

STAFF REPORT

Date: August 28, 2024

To: Mayor and City Council

Through: Jackie Bryant, Interim City Manager

Subject: **Staff Report (For Possible Action): Case No. LDC24-00015 (NV Energy Utility Corridor) Appeal of the Planning Commission's decision to include Condition of Approval No. 9 in their approval of a conditional use permit to: a) establish a major utility to allow for the construction of a new overhead 120kV electrical power line, and b) allow for hillside development. Condition No. 9 requires matching of the general alignment as presented in the Final Environmental Impact Statement. The corridor alignment for the utility is generally located between the Bordertown substation (Cold Springs area) to the north and the California substation (Verdi area) to the south. Approximately 4.1 miles of the overall ±10.9 mile Nevada portion of the power line are within the City of Reno with the remainder in unincorporated Washoe County. The request is a Project of Regional Significance (PRS) and requires an amendment to the Truckee Meadows Regional Plan to establish a new regional utility corridor. Appeals were filed by the applicant, NV Energy, and Heinz Ranch Land Company LLC. City Council may affirm, modify, or reverse the decision of the Planning Commission.**

From: Nathan Gilbert, Principal Planner

Department: Development Services

Summary:

This is a public hearing to consider an appeal of the Planning Commission's decision to include Condition of Approval No. 9 in their approval of a conditional use permit to: a) establish a major utility to allow for the construction of a new overhead 120kV electrical power line, and b) allow for hillside development. The applicant had proposed to deviate from the alignment evaluated in the Final Environmental Impact Study (FEIS) on two private parcels to better facilitate future development within the Stonegate Planned Unit Development (PUD). As proposed, the corridor would jog ±0.4 miles west and straddle the property lines of four existing parcels (one developed) with pole placement through forested areas at elevations ±60 feet higher than the FEIS alignment. Condition No. 9 requires that the alignment of the utility corridor generally match the alignment presented in the FEIS in the Cold Springs area. Appeals of the Planning Commission's decision

have been filed (**Exhibit A**), and are generally summarized below:

- NV Energy appealed noting a negotiated utility easement recorded in 2020 as the preferred alignment in the Cold Springs area, the opinion that the Planning Commission erred in determining required findings, and that there is “...no discernable difference in impacts to the public between this modified alignment and the FEIS route.”
- Heinz Ranch Land Company LLC appealed noting a negotiated utility easement recorded in 2020 as the preferred alignment in the Cold Springs area, that “the Planning Commission erred in adopting Condition 9 rather than utilizing the Heinz Ranch easement,” and that the FEIS route is not “...compatible with surrounding development as contemplated by the Stonegate PUD or with the pending Master Plan Amendment and Zoning Map Amendment sought by Heinz Ranch.”

Alignment with Strategic Plan:

Economic and Community Development

Infrastructure, Climate Change, and Environmental Sustainability

Previous Council Action:

There is no recent Council action relevant to this item.

Background:

A detailed project analysis is provided in the attached Planning Commission staff report (**Exhibit B**). The Planning Commission discussion is summarized in the following points:

- Overall support of the proposed major utility corridor with the exception of the requested alignment deviation in the Cold Springs area from the route analyzed in the FEIS.
- Concern with the absence of information on environmental impacts in the area of proposed alignment deviation. Discussion ensued regarding the possibility of continuing the item to enable environmental impact assessments.
- One Commissioner supported the applicant’s request to remove Condition 9 on the premise that federal agencies will be doing a thorough review. Other Commissioners expressed concern that post-action federal FEIS modifications would not be applicable to private property and that the Commission needed this information upfront to assist in their review and ability to make required conditional use permit findings.
- The Planning Commission upheld staff recommendations and approved the conditional use permit with conditions, which maintain the utility corridor alignment outlined in the FEIS.

Minutes from the June 6, 2024, Planning Commission public hearing are attached (**Exhibit C**). At the Planning Commission hearing, 16 members of the public spoke in opposition citing concerns related to the overall corridor in relation to impacts on multi-use recreation (in the area subject to Washoe County and Forest Service jurisdiction), opposition to the proposed deviation from the corridor alignment outlined in the EIS related to Condition No. 9, and request for consideration of undergrounding utilities.

Financial Implications:

None at this time.

Legal Implications:

Legal review completed for compliance with City procedures and Nevada law.

Recommendation:

Staff recommends Council review the letter of appeal and Planning Commission action and affirm, modify, or reverse the Planning Commission's decision.

Proposed Motion:

Below are proposed motions with the findings for affirmation, modification, and reversal of the Planning Commission decision.

Motion to Affirm Planning Commission Decision

(Denying the appeals and approving the conditional use permit)

Regarding the appeal of LDC24-00015 (NV Energy Utility Corridor), based on Council's review of the staff report, the record on appeal, and information presented at the public hearing for this appeal, and based on my ability to make all the findings, I move to AFFIRM approval of the conditional use permit by the Planning Commission and DENY the appeals. The City Clerk is instructed to prepare and file an order.

Motion to Modify Planning Commission Decision

(Affirming the appeal and modifying the conditions of the conditional use permit)

Regarding the appeal of LDC24-00015 (NV Energy Utility Corridor), based on this Council's review of the staff report, the record on appeal, and information presented at the public hearing, I move to AFFIRM the appeal and MODIFY the decision of the Planning Commission as follows _____*. As modified, I can make all the required findings as listed in the staff report, and I move to APPROVE the conditional use permit subject to conditions stated in the Planning Commission decision letter and as modified by the City Council. The City Clerk is instructed to prepare and file

an order. *Modifications to the conditions of approval outlined in the Planning Commission staff report are: [List modifications]

Motion to Reverse Planning Commission Decision

(Affirming the appeal, reversing the Planning Commission decision, and denying the conditional use permit)

Regarding the appeal of LDC24-00015 (NV Energy Utility Corridor), based on this Council's review of the staff report, the record on appeal, and information presented at the public hearing, I move to AFFIRM the appeal, REVERSE the approval of the conditional use permit by the Planning Commission, and directly DENY the conditional use permit, based on the inability to make all the applicable findings. The City Clerk is instructed to prepare and file an order.

Attachments:

Exhibit A – Appeals

Exhibit B – Planning Commission Staff Report

Exhibit C – Planning Commission Minutes 6-6-24 (Excerpt)

NV Energy Utility Corridor Appeal Legal Notice