



MARION COUNTY COURTHOUSE

MARION COUNTY, KANSAS

PLANNING & ZONING/ENVIRONMENTAL HEALTH

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STAFF REPORT

July 18, 2016

TO: Marion County Planning Commission/Board of Zoning Appeals

FROM: Emma Tajchman, Director of Planning and Zoning

SUBJECT: PC-16-02 – Request for a Conditional Use Permit to construct an electric substation on property zoned “AG” Agricultural District in the Northwest Quarter of the Northwest Quarter S09-T21S-R4E, generally located at 120th Street and Timber Road, Florence, Marion County, Kansas.

This is the request of Westar Energy, agent, on behalf of Blair R. Tharp and Nancy C. Tharp, Co-Trustees of the Blair R. Tharp Revocable Living Trust, owner, requesting a Conditional Use Permit to construct an electric utility substation on property zoned “AG” Agricultural District in the Northwest Quarter of the Northwest Quarter S09-T21S-R4E.

Westar Energy has submitted information that identified the need for a new electrical substation in the general area. The current Florence Junction Substation poses several issues to be improved upon, and replacement was deemed necessary. Following discussions with the landowner, Westar concluded a purchase agreement for the property identified within this application as the best location for the new substation. Under the Marion County Zoning Regulations, a Conditional Use Permit is required to authorize the placement of an electric substation; primarily in order to address the appropriateness of the specific location and also the associated impact from the construction of the facility due to the size and weight of the equipment often placed therein.

The Marion County Zoning Regulations has two specific sections that deal with submittal requirements for a Conditional Use Permit request. The standards for submittal of a Development Plan are outlined in Article 12. A site plan has been submitted showing the proposed electric substation on the overall property. It is anticipated to cover approximately 40 acres of land, with the equipment yard being 350 feet by 450 feet and the remaining 36.39 acres used for green space and agricultural purposes. The site plan shows the entrance to the substation is from 120th Street. Westar officials will need to confirm the proposed haul route to be used during construction and operations of the proposed substation with Jesse Hamm, Director of Marion County Road and Bridge Department, and the Board of County Commissioners. It is expected that an agreement addressing any area impact or concerns

regarding road maintenance will be presented prior to Board of County Commission approval of this Conditional Use Permit.

In Article 24 of the Marion County Zoning Regulations, the factors to be considered for a Conditional Use Permit are listed. The Marion County Planning Commission may recommend approval of a Conditional Use, and the Governing Body may approve such Conditional Use, using the following factors as guidelines. Those factors, and staff comments where appropriate, are as follows:

- A. *Whether approval of the Conditional Use would be consistent with the intent and purpose of these Regulations;*

Staff feels this request is consistent with the spirit and intent of the Marion County Zoning Regulations. The Regulations provide this methodology to address these types of utility uses in the rural area, and staff believes this particular use will benefit the larger Marion County community and not be harmful to the overall agricultural operations of surrounding properties.

- B. *Whether the location of the proposed use is compatible to other land uses in the surrounding neighborhood;*

As noted above, staff does not believe these facilities will be harmful to surrounding properties.

- C. *Whether the proposed use places an undue burden on the existing transportation and service facilities in the area affected and, if so, whether such additional transportation and service facilities can be provided;*

This is the primary concern that should be addressed as part of this application. Staff would recommend that a road maintenance agreement be addressed with the BOCC prior to final approval.

- D. *Whether the proposed use is made necessary or desirable because of changed or changing conditions in the area affected;*

As stated within the other materials supplied, Westar Energy's current Florence Junction Substation location causes maintenance to be difficult and thus decreases reliability of the utility service. The proposed site is favorable because it is adjacent to the existing substation and centrally located to existing transmission lines. The existing substation is to be demolished within a reasonable timeframe of completion of the new project.

- E. *The length of time the subject property has remained vacant or undeveloped as zoned; provided, the use of land for agricultural purposes shall be considered as viable use of the land and not be considered as allowing the land to be vacant or undeveloped;*

Staff does not believe this is applicable.

F. *Whether the applicant's property is suitable for the proposed use;*

Staff does not believe this is applicable.

G. *The recommendations of permanent or professional staff;*

See below.

H. *Whether the proposed Conditional Use would be in conformance to and further enhance the implementation of the Comprehensive Plan;*

The Comprehensive Plan does not provide much guidance relative to this type of operation. As such, the Comprehensive Plan's applicability is vague at a minimum and irrelevant at best. The general intent is to accommodate utility support services where appropriate.

I. *Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed on the applicant by not upgrading the value of the property by approving the proposed Conditional Use;*

Staff believes there are no public health, safety, and general welfare concerns that warrant a denial of this request, and the issues impacting the public road system are being addressed in a detailed manner such that associated issues will be appropriately mitigated.

J. *Whether the proposed Conditional Use, if it complies with all the conditions upon which the approval is made contingent (as authorized in Article 22 of these Regulations), will not adversely affect the property in the area affected; and,*

Staff does not believe any property in the area will be adversely affected by the approval of the Conditional Use Permit as requested.

K. *Such other factors as may be relevant from the facts and evidence presented in the application.*

See comments below.

Staff Recommendation:

Based on the evaluation of the above criteria, staff recommends this application be recommended to the Marion County Board of County Commissioners for approval, subject to completion of the Road Agreement between Marion County and Westar.

Suggested Motion:

I move that Case No. PC-16-02, the request of Westar Energy, agent, on behalf of Blair R. Tharp and Nancy C. Tharp, Co-Trustees of the Blair R. Tharp Revocable Living Trust, owner, requesting a Conditional Use Permit to construct an electric utility substation on property zoned "AG" Agricultural District in the Northwest Quarter of the Northwest Quarter S09-T21S-R4E, be recommended for approval to the Marion County Board of County Commissioners, subject to the completion of the Road Agreement between Marion County and Westar to the satisfaction of the County Commission, for the reasons stated in the staff report and as heard at this public hearing.