

# IOWA CITY BOARD OF ADJUSTMENT MEETING

Wednesday, August 14, 2019 – 5:15 PM

City Hall, 410 East Washington Street

NDS Conference Room, 2<sup>nd</sup> Floor

## AGENDA

# CANCELED

A. Call to Order

B. Roll Call

C. Consider the July 10, 2019 minutes

**D. Request for Reconsideration:** Request to reconsider the decision in EXC19-05 (application submitted by MidAmerican Energy for a special exception that was granted at the July 10, 2019 meeting to allow for a basic utility in a CO-1 zone to build an electric substation located at the southwest corner of Prairie du Chien overpass of Interstate 80).

E. Adjourn

**NEXT BOARD OF ADJUSTMENT MEETING:  
Wednesday, September 11, 2019**

If you will need disability-related accommodations in order to participate in this meeting, please contact Jesi Lile, Urban Planning at 319-356-5240 or at [jessica-lile@iowa-city.org](mailto:jessica-lile@iowa-city.org). Early requests are strongly encouraged to allow sufficient time to meet your access needs.

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# CITY OF IOWA CITY MEMORANDUM

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DATE: 8/7/2019  
TO: BOARD OF ADJUSTMENT  
FROM: SUSAN DULEK, ASS'T. CITY ATTORNEY  
RE: EXC19-05 / MEETING ON JULY 10

On July 10, 2019, the Board considered EXC19-05, a request by MidAmerican Energy for a special exception to allow a basic utility in a Commercial Office zone for an electrical substation. The Board voted 3-0 (Cox and Hall absent) to approve the special exception. Enclosed please find a copy of the Board's decision and draft minutes of the July 10 meeting.

On July 22, 2019, Jessica Lile and I received letters dated July 18, 2019, from AJ Kazyjak, Steven Highly and Kitty Highly (copies are attached), which in my opinion request a reconsideration of the vote. Article VIII, Section 5 of the Board's operational rules allows for a reconsideration in limited circumstances. Motions to reconsider are also governed by Robert's Rules (Article VI, Section 13 of the Board's rules provides that "except as otherwise provided herein, Roberts [sic] Rules of Order Newly Revised shall be used to conduct Board hearings and meetings." See in particular Chapter 36 entitled "Reconsider.").

The request for reconsideration must be in writing and must be made within 10 business days of the vote. A request for reconsideration "shall articulate and be based on evidence that was not presented or was unavailable at the time of the original hearing." A member who voted in the majority must make the motion to reconsider. However, under Article VI, Section 10 of the Board's procedural rules, the Chair cannot move or second a motion. Therefore, for a motion to reconsider to be voted upon, either Board member Hazell or Pretorius must make the motion to reconsider. Any other member but Chairperson Goeb may second the motion. A majority is needed for the motion to succeed.

The request for a reconsideration will be on the August 14, 2019 agenda. If a motion for reconsideration is made by Board member Hazell or Pretorius, is seconded, and passes by majority vote, the reconsideration of the special exception will be on the September 11, 2019 agenda. The discussion and decision on August 14 "must be based on evidence that was not presented or was unavailable at the time of the original hearing."

If you have a general question on the reconsideration process for August 14, please email it to Jesi Lile. I will respond in writing to the full Board and copy in the attorneys listed below or will respond orally on August 14.

Enc.

Copies with enc. to:

Jessica Lile  
Christopher Pose, Attorney for MidAmerican Energy  
Chuck Meardon, Attorney for AJ Kazyjak, Steven Highly and Kitty Highly

**MINUTES  
BOARD OF ADJUSTMENT  
JULY 10, 2019 – 5:15 PM  
EMMA J. HARVAT HAZELL, CITY HAZELL**

**PRELIMINARY**

**MEMBERS PRESENT:** Connie Goeb, Zephan Hazell, Amy Pretorius  
**MEMBERS ABSENT:** Ernie Cox, Ryan Hall  
**STAFF PRESENT:** Susan Dulek, Jessica Lile  
**OTHERS PRESENT:** Chris Pose, Marty Dostalick, Bill Homer, Laureen Ipsen, Barnard Dutchik, Joe Meyers

**CALL TO ORDER:**

The meeting was called to order at 5:15 PM.

**ROLL CALL:**

A brief opening statement was read by Goeb outlining the role and purpose of the Board and the procedures that would be followed the meeting.

**CONSIDER THE MAY 8, 2019 MINUTES:**

Pretorius moved to approve the minutes of May 8, 2019. Hazell seconded the motion.

A vote was taken and the motion carried 3-0.

**SPECIAL EXCEPTION ITEM EXC19-05:**

An application submitted by MidAmerican Energy for a special exception to allow for a basic utility in a Commercial Office (CO-1) zone to build an electric substation located at the southwest corner of the Prairie du Chien overpass of Interstate 80.

Lile began the staff report with an aerial view of the subject area. She also showed a zoning map of the area noting the proposed substation area is zone CO-1 (Commercial Office) and the surrounding area is zoned residential. Lile stated some basic utilities are allowed in Commercial Office zones through the special exception process and must meet capability and screening requirements. The purpose of this electric substation is to provide a more reliable base of electric power to the surrounding area. There are currently seven other substations in Iowa City, and substations must be located near the area where they are supplying power so they can tie into existing transmission lines. MidAmerican held a Good Neighbor Meeting on Wednesday, June 26 where ten people attended. Noise and making sure the neighboring property owners at 1823 Prairie du Chien Rd were compensated adequately were the biggest concerns brought up. There were no issues with the proposed screening or landscaping plan proposed by MidAmerican.

Lile stated the role of the Board of Adjustment is to approve, approve with conditions, or deny the application based on the facts presented. In order to approve the special exception the Board must find it meets all applicable approval criteria. In this case it is specific criteria for utilities not enclosed within a building and all the general standards.

With regards to Basic Utilities Not Enclosed Within a Building, in all commercial zones the RDP and ORP zones, and the ID-C and ID-RP zones, basic utilities not enclosed within a building are permitted only by special exception. Proposed uses must be screened from public view and from view of any adjacent residential zones to at least the S3 screening standard. In addition, the applicant must provide evidence that the proposed use will be compatible with surrounding structures and uses with regard to safety, size, height, scale, location, and design, particularly for facilities that will be located close to or within view of a residential zone. For uses located in highly visible areas, the board may consider additional design elements such as masonry or brick facades, and walls or fencing to improve public safety and to soften the visual impact of the proposed use. Lile noted the applicant has submitted a landscaping plan that shows screening above the required S3 standard. Staff recommends a condition that the proposed substation must adhere to the landscaping plan submitted, dated June 20, 2019. Lile also stated the proposed site is surrounded by mainly vacant land at the moment with one house currently occupied at 1823 Prairie du Chien Road. There are also other planned and ongoing residential projects going on in the area. Lile showed an image of the landscaping plan submitted on June 20, 2019, at the time of the planning 31 trees will be 6 feet tall with additional shorter plantings. At the time of maturity all plantings will be 8 feet tall or taller with 23 of the trees being over 20 feet tall. The proposed substation would have a 158 x 210 foot footprint, there would be two 50 foot high dead-end structures that would receive transmission lines and 50 foot high shield masts. MidAmerican proposes to surround the substation with seven foot high chain-link fence with three strands of barbed wire which makes the fence eight feet tall in total. The proposed substation fence will be approximately 32 feet from the south property line and approximately 55 feet from the east property line. Lile showed a map of the area around the proposed substation, there is potential development of townhomes to the southwest of the proposed substation and there is a senior living center that is currently being constructed along the Foster Road extension.

With regard to the general standards:

The specific proposed exception will not be detrimental to or endanger the public health, safety, comfort or general welfare. Lile stated the proposed substation will provide a reliable base of power to the surrounding area. There are other substations in Iowa City near residential areas that have operated without reported health and safety issues.

The specific proposed exception will not be injurious to the use and enjoyment of other property in the immediate vicinity and will not substantially diminish or impair property values in the neighborhood. The applicant provided sound estimates at distances from the transformer to the property line, each distance is from 30 to 90 meters with sound levels ranging from 34 decibels to 43 decibels. For comparison, 40 decibels is approximately the level of noise of a library, bird calls, and ambient urban noise. Staff measured noise levels at 1:45 pm on a weekday and sound coming from the interstate from the west side sidewalk along Prairie du Chien nearest the proposed substation location was approximately 65 decibels. While sound is cumulative, the addition of anything that has a difference of more than 10 decibels results in the higher noise level being the total noise level. So one would not be able to hear the transformer over the

sound of the interstate. Additionally there are other current development projects in the area.

Establishment of the specific proposed exception will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district in which such property is located. Past substation projects have shown that residential and other development continues in the area. The substation at 1630 Lower Muscatine Rd was built in 1962, and residences directly next to the substation were built in 1962, 1963, 1964, & 1965. The closest residence is approximately 60 feet from the substation fence. Another example is the substation at 1120 Mormon Trek Blvd built in 1980, and residences directly next to the substation were built in 1987, 1988, 1990, and 1996. The closest residence is just over 20 feet away from the substation fence. In the case considered today, the closest residence to the proposed substation is approximately 100 feet from the substation fence and over 120 feet from the proposed transformer.

Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided. The proposed site would be accessed off of the Foster Rd extension. The proposed substation would be installing electricity to serve the area and improving the utilities.

Adequate measures have been or will be taken to provide ingress or egress designed to minimize traffic congestion on public streets. The future intersection of Foster Rd and Prairie du Chien Rd will be controlled by a stop sign on Foster Rd. Post-construction the proposed substation will produce minimal traffic – typically one truck a month and more if there are issues with the substation. What traffic it does produce would be routine maintenance and inspections on site, not a permanent employee presence.

Except for the specific regulations and standards applicable to the exception being considered, the specific proposed exception, in all other respects, conforms to the applicable regulations or standards of the zone in which it is to be located. The Commercial Office (CO-1) zone is intended for offices, businesses, apartments, and certain public & semipublic uses. The proposed substation exceeds the minimum setback requirements for the zone and aside from the special exception required for a basic utility, the lot meets all other requirements.

The proposed exception will be consistent with the Comprehensive Plan of the City, as amended. The Comprehensive Plan supports Iowa City coordinating with private utilities in order to serve areas under development.

Lile noted today she did receive late public comment from the neighbor at 1920 Prairie du Chien Road and passed that onto the Board members. This residence is located across the street from the proposed substation and his concerns were health concerns of putting a power substation close to residences that construction of a power substation would be detrimental to the enjoyment of his property and the addition of a power substation would lower the resale value of his home. The resident also does not believe the construction of a power substation is consistent with the Comprehensive Plan and does not wish the substation be granted. The resident stated if the exception must be granted then he requests sufficient screening which MidAmerican has agreed to already, additionally access to the substation be off Foster Road, which is also the plan.

Staff recommends approval of EXC19-05, a special exception to allow a basic utility in a Commercial Office (CO-1) zone to build an electric substation with the following condition:

1. The landscaping and screening around the substation must adhere to the landscaping plan submitted, dated June 20, 2019 prior to the issuance of a Certificate of Occupancy.

Goeb opened the public hearing.

Chris Pose (Attorney representing MidAmerican Energy) stated they are in full agreement with the staff report, and wanted to take some time to add to the presentation and explain what a substation does. A substation transforms power from the transmission line level, in this case 161 volt transmission lines that have been in the area since 1967, down to a level that is 13,500 volts which can be used as distribution power to run down the city streets and power into businesses and so forth. So substations down-step the power from the high voltage transmission lines to a usable level, which is what the equipment is designed to do. The transmission line is what makes this site unique and site possible for this development. There is a line through the trees parallel with the interstate just south of the substation site, which is where the existing transmission line is and what they are trying to tap into. On the plan submitted shows the transmission lines coming in so the distribution lines can come out of the substation underground. Everything coming out of the substation will be underground and this is why it is a unique location. Pose also stated they had approached the City with this idea of putting in a substation in this corridor because MidAmerican already owns a piece of land that is on the east side of Prairie du Chien, just to the southeast of the present site. City staff had suggested that parcel would not be an appropriate site even though that is a piece of land MidAmerican had owned for a number of years, it is well situated because it is right under the transmission line that runs through on the south part of that location. However City staff felt the zoning aspects of that parcel didn't lend itself to the idea of rezoning to commercial and instead suggested since Foster Road Developers just had a plat approved with rezoning complete for the land across the street and that led MidAmerican to the subject site. MidAmerican has now entered into a purchase agreement with the owners of Foster Road Development to buy a piece of land zoned CO-1 and have this substation put up against the interstate. Therefore MidAmerican followed staff's recommendation to put the substation in this particular location. Pose next addressed the residence at 1823 Prairie du Chien which is zoned as RS-12. The owners of that property are here this evening, MidAmerican Energy is in process of working through good faith negotiations to acquire that particular piece of property, they are keeping those discussion between themselves and the property owners at this time, but have full communication with them concerning this possibility and will continue those discussions even if this exception is approved this evening. MidAmerican has a desire to acquire that property. As for the concerns of the owner of the property at 1920 Prairie du Chien, whose concerns were raised today in a letter, the staff report adequately addressed the concerns. With other substations throughout the City it has shown substations does not impede development of land, people will built around substations. Substations are important, they need to go someplace and they provide a source of power. Staff had asked MidAmerican to provide justification as to why they chose this particular site, there are seven substations in Iowa City and they all rely on each other as part of the grid, the idea being if something happens to one substation another one can pick up the slack and what MidAmerican has identified in this corridor it would be good to have another substation to help with the potential growth that is going to happen in the northern corridor of the city, and in addition will provide stability to the existing systems such as if one substation were to go out for a reason such as storm this substation would be able to pick up the power load. Lastly Pose showed a color version of the landscape plan. He reiterated they are in agreement with the staff report, they believe MidAmerican has met all the conditions, they made whatever changes staff had requested of them, they intend to keep working with the

property owner at 1823 Prairie du Chien if this is approved, and they believe any concerns raised by the property owner at 1920 Prairie du Chien were addressed by the staff report.

Hazell asked if the darker green on the landscaping plan were evergreen trees.

Marty Dostalík (Civil Engineering Consultants) noted the evergreen trees on the plan are denoted with a star shape symbol on the inside, there is a series of eight of them along the west side, the pink trees are crab apples, underneath where the transmission lines come in and out there are two staggered rows of dwarf evergreens (Dwarf Colorado Spruce) which will get around 20 to 25 feet tall, they are slow growing and need to stay low so they don't get up into the transmission lines. On the east side there are nine evergreens, there are also some overstory trees, a few Swamp White Oak and some hackberry's in addition to all the existing trees on the site, to the west there is brush, shrubs and undergrowth trees.

Hazell noted the plan looks good however if they are not using evergreen trees then they are not providing screening year round, but it appears this is comprehensive.

Goeb asked how big the entire property is. Dostalík said it is 3.1 acres. Goeb asked if all the substations have fences with the barbed wire and Dostalík stated that is required by the National Electric Safety Code.

Bill Horner (718 Perry Court) has been a resident of Iowa City since 1965 but is moving to 750 East Foster Road, Unit 113 which is in Lot 3 of new Vintage Cooperative. As the Cooperative it has been a three year process of getting the land owners and developers together to create a developers agreement that was approved by the council on July 17, 2018. It consisted of Foster Road Developers, Vintage Cooperative of Iowa City, and Ewing Development Services of Pella, Iowa to construct this building. The good neighbor meeting records show notice was sent to Foster Road Developers and with the development agreement with Vintage Cooperative and the land owners Horner spoke late this afternoon, after calling the City, and found out this meeting was tonight. Horner called Ray Bisby, the president and CEO of Vintage Cooperative, who also stated he knew nothing of this substation proposal. Horner realized the members of the cooperative are not land owners, and it is listed at the Assessor's Office as Foster Road Developers, but as of Monday this week the last unit has been sold, all 53 have been committed and each owner has approximately \$175,000 invested in this property for a total of over \$7 million. Horner understands how the good neighbor policy works, notice is sent out to the surrounding land owners but technically the owners in the cooperative are land owners as well and knew nothing about this until they saw the special exception sign on Foster Road. Many of the members he has talked to are not in favor of the location of substation and feel it could have been built on the east side of Foster Road since MidAmerican has owned land over there for years. Horner acknowledged it has been explained tonight the City did not recommend that area. He suggests this approval be pushed back one month so they can have better input. The east/west transmission lines should be put underground rather than have the six high voltage lines over Foster Road and would also recommend at least the west and south chain link fence be a stone or brick wall because there will be several members units in the cooperative that will face that fence. A seven foot chain link fence with barbed wire on top is not attractive.

Pretorius asked where the Cooperative will be with respect to the substation. Lile showed a map of the area and pointed out the senior living area, which is the cooperative. Pretorius asked when the rezoning was done from the RS-12 to the current CO-1 for the proposed site.



Lile was unsure, but it was quite a while ago as it has already been through the subdivision phase as well.

Pretorius asked when the building was slated to be done with construction. Horner said it will be complete late this year. Third floor is to the point of installing kitchen cabinetry, second floor is being dry-walled and first floor has all the mechanical systems in. Horner added their power is coming from a pole that was set a few months ago on the east side of Prairie du Chien and the MidAmerican subcontractor has buried a six inch diameter tube from that east side all along the road to a transformer pad located to the southwest corner of the building. Their building is not dependent on the substation. He does acknowledge a substation is probably needed in the area with future development. Horner reiterated they are owners since they have paid into the cooperative even though they are not property owners listed on the Assessor's site.

Goeb asked for clarification of notifying people in the area. Lile said the good neighbor policy is optional and notification goes to property owners in a 300 foot range, the City posts a sign with information on how to contact a representative as well as a notice posted in the paper about the meeting and items being discussed. In this case the property owner was Foster Road Developers.

Lauren Ipsen (1710 Prairie du Chien Road) lives on the east side of Prairie du Chien right next to the property MidAmerican does own. Her major concern is for MidAmerican to come to a good outcome with the people they are negotiating with and if they can't then she is not for this development. If the property next to hers had been suitable she would have been in negotiations and she understands the east side versus the west side but she stresses MidAmerican needs to take care of the property owners at 1823 Prairie du Chien. She also has a cousin moving into the senior living development and alerted her of this item as she knew they would not be notified as property owners.

Pose responded to a couple public comments, he apologized for the good neighbor notifications, they followed the City policy and notified only record property owners, they did not intend to exclude anyone. When they met with the residents of 1823 Prairie du Chien he could see out their back window Foster Road goes downhill pretty fast once you make that bend. Therefore the senior living facility will sit much lower than the property at 1823 Prairie du Chien and as a result and what they will be doing is looking up hill at this area and with the tree cover that is there you can see the building proposed on Lot 2 will have the transmission lines cross only a small portion of the eastern edge of their property. The senior living facility is down on Lot 3 quite a ways from this site, the transmission line taps will only encumber the east side so the remaining part of Lot 2 is still available for the use of potential development. It also impacts why the substation is pushed to the east side of the lot and not to the west, if it goes to the west the transmission lines would have to go right through the major portion of Lot 2, which is in conflict of what the City's policy of don't impede the orderly development of property. With regard to the senior living facility, they have to look up hill, they are probably going to be looking at another building that will be built on Lot 2, and they will be looking at the landscaping from down below before they will even see the substation site. Pose added the landscaping that is appropriate for this location is quite simple, landscaping grows, any kind of wall built doesn't, therefore over time landscaping will be a better screen. Pose showed photos of other substations and screenings they had used on properties in Des Moines. Pose noted that deferring for a month is not going to change the plan or how the property sits.

Hazell asked if there were any poles connecting other than those inside the substation on the transmission line. Pose said there will be two poles installed on the transmission line corridor to get the tap wires into the substation, but are in the already existing transmission area. The land which those poles are located is owned by the City. They have been sensitive to all areas around this development, they have worked with the City on solutions in this area, and in discussions with the property at 1823 Prairie du Chien to resolve their issues.

Pretorius acknowledged substations are very expensive and are by necessity, not just something MidAmerican wants to do. Pose confirmed they would not make this type of investment if it was not a necessity, MidAmerican's idea is to protect the entire grid and provide power for the areas surrounding it. They do not just take one's land, they must be given the land voluntarily, they try to use areas that minimize impact to existing residents, and also don't impede any future growth and they feel confident they have done that with this particular plan. Staff has help MidAmerican with this by suggesting modifications which they have followed.

Ipsen said people have been asking about the health issues and asked if there have been studies to know whether these power lines cause problems for people that are living near them. She will see them from her property, more so than the new development.

Pose said the substations they have existing in Iowa City are the best indicators of what types of issues the substations may cause in terms of health. As the staff report indicated, the substation on Mormon Trek Road was built first and houses built around it after, there has never been a reported complaint of a health issues related to those power lines or substation itself. There are sometimes discussions of electromagnetic fields, or EMFs, relating to power lines and power equipment. What EMFs are energy waves or anything that can beam off anything electrical and transmission lines themselves generate more of the EMF discussions as transmission lines are high power and move through the eye of the utilities board to be approved. However there have been no reported incidents of substations in Iowa City, or anywhere else. Pose noted the most operative piece of equipment within the substation is the transformer and that is the thing that does most of the work, that is located as far north towards the interstate as possible and as far away from any further future development in the area. There are no reported problems or issues with substations causing any difficulty to health.

Horner would like to remind the Board the rectangle in the upper right hand corner is a building that is 24 foot tall and a lot of the other equipment is in the 20 foot tall range and the substation elevation is higher than the co-op building but the co-op building is all 9 foot ceilings with floor joists that are 2 foot so a 36 foot tall building and questions if the two poles that would have to be located on the south side of Foster Road to feed the transmission lines up north would be wooden or steel poles, wooden ones would require guide wires and steel poles would be self-standing and more appealing.

Dostalick said the building in the upper right corner is the power distribution center control building will only be 12 feet high. Most of the equipment is 16 to 24 feet high on average, the highest things will be the two dead-end structures and the two wire poles on the northeast corner. All four of those structures are about 50 feet high and are that high to catch lightening versus hitting the equipment.

Pose wanted to reiterate there is a big elevation change from where the substation will be and the senior residence building and over time development will happen and they won't even know

the substation is present.

Goeb closed the public hearing.

Pretorius asked if the owners of 1823 Prairie du Chien were present then lack of comment from them assumes positive communications with MidAmerican. The Board did receive comment from the property across the street (1920 Prairie du Chien) but knowing the actual property MidAmerican currently owns would place the substation in that individuals back yard and therefore the placement on the east side would be more intrusive. The current proposed location does seem like the best location of all the options. She did add shame on the developers and landowners for not sharing the information about the good neighbor meeting or the exception item with the co-op owners, transparency is always the best policy.

Hazell feels the landscaping will be comprehensive and a solid covering of evergreen trees.

Goeb also thinks the City and MidAmerican has worked together well on coming to a solution and the notifications did follow policy but is sympathetic to the future co-op residents to not be looped in. Her question would be if it was a reasonable condition to ask for another good neighbor meeting. Dulek said it could be added if it can tie to any of the standards. Goeb noted she feels all the standards have been met.

**Pretorius moves to approve EXC19-05, a special exception to allow for a basic utility in a Commercial Office (CO-1) zone to build an electric substation with the following condition:**

- 1. The landscaping and screening around the substation must adhere to the landscaping plan submitted, dated June 20, 2019 prior to the issuance of a Certificate of Occupancy.**

**Hazell seconded the motion.**

Pretorius stated that regarding agenda item EXC19-05 she concurs with the findings set forth in the staff report of July 10, 2019, and conclude the general and specific criteria are satisfied. So unless amended or opposed by another Board member she recommends that the Board adopt the findings in the staff report as our findings with acceptance of this proposal.

Hazell seconded the findings of fact.

**A vote was taken and the motion carried 3-0.**

Goeb stated the motion declared approved, any person who wishes to appeal this decision to a court of record may do so within 30 days after this decision is filed with the City Clerk's Office.

**SPECIAL EXCEPTION ITEM EXC19-06:**

An application submitted by ImOn Communications Company for a special exception to allow for a basic utility in a Community Commercial (CC-2) zone to build a telecommunication hub located at 2211 F St.

Lile began the staff report with a location map of the area as well as a zoning map. The proposed property is in a commercial zone and the surrounding area is mostly commercial with some single family residential across the street. Basic utilities are allowed in a community commercial zone through a special exception process and must meet capability and screening requirements. The proposed telecommunications hub would be located in a 12 foot by 6 foot shelter at the southwest corner of the property. The site is currently nonconforming with regard to screening requirements. The zones require S2 screening between surface parking areas and both the public right-of-way and abutting properties. For the special exception to be approved ImOn would have to bring the site into compliance. All basic utilities are required to conform to S3 screening requirements by themselves and since this is located in the Towncrest Overlay District the hub would have to go through a staff design review process

With regards to the specific standards:

In all commercial zones, the RDP and ORP zones, and the ID-C and ID-RP zones, basic utilities not enclosed within a building are permitted only by special exception. Proposed uses must be screened from public view and from view of any adjacent residential zones to at least the S3 standard. In addition, the applicant must provide evidence that the proposed use will be compatible with surrounding structures and uses with regard to safety, size, height, scale, location, and design, particularly for facilities that will be located close to or within view of a residential zone. For uses located in highly visible areas, the Board may consider additional design elements such as masonry or brick facades, and walls or fencing to improve public safety and to soften the visual impact of the proposed use. Findings are the proposed project is located in the Towncrest Overlay District and must go through the staff design review process that evaluates material quality, screening, and neighborhood compatibility. The applicant has shown S3 screening and plans to surround the building with a six-foot opaque fence. The proposed structure is not adjacent to any residential zone although the lot is across the street from a residential zone.

Lile showed a rendering of the proposed structure, it will have a brick façade, it will be 10 feet tall and have a smaller footprint than the surrounding structures at 12x16. The proposed structure will be located at the rear of the lot and not highly visible and screened by the abutting 20 foot retaining wall in addition to the other screening required.

With regards to the general standards:

1. The specific proposed exception will not be detrimental to or endanger the public health, safety, comfort or general welfare. The proposed communication system is a low voltage (48 volt) system. The system will be enclosed in a structure with a locked door, preventing access to those not authorized and eliminating public health and safety issues.
2. The specific proposed exception will not be injurious to the use and enjoyment of other property in the immediate vicinity and will not substantially diminish or impair property values in the neighborhood. The proposed hub will allow for another internet service provider in Iowa City and increase bandwidth capabilities. The proposed hub would require a small generator to power it. Any noise it gives off would be mitigated by the proposed fence and existing retaining wall. Additionally, this site does not abut residential properties although the lot is across the street from a residential property.
3. Establishment of the specific proposed exception will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district

in which such property is located. The lot at 2211 F Street is fully developed, as are the surrounding lots. The structure will follow all setbacks and is proposing landscaping improvements to the site. Lile showed a rendering of the proposed building and landscaping, it is at least three feet off the property line and landscaping and screening proposed surround the parking and the hub itself.

4. Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided. The area is fully developed with access to utilities and other necessary facilities
5. Adequate measures have been or will be taken to provide ingress or egress designed to minimize traffic congestion on public streets. The proposed structure is located on a lot that has adequate circulation and parking. This use would not increase traffic in the area substantially as it would only need occasional maintenance after construction.
6. Except for the specific regulations and standards applicable to the exception being considered, the specific proposed exception, in all other respects, conforms to the applicable regulations or standards of the zone in which it is to be located. This property is in compliance with the zoning code in all aspects aside from the parking lot landscaping, which the applicant has addressed. This project complies with the Community Commercial (CC-2) standards in all other aspects.
7. The proposed exception will be consistent with the Comprehensive Plan of the City, as amended. The Central District Plan encourages the development of businesses that provide goods, services and amenities to the neighborhood such as internet service.

Staff recommends approval of EXC19-06, a special exception to allow a basic utility in a Community Commercial (CC-2) zone in order to build a telecommunication hub located at 2211 F Street.

Hazell noted the landscaping plan is ambiguous and will be decided in the future and wondered if it was because the Towncrest Overlay. Lile confirmed it will need to go through a design review and also the S2 standards require certain heights and species.

Hazell asked if they needed to follow S2 or S3 for this exception. Lile stated they must follow both, the site needs to be screened S2 and the parking lot for the site is currently not screened, which is why the site is currently non-compliant. The hub will need to be screened S3 standards, it would have the S2 screening in front of it and S3 screening would be the fence in front of the hub itself.

Hazell asked what the purpose of the generator versus them just using power. Lile believes so it won't go off-line.

Goeb opened the public hearing.

Barnard Dutchik (ImOn Communications) has been in Iowa City for about two years serving businesses and have now begun serving residential areas using existing hubs. This new hub would be used for continued expansion, roughly a hub can serve 400 homes or addresses. These are self-contained units, all the equipment is inside, the generator is only used when the

power is out for a certain period of time, and they also use battery backups. The goal is to keep internet service on as long as they can if there is a power outage. The hub will contain fiber optic equipment, they would be the first fiber optic internet provider in Iowa City to homes.

Goeb asked if hubs were geographically located. Docheck said generally they try to locate a hub centrally to a service area. He corrected that each cabinet serves 400 homes and each hub contains multiple cabinets. So this hub can serve 2000 to 3000 homes, they try to centralize the hubs to not have to run fiber lines to far. They try to balance it by looking for commercial areas to build the hubs and this one made sense as it will abut the Walgreens property. They will lease the property they build this hub on.

Joe Meyers spoke with Thomas Rogers, who is the land owner and had no problem with constructing this hub, there are some benefits to him such as ImOn will take care of lawn care and property upkeep. He added the generator is necessary as there will be active equipment in the structure and a natural gas line will be ran into the structure as well because that is what the generator will run from. Meyers is working with a landscaper and he recommended an Emerald Arborvitae for the space between the two parking lots which will be about 6 feet high. The neighbor did say they push snow into that area so that may be a hindrance to have trees but the neighbor seemed okay.

Goeb asked what is on the west side of the property. Meyers said there was a dry cleaning business to the east as well as a small apartment complex or business.

Goeb closed the public hearing.

Hazell said it appears the applicant meets the requirements and also he is in favor of providing more competition in the internet business as a positive to all residents of Iowa City.

Pretorius concurs.

Goeb agrees and drove by the site and it looks like a good spot.

**Hazell moves to approve EXC19-06, a special exception to allow a basic utility in a Community Commercial (CC-2) zone in order to build a telecommunication hub located at 2211 F Street.**

**Pretorius seconded the motion.**

Pretorius stated that regarding agenda item EXC19-06 she concurs with the findings set forth in the staff report of July 10, 2019, and conclude the general and specific criteria are satisfied. So unless amended or opposed by another Board member she recommends that the Board adopt the findings in the staff report as our findings with acceptance of this proposal.

Hazell seconded the findings of fact.

**A vote was taken and the motion carried 3-0.**

Goeb stated the motion declared approved, any person who wishes to appeal this decision to a court of record may do so within 30 days after this decision is filed with the City Clerk's Office.

**ADJOURNMENT:**

Pretorius moved to adjourn this meeting.

Hazell seconded.

A vote was taken and the motion passed 3-0

**BOARD OF ADJUSTMENT  
ATTENDANCE RECORD  
YEAR 2018-2019**

NAME	TERM EXP.	2/14	5/9	6/13	8/8	12/12	2/13	3/13	4/10	5/8	7/10
COX, ERNIE	12/31/2020	-	-	-	-	-	-	O/E	X	X	O/E
GOEB, CONNIE	12/31/2019	O/E	X	X	X	X	O/E	X	X	X	X
HALL, RYAN	12/31/2022	X	X	X	X	X	X	X	X	X	O/E
HAZELL, ZEPHAN	12/31/2021	-	-	-	-	-	X	X	X	X	X
PRETORIUS, AMY	12/31/2023	-	-	-	-	-	X	X	X	X	X

KEY: X = Present  
 O = Absent  
 O/E = Absent/Excused  
 NM = No meeting  
 --- = Not a Member



fee



Prepared by Jesi Lile, Associate Planner, 410 E. Washington, Iowa City, IA 52240; 319/356-5230

Doc ID: 027443860006 Type: GEN  
Kind: DECISION  
Recorded: 07/29/2019 at 12:40:15 PM  
Fee Amt: \$32.00 Page 1 of 6  
Johnson County Iowa  
Kim Painter County Recorder

**DECISION**  
**IOWA CITY BOARD OF ADJUSTMENT**  
**WEDNESDAY, July 10, 2019**  
**EMMA J. HARVAT HALL**

BK **5936** PG **469-474**

**MEMBERS PRESENT:** Connie Goeb, Zephan Hazell, Amy Pretorius

**MEMBERS ABSENT:** Ryan Hall, Ernie Cox

**STAFF PRESENT:** Sue Dulek, Jesi Lile

**OTHERS PRESENT:** Chris Pose, Marty Dostalik, Bill Horner, Laureen Ipson, Barbara Dutchik, Joe Meyers

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CITY CLERK  
IOWA CITY, IOWA

**SPECIAL EXCEPTION ITEMS:**

1. **EXC19-05:** A public hearing regarding a special exception application submitted by MidAmerican Energy to allow for a basic utility in a Commercial Office (CO-1) zone to build an electric substation located at the southwest corner of the Prairie du Chien overpass of Interstate 80.

The Board concludes that the use will be screened from public view and from adjacent residential zones at least to S3 standards and that it will be compatible with surrounding structures and uses with regard to safety, size, height, scale, location and design based on the following findings:

- The landscaping plan dated June 20, 2019 goes above the S3 screening required of all basic utilities not enclosed in a building, and should be a condition of the special exception. This screening will help to mitigate the height differences between the substation and the surrounding properties. At the time of planting, 31 trees will be six feet tall with additional shorter plantings. At the time of maturity all plantings will be eight feet or taller, with 23 trees over 40 feet.
- The proposed site for the substation is currently surrounded by mainly vacant land. There is one house currently occupied located at 1823 Prairie du Chien Rd and plans for townhomes to the southwest of the proposed substation as well as a senior living currently being constructed.
- The proposed substation will have a 158' by 210' footprint.
- The proposed substation will have two 50' high dead-end structures that will receive transmission lines as well as 50' high shield masts. Other structures will be smaller.
- The senior living building currently under construction will have 53 units and be three stories tall (approx. 35 feet).
- The residence at 1823 Prairie du Chien is a one-story home with just over 1,100 square feet of living area.
- The proposed substation will be at approximately the same elevation as the surrounding properties.
- The proposed substation is larger in both footprint and height than surrounding residential development, but the applicant is attempting to mitigate these impacts through landscaping, and has been in contact with the

property owners of 1823 Prairie du Chien Road about purchasing the property.

- The proposed substation fence will be approximately 32 feet from the south property line and approximately 55 feet from the east property line
- The applicant proposes to surround the substation with a seven-foot high chain-link fence with three strands of barbed wire on top, making the fence eight-feet tall in total.

The Board concludes that the substation will not be detrimental to or endanger the public, health, safety, comfort and general welfare based on the following findings:

- The substation will provide a necessary and reliable base of power for the surrounding area currently developing.
- There have been no reported health and safety issues with the other substations surrounded by residential development in Iowa City.

The Board concludes that the substation transformer will not be injurious to the use and enjoyment of other property in the immediate vicinity and will not substantially diminish or impair property values based on the following findings:

- The applicant provided sound estimates at distances from the transformer to the property line:
  - North Property Line (approx. 30 meters) – 43 dB
  - East Property Line (approx. 35 meters) – 42 dB
  - South Property Line (approx. 48 meters) – 39 dB
  - West Property Line (approx. 90 meters) – 34 dB
  - For comparison, 40dB is approximately the level of noise of a library, bird calls, and ambient urban noise.
- Staff measured sound coming from the interstate from the west side sidewalk along Prairie du Chien nearest the proposed substation location and found that the noise levels at 1:45 pm were approximately 65 dB.
- The substation will not be heard over the noise of the interstate because though sound is cumulative, the addition of any noise that has a difference of more than 10 dB results in the higher noise level being the total noise level.
- Foster Road Development owns the majority of the land in the immediate area.
- The land to the southwest and further west along the Foster Rd extension was recently rezoned to allow for residential development, including both townhomes and a larger-scale senior living facility. These projects are not being built by the current property owner. The senior facility is currently under construction, and the property owner is in negotiations with another developer for townhome construction to the south of the proposed substation. The substation fence would be approximately 32 feet from the property line.

The Board concludes the proposed use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district in which such property is located based on the following findings:

- Past substation projects have shown that development continues in the surrounding vicinity

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IOWA CITY, IOWA

- The substation at 1630 Lower Muscatine Rd was built in 1962 and the abutting residential was built in 1962, 1963, 1964 & 1965. The closest residence is approximately 60 feet from the substation fence.
- The substation at 1120 Mormon Trek Blvd was built in 1980 and the abutting residential was built in 1987, 1988, 1990 & 1996. The closest residence is just over 20 feet away from the substation fence.
- The closest residence to the proposed substation is approximately 100 feet away from the planned substation fence and approximately 120 feet away from the proposed transformer.
- There is a senior living project currently under construction on Foster Road to the southwest of the proposed substation.

The Board concludes that adequate utilities and access roads will be provided because the substation will be accessed from Foster Road and will be installing electricity to service the surrounding area.

The Board concludes that adequate measures have been or will be taken to provide ingress or egress designed to minimize traffic congestion on public streets based on the following findings:

- The future intersection of Foster Road and Prairie du Chien will be controlled by a stop sign on Foster Road.
- Post-construction the proposed substation will produce minimal traffic as there be approximately one truck per month at the substation for routine maintenance and no permanent employees on site.

The Board concludes that except for the specific regulations and standards applicable to the exception being considered, the specific proposed exception, in all other respects conforms to the applicable regulations or standards of the zone in which it is to be located based on the following findings:

- The Commercial Office (CO-1) zone is intended for offices, businesses, apartments, and certain public & semi-public uses.
- The proposed substation exceeds the minimum setback requirements.
- That aside from the special exception being considered, the lot meets all other requirements of the Commercial Office (CO-1) zone.

The Board concludes that the proposed exception will be consistent with the Comprehensive Plan based on the following finding:

- The Comprehensive Plan supports Iowa City coordinating with private utilities in order to serve areas under development.

**DISPOSITON:** by a vote of 3-0, the Board approved a special exception allowing a basic utility in a Commercial Office (CO-1) zone to build an electric substation with the following condition:

- The landscaping and screening around the substation must adhere to the landscaping plan submitted, dated June 20, 2019 prior to the issuance of a Certificate of Occupancy.

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2. EXC19-06: A public hearing regarding a special exception to construct a basic utility consisting of a telecommunications hub in a Community Commercial (CC-2) zone located at 2211 F St.

The Board concludes that the use will be screened from public view and from adjacent residential zones at least to S3 standards and that it will be compatible with surrounding structures and uses with regard to safety, size, height, scale, location and design based on the following findings:

- The Board concludes that the proposed hub meets the S3 screening requirements as the applicant plans to surround the building with a 6-foot opaque fence.
- The proposed building is 10 feet tall and not out of scale with the surrounding structures.
- The southern portion of the site abuts a 20-foot retaining wall, providing screening.
- The applicant has submitted renderings that show the proposed structure with a brick façade.
- The proposed structure would be located at the rear of the lot and not highly visible from the public right-of-way.
- The proposed structure is not adjacent to any residential zones.
- The project is located in the Towncrest Overlay District and must go to staff design review to evaluate material quality, screening, and neighborhood compatibility.

The Board concludes that the proposed hub will not be detrimental to public health, safety or general welfare based on the following findings:

- The hub will be enclosed in a structure with a locked door to prevent unauthorized access.
- The communications systems is low voltage (48 volts).
- The hub will improve the comfort and general welfare of Iowa City residents by offering another cable and internet provider option.

The Board concludes that the proposed hub will not be injurious to the use, enjoyment or property values of other property in the immediate vicinity due to the following findings:

- The hub will be small and located in the rear southeast corner of the property and does not abut residential properties.
- The hub will go through design review to ensure neighborhood compatibility.
- The hub will allow for another internet and cable service provider in Iowa City and will increase bandwidth capabilities.
- The hub will require a small generator to power it if surrounding power goes out. Any noise it gives off would be mitigated by the proposed fence and existing retaining wall. Additionally, this site does not abut residential properties.

The Board concludes that the proposed hub will not impede normal and orderly development of the surrounding property because the surrounding property is fully developed and the structure will conform to all setback requirements.

The Board concludes that the proposed hub will have access to all utilities and other necessary facilities.

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IOWA CITY, IOWA  
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The Board concludes that the site contains adequate ingress and egress and the hub will not increase traffic congestion due to the following findings:

- The hub will not increase traffic congestion in the area post-construction because it will only need occasional maintenance and not house any permanent employees.
- The lot has adequate circulation and parking.

The Board concludes that except for the specific regulations and standards applicable to the exception being considered, the specific proposed exception, in all other respects conforms to the applicable regulations or standards of the zone in which it is to be located based on the following findings:

- The property is in compliance with the zoning code in all aspects aside from the parking lot landscaping, which the applicant has addressed.
- There are no parking or other vehicle requirements for this use.
- This project complies with the Community Commercial (CC-2) standards in all other aspects.

The Board concludes that the proposed hub is consistent with the Comprehensive Plan because the Central District Plan encourages the development of businesses that provide goods, services, and amenities to the neighborhood.

**DISPOSITION:** By a vote of 3-0, the Board approved a special exception allowing a basic utility in a Community Commercial (CC-2) zone to build a telecommunications hub.

**TIME LIMITATIONS:**

All orders of the Board, which do not set a specific time limitation on Applicant action, shall expire six (6) months from the date they were filed with the City Clerk, unless the application shall have taken action within such time period to establish the use or construct the improvement authorized under the terms of the Board's decision. City Code Section 14-\*C-1E, City of Iowa City, Iowa.

FILED  
2019 JUL 26 AM 11:02  
CITY CLERK  
IOWA CITY, IOWA

Connie Goeb  
Connie Goeb, Chairperson

Approved by:  
[Signature] 7-26-19  
City Attorney's Office

STATE OF IOWA            )  
  )  
JOHNSON COUNTY        )

I, Kellie K. Fruehling, City Clerk of the City of Iowa City, do hereby certify that the Board of Adjustment Decision herein is a true and correct copy of the Decision that was passed by the Board of Adjustment of Iowa City, Iowa, at its regular meeting on the 8<sup>th</sup> day of May, 2019, as the same appears of record in my Office.

Dated at Iowa City, this 26<sup>th</sup> day of July, 2019

Kellie K. Fruehling  
Kellie K. Fruehling, City Clerk

CORPORATE SEAL

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2019 JUL 26 AM 11:02  
CITY CLERK  
IOWA CITY, IOWA

July 18, 2019

Attn: Ms. Jessica Lile, Associate Planner  
City of Iowa City  
410 E. Washington St.  
Iowa City, Iowa 52240  
319-358-5240. [Jessica-lile@iowa-city.org](mailto:Jessica-lile@iowa-city.org)

**RE: REQUEST FOR SPECIAL SESSION: Steve and Kitty Highly Residence, 1823 Prairie Du Chien Rd, Iowa City, IA vs. MidAmerican Energy**

Dear Ms. Lile,

As a follow up to the July 10<sup>th</sup>, 2019, City Council meeting, the Highly's and I would like to request a time to meet with you, the City Council members and the MidAmerican Energy representatives, and if possible, Adam Wright, CEO of MidAmerican Energy. It appears, MidAmerican Energy is no longer conducive to proceeding with the original "good faith" offer that they indicated would be "doable" terms regarding the property at 1823 Prairie Du Chien Rd.

We also request the opportunity to discuss additional concerns adversely affecting 1823 Prairie Du Chien Rd and the surrounding development that were not previously addressed by MidAmerican Energy during the July 10<sup>th</sup> meeting.

We look forward to the opportunity to meet with you and the City Council members in person to discuss this extremely important information in a conscientious effort to ensure both the safety of all of our neighbors and to keep our communities safe and strong. We are able to be flexible for both the time and place of the meeting based on your schedule, however, due to the 30-day preliminary approval period, the meeting must occur prior to August 09, 2019.

In the interim, should you have any questions or if I can be of service, please do not hesitate to contact me at your convenience. (cell phone: 540-271-2457 or via email: [acx-operations@earthlink.net](mailto:acx-operations@earthlink.net)).

Sincerely,

  
AJ Kazyjak

7-19-2019  
Date

  
Steven Highly and Kitty Highly

7-19-2019  
Date

July 18, 2019

Attn: Ms. Sue Dulek, Assistant City Attorney  
City of Iowa City  
410 E. Washington St.  
Iowa City, Iowa 52240  
319-356-5030. [sue-dulek@iowa-city.org](mailto:sue-dulek@iowa-city.org)

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JUL 22 2019

CITY ATTORNEY'S OFFICE

RE: REQUEST FOR SPECIAL SESSION: *Steve and Kitty Highly Residence, 1823 Prairie Du Chien Rd, Iowa City, IA vs. MidAmerican Energy*

Dear Ms. Dulek,

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Sincerely,

AJ Kazyjak

Date

Steven Highly and Kitty Highly

Date