

Planning Commission

MINUTES

March 14th, 2019

PRESENT: Gerry Feld, Mitch Czech, Mary Jo Holewa, Scott Johnson, Jerry Lang, Dan Gottwalt, Warren Peschl

Staff: Roxanne Achman

1. Scott called the meeting to order followed by the Pledge of Allegiance.
2. Warren moved to approve the agenda. Dan seconded and the motion carried.
3. Gerry moved to approve the minutes from the February 14th meeting. Mitch seconded and the motion carried.
4. File #19-019, Elizabeth Pederson, landowner and Novel Energy Solutions, LLC, applicant, requesting an interim use permit to construct a community solar energy system in the Agricultural District. Pursuant to Sections 7.1.24C, 9.20 and 11.6.3. The affected property is described as follows: SW1/4 NW1/4, less the S66ft, Section 11, Minden Township.

Roxanne stated that this request is similar to other 1-megawatt solar projects. There is a solar project next to this one that was approved in December. She showed the other solar projects in the area. The proposed solar garden will use 10 acres in the south east corner of this 38.82 acre parcel. Site access will be from an existing private driveway from 55th Ave NE. A pollinator mix will be planted under the solar panels. The site will be fenced. Additional screening will be provided on the east and south side of the site. The applicant is requesting a 35 year Interim Use Permit. She stated that typically the interconnection agreement is required before moving forward but there were issues with Xcel Energy having that ready. Having the interconnection agreement was added as a condition before any permits can be issued. Tom said they have since received the agreement and just need to get it signed. We'll leave the condition on since the executed agreement hasn't been submitted. A compliance inspection is required with an IUP which can't be completed this time of year so there is a condition for this to be done by June 1st.

Tom Dickson, Novel Energy Solutions, 1633 South Robert St, West St. Paul, stated that they are requesting an interim use permit for a one megawatt community solar garden located on the Elizabeth Pederson property. They will be using an existing access. There is a landscaping plan in place. He stated that there will be screening along the east side of the array and some to the west to screen the residence. Dan asked if the soils are tested for phosphorous levels before the panels are placed. Tom stated that he believes they are. Dan stated that when fields are taken out of production the phosphorous levels go higher and he stated his concern with runoff.

No one spoke in favor, opposition or with general comments. Gerry moved to close the public hearing. Jerry seconded and the motion carried.

Mitch moved that this request meets Section 7.1.24C, page 6, Section 9.20 page 79 and Section 11.6.3, pages 10 & 11. Warren seconded and the motion carried.

In reviewing Section 11.6.3 the vote was as follows:

- 1) Warren stated that a professional licensed engineer in the state of Minnesota shall certify that the foundation and design of the solar panels is within accepted professional standards, given local soil and climate conditions. The vote was unanimous that the interim use conforms to the zoning regulations of the County.
- 2) Gerry stated that there will be a \$25,000 bond to prevent any burden to the public. The vote was unanimous that there will be no additional cost imposed on the public if the interim use is approved if it is necessary for the public to take the property in the future.
- 3) Dan stated that the use will not create an excessive burden on existing parks, schools, or streets of public facilities. The vote was unanimous that the interim use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
- 4) Mary Jo said that the proposed project will occupy a portion of the property for the one-megawatt solar garden. The proposed project will not require city services. Surrounding properties will still be able to be developed at county requirements. Surrounding areas are agriculturally zoned with several residential homes on adjacent properties. The passive nature of electric generation prevents any impact on neighboring properties. The vote was unanimous that the interim use will not impede the normal and orderly development and/or improvement of surrounding vacant property.
- 5) Mitch stated that the proposed project will meet setbacks and has proposed security fencing. Studies have not shown any negative impact on neighboring property values from development of solar PV arrays. Screening is proposed on the south and east side of the project to protect the view of one of the nearby residents. The vote was unanimous that the interim use, including any structures utilized for the use, is sufficiently compatible or separated by distance and/or screening from adjacent land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.

- 6) Gerry moved to add Sections 2.1.1, 2.1.5 and 2.1.12 and adopt the development conditions. Tom stated that he has seen the proposed conditions and is in agreement with them. Jerry seconded and the motion carried. The vote was unanimous that the interim use is consistent with the purpose and intent of the Development Code and purposes of the zoning district. The Development Conditions were added to File #19-019.
- 7) Warren stated that the use is consistent with Land Use Goal #3: Commercial and Industrial Development. The vote was unanimous that the interim use is consistent with the Comprehensive Plan of the County.
- 8) Dan stated that the applicants have indicated that road access will be off an existing driveway that has access to 55th Ave NE. During construction and decommissioning, a temporary off-street parking area will be created. The vote was unanimous that the interim use will provide adequate access to a public road to not cause traffic hazards or congestion on the adjacent public roads and that there are sufficient off-street parking and loading space to serve the proposed use.
- 9) Mary Jo stated that the applicant will be converting tillable land and pasture land to a solar garden. As part of the solar garden the applicant will plant low growing grasses and pollinator friendly forbs. Overall, there will be less dust and noise from this activity than traditional farming activities. The anticipated effect is to have additional infiltration and a decrease in runoff and erosion from the site. The vote was unanimous that the interim use will not create a negative environmental impact, including but not limited to impacts on wetlands and water bodies. Including that adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance.

Roxanne read the findings and conditions.

Findings

Criteria 1: The interim use conforms to the zoning regulations of County.

A professional licensed engineer in the state of Minnesota shall certify that the foundation and design of the solar panels is within accepted professional standards, given local soil and climate conditions.

Criteria 2: There will be no additional cost imposed on the public if the interim use is approved if it is necessary for the public to take the property in the future.

A \$25,000 financial surety will be posted for the project that will prevent any burden to the public in the future.

Criteria 3: The interim use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are

proposed to serve the area.

The use is not expected to create an excessive burden on existing parks, schools, or streets which are expected to serve the area and public facilities.

Criteria 4: The interim use will not impede the normal and orderly development and/or improvement of surrounding vacant property.

The proposed project will occupy a portion of the property for the one-megawatt solar garden. The proposed project will not require city services. Surrounding properties will still be able to be developed at county requirements. Surrounding areas are agriculturally zoned with several residential homes on adjacent properties. The passive nature of electric generation prevents any impact on neighboring properties.

Criteria 5: The interim use, including any structures utilized for the use, are sufficiently compatible or separated by distance and/or screening from adjacent land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.

The proposed project will need to meet setbacks and has proposed security fencing. Studies have not shown any negative impact on neighboring property values from development of solar PV arrays. Screening is proposed on the south and east side of the project to protect the view of one of the nearby residents.

Criteria 6: The interim use is consistent with the purpose and intent of the Development Code and purposes of the zoning district.

In accordance with:

Section 2.1.1 of the Development Code the purpose and intent of the Code is to promote and protect the public health, safety, comfort, convenience, and general welfare of the people.

Section 2.1.5 states the purpose is to prohibit uses, buildings or structures which are incompatible with the character of development or the permitted uses within specified zoning districts.

Section 2.1.12 states the purpose is to further the appropriate use of land, and conserve and protect the natural resources of the county for present and future generations.

The Development Conditions for File No. 19-019 are adopted.

Criteria 7: The interim use is consistent with the Comprehensive Plan of the

County.

Land Use Goal #3: Commercial and Industrial Development

Criteria 8: The interim use will provide adequate access to a public road to not cause traffic hazards or congestion on the adjacent public roads and that there are sufficient off-street parking and loading space to serve the proposed use.

The applicants have indicated that road access will be off an existing driveway that has access to 55th Ave NE. During construction and decommissioning, a temporary off-street parking area will be created.

Criteria 9: The interim use will not create a negative environmental impact, including but not limited to impacts on wetlands and water bodies. Including that adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance.

The applicant will be converting tillable land and pasture land to a solar garden. As part of the solar garden the applicant will plant low growing grasses and pollinator friendly forbs. Overall, there will be less dust and noise from this activity than traditional farming activities. The anticipated effect is to have additional infiltration and a decrease in runoff and erosion from the site.

Conditions:

1. This Interim Use Permit is granted for the land indicated in this application and is not transferable to other land.
2. This Interim Use Permit shall expire 35 years after approval.
3. This Interim Use Permit is granted only for the purpose(s), structure(s) and/or use(s) indicated on the parcel approved with the application, as qualified by these development conditions. The applicant shall undertake the project according to the plans and specifications submitted to the County with the application.
4. Pursuant to Section 11.6.2 of the Development Code, this interim use permit shall automatically expire, without notice, within one year after the date of approval unless the applicant has substantially proceeded on the work. To proceed substantially means to make visible improvements to the property and to have had applied to the property at least 40% of the man hours which it is reasonably estimated will be necessary for completion of the project. The Planning Commission may grant an extension of one year to complete the

- project if a written request for additional time is filed with the Planning Commission prior to the date of expiration of the interim use permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.
5. The applicant shall permit reasonable access for the County to periodically inspect the site at reasonable times and in a reasonable manner to insure that the permit holder is in compliance with the conditions of approval and all other applicable statutes, rules and ordinances.
 6. Applicant shall comply with all requirements of Benton County Development Code Section 9.20 or successor ordinance.
 7. Appropriate erosion control devices shall be utilized during construction of the project.
 8. Applicant shall submit certification by a professional licensed engineer in the state of Minnesota that the foundation and design of the solar panels is within accepted professional standards, given local soil and climate conditions.
 9. The solar garden shall comply with any applicable local, state and federal regulatory standards, including the State of Minnesota Uniform Building Code, as amended, the National Electric Code, as amended and shall be in compliance with all applicable federal, state and local wetland laws, rules and regulations, as amended.
 10. Power and communication lines running between banks of solar panels and to electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by the planning commission in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines.
 11. The solar garden shall meet the minimum principal building setback (same as a residential structure) for the zoning district and be located a minimum of one hundred (100) feet from a residential dwelling unit not located on the property.
 12. The solar developer and or applicant shall provide a financial security in the amount of \$25,000 per megawatt. This shall be held by the county for decommissioning if the developer or property owner fails to comply with the decommissioning plan. The financial security will be required until decommissioning of the solar garden is complete as determined by the County.
 13. The applicant shall provide a Compliance Inspection of the septic system by June 1st, 2019 and make appropriate repairs or replacement (if needed) as determined by the compliance inspection as specified in Benton County

Development Code Section 9.6 SUBSURFACE SEWAGE TREATMENT SYSTEMS (SSTS).

14. A copy of the interconnection agreement with Xcel Energy shall be provided prior to the issuance of any permits.

Warren moved to accept the findings and conditions and grant File #19-019. Dan seconded and the motion carried.

5. Comprehensive Plan Update Discussion.

Roxanne went over the process to update the Comprehensive Plan. The process started with holding meetings with different groups in the community i.e. Environmental, Farming, Business, Planning Commission, County Board, services and townships, to determine the goals and vision for the county. She stated that one of the biggest concerns was the Urban Growth Areas around the Rice. They held meetings with the City of Rice and Langola and Watab Townships regarding the growth area. She stated that the City of Rice decided to remove the growth boundaries areas around the city which means that the area will not be protected for city expansion. Review of Chapter 3: Remove #6. Little Rock Creek Watershed under Goal 3: Water Resources. Amend Goal 1: Livability under #1 Population Diversity. The Public Health portion in Chapter 2 should relate to land use. Roxanne stated that the county board will review this in April. The goal is for final adoption in early summer. The Development Code would then be amended.

6. Gerry moved to adjourn 8:50 p.m. Mitch seconded and the motion carried.

Respectfully submitted,

Karen E. Loehrer
Administrative Secretary
(prepared from audio)