Midway

CITY COUNCIL MEETING STAFF REPORT

DATE OF MEETING:	May 21, 2024
NAME OF PROJECT:	Judge Transmission Line Rebuild
NAME OF APPLICANT:	Rocky Mountain Power
AGENDA ITEM:	Amended Conditional Use Permit
LOCATION OF ITEM:	Midway substation near the Midway Cemetery to the Wasatch Mountain State Park crossing the Swiss Alpine Road area and the lower area of Lime Canyon
ZONING DESIGNATION:	R-1-22 and P-160

ITEM: 8

Rocky Mountain Power applied for a Conditional Use Permit to rebuild the existing Judge transmission line and install a wildfire standard transmission line per Utah Code Ann 54-24-201. The City Council approved the conditional use permit on November 7, 2023, conditioned upon the applicant adhering to the proposed engineering submitted to the City. The proposed engineering for the new lines documented average pole height increases in Midway of ten (10) feet. Specific proposed pole heights provided subsequent to the CUP show average pole increases in Midway closer to fifteen (15) feet. Minutes from the November 7, 2023, City Council meeting reflect that "any proposed changes after a CUP was granted would have to come back to the council for approval". Accordingly, the applicant is back to request amendment to the CUP based upon the specific pole heights provided.

BACKGROUND:

The request for and receipt by the applicant of a Conditional Use Permit (CUP) was for purposes of rebuilding the existing 46kV transmission line with 138kV framing and steel structures. The length of the project is 9.24 miles with approximately 2.5 miles of the line within Midway City limits. Currently, all the poles are wood and each of the wood poles will be replaced, pole for pole, with steel poles, except switch structures, which will be fiberglass poles.

The information provided by the Applicant in connection with its CUP application made the following representations (emphasis added):

> *• The rebuild of the new transmission lines will be pole for pole in the existing alignment.*
> *• The existing wood structures will be replaced with corten steel structures which will weather and blend well with surroundings.*
> *• The new structures will have longer insulators. Due to the longer insulators as well as more stringent wildfire design standards the steel structures will be about on* ***average 10 feet taller.***
> *• The project will start in March of 2024 and be complete by October 2024.*
>
> *Design Criteria:*
> *•* ***10' average height increase from existing poles***
> *• Estimated Length: 9.24 Miles*
> *• Operation Voltage: 46kV*
> *• Construction Voltage: 138kV*
> *• Company avian protection standards applied to all structures*
> *• Self-weathering steel poles will be used for all structures except switch structures*
> *• Existing transmission overhead conductor and shield wire will remain.*

The applicant represented that the diameter of the poles would remain the same and the height would increase by an average of 10 feet per pole. The applicant represented that the purpose for the project was twofold: first, to reduce the probability of utility related wildfires, and second, to mitigate damage to electric facilities because of wildfire.

By correspondence dated February 5, 2024, a "concerned group of Midway City homeowners and residents in the Swiss Alpine Road area who will be severely impacted by the proposed rebuild of the line" wrote to request that City Council *"reconsider and rescind the CUP based on changes RMP has made to the proposed pole sizes and on questionable justifications given to the City Council in seeking this CUP."* Their letter advised that the group had received notice letters dated December 4, 2023, from Wasatch County in connection with a public hearing on the rebuild before the County Planning Commission. The group expressed concern over having received no similar notice in connection with consideration of the rebuild in Midway.

While notice letters were sent in advance of the Midway City Planning Commission meeting, residents receiving notice would not have had access to the detail provided in the county planning report since the City did not have specific data for each pole prior to the CUP, and the City Council relied upon the data included in the application and supporting documents.

The first specific pole height information provided by RMP to the City occurred on February 7, 2024, in response to requests from the City. The information provided shows an average pole height increase in Midway of 14.8 feet. Pole heights in Midway would increase from existing heights of 55-80 feet to proposed heights ranging from 70 to 100 feet, with the average pole in Midway increasing in height from 65 feet to 80 feet "to provide better separation between lines and vegetation".

Staff also requested from the applicant specific pole information as to changes in diameter. The Wasatch County Planning Commission staff report dated December 14, 2023, states:

> *The diameter of the poles will increase by about two to three inches to about eighteen inches at ground level. There are a few larger structures wi[th] a diameter of about twenty-eight inches.*

By email to Midway City Planning Staff dated March 21, 2024, RMP advised:

> *Please note that we do not have specific diameters for the new transmission structures as they are categorized into size class (refer to comparable list already provided), and only have a range which can vary within a few inches. The new structures will have a ground line diameter around 20 inches which is comparable to what is existing*.

In response to Staff's request that RMP provide "the maximum possible increase in diameter for each pole (to avoid the issue of underestimating)", Travis Jones, Regional Business Manager RMP, by email dated March 28, 2024, responded:

> *The maximum possible pole diameter increase for the poles that go through Midway City's jurisdiction is 4 inches.*

In granting the November 7, 2023 CUP, the Midway City Council required *"any proposed changes after a CUP was granted would have to come back to the Council for approval"*.

The applicant takes the position that the engineering for the poles has not changed and that specific pole information (which we understand to include height and diameter changes) was provided to the City in advance of the CUP determination. Unfortunately, staff never received this information. Staff would have included this information in the staff reports had it been made available, and review of all submissions, correspondence, and supporting documents submitted shows this information was not received by the

City. RMP provides no evidence to the contrary. As a result, the information included in the staff reports relied upon the applicant's representations of 10' average pole height increases and no diameter changes. The applicant appeared before City Council at two meetings on the CUP application, as well as before the Planning Commission. At no meeting did the applicant modify or correct the numbers set forth in the staff reports (10' average pole height increases and no diameter changes) to the more specific information apparently provided to the County (average height increases closer to 15 feet and varying diameter increases).

To avoid issues going forward, staff asked the applicant to request confirmation to email submissions to confirm receipt and have provided such confirmation. As a practical matter, however, the fact remains that the only information before the City Council when it made its decision on the CUP were the applicant's representations of 10' average pole height increases and minimal diameter increases (the applicant verbally represented before Council that diameters may increase an inch or two). Therefore, the applicant is returning for modification and amendment of the CUP to reflect the specific engineering for the poles (average height increases of 14.8 feet and varying diameter up to a maximum of 4 inches).

Since the City Council on November 7, 2023, granted RMP a CUP to reconstruct the line with an average pole increase of 10 feet, the only issue before the City Council on the present application is whether RMP can show justification for additional increases of an average of 5 feet in pole height and up to 4 inches in pole diameter.

RMP'S BURDEN ON APPLICATION:

The burden rests upon RMP as applicant to prove justification for the additional increases in height and width of poles.

Throughout this process, the Applicant has cited industry and legislative standards as justification and explanation for the increase in pole size, particularly height, but has been reticent to cite specific standards when questioned.

After numerous requests from staff for cited standards, by email dated March 28, 2024, Travis Jones, Regional Business Manager for RMP, provided the following:

> *The increase in pole height and pole diameter is due to the National Electric Safety Code 2023 (NESC 2023), the Migratory Bird Treaty Act of 1918, the Bald and Golden Eagle Protection Act of 1940, and the Endangered Species Act of 1973. The Migratory Bird Treaty Act of 1918, the Bald and Golden Eagle Protection Act of 1940, and the Endangered Species Act of 1973 are all federal laws which Rocky Mountain Power is required to comply with. The National Electric Safety Code is a recognized American Standard. Rocky Mountain Power is required to meet all strength requirements and clearances as indicated in this code.*

Refer specifically to NESC 2023 Parts 2 and 4. Per the language in the code, Rocky Mountain Power cannot share pages out of the code. Midway City will have to purchase their own code for review. "Public authorities who would like to request access to, or use of, this document can send a request to IEEE SA Intellectual Property Rights (https://standards.ieee.org/ipr/copyright-permissions-form/). No other party may reproduce in any form, in an electronic retrieval system or otherwise, any portion of this document, without the prior written permission of the publisher". Rocky Mountain Power is not a public authority. In addition to the codes and federal laws stated previously, the state of Utah requires qualified utilities to have a wildland fire protection plan which states that qualified utilities shall modify and upgrade their facilities to mitigate wildfire risk. Utah Code Section 54-24-201.

Although the applicant appeared to cite standards, the applicant provided no specific references and cited copyright law as justification to withhold providing copies to the City, despite the fact the City sought only to verify information, not reproduce or redistribute it.

Fortunately, the licensing manager acknowledged that the City's request to verify information cited by the applicant involved no intellectual property issues and provided access to the cited document. However, staff could find no cited standards requiring the increased height and width requested by RMP. The Applicant has since conceded that there are no specific regulations identifying height or diameter of power poles.

On April 2, 2024, the Applicant appeared before City Council and the Council continued this matter until the applicant provided specific information supporting their application as requested by the City.

On April 10, 2024, Bret Reich, attorney for RMP (PacifiCorp), sent the following email to Corbin Gordon:

From: ***Reich, Bret (PacifiCorp)*** *<Bret.Reich@pacificorp.com>*
Date: Wed, Apr 10, 2024 at 12:19 PM
Subject: Rocky Mountain Power's Midway 46 kV Transmission Line Wildfire Rebuild Project
To: Corbin Gordon <cgordon@gordonlawgrouputah.com>

Corbin:

Thanks for the opportunity to clarify a few issues regarding Rocky Mountain Power's ("RMP") wildfire mitigation project. If you have any questions or would like to discuss the project in more detail, please let me know and we can bring our transmission engineer to meet with you and Midway representatives or set up a call to discuss.

As part of our wildfire mitigation plan and to promote public safety, RMP is rebuilding the Judge to Midway 46kV transmission line with 138kV framing and steel structures but is not upgrading the transmission line voltage to 138kV as provided in our prior agreement with Midway. All wood structures in Midway will be replaced with steel. Steel poles are fire resistant and are generally more resilient than wood poles.

1. *The overall project will replace approximately 130 poles. Seventeen of the poles being replaced are within Midway City limits. See attached "RMP Judge-Midway 46kV WF Project Existing New Structure List Midway poles highlighted in yellow.*
2. *Rocky Mountain Power's Transmission Design Engineer designed the rebuild to comply with federal and state regulations.* ***There is no specific regulation identifying the height or diameter of a power pole****, but the regulations require several engineering and design factors to comply with safety, environmental and engineering requirements as explained below.*
3. *For wildfire mitigation, Rocky Mountain Power constructs 46kV lines at 138kV spacing to increase the distance between phases on the structure, consistent with its Utah Wildfire Mitigation Plan, filed and approved by the Utah Public Service Commission under Utah Code Section 54-24-201. See RMP's Utah Wildfire Mitigation Plan on RMP's at Wildfire Protection Plans (pacificorp.com), Section 4.1 Line Rebuild Program at 67 ("Lines that meet the criteria for rebuild are typically constructed using steel poles and are constructed to at least 138 kV standards, even if the operating voltage is lower.") An increased spacing between phases, results in a taller pole because the bottommost phase is closer to the ground or other objects. To meet required clearances, the pole height is increased. Also, as the pole height increases, the pole diameter must also increase to meet the strength requirements. Section 23 and Part 4 of NESC 2023 defines distances between phases (wires on the line that are energized).*
4. *The design is complex. The National Electric Safety Code ("NESC") 2023 Parts 2 and 4 apply to the pole design along with other rules, regulations, and laws referenced below. We acknowledge that the NESC is voluminous and therefore our design engineer would be happy to meet with you to discuss how these sections are used in the design of the project. Several factors go into the designing the rebuild such as clearance, environmental and engineering requirements.*
5. *NESC 2023 sections 20 & 21 define general rules and requirements for all line design. The purpose of sections 20 & 21 is the safeguarding of persons during the installation, operation, or maintenance of overhead supply and communication lines and their associated equipment. The Introduction, Definitions, Reference and Grounding methods, sections 1, 2, 3 and 9 respectively, also apply to the requirements of Part 2.*
6. *Shield wire is required at the top of the pole for lightning protection. Utah is a lightning prone area, and the line must be protected. The shielding angle should be around 30^0 for that protection. With the raptor safe insulators (length of approximately 6ft), which are required by the federal laws that protect migratory birds such as golden and bald eagles, the distance from top of pole to the first insulator can be calculated. This distance is 15.75ft.*

7. *Section 23 of NESC 2023 defines the minimum requirements for distances between the energized line and the surrounding area. The surrounding area includes geographical features such as hills, valleys, cliffs, mountains, rivers, streams, streets, etc., aerial features such as trees, buildings,* bridges*, traffic signals, homes, streetlights, pools. For example, the distance from the lowest phase when it is at its maximum sag to the ground is 23.8ft. The distance from the lowest phase when it is at its maximum sag to the top of a building is 19.8ft.*
8. *Sections 24, 25, 26, and 27 of NESC 2023 define the grade of construction, required loads, limiting factors, strength factors and strength requirements for poles, down guys, insulators, wire (conductor), etc. These factors define pole diameter and pole height. For example, NESC 2023 defines five (5) tension limits for wire sag. These requirements limit how tight a wire can be pulled. This in turn defines the sag of the wire. As mentioned previously, there are required clearances from the wire to other objects such as roads, buildings, open ground, etc. With the sag defined, the pole height can then be determined to meet the required clearances.*
9. *All of these things go into the development of our standards which are used companywide across our six-state territory. Rocky Mountain Power did not develop new standards for the structures located in Midway. You can see from the structures identified in Exhibit A, the other 113 structures being replaced outside of Midway City limits are of similar heights as those being replaced in Midway.*

I'll be out of town for the next week returning on April 18, but if you have any questions before then please reach out to John Hutchings copied on this email. Look forward to working with you to address any questions you may have.

Thanks, Bret (emphasis added)

ANALYSIS:

The continuing difficulty with this response is that RMP provides generalities only, nothing specific to the poles in Midway. The clearest statement made is: "There is no specific regulation identifying height or diameter of a power pole", which contradicts what RMP has said (or at least implied) to date but confirms staff's analysis.

From the information provided, it appears RMP takes the position that general regulations not only inform but also justify their design specifications. While the former is self-evident, the latter requires substantiation, which RMP has not provided.

For example, RMP cites NESC standards as requiring "the distance from the lowest phase when it is at its maximum sag to the ground to be 23.8ft". If the request is an 85 foot pole, this may justify 23.8 feet of the requested pole height, but RMP has not demonstrated what justifies the remaining 61.2 feet. This is not a new request from Midway to RMP.

Simply stating that that this is what RMP typically does or claiming that the "113 structures being replaced outside of Midway City limits are of similar heights as those being replaced in Midway" is not helpful.

We understand RMP may be in its terms "system hardening", but to justify its request for an amended CUP, RMP bears the burden of demonstrating with particularity, reference specific legal standards, and show that it cannot reasonably and safely reconstruct this 46kV line under the CUP already granted.

RMP also has not explored with the City or expressed willingness to identify and comply with reasonable conditions to mitigate the impacts of the requested increased pole heights and widths.

APPLICANT'S PROPOSAL:

The applicant's attorney, Bret Reich, wrote to Corbin Gordon on April 24, 2024, referencing the 2020 settlement agreement reached by the parties regarding litigation surrounding the "South Transmission Line" and offering to enter into a limited agreement including some similar terms for the Judge Transmission Line.

Mr. Reich's email dated April 24, 2024, is set forth below:

From: Reich, Bret (PacifiCorp)
Sent: Thursday, April 25, 2024 4:02 PM
To: Corbin Gordon <cgordon@gordonlawgrouputah.com>
Subject: Rocky Mountain Power's Midway 46 kV Transmission Line Wildfire Rebuild Project- CUP Amendment

Corbin:

Our 2020 Agreement regarding the "South Transmission Line" is attached. It does not apply to the 46kV Judge-Midway line, so we are proposing the language below to address your concerns. Please let me know if you have any questions.

1. ***Pole Height.*** *We are proposing to replace the existing wooden poles with steel poles and increase the pole heights as outlined in the highlighted structures in the attached document. (See RMP Judge-Midway 46kV WF Project existing new structure list Midway highlighted).*
2. ***Restrictions.*** *For five years after issuance of the amended Conditional Use Permit, Rocky Mountain Power agrees that it will give Midway City written notice (with preliminary drawings and a good faith estimate to build the line above ground and also to bury it) of its intent to file a future application for a conditional use permit to alter, upgrade or add to the 46kV Judge-Midway to be built under the amended Conditional Use Permit at least 18 months in advance of*

formal application, so that Midway City will have the opportunity to potentially pass a bond to bury the line. This requirement shall only be waived if a conditional use permit is necessary to meet an urgent and immediate need as provided in the North American Electric Reliability Corporation or other applicable industry standard, and in such a case, RMP will provide notice to Midway City as soon as possible in the process.

3. *The restrictions in paragraph two will not apply to the 46kV Judge-Midway line within Midway City limits or any other electrical infrastructure owned or used by Rocky Mountain Power if the need for new or modified electrical infrastructure is caused by an action or decision by Midway City, including but not limited to approvals of new subdivisions, public road expansions or realignments, development approvals and issuance of building permits.*
4. *The restrictions in paragraph two shall not apply to any infrastructure or activity by RMP that does not require a conditional use permit under the ordinance of Midway City in effect at the time.*

We sincerely hope that this will address Midway's concerns and that we can move forward with the project to promote the health, safety and welfare of the Midway community. Please advise regarding next steps.

Thanks, Bret

ANALYSIS:

The difficulty the City has experienced with RMP's applications for the Judge Transmission Line is not lack of notice. The first email from RMP to City staff regarding this project dates back to July 13, 2021, so RMP was diligent in reaching out to the City early on this project. The challenge has been transparency with respect to what will be built and the justification therefor, which the language RMP proposes does not address or control.

By email dated May 9, 2014, RMP's attorney, Bret Reich, wrote to Corbin Gordin as follows:

On Thu, May 9, 2024 at 8:26 AM Reich, Bret (PacifiCorp) <Bret.Reich@pacificorp.com> wrote:

Corbin:

Following up on our May 1 email exchange regarding the wildfire mitigation project. Rocky Mountain Power is mobilized and trying to complete construction of the wildfire mitigation project prior to summer and fall when wildfire risk increases. We are requesting Midway City's immediate attention so PacifiCorp can complete this wildfire mitigation project in a timely manner. As you know, these construction projects incur significant mobilization costs and other impacts if we can't complete construction in a

linear manner. Concerned that the continued delay in Midway City will impact our construction progress and/or Rocky Mountain Power's ability to conduct the mitigation in Midway City.

The Midway City Planning Commission acknowledged the area is a Wildland Urban Interface and has a greater risk of wildfire and that Rocky Mountain Power's proposed mitigation project will lower the risk of wildfire and help protect the entire community. The Planning Commission also found the mitigation project was consistent with the General Plan and made several other favorable findings with respect to the mitigation project. Rocky Mountain Power would like to start construction this month in Midway and we are asking for your assistance. Please let me know as soon as possible.

Thanks, Bret

The findings of the Planning Commission constitute a recommendation and considered only the original application for a CUP which the City Council granted last November. RMP did not take its application for an amended CUP before the Planning Commission for a new or amended recommendation to address the present application for an amended CUP.

The findings of the City Council on the CUP granted last November are independent of its findings on the current application to amend the CUP.

The burden rests upon the applicant to justify the need for the amendment and why the rebuild cannot safely be accomplished within the parameters of the CUP already granted based upon the needs professed by the Applicant at the time of the CUP application.

CODE:

The City adopted a transmission line code on January 15, 2019, to regulate the processing and requirements regarding new transmission lines and the rebuilding of existing transmission lines. This code is Section 16.13.47 in the Midway City Municipal Code.

Section 16.13.47 Transmission Line Code Requirements and Comments

Section 16.13.47 (D)(1) prefers that transmission lines follow routes where transmission lines are currently located. The proposal does follow the current location of the existing Judge transmission line.

Section 16.13.47 (D)(2) prefers the shortest poles allowed by industry standards though all options should be considered for aesthetics and for harmonizing with the vision of Midway City as described in the General Plan. The proposed plan is to replace each existing pole with metal poles that will be the same diameter as the existing poles. The new structures will have longer insulators. Due to the longer insulators, as well as more stringent wildfire design standards, the steel structures will be about on average 14.8 feet

taller. The applicant represents that the proposed poles are the shortest poles that are allowed by current industry standards. Staff has requested the applicant provide copies of the referenced standards, but they have not been provided as of the date of the staff report.

Section 16.13.47 (D)(3) limits the types of poles that are allowed and focusses on the visual impact of the poles and lines. No galvanized poles, or poles with other reflective material can be used. Pole color and material shall be focused on minimizing the visual impact of the transmission line. The City may consider wood poles or metal poles. If metal poles are used, then the City can determine the color that will minimize the visual impact on the community. In this circumstance, wood poles are not an option because the line is in a Wildland Urban Interface area. Because of the wildfire potential, only metal and fiberglass poles are options. The existing wood poles will be replaced with corten steel poles which will weather and blend well with surroundings as we have seen in other areas of Wasatch County where poles have been installed in recent years.

Section 16.13.47 (D)(4) allows the City to impose any reasonable restrictions on the conditional use.

Section 16.13.47 (E) allows the City to require the burial of transmission lines and distribution lines that share a transmission line pole. In this case, there are no distribution lines that will be impacted because of the proposal.

The City may, after consideration of cost, require the transmission lines to be buried. Burying the transmission lines will have a positive visual impact on the community by eliminating all current lines and future transmission lines along this specific route. Financially, the difference in cost of above ground lines and buried lines would need to be paid by the City or some other funding source by private individuals. The amount required would need to be paid within 30 days of when construction begins. The limited time allowed to pay for the difference in cost creates complications that need to be considered. The applicant has included pricing for the current proposal and estimate for an option to bury the transmission line. Per the applicant's submissions, the cost to build overhead transmission lines (1.15 miles) is $937,726. The estimated cost to bury the lines is $11,182,799. The cost difference that would need to be paid by the City or some other funding source by private individuals would be $10,245,073. The City can require more estimates to be provided if more information is needed. Again, the difference would need to be paid within 30 days of when construction commences.

Section 16.26.120 Conditional Use Approvals and Regulations:

The consideration of an application for a condition use shall be governed by the following standard of Utah Code: (a) A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use ion accordance with applicable standards. (b) If

the reasonably anticipated detrimental effects of a proposed conditional use cannot be mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied. The following approval requirements and regulations shall apply to all conditional use applications. these requirements are in addition to any conditions specifically or requirements specifically listed for a given condition use. In the case of conflicting requirements, the more restrictive shall apply.

A. General Standards for Conditional Use Approval. An applicant for a conditional use approval shall provide within the application information to clearly demonstrate to the City the compliance with the following, in addition to any specific requirements of this Section attached to the conditional use applied for:

1. *General Welfare Standard. The establishment, maintenance or conducting of the use for which a use permit is sought will not, under the particular case, be detrimental to the public welfare or injurious to property or improvements in the neighborhood.*

2. *Nuisance Standard. Any use found to be objectionable or incompatible with the character of the City and its environs due to noise, light, traffic, dust, odors or other undesirable characteristics may be prohibited.*

3. *General Plan Consistency Standard. To obtain a use permit, the applicant must generally show that the contemplated use is compatible with the City's land use policies in terms of the general plan and zoning ordinances, and that such use would be essential or desirable to the public convenience or welfare, and will not impair the integrity and character of the zoned district or be detrimental to the public health, safety, morals or welfare.*

ANALYSIS:

In support of its present application to amend, the Applicant takes the position that the additional height and width will make the poles safer against the threat of wildfires.

Minimizing the risk of wildfire and reducing the potential loss of life and property is a priority, which was the basis for granting the originally requested CUP. The City Council already granted a CUP for the Judge Transmission Line based upon the 10 foot average increased pole height requested by the Applicant. The present application is for an amendment of the CUP to grant the applicant an additional five foot average height increase and up to 4 inch pole diameter increase. The burden rests upon the applicant to demonstrate:

- the need for the amendment,

• why the applicant cannot safely construct the proposed rebuild within the parameters of the existing CUP,

• what additional and necessary safety benefits the proposed amendment supplies that the existing CUP cannot,

• why the existing CUP cannot provide the safety benefit,

• why this was not requested in the original application.

• the proposed mitigation measures to address the detrimental impacts of the requested amendment.

Under the above referenced Code, the Applicant also bears the burden of providing "within the application information to clearly demonstrate to the City the compliance with" the standards set forth in Chapter 16.26.120 (General Standard, Nuisance Standard, and General Plan Consistency Standard).

1. The proposed use is conditionally permitted within the Land Use Title and would not impair the integrity and character of the intended purpose of the subject zoning district and complies with all applicable provisions of this Code;

2. The proposed use is consistent with the General Plan; (The General Plan describes the surrounding zones as an area of relatively large lots in an agricultural setting.)

3. The approval of the conditional use or special exception permit for the proposed use is in compliance with the requirements of state, federal and Midway City or other local regulations;.

4. There will be no potential, significant negative effects upon the environmental quality and natural resources that could not be properly mitigated and monitored;

5. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses in the general area in which the proposed use is to be located and will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare to the City.

6. The subject site is physically suitable for the type and density/intensity of the proposed use;

7. There are adequate provisions for public access, including internal and surrounding traffic flow, water, sanitation, and public utilities, and services to insure that the proposed use would not be detrimental to public health and safety;

POSSIBLE FINDINGS (based upon the Applicant's showing to date):

- The proposal is an administrative review and approval.
- The proposed use is an amendment to a previously granted conditional use and the City may deny the request or approve the request and impose reasonable conditions to mitigate identified issues.
- The proposal includes taller and wider poles that will be visible to the residents of Midway, visitors of Midway, and the surrounding residents of Wasatch County.
- The stated purpose of the proposal is to reduce the probability of utility related wildfires and to mitigate damage to electric facilities because of wildfire.
- The General Plan describes the surrounding zones to the proposed rebuild as an area of relatively large lots in an agricultural setting. The proposed lines will not be in harmony with this description although lines do currently exist along this route and have for several decades.
- The proposed amended Conditional Use Permit sought by Rocky Mountain Power seeking an additional average pole height increase of five feet and diameter increase up to four inches would create an even greater visual presence for the transmission line than the existing poles and Conditional Use Permit previously granted.
- The applicant requested and was previously granted a Conditional Use Permit to rebuild the Judge Transmission Line replacing wooden poles with steel poles, to increase pole height an average of ten feet per pole, and to increase pole diameter an average of one to two inches.
- The applicant bears the burden on its application for amendment to clearly demonstrate the need for the amendment and why the rebuild cannot safely be accomplished within the parameters of the Conditional Use Permit previously granted based upon the needs professed by the Applicant at the time of application.
- To date, the applicant has not clearly identified the additional wildfire mitigation safety it believes the amendment will supply, that these measures are necessary in this zone, and/or that this cannot be achieved under the Conditional Use Permit

granted on November 7, 2024.

- The applicant cites industry and legislative standards generally as the basis for its request for additional height and width of poles, however, the applicant has represented that no industry or legislative standards require the additional height and width requested on this application.

- The applicant has proposed no mitigation measures to address the detrimental impacts of the requested amendment.

ALTERNATIVE ACTIONS:

1. Approval (conditional). This action can be taken if the City Council the application complies with the requirements of the code and any conditions will mitigate identified issues.

    a. Accept staff report
    b. List accepted findings
    c. Place condition(s)

2. Continuance. This action can be taken if the City Council finds that there are unresolved issues.

    a. Accept staff report
    b. List accepted findings
    c. Reasons for continuance
        i. Unresolved issues that must be addressed
    d. Date when the item will be heard again

3. Denial. This action can be taken if the City Council finds that the request does not meet the intent of the ordinance.

    a. Accept staff report
    b. List accepted findings
    c. Reasons for denial

4. Refer the application to the Planning Commission for recommendation.

RECOMMENDED CONDITIONS:

The applicant be required to provide height and diameter verifications for the poles as built in form acceptable to the City.

Str	Existing Str	New Pole	Height	Class
0A	70' CT CL1	tg252	85	H7
0B	Steel			
0C	60' YS CL1	tg201	85	h1
0D	60' YS CL1	tg201	75	CL1
1	60' C2T	tg252	70	CL1
2	70' PSSM	tg201	80	CL1
3	65' PSSM	tg242	80	h3
4	60' YSDT	tg201	90	CL1
5	65' YS	tg201	80	CL1
6	65' YS	tg201	75	CL1
7	65' YSDT	tg240	90	h4
8	60' PSSM	tg201	70	CL1
9	60' PSSM	tg201	75	CL1
10	60' PSSM	tg201	75	CL1
11	PSSM 60	tg201	75	CL1
12	CS	tg230	75	CL1
13	PSSM 55	tg201	70	CL1
14	YS-70	tg201	80	CL1
15	DS-60	tg242	75	CL1
16	PSSM 60	tg201	75	CL1
17	PSSM 60	tg201	75	CL1
18	65' PSSM	tg201	80	CL1
19	70' CS	tg232	85	CL1
20	No str 20			
21	60' PSSM	tg201	75	CL1
22	PSSM 50	tg201	70	CL1
23	PSSM 60	tg201	70	CL1
23A	PSSM 60	tg201	75	CL1
24	PSSM 75	tg201	85	CL1
25	YS-DT 60	tg240	85	CL1
26	C2T 85	tg230	110	CL1
27	USA-SPCL- 85	tg232	100	CL1
28	YSDT 65	tg230	85	CL1
29	YSDT 60	tg242	80	CL1
30	PSSM 65	tg201	85	CL1
31	PSSM 65	tg201	80	CL1
32	PSSM 65	tg201	80	CL1
33	PSSM 65	tg201	75	CL1
34	PSSM 65	tg201	80	CL1
35	PSSM 65	tg201	90	CL1
36	PSSM 65	tg201	85	CL1
37	PSSM 65	tg242	75	CL1
38	PSSM 75	tg201	85	CL1
39	PSSM 65	tg201	75	CL1
40	PSSM 65	tg201	75	CL1
41	PSSM 65	tg201	75	CL1

42	PSSM 70	tg201		75 CL1	
43	PSSM 65	tg201		75 CL1	
44	PSSM 65	tg201		75 CL1	
45	PSSM 65	tg201		75 CL1	
46	PSSM 65	tg201		75 CL1	
47	PSSM 65	tg201		75 CL1	
48	PSSM 65	tg201		75 CL1	
49	PSSM 65	tg201		75 CL1	
50	PSSM 65	ts726		95	67891011
51	MD-206-80 Switch	tg255		90 h5	
52	PSSM 65	ts726		95	67891011
53	PSSM 60	tg201		80 CL1	
54	PSSM 60	tg201		75 CL1	
55	PSSM 60	tg201		75 CL1	
56	CS-70	tg230		85 CL1	
57	YS-65	tg201		80 CL1	
58	YS-60	tg201		75 CL1	
59	YS-60	tg201		75 CL1	
60	YS-60	tg201		75 CL1	
61	YS-60	tg201		75 CL1	
62	YS-60	tg201		75 CL1	
63	YS-60	tg201		75 CL1	
64	YS-65	tg201		80 CL1	
65	YS-60	tg201		80 CL1	
66	YS-60	tg201		75 CL1	
67	YS-60	tg201		75 CL1	
68	YS-65	tg201		90 CL1	
69	CS-65	tg235		75 CL1	
70	YS-70	tg201		100 h4	
71	CS-70	tg230		100 CL1	
72	YS-70	tg201		80 CL1	
73	YS-70	tg201		90 CL1	
74	YS-70	tg235		90 CL1	
75	YS-70	tg201		90 CL1	
76	YS-65	tg201		85 CL1	
77	YS-65	tg201		85 CL1	
78	YS-60	tg201		75 CL1	
79	YS-60	tg201		75 CL1	
80	YS-60	tg201		75 CL1	
81	PSSM-60	tg201		75 CL1	
82	YS-55	tg201		70 CL1	
83	YS-60	tg201		70 CL1	
84	L3 60-60-65	tg450	75-60-65	CL1	
85	ES 75-75	tg403	90-95	CL1	
86	ES 75-80	tg403	70-75	CL1	
87	ES 60-65	tg403	70-75	CL1	
88	L3 65-65-65	TG450	70-60-70	CL1	

89	CS-65	tg232		80	CL1
90	YS-60	tg201		80	CL1
91	YS-60	tg201		75	CL1
92	YS-60	tg202		75	CL1
93	YS-60	tg201		75	CL1
94	C-60	tg235		75	CL1
95	YS-60	tg201		75	CL1
96	YS-60	tg201		75	CL1
97	YS-60	tg201		75	CL1
98	YS-60	tg201		75	CL1
99	YS-65	tg201		80	CL1
100	YS-60	tg201		80	CL1
101	YS-60	tg201		75	CL1
102	YS-60	tg201		75	CL1
103	YSDT 65	tg201		95	CL1
104	L3 65-65-70	tg450	80-70-80		CL1
105	ES 65-65	tg403	95-90		CL1
106	ES 80-80	TG403	85-85		CL1