

CARVER COUNTY PLANNING COMMISSION
Regular Meeting – February 20, 2018
Minutes

Members Present: Jim Burns, Jim Ische, Scott Smith, Alan Herrmann, Mark Willems

Members Late: None

Members Absent: Frank Mendez, Gabrielle Theis

Staff Present: Jason Mielke, Nancy Buckentine, Jennifer Tichey

Pursuant to due call and published notice thereof, the February 20, 2018, regular meeting of the Carver County Planning Commission was called to order by Chairman Burns at 7:03 p.m.

Minutes – A motion was made by Smith and seconded by Herrmann to approve the minutes from the January 16, 2018 meeting. All voted aye. Motion carried.

File #20170051 – Sever’s Fall Festival – Chairman Burns called the continued public hearing to order at 7:04 p.m. to consider a request by SSP Holdings, LP, representing Sever’s Fall Festival. The purpose of the public hearing was to consider a request for a Large Scale Activity (Recreational/Educational Use) pursuant to Chapter 152 of the County Code. The property is located in Section 9 of Dahlgren Township.

The following were present: Mitch Michaelson, Nicola Peterson

The following items were entered into the record:

Exhibit Q – Letter from Mitch Michaelson stating withdrawal of the application

Mielke acknowledged receipt of the letter from Mitch Michaelson requesting withdrawal of the CUP application.

Mr. Michaelson explained there was uncertainty about development of the property in Shakopee where they had been operating. They received confirmation in the last week that they will be able to continue operating at that site for the 2018 season and therefore will not need the Dahlgren Township site for this year. They plan to continue strengthening their application for a possible relocation in the future. He recognized that this request has been developing over months and wanted to thank the Township and the Planning Commission for their time and patience with reviewing the information and he looked forward to working with them again in the future.

A motion was made by Willems and seconded by Herrmann to close the public hearing. All voted aye. Motion carried. The public hearing was closed at 7:07 p.m.

A motion was made by Willems and seconded by Smith to accept the withdrawal of the

application by SSP Holdings, LP. All voted aye. Motion carried. The request was withdrawn.

File #20180002 – Luke Swirtz – Chairman Burns called the public hearing to order at 7:08 p.m. to consider a request by Luke Swirtz. The purpose of the public hearing was to consider a request for an accessory structure pursuant to Chapter 152 of the County Code. The property is located in Section 1 of San Francisco Township.

The following were present: Luke Swirtz, Doug Weber, Kevin Lundquist, Larry Schmidt

The following items were entered into the record:

Exhibit A – Legal Description

Exhibit B – Proof of Publication of the Hearing Notice

Exhibit C – Proof of Mailing of the Hearing Notice

Exhibit D – Letter from the applicant dated January 22, 2018

Exhibit E – Site map

Exhibit F – Letter to the Planning Commission and San Francisco Township dated February 13, 2018, and attachments

Mielke explained the applicant owns a 3.92 acre parcel with a house and accessory structures and would like to construct an attached garage onto the house. The proposed 30 by 30 garage would exceed the total square footage of personal storage space on a parcel of this size by approximately 670 square feet. San Francisco Township heard the request and recommended approval. Mielke read the proposed conditions for consideration if the request is approved.

Mr. Swirtz explained having an attached garage would be more convenient for their family, especially his wife and their newborn.

Doug Weber, representing San Francisco Township, confirmed the Township's recommendation for approval, stating that the attached garage is not obstructive to any neighbors and will improve the property and increase the property value, which creates a win-win situation for everyone.

A motion was made by Herrmann and seconded by Willems to conclude the public hearing. All voted aye. Motion carried. The public hearing was concluded at 7:12 p.m.

A motion was made by Ische and seconded by Smith to **approve and issue Board Order PZ20180002** incorporating the findings of fact and staff recommendations approving the Conditional Use Permit for an accessory structure/attached garage. All voted aye. Motion carried.

File #20180003 – USS Eggo Solar, LLC – Chairman Burns called the public hearing to order at 7:13 p.m. to consider a request by Erica Forsman, representing USS Eggo Solar, LLC. The purpose of the public hearing was to consider a request for Renewable Energy

– Large Solar Energy System (SES) pursuant to Chapter 152 of the County Code. The property is located in Section 36 of Benton Township.

The following were present: Erica Forsman, Ross Abbey, Herman Eggers, Beverly Eggers, Richard Olson, Dennis Vinkemeier, Ruth Vinkemeier, Steve Alseth, Brenda Alseth, Bruce Chmielewski, Gary Widmer, Andy Steinhagen, David Rambow, Kurt Vinkemeier, Sarah Vinkemeier, Taylor Wetzel, Lisa Traver, David Traver, Corey Janssen, Alex Klaustermeier, Daniel Stuewe, Travis Timm, Dana Timm, Molly Frensko, Brian Braun, Tim Frensko

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Mielke explained the applicant's request to construct, operate (by lease) and maintain up to a one Mega-Watt (MW) Community Solar Garden (CSG) as a Renewable Energy (Large-Solar Energy System) Conditional Use Permit. The project will be placed on approximately 8 – 9 acres of a 38.35 acre parcel located in a Rural Service District (RSD). This application was made after some revisions to the County Zoning Code and will be reviewed against the most recent ordinance standards. These include a 1 mile buffer from another existing solar array, a minimum of 500 feet from any residences not on the property, 50 foot setback from adjacent property lines and a landscaping plan from a licensed landscape architect. The parcel was selected due to its solar resources, physical characteristics and access to 3-phase distribution facilities. US Solar will have a minimum 25 year lease with the landowners and will coordinate all aspects of the project including development, permits, finance, construction, management, insurance, maintenance, monitoring and customer service. The solar array will consist of solar modules on single-axis trackers to a maximum of 9 feet in height, inverters and racking. An access road will be constructed from Co Rd 53 and run along the south side of the array. During construction, the hours of operation are proposed to be Monday – Friday, 7:00 a.m. to 7:00 p.m., and weekends, if needed. After construction, the site will operate 24 hours a day, 365 days a year, and traffic to the site will be minimal, as it can be monitored remotely. A landscape maintenance crew would visit the site monthly during the growing season to ensure landscaping is growing and managed efficiently. Appropriate building permits will be necessary as well as permits and compliance with the requirements of the Planning & Water Management Department and Carver Soil & Water Conservation District (CCSWD), and the Stormwater & Pollution Prevention Plan (SWPPP). Noise mitigating equipment must be used to install the metal posts which support the single-axis tracker racking. The nearest residence to the project is approximately 650 feet from the operational area and the nearest feedlot, owned by the applicants, is approximately 485 feet away. Proposed screening around the entirety of

the operational area includes double-rowed blocks of Nannyberry and Red Elderberry along with a farm field style security fence, not to exceed 8 feet in height. A decommissioning agreement between the applicant and the solar company indicates US Eggo Solar, LLC would take on the responsibility and costs for decommissioning of the site after the lease. The decommissioning would commence within 12 months of non-operation of the site and the land would be restored to pre-construction conditions after removal of all structures and fencing and restoration of soils and vegetation. The County shall be listed as having access to the \$25,000 decommissioning funds, if USS Eggo Solar, LLC, or the applicants are unable or unwilling to commence decommissioning. The applicant's operational plan includes acknowledgement of the public's concerns regarding stray voltage and provides additional materials from Westwood Engineering Electrical Manager and the Mn Stray Voltage Guide. Any stray voltage would be remediated within 30 days of detection and verification and all test results would be sent to Carver County. Contact information for maintenance and operation questions has been provided, and an updated permanent list of contact information will be placed on the security fencing at the entrance to the operational area after construction. A preliminary drainage plan has been completed and a full drainage report would be reviewed by CCWMO as part of the stormwater management standards. A condition of the permit will state, *"The permittee shall be responsible for the maintenance and/or replacement of any/all drain tile servicing this site (if problems occur) for the duration of the CUP"*. The CCWMO and SWCD would also be reviewing the project with respect to the water rules and for site stabilization requirements and Best Management Practices (BMP's). The vegetation underneath the solar panels and in the surrounding areas will be pollinator-friendly and native grasses to reduce stormwater runoff, expand habitat for pollinators, and preserve and improve soils to enhance the surrounding agricultural activity. An access permit must be obtained from the Carver County Public Works Department. Benton Township heard the request and recommended denial. Mielke read the conditions for consideration if the request is recommended for approval.

Chairman Burns asked Mielke to discuss the Rural Service District (RSD) Zoning and explain how that is different from the Ag Zoning District in the County.

Mielke explained the Rural Service Districts allow a little more flexibility for commercial/industrial business-type activities within their boundaries than the usual permitted activities in the Ag Zoning District. The Gotha RSD area consists of approximately 160 acres and is comprised of the quarter/quarter sections in the 4 corners at the intersection of County Roads 50 and 53. The property with the activity does not require homesteading, as do most of the other CUP's in the Ag Zoning District.

Erica Forsman, US Solar, stated that community solar gardens blend seamlessly into the surrounding neighborhoods when constructed correctly, increase the tax base, support landowner rights, enhance nearby crop yields and strengthen the local environment and wildlife. Approximately 1.5 million native plants would be planted on the 8-acre site increasing air quality, water filtration rates, and soil nutrient levels, in addition to increasing the wildlife habitat. She briefly recapped the history of the project, stating they have been in contact with the landowners since early 2017, because of the physical

characteristics, proximity to distribution lines and available capacity within the Xcel electrical grid. She confirmed that this request is in compliance with the 2030 Comp Plan and meets and/or exceeds all of the updated Zoning requirements for a CUP. She stated they met with Benton Township on February 8th and the Township recommended denial, citing 4 reasons. Ms. Forsberg refuted their reasons stating that CSG's are permitted in every Township according to the 2030 Comp Plan and the project conforms to the development goals of both the RSD and Ag districts. It is designed to co-exist and support the long-term vision for the agricultural community. The increased and diversified income will support the landowner and will thwart permanent urban development during the life of the project. The pollinator-friendly seeding and native grasses will improve soil quality, erosion control and crop yields. She read statements from Farm Bureau and Farmer's Union in support of the use and development of solar energy on agricultural land. The proposed landscaping and fencing plan meets the standards for opacity with the planting of 430 nannyberry and 420 red elderberry plants in double rows around the perimeter of the project. The plants are native to the local landscape, screen effectively and provide beneficial wildlife habitat. The screening fence will be located entirely on the property on the inside of the landscape screening and will be a farm-style fencing, not to exceed 8 feet in height. It is the responsibility of US Eggo Solar to maintain the fencing to ensure it remains upright and in good condition. She stated that the Township cited landscape and fencing as concerns; however, provided no suggestions for change or improvements. She stated they are open for suggestions on improvements or changes to the landscaping and fencing plan, but acknowledged that the submitted plan meets the Zoning Code requirements. These plantings can achieve up to 71% opacity within 2 years. The Township had commented that some of the residents were strongly opposed to the project. She explained this solar array would be screened on all 4 sides, covered in permanent vegetation and set back from roadways and is more than 700 feet from residences to the north and south. She stated that resident opposition is unfortunate, but is not a valid reason to deny a request, especially since the proposal meets or exceeds all of the Zoning Code criteria. Ms. Forsman asked the landowner to make a statement about the project.

Herman Eggers, 10460 Co Rd 50, stated the proposed solar garden accounts for less than 4% of their total acreage. This land can be returned to productive ag land after the lease, as opposed to selling it for someone to construct a house and shed. He stated solar energy is a clean form of energy and can produce electricity at a reduced cost to area residents and surrounding communities. He cited the concern of stray voltage and stated that it is most commonly caused by existing improper grounding, not by a newly erected solar garden. He stated that this request meets the Zoning requirements in a Rural Service District and he should be able to use his land as he sees fit.

Ms. Forsman concluded that the project request meets all of the Zoning Code criteria and the findings of fact support approval of the project. She asked the Planning Commission to support and approve the request.

Andy Steinhagen, representing Benton Township, stated the understanding that there might be people and organizations that are in favor of solar energy, however, they may

not have an array directly in their back yard. He stated the Township feels that the 2030 Comp Plan was designed to keep the Township agricultural. The Township views a solar garden as a manufacturing plant, which does not fit in a productive farm field. He cited concerns for fencing and screening and the responsibility and accountability for maintenance and asked about enforcement procedures. He stated that the other solar array in the Township does not have any screening or plantings. He asked if the solar company could respond to other questions that were raised.

Ms. Forsman explained that they contract with a landscape designer for a 5-year period to ensure that the plantings will grow and survive. The operations and maintenance agreement can be renewed with the same company or with a different provider, if necessary. US Solar is the responsible party for the maintenance of the entire site.

Mielke explained the annual CUP review process, compliance and working with the applicant on non-compliance issues and follow-through, and enforcement with the help of the County Attorney's Office. He cited an example on a recently approved solar site of working with an applicant in regard to some screening issues that will be taken care of as soon as weather permits. He also referenced the other solar site in Benton Township and stated that specific screening was not a part of that approval based on the location; however the solar company had an agreement to place plantings along the westerly side of the site. Mielke also stated that the Land and Water Department requires escrow funds to ensure the proper vegetative cover is established at the site.

Mr. Steinhagen asked about drainage and tiling on the property and where the responsibility lies for correction.

Mielke stated that the property owner likely knows if or where the tile lines are located and should be working with the solar company to identify and avoid them to ensure it is not being impacted during the construction phase. The Planning and Water Department requires tile lines to be identified on the plans for their review. The SWCD will also be involved in the review of the project. It is the responsibility of the applicant to maintain or repair any damage to tile lines on the property.

Chairman Burns stated that the maintenance, replacement or abandonment of the drain tile is also listed as a condition of the CUP.

Mr. Steinhagen questioned the calculation of figures relating to local economic impacts and spending and jobs or employees.

Ms. Forsman could not identify if an employee would be local to the township, but stated they do contract with local labor for service and maintenance of the solar gardens. The calculation of spending was based on activity during the standard construction period. She stated there are engineers and other staff from companies they contract with who are County residents.

Mr. Steinhagen acknowledged the number of anticipated trips during construction, but

felt that the total number of trips to the site for fencing, screening and other items was grossly understated.

Ms. Forsman agreed that the number of construction trips is quite accurate. She stated she would not have a final number associated with the landscaping until a final plan is approved. She offered to gather that information from a landscape architect, if it is something the Township would need.

Mr. Steinhagen commented on the reference to the solar garden *locking up the land use for 25 years or more, thwarting the potential for any industrial or commercial development. Many neighbors recognize that development will occur as residential and commercial uses encroach on agricultural lands.* He stated that this site is not in any immediate jeopardy of a residential or commercial development and this statement is a moot point as the Township's vision to remain agricultural in nature. He confirmed the Township's recommendation for denial of the request.

Kurt Vinkemeier, 15455 Co Rd 53, expressed his opposition to the request and cited 3 concerns, namely, the close proximity to residences in the area, the inability to blend into the surroundings, and the decommissioning plan. He expounded on the setback and visibility from the road, and the number of residences within 1500 feet of the site. He made the same comparison of the distance from residences to other solar arrays in the County and stated this proposed location has twice as many. He disputed the information that solar gardens can increase property values and enhance a neighborhoods appearance, stating this information was report from states located outside of the Midwest region. He spoke to local realtors who disagreed that property values would increase in the close proximity to a solar garden. He offered a handout of photos taken of other solar sites within the County and commented on their unsightliness. He felt there is not enough information about decommissioning to guarantee the site will be cleaned up. He referenced a news report aired last fall about how under-funded the sites are in regard to their dismantling and clean up. It is impossible to know the future value of the products to be recycled. He stated this type of business does not belong in the neighborhood, but should be placed in a remote location, away from homes, traffic and animals.

Molly Frensko, 10075 Co Rd 50, stated the 8-9 acre solar array is not a responsible use of agricultural land, foregoing the potential for the production of corn or beans for the next 25 years. She stated it is not responsible because we are not experiencing an energy crisis at this time and the health risks to humans cannot be proven. She noted decreasing property values and no guarantee for the site restoration. She asked the Planning Commission to deny the request.

Dennis Vinkemeier, 15825 Co Rd 53, stated the solar garden would ruin production and be unsightly in the neighborhood. He expressed concern for stray voltage to the 3 active dairy farms in the area. He questioned why Carver County has 12 solar gardens and the surrounding counties each have only a few. He asked about the tax rate of a project in excess of 2 million dollars.

Mielke stated that the Assessor's Office will likely classify the solar array as commercial, which is a different rate from residential or agricultural.

Chairman Burns stated there is a production tax on the electricity produced also.

Ross Abbey, US Solar, confirmed that there is a tax cost paid to the County for every MegaWatt of electricity that is produced.

Mr Vinkemeier continued and stated that he did not see any vegetation at any of the 12 solar sites in the County. He also stated that 3 sides surrounding this site will be crop fields that will be sprayed with chemicals which could kill any bees and also the vegetation. He asked the Planning Commission to deny the request.

Alex Klaustermeier, 10975 Co Rd 50, stated his family owns a dairy farm within 1 mile and wanted to know if stray voltage testing would be done before and after construction of the site.

Mr. Abbey stated they understand that stray voltage is a huge concern for dairy operators. He stated that they would be willing to test the farm for stray voltage prior to the solar garden becoming operational, and also after construction is completed, and if there is any change in the results, they would be responsible on working to mitigate the issue. Solar garden construction is required to meet the National Electrical Code and is also inspected by the State prior to permission being granted to operate. The utility also has extensive grounding requirements which must be met prior to operation. He was open to meeting with them to assure a peaceful co-existence that would not be harmful to the dairy operation.

Dave Rambow, 10020 Co Rd 50, just built a new house and is concerned about property values. He consulted a realtor who relayed that a sale was avoided because of the close proximity to a solar garden. He also felt there was not enough information or data to prove the effects of a solar garden on property values.

Tim Frensko, 10075 Co Rd 50, expressed frustration in trying to gain information from Xcel about the subscriber service. He understood there was a fee involved, which he surmised would not offer a cost savings to the user. He asked the Planning Commission to deny the request.

Corey Janssen, 15815 Co Rd 53, expressed concern for the increased traffic on the roads, especially during the construction phase. He stated traffic travels faster than the 40 mph posted limit and he was concerned for safety of children in the area.

Brian Braun, 9974 Co Rd 50, stated his cow/calf beef operation is located within a quarter mile of the proposed solar garden and stray voltage is also a concern of his. He also expressed concern with any chemicals or PCP's that will be in the runoff and enter Bevens Creek.

Mr. Abbey stated the solar panels are made of glass and silicon and do not contain toxic materials. The construction will be regulated and reviewed by SWPPP, SWCD, and the storm water management plan for runoff and other issues. When the vegetation is established, it will also help with the water filtration.

Ms. Forsman addressed the concern of area residences and their view, reiterating that the site is more than 700 feet from the nearest residence, which exceeds the revised, stricter Zoning Code requirement of 500 feet. She spoke about the submitted photos of other solar gardens in the County and identified differences in the tracking panels, landscape screening between those site and this proposal. She confirmed that the ground cover vegetation will meet the requirements of the permit and they are willing to work with the neighbors to satisfy their screening preferences. She addressed the bee comment, stating that beekeepers will move hives on a site to prevent any ill effects from crop spraying. Ms. Forsman stated that there is no official study that affirms a negative impact on property values due to adjacency to a solar garden. The information provided was a national study based across 9 states and also a local study by a Mn county that confirmed no impact to values. She also read correspondence from the Deputy Assessor in Chisago County relating to housing sales near a 100 MW solar garden.

Mr. Abbey further discussed the decommissioning plan, stating that the panels are non-toxic and the materials are non-hazardous, which should pose no danger or nuisance to the surrounding community. There is no connection to any water or sewer or waste water facility. The lease agreement requires them to remove the equipment and return the land to pre-construction condition after the 25 year lease expires. He explained that the developer, US Eggo Solar, only gets paid by the utility on a per kilowatt basis, so it is in their best interest to ensure that the facility is running efficiently and effectively. There is also a clause in the interconnection agreement allowing the utility to discontinue the utility contract if the solar garden is not operating. He stated their commitment to the landowner with the decommissioning plan, and also noted the \$25,000 decommissioning fee is available to the County, in the event that the company or the landowner would not follow through with the site clean-up. He commented about the number of solar gardens in Carver County and explained that currently, the State Law requires the facilities to be within one county from a subscriber, and Carver County is a neighboring county to the metro area. There is a bill in the legislature that would change this restriction which would remove or alleviate the development pressure. Mr. Abbey also briefly explained more about the subscriber service and stated it does provide a discount for the participants.

Richard Olson, 16285 Co Rd 53, stated the solar gardens usually end up pitting one neighbor against another, which he felt is not right. He wanted to comment on information from a County Board meeting that information from the Kirkland Group concerning property values was not very reliable.

Ische stated that it is not often that the Planning Commission will not follow the same recommendation as the township on a request, however, this application is very unique in that it is the first application for a solar garden located within a Rural Service District.

He noted that this zoning classification allows for commercial/industrial types of uses within its boundaries. He listed the 7 RSD's within the County and some of the business activities conducted there. He commented that the County Board has a difficult job in voting on the solar issues and has been sued for approving and also for denying applications. He also noted that legislative mandates require counties to administer their programs. He stated that since this application is on land within an RSD, he felt it would be difficult to deny because of the activities allowed within that zoning classification.

A motion was made by Ische and seconded by Willems to conclude the public hearing. All voted aye. The public hearing was concluded at 8:44 p.m.

Willems agreed with Ische's comments about supporting the Township's recommendation in most cases, however, he could not see any reason to deny this request in the RSD. He stated he would be in support of the request.

Herrmann suggested that a condition be added to allow any landowner with livestock within a 1 mile radius of the project area to request testing for stray voltage to be done before and after construction of the solar site. He stated this was beneficial to a farmer in another application and it identified a problem on the farm that was corrected. He felt it would be a positive effort for the developer to help alleviate the stray voltage concern.

Mr. Abbey confirmed the testing would be done at the farm both pre- and post-construction at the farmer's request and option. The landowner would need to contact US Solar or County staff with their request.

Chairman Burns asked for clarification for the applicant on the screening and fencing plan. He commented about different types of fencing and plantings for other solar arrays within the County.

Ms. Forsman stated if a slatted fence is preferable, they would surely do that. If a slatted fence was required, then a double row of trees would likely not be necessary and only a single row would be planted. They are willing to work with the Township and the local residents on a satisfactory solution for the screening.

Ische asked that County staff be included in the discussion and a screening plan be completed before the request comes before the County Board.

A motion was made by Willems and seconded by Smith to **approve and issue Resolution #18-01** incorporating the findings of fact and including the additional language for stray voltage testing in recommending the approval of a 1 MW solar garden. All voted aye. Motion carried.

Adjournment

A motion was made by Willems and seconded by Herrmann to adjourn the meeting. All voted aye. Motion carried. The meeting was adjourned at 8:50 p.m.