

LE SUEUR COUNTY PLANNING AND ZONING COMMISSION
88 SOUTH PARK AVE.
LE CENTER, MINNESOTA 56057
September 12, 2019

MEMBERS PRESENT: Don Reak, Doug Krenik, Jeanne Doheny, Shirley Katzenmeyer, Al Gehrke, Pam Tietz, Scott Vonlehe, Commissioner Gliszinski

MEMBERS ABSENT: None

OTHERS PRESENT: Joshua Mankowski, Commissioner Wetzel

1. The meeting was called to order at 7:00 p.m. by Chairperson Jeanne Doheny.
2. Agenda. The application Item #6 Le Sueur County SWCD, Le Center, MN, (Applicant); Wayne & Willa Bratsch, Le Center, MN, (Owner) has been withdrawn. Motion to approve agenda was made by Doug Krenik. Second by Don Reak. Approved.
3. Minutes from August 8, 2018 Meeting. There was a spelling error on #5, second paragraph. Draft minutes has "new" and should read "knew". Motion to approve minutes as amended was made by Don Reak. Second by Shirley Katzenmeyer. Approved.
4. Applications

ITEM #1: MARIGOLD COMMUNITY SOLAR GARDEN, LLC EDINA, MN (APPLICANT); ROGER & DARLENE ADAMS & MONICA KELLY, WATERVILLE, MN (OWNER): Request that the County grant a Conditional Use Permit to allow the applicant to construct a 1MW Solar Garden in an Agriculture "A" District. Property is located in the SW 1/4 SE 1/4, Section 32, Waterville Township. ***APPLICATION WAS TABLED AT THE AUGUST 8, 2019 MEETING.***

Joshua Mankowski presented Power Point presentation.

Marta Jensen and Haley Waller Pritts were present for the application.

TOWNSHIP Notified. Response: Response letter dated November 17, 2018 stating their request that the applicant use a shorter, fast-growing grass as part of the revegetation plan for the project area.

DNR Notified. Response: None.

LETTERS: E-mail response from Brent Christian, Le Sueur County Attorney, responding to the Waterville Township's Attorney stating Le Sueur County's position on the Waterville Township Solar Moratorium.

PUBLIC COMMENT:

Roy McIntyre, City of Waterville, stating that the Planning and Zoning Commission should take a hard look at these solar gardens. If allowed, the applicant should be required to construct berms and trees to block the views from Highway 60 and CSAH 6. Concern that there will be a negative impact on tourism. Solar gardens should be placed further from the road in order to obstruct the view of the garden.

Karie Anderson of Patton, Hoversten & Berg, representing Waterville Township stated, the Township's opinion on the proposed solar garden. Due to the moratorium on solar, the proposal will not pass township zoning. The moratorium restriction stopping solar is to allow the Township to study and define ordinances. The moratorium does impact the proposed project because it is in effect until May 23, 2020. The Township will enforce the moratorium.

Discussion was held regarding: Discussion was held on the Waterville Township moratorium and the opinion of the County Attorney as well as the opinion of Jay Squires of Rupp, Anderson, Squires & Waldspurger, P.A., a land use attorney working under Minnesota Counties Intergovernmental Trust. The correct procedure for the permitting process to include township permitting was had. The concerns voiced about continued solar development voiced by Roy McIntyre, City of Waterville City Council, and the City of Waterville's moratorium were discussed.

Findings by majority roll call vote:

- 1. The conditional use will be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity. This is a busy intersection. Large parcel of agricultural land and goal is to preserve agricultural land. Will impact the use and enjoyment of other properties in the immediate vicinity. Concerns raised by the City of Waterville. Do not believe it will not impact property values. Waterville Township has a moratorium and we do not have a solar ordinance.*
- 2. The establishment of the conditional use will impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area. Solar gardens are for 25 -35 years and will impede normal development in the area. Predominate use is agriculture, not solar. Within 1.8 miles of the City of Waterville and area will change significantly in this time. Waterville Township has a moratorium on solar gardens.*
- 3. Adequate utilities, access roads, drainage and other facilities have been or are being provided. Waterville Township has a moratorium on solar gardens.*
- 4. Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use. Waterville Township has a moratorium on solar gardens.*
- 5. Adequate measures have been or will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result. This is a busy intersection. The solar garden, plus dust from the county road, will cause too much of a distraction. The solar garden itself will not cause offensive odors, fumes, dust, or noise. The solar garden will be distracting for drivers on the road. Waterville Township has a moratorium on solar gardens.*
- 6. The Conditional Use Permit is not consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance. Solar gardens are not in the current Zoning Ordinance. Our policy is to preserve agricultural land and this use will be there for a number of years. Waterville Township has a moratorium on solar gardens.*
- 7. The Conditional Use Permit is not consistent with the Comprehensive Land Use Plan. This use is not listed in the Comprehensive Land Use Plan. Solar is not in the Ordinance. Waterville Township has a moratorium on solar gardens.*

Marta Jensen requested that the application be tabled in order to allow additional time to work with Waterville Township on their issues with the solar garden proposal. Marta Jensen stated that the applicant waives their 60-Day Rule review period to allot additional time to address concerns.

Motion was made by Doug Krenik to Table the application to allow the applicant time to work with Waterville Township.

Seconded by Scott Vonlehe. Motion approved. Motion carried.

ITEM #2: NOVEL ENERGY, WEST ST. PAUL, MN, (APPLICANT); PETER GROH, JANESVILLE, MN, (OWNER): Request that the County grant a Conditional Use Permit to allow

the applicant to construct a 1 MW Solar Garden in an Agriculture "A" District. Property is located in the SE 1/4 SW 1/4, Section 32, Waterville Township. **APPLICATION WAS TABLED AT THE AUGUST 8, 2019 MEETING.**

Joshua Mankowski presented Power Point presentation.

Paula Fitzgerald was present for application.

TOWNSHIP Notified. Response: None

DNR Notified. Response: None

LETTERS: E-mail response from Brent Christian, Le Sueur County Attorney, responding to the Waterville Township's Attorney stating Le Sueur County's position on the Waterville Township Solar Moratorium.

PUBLIC COMMENT: None

Discussion was held regarding: Paula Fitzgerald stated that, due to the conversation during the previous application, Novel Energy request to be tabled in order to address concerns with Waterville Township.

Joshua Mankowski stated that the Applicant would need to waive the 60-day ruling requirement. Paula Fitzgerald stated that they waive the 60-Day Ruling requirement.

Motion was made by Don Reak to Table the application to allow the applicant time to work with Waterville Township.

Seconded by Scott Vonlehe. Motion approved. Motion carried.

ITEM #3: PATRICK WILLAERT, LE SUEUR, MN, (APPLICANT/OWNER): Requests that the County grant a Conditional Use Permit to allow grading, excavating, and filling of 1,185 cubic yards of material in an Urban/Rural Residential "R1" District. Property is located at Lot 6, Bakers Acres, Section 12, Kasota Township.

Joshua Mankowski presented Power Point presentation.

Patrick Willaert was present for application.

TOWNSHIP Notified. Response: None

DNR Notified. Response: None

LETTERS: None

PUBLIC COMMENT: None

Discussion was held regarding: The reason for bringing in fill to create the building pad and driveway was discussed. The fact that some of the fill included in the application would have been included as a permitted use with a zoning permit was discussed. The applicant is not planning on constructing the house at this time but will do so in the near future. Current and proposed drainage on the lot was discussed, including possible impacts to neighboring properties.

Findings by majority roll call vote:

1. *The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity*

- for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.*
2. *The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.*
 3. *Adequate utilities, access roads, drainage and other facilities have been or are being provided.*
 4. *Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.*
 5. *Adequate measures have been or will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.*
 6. *The Conditional Use Permit is consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance.*
 7. *The Conditional Use Permit is consistent with the Comprehensive Land Use Plan.*

Motion was made by Doug Krenik to Approve the application as presented.

Seconded by Scott Vonlehe. Motion approved. Motion carried.

ITEM #4: JANET TUREK, NEW PRAGUE, MN, (APPLICANT/OWNER): Requests that the County grant a Conditional Use Permit to allow the applicant to rezone 2.82 acres from an Agriculture "A" to an Urban/Rural Residential "R1" District. Property is located at Lot 1, Block 3, Turek Estates, Section 4, Lanesburgh Township.

Joshua Mankowski presented Power Point presentation.

Ken Turek was present for application.

TOWNSHIP Notified. Response: None

DNR Notified. Response: None

LETTERS: City of New Prague stating that the proposed rezone would fit the City's future plans and that the City supported the lots initial creation.

PUBLIC COMMENT: None

Discussion was held regarding: There was some discussion about the current use of the lot, neighboring zoning, the possibility of city services, and the original platting.

Findings by majority roll call vote:

1. *The proposal is compatible with the overall character of existing development in the immediate vicinity of the affected property. Consideration shall be made if there are similar land uses nearby or if the proposed use would be isolated.*
2. *The proposal is compatible with the overall character of existing development in the immediate vicinity of the affected property. Consideration shall be made if there are similar land uses nearby or if the proposed use would be isolated.*
3. *The proposal will not have an adverse effect on the values of adjacent properties.*
4. *The proposal will not be injurious to the use and enjoyment of other property in the immediate vicinity for the uses already permitted.*

5. *The proposal will not be injurious to the use and enjoyment of other property in the immediate vicinity for the uses already permitted.*
6. *The density of the proposal is not greater than the density of the surrounding neighborhood or density indicated by the applicable Zoning District.*
7. *Adequate utilities, access roads, drainage, and other necessary infrastructure are being provided.*
8. *Soil conditions are adequate to accommodate the proposal.*
9. *The proposal will not create a potential pollution hazard.*
10. *The proposal will not degrade the water quality of the County.*
11. *The proposal will not have a negative impact upon natural resource areas such as bluffs, wetlands, water bodies, agricultural land, woodlands, and aggregate resource deposits.*
12. *The proposal will not negatively affect the protection of the public health, safety, and general welfare.*

Motion was made by Pam Tietz to Approve the application as presented.

Seconded by Shirley Katzenmeyer. Motion approved. Motion carried.

ITEM #5: JOHN & BRANDEE SCHULZ, CUDAHY, WI, (APPLICANT/OWNER): Request that the County grant a Conditional Use Permit to allow grading, excavating, and filling of 42 cubic yards of material in the shore impact zone for a shoreline restoration rip rap project in a Recreational Residential "RR" District and a Flood Fringe "FF" Flood Plain Overlay District on Lake Jefferson, a Recreational Development "RD" lake. Property is located at Lot 20 Jefferson Highlands, Section 2, Cleveland Township.

Joshua Mankowski presented Power Point presentation.

Brandee Schulz was present for application.

TOWNSHIP Notified. Response: None.

DNR Notified. Response: None.

LETTERS: Holly Kalbus, Environmental Resources Specialist, stating her recommendation for approval with conditions: 1. Installment of rip rap must follow DNR and County regulations/requirements.

PUBLIC COMMENT: None

Discussion was held regarding: Discussion was had about the erosion taking place on the shoreline, lot size, DNR approval, and the timeline for the proposed work.

Findings by majority roll call vote:

1. *The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.*
2. *The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.*
3. *Adequate utilities, access roads, drainage and other facilities have been or are being provided.*
4. *Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.*

5. *Adequate measures have been or will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.*
6. *The Conditional Use Permit is consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance.*
7. *The Conditional Use Permit is consistent with the Comprehensive Land Use Plan.*

Motion was made by Al Gehrke to Approve the application with conditions. Conditions: Installment of rip rap shall follow DNR and County regulations/requirements.

Seconded by Scott Vonlehe. Motion approved. Motion carried.

ITEM #7: DEBRA TOWNSEND LIND, WEST DES MOINES, IA, (APPLICANT); DAVID P. LIND TRUST & DEBRA TOWNSEND, ELYSIAN, MN, (OWNER): Request that the County grant a Conditional Use Permit to allow grading, excavating, and filling of 96 cubic yards in the shore impact zone and within the bluff for a shoreline rip rap project and the construction of stairs in the bluff in a Recreational Residential "RR" District, on Lake Frances, a Recreational Development "RD" lake. Property is located at Lots 13 & 14 Muellerleile Subdivision, Section 33, Elysian Township.

Joshua Mankowski presented Power Point presentation.

Debra Townsend Lind & Bruce Skluzacek were present for application.

TOWNSHIP Notified. Response: None.

DNR Notified. Response: None.

LETTERS: Holly Kalbus, Environmental Resources Specialist, stating her recommendation for approval with conditions: 1. Installment of rip rap must follow DNR and County regulations/requirements.

PUBLIC COMMENT: None

Discussion was held regarding: There was discussion about the DNR permit and the past, approved projects that were done by the neighboring property owners. The use of chain-link fence to deter muskrats, the lack of hand railing, and the timeline for the project was also talked about.

Findings by majority roll call vote:

1. *The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.*
2. *The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.*
3. *Adequate utilities, access roads, drainage and other facilities have been or are being provided.*
4. *Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.*
5. *Adequate measures have been or will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.*
6. *The Conditional Use Permit is consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance.*

7. *The Conditional Use Permit is consistent with the Comprehensive Land Use Plan.*

Motion was made by Shirley Katzenmeyer to Approve the application with conditions. Conditions: Installment of rip rap shall follow DNR and County regulations/requirements.

Seconded by Pam Tietz. Motion approved. Motion carried.

ITEM #8: DONALD & TOYA SCHMIDTKE, WATERVILLE, MN, (APPLICANT/OWNER):

Request that the County grant a Conditional Use Permit to allow grading, excavating, and filling of 72 cubic yards of material within the shore impact zone for a shoreline reclamation and rip rap project in a Recreational Residential "RR" District, a Flood Fringe "FF" Flood Plain Overlay District and a Mineral Resources "MR" Overlay District on Lake Tetonka, a Recreational Development "RD" lake. Property is located in Government Lot 5, Section 21, Waterville Township.

Joshua Mankowski presented Power Point presentation.

Donald (Tim) Schmidtke was present for application.

TOWNSHIP Notified. Response: None.

DNR Notified. Response: None.

LETTERS: Holly Kalbus, Environmental Resources Specialist, stating her recommendation for approval with conditions: 1. Installment of rip rap must follow DNR and County regulations/requirements. 2. Plant deep rooted Minnesota native vegetation for the buffer that will be located near the rip rap.

PUBLIC COMMENT: None.

Discussion was held regarding: Discussion was had about the erosion issue along the shoreline, undermining of the trees, DNR permit, and the timeline for the project. Some additional discussion was had about the old cabin near the shoreline, it is beyond repair.

Findings by majority roll call vote:

1. *The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.*
2. *The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.*
3. *Adequate utilities, access roads, drainage and other facilities have been or are being provided.*
4. *Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.*
5. *Adequate measures have been or will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.*
6. *The Conditional Use Permit is consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance.*
7. *The Conditional Use Permit is consistent with the Comprehensive Land Use Plan.*

Motion was made by Al Gehrke to Approve the application with conditions. Conditions:

1. Installment of rip rap must follow DNR and County regulations/requirements.
2. Plant deep rooted Minnesota native vegetation for the buffer that will be located near the rip rap.

Seconded by Don Reak. Motion approved. Motion carried.

ITEM #9: CHARLES & MARY HIRN, CLEVELAND, MN, (APPLICANT/OWNER):

Request that the County grant an After-The-Fact Conditional Use Permit to allow grading, excavating, and filling of 61.31 cubic yards outside the shore impact zone; 11.58 cubic yards within the shore impact zone; 18.06 cubic yards within the bluff impact zone; and 8.34 cubic yards within the bluff for a total of 72.89 cubic yards on the lot for the construction of a proposed patio and the removal of after-the-fact retaining walls in a Recreational Residential "RR" District, on Lake Jefferson, a Recreational Development "RD" lake. Property is located at Lots 21 & 22, Cape Horn Subdivision, Section 1, Cleveland Township.

Joshua Mankowski presented Power Point presentation.

Charles Hirn was present for application.

TOWNSHIP Notified. Response: None.

DNR Notified. Response: None.

LETTERS: Holly Kalbus, Environmental Resources Specialist, stating her recommendation for approval with conditions: 1. Plant deep rooted native vegetation where the current retaining wall, located on the north side of the property, is being proposed to be removed. 2. Plant deep rooted native vegetation within disturbed area, as indicated on the survey, which is located in the bluff. 3. Plant vegetation within disturbed areas, as indicated on the survey, which is located at top of the bluff and in the bluff impact zone.

PUBLIC COMMENT: None

Discussion was held regarding: The removal some of the retaining walls, steps, regrading of the lot to restore it to its previous condition, and removal of one of the water orientated accessory structures was discussed. Some of the work needs to be done in order to comply with an approved Variance. It was clarified that rip rap was not part of this Conditional Use Permit request.

Findings by majority roll call vote:

1. *The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.*
2. *The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.*
3. *Adequate utilities, access roads, drainage and other facilities have been or are being provided.*
4. *Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.*
5. *Adequate measures have been or will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.*
6. *The Conditional Use Permit is consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance.*

7. *The Conditional Use Permit is consistent with the Comprehensive Land Use Plan.*

Motion was made by Don Reak to Approve the application with conditions. Conditions: 1.

Plant deep rooted native vegetation where the current retaining wall, located on the north side of the property, is being proposed to be removed. 2. Plant deep rooted native vegetation within disturbed area, as indicated on the survey, which is located in the bluff. 3. Plant vegetation within disturbed areas, as indicated on the survey, which is located at top of the bluff and in the bluff impact zone.

Seconded by Scott Vonlehe. Motion approved. Motion carried.

5. Discussion Items: We have a work session planned on Zoning Ordinance amendments on September 18, 2019.

6. Warrants/Claim-signatures.

7. Motion to adjourn meeting by Shirley Katzenmeyer. Second by Pam Tietz. Motion approved. Motion carried.

Respectfully submitted,

Joshua Mankowski

***Tape of meeting is on file in the
Le Sueur County Environmental Services Office***