

GENERAL INFORMATION

Applicant: Bradley Pederson (Owner)
CenterPoint Energy Natural Gas Operations (User)

Location: 9407 Old Cedar Avenue South

Request: Conditional Use Permit and Final Site and Building Plans
for Limited Public Utility Facility

Existing Land Use and Zoning: Plant nursery; zoned Single-Family Residential (R-1) and
Bluff Protection Overlay District (BP-1)

Surrounding Land Use and Zoning: North – Single-Family Residential; zoned R-1 and BP-1
South – Single-Family Residential and Minnesota River
Valley Wildlife Refuge; zoned R-1, BP-1, SC
and FH
East – Minnesota River Valley Wildlife Refuge; zoned
SC and FH
West – Multi-Family Residential; zoned R-4

Comprehensive Plan Designation: Conservation, Low Density Residential

CHRONOLOGY

Planning Commission 07/21/2016 Public Hearing Scheduled

PROPOSAL

CenterPoint Energy Natural Gas Operations is proposing to install a regulator and receiver station located at 9407 Old Cedar Avenue North. The proposed facility would replace an existing station located at the southwest corner of Old Shakopee Road and Old Cedar Avenue. The facility would be used to repair, maintain and clean underground gas pipelines owned and operated by CenterPoint Energy.

The proposed structure would be approximately 670 square feet in size. The structure would be located in the southern portion of the site, which has been used as a plant nursery in some form since 1919 according to the property owner. The site is presently home to Bloomington Garden Center. The facility would include exterior equipment, including limited sections of above-ground gas pipeline, which would be enclosed and secured with a seven foot fence and gates. Access to the facility will be provided by a small driveway addition to the existing southern driveway.

ANALYSIS

Land Use and Code Compliance

Limited public utility facilities are allowed in the R-1 Single-Family Residential zoning district as a conditional use. In addition, the proposed utility structure is located in the Bluff Protection Overlay District (BP-1). As a result of a recently approved ordinance amendment, public and public utility facilities located in the BP-1 overlay district are exempt from the development prohibition below the 760-foot elevation. As part of the Conditional Use Permit review, staff analyzes Code compliance for the proposed limited public utility facility. General code review can be found in Table 1.

Table 1: City Code Analysis for Limited Public Utility Facility in the R-1 District

Standard and Code Section	Proposed	Meets Standard?
Building Setbacks for Principal Buildings (Section 21.301.02(d)(2)): Front-yard setback – 50 feet Side-yard setback – 20 feet Rear-yard setback – 30 feet	Structure setbacks: Front-yard (west)– 51 feet Side-yard (north) – 317 feet Rear-yard (east)– 166 feet	Yes
Curb. Parking areas must have concrete curbs defining the perimeter (Section 21.301.06(c)(2)(E)).	Applicant is proposing B612 concrete curb.	Yes
Landscaping – Trees and Shrubs. One tree per 2,500 sq. ft. and one shrub per 1,000 sq. ft. of developable area (Section 19.52(c)(2)). Replacement of trees removed required. 15 trees and 30 shrubs required.	Trees – 4 provided Shrubs – 21 shrub equivalents provided	Revisions required (see comments)
Screening. Perimeter screening of above-ground pipeline equipment is recommended as a condition of approval.	Applicant is proposing to install ivy along proposed fence.	Revisions required (see comments)
Fence Height – 6 feet maximum (21.301.08)	7 foot high chain link security fence	Yes – Exemption (21.301.08(c)(2)(H))
Lighting: Secondary entrance (within 3 feet) – 2.0 FC required	Applicant has not presented a lighting plan.	Code-compliance required (see comments)

Landscaping, Screening and Lighting

The approximate site disturbance is 0.68 acres, or approximately 29,620 square feet. The amount of landscape material required to be installed based on the level of site disturbance is 12 trees and 30 shrubs. In addition, three existing trees are proposed to be removed. The existing trees must be replaced, resulting in 15 total trees required to be installed. Regarding the shrub requirement, the applicant is proposing 84 perennials/grasses. According to code, four perennial plants equate to one shrub. In addition, a maximum of 50 percent of the shrub requirement can be accommodated by perennial plants. Therefore, the applicant can receive a maximum credit of 15 shrubs (50 percent of 30 shrubs) for the proposed perennial plants. A minimum of 15 shrubs are required to be installed to meet the shrub planting requirement.

According to City Code Section 19.52, the City may require screening of incompatible uses. As part of the Conditional Use Permit review, staff is recommending the above-ground pipelines and associated equipment be screened from view to the public right-of-way of Old Cedar Avenue. The pipe gallery is adjacent to the Nokomis-Minnesota River Regional Trail and Old Cedar Avenue is one of the gateways to the Minnesota River Valley Wildlife Refuge. Staff recommends screening be provided to maintain a natural and aesthetically attractive appearance while still accommodating the public utility facility. Screening may be achieved either through an opaque wall, a berm or evergreen trees. Given the natural surroundings, staff recommends utilizing evergreen plantings to provide a year-round screen of the exterior equipment. Staff recommends a condition that screening of the exterior equipment be provided to the south and west.

Regarding lighting, the only requirement that applies to the proposed structure is the required illumination levels for secondary entrances. City Code requires a minimum of 2.0 foot-candles at all secondary entrances. Staff is recommending a condition that the building comply with the City's exterior lighting ordinance.

Building Design

The building exterior is proposed as burnished concrete block, which is a type of concrete masonry unit (CMU). Concrete block is an acceptable building material in the R-1 Zoning District per code provided it is integral in color and not coated. CenterPoint Energy is proposing a green metal roof. City Code Section 19.63.08(b) specifies the acceptable exterior materials for non-residential principal structures in the R-1 district. City Code specifies that the exterior materials of non-residential buildings in the R-1 zoning district may not be coated. Final exterior building materials must be approved by the Planning Manager prior to issuance of a building permit. The proposed building height is 14.2 feet, which complies with the maximum height allowed at the subject property.

Access and Parking

The proposed building would be accessed by a minimal driveway addition stemming off the existing southern access of the plant nursery. The proposed driveway addition should provide effective and safe access for the minimal levels of traffic generated by the proposed use. In addition, the proposed use does not require dedicated parking to be provided. Any maintenance personnel that travel to the site would park in the proposed driveway or turn around that serves the regulator and receiver station.

Stormwater Management

The applicant is proposing to meet stormwater requirements by installing an infiltration basin south of the proposed facility. The applicant has submitted a stormwater management plan including narrative and supporting calculations that is currently under review by Water Resources staff. Prior to issuance of a grading permit, a complete stormwater management plan must be approved by the City Engineer.

City Project on Old Cedar Avenue

In 2017, the City will be reconstructing Old Cedar Avenue. The Centerpoint project will need to coordinate with City staff as they proceed with the project.

Fire Prevention

The proposed utility building will not need to be sprinkled according to the State Fire Code, as it does not meet the minimum size threshold for sprinkling.

Status of Enforcement Orders

There are no open enforcement orders for this property.

Miscellaneous

The site plan includes a note that an existing accessory building which is currently located near the proposed driveway will be moved by others. The accessory building is presently legally non-conforming in status. Should the accessory building be moved, it will lose its legally non-conforming status. Should the proposed plan move forward, the accessory building will not be allowed to be erected in another location, as commercial uses are only allowed one accessory building. As the plant nursery erected a number of accessory buildings prior to the current standards, a number of legally non-conforming structures currently exist. Staff is recommending a condition that the structure not be relocated should it be moved to accommodate the proposed improvements.

City Council Review

The City Council recently approved an ordinance on June 27, 2016 to amend the Bluff Protection (BP-1) and Bluff Development (BP-2) Overlay Districts by providing an exemption for public and public utility structures from the development prohibition between the 760-foot and 722-foot elevations. As part of the discussion for the ordinance, the City Council requested that performance standards be developed for public and public utility structures within the BP-1 and BP-2 districts and that approval processes specify that all such conditional use permit applications must be reviewed by the City Council. Staff has drafted the requested performance standards and the ordinance is tentatively scheduled for City Council review on August 15th.

In addition to the discussion about performance standards, the City Council was informed that CenterPoint Energy has recently made an application for a structure within the BP-1 district. Seeking to review the proposed structure due to its proximity to the MN River Valley Wildlife Refuge, the City Council requested this Conditional Use Permit for the regulator and receiver station be appealed and sent to the City Council for review. According to the City's established procedure for this application type, the Planning Commission has the review authority to make the final decision unless an appeal is received.

FINDINGS

Section 21.501.04(e)(1-5) Conditional Use Permits and Section 21.501.01(d)(1-4) – Final Site and Building Plans

(1) The proposed use is not in conflict with the Comprehensive Plan;

- The subject property is guided Low Density Residential and Conservation by the Comprehensive Plan. Limited public utility facilities are conditional uses in the R-1 Zoning District. The proposed use is not in conflict with the Comprehensive Plan.

(1) The proposed use is not in conflict with any adopted District Plan for the area;

- The property is not located within an adopted District Plan area.

(3) The proposed use is not in conflict with City Code provisions;

- Subject to compliance with the conditions of approval, the proposed use meets all City Code requirements.

- (4) **The proposed use will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the planned development; and**
- The proposed use is not of a nature, scale, or intensity to create an excessive burden on parks, schools, or other public facilities and utilities. The proposed use will generate minimal levels of traffic associated with gas pipeline maintenance activities.
- (5) **The proposed use will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.**
- The limited size of the proposed building and associated equipment will not be injurious to the surrounding neighborhood. Screening of exterior equipment as required by condition of approval will further buffer the use from the public right-of-way. The proposed use is of a character and scale that is not anticipated to harm the public health, safety and welfare.

RECOMMENDATION

Note the Planning Commission has final approval authority on this Conditional Use Permit and Final Site and Building Plans application absent an appeal, however an appeal has already been requested by the City Council.

Staff recommends approval of the Conditional Use Permit and Final Site and Building Plans through the following motion:

In Case #PL201600106, having been able to make the required findings, I move to adopt a resolution approving a Conditional Use Permit and Final Site and Building Plans for a limited public utility facility located at 9407 Old Cedar Avenue South, subject to the conditions and Code requirements attached to the staff report.

RECOMMENDED CONDITIONS OF APPROVAL

Case PL201600106

Project Description: Conditional Use Permit and Final Site and Building Plans for a limited public utility facility in the R-1 zoning district.

Address: 9407 OLD CEDAR AVE S

The following conditions of approval are arranged according to when they must be satisfied. In addition to conditions of approval, the use and improvements must also comply with all applicable local, state, and federal codes. Codes to which the applicant should pay particular attention are included below.

1. Prior to Permit A building permit for all required changes to accommodate the proposed use be obtained.
2. Prior to Permit The Grading, Drainage, Utility, and Erosion Control plans must be approved by the City Engineer.
3. Prior to Permit Storm Water Management Plan must be provided that demonstrates compliance with the City's Comprehensive Surface Water Management Plan. A maintenance plan must be signed by the property owners and must be filed of record with Hennepin County.
4. Prior to Permit Approval by the Lower Minnesota Watershed District must be provided.
5. Prior to Permit Sewer Availability Charges (SAC) must be satisfied.
6. Prior to Permit An erosion control surety must be provided (16.05(b)).
7. Prior to Permit Landscape plan must be approved by the Planning Manager and landscape surety must be filed (Sec 19.52).
8. Prior to Permit Exterior building materials must be approved by the Planning Manager (Sec. 19.63.08).
9. Prior to C/O The developer must submit electronic utility as-builts to the Public Works Department prior to the issuance of the Certificate of Occupancy.
10. Ongoing Building and site improvements are limited to those shown on the approved plans in Case File #PL201600106.
11. Ongoing Alterations to utilities must be at the developer's expense.
12. Ongoing Five foot high perimeter screening must be provided along the western and southern elevation of all exterior equipment as approved by the Planning Manager (Sec 19.52).
13. Ongoing Site security lighting must satisfy the requirements of Section 21.301.07 of the City Code.
14. Ongoing All construction stockpiling, staging, and parking must take place on-site and off adjacent public streets and public rights-of-way.
15. Ongoing All loading and unloading must occur on site and off public streets.
16. Ongoing The existing accessory building in the same location as the proposed improvements may not be erected in another location.