

Exhibit DTW 13

**Wasatch County
Planning Commission
August 13, 2015**



Item #1

Rocky Mountain Power

Conditional Use

Continued from May 14 and July 9, 2015 mtgs.

PLANNING COMMISSION APPROVAL - DOES NOT GO ON TO COUNTY COUNCIL

**Wasatch County
Planning Commission Staff Report
August 13, 2015**

ITEM: 1

Don Watts, representative for Rocky Mountain Power, is requesting a conditional use permit for a new double circuit 138 kv line with above grade pole heights that are between 50 – 85 feet. The proposal is on the west side of Browns Canyon south of the Wasatch/Summit county line in Section 36, Township 2 South, Range 4 East in the JBOZ (Jordanelle Basin Overlay Zone). *Continued from May 14th meeting.*

BACKGROUND:

This proposal is for a new alignment of a 138 kv line which requires Conditional Use Permit (CUP) approval. The proposal is located in the Jordanelle basin south of the Summit/Wasatch County boundary line on the west side of Browns Canyon Road. This is north and adjacent to a newly approved medium density development referred to as Black Rock Ridge phases 4-7.

The Planning Commission continued the conditional use from the March 12, 2015 Planning Commission meeting to the May 14th meeting then to the July 9th meeting and finally to August 13th. The purpose for the continuances was for the applicant to work with the stakeholders and discuss how to get the proposal to work within the ordinance. The applicant has met with the County staff, the developer to the south and east and Promontory, the development in Summit County to the north.

The power line currently runs through the middle of the Promontory development in Summit County. According to Rocky Mountain Power (RMP) the line needs to be upgraded and Promontory wanted the line moved out of that portion of their property. An easement agreement was reached between RMP and Promontory to relocate the power line into a new easement in Wasatch County. As far as Planning Staff and other Wasatch County administration is aware there were no discussions with Wasatch County at that time to see if the line and pole locations would be approved. According to RMP, negotiations with Promontory to move the line outside of the new easement have not been well received.

The power line easement is adjacent to a medium density development that is under construction. Structures could be within 20-50' of the power poles.

The poles are proposed to be wood structures (except for the corner pole) and it appears that there are 6 poles in the County. Poles are between 50 and 85 feet above grade.

All properties within 500' of the proposal have been sent a letter regarding this proposal as part of the conditional use.

ANALYSIS:

Conditional Use - The zone allows for power lines as a conditional use. Typically conditional uses are uses that are deemed appropriate but may require conditions to make them acceptable and fit in with the surrounding environment. Therefore a conditional use is typically allowed but may require conditions. In this situation the location of the use has been determined (at least according to the applicant) prior to approaching the County. The Planning Commission should perform their review without any concern for the existing easement. The determination should be if the use is appropriate, can the impacts be mitigated and can all the findings listed below from 16.23.07 be met. If they cannot be met in the proposed location then the proposal should be denied.

The applicant has two issues first is the conditional use and mitigating any impacts the second is the ridgeline ordinance. If the line is moved farther away from the residents the proposal violates the ridgeline ordinance.

The italicized comments represents Planning Staff's opinion pertaining to compliance or lack of compliance with the findings the Planning Commission must make in order to approve the request.

Section 16.23.07 requires specifically the Planning Commission to find that:

1. The application complies with all requirements of Title 16; *the applicant has provided photo simulations of the proposed poles that would be in Wasatch County and it appears that they will be under the ridgeline however the poles in Summit County that are part of the system will violate the ridgeline. We cannot enforce the ordinance outside of the County boundaries. Along with the ridgeline issue is the impact of the proposal on the neighboring development and if the impacts can be mitigated. Mitigating any impacts, in staffs opinion, would require moving the poles away from the dwellings.*
2. The business shall maintain business license if required; *Not applicable*
3. The use will be compatible with surrounding structures in use, location, scale, mass, design and circulation; *there are structures immediately south and there will be structures adjacent to the east. The structures to the east have a 35' height maximum and the 17-plex structure to the south is around 40-45' high. The poles will be visible above the residential structures and will not fit in with the residential uses. Again*

staff feels that the impacts created by the use is due to the proximity to the dwellings.

4. *The visual or safety impacts caused by the proposed use can be adequately mitigated with conditions; Even with poles below the ridgeline there will still be impacts. Vegetation will be removed, poles will still be visible and within close proximity to residential uses. Can these impacts be mitigated other than by moving them away from the residences?*
5. *The effects of any future expansion in use or scale can be and will be mitigated through conditions; If this proposal is approved any change or expansion in the use would require new conditional use approval.*
6. *All issues of lighting, parking, the location and nature of the proposed use, the character of the surrounding development, the traffic capacities of adjacent and collector streets, the environmental factors such as drainage, erosion, soil stability, wildlife impacts, dust, odor, noise, and vibrations have been adequately mitigated through conditions; The location of the poles with their proximity to the medium density residential uses may not be appropriate and may not be able to be mitigated.*
7. *The use will not place an unreasonable financial burden on the County or place significant impacts on the County or surrounding properties, without adequate mitigation of those impacts. The applicant has provided in his submittal a study showing that power lines do not have a detrimental impact to property values. It could be argued that they do however.*
8. *The use will not adversely affects the health, safety or welfare of the residents and visitors of Wasatch County. Staff has not heard of conclusive proof of the negative effects of power lines adjacent to residential homes but that issue has been argued.*

Ridgeline Issues - Below is the section of the code governing development on a ridgeline:

16.27.22 Purpose:

A. It is the intent of this section to protect the valuable views of the ridgelines of Wasatch County by providing regulations, which will limit the building of structures that protrude above primary and secondary ridgelines, or will mitigate the appearance of such structures if prevention is not possible.

B. Applicability: These regulations apply to all land use applications in

Wasatch County for which any portion of a proposed structure protrudes above ridgelines when viewed from the designated viewing platforms as shown on the adopted viewing platform map. Any rezoning, proposed development or building permit shall be subject to compliance with these regulations, irrespective of whether specific reference to the regulations is made in this title. In the event of an overlapping or conflicting requirement of this chapter and other provisions or regulations in this code, the more restrictive provision shall apply. All proposals for development of preexisting lots of record or platted plots that may be located within the primary or secondary ridgeline areas are subject to conditional use approval.

The viewing platform for this area is the intersection of Browns Canyon and Highway 248. The visual simulations are all from the above noted platform.

POSSIBLE FINDINGS:

- The existing power line is currently in the middle of the Promontory development within an easement wholly in Summit County. RMP purchased a new easement in Wasatch County with the intent to re-align the power poles for the benefit of Promontory residents and the development.
- The County was not consulted about the re-alignment prior to the easement purchase.
- A conditional use allows for uses that may be appropriate with conditions to mitigate negative effects.
- The basis of having a use be conditional is that many uses which may be appropriate in various zoning districts, may not be appropriate due to the facts of a specific request such as proximity to a dissimilar use.
- Due diligence was not done to see what approvals, if any, would be required to locate the power line in Wasatch County.
- The Planning Commission should review this with no regard to its history or the easement and should not feel obligated to approve the alignment just because of the recorded easement which, again, was purchased without any due diligence on the part of the applicant.
- If the negative impacts of the proposal cannot be overcome with conditions the proposal should be denied.
- The County is not obligated to fix a problem created by the applicant.
- The proposal does not comply with policy 1.1.2 of the Wasatch County General Plan.
- The ridgeline ordinance refers to structures not dwellings.

ALTERNATIVE ACTIONS:

1. Recommendation for denial. This action can be taken if the Planning Commission feels that the request does not meet the requirements of the ordinance and negative impacts cannot be mitigated.
2. Recommendation for conditional approval. This action can be taken if the Planning Commission feels that conditions placed on the approval can resolve any outstanding issues.
3. Recommendation for continuance. This action can be taken if the Planning Commission feels that there are unresolved issues.

PROPOSED CONDITIONS (if approved):

1. Poles must be wood if possible.
2. It must be demonstrated that the poles are at lowest height necessary and comply with the ridgeline analysis.
3. If metal poles are used at corner locations they must be the rust colored metal.
4. Conductors must be earth toned.
5. If the applicant cannot comply with the ridgeline ordinance they may need to go to the Board of Adjustment for a variance or appeal.

Attachments:

Letter of opposition from neighboring property owner



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N ↑

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N ↑





COALVILLE TO SILVER CREEK

PHOTO SIMULATION
OPTION 1



PHOTO COURTESY OF THE ARIZONA HIGHWAY DEPARTMENT, 2016. PHOTO COURTESY OF THE ARIZONA HIGHWAY DEPARTMENT, 2016.

COALVILLE TO SILVER CREEK | OPTION 2



WE



ARIZONA DEPARTMENT OF TRANSPORTATION

PLANNING DEPARTMENT

CONVULSIONS, INC. PROJECT
10000 S. 100th St., Suite 100, Kent, WA 98148
Tel: 206.835.1111



August 5, 2015

Wasatch County Planning Commission
c/o Doug Smith, Director, Wasatch County Planning and Zoning
55 South 500 East
Heber City, UT 84032

Dear Wasatch County Commissioners:

I am writing as a Black Rock Ridge homeowner and taxpayer to express my concerns about the proposal to construct high power electric lines directly adjacent to my neighborhood.

I request that the "conditional use permit" for the construction of these power lines be DENIED.

Please consider each of the following negative environmental, aesthetic and financial impacts to the Black Rock Ridge community as you prepare to vote:

- The proposed high power lines would be placed within 50 to 75 feet of a medium residential area. This is too close for safety and health.
- The high capacity electrical lines could generate audible noise in the neighborhood.
- Studies of populations living near high powered lines show a link between strong electrical fields and health problems. (Please see an attached list of references.)
- The combined height and mass of the poles and lines may not meet county standards for construction.
- The extreme height of the poles does not fit the design of a residential area and would create an eyesore along the ridge.
- The combined mass of the poles coupled with high powered lines would detract from the appeal of the neighborhood and the underlying mountain ridge.
- The scale of the project, as a whole, would be out of proportion with the aesthetic quality of the Black Rock Ridge neighborhood.
- The financial impact on Black Rock Ridge homeowners would be significant. Property values would decrease based on the presence of nearby, negatively perceived power lines.

Sincerely

Andrew Muller
Black Rock Ridge Homeowner
1291 Black Rock Trail

Doug Smith

From: Sue McBride <suefmcbride@yahoo.com>
Sent: Thursday, August 06, 2015 9:01 AM
To: Doug Smith
Cc: Black Rock Ridge
Subject: Sue and Jerry McBride

Doug,

As residents of Black Rock Ridge, Jerry and I would like to go on record that we are opposed to the placement of power lines behind our home. We own 14192 Council Fire Trail.

Thank you,

Sue and Jerry McBride

Sent from my iPhone

August 6, 2015

Wasatch County Planning Commission
c/o Doug Smith, Director, Wasatch County Planning and Zoning
55 South 500 East
Heber City, UT 84032

Dear Wasatch County Commissioners:

We are writing as Black Rock Ridge homeowners and taxpayers to express our concerns about the proposal to construct high power electric lines directly adjacent to our neighborhood. We are not sure that we can attend the meeting, thus this email.

We request that the "conditional use permit" for the construction of these power lines be DENIED.

There are lots of items that point to why these power lines should not move forward as suggested, such as the overall visual presentation that will impact the beauty of the area, which in turn effects the environmental issues along with the financial impacts it will have to our community.

It has also come to our attention that the "due diligence" process required for these power lines in construction was not followed.

If the planned development moves forward, Wasatch County tax revenues may suffer. If property values in our community decreases because of nearby power lines, this would, in turn, lower the tax revenue base in this and other nearby developing communities. Loss of revenue would hurt the quality of county school services and other important activities enjoyed by the community. This proposal needs to be DENIED!

We urge you to give serious consideration to all concerns.

We request that our letter be put into the notes of the commission meeting on August 13 and be included in the meeting information packet for each of the commissioners, along with any other information to the public regarding this proposal.

Thank you for listening to our concerns.

Bruce and Kathleen Benson
Black Rock Ridge Homeowners