high fence with barbed wire. The fence height exception is scheduled to be considered at the May 18, 2009 City Council meeting. As such, staff recommends that this item be continued to allow the applicant to obtain a fence height exception or submit a revised plan in compliance with Section 15.40.040 of the Rapid City Municipal Code.

On May 12, 2009 the Public Works Committee recommended to continue the fence height exception to the May 26, 2009 Public Works Committee meeting. As such, staff recommends that this item be continued to the June 4, 2009 Planning Commission meeting.

On July 14, 2009 the Public Works Committee recommended to continue the fence height exception to the July 28, 2009 Public Works Committee meeting to allow the applicant to submit additional information. As such, staff recommends that this item be continued to the August 6, 2009 Planning Commission meeting.

**The applicant has requested that the City Council continue the related Fence Height Exception to the August 17, 2009 City Council meeting. As such, staff recommends that this SDCL 11-6-19 Review be continued to the August 27, 2009 Planning Commission meeting.**

**FIRE PROTECTION:**

Staff recommends that all applicable codes of the International Fire Code be continually met.

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REDLINE COMMENTS:

Staff is recommending that prior to Planning Commission approval, all redline comments made on the construction plans must be addressed and resubmitted for review and approval. In addition, the red lined drawings must be returned to the Growth Management Department.

On April 24, 2009 the applicant submitted revised plans addressing all redline comments.